

BEYOND INTEGRITY

Exploring the role of business in preserving the civil society space

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Acknowledgement from Authors

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About the report

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About us

Charities Aid Foundation (CAF) is a leading international charity headquartered in the United Kingdom, with a presence in nine countries covering six continents. CAF has been operating for over 90 years in the UK and over 20 years globally. We work to support and develop a vibrant and independent civil society by pioneering effective and sustainable ways to give and helping civil society organisations to thrive.

Foreword

We are living in a time of unprecedented opportunity for both business and civil society. The accelerating development of emerging economies and the opening up of markets is allowing both resources and ideas to spread like never before. Millions more each year leave behind a lifestyle of subsistence and, as they do so, they find that they have the time and resources to engage with and support civil society. Clearly, then, the outcomes for businesses and civil society are advanced by this increased prosperity and openness, but as this report demonstrates the relationship between the two in fact runs far deeper.

In the post-Cold War era, civil society has played a crucial part in creating the conditions that allow multinational corporations to enter new markets. By dealing with those market failures that are too grave to be fixed by competition and commerce alone; by building civic participation; and by holding politicians to account and exposing failings in the justice system, civil society organisations have helped to create an enabling environment for corporate expansion. Civil society has helped to form one side of a triangle – with the private sector and the state – that has the rigidity upon which stable growth can be built. However, in recent years, the shape of that triangle has begun to change.

As ideas spread, accelerated by expanding access to the internet, citizens have become increasingly literate in the language of rights and willing to voice their concerns within civil society. At the same time, a private sector that has been largely freed from the constraints of national borders is able to select jurisdictions which offer the most compelling investment climate. To preserve sovereignty whilst delivering economic growth, many governments have sought to court investment at all costs whilst suppressing any resulting dissent. Attempts to widen the angle of influence with the private sector in the triangle described above have had the inevitable consequence of narrowing it for civil society.

It is in this new context that some in the corporate world are beginning to reappraise their appetite for supporting civil society. Understanding that long-term sustainability requires a strong and independent civil society, some companies are beginning to speak out on its behalf – even when it does not appear to be in their narrow self-interest. In doing this, companies are going beyond traditional notions of corporate responsibility and challenging long-standing ideas about the role that companies should play in society. This report will look at four such examples and, through interviews with some of the protagonists involved, attempt to understand and extract learnings for other companies and civil society actors.

I would like to express my thanks to all of the experts and practitioners who have given their time in researching this report. In addition, I would like to thank the London School of Economics and Political Science, through which we were able to secure academic support for this vital initiative. Finally, I would like to congratulate the authors of the report for their commitment and dedication in producing what I hope will be an influential resource for both corporate and civil society audiences.



Dr John Low
Chief Executive
Charities Aid Foundation

Executive Summary

Governments around the world – from the poorest countries to the richest – are systematically imposing legal barriers that limit the independence of civil society organisations (CSOs). This trend, which is part of a wider ‘closing space’ for civil society, is a symptom of the changing nature of the international political economy. This new global environment, characterised as it is by weak global governance and fierce national competition for business, is one in which multinational corporations have enormous influence. This report details why companies should use this influence to support and defend civil society; how they can achieve this; and how some of them are already doing it.

In producing this report, the Charities Aid Foundation (CAF) has been able to identify four case studies where actions have been taken by the private sector to support civil society independence and interview key protagonists from both sides of the relationship. It is testament to their openness and cooperation that we can detail these cases and share learning from the following examples:

1. **Angola:** International diamond companies signed an open letter supporting activist Rafael Marques, who had been arbitrarily detained by the Angolan government after publishing a series of critical exposés on abuses in the alluvial diamond industry;
2. **Pakistan:** Leading IT firms publicly committed to ignore a tender by the Pakistani government to construct a URL filtration system for security forces;
3. **Thailand:** Industry associations in the Thai food industry provided funds as bail for Andy Hall, a journalist who was arrested on *lese majeste* charges while investigating abuses of migrant workers in Thailand; and
4. **Cambodia:** Major international clothes retailers intervened on behalf of Cambodian garment workers to stop violent repression of protests demanding a higher minimum wage.

After reviewing the events in each of these cases, we have synthesised the following key learnings:

1. Firms in consumer-facing industries are responsive to large-scale social movements that raise awareness regarding human rights abuses;
2. Privately owned companies with strong ethics and values tied into the core business model, led by engaged leaders, are likely to respond to civil society;
3. At times, privately held dialogues between key stakeholders and host governments can be more effective at initiating positive action than a public challenge, as the respect and dignity of each stakeholder is maintained;
4. Leveraging formal and informal cross-sectoral networks is instrumental in convincing corporations to act on behalf of civil society.

From these key learnings, we have pulled out three best practices for corporate engagement:

1. Key stakeholders leverage cross-sectoral networks to inspire action;
2. Civil society groups utilise extremely strategic messaging to motivate private sector stakeholders;
3. Private sector stakeholders utilise communications strategies to change political narratives.

Applying these best practices to the policy space, we have created a number of recommendations targeted at both civil society and the private sector.

Our recommendations are organised to address two important factors that influence the behaviour of businesses when confronted with threats to the civil society space: degrees of *commitment* and levels of *capacity*. Commitment, or the willingness to intervene in times of crisis, is built through a process of interactions between individuals and groups within a certain country; and capacity refers to a corporation’s ability to effectively capitalise on the commitments that they make. Through our recommendations, we hope to create an environment that fosters effective partnership between

business and civil society in support of a strong, independent and resilient civil society space. Our recommendations are as follows:

To build commitment from corporations, civil society should:

1. **Engage with industry leaders:** Large corporations with significant political leverage over host governments are more likely to have an impact over the government on the issues regarding the closing civil society space.
2. **Engage with privately owned, ethical firms:** Maintaining strong relationships with privately owned companies holding strong ethical values is beneficial to muster momentum and support for a stable and independent civil society.
3. **Engage with consumer-oriented firms:** Consumer-oriented industries are sensitive to negative publicity generated through poor conditions in their supply chains, and therefore are more likely to respond to requests from civil society actors.

To build capacity, corporations looking to protect civil society should:

1. **Exert influence over governments engaged in closing the civil society space:** Directly pressuring governments can lead to significant support for civic actors.
2. **Take advantage of networks:** Through informal networks, actors with low capacity can leverage the specialization and influence of larger and more powerful organisations, with impressive impact. Alternatively, formal networks that encompass a diverse array of civic, private and government actors can be strong agents for collective action.
3. **Develop institutional memory:** By utilising organisational arrangements that support long-term commitments and evolving partnerships, companies can structure their sustainability initiatives to maximise effectiveness.

Whether justified by governments in the name of national security, economic growth, or a desire to resist foreign influences on domestic institutions, the closing space for civil society is both pervasive and difficult to counter. Governments in rapidly-globalising economies are seemingly involved in a race to the bottom, competing to deregulate their economic systems in order to attract investment. In the context of an increasingly globalised economy, this exposes two fundamental gaps in global governance: the operational gap, in which policy issues are globalised and move beyond the scope of traditional policy makers; and the participatory gap, in which the lack of appropriate rules for the newly-globalised policy space leaves the private sector to fend for itself.

A long-standing consensus on corporate ethics holds that companies should not seek to interfere or have influence in society outside of their business interests. However, influential corporations, especially in rapidly growing economies, not only find themselves with the power to hold host governments to account, they are also beginning to acknowledge that not using this influence can amount to a tacit support of regressive policy agendas.

The international legal system has evolved to address this shift in power dynamics: the 2000 UN Global Compact, the 2008 Protect, Respect, and Remedy Framework, and the 2011 Guiding Principles on Business and Human Rights have all recognised private actors' ability – and more importantly their responsibility – to act in protection of human rights and human rights defenders.

To fulfil this responsibility firms can employ a series of strategies such as taking leadership positions on policy, being good corporate citizens and coordinating stakeholder relationships. But the civil society space is protected only when companies respect and support human rights and human rights defenders.

The business case for this support is strong. Businesses should support a strong civil society space because it:

1. **Supports established global development goals:** Corporate action in support of civil society is in line with Sustainable Development Goal (SDG) 16 and 17, as well as the UN Global Compact and Guiding Principles for Business and Human Rights.
2. **Strengthens public commitments:** Strong civil society can act as an accountability and legitimacy mechanism for private sector commitments to internal governance.
3. **Manages risk of multinational investment:** In the long term, a stable, independent civil society allows companies to safeguard their investments in otherwise unpredictable markets.

Partnership between civil society and the private sector is common, but less likely to happen when that brings them into conflict with governments. However, for the above reasons, companies are becoming more receptive to partnering with civil society on such matters. Generally, firms do not actively seek opportunities for activism, but through the use of cross-sectoral networks, civil society actors have been able to mobilise their support. The probability of securing this support depends on civil society's ability to leverage these networks, and formalising them can also have a significant impact.

When companies are unresponsive, maintaining a balance between traditional confrontational approaches and dialogue-oriented engagement is essential. The human rights activists and experts we interviewed all agreed that while an adversarial approach may help to provoke ethical corporate responses, doing so over extremely delicate issues may make future negotiations difficult or impossible. The industry representatives from our interviews were very encouraging of dialogue-oriented approaches: they stressed the value they have in terms of productive, collaborative engagement that respects their priorities as businesses while creating shared value. Publicly advocating for a civic actor or organisation under pressure from national government is not generally seen as appropriate for the private sector, so they are understandably not likely to do so in response to a 'naming and shaming' approach.

Corporations acting across borders have many existing partnerships – often with sector-specific labour unions and other groups relevant to their operations. Other civil society organisations may find it difficult to elicit responses from them, but this can be more a function of a mismatch between goals and capacities than a lack of interest in these issues. For truly effective partnership, both sides need to have aligned interests and values, without which multi-stakeholder initiatives can become unbalanced and ineffective.

This report offers original insights from important actors in the private sector, as well as voices from a broad array of civil society groups and actors from all over the world. The information here serves to inform stakeholders about the dynamics between multinational corporations and transnational civil society, while also empowering local civic organisations to seek effective partnerships with private sector actors who can help them survive. We believe that the case studies and best practices we have identified are signs of an emerging paradigm for private sector involvement in protecting the civil society space. We hope that our recommendations can facilitate the acceleration of this movement.

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1. *The Closing Civil Society Space and the Framework for Corporate Action*

In the wake of the rapid expansion of civic and human rights organisations that Lester Salamon dubbed 'The Global Associational Revolution,'¹ human rights defenders around the world are observing resistance from national governments to the activities of third-sector actors. This associational counter-revolution is increasingly threatening the critical role that civil society fills in the process of domestic and transnational governance.² CIVICUS (2015) reports that the repression of civil society freedom of expression and association occurred in at least 96 countries around the world, with reported killings of roughly 130 human rights defenders during the first 10 months of 2014 alone.³

Governments' actions against civil society can be categorised into three broad strategies:

1. Imposing formal legal barriers;
2. Creating arbitrary impediments to civil society work, and;
3. Condoning or undertaking extra-legal harassment or intimidation of civil society actors.

Common legal barriers include restrictive licensing policies, separation from foreign sources of funding, or the limitation of activities permitted under the law. In many countries, laws are passed that allow for broad and arbitrary application to restricting civil society actors (CSAs). In extreme cases governments act outside the law, dissolving CSOs and arbitrarily detaining employees or even allowing them to be physically or psychologically threatened.⁴

This trend is not only pervasive, it may prove extremely difficult to reverse. The systematic repression of civil society is a symptom of changes in international political norms that are further entrenched by the silencing and removal of human rights defenders.⁵ Moore (2007) outlines a number of characteristics that can generally be attributed to regimes engaging in behaviour consistent with the closing space for civil society:

1. The country operates a 'closed' or command economy or is governed by leaders with autocratic tendencies.
2. There is political dissention in the country or a neighbouring country that is perceived as threatening the current government regime or incumbent party.
3. There are concerns about religious fundamentalism.
4. Similar legislation or practices have been enacted or introduced in neighbouring regimes.
5. The country has a history of human rights abuses.
6. The country is concerned about foreign influence.

Civil society became a prominent focus of the western-dominated international community following the fall of the Soviet Union and the resulting third wave of democratization. This allowed regimes targeting the civil society space to position their actions as anti-western rather than anti-democratic, especially following the colour revolutions in Georgia and Ukraine, which were perceived to be western-backed.⁶

Carothers (2015) identifies China, Russia, and India as leaders in the reaction against global civil society. The Russian government, possibly fearing a repetition of the Ukrainian regime change of 2014, has granted its public prosecutor special powers to investigate the actions of western-funded CSOs and activists. India, despite being the world's largest democracy, has been increasingly aggressive in restricting foreign funds reaching civil society organisations, most publicly through their revocation of

1 Salamon (1995)

2 Rutzen & Shea (2006)

3 Institute for Human Rights and Business et al. (2015)

4 UN OHCHR (2014)

5 Carothers & Brechenmacher (2014)

6 Rutzen & Shea (2006)

Greenpeace India's licence to receive foreign donations due to their activism against coal power plants.⁷ In China, new NGO legislation has severely restricted civil society's access to foreign funds while co-opting the space using government-organised Non-Governmental Organisations (GONGOS).⁸

Although it is tempting to frame this issue as one for developing countries, it manifests in Western liberal democracies as well. In these countries, the actions are framed as addressing national security issues but instead encroach upon freedom of speech and association. In the United States, the Wikileaks information revealed how Federal Authorities were spying on human rights organisations and law enforcement officials were intimidating protesters demanding equal treatment based on ethnic identity. In the United Kingdom, new legislation has forced CSOs to open their books to security forces, while lobbying groups have faced new legal barriers leading up to recent elections.⁹

This issue persists in countries at all levels of development. Prohibitions on foreign funding sources for CSOs were passed in Moldova in 2006, and they closely mirrored similar laws put in place in Eritrea the year before. In 2004 the government of Uzbekistan updated their banking regulations so that CSOs could only receive foreign funds through the government, which restricted the scope of their actions.¹⁰ In Ethiopia, a 2009 law banned associations from receiving more than 10% of their funds from foreign sources, even though domestic sources of funding cannot provide for a viable self-supported civil society sector.¹¹ At all levels, civil society actors are finding it increasingly difficult to act in a hostile global environment.

1.1 Business and International Human Rights Law

There are a number of international initiatives aiming to reverse this trend, which include growing calls for private sector leadership. In a globalised world, multinational firms are finding it increasingly difficult to resist this pressure. International legal frameworks have evolved for businesses in the context of corporate citizenship and global governance, and these changes have fundamentally shaped norms of corporate behaviour.

The United Nations launched the UN Global Compact in July 2000; a major strategic policy initiative that laid out ten principles for private sector involvement in solutions to ethical, social and environmental issues. Two principles directly refer to human rights, encouraging corporations worldwide to adopt strategies that support and respect the internationally-recognised human rights. As of March 2016, there are 8,610 signatory companies spread across 163 countries.¹²

From the perspective of international law, the responsibility of businesses in protecting or promoting human rights is enshrined in John Ruggie's 'Protect, Respect, and Remedy' Framework adopted by the UN Human Rights Council in 2008. This framework (henceforth the 'Ruggie framework') rests on three pillars:¹³

- The **state's duty to protect** against human rights abuses by third parties, including businesses, through appropriate policies, regulation, and adjudication;
- The **corporate responsibility to respect** human rights, acting with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur, and;
- Greater access by victims to **effective remedy**, both judicial and non-judicial.

7 Punit & Balachandran (2015)

8 Carothers (2015)

9 CIVICUS (2015)

10 Vernon (2009)

11 Ibid.

12 UN Global Compact (n.d.)

13 Taken from Ruggie (2010)

The Ruggie Framework was the first internationally recognised legal document to include both business and government in a strategy for fighting human rights abuses in the private sector. Through the 'respect' pillar, the UN has framed the responsibility for the prevention of business-related human rights abuses as a burden shared between the public and private sectors, signalling a crucial shift in the UN's approach to global governance.

Following the 2008 adoption of the Ruggie Framework, the UN Office Of The High Commissioner For Human Rights (OHCHR) produced the 2011 Guiding Principles on Business and Human Rights, which laid out 31 principles that work towards achieving state protection, corporate responsibility, and victims' access to remedy.¹⁴ Since then, these Guiding Principles have served as the primary policy tool for multinational corporations seeking to act responsibly. They reinforce the UN Global Compact and provide an outline of appropriate policies and procedures which should be implemented to ensure that businesses meet their ethical responsibilities to respect human rights.¹⁵

To date, the UN Global Compact has successfully mobilised over 58 million people worldwide, with 25% of its signatories representing Fortune Global 500 companies. It has been successful in creating a standard unifying framework across sectors, enabling businesses and stakeholders to work towards a common goal.¹⁶

1.2 Globalisation and Global Governance

The evolution of the role of the private sector as formalised in the UN Framework was necessitated by dramatic changes in the global political economy. The spread of neoliberal policies in the second half of the 20th century led to the emergence of a new class of transnational business that operates separately from the pre-existing network of state and multilateral governance.¹⁷ Consequently, national governments have become less able or willing to regulate the private sector.¹⁸

As the regulatory power of states is increasingly marginalised, leaders in less-developed nations with weaker institutions increasingly react to global economic pressures; becoming more inclined to accept whatever short term economic benefits they can get at the expense of long-term inclusive and sustainable growth. In the process, they ignore longer-term environmental and social issues.¹⁹ This leads to a race to the bottom in which governments in these countries are competing to deregulate their economic systems in order to attract foreign direct investment (FDI). The resulting system of perverse incentives leads to two fundamental governance gaps:²⁰

- **The operational gap:** as economies become more global, policy issues also become globalised and move beyond the scope of national or multilateral policy makers.
- **The participatory gap:** as national and multilateral policy makers lose legitimacy in a globalised policy space through deregulation, the global private sector operates in an increasingly empty and undemocratic policy and governance vacuum.

The presence of these two gaps leads to a system in which multinational corporations are operating in an undefined policy space that has neither established norms nor the institutional capacity to develop them: the regulatory role of the state has no counterpart on the transnational level. Therefore, as some governments struggle to retain power and relevance through oppressing civil society, the system lacks the capacity to oppose them.

14 UN OHCHR, (2011)

15 United Nations Global Compact (2014)

16 UN Global Compact (n.d.)

17 Carroll & Carson (2003); Marsden (2000)

18 Reinicke & Deng (2000); Castells (1998); & Marsden (2000)

19 Marsden (2000)

20 Taken from Reinicke & Deng (2000)

From a political and management theory perspective, this problem stems from an imbalance among the roles of three actors seen as crucial to global governance: industry, government, and civil society. As globalisation empowers industry at the expense of government, civil society is suffering the backlash. In this context, researchers are calling on private sector actors to assume responsibility for the effects of their growth on the global governance system.²¹ Through this lens, it is simple to see why industry should intervene in support of civil society; however it is also important to consider reasons why individual private actors would choose to do so.

There are strong incentives for corporations to neglect their responsibility to be good corporate citizens – after all, it is easier simply to continue as per the status quo.²² Firms must answer the following questions when confronted with social and environmental issues:²³

- To what extent would the company be affected by the human rights violation?
- How well is the human rights situation understood and analysed by the different stakeholders?
- What is the connection between the concern and company's values and purpose?
- What impact could the company have; will its action lead to a productive outcome?
- Does the company have any human rights concerns within its internal business operations?

The implications of these questions will be interpreted in different ways that are unique to each firm, but if they do decide to act, they can choose from a range of strategies driven by recent trends in global ethical business practices.

1.3 Rising Trends that Incentivise Business Ethics

1.3.1 Ethical consumerism

Consumers are increasingly tailoring their consumption patterns to reflect their growing concerns with the production, processing and sourcing of products.²⁴ Specifically, consumer-facing industries such as the garment and textile, luxury goods and food sectors face pressure from buyers who are expressing their desire to purchase environmentally friendly and ethical products.²⁵ However, this concern has not always resulted in ethical choices when consumers are faced with competitive prices.²⁶ Nonetheless, increased awareness around unfair and unjust business practices in developing countries has influenced companies to develop fair trade, ethically produced and environmentally friendly products.²⁷

1.3.2 Shareholder activism

Shareholders in publicly held corporations are increasingly exerting pressure on their executive boards to adopt ethical standards.²⁸ Activists try to influence corporate behaviour via exerting ownership rights such as:

1. Selling of shares over a specific issue,
2. Engaging in direct dialogue with the management and
3. Voting or preparing shareholder proposals.²⁹

This process is costly and time-consuming but it allows the stakeholders to enter into dialogue and negotiation, which is instrumental in expanding debate on CSR issues.³⁰

21 Midttun (2005); Detomasi (2007); Reinicke (1999); Reinicke et. al. (2000); Marsden (2000); Scherer & Palazzo (2011)

22 Winston (2002)

23 Taken from Black & Gula (2010)

24 Strong (1996); Becchetti (2012)

25 Maloni & Brown (2006)

26 Uusitalo and Oksanen (2004)

27 Charter (1992); Strong (1996)

28 O'Rourke et. al. (2003)

29 Ibid.

30 O'Rourke et. al. (2003)

Ethical consumerism and shareholder activism are two important mechanisms for influencing corporate behaviour. The following section outlines a brief typology of the means by which companies – having decided to do so – can engage in social responsibility issues.³¹

1.4 Strategies for Corporate Engagement

1.4.1 Policy leadership

Corporations can build on the commitments in the UN Guiding Principles to engage and consult with CSOs, human rights defenders and communities to design, implement and evaluate projects through a human rights lens. Often, private sector actors are able to lend legitimacy and bring the concerns of civil society to the front of the political agenda. For example:

- In the United States, 379 large businesses and organisations such as Coca-Cola, Goldman Sachs, Microsoft and Morgan Stanley released an open letter advocating for same sex marriage.³²
- Mutanox, a producer of material for high-security fences, refused to sell razor wire to the Hungarian government in protest of its inhumane treatment of migrants.³³

These actions enhance companies' reputation and brand image, as consumers and stakeholders prefer companies with a clean and caring image which promotes societal welfare programmes.³⁴ Furthermore, companies with existing human rights frameworks would find it easier to enter into new markets where human rights challenges exist and would be able to take advantage of working in niche sensitive markets.³⁵

1.4.2 Corporate citizenship

Beyond partnering and supporting CSOs by providing financial and in-kind resources, companies can embrace industry-related issues and engage with home and host governments to protect and respect CSOs. This is a popular form of action, especially in industries with extended supply chains that are difficult to manage.

Human rights abuses in supply chains have spurred a number of companies into action. Some examples include:³⁶

- US textile firms urged the Peruvian government to repeal laws that allowed labour rights violations, despite this action making it harder for the companies to implement their own sourcing codes of conduct.
- Coca-Cola has developed a zero tolerance policy towards any land that has been grabbed from poor farmers in India and Guatemala, incentivising ethical land policies.

Such actions are taken to meet investor expectations that demand consideration for social and environmental welfare along with financial returns.³⁷ The chances of costly litigation undertaken to fight human rights cases would also be reduced due to careful business activities in the extended supply chain of companies. Such an approach may have other significant benefits. Skilled and unskilled workers who feel respected and valued may prove to be more productive. It may also prove easier to attract applicants that value ethical business practices, thus improving recruitment, retention and staff loyalty.³⁸

31 Based on Marsden (2000) and Lynch (2015) , Amis, Brew and Ersmarker (2005)

32 Wettstein (n.d.)

33 Horvath & Eniko (2015)

34 Amis, Brew and Ersmarker (2005)

35 Ibid.

36 Taken from Lynch (2015) and Lazala (2015)

37 Winston (2002)

38 Amis, Brew and Ersmarker (2005)

1.4.3 Building cross-sector stakeholder relationships

Companies can build strategic alliances that help them to manage relations with stakeholders demanding compliance with triple bottom line policies.³⁹ Examples include:

- Royal Dutch Shell has a long-standing partnership with the Danish Institute for Human Rights, through which they have co-sponsored Human Rights and Conflict Resolution training workshops held in Nigeria (DIHR, n.d.).
- H&M has entered into a partnership with Civil Rights Defenders, a Swedish non-profit organisation that works towards supporting human rights around the world.⁴⁰
- DLA Piper and Freshfields Bruckhaus Deringer provide substantial pro bono support to International Services for Human Rights by strengthening legal protection of human rights defenders, journalists and pro-democracy activists at the national and international level.⁴¹

These activities ensure active stakeholder engagement and participation. Good practices would earn the trust of local communities, national groups, and international CSOs and minimise any existing tensions that disrupt the working environment. Moreover, stakeholders feel more confident about the organisation's commitment to long-term growth and this is appreciated by governments, reinforcing a company's licence to operate in the country.⁴²

1.4.4 Respecting human rights defenders

Companies can – and increasingly are – taking a more forthright approach to respecting and protecting human rights defenders. Firms can (1) not only avoid any physical or legal attack on activities of human rights defenders, but (2) also advocate against and seek remedy to human rights violations from host governments. Although less common, this latter strategy has developed through the rise of corporate political advocacy, which encourages private actions that go beyond a firm's immediate economic interests.⁴³ This can manifest in the form of explicit public support for individuals, groups or values.

Ideally, this support is independent from the company's business activity but the underlying values are integrated into the firm's core business model. These actions utilise alternative mechanisms to target traditional political institutions.⁴⁴

The conventional business case for corporate action does not incentivise this type of political engagement, but there are concrete benefits associated with civil society independence. The next section lays out an expanded business case for a strong and independent civil society.

“We must show businesses that an enabling environment for civil society and human rights defenders can support growth and development. This is an emerging area of work, and companies' willingness to take action in that regard is growing. Fostering a conversation among leading businesses themselves, to reflect on proactive actions they can take to defend and support space for civil society, is an important step in that direction.”

Michael Ineichen, Programme Manager (Corporate Accountability)
and Human Rights Council Advocacy Director, ISHR

39 Triple bottom line (or otherwise noted as TBL or 3BL) is an accounting framework with three parts: social, environmental (or ecological) and financial

40 Elks (2014)

41 Larter (2015)

42 Amis, Brew and Ersmarker (2005)

43 Wettstein and Baur (2015); Scherer and Palazzo (2014)

44 Wettstein and Baur (2015)

1.5 Business Case for Supporting a Strong Civil Society

Neither civil society nor the private sector exists in isolation. Rather, they are part of an ecosystem which, when healthy, is counterbalancing. Leaders in the private sector that seek to promote or defend civil society do so because they believe it is important for society generally but they also recognise that civil society is crucial for creating an enabling environment for long-term investment. As such, there is a clear business case for supporting a strong and independent civil society.

Civil society:

- **Supports established global development goals**
SDG 16 aims to *'promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.'* Civil society is a key facilitator of institutional accountability for national governments. A strong civil society space is necessary for an environment that promotes the development of equitable, transparent, and effective institutions that are needed for sustainable development.

A strong civil society also facilitates the targets in SDG 17: *Strengthen the means of implementation and revitalise the global partnership for sustainable development.* Companies seeking to partner with local organisations benefit from having a fully developed civic space in which to operate. This allows them to more easily identify potential partners and provides greater transparency in evaluating the impact of these projects.

For companies that are signatory to the UN Global Compact for Business and Human Rights, a strong, stable civil society space is complementary to Principle 3: *Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.*

- **Strengthens public commitments**
A strong and independent civil society does not only demand accountability of governments, but can also function as a valuable transparency mechanism to expose inconsistencies within a company's public commitments. Larger companies operating across borders that have extensive supply chains, such as that of the garment or mining industries, can benefit from increased scrutiny of their suppliers' operations. This creates an ecosystem in which responsibility for eliminating abuses in the supply chain is credibly shared between the company and host country's civil society.

Furthermore, an open society that respects human rights defenders further enables corporations to keep their public commitment to human rights, attracting new customers that hold similar values.⁴⁵ The mechanisms behind consumer activism and shareholder advocacy work both ways, and a stronger civil society space allows discriminating customers to feel more confident in the ethical values of the corporation.

“Many companies feel that it is in their interests that there be a viable civil society, and in the absence of that, they would seek to support the creation of one. When they want to do something, their credibility demands that there be a credible representative across the table with whom to negotiate. If there is no one with whom they can engage with on a meaningful level, then that is a risk that has to be managed.”

Steve Kenzie, Executive Director, UN Global Compact Network UK

⁴⁵ Lazala and Bardwell (2015)

- **Manages risks of multinational investment**

The private sector stands to gain when judicial systems work well, consumers are empowered and employees are treated with respect.⁴⁶ When civil society has effective means to voice its concerns over corruption, poor governance, or human rights abuses it can serve as an effective ombudsman and streamline the accountability process. This leads to better overall governance of the political and economic systems, which makes it easier for companies to invest, operate, and expand in the country. In 2014, Cambodian representatives from H&M stated: “For H&M to continue to develop in Cambodia, we need stability, we need healthy industrial relations, a functioning wage mechanism, and strong partnerships with all suppliers. We need a sourcing country that is predictable and stable.”⁴⁷

The movement towards such advocacy signals a shift in how businesses focus on fulfilling their social and environmental responsibilities. In an ideal world, corporations and other private sector actors would recognise each element of the business case for an independent civil society. However, the unfortunate truth is that few firms seem to have done so to the extent that it has led to them taking action on behalf of civil society. However, the following section explores four cases in which we have observed companies acting with foresight to fight against the closing civil society space.

“One of the key things to know is that we don’t own any of the factories in our supply chain. We share our business partners’ factories with other brands. So it is in our common interest to ensure worker rights are respected and that we support an environment for investment and growth. Despite the competition between brands, we all have a mutual interest in ensuring the sustainability of the supply chain.”

Sarah Hopkins, Country Sustainability Manager (Cambodia and Vietnam), H&M

46 Lazala and Bardwell (2015)

47 Willemyn & Pheap (2014)

2. *Analysing Corporate Action in Defence of the Civil Society Space*

2.1 Methodology

This report seeks to answer the following research question:

How can we create an environment that encourages the private sector to engage in preserving the civil society space?

To do this we identified a series of best practices that go beyond addressing abuses in the supply chain, abiding by international legal frameworks or promoting corporate social responsibility practises. Our four cases were selected according to two criteria:

- Action should be taken by a private sector actor
- Action should be taken defending civil society space by advocating against threats to freedom of expression, freedom of peaceful assembly, and freedom of association.⁴⁸

After selecting the cases, we carried out background research to finalise the scope of analysis, data collection through interviews and desk research, and a detailed case analysis to identify common themes across cases.

We conducted a total of 31 semi-structured interviews with stakeholders and experts in the field of business and human rights, international CSOs, and corporations.⁴⁹ The primary focus of these interviews was to understand the key characteristics, roles and motivations of different stakeholders involved in the advocacy action.

Once the data was collected, we constructed case studies based on the following structure:⁵⁰

- Summary of case
- Social network analysis
- Stakeholder analysis
- Timeline of events

48 CIVICUS (2015)

49 The complete list of guiding questions along with the list of interviewed stakeholders can be found in Appendix 2 and 3

50 Find full case studies in Appendix 2

2.2 Cases

The cases took place in the following countries:

Angola Freedom of Expression	Rafael Marques was arrested for exposing government-sanctioned injustices in the Angolan alluvial diamond mining industry. Civil society actors led a movement to demand his release, engaging with diamond companies Tiffany & Co., Leber Jeweler and Brilliant Earth. The resulting international campaign was augmented by open letters from those firms and others urging the regime to respect Marques's freedom of expression, eventually resulting in the charges against him being dropped.
Cambodia Freedom of Association and Peaceful Assembly	Large protests broke out in Cambodia over minimum wages for garment workers which were violently repressed by the government, leading to 4 deaths and 21 illegal arrests. In a series of open and private letters, international garment retailers joined with civil society and international labour movement to control the government's retaliation and create a more peaceful negotiation process.
Pakistan Freedom of Expression	The Pakistani government had released a tender asking IT firms to develop a URL filtering system. Local CSOs along with international CSOs mobilised leading IT firms to make a public commitment to refrain from submitting bids in support of freedom of speech.
Thailand Freedom of Expression	Human rights activist Andy Hall was detained in Thailand after uncovering abuses in migrant labour practices. Industry associations – Thai Tuna Industry Association (TTIA) and Thai Frozen Food Association (TFFA) – posted his bail, expressing their concern against his arrest.

Going forward, it is important to acknowledge that our study suffers from the following limitations:

1. There are very few cases that meet our criteria.
2. There is a lack of transparency and available public information on many otherwise strong cases.
3. Many key stakeholders (especially private firms) have been non-responsive, leading to selection bias in our results, as we faced difficulty in contacting large corporations who were involved with our cases. The lack of response implies short institutional memory on the part of many corporations. For such companies, we attempted to gather information through analysis of their published CSR and sustainability policies, media information and interviews with other stakeholders.

The following table provides an overview of the rights upheld in each case and the key stakeholders in both the private sector and civil society.

Country	Rights Upheld	Key Stakeholders	
		Private Companies	CSOs
Angola	Freedom of Expression	Tiffany & Co. Leber Jeweler Brilliant Earth	Business and Human Rights Resource Centre (BHRRC) Rafael Marques
Cambodia	Freedom of Association, Freedom of Peaceful Assembly	H&M Adidas GAP Puma Levi Strauss Inditex Columbia Sportswear New Look +22 international garment brands	Ethical Trading Initiative International Labour Organization (ILO) Better Factories Cambodia IndustriALL Domestic CSOs
Pakistan	Freedom of Expression	Cisco Verizon Sandvine McAfee Websense	Bolo Bhi Business and Human Rights Resource Centre (BHRRC)
Thailand	Freedom of Expression	Thai Tuna Industry Association (TTIA) Thai Frozen Food Association (TFFA)	Finnwatch Andy Hall

2.2.1 Angola – Voicing the unheard; the fight for free speech

The Angolan diamond mining industry has been at the centre of major human right abuses over the years. In 2011, Rafael Marques, a human rights activist, published a book *Blood Diamonds: Corruption and Torture in Angola* which recorded over 500 instances of crimes committed by the military generals, also partial owners of mining companies in the diamond-rich areas.⁵¹ Marques filed crime against humanity charges against 7 military officials and as a result he was counter-sued by them for 24 criminal defamation charges that could lead to a nine-year prison sentence with a fine up to GBP 800,000.⁵²

Initially, in 2012, the generals and directors of private security firms filed charges against Marques and his publisher in Portugal for libel and defamation.⁵³ However, the Portuguese Public Prosecution Officer dismissed the case in 2013 by citing lack of evidence.⁵⁴ Marques's trial was supposed to start in December 2014 but due to constant delay, the court hearing was finally scheduled for March 2015. The judge decided to hold the trial behind closed doors with the press and public excluded.⁵⁵

⁵¹ Elgot (2015)

⁵² Ibid.

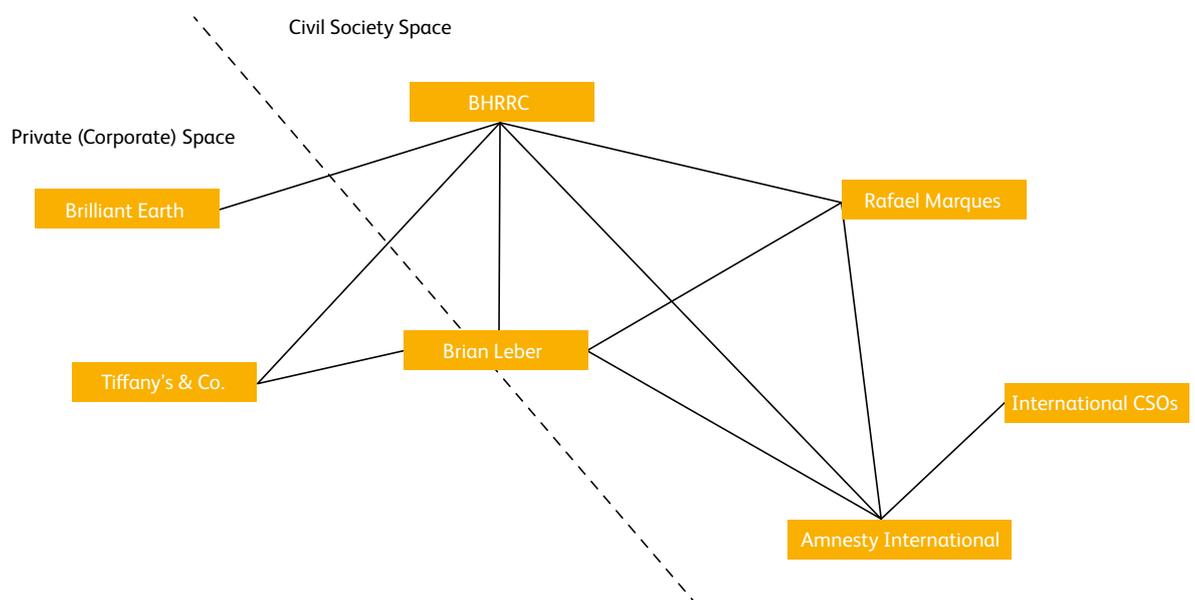
⁵³ Dolan (2015)

⁵⁴ Ibid.

⁵⁵ BHRRC - The Guardian (2015)

More than 30 worldwide human rights groups and anti-corruption NGOs including Amnesty International, Transparency International, Index on Censorship, Committee to protect Journalists, Freedom House and others launched a global movement to protest against the irregularities of Rafael Marques' trial.⁵⁶ The UN Special Rapporteur and Special Rapporteur to the African Commission on Human Rights & Peoples' Rights further pressurised the government to conduct a free and fair trial.⁵⁷

Two main stakeholders represented in the figure below – The Business and Human Rights Resource Centre (BHRRC) and Brian Leber, CEO of Leber Jeweler – took the lead in connecting CSOs with the advocacy action taken by business. BHRRC approached major diamond companies to advocate for Marques and co-ordinated with other international CSOs for his release. Brian Leber who had known Marques for 10 years helped draft the legal petitions. Tiffany & Co. and Leber Jeweler launched a public statement to condemn Marques's biased trial and strongly voiced their desire to create a global diamond supply chain, free from human rights abuses.⁵⁸ This was followed by another similar letter by Brilliant Earth. The movement saw industry-wide support from a number of jeweller organisations as well such as National Jeweller USA and Jeweler's Circular Keystone.⁵⁹



In May 2015, these efforts led to the withdrawal of the criminal defamation charges against Marques.⁶⁰ He struck a negotiation with the generals that allowed him to carry out his work under the watchful eye of the government on the condition of not republishing the book. Unfortunately, in less than a week, the public prosecutor announced that Marques's statement was an admission of guilt that would be punished with a suspended statement.⁶¹ Thereafter, he has been handed down a six-month prison sentence suspended over two years, due to which his trial continues till date.⁶²

56 BHRRC - The Guardian (2015)

57 BHRRC (2015)

58 Tiffany & Co. and Jeweler (2015)

59 Bates (2015)

60 Baker (2015)

61 Ibid.

62 Ibid.

2.2.2 Cambodia – Solidarity in the fight for the freedom of assembly and association

Labour rights for workers in the Cambodian garment manufacturing industry are notoriously weak, especially due to the lack of a comprehensive legal framework for industrial collective action. In early January 2014, protests by workers demanding a higher minimum wage were violently repressed by police in the capital Phnom Penh. Four people were killed and over 20 taken prisoner. Such clashes are characteristic of the relationship between the government and the labour movement in Cambodia, which faces systematic discrimination and harsh repression.⁶³

For workers in the garment manufacturing industry, the freedom to organise into collective bargaining institutions is critical to bring about better labour conditions in factories effectively. There are instances in which workers are forced to work 100-hour weeks in order to keep their jobs, resulting in higher rates of suicide and discrimination against women experiencing gender-related illnesses or health conditions. Multinational retailers have recognised their responsibility to the workers in their supply chains to ensure that the factories from which they source their goods are abiding by international labour standards. The violence in Cambodia threatened their abilities to fulfil these responsibilities.

In response to the violence, brands in the country began seeking means by which they could exert pressure on the government to end its harsh treatment of protesters. They sought a more stable business environment in Cambodia that would allow them to continue doing business there in good faith.⁶⁴ Many brands sought the assistance of the ILO's Better Factories Cambodia Programme, which assisted in gathering relevant stakeholders and facilitating the drafting of a letter to the Prime Minister.

This letter, delivered on 17 January 2014, was signed by 30 international garment brands and three international labour unions with operations within Cambodia. The content included language (1) condemning the violence against protesters, (2) supporting the legal rights against detainees and (3) the freedom of association, (4) calling for the imposition of a legal framework for labour relations, and (5) encouraging the formalization of the minimum wage decision-making process.⁶⁵

The letter resulted in a high-level meeting on 19 February 2014 between government ministers and representatives from Puma, Gap, H&M, and the IndustriALL Global Labour Union, which spoke on behalf of the other signatories to the letter. During the meeting, the government was reported to have listened to the concerns of the brands and unions expressed in the letter. Although no commitments were made, the presence of brands, civil society and government at the same table was instrumental in communicating the seriousness of the concerns for all parties involved. The coordination between brands and unions was particularly symbolic, as it made it incredibly difficult for the government to ignore their concerns.⁶⁶

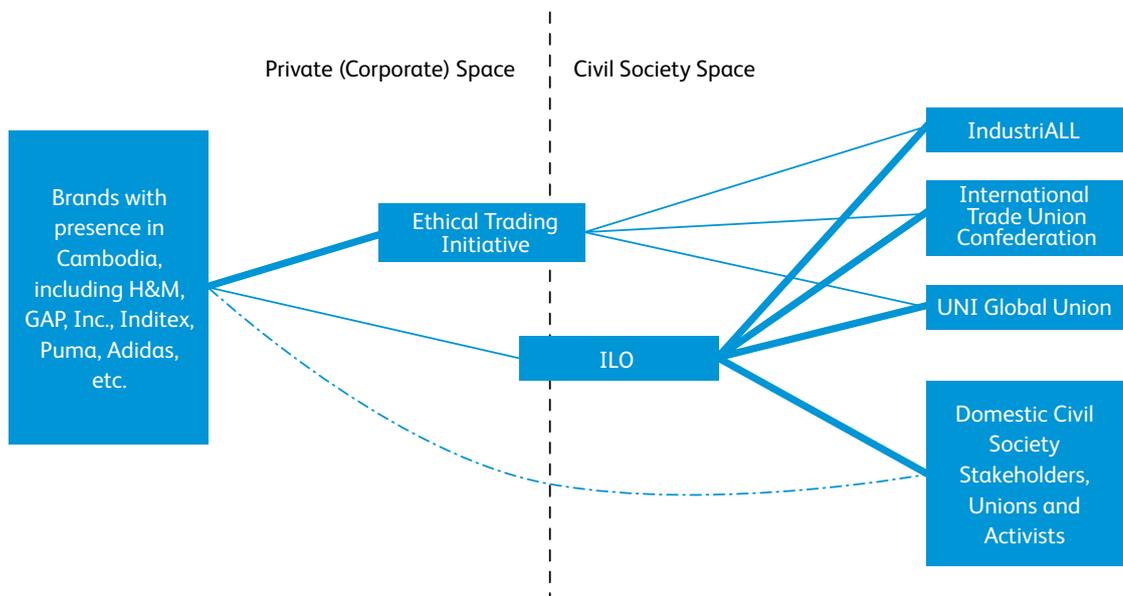
After this meeting, Better Factories Cambodia (BFC) was restrained from further advocacy by ILO HQ in Geneva. This was in response to manufacturers' complaints that the ILO is primarily an outreach and support organisation, not an advocacy body. After BFC was restrained, the general leadership role in the coordination and planning for brand action geared towards protecting labour rights in Cambodia passed to the Ethical Trading Initiative (ETI).

63 Bacchi (2014)

64 Willemyns & Pheap (2014)

65 See open letter in Appendix 4

66 McAllister (2014); For full text of both letters see Appendix 4.



This figure above shows how the stakeholders in Cambodia interacted during the crisis in early 2014. The ILO (represented by Better Factories Cambodia) and ETI were key cross-sector actors that were able to speak to both civil society and the private sector, facilitating the drafting and signing of the private letter to the government sent in mid-January 2014. Also evident is the informal engagement of multinational brands directly with domestic civil society, which should not be underestimated. However, the strongest ties – the ones that led to the intervention in this case – are between the international unions, domestic civil society, and the ILO; between the ILO and ETI; and between the ETI, ILO and international brands. This extremely formal cross-sectoral network was instrumental in organising collective action within Cambodia.

The letter and the resulting meeting were only one part of the bigger push for a higher minimum wage and better labour rights in Cambodia. Parallel to this process, a number of brands were releasing their own open letters, unions coordinated periodic strikes, and protestors continued to demand higher wages and better working conditions. Following a coordinated public commitment by retailers to stay in the country following substantial wage increases, the government eventually relented and raised the minimum wage by over 50% – to \$140/week. Although it is still below what the Clean Clothes Campaign estimates as an acceptable living wage, this progress would not have been possible absent a credible commitment by the clothing companies to remain in the country in the face of higher production costs.⁶⁷ Labour unions celebrated the milestone success but have not ended their commitment to the \$177 goal.

67 Kasztelan (2014); Clean Clothes Campaign (2014); Brignall (2014)

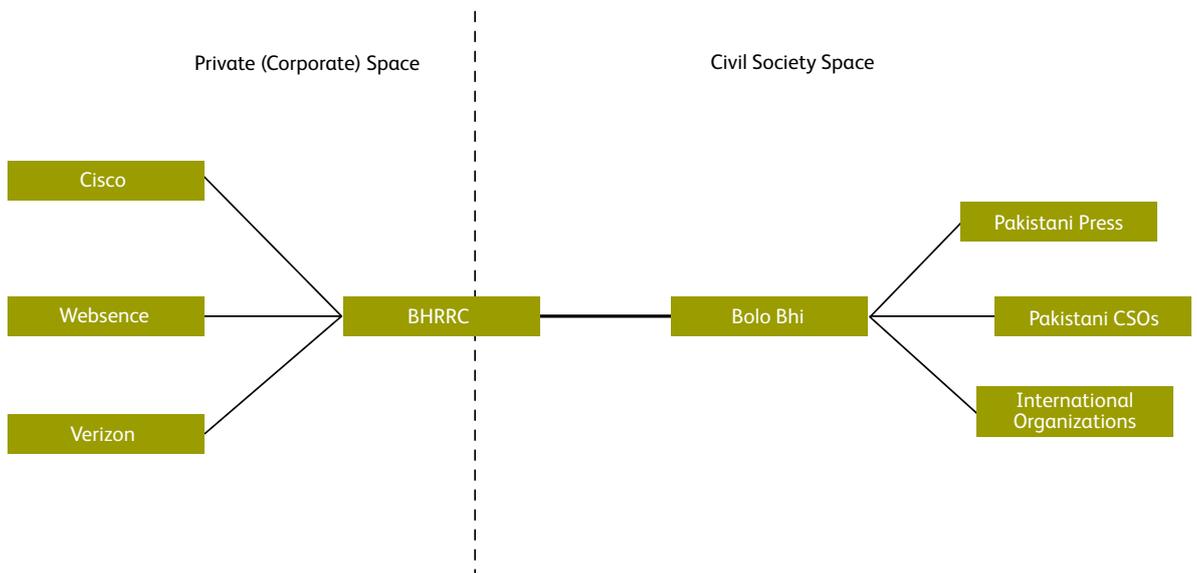
2.2.3 Pakistan – Speaking up against the increasing threat of censorship

In February 2012, the Pakistani government published a tender encouraging Information Technology (IT) companies to submit bids for a contract to design and implement a URL blocking and filtering system in the country. Roughly a week after this tender was published in a widely-read Pakistani newspaper, local CSO Bolo Bhi, meaning ‘speak up’ in Urdu, published an online petition calling for international IT companies to refrain from submitting bids for the contract. Bolo Bhi framed the opening of the tender as a “rare opportunity to pressure companies to publicly commit not to apply for this contract and to ensure global companies adhere to accepted ethical business standards.”⁶⁸

URL filtration systems are in direct contradiction to the principle of freedom of speech. In theory the right to free expression extends over the internet, and this tender signalled the Pakistani government’s intention to expand its control over access to certain websites. This would give them the ability to censor media they felt were not acceptable and stifle free and open discussion of political issues.

Bolo Bhi enlisted the help of the London-based Business and Human Rights Resource Centre (BHRRC) to bring this appeal to targeted corporations. The public momentum for this case took place on two levels – domestic and international. Bolo Bhi was instrumental in coordinating support on the ground in Pakistan, engaging with other CSOs and drafting letters to members of Parliament.

Internationally, the BHRRC was responsible for reaching out to targeted IT companies to convince them to refrain from submitting bids to tender. BHRRC reached out to eight companies in total: Websense, Cisco, Verizon, Sandvine, McAfee, Netsweeper, Blue Coat and ZTE. In response, five of these companies – Websense, Cisco, Verizon, Sandvine, and McAfee – made a public commitment not to submit bids to tender. The connection between Bolo Bhi and BHRRC was crucial to success, as neither level of advocacy would have been successful without the complementary efforts of the other.



Unfortunately, the privately-owned Canadian firm Netsweeper submitted a bid and was awarded the contract. After failed attempts to get comments from Netsweeper, Bolo Bhi wrote a letter to the Canadian government “to fulfil their commitments, to stand by the Canadian Constitution, Canada’s Global Commitment to Internet freedom & assist us (them) in seeking answers from Netsweeper.”

BHRRC also has reached out to Netsweeper business partners to make them aware of the issue, along with an opportunity to comment by leveraging the UN Guiding Principle 13b which requires companies to work to prevent human right violations linked to their business partners.⁶⁹

68 From public petition found here: <https://petitions.moveon.org/sign/censorship-is-big-business>

69 BHRRC (2015)

2.2.4 Thailand – Fighting against the criminalisation of the freedom of expression

Ranked Tier 3 (the lowest tier) in the US Government's 2015 Trafficking in Persons (TIP) report, Thailand has long faced criticism for its failure to curb labour and human rights issues in the country.⁷⁰ On 21st January 2013, Finnwatch, a Helsinki-based watchdog, published a report *Cheap Has A High Price* which documented the poor migrant worker conditions in Natural Fruit Company Ltd. (henceforth Natural Fruit, a major player in the pineapple industry) and two companies in the tuna industry, Thai Union Manufacturing and Unicord. Tuna and pineapple production is a key source of external revenue and these companies supply a number of international brands around the world. Both industries employ a significant number of workers from among the estimated two million Burmese who constitute over 80% of the 2.5 million migrant workforce in Thailand.⁷¹ Many of these workers do not have authorization to work, making them vulnerable to exploitation. Andy Hall, a 34-year-old human rights advocate for migrant workers, actively contributed in preparing the publicly available research report.

In February 2013, Natural Fruit filed charges against Andy Hall in a Bangkok police station. There were a total of four charges, two criminal and two civil law suits. Legal action against Hall raised international criticism. International labour and human rights organisations like UN Special Rapporteur, BHRRC, IndustriALL, Greenpeace in addition to Finnwatch wrote a letter to the Thai Prime Minister against the prosecution of Andy Hall.⁷²

Hall also attracted support from some of the major Thai industry associations and served as a prime link between the private sector and CSOs. It was on the personal request of Andy Hall that, in June 2014, the Thai Tuna Industry Association (TTIA), one of the largest tuna exporters' associations in the world, and Thai Frozen Food Association (TFFA), paid for Hall's bail when he was first charged. They did this to demonstrate support for the work of human rights activists who investigate worker rights abuses.⁷³ TTIA, along with Finnwatch and Thai Union, agreed to provide a second round of bail in January 2016.⁷⁴

TTIA had known Hall for about four years and arrived at the decision to provide bail with unanimous consensus from all its member companies. TTIA's president, Dr. Chanintr Chalisarapong, stated that all member companies within TTIA, whether large or small, abide by the ethical code of conduct followed by TTIA. If any member company breaches the code, TTIA reserves complete authority to terminate membership of such companies. They were also facing tremendous international pressure from media, international CSOs and their own customers which also moulded their decision to cooperate with Hall.

70 US Department of State (2014)

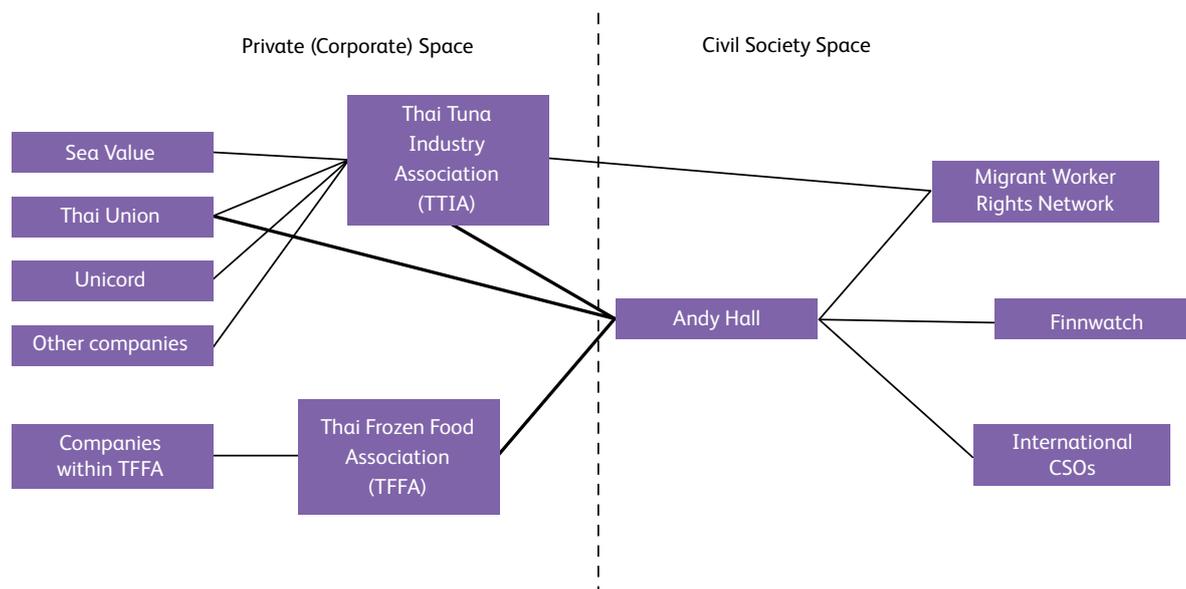
71 Finnwatch (2013)

72 International Labor Rights Forum (n.d); Finnwatch, (2014)

73 Finnwatch (2014)

74 Hall (2016)

With the effort of Andy Hall, who now serves as an International Affairs Advisor of Migrant Worker Rights Network (MWRN), TTIA and Thai Union Manufacturing are engaging in constructive dialogues and strategic engagements to address the supply chain issues and migrant rights abuses in collaboration with MWRN and government.⁷⁵ The diagram below highlights informal and formal interactions that took place within, and across the sectors during this process of advocacy.



With regards to the charges, the Appeal Court ruled in favour of Hall on the defamation charge in September 2015. The other three charges are still pending in court and Hall could be facing seven years in Jail and a fine of up to 400 million Thai baht (£7.9m) if he is found guilty.⁷⁶

2.3 Trends in Corporate Advocacy for Civil Society

This section outlines the key themes from the four cases, highlighting the knowledge flows amongst primary stakeholders.⁷⁷ The themes invite further discussion on the effects of public campaigns on corporate action, the implications of organisational structure and ownership, the relative effectiveness of private and public outreach, and the importance of networked actors in the governance process.

2.3.1 Advocacy and publicity

Social movements play an instrumental role in contesting corporate policies:⁷⁸ large public campaigns targeting businesses tap into the mechanisms of ethical consumerism and shareholder activism to pressure companies to make commitments to social and environmental issues. Social movement theory research has found that when presented with challenges such as boycotts, letter-writing campaigns, and rallies, firms are motivated to take activist groups seriously.⁷⁹ This effect was observed in the Thailand case study where demands from consumers for migrant worker rights added to the pressure on the tuna industry to take action.

“There’s huge pressure from consumers in United States, and the EU gave Thailand a yellow card with regards to illegal fishing. This is creating political pressure in Thailand – especially for the big companies. Almost 80% of the workforce in Tuna industry is migrant workers, and there are a lot of reports and media coverage around the issues of

⁷⁵ World Fishing & Aquaculture (2015)

⁷⁶ Davies (2016)

⁷⁷ Knowledge flows refer to the exchange and transfer of knowledge (such as information, skills, expertise) amongst people, friends, family, community or organisations. Refer to Bukowitz and Williams (1999) for more details

⁷⁸ Soule (2009); King and Pearce (2010)

⁷⁹ Social movement theory primarily analyses the ways in which activists mobilise public political process to influence state legislative and regulations (Della Porta & Diani, 2006; Briscoe & Safford, 2008, Greenwood, Suddaby, & Hinings (2002))

migrant workers' rights in the tuna industry. Providing bail was one way for Thai Tuna Industry to indicate they have started working with the civil society to address these issues.”

Sonja Vartiala, Executive Director, Finnwatch

Such public and critical advocacy also played a role in the Angola case study. The movement against conflict diamonds has been successful in reconnecting violent spaces of exploitation and peaceful spaces of consumption.⁸⁰ The history of the campaign led to companies such as Tiffany & Co., Leber Jeweler, Inc., and Brilliant Earth being more likely to engage in related issues such as Marques's freedom.

The 2013 collapse of the Rana Plaza factory claimed lives of over 1,000 workers in Bangladesh, and served as a wake-up call for the garment industry. The incident demonstrated the reputational damage faced by companies with low standards of safety and concern for worker conditions.⁸¹ The momentum created by the publicity around the Rana Plaza incident was a key precursor to the response of garment brands to the unrest in Cambodia.

2.3.2 Nature of ownership

Whether a company is privately or publicly held influences how and whether they engage with government on behalf of civil society. Brian Leber (CEO of Leber Jeweler, Inc.) had known Rafael Marques personally through his involvement with his 2006 report. When the opportunity to sign the open letter in support of Marques's release came about, Leber was able to make the executive decision to sign it, quickly and effectively committing his company to the campaign. When asked about how this process worked, Leber shared the following:

“Because we are a private company, we have a better ability to respond... We don't answer to stockholders, so we aren't forced to concentrate on the importance of profit... We've got the mobility – we can dive into the fray without the need to justify financial consequences.”

Brian Leber, CEO, Leber Jeweler, Inc

Applying this dynamic to a broader perspective, this implies that private ownership affects how a firm engages with advocacy. Academic research on the subject has come to a rough consensus that corroborates this. Privately-held companies have been found to be more likely to be engaged in product-related CSR initiatives, and family-owned businesses are shown to be generally more socially and environmentally responsible than non-family businesses due to the ethical values of their owners.⁸² Meanwhile, managers of publicly traded firms have a strict responsibility to make their corporations profitable, and the link between corporate participation in social issues and value creation for shareholders is tenuous at best.⁸³ We have observed that the flexibility of private firms makes it easier for them to join informal networks that include civil society actors and, when the time comes, make credible commitments in their support.

This does not, however, mean that all private firms are members of these networks or that they would choose to act in similar situations. For instance, Netsweeper, a private company, eventually bid for and was awarded the contract for the Pakistani URL filtration system. Rather, the particular firms that we have observed acting responsibly have aligned themselves with particular values, and in our interviews they emphasised these values as core parts of their business model.⁸⁴

Strong ethical leadership at the head of privately-held firms can quickly and effectively commit their companies to respond to threats to civil society. One of the reasons that it was difficult to get responses

80 Billon (2006)

81 Kasztelan (2014)

82 Block & Wagner (2014); Dyer & Whetton (2006); Cruz et. al. (2014); Hemingway & Maclagan (2004)

83 Hillman & Klein (2001)

84 Leber (2016); Krauss (2016)

from large public corporations was that we could not identify the specific individuals involved with our cases, which implies a lack of institutional memory. On the other hand, privately-held firms were much more available for comment because their action had been conducted by members of core leadership such as the CEO (Leber Jeweler, Inc., Brilliant Earth).⁸⁵

2.3.3 Nature of engagement

Our interviews revealed that a number of actions taken by companies were in the form of private discussions with key stakeholders. For example, in Cambodia the ILO and the ETI organised a private letter to the Prime Minister of Cambodia urging an end to violence against protesters and respect for labour rights.

The letter was signed by 30 prominent North American and European garment retailers as well as three global trade unions. This led to two private meetings held with key members of the government in which the signatories pressed their demands, citing the business case for better labour conditions in the country.⁸⁶ This was followed by a further letter signed by 7 leading companies that was published publicly, putting increasing pressure on the government during the bargaining process.⁸⁷

The combination of public and private advocacy led to significant progress being made in the negotiations in Cambodia, and across our cases the distinction between public and private engagement has been an important aspect of how corporations have involved themselves with the civic space.

“As compared to public campaigns, private engagement led to respectful meetings with the right people to nudge change for release of some protesters. At times you need public advocacy and at times private; it depends on the context. If private fails then a public campaign to gather more support can be a beneficial strategy.”

Peter McAllister, Director, ETI

2.3.4 Leveraging networks

Pre-existing networks are extremely important in our cases. TTIA acted on behalf of over 25 member firms when it offered its support to Andy Hall in the form of bail. The signatories of the open letter calling for the end of violent repression in Cambodia were all members of a large network of garment retailers, manufacturers, and domestic and international labour unions. The existing network enabled a response to be quickly organised and signed off.

In relation to issues of global governance, networks bridge the gap between market and state hierarchy.⁸⁸ Relationships in these networks are maintained not just by economic exchanges but also through social ties.⁸⁹ The primary governance mechanisms in cross-sectoral networks are incentive systems, which are explained by the elements of the business case for human rights above.⁹⁰

In the cases involving Andy Hall in Thailand and Rafael Marques in Angola, both activists were already members of large informal networks made up of human rights organisations, other civil society actors and private firms when they were arrested. Even if they were not involved with the companies themselves, they were connected by a few degrees of separation through their professional or personal networks.

85 It is important to note that this distinction may be due to the relative sizes of the companies in question, however it is safe to assume that private ownership does correspond with smaller size and vice versa.

86 McAllister (2014)

87 Brettman (2014); Bacchi 2014)

88 Granovetter (1985); Williamson (1985)

89 Granovetter (1985)

90 Behnam & Gilbert (2012); Williamson (2005); Amis, L., Brew, P., & Ersmarker (2005)

“We had known Rafael since an earlier report by him about artisanal miners in 2006, and so when we heard about his arrest and the campaign organized by international NGOs to free him we asked ourselves what we could do on his behalf that would add value to the ongoing efforts. We thought that a statement from diamond companies themselves would have a bigger impact on the government than a statement from the NGOs.”

Mauricio Lazala, Deputy Director, BHRRC

2.4 Social Network Trends

Social Network Analysis (SNA) of our case studies allows us to gain a greater understanding about how the different actors (or nodes) interacted by mapping connections. The SNA for the networks in our cases highlights the following trends:

- **Heavy use of previously established informal networks:** *In all cases, we have observed the significant exploitation of pre-existing networks that involve the key stakeholders. The SNA reveals that the probability of obtaining corporate action depends on leveraging these cross-sectoral relationships.*
- **Leadership and mediation across sectors:** *Our analysis highlights the role of agents who bridge the gap between the industry and civil society spaces. Brian Leber, nominally an industry actor as CEO of Leber Jeweler, Inc., was a strong leader in the initiative to connect with CSOs to advocate for Rafael Marques’s release. Similarly, ETI worked with both CSOs and large garment manufacturers to advocate against the violence towards migrant workers. These agents reached out to mobilise the large network of activists on both sides of the spectrum. This helps to overcome significant collective action problems among corporations in which the incentives for moving forward are not properly defined.*
- **Large corporations are absent in action leadership:** *Large corporations are not at the forefront of global policy initiatives. Influential corporations such as Cisco and McAfee were not involved with the campaign against the Pakistani web filtration system until they were approached by BHRRC. Similarly, ETI’s strategy for engagement involves first creating a case for action, then approaching their member organisations and firms to propose certain tactics for creating change.*

While these observations are not sufficient to ensure full corporate participation, they suggest far-reaching implications for our research question. Effective corporate engagement in global governance is noticeably lacking, leading to a growing need to generate broader cross-sectoral interactions using these mechanisms. The following section describes best practices through which CSOs are strategically engaging with firms to improve global governance of the civil society space.

3. Best Practices

This section builds on the key learnings taken from the previous case analysis and identifies best practices that have led to the successful involvement of the private sector in the global governance process. These best practices describe the dynamic interplay of cross-sectoral networks, strategic messaging and communication strategies that play a key role in inspiring action and collaboration between the private sector and civil society actors to defend and protect civil society independence.

3.1 Unleashing the value of formal and informal cross-sectoral networks

As discussed in the previous section, civil society actors across the four cases were able to leverage pre-existing networks with businesses to encourage the private sector to act on their behalf. From a policy perspective, these networks are an important best practice for organisations seeking to engage the private sector in preserving the civil society space. They are cross-sectoral both in the sense that they operate across sectors and that their membership is composed of actors from the private, government, and civil society sectors.

The UN has recommended multi-stakeholder partnerships (MSPs) as a policy tool since the 2002 Johannesburg World Summit on Sustainable Development. Revitalised in *The Future We Want*, the outcome document of the Rio+20 conference in 2012, MSPs have become a central strategic element of what eventually became SDG 17: Revitalising the global partnership for sustainable development. The SDG Philanthropy Platform (an action network supporting the 2030 Sustainable Development Agenda) has initiated pilot programmes in Ghana, Colombia, Indonesia, and Kenya that aim to bring together INGOs, government agencies, and philanthropic donors to coordinate poverty-reduction strategies according to the SDG framework.⁹¹ MSPs have been designed and studied in the context of the UNDP poverty reduction agenda, but they are only recently (after the UN Global Compact and Ruggie Framework) evolving to explicitly target the private sector.

Identifying more of these formal and informal networks and actively maintaining them can effectively engage the private sector in the process of global governance.⁹² According to the traditional theory of the firm, the private sector has no role in the provision of public goods such as a stable, independent civil society space, but connected civil society actors and organisations can capitalise on existing informal networks to create more targeted and effective private sector action. These networks create a space that connects domestic norms of corporate behaviour to the globalised interstate policy sphere, effectively closing the operational gap.⁹³ When corporations have the opportunity to enter into this middle ground, they can have impressive impact – by choosing to involve themselves in issues of governance they are closing the participatory gap as well.

We have been able to draw two such cross-sectoral partnerships from our cases that work to protect an independent civil society space:⁹⁴ the Ethical Trading Initiative (ETI), an alliance between corporates, trade unions and CSOs that seeks to strategically address workers' issues in their supplier companies; and the Thai Tuna Industry Association (TTIA), a membership association that represents Thai tuna companies. Through its engagement with Andy Hall, TTIA has observed a significant transformation in regards to the relationships among labour and management in the Thai tuna industry.

“With Andy Hall and Finnwatch, there has been a substantial change in the way the TTIA works with the migrant workers. Without them, there may have been a social conflict between the migrant workers and Thai employers. Andy Hall and Finnwatch link the migrant workers with the management of the company by educating and training both of them.”

Dr. Chanintr Chalisarapong, President, TTIA

91 For more information see <http://sdgfunders.org>

92 Detomasi (2007), Reinicke (1998), Mueckenberger & Jastram (2010), Bäckstrand (2006), Witte, Reinicke & Benner (2000)

93 Detomasi (2007)

94 For further details on ETI and TTIA, please refer to Appendix 4

3.1.1 Leveraging strengths of different governance actors in networks

Corporations that support civil society do not do so alone. Our cases have shown how companies are first targeted by civil society actors that leverage their contacts within cross-sectoral networks. This allows them to engage with the private sector informally, providing appropriate context for their proposals in a non-confrontational context.

At the time of the Cambodian government's violent crackdown on protesters demanding higher wages in 2014, the garment industry enjoyed a pre-existing network consisting of representatives from retailers, domestic civil society organisations, and international trade unions. Through the facilitation of ILO's Better Factories Cambodia programme, this network of individuals was able to produce a private letter to the government with a list of concerns that was signed by a sector-diverse group, within two weeks of the incident. Those familiar with the process of getting approval for open letters should realise how relatively quickly this was completed.

In general, the potential capabilities of these cross-sectoral networks include:⁹⁵

1. *Increasing the global saliency of key issues*

Networks of influential stakeholders can bring concerns to the forefront of policy agendas. In our cases we observed this effect most prominently in Pakistan, where the participation of large IT companies complemented the actions of grassroots civil society activism to hold the government to account over web censorship.

2. *Facilitating negotiation and settlement of global standards*

By serving as a preliminary negotiation space between industry and civil society, cross-sectoral networks allow groups of organisations to present a united front when engaging with repressive governments. We saw this mechanism working well in Cambodia, where a general agreement among ETI members, local unions, and international labour rights organisations allowed them to bargain collectively with the government and negotiate higher minimum wages. Networks effectively allow civil society to utilise business to amplify the voice of grassroots movements and their beneficiaries to maximise impact.

By including the private sector in programme development and implementation, policymakers can take advantage of the specific strengths and weaknesses of all members, summarised below:⁹⁶

Table 1: Strengths and weaknesses of governance actors.

Actor	Strengths	Weaknesses
Industry	Technical capacity; economic resources; internal control	Legitimacy; experience/knowledge; collective action
Government	Legitimacy; enforcement capacity; domestic institutional strength	Reliance on FDI; corrupt or kleptocratic officials
Civil Society	Awareness building; issue-specific local knowledge	Legitimacy; limited issue focus

Partnerships between civil society and industry can benefit from civil society's issue-specific local knowledge and industry's technical capacity, while solving industry's collective action problems with the help of civil society's strength in awareness building. Working together, the two sectors can apply pressure on the government to stop threatening civil society and gain legitimacy by publicly committing to ethical global governance standards.

⁹⁵ List taken from Witte, Reinicke & Benner (2000)

⁹⁶ Taken from Detomasi (2007) Figure 1; pg. 325

3.1.2 Managing tensions in networks

When creating and maintaining such a network, managers must balance certain dynamics that can threaten its capacity to realise its full potential. Challenges to efficiency can arise from the following conflicts, among others:⁹⁷

1. Managing relative relationships

It is important for network administrators to maintain their independence, but still maintain appropriate closeness with members to allow for constructive dialogue and cross-network accountability. If the network exerts too much control over firm policy and procedure, it can risk creating ‘industry outsiders,’ which would severely limit their perceived legitimacy to other private sector actors and to national governments.

2. Managing inclusivity

As the networks are cross-sectoral, there will inevitably be conflicting sets of preferences, incentives, and value structures that need to be accommodated for. A successful network manager needs to balance these dynamics so as to avoid the dominance of one sector. Donor agendas can easily overtake civil society priorities as success becomes dependent on generated revenue instead of proven impact. This is often an issue in partnerships between INGOs and donors.⁹⁸ Without a balance of inclusivity, networks lack legitimacy and civil society’s capacity to leverage firms’ strengths is diminished significantly.

Managers of cross-sectoral networks have the potential to form an incentive structure encouraging corporate action, but they will not function effectively without appropriate messaging: there needs to be a strategic approach to advocacy targeting the private sector.

3.2 Strategic messaging for engagement

Traditionally, the relationship between civil society and corporations has been characterised by aggressive and adversarial interactions.⁹⁹ In the struggle for a more ethical business environment, it is often necessary to be confrontational in spreading awareness about human rights abuses and coercing companies to act.¹⁰⁰ However, such strategies may be counterproductive in the long term as an adversarial climate does not encourage governments and corporations to value the civil society space.

The types of interventions explored in the report go beyond the expectation that companies ‘do no harm’. Demanding that a company put its name and reputation on the line to speak out or act on an issue requires more nuance and less public criticism than the traditional approaches to classic internal governance issues. Otherwise, the initiative may backfire, leading to negative reactions and escalation of tactics on both sides.¹⁰¹

Under such circumstances, it is essential to maintain a balance between adversarial approaches and productive corporate engagement. The human rights activists and experts we interviewed collectively agreed that while an adversarial approach may help to stimulate corporate thinking to consider ethical questions, doing so for extremely contentious measures may burn bridges and make future negotiations difficult or impossible. To navigate this tension, it is important to identify partners and build alliances through rational and moral persuasion leading to long-term constructive and sustainable support. Sarah Hager from Amnesty International corroborated this, saying:

97 Taken from Detomasi (2007)

98 Peterson et. al. (2014)

99 Crane & Matten (2010)

100 Winston (2002)

101 Wapner (2006), Winston (2002)

“Sometimes finding an ally has more value than completely naming and shaming an entire industry. You can condemn an entire industry but there are usually good actors within an industry and if you can find them, they can help create a moral shift.”

Sarah Hager, Chair of Southern Africa - Coordination Group, Amnesty International

With the development of the UN Global Compact, there has been a growing transition from traditional strategies of protest and activism to collaborative, solution-oriented and cross-sectoral partnership.¹⁰² We observed this process in the Pakistan and Angola cases, in which the BHRRC drafted policy-neutral letters to firms that received many positive responses from companies who had otherwise been unresponsive.

3.2.1 Principles of engagement

The default nature of engagement should not be to publicly shame certain companies for human rights abuses. Rather, it should be designed to create a consumer-driven momentum within the industry that makes corporations more inclined to engage with civil society. Such a momentum has led to the overwhelming trend of garment manufacturers committing themselves to better oversight of their supply chains and was instrumental in bringing about their intervention in Cambodia.

Creating the incentives for this action is important, but truly effective partnership requires both civil society and business actors to create a common vocabulary to discuss issues surrounding business and human rights. To this end, civil society should take the initiative to educate businesses about human rights issues, which are complex and often described in language that is inaccessible to the private sector. This will help facilitate dialogue and make it easier to connect with these companies during periods of crisis.

Large companies, often benefiting from greater resources and a more advantageous bargaining position, may attempt to influence and control the messaging strategy of CSOs. As such, CSOs must be careful not to allow large companies to manipulate the dialogue in their own favour, but they also need to ensure that this concern does not lead to corporate partners being excluded or marginalised. While maintaining control is important, the added impact from the collaboration is in the presence of the firm, so it must not be cut out entirely. Ben Vanpeperstraete of IndustriALL Global Union shared:

“When CSOs enter into such a joint dialogue process, they must keep a degree of control of messaging, for example by linking it to something non-arguable like fundamental rights. They must maintain ownership but at the same time they need to make sure that corporate counterparts are equally comfortable with the message.”

Ben Vanpeperstraete, Supply Chain Coordinator, IndustriALL Global Union

It is important to maintain a balance between conciliatory approaches and aggressive messaging towards specific companies. If a neutrally-messaged public information campaign is not achieving the desired effect, it may be necessary to call out individual firms for bad behaviour in order to drive them to the bargaining table.

3.2.2 Changing the political narrative

Corporations that seek to exert influence on governments should concern themselves with changing political narratives. As important economic actors, companies enjoy a prominent platform for engaging in advocacy with host governments. This was very apparent in Cambodia during the 2014-2015 minimum wage negotiations: after garment retailers publicly committed to remaining in the country after a wage hike, was it politically expedient for the government to compromise. A major reason for the existing low wage standards and the oppression of protesters was concern for the competitiveness of the Cambodian garment manufacturing industry. Garment companies were able to offer credible commitments to work with Cambodian manufacturers to improve labour conditions, which removed the justification for low wages and repression.

¹⁰² Shah (2001); Åhlström and Sjöström (2005)

3.3 Communication strategies for policy influence

Companies need to be mindful of a series of strategic factors when they seek to change political narratives. A method that was used in the cases of Angola and Cambodia was an official letter. The following section synthesises approaches that have proven successful for the stakeholders involved, dealing with the timing, co-signatories, and intended audience.

1. **Timing:** In order to change the political narratives, companies need to be strategic about the timing of the letter-writing process. This was crucial in the case of Cambodia, where the companies strategically released the first letter within two weeks of the government's crackdown on trade unions. Due to this immediacy, momentum surrounding the incidents was still extremely high, so the intervention of the multi-stakeholder group was very timely, contributing to the government's willingness to come to the negotiation table.
2. **Co-signatories:** Increasing the number and diversity of signatures on letters to governments enhances the likelihood of the government engaging in a constructive dialogue. Governments need to balance the interests of multiple stakeholders, and having representatives of different stakeholder groups increases the weight of the message. In the words of Jonah Wigerhall at H&M:

“We were concerned about the immediate and long-term effects of the brutal crackdown in Cambodia. We managed to rally with other organisations as we felt that it was better to get a reaction from a group of brands rather than just us alone. The institutional actors brought in a different kind of advocacy that involved a larger network and strengthened the message.”

Jonah Wigerhall, Social Sustainability Business Expert (Stakeholder Engagement), H&M

3. **Intended audience:** Corporations can draft or be signatory to open letters that provide credible signals to governments about their stances on controversial policy issues.

Although open letters can achieve significant impact, they risk alienating key policy makers in the host government. If governments are seen as susceptible to foreign influences, regimes that are too responsive to public pressure can lose domestic legitimacy, diminishing the impact of positive policy changes. This underlying narrative is itself a source of the justification governments cite when asserting control over civil society.

Alternatively, private sector actors can approach government representatives through private or informal means. Particularly in developing markets, corporations in large and influential industries have an extremely credible exit threat, which can lead to significant breakthroughs in private negotiations without 'messy' media attention that could damage officials' public images.

We have seen from the Cambodia case that this method can be extremely effective, but without a way to hold corporations to account for the content of their private conversations with governments, civil society actors can find themselves marginalised within their own initiatives. To prevent this, private corporate action should be heavily coordinated by civil society through the use of networked partnerships.

Although private negotiations and public letters are two separate advocacy strategies, it is possible to use them together by strategic placement.

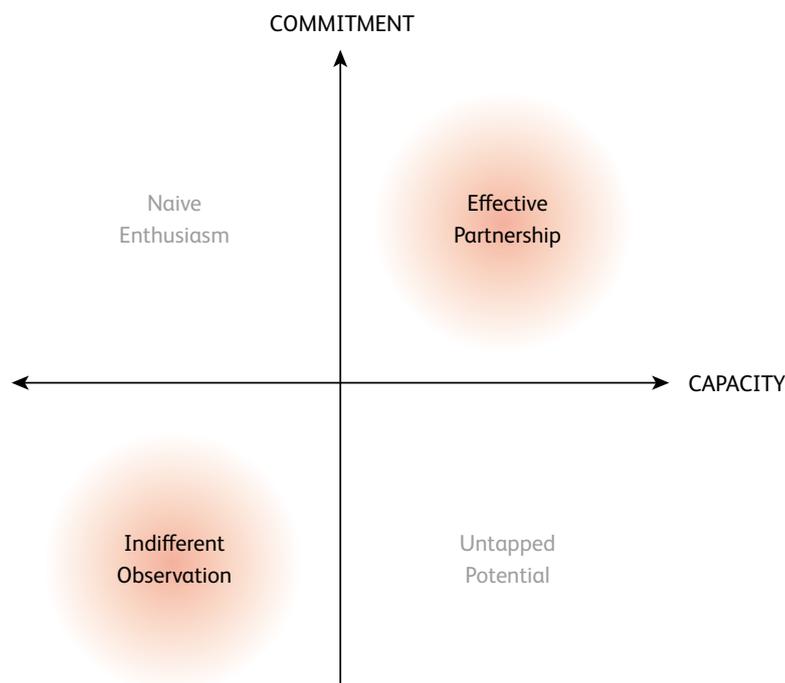
“Our experience is that apparel brands, many of which have been the subject of public campaigns and/or negative media coverage, have gained credibility for speaking out publicly in favour of workers' rights. While public letters may initially provoke a negative reaction from governments in producer countries, they can also open the door to constructive dialogue with both governments and local civil society actors.”

Lynda Yanz, Founding Member, Maquila Solidarity Network

4. Recommendations: A Framework for Corporate Engagement

A framework for corporate action in support of the civil society space must take into account two scenarios: times of crises and periods between crises. During the periods between crises, civil society and the private sector are operating as normal, building relationships and networks and creating the norms within those networks that lead to better governance. When crises occur, the arrangements that have been constructed over the interim periods determine which choices companies have to act and their willingness to engage in action.

There are two characteristics that play a definitive role in defining a corporation's choices in times of crisis: their capacity to affect change in their environment and their commitment to issues surrounding the civil society space. These two metrics can be plotted in the two-dimensional model below:



This framework is meant to help civil society and the private sector conceptualise their role in relation to each other. Different stakeholders will use it differently – civil society may wish to inspire companies to act, increasing their commitment to solving issues surrounding the closing space. Alternatively, corporations already committed to these solutions may not have the capacity to contribute as much to the partnership in question. The following recommendations are targeted at all stakeholders with the end goal being truly effective partnership in support of the civil society space.

4.1 Build commitment from companies

1. **Engage with industry leaders:** CSOs can leverage their voice to reach out to influential companies willing to pressure governments to undertake civil society reform. Large MNCs or local industry leaders often have strong economic or political control over host governments and can leverage their political influence to bring about significant impact through advocacy (Marsden 2002). The diamond sector in Angola and the garment retailers active in Cambodia both represent major sources of income for their host governments and are large employers of their countries' labour forces. In these cases, we have observed firms in such industries successfully exercising this influence to protect the civil society space.

For smaller CSAs, it may be difficult to find access to companies with significant influence. In these cases, CSOs should take advantage of networks made up of other civil society or private sector

actors to amplify their message and increase the chances of a positive response. Bolo Bhi used this tactic when it reached out to BHRRC, which was able to successfully target and get responses from a number of leaders in the IT industry such as McAfee and Cisco.

Organisations that are already engaged in the advocacy process with private sector leaders should also be mindful of including other CSAs and making themselves available as linking agents. This would make it easier to communicate policy demands from local civil society to corporations that enjoy significant bargaining power with the government.

2. **Engage with privately owned, ethical firms:** Additionally, we have found that privately owned companies with strong ethical values are valuable partners for civil society in the private sector. Such firms are easier to identify and contact, and they have shown greater ability to engage with civil society than large firms because of their smaller, more flexible internal governance structure. As discussed in Section 2, private firms that signed the open letter in Angola supporting Rafael Marques were able to respond quickly and efficiently to the call for assistance.

What small and ethical private firms offer in flexibility and willingness to engage is offset by their small size: alone, their potential impact is minimal. Again, this issue can be overcome by utilising networks that include a diversity of private and civil society actors. Within such networks these firms can act as agenda setters, drawing the attention of larger, less nimble private actors on the need to support or defend civil society space. This approach helps to break down the process of initiating collective action into a manageable and scalable endeavour.

3. **Engage with consumer-oriented firms:** As discussed in Section 2, consumer-facing industries – the apparel, diamond and food industries in the examples examined in this report – are increasingly influenced by growing shareholder activism, ethical consumerism and social movements. Because of these trends, they are very sensitive to public scrutiny, reputation damage and consumer boycotts.¹⁰³ In cases involving such industries, civil society should create public advocacy initiatives that highlight how actions occurring within those sectors are threatening the civil society space. These have the potential to alter the incentives for consumer-sensitive businesses and indirectly pressure them to engage.

4.2 Develop the capacity to defend civil society

1. **Exert influence over governments engaged in closing the civil society space**

Through their substantial business presence in some countries, important private sector actors can create a large potential for leveraging their positions to affect government decisions related to human rights and civil society. Through public or private communication, companies can voice their concern over government activities that are impinging on civil society independence.

Corporations should oppose these three common strategies for targeting the civil society space:

- **Formal legal barriers:** Corporations should hold host governments to account for passing new legislation limiting civil society. For example, the international brands involved in the private letter to the Cambodian government are negotiating a more inclusive mechanism for determining national minimum wage requirements.
- **Arbitrary impediments to civil society work:** The private sector should be mindful of unequal application of existing legal norms, including governments' arbitrary enforcement of reporting, monitoring, and operational guidelines. In Thailand, the TTIA and Thai Union resisted this when they supported Andy Hall, who was arrested under lese majeste charges. In Pakistan, industry leaders were protesting the ability of the government to selectively silence unsympathetic voices.

103 Maloni & Brown (2006)

- **Extra-legal harassment or intimidation of civil society actors:** Firms should speak up in the face of gross injustices committed against civil society, similar to how the diamond companies reacted in the case of Rafael Marques.
2. **Take advantage of networks:** Corporations seeking to affect change without unnecessarily risking their reputation or influence can leverage pre-existing networks to focus their voice and impact. By joining such networks, corporations can address their core weaknesses in global governance.

Through creating meaningful connections with civil society actors, firms can become more informed about which issues are most relevant and identify the most efficient ways to solve them. The presence of representatives from both industry and civil society lends legitimacy to their campaigns. Most importantly, networks are able to solve collective action problems and coordinate action between a wide range of organisations and individuals.

3. **Develop institutional memory and structural capacity:** When corporations make commitments to stand by core values or ethical principles, they should ensure that these commitments are sustainable and can survive staff turnover. Corporations must toe a fine line between empowering a single individual with responsibility to manage their engagement strategy and creating large departments — similar to how some large MNCs run their CSR initiatives — that are less responsive but more constant.

It is important for corporations to learn new strategies for partnering with civil society groups but, without appropriate internal structures and practices, their commitments will not translate into sources of long-term benefit. While a single motivated employee may act more decisively and achieve more short-term impact; there must be practices and processes in place to ensure that the firm is consistent in its actions if that individual were to leave his or her position. Building the structural capacity within a business that supports the institutionalisation of commitments to support civil society space is crucial to realising long-term impact.

In our discussions with international brands in Cambodia, two practices that contributed to better quality engagement and commitment were (1) having a well-staffed country office, and (2) keeping detailed records of episodes of engagement. While these are strategies specific to certain companies and may not be applicable in all contexts, they are an example of the ways in which the private sector has structured their approaches to sustainability to maximise impact.

5. *Implications*

This report highlights the importance of cross-sectoral efforts in building an environment conducive for civil society. Advocacy analysis of the four cases enhances understanding of the dynamics behind corporate protection of human rights. This added knowledge complements efforts to promote a business case for long-term support of a stable civil society space. Our recommendations target a broad audience, and can be used by CSOs and businesses to guide policies and practices that work in the best interest of preserving and defending human rights.

For further research, direct inputs from governments and large corporations would be valuable in creating a holistic understanding of this process. Looking forward, we hope that this report serves as a resource for CSOs to activate the potential of industry to address the closing civil society space challenge. At the same time, this should also function as an informative document for the private sector in identifying appropriate means of protecting the civil society space. Only through engaging with both sets of stakeholders can we hope to create an environment in which a strong and independent civil society can flourish.

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Appendix 1: Methodology

After selecting the cases, we carried out our research according to the following structure:

Stage I : Background research

- Identifying and collecting background information
- Interviewing key stakeholders to understand the specific cases
 - Clarifying objectives and defining the scope of the analysis

Stage II: Data collection

- Developing the survey methodology and designing the questionnaire
 - Formulating hypotheses and questions
- Surveying the individuals in the network

Stage III: analysis

- Identifying key themes across cases
- Social Network Analysis¹⁰⁴
 - Identifying the relationships and knowledge flows¹⁰⁵ between key stakeholders.
 - Analysing the networks to draw out the problems and opportunities highlighted using information gathered from interviews and other sources.

We conducted interviews with the following individuals:

Interview	Organisation	Position	Date
Angola			
Rafael Marques	Activist	-	18-Feb-16
Sarah Hager	Amnesty International	Chair Southern Africa Co-Group Researchers	23-Feb-16
Greg Krauss	Brilliant Earth	Mission Adviser	22-Feb-16
Mauricio Lazala	BHRRC	Deputy Director	12-Feb-16
Brian Leber	Leber Jeweler	Owner	18-Feb-16
Thailand			
Andy Hall	Activist	-	12-Feb-16
Sonja Vartiala	Finnwatch	Executive Director	28-Jan-16
Dr. Chanintr Chalisarapong	Thai Tuna Industry Association	President	30-Mar-16
Dr. Darian McBain	Thai Union	Director of Sustainability	17-Mar-16
Pakistan			
Mauricio Lazala	BHRRC	Deputy Director	12-Feb-16
Sana Saleem	Bolo Bhi	Director	28-Jan-16
Cambodia			
Jill Tucker	C&A Foundation	Head of Supply Chain Innovation and Transformation	21-Jun-16
Peter McAllister	Ethical Trading Initiative	Director	26-Feb-16
Sarah Hopkins	H&M	Sustainability Manager (Cambodia & Vietnam)	21-Jul-16
Jonah Wigerhall	H&M	Social Sustainability Business Expert (Stakeholder Engagement)	21-Jul-16
Felix Poza Peña	Inditex	Head of Sustainability Department	22-Jul-16
Indalecio Perez	Inditex	Social Sustainability Manager	22-Jul-16
Ben Vanpeperstraete	Industrial Global Union	Supply Chain Coordinator	10-Mar-16

¹⁰⁴ Social network analysis is used to investigate social structures and processes via the use of network graphs (Otte and Rousseau, 2002). The primary advantage lies in the ease of mapping and understanding complex relations between various actors involved in a particular action (Dempwolf and Lyles, 2012).

¹⁰⁵ Knowledge flows refer to the exchange and transfer of knowledge (such as information, skills, expertise) amongst people, friends, family, community or organisations (Bukowitz and Williams, 1999)

Anna McMullen	Labour Behind the Label UK	Policy Director	03-Feb-16
Subathra Vaidhiyanathan	New Look	Senior CSR Manager	08-Sept-16
Joana De Brito	PUMA	Corporate Sustainability Manager	06-Sep-16
All Cases			
Duncan Green	Oxfam GB	Head of Research	10-Dec-15
Cathal Gilbert	Civicus	Civic Space Monitor Coordinator	15-Dec-15
Mauricio Lazala	BHRRRC	Deputy Director	05-Jan-16
Michael Posner	NYU Stern Business School		08-Jan-16
Florian Wettstein	Institute for Business Ethics	Professor of Business Ethics, Director	08-Jan-16
Michael Ineichen	ISHR	Programme Manager (Corporate Accountability); Human Rights Council Advocacy Director	27-Jan-16
Arvind Ganesan	Human Rights Watch	Director, Business and Human Rights	29-Feb-16
Peter Frankental	Amnesty International	Economics Relation Programme Director	04-Feb-16
James Savage	Amnesty International	Human Rights Defenders Programme Manager	04-Feb-16
Erinch Sahan	Oxfam GB	Head of Private Sector Team	30-Jun-16
Bennett Freeman	Advisory Board, Global Witness and former US Deputy Assistant Secretary of State for Democracy, Human Rights and Labor	Chair	27-July-16
Edwin Rekosh	Benjamin N. Cardozo School of Law	Director of Human Rights Initiatives Visiting Professor of Law	13-Sept-16

Following is the list of questions that was used to frame the interviews:

Introductory questions: These were asked to understand the background of the case.

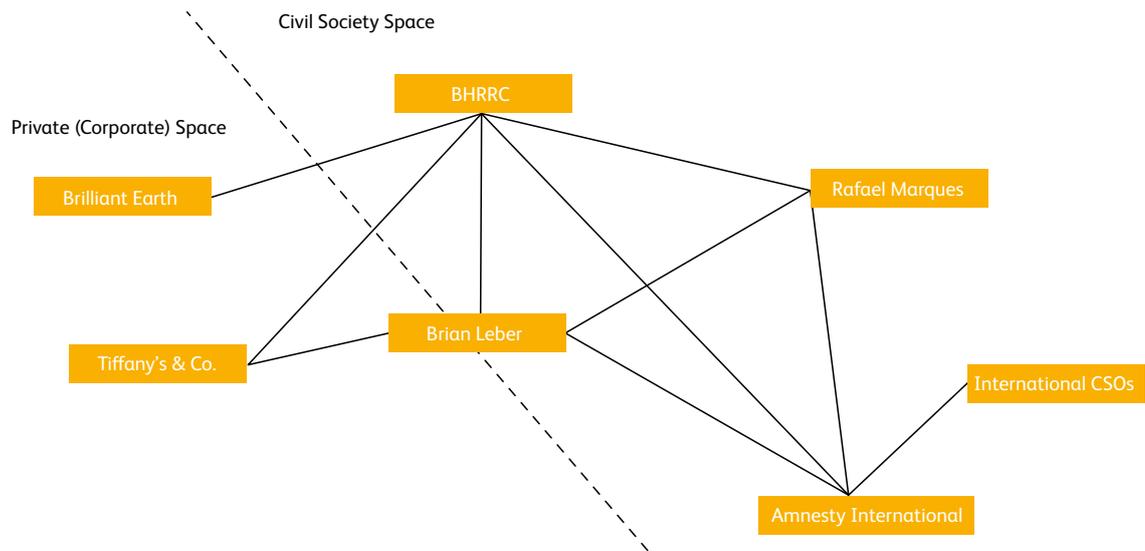
Process-driven question: The questions were aimed at understanding the process and dynamics of the actions taken by different stakeholder.

Impact-based question: these questions were targeted towards understanding the interviewee's perspective on the impact of the corporate action.

Concluding questions: These questions were asked of interviewees regarding techniques that would be most useful in producing positive action.

Appendix 2: Case Materials

Angola



Social Network Analysis

The graph outlines the advocacy process involved with the release of the public letter calling for a fair trial for Marques. After charges being levied upon Marques, a number of CSOs such as Amnesty International and Index on Censorship took up his cause. Two main nodal agents, BHRCC and Brian Leber, took the lead in connecting the CSOs with the advocacy action taken by the business sector. The BHRCC consolidated the NGO's concerns and approached corporations to publicly stand for Marques. This was done in order to further pressurise the Angolan government. As a result, Brilliant Earth and Tiffany & Co. joined the movement. On the other side, Brian Leber already had direct contact with Marques and acted as a link between the CSO and corporates.

Stakeholder Analysis

Stakeholder	Sector	Role	Key Actor
Rafael Marques	Human Rights Activist	<ul style="list-style-type: none"> Published a book on the corruption in the diamond industry in Angola. He was arrested by the government for this exposé. 	
Leber Jeweler, Inc.	Private	<ul style="list-style-type: none"> Was very proactive in engaging with the civil society organisations, signed the open letter Had direct contact with Rafael Marques since the past 10 years Supported Sarah Hager from Amnesty International to draft legal petitions. He has had previous experience in advocating for fair trade practices in the supply of gemstones 	Brian Leber
Tiffany & Co.	Private	<ul style="list-style-type: none"> Signed the open letter 	CSR Department
Brilliant Earth	Private	<ul style="list-style-type: none"> Signed the open letter 	Greg Kauss along with CEO
Business and Human Rights Resource Centre	CSO	<ul style="list-style-type: none"> Coordinated action for Rafael Marques release Reached out to diamond companies to gain their support Coordinated with other international CSOs 	Mauricio Lazala
Amnesty International	CSO	<ul style="list-style-type: none"> Reached out to other CSOs to build support for Marques and pressurise Angolan government 	Sarah Hager
Index on Censorship	CSO	<ul style="list-style-type: none"> Index on Censorship awarded him an award for his work and took up his cause and sought support from other CSOs 	Vicky Baker

Timeline

- 2011: Rafael Marques released the book, *Blood Diamonds: Corruption and Torture in Angola*, exposing corruption and abuses by military generals in the diamond industry.¹⁰⁶
- 2012: 9 Angolan generals and directors of private security firms filed charges against Marques and his publisher in Portugal for libel and defamation.¹⁰⁷
- February 2013: Portuguese Public Prosecution Officer dismissed the case citing lack of evidence (ibid).
- 7 June 2013: Transparency International released letter signed by a number of international NGOs to voice support for Marques.¹⁰⁸
- Trial originally to start in December 2014 but postponed to 24 March 2015.¹⁰⁹
- Initially faced 24 charges that could lead to a nine-year prison sentence and fine of GBP 800,00 by Military Generals for defamation. Court held trial behind closed doors.¹¹⁰
- March 2015 : Rafael Marques was awarded a prize by Index on Censorship for his work.¹¹¹
- March 2015 : Urgent appeal by Africa and UN special rapporteurs on Rafael Marques's trial to urge the Angolan government to uphold the right to freedom of expression.¹¹²
- 8 April 2015: Statement issued by Business and Human Rights Resource Centre: "Several dozen human rights, press freedom, and anti-corruption NGOs worldwide including Amnesty International, Committee to Protect Journalists, Freedom House, and Transparency International have expressed grave concerns over irregularities in the proceedings against him to date, and that Mr. Marques will not receive a fair trial in Angola." ¹¹³
- 22 April 2015: Release of public letter by Tiffany & Co. and Leber Jeweler against Marques's unfair trial.¹¹⁴
- 5 May 2015: Brilliant Earth released a letter to support Rafael Marques.¹¹⁵
- May 2015: Marques met with 7 generals to strike a negotiation. It was decided that all charges would be dismissed if Marques agreed to not republish his book. In return, he would be allowed to carry on with his work which would be under the watchful eye of the government.¹¹⁶
- 25 May 2015: Public prosecutor announced that Marques statement was an admission of guilt that deserved a suspended statement.¹¹⁷
- 28 May 2015: Court handed down a six-month suspended sentence over two years during which any behaviour deemed as criminal by the state would lead to implementation of the punishment.¹¹⁸

106 Dolan (2015)

107 Ibid.

108 Sanders (2013)

109 Dolan (2015)

110 Elgot (2015)

111 Dolan (2015)

112 Business and Human Rights Resource Centre (2015)

113 Dolan (2015)

114 Tiffany & Co, and Leber Jeweler

115 Brilliant Earth (2015)

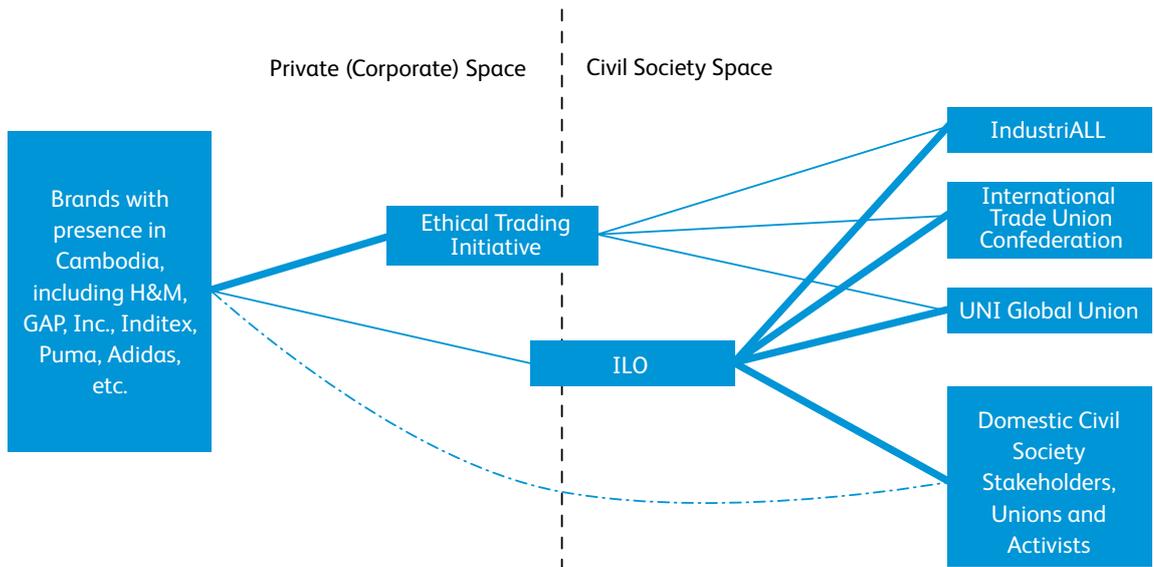
116 Baker (2015)

117 ibid.

118 ibid.

Cambodia

Social Network Analysis



This table shows how the stakeholders in Cambodia interacted during the crisis in early 2014. The ILO (represented by Better Factories Cambodia) and ETI were key cross-sector actors that were able to speak to both civil society and the private sector, facilitating the drafting and signing of the private letter to the government sent in mid-January. Also evident is the engagement that brands are involved with directly with domestic civil society, which should not be underestimated. However, the strongest ties – the ones that led to the intervention in this case – are between the international unions, domestic civil society, and the ILO; between the ILO and ETI; and between the ETI, ILO and brands. This extremely formal cross-sectoral network was instrumental in organising collective action within Cambodia.

Stakeholder Analysis

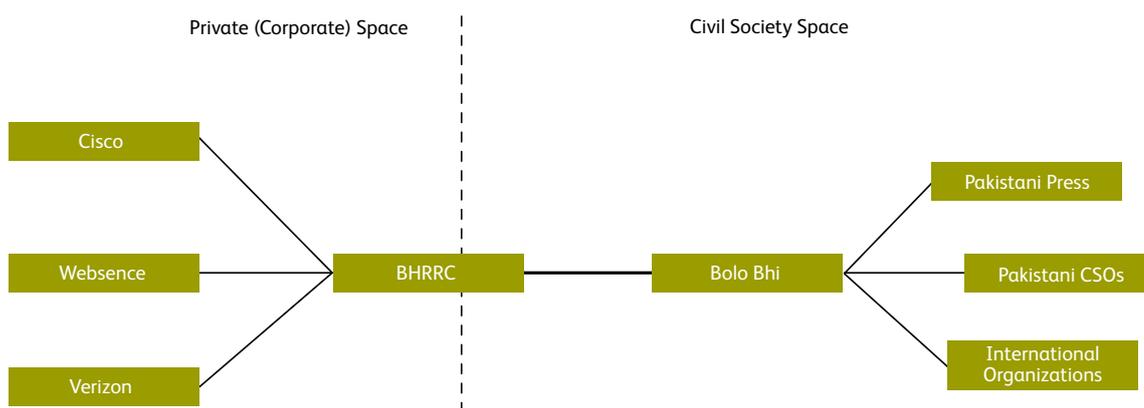
Stakeholder	Sector	Role	Key Actor
Ethical Trading Initiative	Civil Society	Signed 17 Jan private letter, Coordinated Industry Response to government violence	-
IndustriALL	Civil Society	Signed 17 Jan private letter	-
Better Factories Cambodia (ILO Programme)	Civil Society	Signed 17 Jan private letter, assisted in gathering support for private letter	-
GAP, Inc.	Industry	Signed 7 Jan public letter; Signed 17 Jan private letter;	-
H&M	Industry	Signed 7 Jan public letter; Signed 17 Jan private letter	-
Inditex	Industry	Signed 7 Jan public letter; Signed 17 Jan private letter	-
PUMA	Industry	Signed 7 Jan public letter; Signed 17 Jan private letter	-
Levi Strauss	Industry	Signed 7 Jan public letter; Signed 17 Jan private letter	-
Colombia	Industry	Signed 7 Jan public letter; Signed 17 Jan private letter	-
Primark	Industry	Signed 17 Jan private letter	-

Timeline

- 3 January 2014: Clashes between police and protesters supporting higher wages in Phnom Penh resulted in 4 deaths and 21 arrests.
- 7 January 2014: H&M, Adidas, GAP, and Puma were joined by Inditex (Zara), Levi Strauss, and Colombia in a public letter to Cambodian Premier Hun Sen expressing concern at the violent methods used by the government to counter the protests and the killing of civilians.
- 15 January 2014: Public letter published supporting a peaceful negotiation process signed by a series of retailers associations from the US and Canada.
- 17 January 2014: Private letter signed by 30 ETI brands and 3 large international unions sent to Prime Minister urging proper rights for the detainees from the protests, greater respect for freedom of association in Cambodia, a reformation of the existing trade union law, and the reorganisation of the mechanism for setting the minimum wage in the country.
- 19 February 2014: High-level meeting between garment brand representatives, international unions, and government officials.
- 17 April 2014: A further strike was held demanding the release of the 21 prisoners arrested in the January protests, the respect for workers' freedom of association, the end of government action against labour unions, and a further minimum wage increase to \$160 per month. This second round of strikes was unsuccessful.
- 17 September 2014: There were widespread protests in the capital. By then the demands of the unions had changed, with a rise in the demanded minimum wage to \$177 per month.
- 21 September 2014: A group of clothing companies including H&M, Inditex, and Primark released a further letter to the government offering their support and willingness to pay higher prices for their garments if it meant that the minimum wage would be raised to \$177 per month (Brignall, 2014).
- October 2015: The Cambodian Labour Advisory Council (the group proposing new levels for the minimum wage) relented slightly and agreed to an increase to \$140 per month. Labour unions celebrated the progress but have not ended their commitment to the \$177 goal.

Pakistan

Social Network Analysis



The public momentum for this case took place on two levels: the domestic and the international. Bolo Bhi was instrumental in coordinating support on the ground in Pakistan, engaging with other civil society organisations and organising letters to members of parliament. Internationally, the Business and Human Rights Resource Centre was responsible for reaching out to the targeted IT companies to convince them to refrain from submitting bids to tender. The connection between the BHRRC and Bolo Bhi was crucial to success, as neither level of advocacy would have been successful without the complementary effects of the other.

Stakeholder Analysis

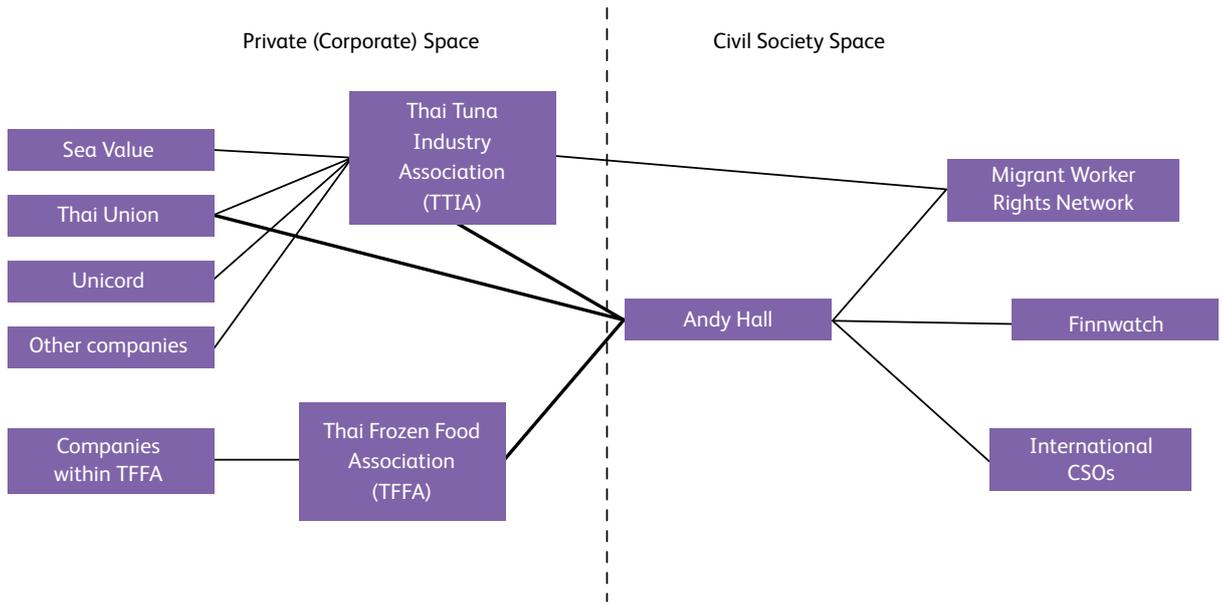
Stakeholder	Sector	Role	Key Actor
Bolo Bhi	Civil Society	Coordinated domestic campaign against filtration system; engaged with BHRRC to reach out to corporations	Sana Saleem
Business and Human Rights Resource Centre	Civil Society	Was responsible for outreach to the private sector, drafted and delivered packets to argue against URL filtration.	Annabel Short, Mauricio Lazala
Cisco	Industry	Released statement committing to refrain from bidding for the contract.	-
McAfee	Industry	Tweeted their abstention from bidding on the filtration tender.	-
Verizon	Industry	Released statement committing to refrain from bidding for the contract.	-
Sandvine	Industry	Released statement committing to refrain from bidding for the contract.	-
Websense	Industry	Released statement committing to refrain from bidding for the contract.	-

Timeline

- February 2012: Pakistani government publishes tender valued at \$10 million inviting companies to submit bids for a URL filtration system similar to the Great Firewall of China.
- February 2012: Bolo Bhi Director Sana Saleem releases petition calling on Pakistani government to cancel net censorship plans.
- 2 March 2012: Websense publishes statement opposing net censorship, commits to ignore tender.
- 5 March 2012: Sandvine and Verizon release separate memos declining to bid, but for unspecified reasons.
- 6 March 2012: Cisco responds with extensive reply outlining their opposition to the censorship policies on the grounds of concerns over freedom of information.

Thailand

Social Network Analysis



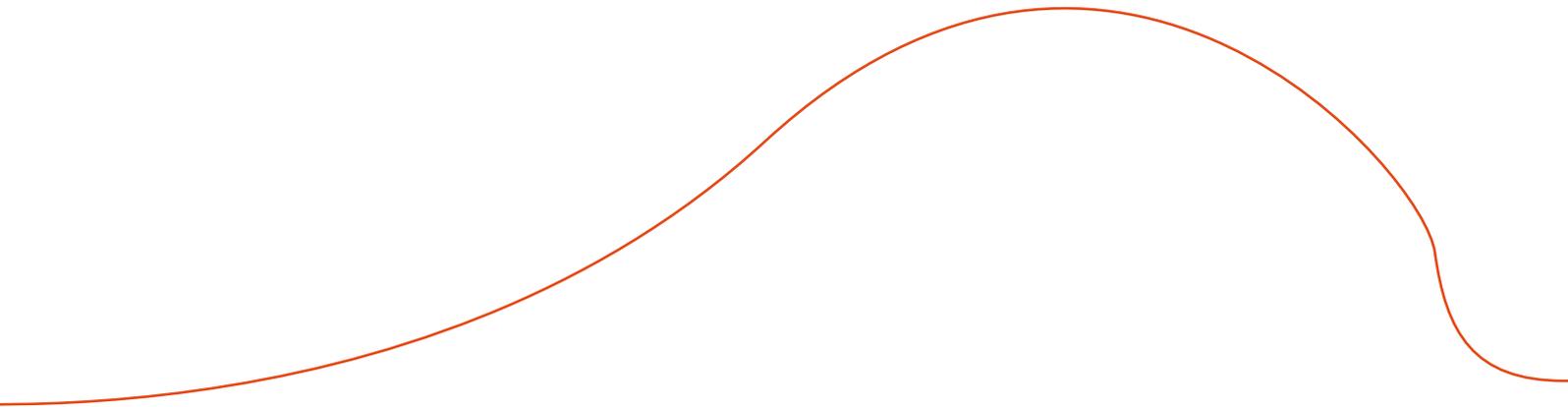
The diagram above illustrates the formal and informal interactions that took place within and across sectors during the process of advocacy. After Natural Fruit charged Andy Hall with the aforementioned cases, many international labour and human rights organisations like UN Special Rapporteur, BHRRC, IndustriALL, Greenpeace, etc. wrote a letter to the Thai Prime Minister arguing against the prosecution of Andy Hall. Throughout the case, Andy Hall served as a prime link between the private sector and CSOs. It was on the personal request of Andy Hall that the two major industry associations in Thailand, TTIA and TFFA, provided bail to render support to migrant workers’ rights. TTIA had known Andy Hall for about four years and they consolidated support from all its member companies with unanimous consensus. They even agreed to provide a second round of bail together with Finnwatch and Thai Union to respect the workers’ rights and their freedom of association and expression. With the effort of Andy Hall, who now serves as an IA (international affairs) adviser of Migrant Worker Rights Network (MWRN), TTIA and Thai Union today engages in constructive dialogues and strategic engagements with MWRN.

Stakeholder Analysis

Stakeholder	Sector	Role	Key Actor
Natural Fruit Co. Ltd	Private	Sued Andy Hall with criminal and civil charges	-
Andy Hall	Activist	Denied freedom of expression by Thailand Court Requested bail from TTIA & TFFA	Andy Hall
Finnwatch	CSO	Andy Hall conducted a research for Finnwatch Openly criticised Natural Fruit Co. violations of migrant workers’ rights	Sonja Vartiala
Thai Frozen Food Association (TFFA)	Private	Provided a round of bail to Hall	-
Thai Tuna Industry Association (TTIA)	Private	Provided two rounds of bail to Hall	Dr. Chanintr Chalisara-pong
Human Rights Watch	International CSO	Issued a statement in support of Hall	Mr. Arvind Ganesan

Timeline

- 21 January 2013: Finnwatch together with human rights activist Andy Hall published a report *Cheap has a High Price* which documented poor working conditions of migrant workers in Natural Fruit Co. Ltd (a company in the pineapple industry) and two other companies in the tuna industry.
- 14 February 2013: Natural Fruit Co. Ltd. sued Andy Hall for defamation and violation of Thailand's computer crime act.
- 22 February 2013: Mr. Hall was reportedly made aware of the lawsuit.
- 26 April 2013: 5 United Nations Special Rapporteur Procedures communicated with the Thai government that charges against Andy Hall were serious human rights violations and could threaten other human rights defenders and civil society organisations.
- 1 October 2013: Additional complaints were filed against Andy Hall; if found guilty Andy Hall could face up to 7 years in jail or fine up to £6.6 million.
- 19 June 2014: Thai Tuna Industry Association and Thai Frozen Food Association provided the first round of bail to release Andy Hall as a symbolic gesture in support of migrant worker rights. This was followed by the confiscation of Andy Hall's passport and imposition of travel ban.
- 30 October 2014: Thai Court dismissed the first of the four charges against Mr. Hall. This particular case was a criminal lawsuit against Mr. Hall accusing him of defamation and harming the reputation of the company by giving false information.
- 16 November 2015: The third appeal was made to the Supreme Court for the fourth case pending against Hall that was related to the Al Jazeera interview.
- 13 January 2016: TTIA, Finnwatch and Thai Union provided a second round of bail to Mr. Hall; Thai court imposes travel ban on Andy Hall and confiscates his passport again.
- January 2016: All the other three charges against Mr. Hall are still pending and the trial against these prosecutions will occur later.



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