

PRESERVING CIVIC SPACE FOR CLIMATE ACTIVISTS

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INTRODUCTION

The rise of a global climate movement has been accompanied by a **crackdown on civic space for climate activists** worldwide. As climate strikes, protests, and mass mobilization become more widespread, many governments have teamed up with private actors to quell climate activism. This suppression has taken many forms, from laws criminalizing legitimate expression and assembly, to attempts to paint activists as “eco-terrorists,” to civil lawsuits and physical persecution.

The repression of progressive climate actors is consistent with the disproportionate risks endured by environmental human rights defenders (EHRDs), a situation long recognized but little remedied by states or the international community.¹ As climate justice, indigenous rights, and traditional land and resource defense increasingly intersect, we expect the persecution of both environmental and climate activists to rise.

This brief outlines some of the common legal and extralegal measures used to target civil society actors working on climate justice.² Many of these measures **violate international and regional law**,³ and threaten civil society’s ability to function and find solutions to urgent global environmental challenges. Surveillance, freedom of expression, and digital threats to climate activists may increase as a result of COVID-19, as states enact emergency measures that further enhance their powers. Similarly, restrictions on assembly rights may outlast the pandemic, and states must be

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1 For many decades, environmental activism has been one of the most dangerous arenas for civil society actors. The majority of human rights defenders killed in 2018 were involved in work relating to land, indigenous and environmental issues. For more, see https://www.frontlinedefenders.org/sites/default/files/global_analysis_2018.pdf, and <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>.

2 This brief focuses on threats to climate activists, as opposed to environmental human rights defenders more broadly. For more on threats to environmental civil society actors, please see *Environmental Advocacy: Challenges to Environmental Groups’ Rights to Assemble, Associate and Express their Opinions*, 7 GLOBAL TRENDS IN NGO LAW (2016), <http://dev01.icnl.org/news/news/2016/Global%20Trends%20Vol%207%20iss%201.pdf>.

3 To learn more about relevant international standards on assembly, please visit <https://www.icnl.org/our-work/freedom-of-assembly>. For more on the right to participate in public affairs, please see <https://www.icnl.org/our-work/public-participation>; for the freedoms of association and expression, click [here](#) and [here](#).



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careful to ensure that climate, environmental, and other forms of activism remain fully protected in line with international law.⁴

THREATS TO ASSEMBLY

PROTEST BANS AND RESTRICTIONS Governments have implemented assembly bans for climate strikes and protests, including banning Extinction Rebellion protests in London (later overturned by UK courts). The Australian Prime Minister threatened to “outlaw” climate protests, while Tasmania attempted to ban protests in its forests under workplace safety laws (also overturned in court). Other governments have limited or denied requests for climate protests. Russian authorities refused permission to youth activist Arshak Makichyan for a climate strike (eventually jailing him), while South African municipalities imposed extra-legal requirements such as prior approval for protests, despite the absence of such requirements in South African law. France enforced a blanket ban on demonstrations and placed key climate activists under house arrest before the 2015 Paris climate summit, and Poland adopted a law specifically written for the 2018 Conference of Parties (COP24) of the UN Framework Convention on Climate Change that limited spontaneous protest in the town of the event.

CRIMINALIZATION OF NON-VIOLENT PROTEST ACTIONS Governments have arrested scores of climate protesters engaged in peaceful protest actions, and passed laws to criminalize formerly legal protest methods. In Queensland, Australia, the use of lock-on devices, relied on by protesters for more than a century (including suffragettes in 1908), now carries fines and jail time up to two years, with police allowed to search protesters they suspect of being in possession of such devices. The UK has jailed anti-fracking activists for more than a year under its “public nuisance” laws.

CRITICAL INFRASTRUCTURE LAWS Laws specifically targeting activists protesting around “critical infrastructure” (defined expansively to include fossil fuel installations such as pipelines and oil shipping lanes) have proliferated, particularly in the US, where

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⁴ The COVID-19 pandemic has highlighted concerns around climate change and biodiversity loss, while simultaneously resulting in bans on physical gatherings and protests, including climate strikes. Although it is unclear what the long-term effects of the pandemic will be on climate civic space, it is important that the documentation of prior and new threats to climate and environmental activists continue. More information on governments’ responses to the public health crisis and potential impacts on civic freedoms can be found [here](#).

11 states enacted critical infrastructure bills between 2017-2020. These laws create new felony offenses, typically for trespass or inhibiting construction, or assisting someone in either of those offenses. Penalties range (e.g. a 5-year prison term for trespass or obstructing construction versus 10 years for tampering with or damaging critical infrastructure), with fines in the hundreds of thousands (and up to \$1,000,000 in Oklahoma for an organization that conspires with someone who violates the Act). These laws have been used to arrest environmental and climate activists in Louisiana and Texas. Alberta, Canada is considering a similar law, and for several years Brazil and Venezuela have had laws that make it difficult and risky to engage in advocacy, protest, or civil disobedience around critical infrastructure, including oil and gas facilities.

THREATS TO ASSOCIATION, EXPRESSION, AND THE RIGHT TO INFORMATION

OPERATIONAL BARRIERS Governments have been threatening environmental groups' right to association through a number of measures. These include (1) *applying new procedural requirements*, such as burdensome audits in Canada; requiring NGOs to obtain permit approvals from energy ministries for their activities in Uganda; and creating complex registration, administrative, or renewal requirements in China and Bolivia, forcing many environmental groups underground. Such measures are common civic space restrictions to which environmental groups are disproportionately subject, along with other at-risk groups.

Governments have also (2) *withheld benefits and access to foreign funding*, stripping or threatening to strip environmental groups of charity status and associated benefits in Germany and Australia on the grounds of being “too political”; and limiting their foreign funding and ability to operate, as with Greenpeace in India under the Foreign Contribution (Regulation) Act.

Since 2012, Russia's “foreign agents” law has stopped the work of at least 14 environmental organisations, particularly those advocating against state-sanctioned development projects. In June 2019, the head of Ecodefence!, a member of the Climate Action Network, had to flee Russia to avoid arrest under the law.

Finally, in some cases governments have (3) *dissolved CSOs altogether*, as Ecuador did with Fundación Pachamama, an indigenous and environmental rights organization that opposed oil drilling in the Amazon rainforest (later reinstated by the subsequent administration), and attempted to do with well-known environmental organization Acción Ecológica. In Bolivia, the government instituted broad powers to dissolve CSOs, while India revoked Greenpeace India's permit to operate and ordered it to dissolve on the grounds of allegedly falsified financial documents.

SURVEILLANCE AND INFILTRATION Governments have violated the privacy rights of climate activists and organizations through surveillance. Denmark wiretapped

climate activists around the Copenhagen climate conference, Poland accessed and stored private information about COP participants without judicial review, and Canada launched heightened surveillance operations to gather information about pipeline activists and indigenous groups and pass it on to energy companies. In the US, the FBI has worked with pipeline companies to monitor and interrogate peaceful environmental activists and groups (such as 350.org) and gather insider information to interfere with planned protests. The UK has surveilled thousands of British citizens suspected of holding “radical political views,” particularly those engaged in civil disobedience to protest climate change. Law enforcement informants in the US and UK have infiltrated climate activist groups, while Ecuador purportedly installed pro-government leaders in indigenous organizations in order to facilitate access to large projects in protected territories.

In addition to government-sponsored surveillance, private security firms also spy on climate activists. International companies including British Airways, Porsche, and the Royal Bank of Scotland, as well as energy firms, have employed private security firms to spy on environmental protesters perceived as a threat to their business activities. Increasingly sophisticated digital surveillance strategies, from spyware to phishing campaigns, are being employed by governments and companies to gain access to activists’ data.

FREE EXPRESSION AND RIGHT TO INFORMATION RESTRICTIONS

Governments have limited coverage of activism at extractive industry sites, instituting no-fly zones and shooting down media drones filming climate protests, arresting French journalists for filming protests near contested coal mining sites in Australia, and enacting laws limiting criticism or exposure of agribusiness practices (such as “ag-gag” and “food libel” laws in the US). In Russia, a court fined an environmental activist who posted a satirical poem about mining oligarchs for “mass distribution of extremist materials.”

Such repression has extended to online spaces, with government officials issuing search warrants for climate activists’ Facebook pages. Restrictive free expressive measures also include Australia’s threat to curtail boycotts directed at companies contributing to climate change. Such measures chill speech, suppress dissent, and discourage whistleblowers and concerned citizens from engaging in climate advocacy.

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THREATS TO PUBLIC PARTICIPATION

“SLAPPS” Strategic Lawsuits against Public Participation (SLAPPs) have been levied against climate activists and environmental organizations challenging fossil fuel and extractive interests. These suits often charge activists under a range of typically baseless claims, including allegations of defamation, anti-racketeering, interfering with business, and conspiracy. Punitive, frivolous lawsuits by powerful industry actors against individuals and non-profits are designed to disincentivize and chill citizen engagement while draining resources.

For instance, Energy Transfer Partners, which owns a major stake in the Dakota Access Pipeline, sought over \$1 billion from Greenpeace and other CSOs for “eco-terrorism” leading to financial losses (the case was dismissed, only to be refiled in state court). Exxon has also initiated legal actions against environmental groups and actors investigating its cover-up of the link between fossil fuel production and climate change. California Independent Petroleum Association sued youth groups and the Center for Biological Diversity after they won protections against oil drilling, while Resolute Forest Products filed a USD \$276 million lawsuit against Greenpeace and other activists under the Racketeer Influenced and Corrupt Organizations (RICO) Act for advocacy against unsustainable logging practices.

SLAPPs are also common in the Global South, with coal mining companies bringing lawsuits against environmentalists in South Africa, and agribusiness and extractive companies suing activists in India, Indonesia, the Philippines, Thailand, and Malaysia. In a sample of reported SLAPPS in the Global South compiled by ICNL, more than 50% of cases were against environmental advocates. Targets of SLAPPs have included NGOs, journalists, indigenous and local communities, environmental experts, and members of the clergy.

CURTAILED PARTICIPATION IN INTERNATIONAL CLIMATE CONFERENCES Civil society has faced various barriers to access at the UN Climate Change Conference of Parties (COPs), including bureaucratic hurdles and increased surveillance by host governments. According to CIVICUS, civil society representatives attempting to attend UN climate meetings have been denied visas, deported, and harassed, even after receiving UN accreditation. More than two dozen climate activists headed to the COP



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24 summit in Katowice, Poland were deported or refused entry, while Qatar deported two activists after they held up a banner calling on Qatar to lead on tackling climate change during UN talks in Doha. The limitations and harassment faced by civil society in international climate negotiations stand in stark contrast to the direct role afforded to the private sector (particularly fossil fuel companies).

LIMITING PUBLIC INPUT IN LARGE PROJECTS Where public participation has been incorporated through environmental impact assessments and other input processes, governments have limited or fast-tracked approval procedures to eliminate citizen participation. In the US, President Trump has attempted to fast-track oil and gas leasing by curbing public comment on regulatory decisions related to drilling, extraction, and large-scale projects. In Ecuador, indigenous groups have noted the impossibility of meaningful consultations in large extractive and infrastructure projects, which tend to proceed without their free, prior, and informed consent and in opposition to their interests. A proposed bill in Ireland would have made it almost impossible to challenge planning decisions in the courts and hold public authorities and the Government to account. Countries such as Bulgaria have also limited civil society's ability to contest government decisions on projects of national importance through increased administrative hurdles and court fees.

OTHER FORMS OF HARASSMENT

PHYSICAL ATTACKS Climate protesters regularly face violence and abuse from law enforcement officials. During the Dakota Access pipeline protests, 26 unarmed activists were hospitalized and more than 300 injured after officers used water cannons, teargas, and other "less-than-lethal" weapons on them in below-freezing weather. Reflecting a global trend of killings against land and environmental defenders, the Philippines has one of the highest murder rates of those peacefully defending their land against mining, agribusiness, and coal projects. In Brazil, numerous indigenous leaders protesting against illegal logging have also been murdered.

STIGMATIZATION AND TERRORIST LABELS Governments and industry actors often vilify climate activists, labelling them as "foreign agents" (as in India, and the US under the Foreign Agent Registration Act (FARA)), "communists," "anti-development,"

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“anti-national,” “criminal,” and, oftentimes, “terrorists.” Brazil, the US, the UK, France, and Indonesia are among many countries who have treated climate and environmental activists as domestic, eco-, or “economic” terrorists (including groups such as Greenpeace and Extinction Rebellion).

Governments have accused activists of being anti-development or contributing to economic damage, as in Bulgaria, which attributed investment losses to environmental groups. The Brazilian government has accused NGOs of intentionally setting fires in the Amazon (more likely set by land grabbers and agroindustry) and prosecuted volunteer firefighters for arson in one case, exposing them to heightened risk of violent attacks as well as criminal penalties.

HATE SPEECH AND TROLLING Climate activists have to contend with online hate speech and verbal abuse, including misogynistic or racist commentary, often from far-right agitators on Facebook and Twitter. Young female activists in particular have been targeted by online trolls, who coordinate harassment attacks, spam them with pornography, and even send death threats. These types of attacks seek to intimidate activists, destroy their credibility and legitimacy, and deny them the attention necessary for mobilization in the digital space. Many activists end up self-censoring, out of fear for their personal security. Weaponized social media – in the form of intimidation, bots, memes, and disinformation – has emerged as a dominant force for climate denial, and threatens to shut down online civic space for climate activists altogether.

CONCLUSION

Harassment and threats to climate campaigners are likely to grow unless governments and private actors come together with civil society to address draconian laws and policies targeting protesters for legitimate assembly, expression, and civil disobedience actions. Regulators should repeal such measures and protect protesters and activists in abidance with international standards. Governments should also enact anti-SLAPP legislation to discourage the use of retaliatory lawsuits to chill public participation.

Climate change is a critical public policy issue – ever more so in the COVID-19 era – in which citizen engagement and participation is central, and should be encouraged. We urge all actors to respect people’s rights to protest, to express themselves, and to participate in non-violent actions around climate.

This brief will be updated periodically. For more information, or if you have relevant examples or other insights to share, please contact info@icnl.org.



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