

Shrinking Civic Space and Women's Human Rights

A Case Study of Egypt and Tanzania

Awino Okech
Marianne Mesfin Asfaw



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CODESRIA

**Council for the Development of Social Science Research in Africa
DAKAR**

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Introduction

In 2007 Urgent Action Fund, in a book titled *What is the Point of a Revolution if We Can't Dance?*, documented the experiences of women's rights activists in conflict situations. The Urgent Action Funds¹ discovered high levels of chronic stress, exposure to trauma, and enormous workloads (Barry and Dordevic 2007). Similar trends are documented in a 2008 report on women human rights defenders (WHRDs), noting that though powerful and often controversial, WHRDs' work is met with violent opposition but rarely recognised (Barry and Nainar 2008). Furthermore it is still assumed that women are passive victims of violence rather than activists fighting for change (ibid.). Though one can argue that in the twelve years since these publications the work of women human rights activists has received more recognition, the evolving political environment demands a closer look at the gendered impact of these shifts on women. Along with the dangers that they are exposed to for doing human rights work, WHRDs in Africa are in more vulnerable positions because their work challenges patriarchal societal norms by tackling issues such as reproductive health and sexuality, among others (ACPHR 2016). A statement from Civil Rights Defenders (CRD) calling for the protection of WHRDs points out that they 'are often viewed as provoking gender roles, leading to stigma, ostracism, and attacks – by state and non-state actors' (CRD 2020: para. 8). In other words, 'they make demands that challenge entrenched beliefs and powerful institutions' (Barry and Nainar 2008: 13).

In this review, we focus on how regime tactics collide with the erosion of human rights and broader civil liberties. Camila Bustos (2017) argues that shrinking space undermines human rights in three main ways. The first, which she argues is more direct, involves closing spaces of organisations working to defend social, political and cultural rights (ibid.). The second involves the repression of individuals and

organisations and issuing violence, harassment and threats (ibid.). The third one she characterises as 'failing to protect civil society actors including human rights defenders' (Bustos 2017: para. 1). The CIVICUS Monitor (2019) report focuses on three fundamental rights that are deemed key to civil society: the right to associate, the right to assemble peacefully and the right to freedom of expression (Barreto et al. 2019). These indicators of shrinking civic space have been observed across the African continent in the CIVICUS Monitor (2019) report, noting that eight African countries are deemed to have closed civic spaces, fifteen are rated as repressed, eighteen as obstructed and six as narrowed (Barreto et al. 2019).

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Key Questions, Data Sources and Methods

Key Questions

In focusing on women experiencing closing civic space, this review is guided by the following questions:

1. How does structural violence against women and girls manifest in and affect their participation in civic spaces?
2. In what ways is it shrinking for women and girls? Is it shrinking at all in any manner?
3. What strategies are deployed by women and girls to counter various forms of violence?
4. What are the institutional safeguards in place to prevent violence against women and girls, and enhance their civic participation?

The review begins by examining the key features of closing civic space to determine the major trends across the continent paying particular attention to how women experience these closures. The second section offers a close analysis of Egypt and Tanzania to examine the particularities of WHRDs' experiences of shrinking civic space in these countries. The choice of these two countries is guided by the fact that the political changes across these two countries have been accompanied by a tightening of social and legal regulations that target women, the focus of this review. Consequently, analysis of the experiences of women and WHRDs in these countries is readily available and lends itself to a desktop review. Finally, this review outlines some of the public strategies that WHRDS have adopted to expand space and create mechanisms for personal and community safety.

Data Sources and Methods

Methodologically, this review draws on existing literature to pull together the arguments presented in the paper. The range of data sources include:

1. Official documents of national governments and other inter-governmental institutions.
2. Academic publications on closing civic space.
3. Reports of local and international non-governmental actors.
4. Media reports on closing civic space in countries/regions of interest.

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Closing Civic Space: Key Trends

There is general consensus in the literature that civic space is ‘shrinking’ or ‘closing’ (Buyse 2018). Initially it was seen by analysts as discrete restrictions by governments on the activities of formal NGOs and their international funders. Gershman and Allen (2006) identified a range of repressive measures against NGOs and placed them in the context of a backlash of hybrid regimes against transnational democracy-assistance programmes. However, these trends are now increasingly being viewed as part of a much broader pattern of repression against civil society in the form of global democratic recession and authoritarian resurgence (Bustos 2017; Brechenmacher and Carothers 2019; Brechenmacher 2019).

At present, 27 per cent of the world’s population live in a ‘closed’ state. Closed countries include Burundi, the Democratic Republic of the Congo (DRC), Ethiopia and Sudan (Buyse 2018). Commentators have analysed the closure of civic space in rounds; an initial blow came in the early 2000s after 9/11 when the so-called ‘war on terror’ curbed the post-Cold War expansion of NGOs in the 1990s, where the focus on counterterrorism provided governments around the world ‘with a convenient discourse and justification for tightening their hold over NGOs and their opponents’, and more than 140 governments ‘passed new counterterrorism legislation ... often in response to U.S. pressure, UN Security Council resolutions, and the counterterrorism guidelines developed by the Financial Action Task Force’ (Carothers and Brechenmacher 2014 cited in Bethke and Wolff 2020). A second round arguably followed the expansion of the global public space through the internet, with the Wikileaks scandal inducing reflex reactions

from governments. A more recent third round has been prompted by the so-called 'Islamic State' which is characterised by restrictions on freedom of speech and association, and the repealing of international human rights standards regarding refugees and displaced persons (Hossain et al. 2018).

The means by which state and non-state actors close civic space vary depending on the region and country and range from legal to extra-legal. Van der Borgh and Terwindt (cited in Hossain et al. 2018) identify the following as actions and policies that are variously used to restrict CSO operational space:

1. Physical harassment and intimidation, including threats, injuries and killings, impunity and lack of protection.
2. Criminalisation, prosecution and investigation, preventative measures such as terrorism lists and terrorism task forces, investigation and prosecution for punitive purposes; giving an organisation the stamp of 'forbidden political activity' can delegitimise it in the public eye.
3. Administrative restrictions such as restrictive bills on NGO registration and operation; burdensome registration and re-registration processes, exorbitant fees and ad hoc measures by different governments prevent organisations carrying out their activities legally.
4. Stigmatisation and negative labelling, including criminal and social stigmatisation of specific actors; the ways in which civil society actors are labelled by authorities and talked about among the general public directly impact on their freedom, safety, and potential to function. Applying derogatory terminology can also be done in the application of state laws, for instance, by adding the 'foreign agents' label to an organisation's legal identity.
5. 'Space under pressure', including through co-optation and the closure of newly created space.

The conversation on closing civil space comprises mostly activists, academics, policy research groups, think tanks and rights advocates led by CIVICUS, the International Centre for Not-for-Profit Law, Carnegie Endowment for International Peace, and the Centre for Strategic and International Studies, Institute for Development Studies. Consequently, discussions are generally within a human-rights (Buyse 2019), legal (Vandeginste 2019) or development (Hossain et al. 2018) framework. They point to serious threats against civic freedoms and political rights through measures like restrictions on foreign funding, barriers to registration, arbitrary detentions, and smear campaigns against NGOs as part of

a set of global challenges opposed to liberal democracy. Critics therefore argue that the closing space discourse assumes a largely homogenous civil society that primarily consists of professional NGOs and those of a politically liberal persuasion. Writing in 1995 on African democratisation, Fatton saw civil society as ‘neither homogeneous, nor wholly emancipatory, but a contradictory space, exhibiting both democratic and despotic tendencies ... conflict-ridden and prone to the devastating violence of multiple forms of particularisms’. He urged that civil society should therefore be analysed in the plural, rather than as a uniform and unitary political space. As is evident even today, civic spaces also consist of conservative elements and groups which actively seek to frustrate, if not eliminate, others that are ideologically opposed; for instance anti-emancipatory movements such as fascism and religious nationalism are also cultivated through civil society (Sogge 2020). In viewing civic space as homogenous, it is also possible to miss how in certain areas civic space is not closing at all.

In the same way that NGOs are not the only occupants of civic spaces, governments are not the only actors who shape it and civic space is not solely dependent on external pressures exerted upon it; the relevant actors determine the shape it takes themselves. Although NGOs may have high visibility their presence may be more marginal among the array of associations on the ground. However, the expansion of civic space through the growth of religious bodies and business associations, and the growth of ‘uncivil society’, in the form of right-wing, extremist and neo-traditionalist groups, is an important way to trace how closure is experienced by the concomitant expansion of space by non-state actors. It is this dance between closure and expansion of space for diverse actors that offers the framework for how this review unpacks trends that shape closing civic space in Africa.

Closing Civic Space in Africa

The centrality of CSOs within discourses on closing civic spaces is seen in how a lot of literature understands the growing phenomenon of increasing restrictions on the activities of CSOs, the media and individual activists precipitated by laws, policies, physical attacks, threats and demonisation of those who stand up for the rights of citizens. In effect, the empirical evidence shapes why literature on closing civic space foregrounds CSOs because of targeted attacks by states on formal organisations working on a range of rights issues. These restrictions on CSOs occur despite the fact that many African constitutions guarantee the most fundamental rights of freedom of association, assembly and expression, and governments are often signatories to international and regional human rights instruments, such as the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. The examples highlighted below map very closely onto the five actions previously highlighted by Van der Borgh and Terwindt (cited in Hossain et al. 2018) as mechanisms used to restrict CSO operational space.

Mechanisms to Restrict CSO Operations

Deciding whether legislation placed by the government is a restriction designed to close civic space is not always straightforward. In January 2017, Burundi enacted new legislation governing the admission and functioning of foreign non-governmental organisations on its territory. However, one of the most controversial aspects of the Bill was the requirement for foreign NGOs to respect ethnic quotas in the recruitment of local staff stipulating that the 'hiring of local staff must be done in accordance with the ethnic and gender balances provided in the Constitution of the Republic of Burundi'. The legal provision has been analysed by commentators as vague which creates room for arbitrary enforcement (Vandeginste 2019). Government officials framed and justified the measure as a

matter of affirmative action necessary to counter a longstanding practice of ethnic discrimination in local staff employment. The organisations, however, saw it as a way for the government to extend its control over non-state actors and aid flows and the risk of sowing the seeds of renewed ethnic conflict in Burundi.

In relation to administrative restrictions, we see governments in Senegal, Tanzania, Uganda and Zambia require CSOs to undergo cumbersome registration processes and criminalising those that fail to register. In Niger, several CSOs have been banned and others prohibited from travelling within specific parts of the country, while human rights groups in Rwanda continuously report fear of government-sponsored harassment, and some have reacted by self-censoring their publications (Smidt 2018). However, it is worth noting that restrictions on CSOs in West Africa have declined in the past ten years. Smidt, writing in 2018 (*ibid.*), reported no targeted policies and practices against CSOs in Botswana, Lesotho, Namibia and South Africa since 2005.

The use of the law and administrative barriers to severely limit and at times prevent the functions of NGOs and civil society organisations is a tactic used in different African countries to limit civic space. In Senegal, Tanzania, Uganda and Zambia governments have imposed complex and lengthy registration processes on CSOs and put in place measures to criminalise those that fail to register (*ibid.*). This tactic is also used to place limitations on access to funding for areas of work that are seen to be part of the government's mandate or that question the state's human rights record. Feminist and women's rights work remains underfunded in comparison to that of global NGOs. An OECD report noted that 'in 2016–2017, the 30 members of the OECD Development Assistance Committee (DAC) committed an average of USD 44.8 billion per year ... focused on gender equality and women's empowerment as either a significant or principal objective' (OECD 2019: 1). Of this the study showed that funding for programmes focused on gender equality as the main objective was only 4 per cent (OECD 2019: 2). This challenge is compounded by funding restrictions imposed by states through laws and other measures aimed at silencing organisations that question or challenge government policies and actions.

The imposition of funding restrictions in an environment in which gender inequalities are high creates a perfect storm for the entrenchment of gender inequality and the oppression of women. In Sudan where these legal restrictions were enacted by the Bashir government, women's rights were highly constrained through a range of punitive measures. These punitive measures were rooted in the arbitrary application of Sharia, and the conflation between culture and Sharia which manifests in the endorsement of abuses such as marital rape, child marriage

and forced marriage. The public order law targets women specifically and allows for punishments ranging from public flogging, hefty fines and jail terms. Mixed social gatherings are prohibited under Sudan's Public Order Act including restrictions on what women can do and wear. No to Women's Oppression Initiative estimates that between 40,000 and 50,000 women are arrested and flogged every year by the public order police because of their clothing (Amnesty International 2015).

In Ethiopia the government passed a draconian NGO law in 2009 known as the Charities and Societies Proclamation (CSP No.621/2009) (Amnesty International 2012: 1). The law delineated three categories of organisations in Ethiopia namely Ethiopian Charities or Societies, Ethiopian Resident Charities or Societies, or Foreign Charities (No. 621/2009, 2). Under this law non-governmental organisations were required to register under one of these categories and only those registered as Ethiopian Charities or Societies were able to work on human rights issues, whereas Foreign Charities could face fines and imprisonment of their staff for infringing this law (Amnesty International 2012). Along with this, the law stipulated that Ethiopian Charities could not receive more than 10 per cent of their funding from foreign sources (No. 621/2009, Section 2/2). Additionally organisations were restricted to using only 30 per cent of their budget on 'administrative costs', a term which was not defined (Amnesty International 2012: 1). This law heavily impacted the functioning of prominent Ethiopian organisations working on human rights including the Ethiopian Women Lawyers Association which was forced to cut 70 per cent of its staff and rely on volunteers to provide legal aid (Amnesty International 2012: 2). Through this law the state was able to effectively inhibit the work of human rights organisations thereby bypassing calls for accountability for human rights violations being perpetrated by the government.

In 2019 the Ethiopian government replaced CSP 2009 with a more progressive law that opened up civic space by removing the restrictions of the older law. The Organizations of Civil Societies Proclamation No. 1113/2019 (CSP 2019) scrapped CSO categories that were in the 2009 law meaning that there are now only two categories for organisations to register as, namely local or foreign (Birru and Wolff 2019). Most importantly the new law eliminates the condition that local organisations could only receive 10 per cent of their funds from foreign sources thereby allowing CSOs to fundraise from any lawful funding source (*ibid.*). Additionally the law encourages CSOs to participate in the democratisation process and promote their members' rights; however, foreign NGOs and local organisations established by foreigners are not allowed to engage in electoral processes including lobbying and voter education (*ibid.*).

Digital Surveillance

Thus far we have noted ‘space under pressure’, which includes co-optation and closure of newly created space. The fact that social actors are expanding and reshaping the space for themselves to act has been noted in the expansion of social media as a sphere of activism. Digital media reveals rapid and profound changes to how people communicate and act collectively, particularly in Africa. Although digital communication channels may be monitored or at times blocked (for example during elections in Uganda and the Gambia in 2016) mobile phones and social media have provided a connective infrastructure and means for collective humanitarian action and discussion outside the realm and purview of the state. Spatial boundaries of public discussions are blurred, and so it is increasingly important to consider the digital as part of the current social and political order rather than separate from them (Srinivasan et al. 2019). In Tunisia, since 2011 civic participation has been characterised by a high level of youth activism channelled into old and new spaces (political parties, civil society, social movements, streets, local cafés and the digital space) and utilising innovative actions to raise their demands such as t-shirt slogans.

In addition, in the last five years, a number of African governments have turned to legislation to enable censorship. This has including blocking access to the internet and social media particularly around election periods as seen in Cameroon, Gambia, Uganda and Ethiopia, ostensibly argued to be a mechanism to prevent protests and protect the credibility of elections (Okech et al. 2017). Accompanying these moves are a range of information, electronic and communication laws that charge over-the-top platform users which target Twitter, Facebook, YouTube and WhatsApp such as in Zambia, Uganda and Tanzania.

In other contexts the 'Computer Misuse Bills' have become useful frameworks for political elites to manage dissent. Dr Stella Nyanzi's case is an illustration of this. Nyanzi, a former Makerere University researcher, was arrested for cyber-harassment after allegedly insulting President Museveni in a Facebook post (Mbuthia 2018). Dr Nyanzi, an outspoken women's rights activist, was accused of posting an abusive poem directed at the President and his late mother in which among other things she addressed his extended term limits (Mwesigwa 2019). Nyanzi was charged for cybercrimes and was sentenced to eighteen months in prison. She successfully appealed this sentence and was released after spending nine months in Luzira women's prison. For WHRDs, censorship also means state and/or non-state actors and individuals shaming women activists and their work by referring to them as 'crazy', 'sexually deviant', or 'witches' (Barry and Nainar 2008: 22). WHRDs who speak out against their governments are also accused of being spies and traitors acting on behalf of states and organisations in the global North, in an attempt to dehumanise, minimise and devalue them (Barry and Nainar 2008).

Physical Harassment and Intimidation

Of the fundamental rights considered key to civil society activism, the right to peaceful assembly is one that is most overtly compromised through the disproportionately brutal repression by state agents. Article 11 of the African Charter on Human and Peoples' Rights (ACHPR, 1981) recognises freedom of assembly as a fundamental right with the condition that 'the exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others'. Given that protests are a public expression of dissatisfaction and/or opposition to state actions or inactions, the response to these is generally a visible measure of civic space. The violent responses to protests across the continent, particularly towards women, are alarming. One of the tactics used to repress women protesters is sexual violence. A report on WHRDs notes that 'the threat of sexual violence is so powerful, and effective, because it raises primal fears ingrained in the psyche of women from early in life' (Barry and Nainar 2008: 25). It is also powerful because it is common in every society and often goes unpunished (Barry and Nainar 2008).

During the 2019 Sudanese revolution, after successfully toppling Omar al Bashir's dictatorial regime, young men and women started a protest which was later known as the Khartoum Sit-In (al-Karib 2019). The protest camp, which went on for about three months, was violently raided on 3 June by the Sudanese Rapid Support Forces (RSF) leading to the death of about 400 people and injuring many more (ibid.). Along with killing people the RSF kidnapped and brutally raped women protesters for three days following the raid. It is worth noting that this took place outside the Sudanese Army's headquarters and was also close the Head of the Transitional Military Council, the EU premises and the UN head office

in Sudan (ibid.). Sexual violence was used to humiliate, repress and effectively silence protesters. This is an unfortunately common tactic used particularly to silence women protesters and is rooted in patriarchal cultural values that not only condone these acts of violence but allow them to go unpunished. Following these attacks, in a powerful act of resistance, young Sudanese activists mobilised against sexual violence and took to the streets under the banner #PinkforKandaka (ibid.). These activists worked to reach out to survivors, connect them to support centres and offer their solidarity. This example is evidence that 'sexual violence is not an unintended result of the actions of political regimes, but rather a key instrument of their power' (ibid.).

Freedom of the Press and Speech

The level of freedom accorded to the press and media professionals generally in any country is often a key indicator of how open a society is. There are three categories of attacks including direct harassment, invasion of privacy, and denial of access (Ferrier 2019: 12). Direct harassment, which includes name-calling, threatening bodily harm and stalking, as well as invasion of privacy, which includes sharing photos of the journalist online, are often done using social media. Increasing attacks on press freedom occur through the incarceration of journalists, closure of media outlets, prohibitive costs of operations, and accompanying fines. The use of security and the threat of terrorism have also created room for governments to enact greater limits through legislation. The Security Laws Amendment Act of 2014 in Kenya introduced lengthy prison sentences and hefty fines for unauthorised dissemination of information that undermines counterterrorism investigations or operations, or of photographs showing the victims of terrorist attacks. The laws also granted broad surveillance powers to Kenyan security forces (Freedom House 2017). Though physical attacks and incarceration are some of the major tactics used against journalists, female journalists are noted to contend with cyber-attacks as an additional threat. A report on the impact of attacks and harassment on female journalists notes that these attacks often ‘reference body, personal features or family and personal relationships’ (Ferrier 2019: 11). The threats women journalists receive on social media are often sexist and aimed at intimidating and shaming them (ibid.).

A survey carried out by the Association of Media Women in Kenya (AMWIK) and Article 19 Eastern Africa found that some of the common attacks on women journalists include ‘cyber stalking, sexual harassment, surveillance and

unauthorized use and manipulation of personal information, including images and videos' (Obiria 2019). A survey on online safety for women journalists also notes that sexual harassment by male colleagues as well as 'state-sponsored violence in the form of arbitrary arrests, imprisonment and torture; and lastly, sexualized hate speech' are other unique forms of violence that women experience (AMWIK 2017: 3). AMWIK notes that of sixty-one women journalists sampled across Kenya, 75 per cent have experienced online harassment based on their work and that this not only impacts their work but also their mental health (Obiria 2019). Though these attacks are not directly perpetrated by the state, the normalisation of sexual harassment both on and offline is a feature of patriarchal norms and values in Kenya, and across the continent, that work to particularly shame women who defy these norms either through their appearance, the subject matter they engage in or in some cases their political affiliations. Sexist and misogynistic personal attacks police the body, work, and are an attempt to silence those challenging the status quo.

Gender Violence and Dissent

In both the 2018 and 2019 editions of the CIVICUS Monitor's 'People Power Under Attack', it is evident that, for the majority of the African continent, civic space is shrinking. The reports point to 'entrenched authoritarian or dominant-party governments, armed conflict, and weak rule of law' as factors that most significantly affect civic space on the continent (Barreto et al. 2019: 13). These reports also indicate that the most common civic space violations that were registered in both 2018 and 2019 are the disruption of protests, attacks on journalists and censorship (Barreto et al. 2019). It is important to note that though these violations impact human rights defenders as a whole, the way in which they affect WHRDs' work and their lives is particularly concerning. This section of the review focuses on Tanzania and Egypt as case studies to understand how women are experiencing closing civic space.

Tanzania

Analysts have argued that the authoritarian drift witnessed in Tanzania is a culmination of one-party dominated politics that had already been infringing civic space in different ways prior to the 2015 elections and Magufuli's entry (Paget 2017). Paget argues that Magufuli's authoritarianism was inherited from the ruling party Chama Cha Mapinduzi (CCM) which under the current constitution states that presidential candidates are not allowed to run as independent candidates (ibid.). Despite the fact that there has been multi-party politics in Tanzania since 1992, the political parties formed have not been strong or influential enough to challenge the CCM (ibid.). In the years leading up to the 2015 elections, the formation of CHADEMA, which is a consolidation of different opposition groups, became a viable contender against CCM leading to CCM's margin of

victory falling from 68 per cent in 2005 to 18 per cent in 2015. The CCM government has since tried to limit opposition parties' influence by introducing a ban on political rallies in 2016. The only rallies allowed are those by district representatives and their constituents.

Shrinking space in Tanzania has had specific gendered elements to it. In the examples that follow we observe how longstanding efforts to expand civil rights for women are often redrawn by authoritarian governments. In most cases the direct target are matters associated with sexual and reproductive rights of women, in other words, provisions that grant women greater bodily autonomy. Additionally, targeting LGBTQI people becomes an avenue to reassert heterosexuality and within that women's role and conservative ideas of femininity as key to sustaining the morality of the nation. The underpinning narrative is morality – moral women who behave in ways defined by the state and do not deviate from them. In 2017 Magufuli actively enforced a policy preventing pregnant girls from attending school. The policy is based on a law passed in 2002 allowing for the expulsion of pregnant schoolgirls. The law says the girls can be expelled and excluded from school for 'offences against morality' and 'wedlock'. Magufuli continued that men who impregnate schoolgirls should be imprisoned for thirty years and 'put the energy they used to impregnate the girl into farming while in jail' (BBC 2017). Halima Mdee, a member of parliament from the Chadema party, was arrested for comments she made about the President: 'we should denounce this tendency of President John Pombe Magufuli who thinks his declarations are law. We must absolutely put the breaks on this president' (*Daily Nation* 2017). Mdee was released after paying a 10 million shilling bond but was arrested again in 2019 for what the authorities deemed 'seditious talk' (*Daily Nation* 2019). In March 2020 Halima Mdee and two other Chadema MPs, Esther Bulaya and Jesca Kishoa, were rushed to hospital after allegedly being beaten by police on 13 March. The three had been arrested after being accused of sedition and had spent the days preceding the alleged attacks in jail (*The Citizen* 2020). These multiple arrests and court summons are increasingly common in Tanzania, particularly against outspoken opposition party members like Mdee.

In August 2016 the Tanzanian Minister of Justice Harrison Mwakyembe announced plans to suspend the registration of organisations that support homosexuality under the guise of 'protecting the culture of Tanzanians' (Tremblay 2016). A few days before this the Minister of Health Ummy Mwalimu told local media that the government had imposed a ban on the import and sale of lubricants to 'curb the spread of HIV' (England 2016). Though there is no law

explicitly prohibiting homosexuality, sodomy is listed as a criminal offence in Tanzania (Tremblay 2016). James Ouma, the founder and executive director of LGBT Voice Tanzania, a civil society organisation that promotes LGBT rights, stated that there was a shift in the political environment after Paul Makonda, the regional commissioner for Dar es Salaam, proclaimed, at a religious rally, that he had ‘started a crackdown against gay people’ (ibid.). Makonda also announced plans to use social media platforms including Facebook and Instagram to track down and arrest people suspected of being gay (ibid.). As a result of this crackdown some LGBT people who were open about their sexuality decided to limit their social media presence in order to protect themselves (England 2016).

The wave of anti-LGBT rights in Tanzania has since continued to intensify. In September 2016 the deputy minister for health, community, development and gender, Hamisi Kigwangala, made a statement emphasising the government’s intent to uphold and protect ‘traditional values’ (Makoye 2016). In the same statement he noted that though the presence of LGBT people is undeniable, they pose the risk of ‘fueling the spread of HIV/AIDS’ (Makoye 2016: para. 5). The deputy minister also added, ‘we don’t subscribe to the assertion that there’s a “gender continuum” ... we still recognize two traditional sexes and there’s nothing in between or beyond ... Any effort to claim otherwise is not allowed’ (ibid.). A report on closing space notes that, ‘closing civic space is usually followed by intensified fundamentalist discourse on national identity and traditional patriarchal values’ (Bishop 2017: 12). This is evident in Tanzania, particularly with the justice minister’s move to repress civil society activism by suspending the registration of organisations that support LGBT rights under the guise of protecting culture. Here the call to protect culture implies there is an outside threat, that homosexuality and LGTB rights cannot be rooted in or incorporated as part of Tanzanian culture. It is a way to categorise this as Western and foreign, thereby drawing on anti-colonial and anti-neocolonial rhetoric to oppress already marginalised groups. These explicit statements are evidence of a hetero-patriarchal state that is actively working to repress instead of protect its citizens, by fostering discrimination and violence against LGBT people.

Along with the LGBT crackdown the Tanzanian government introduced measures that infringed on the right to education for girls. In 2017 Magufuli announced that pregnant girls would be banned from attending school and stated ‘as long as I am president ... no pregnant student will be allowed to return to school’ (Makoye 2017). This ban, which was initially introduced in the 1960s, would mean that girls can be arrested for being pregnant and teachers who don’t

honour the ban risk being punished (Rodriguez 2018). Though not required by law, it is common practice for schools in Tanzania to subject girls to regular pregnancy testing. As a result of the ban, the World Bank withdrew a 300 million dollar educational loan to Tanzania, which led to the government announcing that they would ensure that the pregnant girls would be able to receive an education (Rodriguez 2018). Despite this compromise journalists and rights groups have pointed out that the pregnant girls would only be allowed to access vocational schools and private institutions which means that education would remain inaccessible to those who can't afford it (*ibid.*). It is worth noting that the government estimated that there were about 70,000 teen pregnancies in 2017 alone (Wambua-Soi 2018).

Despite this alarming figure, and the reality of violence against women and girls in Tanzania, the ban remains in place. In January 2020, the World Bank postponed a \$500 million loan to Tanzania after sustained pressure from activists who opposed the ban. The government's decision to reinforce and maintain the law, despite the rate of teen pregnancies as well as the risk of compromising loans, is cause for concern. It serves to criminalise and punish women and girls rather than work towards policies that support pregnant school girls to continue their education. In 2018 the President discouraged birth control and stated that contraceptives are used by people who are 'lazy' and 'do not want to work hard to feed a large family' (Ratcliffe 2018). These sentiments, coupled with the ban, work to uphold patriarchal values that both blame and stigmatise women and girls for unplanned pregnancies while infringing on their bodily autonomy by shaming them for using contraceptives. Women and girls are not only criminalised and prevented from completing their education, but their civic rights and freedoms are compromised by the government that is expected to protect them.

Egypt

Egypt has had a long and rich history of civil society activism, including feminist activism, spanning from the early twentieth century in the fight to end British colonial rule to the more recent waves of activism in 2011, popularly referred to as the Arab Spring. Many people viewed the 2011 revolution as a great turning point, not only for its success in toppling the long-standing dictator Hosni Mubarak, but also in the use of social media, the role of youth, and particularly the powerful presence and, in turn, brutal repression of women. Women were specifically subjected to sexual harassment and virginity testing while being held in detention in addition to threats of being charged with prostitution if they were found not to

be virgins. The specific use of sexual violence and virginity testing form a pattern of approaches that mobilise religious and cultural ideas about women's honour, with women's sexual 'purity' as a signifier of not only their honour but that of their community. These, as feminist have argued, are often misinterpretations of religious provisions clothed in patriarchal norms.

The CIVICUS (2019) report examining civic space violations in the Middle East and North Africa (MENA) region pointed out that 'the region retains the trend revealed by our findings last year: that women and activists advocating for women's rights and empowerment are targeted by the authorities' (Barreto et al. 2019: 41). An Amnesty International report on the state of human rights defenders in Egypt in 2018 noted that women face discrimination both in law and practice and that 'the authorities failed to protect women against high levels of sexual and gender based violence' (Amnesty International 2018: 18). The report also highlighted the violations faced by LGBTI people who were 'forcibly subjected to invasive anal and sex determination tests' (ibid.). In terms of civic space classification, according to the scale used by CIVICUS, Egypt is rated as closed which in this case is defined as a situation whereby:

an atmosphere of fear and violence prevails, where state and powerful non-state actors are routinely allowed to imprison, seriously injure and kill people with impunity for attempting to exercise their rights to associate, peacefully assemble and express themselves. (CIVICUS Monitor Ratings n.d.)

Other characteristics of closed space in this definition include severe punishments for criticising ruling authorities, virtually no media freedom, and a heavily censored internet whereby criticising those in power can lead to severe penalties (ibid.). This is consistent with the findings of the 2019 report which indicated that the most common violations in the MENA region are censorship, the detention of journalists and harassment (Barreto et al. 2019: 39).

One of the many ways in which human rights defenders have been targeted in Egypt is through censorship by the state. A tool that has been effectively used for this is the Cybercrime Act. The law has targeted civil society organisations as well as human rights and women's rights defenders. With about twenty-nine penalties including the possibility of three months to five years in prison and a fine of up to 20 million Egyptian pounds 'for anyone deemed to be threatening national security or the economy', the law has been a powerful indicator of closing civic space (Barreto et al. 2019). The law, which was ratified in 2018, has been critiqued by civil society groups who consider it to be 'an assault on freedom

of expression' which has fortified the Egyptian authorities' ability to silence critical dissent and has allowed them to have near total control over the media (CIVICUS 2018: paras 1–2). It is also worth noting that in the year 2018 alone the Egyptian government blocked 500 websites (CIVICUS 2018). This law has also targeted journalists and human rights defenders who have used the internet as a platform to critique the government. The Egyptian state's use of censorship, however, predates the approval and passing of this law. Censorship, particularly of social media pages, has been reported on various occasions, with the government citing threats to national security as a justification for detaining and interrogating citizens based on their posts on social media. Two notable examples of this are the case of Amal Fathy and more recently the case of Malak Al Kashif.

Amal Fathy was targeted after posting a video on Facebook in which she talked about her experience of sexual harassment and criticised the Egyptian government for its failure to protect women and held it responsible for the decline of public services and the poor condition of the economy. As a result of this Amal and her husband Mohamed Lofty's home was raided by Special Forces, their cell phones were confiscated and they were arrested along with their three-year-old child. Though Lofty and their child were eventually released Amal was detained for fifteen days and investigated for 'advocating the overthrow of the ruling government in Egypt', 'spreading false news on Facebook', and 'misusing social media' (Frontline Defenders 2018a; 2018b). Two days after this detention was ordered, the State Security Prosecution ordered Amal's detention for a different case where she was charged for 'joining a terrorist group and using the internet to call for terrorist acts' and 'spreading false news and rumours to disrupt public security and harm national interests' (ibid.). In September she was sentenced to two years in prison along with a fine of 10,000 Egyptian pounds and bail set at 20,000 Egyptian pounds. She was conditionally released in December 2018; however, she is still at risk of being rearrested to serve her two-year sentence. Her arrest prompted petitions from CSOs and NGOs such as Frontline Defenders and Amnesty International that called for her release arguing that she was being arrested for criticising the government.

The arrest of Malak al Kashif in March 2019 also resulted in petitions and appeals calling for her release. An urgent appeal signed by more than thirty-five NGOs, CSOs and various foundations highlighted the human rights violations that Malak was being subjected to. It also called on the UN Special Rapporteurs, Members of the European Parliament and representatives of national Parliaments in the EU to raise the case with the Egyptian authorities. It is important to examine

the case of Malak al Kashif because it cuts right to the heart of the heteropatriarchal state's oppression of women, trans and gender non-conforming people. Much like Amal, Malak's case also began when she posted a video on Facebook criticising the Egyptian authorities. Her video called attention to the way the authorities handled the protests that broke out after a train accident in Cairo (Hall 2019). Malak's mother's home was raided and she was arrested and charged under the Anti-Terrorism Act of 2015, according to which one of the potential penalties is maximum imprisonment (CIVICUS Updates 2019). She was also charged under the 2018 Electronic Crimes Prevention Act and held in pre-trial detention which was set for fifteen days but was extended multiple times. During this period Malak was detained at a male prison despite being a trans woman and on her official documents her gender is classified as male. The urgent appeal highlighted that this was an attempt by the state at silencing her on all issues including her activism for trans rights (*ibid.*). This intentional misgendering on official documents and the decision to detain her in a male prison is an illustration of 'compounding the state's discrimination against her as a transgender woman' (CIVICUS 2019: para. 7). She testified that while she was held in detention she had 'been subjected to a forced anal examination and sexual harassment in one of the government hospitals' (CIVICUS 2019: para. 8). Upon her release Malak had been held in pre-trial detention for over 120 days.

In their analysis of travel bans, particularly as applied to WHRDs, a study by Nazra for Feminist Studies illustrates the intersections of power that act as a barrier to their work. A number of women interviewed in the study noted that while travelling they were asked unusual questions such as about their marital status and of how their spouses or male guardians allowed them to travel on their own (Nazra for Feminist Studies 2017a; 2017b). The study argues that the questions were used to undermine them and mark them as deviant for being independent (*ibid.*). Some of the women in the study talked about how class politics affect them at the airport with authorities asking them questions about their finances and refusing to believe their academic credentials. They explained that when the officers find out that they are from the provinces, which are in the poorer and under-resourced parts of the country, they begin asking questions about how the women could afford these trips (*ibid.*). In Egypt cultural values and traditions that uphold the separation of the public and private sphere whereby women are relegated to the private sphere of working in the home and men in public affect the experiences of WHRDs, a concept which has been examined by numerous feminist scholars and that remains relevant in the present day (Euromed Rights 2018). The patterns of

violence including sexual violence, threats, harassment and defamation campaigns are intentionally gender-specific. 'WHRDs are targeted not only because of their activity but also because of their gender' (ibid.: 8). As indicated by the interviewee WHRDs tend to experience sexual violence and harassment as well as defamation and attacks on their reputation by the state which, when successful, influence younger people. With that being the case, she points out that in order to be able to continue their activism WHRDs need strong 'intellectual support' and to be firmly rooted in their principles (ibid.: 16).

The limitations placed on NGOs and civil society organisations in Egypt and the impact this has had on their ability to function are also worth examining. NGOs, CSOs and individual activists have been heavily restricted through travel bans, asset freezes and administrative processes that work to hinder their ability to function. Under Hosni Mubarak's regime NGOs were regulated under Law 84 of 2002 which gave the Ministry of Social Affairs the authority to monitor NGO registration, funding and membership (TIMEP 2018b). Under this law penalties for non-compliance included prison sentences; however, some human rights organisations were able to creatively bypass these regulations by registering as law firms or private companies (ibid.). After the Egyptian revolution and the ousting of Mubarak in 2011 the number of civil society organisations grew and they had more freedom in terms of content and funding (ibid.). This was interrupted in 2011 by the prosecution of forty-three NGO workers who were charged with receiving illegal foreign funding (ibid.). This resulted in the court ordering the closure of a number of international NGOs and sentences to the defendants in June 2013; however, non-Egyptians were allowed to return to their home countries (Nazra for Feminist Studies 2016).

The ruling sparked international outrage which eventually led to a retrial (TIMEP 2018b). In 2016 what is believed to be the second phase of this case began with the court ordering asset freezes on a number of reputable human rights organisations and summoning their representatives to a hearing under what was known as case number 173 (Nazra for Feminist Studies 2016).

Case 173, also known as the foreign funding case, was a culmination of a fact-finding committee set up in 2011 by the Ministry of Justice to examine the funding that civil society organisations were receiving and to determine which ones were registered under the NGO Law 84 (ibid.). The findings of this committee, published in a report, were used to target about thirty-seven organisations and charge them under article 78 of the penal code for receiving illegal foreign funds 'with the aim of pursuing acts harmful to national interests or destabilizing general peace or the

country's independence and its unity' (ibid.). It is worth noting that all the NGOs and groups that were summoned were operating legally and complying with state regulations. As a result of the report however, prominent NGOs including the Egyptian Initiative for Personal Rights, Nazra for Feminist Studies, and the Arab Network for Human Rights Information had their assets frozen and travel bans were imposed on their directors (ibid.). The Nadeem Center for Rehabilitation of Victims of Violence was also targeted and travel bans were imposed on some of their staff including Dr Aida Seif el Dawla, one of the founders of the centre (Michaelson 2018). The Nadeem Centre was also served with a closure order in February 2016 and was effectively shut down by the state in February 2017 for 'breaching licensing conditions' (ibid.). In December 2018 the defendants under Case 173 were fully acquitted of the foreign funding charges with the court finding that the funding was not illegal and that the defendants were all licensed to operate under the NGO law. Despite this positive outcome, the Nadeem Center remains closed and in 2017 the Egyptian government introduced a new and more restrictive NGO law.

The Law Governing the Work of Associations and Other Foundations Working in the Field of Civil Work, Law No. 70 of 2017, set up a national agency composed of government representatives as well as security and intelligence personnel to monitor the work of foreign NGOs (TIMEP 2018a). Under this law domestic and foreign NGOs are required to obtain approval from this national agency before they can receive funding from outside the country or from foreigners within Egypt (ibid.). Along with funding restrictions the law limits the causes that civil society organisations can work on. Organisations can only pursue development and social welfare objectives and the law makes it illegal for them to pursue work of a political nature or that 'may cause harm to national security, law and order, public morals or public health' (ibid.: 1). Using national security and public morals to accuse or limit the work of NGO, particularly those promoting the rights of already marginalised groups, for example women and LGBTI people, and/or those who are documenting or bringing attention to the state's human rights violations, is a prime example of closing civic space. This law, and others like it, allow the state to not only set the agenda to determine what NGOs can work on, but also criminalise organisations and individuals who challenge it. In effect, human rights defenders face risk of persecution for working to uphold civic freedoms and for holding the state accountable.

Key Observations

1. As noted in the literature, we see governments targeting formal civil society organisations and media organisations as part of the process of closing civic space. We also observe the use of administrative restrictions as a tactic across Egypt and Tanzania to constrain the work of formal civil society organisations. In Egypt, these restrictions specifically target women's human rights organisations whose work is viewed as critical of the state, and include closing them down, freezing assets and travel bans. The regime relies on legislation to enact these constraints.
2. Cybercrimes legislation and its role in limiting the sphere of transnational action is used in both Egypt and Tanzania. This confirms what analysts already point to as a trend in how closing civic space is experienced. The impact on women is seen specifically in how defamation and cyber-bullying are mobilised as strategies to push women out of these spaces.
3. The use of anti-terrorism legislation is also invoked in Egypt to widen policing and security measures taken against the civil society organisations. As noted in the literature, the role of such legislation also serves the purpose of criminalising activists. This is a tactic that is more readily used in Egypt than in Tanzania given the history of terror groups in the country.
4. In Tanzania, the legislation is directed at constraining women's bodily autonomy and subsequently enhancing conditions for the abuse of women's and girls' rights. While this legislation does not constrain women and girls movements, it serves the purpose of reducing the options available to women and girls by invoking morality and discipline to celebrate women who reproduce for the nation whilst punishing those who do not.

5. In Egypt there is more discernible constraint of women in the public sphere. This is a more generalised experience by women that is not linked to being a defender of rights. That women do not feel safe or conditions for their movement are made untenable is a feature of a conservative and highly militarised state. The approach to governance reinforces specific notions of women's place as being in the home leading to reversals of hard-won freedoms fought for by women's organisations. In Egypt, the use of violence against women in the public sphere becomes a more ready tactic to limit women and girls as a group.
6. In both Tanzania and Egypt we see LGBT groups as a target of state action, largely to distinguish them as the antithesis of heterosexuals and heterosexuality as the preferred and accepted way of co-existing in society.

Resistance by WHRDs

Despite the realities of shrinking civic space in Tanzania and Egypt, WHRDs, civil society organisations and NGOs continue to resist regime attempts to close civic space. They employ various strategies of resistance to negotiate the limited civic space and challenge state power.

1. WHRDs resist closing civic space by starting programmes in existing organisations to provide services denied by the state. In Tanzania for example, despite homophobic statements from government officials as well as an active crackdown on LGBT people, organisations like LGBT Voice continue to advocate for human rights by providing much needed social services to those in need (LGBT Voice n.d.). Their FAQ page indicates that they support LGBT people by: taking legal action when needed, providing shelter for those who were forced to leave their homes, as well as arranging medical care at private clinics for those who have been denied treatment due to their sexuality (ibid.). Navigating a complex and dangerous environment while working to provide services and promote LGBT rights is an act of resistance that cannot be ignored. Another initiative worth noting in Tanzania is the Agape Knowledge Open School in Shinyanga. The programme falls under an organisation known as the Agape AIDS Control Programme which works on, among other projects, the prevention of gender based violence, child marriages and early pregnancies as well as on the control and prevention of HIV and AIDS (Agape AIDS Control Programme n.d.). The Agape Knowledge Open School works to rescue girls from early marriages and provides accommodation for pregnant teenagers (Wambua-Soi 2018). Following the ban on school attendance for pregnant girls, non-profit organisations like the Agape School resist by providing services that the government refuses to provide.

2. In Egypt, along with public protests, the formation of non-profits has been a tool of resistance used by human rights campaigners. By registering as non-profits or law firms, organisations are able to subvert the requirement to register with the Ministry of Social Solidarity thereby facing limited restrictions. Despite changes and amendments to existing laws that restrict the activities of civil society organisations and subject them to increased surveillance, human rights defenders continued to remain vocal about the human rights violations that continue to take place. Nazra for Feminist Studies is a group that works on, among other things, knowledge production on women's rights as well as working on Arabic terminology connected to women and gender, supporting WHRDs by providing legal, psychological and medical support, and supporting women's participation in politics and in the public sphere (Nazra for Feminist Studies 2016). This organisation was targeted by Egyptian authorities based on suspicions about its funding which resulted in an asset freeze on both the organisation and the Director Mozn Hassan (Frontline Defenders n.d.; 2019). This led to the closure of the organisation's offices in 2018; however it continues to work through volunteers (EuroMed Rights 2018).
3. The use of litigation to challenge and resist human rights violations has proved to be powerful in not only highlighting governments actions towards CSOs but also problematising existing laws that infringe on the rights and freedoms of specific groups in society. In Tanzania, Rebecca Gyumi, a lawyer and women's rights activist used litigation to challenge the Law of Marriage Act. Her aim was to ensure that the minimum age of marriage for girls be raised from fourteen to eighteen years-old. It is worth noting that the same law, which essentially permitted child marriage for girls, only permitted boys aged eighteen and above to get married. In her case Gyumi challenged the Marriage Act by arguing that it went against other laws in the Tanzanian constitution including article 12 that guarantees equality before the law and article 13 that protects against sex-based discrimination (Msichana Initiative 2020). Gyumi and the team of lawyers were successful in their challenge and in 2016 the Tanzanian government declared it unconstitutional for girls under eighteen to get married (CNN 2018). Though this ruling was appealed in 2018 by the Tanzanian government through the Attorney General under the claim that the disparity in the marriage age was 'a compromise to accommodate customary, traditional and religious values on marriage', it was upheld by the Court of Appeals in 2019 (Mirembe 2019). Gyumi, who in 2018 was

awarded the Human Rights Prize by the UN, noted in an interview that 'the change in the law is not the only thing we're advocating for. We need to make sure the law is implemented at a ground level' (Mahtani 2019: para. 20). Though this legal victory is an encouraging one and worth celebrating, it is important not to overlook the continued discrimination of young girls notably through the policy that bans them from attending school if they get pregnant. Gyumi herself noted that at the age of thirteen her schoolmates were being forced to drop out of school and get married because they were pregnant (Mahtani 2019). Thus, though the declaration of child marriage as unconstitutional is a positive outcome and indeed a progressive one, it cannot be an indicator of a progressive government but rather of an active and resilient civil society.

4. The use of social media to navigate shrinking public space remains a tool of resistance despite the state laws introduced in both Tanzania and Egypt to clamp down on social media activism and to monitor online content. In Egypt social media was often cited as a significant tool in mobilising the wave of protests leading to the revolutions in the region. Along with being used to mobilise public protests, human rights defenders continue to use social media and online platforms to express dissent. The cases of Amal Fathy and Malak al Kashif mentioned above demonstrate this. Both activists posted videos on Facebook in an attempt to raise awareness and hold the government to account. The resulting violations on their freedoms show that though resistance is active, the state is also more and more repressive. In Tanzania, much like in Egypt, the Cybercrimes Act of 2015 that has monitored social media and online platforms works to impede freedom of expression. Nonetheless, Tanzanian citizens and rights defenders continue to use social media and the internet to criticise government policies as well as to interrogate the repression of journalists and the media. For example, Tanzanians took to social media to respond to the ban on pregnant school girls rallying under the hashtag #ArudiShuleni calling for girls to be allowed to return to school (Twaweza 2017). A statement made by a coalition of Tanzanian CSOs noted that 71 per cent of the people agree that girls should be allowed to continue their education (*ibid.*). The statement also argues that girls who get pregnant are neither immoral nor criminal and that preventing them from resuming their education makes their lives much harder (*ibid.*). This statement, that calls on the state to take action and to allow public dialogue on the matter to continue, is an example of how social media can be used as a tool of resistance even in the context of shrinking civic space for women and girls.

Conclusion

This review set out to examine what the literature tells us about closing civic space and what that means for women across different parts of Africa. In concluding this review there are four major observations to make that can shape how CODESRIA chooses to advance its work in this area.

1. It is clear from the review that the vast amount of scholarship and policy literature on closing civic space focus on how it affects societies generally with very limited scholarly analysis on what taking a gender lens means for enlarging how we understand the phenomenon. It is only through examining how women's rights organisations are understanding and challenging state and non-state actors that we are able to answer the question – how are women experiencing closing civic space?
2. The dearth of scholarship from Africa on closing civic space generally, and that which offers a gender analysis specifically, is evident. The material on the subject is still predominantly developed by large international development organisations and policy think tanks as well as by scholars in the global North. Where analysis is generated from Africa, it comes from civil society organisations. Feminist organisations in Africa are developing sophisticated analysis on closing civic space and any entity seeking to develop a body of work in this area should see them as an important empirical resource.
3. More empirical work is needed that will do two things. The first links how patriarchal violence that women experience on a daily basis is enhanced by the closure of civic space. Secondly, this work will enable us to distinguish the forms of violence that are particular to the move by governments to restrict civil liberties in order to pursue their interests. This distinction is important as it allows a clearer articulation of how regimes are evolving their strategies.

4. Responses by different governments to the COVID-19 pandemic have led to increased attention towards how this may affect the size and shape of civic spaces across the globe. The International Centre for Not-for-profit Law launched the COVID-19 Freedom Health Tracker to monitor government responses to the pandemic that affect civic freedoms and human rights and the CIVICUS Monitor also has a snapshot of restrictions and attacks on civic space with nine recommendations to 'ensure that fundamental freedoms do not become another casualty of the virus'. Future research would have to determine whether actors appear to be using the pandemic as an opportunity and a justification to impose restrictions to serve political purposes.

Note

1. Autonomous sister funds – Urgent Action Fund, Urgent Action Fund Africa, Urgent Action Fund Latin America and Caribbean, Urgent Action Fund – Asia Pacific.

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A Case Study of Egypt and Tanzania

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