



COUNCIL FOR THE DEVELOPMENT OF SOCIAL
SCIENCE RESEARCH IN AFRICA

CODESRIA Policy Briefs

No. 2, December 2021

Shrinking Civic Space and Women Human Rights Defenders in Africa

Awino Okech* and Marianne Mesfin Asfaw**

Overview

This policy brief examines the closure of civic space for women human rights defenders (WHRDs) in Africa. Closing civic space is used to describe the growing phenomenon of governments, political elite and non-state actors using a range of legal and extra-judicial tactics to control dissent. These actions include but are not limited to arbitrary arrests, indefinite pre-trial detention, enforced disappearances and expanding the ability of the police to arrest people on terrorism charges.¹ This policy brief begins by examining the key features of closing civic space to determine the major trends across the continent. The second section offers a close examination of the key features of how closing civic space affects WHRDs drawing on examples from Africa. Finally, we outline policy recommendations to address the safety of WHRDs in this environment.

* SOAS, University of London

** Association for Women's Rights (AWID)

Introduction

The idea that the space to exercise different rights and freedoms, as enshrined in constitutions, looks different in different countries and is constrained by a range of state actions is not new. However, the discourse on closing civic space has increased in tenor due to a global constraint on civil liberties. The September 2001 twin towers attacks in the USA and the subsequent 'war on terror' is noted to have resulted in greater state regulation under the guise of the 'war on terror'. Discourses on terror have been used to control dissent against political elites, regulate public discourse through legislation that prescribe hefty punishments for speaking out against governments as a threat to national security. Communication laws and internet shutdowns have now become features of how governments across Africa regulate elections.

The rise in citizen-led protests to counter poor economic policies, extensions to term limits and constraints to freedom of speech is noted by ACLED who document the marked rise in protests 1998–2018. In 2018, the sites of these protests mirror political and economic contestations in those countries.² Feminist organisations have intervened by pointing out the importance of a gender analysis to understanding the evolution and impact of closing civic

space. The argument that organisations such as Urgent Action Fund and Mama Cash have made is that the nature of attacks experienced by women human rights defenders (WHRDs) are gender specific and differ markedly from those experienced by men. Both organisations, in their reports *Feminist Resilience and Resistance: Reflections on Closing Civic Space and Standing Firm: Women and Trans Led Organisations Respond to Closing Space for Civil Society*, point to the rise in misogynistic, sexist and homophobic speech that normalises violence against WHRDs.³

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.⁴ 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'.⁵ In other words, 'they make demands that challenge entrenched beliefs and powerful institutions'.⁶ This policy brief identifies some of the major features that distinguish women's experiences of closing civic space.

Impact of Shrinking Civi Space on Women: Four Features

Funding constraints limit women's rights

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'.⁷ Of this the study showed that funding for programmes focused on gender equality as the main objective was only 4 per cent.⁸ 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. *Case 173*, known as the 'cases of foreign funding for civil organisations in Egypt', is a case in point. Nazra for Feminist Studies, a group that works on, among other things, supporting WHRDs by providing legal, psychological and medical support, and supporting women's participation in politics and in the public sphere, was targeted by Egyptian authorities based on suspicions about its funding. This resulted in an asset freeze on both the organisation and the Director Mozn Hassan and closure of the organisation's offices in 2018.⁹

Morals and good women

The increasing use of sexist and misogynistic personal attacks that police the body are an attempt to silence those who are challenging the status quo. In Kenya, Zimbabwe, Nigeria and Uganda, bloggers, public radio programmes and 'social media influencers' use their platforms to shame women who occupy public spaces and platforms to advance their causes.¹⁰ Lumsden and Morgan point to how social media platforms such as Twitter, Instagram and

Facebook are rife with gendered and symbolic violence targeted at women and minority groups.¹¹ Gendered interactions on the internet are now predominantly framed by acts of aggression such as trolling, threats of hate crimes, Islamophobia, cyber-bullying, revenge porn and stalking, to name a few.¹² Data protection concerns are critical for WHRDs due to the double standards in patriarchal societies. Protection against the public use of private information such as sexual history and sexual orientation is important given the frequency with which personal videos and photographs are 'leaked' with the intention of inflicting reputational harm. The harm is often reliant on societal perceptions about acceptable and respectable behaviour for women which do not apply to men. Another way in which morality serves to curtail women's rights is in relation to sexual and reproductive health rights. In 2018, former President of Tanzania Magufuli discouraged birth control and stated the contraceptives are used by people who are 'lazy' and 'do not want to work hard to feed a large family'.¹³ These positions work to uphold patriarchal values that both blame and stigmatise women and girls for unplanned pregnancies while infringing their bodily autonomy by shaming them for using contraceptives. Discourses of this nature, particularly when they become enacted by government agencies, place women's health at risk with several pregnancies they have no control over, whilst also taking away

their ability to choose if, when and how many children they want. 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.

Surveillance and online violence

Though physical attacks and incarceration are some of the major tactics used against journalists, female journalists notably 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'.¹⁴ The threats women journalists receive on social media are sexist and aimed at intimidating and shaming them. 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'.¹⁵ 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.¹⁶

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.¹⁷ 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. A similar example can be found in Egypt where Amal Fathy was targeted after posting a video on Facebook in which she talked about her experience of sexual harassment. Amal also 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 the 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'.¹⁸ 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'.¹⁹

Redrawing gender norms

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 the ways defined by the state and do not deviate from it. In 2017 Magufuli actively enforced a policy preventing pregnant girls from attending school. The policy is based on a law passed in 2002 and allows 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 also proposed a thirty-year sentence for men who impregnated schoolgirls.²⁰ In Egypt during the people-led protests that ousted Hosni Mubarak, women were specifically subjected to sexual harassment, virginity testing while being held in detention, in addition to threats of being charged with

prostitution if they were found to not be virgins.²¹ The use of rape and other forms of sexual violence including 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 scholars have argued, are often misinterpretations of religious provisions clothed in patriarchal norms.²²

Recommendations

Legislative oversight and accountability

Parliament's role is to protect the freedoms and rights enshrined within our constitutions. In addition, independent oversight bodies such as those associated with policing, the justice sector and parliament should be strengthened to hold government institutions accountable and enhance societal dialogue about civil liberties and open societies. Parliamentary select committees and legislators across Africa serve a very vital function of not only being representatives of the people in governing institutions. They also serve as custodians of the constitutions and concomitant internal commitments that various countries sign up to as part of a community of nations. The evidence highlighted above illustrates how this vital role has been usurped from parliaments particularly when national security interests and partisan interests come to the fore. It is critical that parliaments, particularly the select committees, exercise their legislative oversight function to ensure that 'national interests' do

not become the avenue to manage political views that are constructed as unpalatable. Laws should not become a framework to discipline individuals and organisations.

Protect women's rights

The protection of women's rights is provided for and committed to by African governments and these should be defended in line with regional and national legal instruments. In Africa, the Maputo Protocol, formerly known as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, is the blueprint for continental commitments on gender equality which has been ratified by forty out of fifty-five African countries. We urge African governments to fully implement the provisions of the Maputo Protocol. Twenty-five years ago, the Fourth World Conference on women was held in Beijing serving as a key turning point for the global women's movement. The Beijing Declaration and the Platform for Action was adopted unanimously by 189 states with a commitment to action in twelve critical areas of concern:

poverty, education and training, health, violence, armed conflict, economy, power and decision-making, institutional mechanisms, human rights, media, environment, and the girl child. Subsequently, the Sustainable Development Goals have a standalone goal on gender equality in addition to its integration across other goals and targets across the 2030 Agenda.²³

Zero tolerance on all forms of violence

It is critical to adopt a zero-tolerance policy on violence in the online sphere because these policies often translate into offline action. These policies need to be pursued and enforced in conjunction with companies that own social media platforms. Threats of physical and sexual violence against women, their families and associates on social media should be taken seriously and pursued to deter social media users from the false safety associated with being behind a computer. It is not enough to suspend accounts; formal charges must be brought against account owners and their ability to open other accounts using pseudonyms prevented. This is a role that can be effectively implemented by legislators and state authorities charged with regulating communications. Preventing violence and enacting zero tolerance on violence are more effective ways of

using regulatory bodies' authority rather than using them to prevent debate about the socio-economic conditions in their countries.

Witness protection

Ensuring the safety of WHRDs who are challenging powerful forces in society requires effective witness protection mechanisms. This is a legislative recommendation urging governments to put in place policies that encourage whistle-blowers to report wrongdoing where it is seen. In the context of closing civic space this is often connected to extra-judicial killings, grand corruption or the protection of land and natural resources from powerful corporate actors. Whistle-blowers, then, need to be protected through effective witness protection systems to avoid reprisals. Only three African countries – Kenya, Rwanda and South Africa – have established programmes even though they do not operate effectively.²⁴ The African Commission on Human and Peoples' Rights' rules of procedure as well as the African Union Transitional Justice Framework both recognise witness protection as key to the effective pursuit of criminal justice. To effectively institute witness protection, multi-sectoral collaboration across government and civil society is key.

Notes

1. Barreto, M. et al., 2019, Global Report 2019, <https://civicus.contentfiles.net/media/assets/file/GlobalReport2019.pdf>, accessed 1 March 2020; Paget, D., 2017, 'Tanzania: shrinking space and opposition protest', *Journal of Democracy* 28 (3): 153–167; Smidt, H., 2018, 'Shrinking civic space in Africa: when governments crack down on civil society', *GIGA Focus*, Number 4 (Africa): 1–11.
2. Armed Conflict Location & Event Data Project (ACLED), 2018, <https://www.acleddata.com/trends/>.
3. Okech, A., Chigudu, H., Anderson, K. and Quintana, S., 2017, *Feminist Resistance and Resilience: Reflections on Closing Civic Space*, Urgent Action Fund, https://www.uaf-africa.org/wp/wp-content/uploads/2018/06/edited_Feminist-Resistance-and-Resilience-ENGLISH-14.pdf, accessed 1 March 2020; Bishop, K., 2017, Standing Firm: Women and Trans Led Organisations Respond to Closing Space for Civil Society, https://www.mamacash.org/media/publications/mc_closing_space_report_def.pdf.
4. ACPHR, 2016, Report of the Study on the Situation of Women Human Rights Defenders in Africa, <https://www.peacewomen.org/sites/default/files/Human%20Rights%20Defenders%20in%20Africa.pdf>, accessed 21 March 2020.
5. Civil Rights Defenders, 2020, Statement: Protection of Women Human Rights Defenders in Africa Must be Ensured, 9 March, <https://crd.org/2020/03/09/protection-of-women-human-rights-defenders-in-africa-must-be-ensured/>.
6. Barry, J. and Nainar, V., 2008, Women Human Rights Defenders' Security Strategies: *Insiste Resiste Persiste Existe*, <https://urgentactionfund.org/wp-content/uploads/downloads/2012/06/Insiste-Resiste-Persiste-Existe-WHRDs-Security-Strategies.pdf>, accessed 22 March 2020.
7. OECD, 2019, Development Finance for Gender Equality and Women's Empowerment: A Snapshot, <https://www.oecd.org/development/gender-development/Dev-finance-for-gender-equality-and-womens-economic-empowerment-2019.pdf>, accessed 1 March 2020.
8. *ibid.*
9. Frontline Defenders, n.d., Judicial Harassment of Mozn Hassan, <https://www.frontlinedefenders.org/en/case/judicial-harassment-mozn-hassan#case-update-id-4912>, accessed 1 March 2020; EuroMed Rights, 2018, 'Egypt: closure of the office Nazra for Feminist Studies', 20 March, <https://euromedrights.org/publication/egypt-closure-office-nazra-feminist-studies/>, accessed 1 March 2020.
10. Wanner, Z., 2017, 'Three countries. Three heartbreaks. One week', <https://mg.co.za/article/2017-09-15-00-three-countries-three-heartbreaks-one-week>.
11. Lumsden, K. and Morgan, H., 2017, 'Media framing of trolling and online abuse: silencing strategies, symbolic violence, and victim blaming', *Feminist Media Studies* 17 (6): 926–40.

12. Awan, I., ed., 2016, *Islamophobia in Cyberspace*, London: Routledge; Phillips, W., 2015, *This is Why We Can't Have Nice Things*, Cambridge, MA: MIT Press.
13. Ratcliffe, R., 2018, "'No need for birth control": Tanzanian president's views cause outrage', 11 September, *The Guardian*, <https://www.theguardian.com/global-development/2018/sep/11/no-need-for-birth-control-tanzanian-presidents-views-cause-outrage>.
14. Ferrier, M., 2019, *Attacks and Harassment: The Impact on Female Journalists and Their Reporting*, International Women's Media Foundation, <https://www.iwmf.org/wp-content/uploads/2018/09/Attacks-and-Harassment.pdf>.
15. Obiria, M., 2019, 'Report finds Kenyan women journalists face online harassment, makes recommendations', International Journalists' Network, 31 January, <https://ijnet.org/en/story/report-finds-kenyan-women-journalists-face-online-harassment-makes-recommendations>, accessed 23 March 2020.
16. AMWIK, 2017, *Updated Baseline Survey Online Violence*, <https://amwik.org/wp-content/uploads/2018/05/Updated-Baseline-Survey-Online-Violence.pdf>, accessed 22 March 2020.
17. Obiria, op. cit.
18. Urgent Appeal: Egypt Prosecution and Detention of Human Rights Defender Amal Fathy, 2018, Frontline Defenders, 11 May, https://www.frontlinedefenders.org/sites/default/files/urgent_appeal_egypt_prosecution_and_detention_of_human_rights_defender_amal_fathy_11_may.pdf, accessed 29 February 2020.
19. *ibid.*
20. BBC, 2017, 'John Magufuli's pregnant schoolgirl ban angers Tanzanian women', <https://www.bbc.co.uk/news/world-africa-40379113>.
21. Butt, R. and Abdel-Rahman Hussein, 2011, 'Virginity tests on Egypt protesters are illegal, says judge', <https://www.theguardian.com/world/2011/dec/27/virginity-tests-egypt-protesters-illegal>.
22. Charrad, M. M., 2001, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco*, Berkeley: University of California Press.
23. *ibid.*
24. Kariri, J. N. and Salifi, U., 2016, *Witness Protection: Facilitating Justice for Complex Crimes*, Pretoria. Institute of Security Studies.



Acknowledgements

CODESRIA would like to express its gratitude to the Swedish International Development Cooperation Agency (SIDA), the Carnegie Corporation of New York (CCNY), Andrew W. Mellon Foundation, the Open Society Foundations (OSFs), UNESCO, Oumou Dilly Foundation, Ford Foundation and the Government of Senegal for supporting its research, training and publication programmes.

CODESRIA, Avenue Cheikh Anta Diop X Canal IV, BP : 3304, Dakar, 18524, Senegal

Tel: +221 33 825 98 22/23 - 33 864 01 36 • Fax: +221 33 824 12 89 • Web: www.codesria.org