

Conference on Advancing Civic Space and Democratic Accountability in Shrinking Environments.

6th & 7th September, 2018 at Metropole Hotel, Kampala, Uganda

Conference Report

1. Introduction

This conference is a follow-up to Supporting Democracy's multi-country activity on advancing democratic accountability in seven countries of Eastern and Southern Africa. In March 2018, civil society organisations from the seven countries covered by the study gathered in Johannesburg and exchanged comparative lessons on the shrinking space phenomenon and how to respond to it. Representatives of the seven EU Delegations involved explored the commonalities between civil society organisations in these countries and the need for a joint and concerted effort.

Subsequently, civil society representatives from Tanzania and Uganda proposed to work together to address the challenge of shrinking civic space in the East African region. In view of this, they resolved to bring on board their counterparts from Kenya in order to jointly deliberate and undertake a regional approach to redressing the situation. They eventually tabled a request to their respective EU delegations to support such convening.

The EU Delegations to Tanzania and Uganda therefore requested Supporting Democracy's technical assistance to prepare and implement a follow-up conference in Kampala, Uganda. This conference brought together 60 civil society leaders from Uganda, Kenya and Tanzania. A participant from South Sudan was invited to share the unique experiences from the country's context. The conference provided space to learn from one another and benchmark the strategic approaches that can be deployed to protect and expand civic space in the region. The leaders agreed on a minimum cooperation agenda for specific actions to be taken in the short and medium term to safeguard civic space in their respective countries and the region at large. Beyond national civil society leaders, participants included regional organizations, funders and the respective EU delegations from Uganda and Tanzania.

Civil Society leaders in Uganda served as conference hosts. They included Centre for Constitutional Governance (CCG), KIND Initiative, Action Aid Uganda and the NGO Forum. The meeting provided the critical opportunity for civil society, international networks and activists to develop an "Action Agenda" to design advocacy strategies and frameworks for partnership to protect civic space. The Conference set an important milestone to start advocating and influencing policymakers at regional level, including the East Africa Secretariat and the Heads of states Summit under the EAC Framework. Some of the immediate next steps proposed pose a critical opportunity to strengthen solidarity among CSOs in the region, these include the joint litigation and the development and publication of a regional civic space tracking mechanism which would allow the various organizations to work together.

2. Objectives:

The overarching goal of the conference was to share experiences among the various CSO's in the three countries on how they are affected by and building resilience against a rapidly shrinking civic space.

As such the conference had three specific objectives;

- a. To identify and learn from strategies for surviving and addressing declining civic space
- b. To promote learning on documentation, advocacy and strategic litigation in protecting civic space.
- c. To explore opportunities for strengthening learning, exchange and collaboration for continued action for protecting civic space in the region.

3. Summary of Proceedings:

In line with the approved conference programme, the main takeaways from each of the sessions are highlighted below which informs the proposed action agenda.

3.1. The Opening Session:

The session began with elaboration by the Senior experts of the developments leading up to the conference and the role of different actors including the EU, Supporting Democracy and National CSOs. The experts explained that the conference hosted by Ugandan Civil Society leaders was made possible by financial support from the EU who have received technical assistance from Supporting Democracy to implement the conference. The motive behind the conference is to steer a regional conversation on the declining trend against civic space which is affecting the freedoms of assembly, speech and association across the region. It was in realization of this similar trend across the region that civil society leaders in Uganda and Tanzania proposed to hold the convening along with their Kenyan colleagues to begin building a regional alliance on safeguarding civic space. The experts noted that this is not the first of such convenings and as such efforts are being made to leverage other similar initiatives in order to amplify the impact the collective impact.

The Opening of the conference was graced by the presence of Hon. Julius Maganda Wandera, Minister of State for East African Affairs, Republic of Uganda, Thomas Tiedemann, Acting Head – EU Delegation in Uganda and Sarah Bireete, Co host/Deputy Executive Director, Centre for Constitutional (CCG). The panel highlighted the plight of civil society and voices of dissent in the region including most recently in Uganda where the political opposition and institutions of accountability such as parliament are facing repression from the state. Civil society was characterized, as the way people want to relate with each other and to shape their society. As such stifling civil society does not necessarily address grievances the manner with which they could still be expressed beyond the organized manner of civil society may be riskier. Civil society actors engaging and talking more with others particularly the state than with itself can expand civil Society. It was noted that the Treaty for the establishment of the East African community provide unique opportunity for civil society to engage with the integration process and use it as a means to shape the protection of civic space. A protocol on Good Governance has been shelved since its initial tabling in 2011 and advocacy around it is critical in safeguarding the space for civil society. It was note that various forums including the Electoral Commissions Forum, the Chief Justices forum and the Anti-corruption forum have been established bringing together state actors on such topics. Civil society was encouraged to lead the development of a similar forum on civic space to advance issues of civic space and good governance.

3.2. Session on Drivers and Barriers of Civic Space, Lessons from Kenya, Tanzania and Uganda

The panel noted several key barriers to civic space in the region; security and financial risk, inflexible funding approaches by donors, growing threats against human rights defenders including physical threats. The use of laws and regulations is becoming common as state are becoming increasingly reluctant to implement progressive laws like the Public Benefit Organizations (PBO) Act in Kenya. Civic space is thus affected by both

local and global development including the anti-money laundering and anti-terror war. Growing use of propaganda by the state to label and discredit civil society was identified as another important threat to civil society. Elections were identified as an important turning point in the evolution of civic space and as such it is critical for civil society to engage at the risk of appearing partisan in defining the process of elections in order to instil democratic values into it, which tend to have a long-term impact.

In view of this assessment, civil society was encouraged to creatively forge alliances within and beyond civil society to build a collective and inclusive movement in the region to agitate for the safeguarding of civic space. It was also noted the need to engage with development partners to influence funding mechanisms and to build collective understanding of the challenges facing civil society to allow for more responsive action on emerging challenges which may at times require rapid response. It is also critical for civil society to begin considering alternative sources of funding including philanthropic sources, creation of endowment funds to minimize the risk of inadequate funding. In view of the growing reputation risk, it is critical for civil society to occupy the narrative, improve its packaging and story telling in order to enhance credibility and legitimacy.

3.3. Session on: Building resilience against shrinking civic space: Lessons from Kenya, South Sudan and Uganda

Some of the most pressing risks that civil society ought to reflect on and prepare for are; security risks, reputational risk, financial risks and distress, legal and compliance risks and the risk of prosecution. These are common tools used by state and to some extent non-state actors in curbing the space for civil society and it is important to prepare and plan well for such eventualities. The use of monetary tools and banking systems are becoming increasingly common in the region which tends to put financial distress on civil society.

To avoid such risks, civil society ought to carefully identify allies within and beyond state institutions who are able to defend them when they are on attack. It is important to earmark individuals with influence through whom to access the relevant authorities. In order to mobilize their allegiance such individuals are invited to the governance structures of civil society organizations in order to be well acquainted with the mandate of such organizations. Furthering civic education among the general public is critical for ensuring the general public appreciates the role of civil society organizations and in this way to rally their support. To avoid compliance risks, it is extremely important for civil society to be constantly updated on requirements under the rules in order to avoid the risk of penalties from non-compliance. In the event of financial distress, civil society is encouraged to consider models for support to social welfare based on the need. Lastly, it is inevitable to make the law as remedy since in most cases when the threats materialize, there are legal implications to them.

Several key recommendations were made in view of this context. At a regional level, it is necessary to speak collectively on human rights violations and shrinking space. This would require scaling up by connecting the objectives of civil society with the people at the grassroots. It is important to identify the democratic values binding civil society together and be prepared to stand for them and consistently communicate them.

Given that the space will continue to rapidly shrink, there's need to adapt interventions and struggle to guard against extinction. This adaptation requires keeping with the struggle but not changing its character and the purpose.

It is important to recognize and appreciate the relevance of democratic values in view of the civ space and how political pluralism and tolerance for dissent has a bearing on civic space. There's need first secure political and democratic space since civic space is a product of political space

3.4. Session on: Documentation and Action on shrinking civic space; Lessons from Human Rights Advocacy in the region

In the context of shrinking spaces and both citizens and oppressive governments questioning the legitimacy and relevance of civil society, documentation of our work, successes, stories and challenges we are working to address is a way of us reclaiming our space and relevance. Documentation also additionally supports our credibility - research and evidence are much harder to argue against than emotions or suppositions. Documentation ultimately will allow us to reclaim our own stories.

Addressing the challenge of limited documentation requires willingness, ability and motivation. It is necessary for civil society to give priority including dedicating resources, building capacity and learning from others already doing well in documenting their struggles, challenges and achievement. Storytelling has not been part of the organization culture, which limits credibility and public support in view of the limited knowledge and appreciate of civil society mandate. It is as such critical to be innovative in telling these stories in view of the constricted media space. It is therefore necessary to embrace technology, creativity and innovation in spreading the word.

3.5. Strategies for resilience: Using litigation for advocacy and legislative reforms Litigation

Public interest litigation is about an issue and usually has an impact beyond the individual case itself. It requires constant strategizing: familiarizing with judges and court staff, engaging partners, media and the general public. It is critical for interested parties to think through potential outcomes, timelines and costs while embarking on public interest litigation. Given the low update of public interest litigation by the judiciary, it is critical to also build capacity through training judges on the specific issues being litigated.

In order to build alliances, it is critical to sometimes pick issues that will resonate even with the judiciary to establish basis for a broader range of issues. Litigants can be creative in the messaging and presentation of petition so that even if the core issue for instance is about free expression maybe a case on how bail is decided will have more traction and can still impact your area of interest.

While regional and international courts may be limited in their enforcement capacity, they are critical in holding states to account including naming and shaming such state an in turn creating pressure on them.

In view of these challenges, it is important to plan carefully and engage with an array of actors to continuously appraise the status of the litigation. It is important for litigants to ensure there is reasonable capacity to undertake a litigation including research, technical know how to increase chances of delivery in court. Amidst growing impunity, it may be useful to consider filing multiple petitions to keep the defendant busy and embarrassed.

In order to influence the behaviour of state officials, it is important to also consider suing individuals in government for greater impact. As organizations come increasingly under pressure, it may be helpful to register a new organization to carry a sensitive case to keep the existing institution safe.

3.6. Coalition Building as a strategy for resilience: Lessons from the region

To build effective coalitions, civil society needs to be ready sometimes to get out of comfort zones in order to leverage comparative strengths of others. Coalitions are built on the strengths of the members and it is important to consider the individual strength of such members. Along the same line, it is imperative for civil

society to consider alliances beyond the “usual suspects’ in order to work with others like religious leaders, development partners and the private sector. As shared vision is key to holding alliances together and there it is important to constantly reflect on what is bringing civil society together in the first place and allow that to be the focus of the alliance. It is important that coalitions work to complete the individual members as opposed to competing with them, which can best be achieved by highlighting the comparative strengths of the members and focus on shared interests. For sustainability it is critical that coalitions seek to reinforce

Working together also requires investing in capacity to work together as such capacity is not inherent to civil society and therefore it has to be acquired. Self-regulation is key in ensuring that the coalition members are driven by a shared agenda and commitment to shared values. As such it is critical for the coalition to put in place an agreed code of conduct to set clear the expectation for the participating members. In order to keep the cost of engagement low, coalitions may consider using digital platforms to coordinate agenda and action and sustaining engagement. This also helps to avoid the risk of being regulated by the state.

Coalitions can be instrumental in addressing attitudes and stereotypes against CSOs as they build legitimacy, following and the value of association. It becomes increasingly difficult for distractors to pin point once civil society actor when several groups are working together. Coalitions can further strengthen their legitimacy by dedicating to work close and closer with people at the grass roots. There is strength in numbers and therefore coalitions can help to open opportunities for dialogue where it may not have existed.

4. Conclusion and Next steps:

The conference was successful in building a shared understanding of the challenges to shrinking civic space in the region and consensus on how the same can be redressed. The learning and exchange were instrumental in establishing a shared appreciation of both the unique differences and similarities across the region on how the shrinking space phenomenon is affecting the various actors. Participants were able to draw out a few priority areas for coordination and joint action subject to availability of resources. The joint priorities are clustered in four pillars as listed below;

a) On Building Institutional Resilience of Civil Society Organisations

- Participants agreed to work together towards establishing a regional response group as a platform for joint coordination in the event of an attack on any actor in any of the three countries.
- Participants agreed to embark on strategic engagement and dialogue with key stakeholders including governments, donors, banks, financial institutions to provide credible information and explanation of their mandate and thus avoid the risk of labelling.
- It was agreed to work on increasing financial independence of the organizations through diversifying funding sources including tapping into local philanthropy.
- In view of the growing threats against civil society actors, participant resolved to work collectively towards the establishment of an emergency response fund to be able to provide rapid support in the case of emergencies.
- With regards to growing propaganda, participants resolved to dedicate resources towards creating and driving civil society’s own narrative.
- To address growing violence participants resolved to invest in developing capacity in organisational and personal security.

b) On Strengthening Documentation of Shrinking Space in the region

- It was agreed to develop a civic space and human rights tracking system in EAC that would enable CSOs in the region to share information and receive periodic reports of developments affecting civic space in the member countries.
- To fulfil this commitment, CSOs will jointly design tools for documentation and platforms for communication of the findings. This is to build on existing similar efforts like the ICNL Civic Space Monitor to achieve a customized monitor for East Africa.
- To enhance communication of results and impact it was agreed that CSOs participating would work towards streamlining documentation with in programs of each organization.
- To strengthen legitimacy, it was agreed that CSOs will share information that has been documented among by the organizations in the region and publish through available platform including online media.
- A coordination team will need to be set up to help put together the necessary documentation and facilitate its dissemination.

c) On Advocacy Messaging and Engagement in the Context of Shrinking Space

In order to achieve the stated advocacy objectives the participants agreed to work jointly on, Policy influencing, Implementation of best practices on advocacy from each of the countries and directing resources towards protection of human rights.

- In order to strengthen the advocacy on shrinking space in the region, participants agreed to put more emphasis on the use of facts and evidence through working closely with others who are working on documentation of the shrinking civic space.
- To enhance reach and build support the participants agreed to recruit and leverage public personalities that resonate with the particular target audience of the various issues against which we are advocating.
- To amplify reach, participants agreed to make use of different medium of communication like art and comedy
- In view of the highly restrictive media environment, the participants resolve to work with international media to communicate messages that would otherwise not be covered by national media.
- To catalyse public support, participants resolved to work together in communicating messages on any of the countries as per the most recent example of the Bobi Wine and Arua #33 case.
- Participants also committed to identify critical opportunities for advocacy including the EU parliament, the US congress, the East Africa Legislative Assembly, the African Commission on Human and People's Rights and the East African Community Secretariat, Council of Ministers. These spaces will be targets of the messages being put forward.

d) On Working together on Litigation

- Participants resolved to take advantage of available opportunities including leveraging those that provide quick wins to redress the shrinking space through the courts of law.
- It was agreed to make maximum use of the East Africa Court of Justice to immediately file a case on the torture of "Bobi Wine" before weighing other potential opportunities.
- It was agreed to use the EACJ to seek interpretation and challenge the regional laws on freedom of speech in the respective countries including those on cyber crime.

- It was resolved to monitor the Implementation and execution of judgments to ensure the decisions of the EACJ are respected by the member Countries.
- It was agreed that Katiba Institute will host the regional convening (EACJ) for developing regional strategy on litigating.
- In view of the challenging legal framework, participants resolved to challenge the provision for Exhaustion of local remedy and the 60days requirement under the articles of the Treaty for the establishment of the East Africa community before the EACJ for review. Participants will explore litigation that challenges the 60days rule, and consider lessons from other regional blocks.

5. Way Forward:

Participants were able to forge a joint action agenda and it is now pertinent to raise the necessary resources to be able on some of the high priority short-term actions which is critical for anchoring the solidarity so established. In this view, it is critical to already start working on such items as the filing of the petition on state violence in Uganda, which may go a long way in addressing the growing threat against civil society and the voices of dissent in the region.

Also equally critical is the need to support advocacy at various international opportunities including working with international media to help rally support against growing impunity in the region. In order to keep the participants committed and coordinated, it is important to consider dedicated support for such coordination.