Protecting Democracy

RECLAIMING CIVIL SOCIETY SPACE IN AFRICA

21 – 23 November 2011, Johannesburg, South Africa

Conference Report

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List of acronyms

ACHPR	African Commission on Human and People's Rights
ACPPP	African Civil Society Platform on Principled Partnership
APRM	African Peer Review Mechanism
AU	African Union
CCP-AU	Centre for Citizens Participation on the African Union
CSO	Civil Society Organization
EAC	East African Community
EACSOF	East Africa Civil Society Forum
ECOWAS	Economic Community of West African States
FES	Friedrich Ebert Stiftung
IDASA	Institute of Democracy in Africa
HRCC	Human Rights Consultative Committee
LGBTI	Lesbians, Gays, Bisexual, Trans-Gender and Inter-Gender
MACOSS	Mauritius Council of Social Services
OSI	Open Society Institute
OSISA	Open Society Institute of Southern Africa
OSIWA	Open Society Initiative for West Africa
PAP	Pan African Parliament
REC	Regional Economic Community
SADC	Southern African Development Community
SADC-CNGO	SADC Council of NGOs

SAT   Southern Africa Trust

UNHRC   United Nations Human Rights Council

USAID   United States Aid Agency

WACSI   West Africa Civil Society Institute

WACSOF   West Africa Civil Society Forum

Acknowledgements

The Conference on *Protecting Democracy – Reclaiming Civil Society Space in Africa* succeeded because of the collaborative efforts of the Centre for Citizens Participation on the African Union (CCP- AU), Trust Africa, Southern Africa Trust (SAT) and the Open Society Initiative of Southern Africa (OSISA). Together, these organizations worked hard in conceptualizing, organising and coordinating the conference. The organizers also want to acknowledge and appreciate the support given by Open Society Initiative for West Africa (OSIWA) towards the Conference.

The above organizers are deeply grateful to all the delegates who attended the conference.   They are also thankful to Dr. Bhekinkosi Moyo who facilitated the entire conference and to all the speakers, panellists and facilitators of the various conference sessions and workshops.

Lastly, special thanks go to Mr. Bob Libert Muchabaiwa for compiling this report.

Foreword

Thank you to the Centre for Citizens Participation on the African Union (CCP-AU), Open Society Initiative for Southern Africa (OSISA), Trust Africa and the Southern Africa Trust (SAT) for opening up discussions about "*Civil Society Space in Africa".* It is an honor to be identified with such courageous women and men who, despite threats, sometimes against their lives and of their beloved ones, fight for the exercise of their fundamental rights to freedom of peaceful assembly and of association.

Dr. Maina Kiai, Guest of Honor

The rights to freedom of peaceful assembly and of association are among key human rights in international human rights law. Both freedoms are enshrined in article 20 of the Universal Declaration of Human Rights, as well as in article 21 and 22 of the International Covenant on Civil and Political Rights and are interrelated with other civil and political rights, notably the rights to freedom of opinion and of expression. These rights are also central to the enjoyment of economic, social and cultural rights as epitomized by the 2011 events in North Africa and by the 2010 protests in Mozambique.

Undoubtedly, the rights to freedom of peaceful assembly and of association play a determining role in the emergence and existence of effective democratic systems as it allows for the promotion of debates and plurality. As such, it is in many respects a barometer of the state of basic freedoms. The rights of freedom of assembly and of association are central to democracy. Without the enjoyment of these rights and freedoms, there cannot be democracy. Similarly, you can't have democracy without strong and vibrant CSOs.

Mandate

I was appointed as Special Rapporteur in May 2011 and I am already keenly aware of the challenges, expectations and demands that are on me. The Human Rights Council (15/21 2010) which established my mandate, specifically determines the frame of my action: to monitor, to examine, to advice and to report on the situation of the rights to freedom of peaceful assembly and of association worldwide. It is obviously a very ambitious mandate, but also extremely exciting.

Peaceful protests

Recently, I participated in a Human Rights Council panel discussion on the promotion and protection of human rights in the context of peaceful protests. This discussion took place against the backdrop of recent and ongoing events in the Middle East, North Africa and in other regions. During the discussion, I highlighted the utmost importance of the right to express one's grievances or aspirations for change, including political change, through peaceful protests and other non-violent ways. This right is indeed at the heart of any democratic society, for this is how ordinary citizens can—peacefully—influence and alert their governments on their issues. Importantly, participating in peaceful protests is an alternative to violence and armed force as a means of expression and change which we should support.

Laws governing civil society

I am aware that numerous countries in Africa have, during the past years, proposed or enacted legislative reforms governing associations (the **Ethiopia** 2009 Proclamation for the Registration and Regulations of Charities and Societies; the **Sierra Leone** 2009 NGO Policy Regulations and the **Zambia** 2009 Non-Governmental Organizations Bill are some recent examples[1]). In some places, the legislation complies with international human rights law, but the practice can be weak; in others, the opposite would hold true.

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[1] In 2008, The **Rwandese** Parliament enacted the Organic Law no. 55/2008 governing Non-Governmental Organizations. Since then, operational laws stemming from the Organic Law have been drafted but are now pending Parliamentary review and therefore have yet to be promulgated. In October 2010, the **Ugandan** Government adopted the National NGO Policy. Since then, it is also said to review the NGO Act. In October 2011, an **Algerian** draft Law on Associations was presented to the Parliament.

Change process

I want to emphasize this: Change in Africa will not happen without CSOs reclaiming and expanding their space. This is not easy but you should know that you have not just the moral high ground in working towards this, but you also have international human rights law behind you. But this is a task that you yourselves must undertake, with the understanding that the international community can only back-stop, and support you, but it can't do it for you. That is your role and your challenge, and if you have chosen to do this work, you should be doing it, not because it is a job like any other, but because you believe in the cause of human freedom and human rights, and understand that that comes with some risks.

And as part of that international support, I want to alert you that I have shared with civil society organizations, as well as Member States, national human rights institutions, and regional human rights organizations, a comprehensive questionnaire intended to help me in designing best practices, including national practices and experiences which promote and protect the rights to freedom of peaceful assembly and of association. The questionnaire is available on internet[2]. I would be extremely grateful if you could also respond to it within the shortest possible time to enable us to consider your views.

Conclusion

I am therefore at your entire disposal to work on issues you think are of first importance in your daily life. So do not hesitate to engage in discussions with me. I am very much looking forward to discussing with you the situation in the continent and start reflecting with you how to encourage States to develop a comprehensive approach when designing and implementing measures related to the rights of peaceful assembly and of association.

Dr. Maina Kiai

*Special Rapporteur on Freedom of Assembly and Association, United Nations Human Rights Council (*21 November 2011)

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[2] http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx

Executive Summary

Introduction

From the 21st to the 23rd of November 2011 seventy civil society leaders from twenty-five African countries gathered in Johannesburg at a historic continental conference branded *"Protecting Democracy - Reclaiming Civil Society Space in Africa"*. The main objective of the conference was to share research findings and experiences regarding civil society space and to collectively generate effective responses to shrinking space for civil society in Africa. The specific objectives of the conference were listed as follows:

- To create awareness of the narrowing of the space in which civil society can operate on the continent by looking at the analysis coming out of the research that was undertaken by Trust Africa, the Southern African Trust, the Open Society Initiative for Southern Africa and CIVICUS among others;
- To identify strategies to implement recommendations emerging from the research;
- To engage with Pan African institutions on civil society space and the environment obtaining in many countries on the continent;
- To facilitate skills building sessions on how to deal with/respond to shrinking civil society space;
- To develop tools and strategies to respond to the threats being faced by civil society.

The Conference was officially opened by Dr. Maina Kiai, the United Nations Human Rights Council, Special Rapporteur on Freedom of Assembly and Association. It was also graced by Ms Reine Alapini- Gansou, Special Rapporteur on Human Rights Defenders, African Commission on Human and People's Rights (ACHPR) as well as Hon Joseph Mbah-Ndam, Member of the Committee on Justice and Human Rights, Pan African Parliament (PAP).

Shrinking space for civil society

The Conference noted that in spite of the opening up of space for civil society in the post independence era, a worrying trend, particularly in the recent years, is emerging where civil society space is shrinking fast especially in countries presided over by dictatorial regimes.

The conference flagged out some of the key challenges facing African civil society in this regard. These include:- curtailment of fundamental freedoms of association, assembly e.t.c guised as war against terrorism; negative peer learning on muzzling of civil society voices from repressive regimes; failed and multiple transitions from liberation struggle legacies by ruling governments; suspicion and mistrust between civil society and governments; infiltration and demobilization of the civil society sector in response to the growing effectiveness and watchdog role of civil society in exposing human rights violations by repressive regimes; and push back tendencies by some governments negating gains made in opening up democratic space for civil society for example through repressive legislation and systematic attacks on activists, human rights campaigners and defenders. The situation is compounded by restrictions to movement of people in the region, characterized by complex and expensive travel visa regimes, poor transport connectivity and restrictive migration policies, to mention only a few key challenges.

Internal civil society challenges

Civil society in Africa faces multiple challenges too that if not addressed will compromise its effectiveness and results. To begin with, the civil society sector is increasingly becoming dangerously corporatized with limited connections to people's daily struggles leading to loss of original grassroots based social mobilization approaches as the sector is gradually leaning more and more towards meetings, workshops and boardroom advocacy. In environments of dictatorships, civil society practice self-censorship, is cowed to submission by repressive regimes and has become vulnerable to infiltration. However, there still exist pockets of genuine resistance to closure of civil society space and undemocratic behaviours.

Intra-civil society conflict arising from complicated relations between international and national civil society and also within national civil society, for example development oriented vs. pro-democracy movements is common place.

Further to this, civil society has been accused of accounting mostly to donors and not to the constituencies and target groups that it claims to serve and/or represent. In recent years, many civil society leaders have crossed the floor to join governments. This has not helped governments understand civil society better. Instead, some of the former civil society leaders have become worse. Lastly, because of a meshwork of factors including global recession, decline in aid flow to civil society and weak donor-civil society relations civil society in Africa faces funding sustainability challenges.

Civil Society engagement with Pan African Institutions

The Conference also reflected on the role of regional and continental institutions, particularly the African Union, its structures and Regional Economic Communities in advancing civil society space. A number of institutions such as the African Commission on Human and People's Rights, the Pan African Parliament and the African Peer Review Mechanism, to mention only a few, were singled out as key in promoting and protecting civil society space. To that extend, civil society on the African continent should consolidate its engagement strategies with these for enhanced impact.

Way forward

The Conference concluded by agreeing on eight key priority intervention areas to take forward the discourse and advocacy on reclaiming space for civil society in Africa. The priority areas, around which specific recommendations were developed, are as follows:

- Civil society should consolidate relations with and maximise advocacy opportunities offered by regional and continental bodies by developing sustainable frameworks of engagement and strengthening their own capacities to engage with and effectively influence the same.

- Enhancing mechanisms to protect and support activists, human rights campaigners and defenders at local, national and regional level in response to increasing vulnerabilities and threats.

- Civil society, with leadership from CCP-AU should develop and implement a continent wide campaign on free movement of Africans within the African Content.

- Promoting national level lobby, advocacy and campaigning for supportive legal, policy and operational environment as well as creation and expansion of civil society space.

- Promoting civil society self-regulation mechanisms and enhancing their accountability and effectiveness.

- Strengthening and supporting coalition building and solidarity actions to defend, create and expand civil society space.

- Developing sustainable mechanisms of financing civil society activities whilst strengthening relations between civil society and donors.

- Enhancing strategies of ensuring effective engagement between civil society and governments.

To crown it all, the civil society sector in Africa has not only trapped itself with its structural and operational deficiencies, but is confronted with a myriad of below and above the line, deeply complementary, threats and sustained onslaught from own governments, aimed at restricting their operations and, where possible, totally silence dissenting voices.

The situation has been made worse by private sector encroaching into civil society space and donors who sometimes cooperate with repressive governments. The conveners pledged to work together, post the conference, in order to reflect on outcomes of the conference, develop an implementation plan and also discuss how roles and responsibilities will be shared amongst conveners, delegates and broad civil society across the continent.

The Conference mandated the Centre for Citizens Participation in the African Union (CCP-AU) to lead the process of engaging with continental bodies and in coordinating the implementation of the resolutions.

Chapter 1

Introduction and Background

Background

The role and contribution of civil society in development and democratization has been well documented and discussed. Civil society is a check, a monitor, but also a vital partner in the development of Africa. Civil society is a key component of the democracy landscape. In fact, the level of vibrancy of civil society in any country is an indicator of the depth of democracy.

Dr. Bhekinkosi Movo. Conference Facilitator

Civil society refers to the entire range of organized groups and institutions that are independent of the state, voluntary, active players in the public sphere and at least to some extent self-generating and self-reliant. Civil society includes non-governmental organizations, churches, trade unions, community based organizations, think tanks, research institutions and other peoples' formations.

It is regrettable that, in the recent years, there is a trend towards the shrinking of space for civil society to perform their various roles. A number of reports and publications over the last couple of years by various organizations on the legislative and regulatory environment of civil society in Africa have shown that the onslaught on civil society is real. OSISA, Trust Africa, SAT, CIVICUS, the World Movement for

Democracy (WMD) and the International Centre for Non-Profit Law (ICNPL) are among some of the organizations adding to a growing body of literature that examines the shrinking of civil society space, particularly for organizations that work on democracy, good governance, anti-corruption and minority rights.

A mosaic of factors explains the behaviour of governments towards civil society. One of these factors is the threat potential of civil society to expose government excesses, policy failures and other practices that may put the governments in bad light. Civil society appears to be making progress in this regard! Post-independence states on the continent are increasingly seeing the convening and mobilising power of civil society as a threat to their power. As pressure mounts from amplified voices tired of being viewed as third-class citizens in their own countries, an increasing number of states are resorting to violent crackdowns using and misusing domestic laws and the state. The onslaught on civil society has also been given new impetus by the war against terror.

In the face of shrinking space that is quite alarming in some countries, civil society therefore has to not only be vigilant, but be in a position to generate and implement relevant and strategic responses to enhance continuity and impact of their work. For example, joint programming and coalition building have been identified as two areas that require urgent attention. Building a collective voice across the continent that speaks to the issue of closing of space for citizens is vital.

Conference objectives

In light of the above, the Centre for Citizens' Participation on the African Union (CCP -AU), the Open Society Initiative for Southern Africa (OSISA), the Southern African Trust (SAT) and Trust Africa (TA) convened a Pan- African Conference on the 21st to the 23rd of November 2011 as a first step towards developing a collective voice around these issues. The theme of the Conference was *Protecting Democracy – Reclaiming Civil Society Space in Africa*.

The overall aim of the conference was to develop joint programming on coalition building across the continent on protecting democracy and to actively deliberate on strategies to respond to the crackdown on civil society. The specific objectives of the conference were to: -

- Create awareness on the narrowing of the space in which civil society can operate on the continent by looking at the analysis coming out of the research that was undertaken by Trust Africa, the Southern African Trust, the Open Society Initiative for Southern Africa and CIVICUS among others;
- Identify strategies to implement recommendations emerging from the research;
- Engage with Pan African institutions on civil society space and the environment obtaining in many countries on the continent;
- Facilitate skills building sessions on how to deal with/respond to shrinking civil society space
- Develop tools and strategies to respond to the threats being faced by civil society.

Participants

The Conference brought together a vast array of democracy actors from twenty-five African countries to strategise on defending the democratic space for civil society; identify tools and strategies for defending democracy and to sustain the process going forward.

The Conference was officially opened by Dr. Maina Kiai, the United Nations Human Rights Council, Special Rapporteur on Freedom of Assembly and Association. It was also graced by Ms Reine Alapini- Gansou, Special Rapporteur on Human Rights Defenders, African Commission on Human and People's Rights (ACHPR) as well as Hon Joseph Mbah-Ndam, Member of the Committee on Justice and Human Rights of the Pan African Parliament (PAP). A total of seventy delegates from civil society, international cooperating partners, media, academia and research organizations attended the conference.

Opening remarks

In their opening remarks, the Executive Directors of Southern Africa Trust and the Open Society Initiative for Southern Africa (OSISA), Mr. Neville Gabriel and Ms. Sisonke Msimang respectively, emphasised the need for civil society to fight for, protect and create new democracy frontiers for themselves.

Mr. Neville Gabriel said that the pertinent question that confronted the conference was whether to protect democracy or create new democracies that will help civil society make a difference. He added that discussions on civil society space should

Mr. Neville Gabriel. Executive Director. SAT

be situated within the context of civil society-state relations. The challenge for civil society is to define the form and direction of those relationships considering the multiple transitions and negative peer learning by governments going on within the continent. Mr. Gabriel also said that the conference had to deal with the contradicting evidence from research pointing to shrinking of space on the one hand and what civil societies write in their progress reports to funding partners to the effect that there is some opening of space within government

and intergovernmental structures. If indeed there are pockets of opening of spaces, then the challenge for civil society is on how to institutionalize them.

Ms Sisonke Msimang acknowledged that some progress had occurred regarding opening up of space from the time of independence of most

Ms Sisonke Msimang, Executive Director, OSISA

African states but lamented the push back tendencies, through repressive legislation, negating gains that had been made. She also pointed that it has since become apparent that multi-partysm does not always lead to democracy. She also alluded to the imperative for continent wide civil society strategy development and collective actions considering that governments themselves are learning from each other on how to suppress civil society. It is common knowledge that there will always be a drag down when there is a rogue state in the neighbourhood. The reason for this is that should a given state get away with repression, then, others will end up thinking that it is fine to do the same. Clearly, there is a contagious effect of bad practices. States are networking with each other far more than civil society. Civil society was therefore challenged to coalesce and act in unison in their bid to deal with the shrinking space.

Key note address

Dr Maina Kiai, Special Rapporteur on Freedom of Assembly and Association, United Nations Human Rights Council (UNHRC) and Guest of Honor to the Conference challenged civil society to be more robust in its campaigns and mass mobilization activities to reclaim and defend its space whilst rethinking its identity, roles and approaches.

It appears that civil society has lost its social mobilization and campaigning history, as evidenced by over-emphasis on meetings, workshops and in house lobbying.

Dr. Kiai called upon civil society to fight for the creation of civil society space using every peaceful means possible including protests and demonstrations. He said that freedom does not come on a silver plate.

In fighting for civil society space, there is need for strategic partnerships with progressive organizations such as the African Commission on Human and People's Rights, the United Nations Human Rights Council, Pan African Parliament e.t.,c. It is therefore incumbent upon civil society to organize itself and find sustainable ways of engaging with these institutions.

He added that African civil society must create its own template of engaging governments and dealing with human rights and democracy questions and not transplant - whole sale - the templates used by western civil society.

Echoing the sentiments of the conference facilitator, Dr. Kiai also alluded to the events in North Africa which demonstrated people power in protecting democracy, human rights and reclaiming civil society space.

He concluded by availing his office as Special Rapporteur on Freedom of Assembly and Association of the United Nations Human Rights Council (UNHRC) to work with African civil society in promoting democracy, good governance and respect for fundamental freedoms and rights[3].

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[3] The full copy of his address is presented in the foreword.

Chapter 2

Lessons & threads from existing research initiatives

Introduction

In recent years, a number of researches were conducted to assess the degree to which space for civil society is opening or closing. These studies, investigated several factors shaping the civil society operating environment, which include policy and legislative frameworks, civil society – state relations as well as the extent to which civil society enjoy fundamental freedoms, particularly of association, assembly and expression. Examples of these studies include:-Study on shrinking operating space done by CIVICUS which investigated and profiled the threats and attacks on civil society globally[4]; Trends on Civil society operating environment by SAT; Democracy, AID and Disenabling Environment: Motivation and Impact of Disenabling Environment on Development work in Africa by the Africa CSO Platform on principled partnership[5]; Civil Society Regulatory Frameworks by OSISA[6] and Governing the Public Sphere: Civil Society Regulation in Africa by Trust Africa[7].

Fashioned in a panel interview format, the session featured four panellists namely: Dr Bhekinkosi Moyo from Trust Africa; Mr Jonas

Ms Ingrid Skinath (Right) and Mr. N. Gabriel during the session

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[4] See Mandeep Tiwana and Netsanet Belay (2010) Civil Society: The Clampdown if Real, Global Trends 2009- 2010, CIVICUS, Johannesburg

[5] See ACPP (2010), Democracy, AID and Disenabling Environment: Motivation and Impact of Disenabling Environment on Development work in Africa by the Africa CSO Platform on principled partnership, ACPP

[6] See OSISA (2011), Civil Society Regulatory Framework. A situation analysis of Angola, Botswana, DRC, Lesotho, Malawi, Mozambique, Namibia, Swaziland, Zambia and Zimbabwe, OSISA, Johannesburg

[7] See Moyo. B (2011), Governing the Public Sphere: Civil Society Regulation in Africa, Trust Africa.

Pohlman from OSISA; Mr Mandeep Tiwana from CIVICUS and Mr. Naville Gabriel from the Southern Africa Trust, and was facilitated by Ms Ingrid Skinath, Secretary General of CIVICUS.

Emerging issues

From the discussions and inputs from the delegates, a number of key themes emerged regarding civil society space. The key issues are discussed below.

a) Systematic push back of civil society space

Almost all panellists argued that the post-independence euphoria epitomised by close working relationships between civil society and governments, especially in service delivery, appears to be suffering a reversal. The downward spiral in CSO - state relations became so marked after the September 11 attacks. Governments started to systematically shrink the space that had been accorded to civil society arguing for the protection of 'human lives' over that of human rights. The relationship between most African governments and civil society is evidently becoming more adversarial. This, though, is indicative of the effectiveness of civil society in the area of human rights promotion and protection, transparency and accountability, all of which are topics that make most governments uncomfortable.

Civicus observed that 2009 and 2010 were particularly hard for civil society and human rights defenders. Overzealous officials and law makers in long standing democracies, emerging democracies and in overtly authoritarian countries have 'relentlessly chipped away at democratic freedoms curbing the ability of civil society to ensure transparency, accountability and respect for human rights in the public sphere'[8]

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[8] See Mandeep Tiwana and Netsanet Belay (2010) Civil Society: The Clampdown if Real, Global Trends 2009-2010, CIVICUS, Johannesburg

b) Repressive legislation

Many countries on the continent including Uganda, Zambia and Zimbabwe came up with laws to curtail civil society activities. In his background paper to the conference, Dr. Moyo argued that states have justified their reasons for such laws by mainly couching them in counter-terrorism measures, protecting national security, curbing NGO abuse and ensuring that NGOs are accountable and transparent. Other countries have found even more acceptable justification like 'aligning' NGO work with country priorities. Still in some cases, there are governments that have blatantly declared war against sections of civil society, mostly from the human rights sector arguing that they represent foreign interests and pose a risk to national security[9].

c) Targeted attacks on activists and human rights defenders

A number of human rights activists and defenders have suffered various forms of abuse and attacks by the state. Moyo B. (2011) concluded that the various methods used vary from imprisonment, torture, disappearances and harassment to more sophisticated measures such as legal and administrative obstacles including barriers to entry, bureaucratic paperwork and stringent requirements for registration. Other obstacles include arbitrary dissolution of NGOs, stringent oversight and control by the state, as well as the creation of lookalike government-backed NGOs[10]. In Ethiopia, the strained relations, and consequent targeting of civil society can be traced back to the 2005 Presidential elections when activists, journalists and the opposition were arrested for questioning the credibility of the elections. Each country has a specific contextual trajectory on how relations have developed[11].

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[9] See Background paper to the Conference by Dr. Bhekinkosi Moyo (Moyo. B "Governing the Public Sphere; Civil Society Regulation in Africa, Johannesburg

[10] Ibid

[11] Ibid

d) Growing call for NGO accountability

A body of literature exist on NGO accountability. The Conference too deliberated on the subject quite extensively. From a political perspective, key questions have been raised on whom civil society represent and to whom is it accountable to. Civil society has been accused of upward accountability to donors as opposed to accounting to the target groups and constituencies they claim to serve and represent. Some governments have thus come up with tools to force NGO accountability, this time to them. It has been further argued that there is a huge gap between civil society and the citizens. The result has been weak social and ethical accountability in favour of technical accounting to donors. The panellists warned that lack of accountability has potential to generate a back lash from governments. To that extent, panellists advocated for self-regulatory mechanisms as opposed to heavy handed regulation by governments. They also emphasised the need for civil society to connect and situate themselves and their work on the needs and issues of citizens.

NGOs also face succession planning problems as many are often rocked by the founder member syndrome. There are cases where a founder of an NGO remains director for decades, employs people loyal to him/her and sometimes end up falling short in terms of corporate governance matters such as accountability to stakeholders, independent board oversight and transparent recruitment process.

e) Mediated democracies and subversion of the peoples' will

The democracy landscape is taking a new twist where winners and losers in an election end up forming a unity government as seen in Kenya and Zimbabwe. Mediated democracies are therefore gaining momentum at the expense of respecting the people's will. These mediated democracies have the potential of negating gains made in promoting multi-partysm regardless of shortcomings thereof. In most cases the electoral contestation and political conflicts have generated more suspicion and have further strained relations between civil society and the government, resulting in closing of space.

f) Economic growth that is not rooted in democratic process

Discourse on developmental states is sweeping across many parts of the continent of Africa. Unfortunately, there appears to be both positive and negative benchmarking from the experiences of Asian countries. What is worrying is however the fact that most African countries believe that economic growth is the key to poverty alleviation and prosperity. They therefore do not see participative democracy as an important imperative. Civil society needs to clearly articulate its disagreement with this approach as seen by the uprising in Tunisia.

g) Negative peer learning

There is a tendency by African governments to condone bad behaviour by other governments and even go to the point of copying the same approaches of restricting civil society space. For example, African governments appear to be sharing the template of repressive NGO, anti-terrorist and Protection of Information laws, to mention only a few areas. The delegates emphasised the need for a visible and strong civil society African solidarity movement that counters the negative peer learning

h) Judiciary responses to shrinking spaces

Although operating in a hostile environment where most governance institutions are patronised by the state, there is a trend towards increasing use of the courts to challenge the shrinking of operating space and unwarranted abuse and attacks on civil society. While this strategy may be beneficial, the panellist warned that overreliance on courts may result in judicialization of conflicts.

i) Growing agitation from citizens

The winds of change are gathering momentum on African soil, more so if one looks at developments in North Africa and renewed mass actions in African countries such as Senegal, Malawi, Swaziland and Mozambique, among others, though sometimes

ruthlessly squashed by despotic regimes. The signs are on the walls. Things are changing. It is unfortunate that a number of the mass actions in other parts of the continent have not been fully captured in the media.

j) Women and the struggle for democracy

Women have been active players in the democratic movement. Crises affect men and women differently. In most cases it is women that have suffered the brunt of conflicts and closing of civil space. A number of continental and sub-regional women's networks have thus emerged to consolidate and scale up actions to support activists and women rights defenders whilst promoting the ratification and implantation of sub-regional and international protocols and treaties on gender. The panellists however challenged civil society, broadly, to introspect on it is mainstreaming gender in the struggle for democracy and expansion of civil society space.

k) Role of continental and global governance institutions

The panellists also observed that a number of initiatives and mechanisms at continental and global level such as Special Rapporteurs, ACHPR, NEPAD, APRM and other human rights monitoring mechanisms are opportunities to raise public awareness on human rights violations whilst demanding governments to respect the same. The conference concluded that CSOs need to learn to work with politicians, governments and inter-governmental bodies in building African nations. Therefore, civil society has the challenge to propose alternatives and ways that ensure African institutions are not corrupted.

l) Uncertainty

Whilst civil society should continuously scan the environment and do scenario planning, it should be mindful of the fact that some events are just but surprises which cannot be predicted or fully planned for. There are always questions of uncertainty in civil society programming. This makes a strong case for early warning.

The idea behind an early warning system is to find ways of analysing trends and developments with a view to anticipating, planning for and consequently preventing negative developments such as conflicts.

m) Imperative of coalition building

The panellist and delegates who provided inputs during the plenary session stressed that coalition building to defend and expand civil society space should go beyond the circles of friends, mostly within the conventional human rights movement, to include other sectors such as trade unions, churches and even development NGOs.
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n) Role of emerging countries

Participants also reminded each other of the emergence of new economies namely Brazil, India, China and South Africa in so far as the global governance and political economy is concerned. The concern with countries such as China is that its human rights credentials are problematic and civil society needs to reflect on how this would affect CSO work. The challenge is to understand the opportunities and challenges presented by these countries.

o) Funding

Civil society organizations not only face attacks and shrinking space, most face sustainability challenges due to erratic funding, weak civil society –donor relations and highly project based funding which constrains responsiveness and long term planning.

p) Tension between international and national civil society

There appears to be some tension between national and international civil society with the former arguing that they are the most legitimate and politically correct to advance particular issues. The International NGOs have prided themselves of more access and influence on governments, RECs and the African Union. International

NGOs allegedly get their influence from their money and the contacts they have with governments. The form and texture of international NGOs is also changing. The conference however concluded that both national and international NGOs should work together to advance the frontiers of democracy, making the most out of each other's comparative advantages.

q) African templates

African civil society particularly those working in the area of human rights and democracy have been accused of transplanting western approaches and methodologies to the African context. The results have been mixed, including frustrations, back lash from government and in some cases failing to galvanize support and commitment of the grassroots. It is paramount therefore for civil society to consider developing locally relevant templates and approaches to issues. In this regard, civil society should be cognisant of the implications of culture, tradition and customs in its work.

r) Galvanizing Pan Africa civil society agenda

Panellists were challenged to provide their perspective on what they think should be the civil society Pan African Agenda, moving forward. A number of points were raised, key among these:-

- The need to support CCP-AU to galvanize pan African civil society views on the continent by ensuring that voices from all regions of Africa are mobilized and coordinated to participate in African Union processes. In this regard, sub-regional organizations like the SADC Council of NGOs, WACSOF and EACSOF will be useful.
- Explore opportunities offered by continental oversight, accountability and human rights institutions such as PAP, ACHPR, and NEPAD e.t.c to protect and expand civil society space.
- Promotion of the implementation of AU Shared values and relevant protocols
- Engaging relevant structures of RECs and AU on a variety of thematic issues

Civil society introspection in order to build critical masses for collective action

Conclusion

It is clear that civil society on the African continent is under threat. As discussed above, there are many threats which require urgent attention. These include legal and non-legal responses by states; business encroaching into the sphere of civil society; civil society cannibalising itself for example through competition and intra civil society conflicts such as, local versus international organizations.

Continuous monitoring and research on civil society space will therefore help civil society remain vigilant and responsive to the changing environment. If there is anything to be taken from the Arab Spring, it is the potential of taking away fear and confronting repression and abuses. As one Moroccan activist put it: "What really changed in the Middle East is that the people there are no longer afraid".

Chapter 3

Experiences sharing by CSOs

Introduction

In order to help participants understand the challenges of shrinking operating space and how NGOs have responded, a number of case studies were discussed as presented by five panellists, namely, Ms Irene Petras, Zimbabwe Lawyers for Human Rights, Zimbabwe; Mr. Chivuli Ukwimi, OSISA; Mr. Angelo Dube, Center for Human Rights in Swaziland; Prof Alioune Tine, RADDOH, Senegal and Ms Anooradah Pooran, MACCOSS, Mauritius. This session was moderated by Ms. Valnora Edwin of the Campaign for

Ms. Valnora Edwin (Session chair at the centre); Ms Irene Petras (Left) and Prof. Alioune Tine (Right)

Good Governance in Sierra Leone.

Case study 1: Zimbabwe Lawyers for Human Rights

Ms Petras gave a report of the current political and human rights situation in Zimbabwe. She said that there has been a sustained onslaught on civil society over

the last eleven years, augmented by many measures of repression, which have been perfected overtime. The Zimbabwean case is complicated by a government:-

- Which is finely attuned to using state machinery for repression (army, police, courts, media, war veterans, youths, militia) as well as the bulk of national resources at its disposal
- Which likes to portray itself as working within 'the confines of the law'
- Which contains friends and opponents of democratic struggle (the current inclusive government as of 2009 comprises the repressive former ruling party and pro-democracy political parties)
- Which works within the framework of weak regional organizations namely SADC and the AU
- That is held to account by a weak, demobilized and demotivated civil society which is also struggling to understand its role.

Type of attacks on civil society include:

- **Legislative attacks** through the NGO Bill, Public Order and Security Act (POSA), Access to Information and Protection of Privacy Act (AIPPA) and the Criminal Code used selectively and also against professionals/technocrats within the state institutions. This is compounded by a hamstrung parliament which is subservient to the Executive during the period of inclusivity. There has not been any meaningful legislative reform since the formation of the inclusive government.
- **Administrative attacks:** There exist well-versed state agents and officials who can hold-up progress such Magistrates not cooperating with individuals perceived to be from the other political party, police selectively applying the law and permanent secretaries not supporting the other partners in the inclusive government.
- **Political and physical attacks**: These are attacks via state and state aligned actors, acting outside the law, with impunity, due to complicity of police, prosecutors and the judiciary.
- **Psychological** – This include surveillance, disruption of meetings, thefts, use of state controlled media e.t.c

- **Internal threats and attacks** – These refer to infiltrations, cooption, agents' provocations who cause splits and donors playing into propaganda.

Response mechanisms

The following are some of the response mechanisms put forward by civil society in Zimbabwe:-

- Intricate and well connected legal, medical and social responses: However these have a challenge of promoting the commercialization of the struggle and constant portrayal of victimhood.
- Reaching out to government in the era of inclusivity: However there are concerns on whether the other partners in the inclusive government appreciate that they are expected to assist and not just think about themselves.
- Use of media to build constituencies of support, visibility and a certain degree of public sympathy and protection.
- Raising awareness on serious security issues and implications thereof.
- Regional or inter country solidarity and support mechanisms including off-shore offices.
- Soliciting support and further protection from donors

Case study 2: LGTBI Experiences

Mr. Chivuli Ukwimi from OSISA focussed his presentation on discussing the challenges faced by LGBTI in their bid to express their rights in various countries in Africa.

He spoke about heteronomy and how it affects gender roles and relations. LGBTI suffer discrimination because of heteronomy. There are cases when lesbians in South Africa have been raped for the sake of 'correcting them' or reminding them of their sex. In Sierra Leone many LGBTI feel threatened because of their sexual orientation. In Cameroon a man was arrested because he was putting on feminine

clothes. There are many cases that show that LGBTI are being violated. In Zambia, the secret service is empowered to identify and smoke out all LGBTI.

LGBTI has become a campaign issue for politicians in different parts of the continent. For example it is common to hear phrases such as 'If you vote for a particular party they will promote gays and lesbians'. Some politicians even go to the extent of inciting people to kill gays. Uganda is a classic example of how homophobia can be sustained by a state. Its stance on gays is particularly harsh including making it an offence not to report the existence of a gay person in one's neighbourhood. The media is also fuelling discrimination with headings such as 'hang them'. One person was murdered in his home after a list of gays and lesbians was published in a newspaper.

In summary, LGBTI are criminalized, excluded and marginalized in many spaces including at the African Union level. Issues of LGBTI are erroneously, perhaps for political or cultural expedience, taken as alien and therefore having no place on African soil.

Case study 3: The Swaziland situation

Mr. Angelo Dube from Swaziland narrated the political and governance crisis as well as the sustained onslaught on personal freedoms, particularly of association, expression and assembly in Swaziland. Swaziland is the last absolute monarchy in Africa. The country is governed through a system locally known as *Tinkundla* that emphasises the supremacy of the King and his family in all spheres of Swazi society. Royal excesses that characterize governance of the Swazi monarch include among other issues pervasive corruption, fiscal imprudence, unfettered autocratic governance, subversion of rule of law, banning of political parties and muzzling of all progressive democratic voices. Consequently therefore, poverty, inequalities, powerlessness and increasing vulnerability of a majority of the Swazis, particularly the rural populace, are common place, altogether debasing their dignity and livelihoods.

Unfortunately for the King, this sad situation is transforming itself into powerful political energy, giving new impetus for pressure to reform.

In addition to all this, Swaziland is facing a judicial crisis arising from excessive interference by the Monarchy. The King controls the Judiciary. He recently suspended a High court judge based on questionable charges. In addition recently, the Chief Justice, notoriously known for his loyalty to the King but also accused of misconduct issued a directive to the effect that courts will not entertain cases where the King is involved.

Since the imposition of the 1973 decree by King Mswati the second effectively banning all political parties, the people of Swaziland have never been free in their country of birth. They are being treated like objects of the King and not citizens with rights. Their human rights are violated and do not participate in the political life of Swaziland. Political activist are tortured, detained and attacked because they hold dissenting views from the autocratic regime.

The stranglehold on political freedoms and human rights by the monarchy is being entrenched by a set of repressive legislation, and shamefully, some of them are inherited from colonial masters wholesale. The Suppression of Terrorism Act of 2008 has been used by the police to thwart every political activity with the potential of undermining the monarchy.

In response to the deepening crisis, civil society in Swaziland is scaling up its mobilization activities in order to trigger a transition from pure autocracy to a constitutional and democratic monarchy. Swaziland civil society has also set up offices in South Africa for the purposes of galvanizing international pressure for the Monarchy to concede to political reforms.

Case study 4: Campaign against Senegalese President Wade's bid for another term of office

Prof Alioune Tine from RADDOH, Senegal shared experiences concerning the M23 Resolution against President Abdoulaye Wade's unconstitutional candidacy. The

M23 is the brand name for the Movement of Vital Forces for the Nation whose objective is to stop President Wade from running for another term of office. The constitution limits the term of office of the President to two. Civil society is thus opposed to the proposed constitutional amendments. The M23 Movement is using social mobilization and media to sensitize and engage citizens to support the campaign.

Demonstrations have so far been held at Parliament. Tens of thousands of people participated in initial demonstrations and have demonstrated their commitment to the campaign. During the last demonstration of significant magnitude, the Government became afraid because it was not sure what was going to happen given the numbers in attendance, especially mindful of the North Africa uprisings.

The M23 movement has been joined by political parties. Unless the issue is solved, it has potential to plunge Senegal into a deep political crisis.

An M23 statement issued on the 17th of November 2011, summarised the core demand as a call for "... all Senegalese citizens to take action by legal, democratic and peaceful means to stop President Abdoulaye Wade from taking the grave risk of making an unconstitutional bid for another term of office, an act that will bring Senegal's image at international level into disrepute, plunge the country into violence and chaos, and contribute decisively to destabilize a sub-region that is already very vulnerable"[12].

Case study 4: Civil society experience in working with government

The presentation by Ms Anooradah Pooran from MACCOSS, Mauritius had a totally different perspective showing how governments and civil society can work well together. Many delegates described the Mauritius example as an 'ideal', which remains a dream for most African countries.

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[12] See M23 Statement issued on 17 November 2011 against President Abdoulaye Wade's Unconstitutional Candidacy.

According to Ms Pooran, the problems in Mauritius are not the same as the ones found in the rest of Africa. Mauritius is generally a democratic country. CSOs work with government on various policy related matters.

The following are examples of how civil society is working with government in Mauritius:-

- Collaboration in the establishment of an independent national poverty observatory.
- Involvement of civil society in trade policy formulation and negotiations.
- Involvement of civil society in the formulation and implementation of national development plans.
- Recognition of MACOSS as the umbrella body of civil society and resultant institutionalization of its space in government processes.

Conclusion

An analysis of comments from delegates and responses from panellists, points to the following key learning points:-

- The relevance and potential impact of using the law to challenge human rights violations and restrictions to civil society space
- That the media can be a useful ally in exposing repressive tendencies and abuses whilst the same time promoting fundamental freedoms and rights.
- That civil society–state relations vary from country to country and are shaped by many social, economic and political factors.
- Civil society must address the issue of connectedness with citizens
- There is value addition in deepening the quality of coalitions and solidarity actions.

Chapter 4

Engagement with Pan African Institutions

Introduction

The constitutive documents of most Pan African Institutions provide for spaces for the people of the African continent, including civil society, to participate in policy development, implementation, monitoring and evaluation of the African Union and its organs. But these spaces are either not well known by citizens or the institutions put in place mechanisms that limit the involvement of citizens. On the other hand, CSOs have not been well organized or capacitated to engage in these spaces.

An interactive dialogue session between Pan-African Institutions and civil society organizations was therefore held aimed at analyzing the causes for weak civil society participation in these spaces with a view to come up with strategies that will improve civil society participation in AU processes and platforms. It was also intended to raise the challenges of shrinking spaces for CSOs with representatives of these institutions with the intention of proposing strategies for the AU Organs to facilitate a more CSO friendly environment in Member States.

Some delegates at the Conference

Four panellists were featured in this session namely:-

- Ms Reine Alapini-Gansou, Special Rapporteur on Human Rights Defenders in Africa, African Commission on Human and People's Rights (ACHPR)
- Hon Joseph Mbah-Ndam (Mr) Member of the Committee on Justice and Human Rights, Pan African Parliament (PAP)
- Ms Janah Ncube, Executive Director, CCP-AU
- Mr. Benedicto Kondowe, Human Rights Consultative Committee (HRCC)

Input 1: Engaging the ACHPR

Ms Reine Alapini-Gansou, Special Rapporteur on Human Rights Defenders in Africa gave a brief history of the African Commission on Human and Peoples Rights (ACHPR). The Commission was officially inaugurated on 2nd November 1987 in Addis Ababa, Ethiopia, after its members had been elected in July of the same year by the OAU 23rd Assembly of Heads of State and Government.

In addition to performing any other tasks which may be entrusted to it by the Assembly of Heads of State and Government, the Commission is officially charged with three major functions:

1. the protection of human and peoples' rights
2. the promotion of human and peoples' rights
3. the interpretation of the African Charter on Human and Peoples' Rights[13]

Within the framework of its promotional role, the functions of the Commission are inter alia:

- To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and local

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[13] For details on the work of the ACHPR see http://www.achpr.org

institutions concerned with human and peoples' rights and should the case arise, give its views or make recommendations to governments;

- To formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislation.

- To cooperate with other African or, International institutions concerned with the promotion and protection of human and peoples' rights.

- To consider the periodic reports of States on the legislative or other measures adopted to give effect to the rights and freedoms recognized and guaranteed in the African Charter[14].

Ms Reine Alapini-Gansou concluded by inviting civil society to work with her and with the entire Commission for the purposes of monitoring and reporting on the human rights situation in African countries.

Input 2: Engaging the Pan African Parliament

Hon Joseph Mbah-Ndam (Mr), Member of the Committee on Justice and Human Rights, Pan African Parliament (PAP) was also given an opportunity to highlight opportunities for civil society engagement with PAP and specifically with the Committee on justice and Human Rights.

Hon Joseph Mbah-Ndam started by describing the Pan African Parliament (PAP) as an institution established for and mandated to advance people's issues on the continent. He gave a history of the genesis of PAP and implored civil society to continuously work with PAP, as a people's institution. In his presentation, the following was noted:-

- The Pan-African Parliament is the legislative body of the African Union.
- The Pan African Parliament exercises oversight, and has advisory and consultative powers.

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[14] See http://www.achpr.org

- Its Parliamentary representatives are elected by the legislatures of AU Member States rather than being directly elected in their own capacity.
- The Pan African Parliament is based in Midrand, South Africa.
- The PAP is accountable to the people of Africa

The Committee on Justice and Human Rights has undertaken a number of Fact Finding Missions to Liberia, Gambia, and Saharawi Arab Democratic Republic.

The Committee has since noted that post-election violence has become a phenomenon that continues to affect the peoples of Africa and therefore proper mechanism should be put in place so as to enable people, especially those affected by the post election violence, to enjoy their rights and freedom.

Hon Mbah-Ndam however lamented that PAP is affected by Members of Parliament (MP) who fail to turn up for Committee sittings.

He concluded by emphasizing that PAP is meant to serve the people of the continent and as such civil society should continuously engage with its various committees and with the rest of MPs.

Input 3: Views and perspectives from civil society

After the presentations from representatives of PAP and ACHPR, two civil society representatives shared their own experiences and expectations concerning engagement with African Union institutions. These were Ms Janah Ncube, Executive Director, CCP-AU and Mr. Benedicto Kondowe HRCC, Malawi.

a) Perspectives from Janah Ncube (CCP-AU)

Civil society participation in the African Union is well articulated in the Constitute Act as well as in all founding statutes of Regional Economic Communities. The challenge is translation of those policy commitments into action and living the spirit of the letter.

Regrettably, civil society still faces many hurdles in trying to engage with the African Union for example and its member states. The first challenge is that most governments view civil society as less 'patriotic' because of 'foreign funding'. It is common practice, by most governments to describe patriotic citizens as only those members of society who belong to a particular political party, in most cases the ruling class. Ms Ncube stressed that engagement with the African Union should be informed by the fact that civil society is also patriotic and therefore a key stakeholder that must be engaged.

It is unfortunate that civil society participation in the African Union has been peripheral, contrary to the spirit of the constitutive documents. This ignores the reality that civil society also offers solutions and policy recommendations to development challenges. Civil society is the alternative voice, which, as argued above,

Ms. Janah Ncube – Musimwa, speaking during the Conference

brings expertise as well. Therefore, the conversation with AU Institutions should move beyond being whether civil society should be engaged or not but focus on how civil society could be meaningfully and sustainably engaged.

Civil society too is challenged sometimes by its ignorance of the policy cycles of intergovernmental bodies. There is a tendency to always want to get in through the window. Admittedly, part of the challenge is the historic adversarial relations between states and civil society. There is a lot of mistrust, stemming from how CSOs are funded and what they rightly do to keep checking and exposing government excesses.

She concluded by saying that should African Institutions keep closing themselves out to citizens, the people of the continent would end up losing faith in them, and ultimately challenge the relevance and value addition of the same.

b) Perspective from Mr. Benedicto Kondowe (HRCC, Malawi)

Mr. Benedicto Kondowe from the Human Rights Consultative Committee (HRCC) in Malawi also argued for deeper civil society engagement premised on the understanding that civil society is an integral component of development. Civil society has played an important role in service delivery, monitoring progress in achieving development goals and holding state parties accountable for their commitments and actions. He argued that State and non-state actors represent the same constituencies hence there is need to build synergies between the two.

Mr. Benedicto Kondowe outlined the following as some of the key challenges civil society face in trying to engage with the African Union:-

- Intergovernmental organizations have a historical bias on state centrism, manifesting in state driven and composed institutional frameworks that does not leave room for civil society
- Civil society role not sufficiently institutionalized
- Civil society inputs still treated as external
- There is lack of political will at member states to genuinely engage civil society
- Civil society spaces are not popularised thereby limiting the effectiveness of civil society participation in policy processes
- Civil society is diverse and can therefore not be treated as one coherent body with a common goal
- Lack of regional and continental civil society alliances
- Most civil society organizations no longer have a strong connection with the voices of ordinary citizens

c) Additional voices from delegates

Delegates to the conference also questioned the powers and influence of PAP, ACHPR, ECOSOCC and other Organs of the African Union and RECs in promoting and protecting civil society space and human rights as well as their accountability framework. It was noted, however, that these institutions are doing the best they can but they remain constrained by lack of political will by the leadership to genuinely engage civil society, democratize AU processes, and promote justice and rule of law. The ACHPR, for example was identified as developed and highly exemplary in how it engages civil society.

In spite of any real or perceived weaknesses, PAP, ACHPR, APRM and such other open and interactive structures of the AU are opportunities that civil society should seize to advance human rights and fundamental freedoms. It is therefore incumbent upon civil society to devise strategic and sustainable strategies of engaging with these. The meeting noted that more open AU structures, such as those named above, that are not part of the AU Executive are in some cases equally frustrated by the behaviour of governments and therefore potential allies of civil society, hence the need to advocate for their strengthening.

Although ECOSOCC of the African Union is a relevant structure, it has not measured up to the expectations of the peoples of the continent largely because of restrictive accreditation regimes, infighting and political bickering amongst the leaders. ECOSOCC arguably therefore represents the state of civil society on the African continent characterized by competition, never wanting to hear each other, duplicating efforts and in many cases reactive. In such environments, it has become easier for civil society to establish new and parallel formations without confronting the issues.

On its part, civil society should be able to understand the policy cycles, operating procedures and ways of engaging with regional and continental bodies mindful of their inter-governmental and state-centric nature. In addition, civil society should not just talk but also demonstrate a pan African spirit whilst governments should not see

themselves as having monopoly over patriotic behaviours, power and knowledge to accelerate development in Africa.

Conference delegates challenged themselves to be more organized, particularly at the African Union level considering that International NGOs still dominate the AU policy corridors. Further, civil society is challenged to critically reflect on its manner of engagement including the competitive spirit at all levels. Deliberate efforts should be made to deepen the quality of engagement. Some of the RECs and AU structures are opening up to civil society. It is therefore important for civil society to not only take advantage of these spaces but to ensure institutionalization and sustainability of engagement.

Restrictions to free movement of people have also significantly compromised freedoms of association and assembly by civil society. Civil society continues to grapple with VISA regimes, costs of obtaining the same, restrictive migration policies and poor continental transport connectivity. Access to and physical space during AU meetings is sometimes a problem. In some cases governments may say NGOs will participate but there will be no seats (physical space) for them.

Conclusion

Intergovernmental bodies, in spite of some of their inherent weaknesses present an opportunity for civil society to protect and expand its space. However civil society needs to strengthen its skills to engage with these institutions.

Chapter 5

Survival Strategies for CSOs under threat

Introduction

This workshop discussed ways to continue activities of civil society in politically restrictive environments and to share best practices in security and protection of civil society organizations and activists. CSOs operating in severely restrictive environments need to develop creative and resilient strategies for surviving and when under threat there is need for support mechanisms and structures available for them. Participants explored options to maintain operations in the face of imposed restrictions, as well as measures that can be taken in advance to mitigate harm when severe limitations appear imminent.

The Workshop Facilitator was Ms Julienne Deyo, from the Association of Women Lawyers in Chad. The workshop had two panellists namely Ms Stella Murungi from the East & Horn of Africa Human Rights Defenders Project Uganda and Mr. Otto Saki from USAID Zimbabwe. The discussant was Mr. Celestine Mugisha from the Foundation for Human Rights Initiatives in Uganda.

Case 1: Survival strategies in Zimbabwe

Introduction

Mr. Saki started his presentation by providing a working definition of 'threat'. He stated that threats represent the possibility that someone will harm somebody else's physical or moral integrity or property through purposeful and often violent action (*Frontline Human Rights Defenders Protection Manual*). There are indirect and declared threats.

Civil society and activists in Zimbabwe continue to face both declared and indirect threats. The intention is usually to harm and achieve a certain objective, which might be to discourage, stop, hinder, interrupt or divert attention. There is almost always a source of a threat. It is sometimes helpful to unmask the hand behind the threat. It is critical to note that not everyone who issues a threat has the capacity to follow through, and not every threat constitutes a danger.

Support Mechanisms

The default response when one is threatened is flight. This however, many a times, falls into the intention of the person issuing the threat. There are different support mechanisms in the form of protection, prevention and pre-emption. Prevention is ideal when such threats are highly anticipated and there is a likelihood of execution of the threat especially if there have been attempts before, such as attempted burglaries, break-ins, aborted raids on offices among others. Protection entails actually attending to the activist or organisation under threat, such as moving to a place of safety, alerts and appeals to local (assuming they care), regional and international players. Pre-emption constitutes an attempt to deliver a surprise unexpected disclosure of the attempts, either into the public domain or back to the authorities.

Civil society activists are vulnerable many a times because they fail to sufficiently get buy in of their agenda by community and constituencies which might offer information and support. It is important to have individuals who are not necessarily activists to understand your agenda. The challenge however is that such individuals might become collateral damage as states sometimes fail to distinguish between those who harbour such individuals and the actual individuals.

Examples of practical measures that could be implemented by civil society include the following:
Community Hubs (Protection/Prevention):
- Identification of safe spaces within communities, including linkages with community and religious leaders and the elderly. Community protection is the

least developed mechanism and activists need to invest time and energy in thinking around this.

Legal (Protection, Preventive, Pre-Emptive):

- Instituting legal cases –These can be constitutional or ordinary court proceedings as appropriate. There is however a challenge of effective remedy as in most cases courts will be compromised. The absence of effective remedies is not a disaster in itself but an opportunity to document and prepare for possible litigation in future. If the threats are legal, then it makes it more appropriate for this type of support mechanisms. If the threats are extra-judicial executions then probably courts are the least entities to approach for prevention, protection and pre-emptive solutions.

Medical (Protection, Prevention, and Pre-emptive):

- It's difficult to use medical support as pre-emptive or preventive, but it can be done. A few innovative doctors can be handful in trying times. In the event of the activist being tortured or subjected to cruel and inhumane treatment, medical support becomes appropriate.

Well-being (protection and prevention):

- It is essential for activists to have a healthy spiritual existence, this does not mean Christianity only, but ability to control and interact with one's inner being. This helps to appreciate certain threats and risks without necessarily underestimating or overestimating them. A number of activists who have been repeatedly subjected to threats have become emotional, social and psychosocial wrecks. Sadly, support mechanisms tend to ignore that we are human first then activists by another calling or devotion.

Relocation (without dislocation)

- The priority for any relocation should be to allow the activists to be moved from the area of reach of the threat. Either to a nearby village, if the threat is from an individual who has no ability to travel from their zones of influence, or

to a different town if the threat is such that it cannot be effected from a different point or town.

Emergency and Contingency Funds
- Civil society activists and organizations should have an emergency fund to respond to emergencies and other unexpected threats and attacks.

Support Policy (protection and pre-emptive)
- Organizations and civil society activists have all kinds of policies in place, but none have a policy that relates to supporting an activist under threat. It needs not be detailed or public. Just a line in the existing policies which states what happens in the event of some untoward event will suffice.

The internal mechanisms discussed above can be replicated with modification and adaptations as necessary. The prospects of effectiveness are equally affected by the distance of the mechanisms especially if there is no ability to follow through. Advocacy before international, regional and sub regional bodies also provide protection despite the institutions being constituted by states, which are the major source of threat to CSOs.

The existence of the Special Rapporteur on Human Rights Defenders (HRDS) is an opportunity for civil society including adoption of declarations on operating space of HRDs/civil society etc. This mechanism can be used to send urgent appeals to the African Commission. The African Court of Justice despite being in its infancy can be utilized to challenge the restrictions that civil society is facing.

Mr Saki concluded by stressing the need to avoid relocation and dislocation leading to redundancy; balance monetary and non-monetary support systems that are organic; avoid sector professionalization to the point of being redundant; avoid alienating advocacy – where certain sources can actually be your protection and the imperative to think of new practices in view of the sophisticated nature of threats and attacks.

Case study two: Survival strategies in Uganda

Ms Stella Murungi from the East & Horn of Africa Human Rights Defenders Project Uganda also spoke about Survival Strategies for CSOs and Activists in Restrictive Environments. Her discussion was centred on security as an option to maintain operations in the face of imposed restrictions as well as measures that can be taken in advance to mitigate harm when severe limitations appear imminent

Threats faced by HRDs and activists

Some of the challenges that human rights defenders in East Africa face include:
- Harassment and intimidation by both state and non state actors;
- Defamation of character leading to lack of credibility. HRDs are characterized as 'terrorists', 'enemies of the state' or ' political opponents' by the state in a bid to delegitimize their work and increase their vulnerability;
- Legal charges to drain human rights defenders of resources, time, etc;
- Arbitrary arrests and detention - in some cases with both physical and psychological torture while in detention;
- Targeted killings which have been witnessed in Somalia, Rwanda, Burundi and Kenya
- Disappearances;
- Legal restrictions, such as national laws that criminalize the activities of human rights defenders (e.g. Anti Homosexuality Bill in Uganda and the Civil Society Proclamation in Ethiopia which was passed into law early last year and is currently being implemented.)
- Increased insecurity in many sub regional countries;
- Insufficient financial resources to implement security strategies;
- Insufficient networking among human rights organizations;

Responses to threats and risks

Civil society should from the onset develop clear response strategies to the risks identified, e.g. what to do in case of arbitrary detention or office raid. The level of risk facing human rights defenders increases in accordance with threats and their vulnerabilities which can be reduced by building further on their capacities. Vulnerabilities and capacities are internal, i.e. they stand for your ability to respond to a risk. Threats are the possibility that someone will harm somebody else's physical or moral integrity or property through purposeful and often violent action. Vulnerability is the degree to which people are susceptible to loss, damage, suffering and death in the event of an attack. This varies for each activist, defender or group, and changes with time. Capacities are the strengths and resources a group or defender can access to achieve a reasonable degree of security.

Below are some of the strategies to ensure that attacks against the organization/individual do not occur. They are contained in a security plan. A security plan is a set of day today policies, measures and protocols for managing specific risky situations.

- Ensuring that all staff members are conscious of security aspects of their work;
- Having a focal person for security issues in the organization – this can be on a rotating basis;
- Having a 24 hour security line that is available to all staff members;
- Reporting, analyzing and recording all security incidents and deciding on responsive actions where necessary;
- Filtering mechanisms: Putting in place physical security measures like recording visitors to the office, limiting access to the office, etc.
- Putting in place security measures for the management of information including information technology (password, firewall, up-to-date anti-virus, regular back up of information, etc.);
- Knowing who your allies are and potential enemies; carry out a stakeholders analysis;

- Building a network and strong linkages of trust and mutual support with those who support your cause and can offer protection
- Make it "expensive" to attack you: raising the political cost of an attack: through advocacy and engaging with stakeholders, e.g. international missions, international organizations etc;
- Having contact information of the diplomatic community and international human rights organizations that would respond in cases of emergency.

Conclusion

From the two presentations as well as comments and inputs from the discussant and participants, it emerged that there are no clear answers to the question of ensuring security for activists and human rights defenders. What is paramount is to reduce vulnerability whilst devising clear strategies of dealing with imminent threats given the context and nature of threats. It was also noted that security is as much a personal responsibility as it is an organizational one. The plenary also underscored the following:

- Strong connections with communities;
- Use of local resources;
- Camouflaging where necessary;
- Using the courts where possible;
- Early warning systems;
- Creative and sustained use of the media;
- Reinforcing existing coalitions;
- Establishing trust funds and using AU and UN human rights protection structures.

Chapter 6

Promoting Constructive engagement between civil society and Governments

Introduction

Many civil society actors agree that extensive cooperation between civil society organizations and governments is critical for grassroots impact and policy influence. CSOs are increasingly searching for ways to cooperate and institutionalize their partnership with their governments. But what factors make this cooperation successful and real? During a workshop on *Constructive engagement between civil society and governments*, participants assessed the level of cooperation between civil society and government in their own countries. Participants then analyzed the factors that influence success and discussed ways to overcome challenges in developing and implementing various cooperation mechanisms. Two panellists were invited to speak namely Mr Ezekiel Pajibo from Trust Africa, Liberia and Mr. Boichoko Ditlhake from SADC Council of NGOs, Botswana. Ms Jainaba Johm from the African Centre for Human Rights and Democracy Studies in Tunisia served as a discussant.

Case 1: A Liberian Perspective by Mr. Ezekiel Pajibo, Trust Africa

In 1980, Liberia ended settler domination of the political space. The military dictatorship which succeeded the one party state further undermined the ability of the state to respond to the aspirations and needs of the Liberian people. The country went to war. In just two generations, Liberians removed two dictatorships but at an enormous cost.

The country is now picking up the pieces, re-organizing itself and attempting to build a culture of peace, promote responsible citizenry, and create a robust democratic

order. Post war reconstruction in Liberia represents a new attempt by its people to build a new polity, where inclusion is central, ideas are contested, rights are respected, economic justice is debated and the voice of minorities is provided a platform to be heard.

The majority of Liberians are now enjoying rights not known about ten years ago: freedom of association, free speech, freedom to assemble, free media, free and fair elections. To ensure that these rights are entrenched, civil society may have to engage government in order to foster public policy measures which institutionalize these rights, make them respected and enjoyed while at the same time creating a new nation in which the citizens' interest and concerns are reflected in national policies.

A number of developments in the country have conspired to create a conducive atmosphere that could give rise to a robust, articulate and vision driven civil society. Politics in Liberia today is no longer the preserve of the settler class and its native apologists. Most Liberians now know that they have the right to engage in politics and be heard. They are exercising these rights. The political landscape is fluid, ever changing with different tendencies aligning and re-aligning themselves, alliances are being built and destroyed. Political posturing abounds and political formations are not yet entrenched. Within this contested territory, exchange of ideas, informed debates and exchange of views can only be fruitful.

The Liberian State is also undergoing serious reforms in the security sector, in governance and the economy. Several institutions have been created to deal with various issues including anti-corruption, land and governance commissions. All of these provide vehicles for intervention by civil society actors.

Time and again, civil society actors have demonstrated that they can engage the policy process and claim positive impacts. In the last eight years, civil society actors have spear-headed efforts aimed at crafting and influencing public policy measures. For example, three new laws namely: Liberia TRC Act of 2005, the Anti-Rape Law and the Inheritance Act were all brought about through the advocacy of civil society actors.

The myriad of conferences held to end Liberia's war encouraged dialogues, negotiations, re-negotiations, compromises and collaboration. It appears that the war years created the imperative for dialogue, negotiations and airing of diverse views and opinions. Liberians are now talking and not shooting.

No doubts, hurdles will be encountered but they must be surmounted. The government will not always be willing to cooperate. In some instances, civil society actors would not even seek cooperation when government appears intransigent and unwilling to listen to what is best for the country. Other strategies of non-cooperation will be employed: including protest actions.

Liberia's post war reconstruction efforts are an opportunity for civil society actors to play a major role in informing and impacting the policy arena. Civil society however needs tools of analysis, research, institutional development and good governance to improve their work.

Case 2: Engaging SADC, Lessons and Experiences from SADC-CNGO by Mr. B. Ditlhake

Mr. Boichoko shared perspectives on how civil society has been engaging with the Southern African Development Community (SADC). He first provided an overview of SADC including its policy making structures.

SADC comprises the following key institutions, namely, the Summit of Heads of State & Government, SADC Tribunal, Council of Ministers, Organ on Politics, Defence & Security Cooperation, Sectoral/Cluster Ministerial Committees, SADC Secretariat, Standing Committee of Senior Officials, and SADC National Committees. SADC applies the Troika system from Summit, the Organ, Council and the Ministerial Committee of the Organ (MCO) as well as the Senior Officials level. The SADC Troika System vests authority in the incumbent Chairperson, Incoming Chairperson who is the Deputy Chairperson at the time and the immediate Previous Chairperson to take quick decisions on behalf of SADC in between Summits. Decision making is through member states.

The behaviour, strategic orientations and overall driving philosophy of SADC draws heavily from its history. The continuities of values, principles and solidarity tendencies, common place in SADC can only be well understood using the historical and political lens.

The following key lessons were learnt from his presentation:-

- Consideration of power relations & balance of forces when engaging SADC;
- Building of strategic alliances.
- Investment on strengthening relations and alliances with other civil societies such as trade unions and churches.
- Correct balance between the "Insider and outsider" roles.
- Value addition in member state/ national level lobbying and advocacy before targeting regional spaces.
- Knowledge of decision making structures and policy processes enhances engagement.
- The need for delineation of regional from bilateral or national issues (Some issues taken to SADC/ AU are purely of a national outlook)
- The role and influence of international cooperating partners and diplomatic community as strategic allies.

SADC-CNGO's engagement with SADC has been aided by the Memorandum of Understanding it signed with the SADC Secretariat. Mr. Boichoko Ditlhake concluded that through various means ranging from direct engagement with SADC Secretariat, its various directorates and members of the Council of Ministers to direct letters and demands for participation, SADC has in the recent years started opening up to civil society. For the first time in 2008, SADC invited civil society to participate as equal partners in the International Conference on Poverty and Development. In 2009, the SADC Organ extended an invitation to civil society to participate as civilians in a field exercise for the SADC Standby force. A joint programme of action was further developed by SADC-CNGO and the SADC Organ. Over the past three years, civil society organizations are being invited to trade, HIV and AIDS, water and

other thematic committees. The Policy and Planning Directorate of the SADC Secretariat has also proposed to come up with a policy on how SADC should engage non-state actors.

Conclusion

Based on the two case studies, discussed above, the conference noted that in spite of the trend towards shrinking of space, there are promising initiatives on how civil society can engage with governments. Key threads for effective engagement include: building civil society credibility and legitimacy; building trust with policy makers; deepening analysis and proffering alternatives and engaging policy makers from an informed perspective and on their processes, language and procedures while remaining firm and principled.

Chapter 7

Role of Regional and Continental Institutions & instruments

Introduction

Civil society has been recognized as an important partner that contributes to the development and advancement of the African continent. This parallel session investigated whether the RECs and the AU put in place structures, mechanisms and instruments that CSOs can access and use to expand their operating space.

The session also looked at the roles that regional and continental institutions play in recognizing and helping civil society working in hostile and limiting environments. The session concluded by generating a set of recommendations to the RECs and to the African Union.

The session was facilitated by Dr Chantal Abessolo from ODDAC, Gabon. Two panellists namely Mr Ibrahima Kane from OSI AU Advocacy Program and Dr. Ayokunle Fagbemi from WACSOF provided the initial input to kick-start dialogue. The discussant was Mr Tutu Alicante of Equatorial Guinea Justice.

Input 1: African institutions and instruments by Mr. Kane

Mr. Kane provided a brief history of the African Union, discussed the key institutions and concluded by teasing out some of the advocacy opportunities for civil society in Africa.

The advent of the African Union (AU) can be described as an event of great magnitude in the institutional evolution of the continent. In the Heads of State and Government of the Organisation of African Unity issued a Declaration (the Sirte

Declaration) calling for the establishment of an African Union, with a view, inter alia, to accelerating the process of integration in the continent to enable it play its rightful role in the global economy while addressing multifaceted social, economic and political problems compounded by certain negative aspects of globalisation.

First and foremost, the African Union is a re-emergence and consolidation of the quest for African unity, a project dating back to the years before independence in the 20th century. Pan-Africanism was an expression of resistance against colonial occupation and it became synonymous with the common aspiration for peace and freedom. The Pan-African movement thus gave birth, initially, to the Organization of African Unity and has once again been the cornerstone of the continent's political collective in the form of the African Union.

While the AU builds on the accomplishments of the OAU, it is a much broader organization with a dynamic framework for providing vision, leadership and policy guidance, and for maintaining effective engagement and implementation in all spheres of the continent's development. The organizational framework of the AU is closely built in alignment with the regional economic communities (RECs) such as the Southern African Development Community (SADC); the Economic Community of West African States (ECOWAS); the Intergovernmental Authority on Development (IGAD); the Economic Community of Central African States (ECCAS); and the Arab Maghreb Union (AMU). These institutions are sub-regional structural links to the continental body and will be critical to implementing regional integration and cooperation on peace and security, as well as governance and development issues.

The African Union has enumerated a wide array of institutions which, once effectively operationalized, has potential to take the region forward. The peace and security architecture for example include the African Standby Force, the Continental Early Warning System and the Panel of the Wise. Development will be buttressed by the New Partnership for Africa's Development (NEPAD), while the continental legal framework will be enhanced by the African Commission on Human and Peoples' Rights as well as the African Court of Justice. Civil society is a key factor in the socio-economic emancipation of the continent, hence the establishment of the

Economic, Social and Cultural Council (ECOSSOCC), in spite of its teething problems. The Pan-African Parliament provides a space for African citizens to deliberate on key issues affecting the continent. The Permanent Representatives Committee is charged with the responsibility of preparing the work of the Executive Council. These are mostly Ambassadors based in Addis Ababa. The Specialized Technical Committees are meant to address sectoral issues and are at Ministerial Level.

In his concluding remarks Mr. Kane emphasised the need for civil society to not only engage at continental level but also start the process at national level. Civil society was also challenged to do something about restrictions to free movement of persons in the region that curtail access to African Union processes and specific member states. Civil society also need capacity building on how AU, RECs and their organs work and can be engaged effectively.

Input 2: Engaging with RECs, Experiences of WACSOF

Dr Ayokunle Fagbemi shared experiences on how civil society in West Africa is engaging with ECOWAS through their coordination structure called the West African Civil Society Forum (WACSOF). WACSOF was borne out of the realization of the need to create an institutionalized dialogue between regional civil society organizations (CSOs) and the ECOWAS Secretariat. It is based on the recognition that civil society members from throughout West Africa have extensive experience in their various fields of expertise and are able to make valuable contributions to ECOWAS, thereby enhancing the effectiveness and capacities of ECOWAS[15].

The strategic objectives of WACSOF are as follows:-
- To strengthen and institutionalize a relationship between West African civil society and ECOWAS.

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[15] See http://www.wacsof.net/index.php?option=com_content&view=article&id=76&Itemid=147&lang=en

- To hold a biennial People's Forum for members of WACSOF with the purpose of submitting recommendations to West African ministers and Heads of States on human security issues.
- To audit the ratification, legislative domestication and implementation of ECOWAS treaties, protocols and decisions relating to human security and peace in the region.
- To establish national and sub-regional monitoring mechanisms on the status of human security in West Africa.
- To popularise ECOWAS in the consciousness of West Africans - particularly youth - through appropriate programmes such as popular media.
- To actively promote a sense of community citizenship between ECOWAS member states and CSOs[16].

In order to ensure broad based participation of civil society in ECOWAS, WACSOF introduced thematic clusters and national chapters. The following thematic groups are deemed as relevant areas of engagement with ECOWAS: Food, Agriculture and Environment; Gender and Women's rights; Democracy, Governance and Human Rights; Peace and Security; Policy Research; Regional Integration; Economic Development; Trade and Investment. National Chapters are the representatives of WACSOF in each West African State. The National chapters are comprised of groups or coalitions of the different civil society actors within Member States that are members of WACSOF.

From the time of its existence, WACSOF has made several strides for civil society which includes: Securing partnership with ECOWAS to implement an early warning system, trade negotiations, especially on economic partnership agreements and creating spaces and opportunities for civil society to participate in technical meetings and other official processes of ECOWAS.

Dr Ayokunle Fagbemi concluded his presentation by emphasising the need for civil society to understand the policy making processes of intergovernmental organizations.

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[16] Ibid

Conclusion

Clearly, paraphernalia of institutions and instruments abound on the African continent that could serve as entry points for civil society to safeguard and expand its operating space while deepening its contributions to continental integration and development. The primary challenge, however, is to move from commitment to action thereby making these work for the peoples of the continent. The key success factors, for this to happen, are:

- Civil society's knowledge of policy and decision making processes, power play, actors and selection of the right approaches and tools and engagement on the one hand; and
- Political will on the part of policy makers to create space for civil society as well as sustained dialogue and interaction in order for state and non-state actors to appreciate each other's roles and value addition.

Civil society has to continuously conduct comprehensive mapping of these institutions and review relevance, progress and challenges presented by specific instruments, whether at the sub-regional or continental level.

Chapter 8

Building Effective Coalitions for Regional and International Solidarity

Introduction

Research has shown that the coalescing of various organizations around common issues produces better results than organizations working individually. Pressure groups are more likely to influence policy change, especially on rights issues given the power dynamics on the continent, if they synergize their efforts. There is also an increasing need for cross border learning and solidarity. This can be achieved by building effective coalitions. This workshop looked at some case studies where coalitions were effectively used to amplify voices as well as create broad based support for CSO positions in dealing with African institutions. The workshop flagged out key lessons learnt on why regional and continental solidarity is important.

The Workshop Facilitator was Mr. Gino Govender from Amnesty International. The panellists were Mr. Dismas Nkunda representing the Darfur Consortium and Ms Naisola Likimani from FEMNET. Mr. Patrick Mpedzesi from the African Democracy Forum was the discussant for the two panellists.

Case analysis 1: Darfur Consortium

Mr. Nkunda shared information on how to build effective coalitions following his experience with the Darfur Consortium. The Darfur Consortium is a coalition of more than 50 Africa-based and Africa-focused NGOs dedicated to working together to promote a just, peaceful and sustainable end to the ongoing humanitarian and human rights crisis in Darfur.

The Consortium came together in September 2004 as concerned NGOs gathered on the fringes of the Third Extraordinary Session of the African Commission on Human and Peoples' Rights in Pretoria, South Africa. The Consortium provides a forum for unified action, particularly through sustained engagement with the institutions of the African Union[17].

Mr. Nkunda reported that the key strategies employed by the Consortium include but are not limited to:

- Mobilization days, branded Global *Day for Darfur* characterised by vigils, forums, conferences, radio and TV shows dedicated to Darfur.
- Continental and international lobby and advocacy. For example, the Darfur Consortium on many occasions engaged the African Union, United Nations – including the UN General Assembly, International Criminal Court and other structures calling upon these to take action on Darfur
- Media advocacy
- Public dialogues
- Direct letters
- Seeking audience and making representations to mediators, including the Mbeki Panel e.t.c
- Lobbying of Parliamentarians and individual Member States of the African Union
- Public debates and Seminars on Darfur

The Darfur Consortium picked on three priorities from the beginning namely:

- Peace process
- Justice and accountability
- Protection of displaced persons in that conflict

Key lessons learnt and good practices

- Flexible structure

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[17] For detailed information on the history, activities and actions of the Darfur Consortium see http://www.darfurconsortium.org/darfur_consortium_actions/events.html

- Strong and transformational leadership
- Flexible membership structure where either individuals or organizations could join the Consortium, whether national or international
- Importance of sound research and analysis in understanding conflict dynamics and response mechanisms.
- Lobbying certain governments within the African Union, particularly those serving on the Peace and Security Council as well as sections of the United Nations and the European Union.
- The employment of a multiplicity of strategies including mass mobilization during strategic days;
- Lobbying, advocacy and targeted engagement with PAP and other institutions.
- Use of celebrities such as Arch Bishop Desmond Tutu, veteran musician Hugh Masekela, Nobel Prize Laureate Wole Soyinka, the late Nobel Prize Laureate Wangari Maathai and former UN Secretary Kofi Annan.
- Use of victims as testimonials, for example through holding concerts in solidarity with suffering people of Darfur, along the sidelines of key Heads of States meetings
- Engaging governments using their own protocol and language
- Flexible programming and strategic timing of certain key moments
- Sustained use of the media
- Knowing the difference between doing Advocacy in Africa and doing it in the West, including sound appreciation of the political sensitivities, social and cultural issues and gender relations.

Whilst the Consortium succeeded in penetrating many policy circles and making a strong case for continental and international intervention, including stopping Sudan President Al Bashir from chairing African Union, the Consortium faced a number of challenges. First the conflict did not end. This is not necessarily a reflection of the effectiveness of the Consortium but of the complexity of the conflict. Secondly, the Consortium members and leaders were targeted, threatened, attacked and some of them even missed death by a whisker, a situation which they had not anticipated.

This makes it paramount for activists and human rights campaigners to put in place risk and security management plans.

Overall, the Darfur Consortium illustrates the potential of coalition building. One UN official reportedly remarked that "Without Darfur Consortium, Darfur would have remained sealed to the wider Africa and of the World".

Case analysis 2: Solidarity for African Women's Rights (SOAWR)

Ms Naisola Likimani shared her experiences with the Solidarity for African Women's Rights (SOAWR). SOAWR is a coalition of thirty-six civil society organizations across the continent working to ensure that the Protocol to the African Charter on the Rights of Women in Africa remains on the agenda of policy makers and to urge all African leaders to safeguard the rights of women.

SOAWR's Strategic objectives are as follows:
- To influence public opinion and build constituencies in favour of the ratification, domestication and implementation of the protocol, nationally and regionally
- To expand SOAWR's relationship with the AU Commission, the Pan-African Parliament and other bodies to ensure commitment to the provisions of the protocol
- To raise awareness among African states of the importance of the protocol in addressing conditions facing women and girls
- To actively engage with the mass media and make use of the internet to popularise the protocol
- To strengthen the leadership capabilities of women's organisations[18]

The key strategies employed by SOAWR are as follows:

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[18] For more information about SOWR see http://www.soawr.org/en/about/

- Seizing strategic moments and events to mobilize women and other stakeholders to speak out on the protocol
- Strategic engagements with government officials
- Naming and shaming in the beginning using colour coding system. There is however potential for back lash should some member states feel embarrassed.
- Regional solidarity – Uganda was dragging its feet and therefore had to push this forward by lobbying other countries
- Media and ICT Strategy, including translating documents into different languages
- Developed a multi-sectoral approach
- Partnered with the African Union Gender Directorate
- Also worked with other Organs of the African Union such as the Peace and Security Council
- Partnered with UN Women thereby enhancing its voice and influence.

Lessons learnt in coalition building

Based on the inputs from the discussant - Mr. Patrick Mpedzesi and other participants the following lessons learnt emerged on coalition building:-.
- There must be a reason why certain networks are formed
- The nature of the challenges influences the form and direction of the network.
- Centrality of organic/multiple strategies
- Coalitions should depend on multiplicity of expertise
- Value addition in making use of resources within the network
- The expectation of a leader of a coalition varies from coalition to coalition. The leader has to manage relationships
- Some tensions are destructive, and can be the heartbeat of a network
- Issue of attribution – who was most responsible – process, output and results should be effectively dealt with
- Sometimes the impact is coincidental

- Merit in galvanizing support during mobilization days and actions
- Some strategies generate a negative response, one will have to rethink their implications
- Adequate, efficient and continuous communication sustains networks
- Coalitions must allow for different levels of activity - the trickle down processes
- Visibility attracts funding

Conclusion

The key themes emerging from the discussions that should be considered in coalition building are as follows: Leadership; Strategy; Unity and struggle; evolution of the coalition; Influence of non-African networks; visibility; dealing with competition and motivating all network members.

Chapter 9

Accountability through self-regulation of CSOs

Introduction

Africa is seeing an increase in laws and regulations relating to CSOs as governments respond to political changes, an evolving CSO sector, international rules and the 'war on terrorism' amongst other things. There is a legitimate call for CSOs' accountability and transparency and yet this has been manipulated and stretched to controlling, limiting and closing space for civil society.

This workshop explored ways in which CSOs in Africa can operate in a transparent and accountable manner through self regulation. Participants discussed ways and means that can be adopted by African CSOs in promotion of self-regulation.

The workshop had one main presenter and a discussant. The presenter was Mr Paul Okumu from the African Coalition for Principled Partnership (ACPP). The discussant was Mr. Dewa Mavhinga representing Mr Okay Machisa, the chairperson of the Crisis in Zimbabwe Coalition. The workshop was facilitated by Mr Amir Suleiman from the African Centre for Justice and Peace Studies.

Mr Okumu's presentation focussed on the principles for CSO effectiveness adopted by the African Coalition for Principled Partnership. CSO development effectiveness principles are statements of values and qualities that should inform CSO socio-economic, political, and organizational relationships. They are universal points of reference for CSO activities in development, emphasizing the impact of these actions on the rights of people living in poverty and marginalized populations.

These principles were enlisted as follows:-
- Respect and promote human rights and social justice
- Embody gender equality and equity while promoting women and girl's rights

- Focus on people's empowerment, democratic ownership and participation
- Promote Environmental Sustainability
- Practice transparency and accountability
- Pursue equitable partnerships and solidarity
- Create and share knowledge and commit to mutual learning
- Commit to realizing positive sustainable change

Mr Okumu also spoke about some of the key concepts namely enabling environment and enabling standards. The "enabling environment" is the political and policy context created by governments, official donors and other development actors that affect the ways CSOs may carry out their work. "Enabling standards" are a set of inter-related good practices by donors and governments – in the legal, regulatory, fiscal, informational, political, and cultural areas – that support the capacity of CSO development actors to engage in development processes in a sustained and effective manner.

Mr. Okumu concluded his presentation by emphasizing the following:
- Recognizing CSOs as development actors in their own right
- Structuring democratic political and policy dialogue to improve development effectiveness
- Creating enabling financing for CSO development effectiveness

Mr. Dewa Mavhinga, the discussant, underscored the imperative of self regulation to avoid giving governments unnecessary reason to lash at civil society for failing to manage their affairs in a transparent and accountable manner. Self regulation will among other things entail developing minimum standards for good corporate governance and general conduct in the process of delivering own mandate. He also stressed the need for civil society to avoid behaving in the same manner as politicians that refuse to leave office and are sometimes not accountable to their constituencies.

Conclusion

The plenary was unanimous on the urgency for self-regulation and deepening of NGO accountability. The workshop noted three types of NGO accountability namely: ethical accountability, technical including financial accountability and political accountability. A tool such as Code of Ethics for African Civil Society would be central in implementing the self-regulation drive.

Chapter 10

The Role of Donors in Restrictive Environments

Introduction

This session, facilitated by Mr. Deprose Muchena, OSISA's Deputy Director interrogated many critical questions on the role of donors in restrictive environments. The key question was whether donors have always played a supportive role in restrictive political environments. Has their support weakened or strengthened human rights defenders? Can we consider donors to be civil society's best friend? With the exception of a few instances, donors have not always adopted a consistent rights based framework to development support and have therefore proceeded to either support or fund regimes that are autocratic and serial violators of basic rights. In many instances, the work of human rights defenders has been put at great risk. Additionally, in places where donors stand up to a regime, civil society organisations have been serially accused of being agents of regime change. In both instances human rights defenders working in restrictive environments are under constant risk.

The panellists for this parallel workshop were Mr Abdel Monem Mosalam from the Arab Centre for independent Judiciary & Legal Profession based in Egypt and Ms Nana Asantewa Afadzinu from West Africa Civil Society Institute in Ghana. The discussant was Ms Brenda Moyfa from the Friedrich Ebert Stiftung (FES) in Ethiopia.

Key issues from the workshop

- There are many cases where donors support pro-democracy and human rights organizations while at the same time providing aid to governments that are perpetrators of human rights violations.

- The culture of volunteerism and African Philanthropy is not so developed on the continent.

- There is general lack of national government funding support to civil society organizations.

- Donors have their own agendas: There may be no money to support pro-democracy and human rights organizations but there is always money for other sectors.

- Currently there is no coordinated engagement between donors and civil society organizations, broadly, at the continental level.

- Local economic conditions compel civil society organizations to seek funding from abroad. Unfortunately, this has resulted in over-dependence of civil society on foreign donors.

- There are several different kinds of donors: bi-lateral; multi-lateral, private donors and International NGOs who work with and sometimes sub-contract to local organizations. Bi-lateral and multi-lateral donors generally act in self-interest. They only have permanent interests and no permanent friends. Funding is therefore linked to donor countries' concerns or interests.

- Private donors do have strategic interests as well but usually try to align their interests with those of local NGOs.

- Funding is usually short-sighted, earmarked for a specific period and therefore it is difficult for NGOs to plan and budget for a relatively long period. Funding may, as a result, be inconsistent and unpredictable.

- Most donors have no interest in institutional development thereby complicating the sustainability of NGOs.

- Some donors have double standards for example there may be no support for one dictator but a lot of resources will be given to another dictator.

Recommendations

- Efforts should be made by civil society to help donors understand the context in which they work and to be responsive to the needs of the communities they seek to serve.

- Civil society should establish clear terms of engagement between donors and civil society organizations. There may be need for the development of a coordinated mechanism for civil society to engage with donors. CSOs will have to develop astute leadership to manage their relationship with donors

- Donors must also leverage their access to policy makers to advocate for the protection of civil society space.

- Civil society should employ new instruments for resource mobilization including mobile phones, social networks, etc. This also includes examining local tax environment and exploring areas for domestic resource mobilization whilst identifying local philanthropists.

In conclusion, CSOs should seek long-term relationships with donors and develop an appreciation of the parameters of donor funding. Further to this, they should capitalize on opportunities offered by donor money whilst maintaining their independence, voice and identity.

Chapter 11

Recommendations and conclusion

Priority areas

The Conference concluded by agreeing on eight key priority intervention areas to take forward the discourse and advocacy on reclaiming civil society space in Africa. The priority areas, around which specific recommendations were developed, are as follows:

1. Consolidating and maximising opportunities, relations and spaces within regional and continental bodies.

2. Enhancing mechanisms to protect and support activists, human rights campaigners and defenders at local, national and regional level in response to increasing vulnerabilities and threats.

3. Mounting a continent wide Campaign on Free movement of Africans within the African content.

4. Promoting national level lobby, advocacy and campaigning for supportive legal, policy and operational environment and penultimate creation and expansion of civil society space.

5. Promoting civil society self-regulation mechanisms and enhancing accountability and effectiveness.

6. Strengthening and supporting coalition building and solidarity actions to defend, create and expand civil society space.

7. Developing sustainable mechanisms of financing civil society activities whilst strengthening relations between civil society and donors.

8. Enhancing strategies of ensuring effective engagement between civil society and governments.

Recommendations

The Table below summarise the key recommendations for each of the above priorities

Strategic priority	Proposed strategies / Actions
1. **Consolidating and maximising opportunities, relations and spaces within regional and continental bodies.**	• Capacity building of civil society on decision making processes, rules of procedures, power and influence dynamics of regional and continental bodies. • Improving quality of engagement in order to make the most out of existing spaces and opportunities. • Opening up debate on statutes of regional and continental bodies in so far as CSOs participation is concerned including challenging the accreditation requirements including eligibility criteria of regional and continental bodies, particularly at African Union level in favour of broad based, transparent and people-centred mechanisms. • Lending technical capacity to AU and regional bodies
2. **Enhancing mechanisms to protect and support activists, human rights campaigners and defenders at local, national and regional level in response to increasing vulnerabilities and threats**	• Regional and continent wide support mechanism for human rights defenders including solidarity networks, strategic service provision and establishment of support funds. • Strengthening organizational and national level security and risk management strategies. • Establishing early warning systems at organizational, national and continental levels • Enhancing civil society connectedness with communities and building constituencies of support. • Strategic partnerships with and support to supportive institutions such as ACHPR, PAP e.t.c. • Explore preventative measures to also reduce vulnerabilities. • Engage donors to support security and risk management

	plans. • Use of legal systems (National and regional, including constitutional challenges)
3. **Continent Wide Campaign on Free movement of Africans within the African Content.,**	• Continental Free movement of persons campaign • Amplify good practices at sub-regional level on movement of persons • Challenge VISA regime and costs thereof • Advocacy on transport connectivity and removal of other impediments to free movement of people such as border problems, corruption, restrictive migration regimes within countries e.t.c
4. **Promoting national level lobby, advocacy and campaigning for supportive legal, policy and operational environment and penultimate creation and expansion of civil society space**	• Continuous engagement with African governments/ member States of the African Union • Enhancing civil society capacity, legitimacy, credibility and accountability to constituencies and target groups • Engagement with Parliamentarians and other pro-democracy forces • Advocacy for supportive legal and policy frameworks, (ensuring that there is a national, regional and continental node) including litigation • Use of regional and continental instruments to defend civil society space • Promotion of human rights and challenging marginalization of minority groups. • Strategic and sustained use of the media
5. **Promoting civil society self-regulation mechanisms and**	• Self-introspection, re-envisioning and promotion of good corporate governance • Developing and popularising a continental code of ethics or minimum standards for civil society operations

enhancing accountability and effectiveness.	• Enhancing transparency and accountability to constituencies and target groups including ordinary citizens • Promoting succession planning within CSOs • Identifying and promoting good practices and model laws
6. *Strengthening and supporting coalition building and solidarity actions to defend, create and expand civil society space.*	• Deeper social mobilization and building of constituencies of support and connectedness with citizens • Developing alliances with political parties, faith sector, trade unions, ACHPR, PAP, e.t.c • Lesson learning from good practices and creation of new coalition building practices - considering key factors such as context, issue, actors, leadership, timing, research and strategies
7. *Development of sustainable mechanisms of financing civil society activities whilst strengthening relations between civil society and donors*	• Engaging donors to help them understand contexts and how to approach development challenges in Africa • Promoting African and indigenous philanthropy • Enhancing civil society understanding of the typology, interests, approaches and strategies of the various types of donors (INGOs, Bi-Lateral, Multi-lateral, Foundations, Trusts e.t.c) • Developing clear terms of engagement between civil society and donors, with the latter organizing itself for coordinated and transformational engagement. • Exploring domestic resource mobilization opportunities

8. *Enhancing strategies of ensuring effective engagement between civil society and governments*	• Periodic roundtable discussions between CCP-AU and African Union Officials and also between civil society and relevant government departments at Member State level • Image building activities by civil society • Civil society capacity building on how to engage with governments and inter-governmental bodies • Lobbying and advocacy for the development of supportive NGO Policies • Advocacy for the institutionalization of civil society participation in policy processes.

Conclusion

The clampdown on civil society is real. It is therefore imperative that civil society on the African continent work together in reclaiming and expanding space for its operations. The CCP-AU, working with the sub-regional and national organizations is better placed to champion the fight against shrinking space for civil society.

On their part, CSOs particularly those working in the area of human rights, democracy and governance must devise organizational, national and continental strategies of reducing their vulnerability and responding to the sustained onslaught by governments.

The path ahead will require more than business as usual. Creative thinking, effective coalition building, continent wide solidarity and mass mobilization will be demanded of civil society more than ever before. To walk this road and make a difference, some capacity strengthening, of civil society itself, may be required.

**********************************End**************************************

Appendix 1: List of Participants

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