

RESILIENCE AND RESISTANCE: THE DETERMINATION AND PROGRESS OF CIVIL SOCIETY FOR AND BY SEX WORKERS AND SEXUAL AND GENDER MINORITIES IN EAST AFRICA

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THE PRECARIOUS POSITION OF CIVIL SOCIETY

East Africa is home to a mature and progressive civil society movement. Over the years, East Africa's civil society has played a critical role in the evolution and development of political movements that have built citizen consciousness and citizen participation, particularly around controversial issues of accountability, where impunity previously went unquestioned.

Civil society has undertaken civic education on present and proposed laws, voter literacy, litigation and advocacy for accountability. Although impunity and corruption remain as the most critical political challenges in East Africa today, public consciousness and criticism have grown, are active and are increasingly protected. Unsurprisingly, East Africa's governments do not appreciate the increasing pressures for accountability emerging from civil society.

In the last year we have seen Burundi's government use violence, murder and bank account freezes to immobilise civil society and dissenting voices. We have also seen a growing number of laws being proposed and enacted in Uganda to constrain freedoms of association and expression. We have seen the governments of Kenya and Tanzania propose various laws and policies that challenge the constitution and registration of civil society organisations (CSOs) and then move spitefully to de-register CSOs. Ethiopia remains a haunting model of successful government intervention to control the agenda and financing of civil society.

Within East Africa's challenging civil society environment are growing, vocal and visible movements of sex workers and sexual and gender minorities. Though popular attitudes towards sex workers and sexual and gender minorities generally remain negative and hostile, movements continue to mobilise actively, educate publics and challenge exclusion.

Negative public opinions maintain stigma, discrimination and prejudicial treatment in accessing social, legal and health services, housing, education and employment. Too often prejudicial treatment that goes unchallenged goes on to validate targeted incitements to and threats and experiences of physical and sexual violence, and sometimes murder.

Most human rights violations go unreported because the survivors of abuse either see silence as a way to protect themselves from further embarrassment and pain, or they do not trust that legal systems as presently constituted would allow for justice and redress.

Religious, traditional and political leaders take advantage of negative public opinion to consolidate political support. Political leaders are actively using hate speech around diverse expressions of sexuality and gender as an issue to divide civil society, seeking to make an artificial divide between what they characterise as a ‘good domestic civil society’ that advances African independence, development and growth, and a ‘bad foreign civil society’ that challenges institutions of family and faith. As citizens find new ways to organise and challenge ignorance, governments are finding new ways to constrain space and voice by labelling anything they do not like as imported or foreign.

REGULATION AND REPRESSION

Increased discussions by governments in the region about the need to ‘regulate’ CSOs has the agenda of restricting the space for civil society organising, and the freedoms of assembly, association and expression.

The case for regulation is carefully crafted by governments to appear as a well-intentioned effort to promote and protect values of accountability and transparency across government and non-government actors, but in fact, the effort veils specific and targeted efforts at legislating for surveillance to single out and immobilise agencies undertaking work labelled as foreign or morally objectionable.

There is a growing political trend of strengthening laws that criminalise same-sex sexual relations and sex work, and community organising that promotes the dignity of sex work and diverse expressions of sexuality and gender. This political tide is increasingly and specifically seeking to block and even criminalise advocacy for the human rights, health and dignity of sex workers and sexual and gender minorities. It is singling these communities out as threats to the notion of the ‘natural order’, an obtuse notion that gets substantial traction from its religious heritage.

It is clear to some that the tendency of East African governments to restrict civil society increasingly is a symptom of deep governance challenges, and hence an effort to divert attention from poor governance and accountability. It is, however, not clear to most of the general population. Civil society aggressively continues to advocate for rights, democracy and good governance, and to distinguish its intentions from the attacks made on them by governments.

In particular, civil society, organising in our movements, is increasingly utilising legal systems and courts as an avenue for promoting and protecting freedoms and rights. Sex workers in Kenya, Tanzania and Uganda continue to partner with law enforcement officers in providing rights-based education to address regular experiences of arbitrary arrest, excessive harassment and detention, and cruel, degrading and dehumanising treatment while in police custody.

Further, sex worker activists in Kenya are actively undertaking the legal prosecution of perpetrators of violence and murder, whether they be state or non-state actors. This work builds upon a greater agenda by the sex worker movement to move towards advocacy for the full recognition of sex work as work, and the decriminalisation of sex work.

Similarly, sexual and gender minorities have actively utilised legal systems and courts as an avenue for promoting and protecting freedoms and human rights. Their efforts confirm the crucial role courts can play in the struggle to win equality, dignity and justice. Uganda's Civil Society Coalition on Human Rights and Constitutional Law took the government to the Supreme Court to challenge and successfully nullify the infamous Anti-Homosexuality Act of 2014.

Kenya's High Court, in three separate landmark cases, granted orders for the registration of Transgender Education and Advocacy and the National Gay and Lesbian Human Rights Commission, and ruled that the Kenya National Examinations Council revise a transgender woman's high school examination certificate to reflect her preferred name. There is also an ongoing High Court petition on the constitutionality of forced physical and medical examinations as a basis for criminal proceedings on homosexual sexual conduct. This case, and previous litigation efforts to challenge targeted human rights violations and violence, build upon an effort that seeks eventually to challenge the criminalisation of same-sex sexual relations.

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UHAI'S CONTRIBUTION

In recent years, there has been increased funding to activist organising for and by sex workers and sexual and gender minorities through [UHAI EASHRI](#) and other funding agencies. Support from UHAI in particular has provided a critical lifeline to organisations that would otherwise not have been able to access support because of their geographical marginalisation, weak institutional capacity, lack of registration, or, in some cases, the sheer cost of work that needs to be done, as in the case of UHAI's support of the constitutional challenge to the Anti-Homosexuality Act in Uganda.

UHAI is the largest funder of East Africa's civil society for sex workers and sexual and gender minorities. In the seven years since our founding, we have awarded around 400 grants amounting to about US\$5 million.

The majority of our grants are peer grants that are determined by local, peer activists within our movements. UHAI is keen to maintain that local movements self determine their own funding agendas and priorities. Because of this design - because the movements that request support themselves determine funding priorities - we make contributions to what our movements themselves deem the most timely, relevant and promising interventions.

UHAI is also the first source of financial support and most consistent funder for a majority of activist organising by sex workers and sexual and gender minorities in East Africa. We are committed to identifying and supporting young, nascent ideas, sustaining funding over the years to allow for institutional development, and accompanying our funding with tailored capacity support in order to grow activist organisations until they reach the kind of structural and institutional integrity that attracts further, continuous funding. We have identified, supported and nurtured the capacity of emerging groups to become powerful organisations.

UHA's capacity support programme continues to focus on enhancing institutional and leadership capacity in our movements. As a result, the dynamics in our movements have shifted, with an increased number of organisations having strong institutional frameworks, new and emerging leadership, and increased engagement in local, national, regional, continental and international advocacy platforms.

ULTIMATELY, WHAT OUR MOVEMENTS NEED

In order to respond effectively to current challenges and opportunities in the region, our movements need sufficient, consistent funding to scale up their organising, advocacy and litigation efforts in a structured and effective way. They have proven to be knowledgeable, resilient, brave and efficient, but still with limited access to funding.

The work ahead is tougher, because East Africa's governments are more repressive today than they have ever been, and increasingly focused on targeting to shut down our movements. Our governments are far better financed and their political structures are more sophisticated and far reaching. They also have the favour of public opinion when it comes to sex workers and sexual and gender minorities. While UHA has been able to expand and diversify its funding base over the years, it is increasingly important that much larger, and bolder, investments are made in East Africa to enable sex workers and sexual and gender minorities to access sustainable flows of funding, at greater scale, in order to maintain their resistance.