

Lawyering for Change 2022 Conference

SUMMARY

Access to justice in contexts of shrinking civic space

Workshop session - Thursday October 13th 2 PM - 3.20PM

Speakers:

- **Lamine Benghazi** – Programme coordinator, Avocats Sans Frontières (Tunisia)
- **Tristan Wibault** – Lawyer at the Brussels bar (Belgium)
- **Nicole Kaneza** – Strategic litigation officer, Avocats Sans Frontières (Uganda)
- **Ali Idrissa** – Human Rights defender and national coordinator at Network of organisations for transparency and budget analysis (Niger)

Moderation by **Longin Baranyizigiye** – Programme coordinator in Eastern Africa, Avocats Sans Frontières (Uganda).

We can observe, throughout the world, a tendency towards authoritarianism of States resulting in a shrinking civic space. Among the most affected rights, there are the right of association, the right of expression and the right to participate in public affairs. Although there are significant political, institutional and socio-economical differences between countries facing this authoritarian trend, they follow relatively similar paths. They are often characterized by harassments, arrests or attacks against civil society representatives, human rights defenders and medias expressing opinions that differ from the regime. Those are often described as enemies of the nation.

Often, those in power forbid manifestations for security reasons and do not hesitate to use force against opponents and those who are critical towards the regime. They subjugate the parliament, enact liberticidal laws and develop practices that are not based on the law. In these cases, the executive takes precedence over the judiciary reducing greatly the access to fair, independent and impartial justice.

The global COVID-19 pandemic has also led to a tightening of restrictions on civil liberties and spaces in many countries and regions. Measures such as confinement, curfew and state of emergency have greatly affected civic space, rights and liberties. In these contexts, the right of individuals or civil society organizations to seek and obtain a judicial or extra-judicial response before formal and informal justice system was limited.

In its various attributes (normative legal protection, access to legal information and to the law, etc.), access to justice is being challenged. However, within these contexts, national CSOs and international organizations have continued to mobilize and use their resources to facilitate access to justice for populations and to defend human rights against these growing threats.

1. How does shrinking civic space appear in different contexts?

Through this workshop, several cases of shrinking civic space were mobilized: Niger, East Africa, Tunisia and Europe.

In **Niger**, we can observe numerous limitations: the banning of civil society demonstrations for security or health reasons while political demonstrations remain authorized, the withdrawal and

enactment of laws limiting civil society activities and demonstrations, and, telephone surveillance.

In **East Africa**, even though countries have different contexts, they have in common the fact that they are headed by a former military officer and their governance is in the hands of a single political party. In some eastern African countries such as Tanzania and Uganda, the executive power has a broad power and the activities of civil society organizations are limited.

In **Tunisia**, the context is characterized by: a regime of exception imposed by the President to dismantle the rule of law, a reform of the 2006 decree in order to forbid external funding for associations, demonstrations controlled by the police with sometimes the use of force, the excuse of COVID-19 to ban demonstrations, and, campaigns of defamation and lynching of bloggers.

On the **European side**, the institutional space remains strong. Nevertheless, there are some countries such as Poland and Hungary which are characterized by authoritarian drifts with a resumption of rights and liberties that seemed to be acquired, the control and limitation of NGOs activities. Political sanctions against these abuses seem to be difficult to be applied.

2. The consequences on access to justice and defense of Human Rights

In **Niger**, the consequences of shrinking civic space identified are: lack of access to justice, the imprisonment of human rights defenders and denial of justice.

In the **Eastern African region**, there are administrative decisions and legal measures to limit and suspend the activities of associations, to delay appeals of Court's decisions, and, a difficult access to local and national justice.

In **Tunisia**, we can observe: charges and prosecutions against activists and opponents of the regime, abuses during arrests in order to intimidate activists and opponents, regimes of exception, enactment of a decree giving the power to dissolve associations and measures challenging the rule of law.

As for **Europe**, there are: violations of migrants' rights, violations of human rights defenders' rights in European countries with an authoritarian regime (including Poland) and restrictive measures against migrants by their countries of origin such as bank bans.

2. Lessons learned

The speakers have identified several lessons learned from actions led in their context. The first one is the social mobilisation which means being implemented and developing an active citizenship. We can also cite the need of engaged lawyers, to conduct extra-judicial and supranational actions, and to develop legal aid mechanisms to protect activists. Then, working in coalition, mobilizing opinion leaders and mainstream medias are other tools to be mobilized.

3. Recommendations

At the end of the workshop session, two recommendations were made: networking and the mobilization of regional and international bodies.

Indeed, networking was repeatedly identified as a key element. It is about organizing coalitions and working at the local, national and international level.

Also, mobilization of regional and international judicial bodies can enable individuals who do not have access to justice at the national level to access to it at the regional or international level.