



PROGRESS REPORT ON THE RIGHT TO ACCESS RESOURCES INITIATIVE IN ANGLOPHONE AFRICA

Background

The World Movement for Democracy held two online engagements with civil society organizations (CSOs) in Anglophone Africa to explore the obstacles they face regarding the right to access resources. This discussion brought together participants from Rwanda, Kenya, Ethiopia, Uganda, Zimbabwe, and South Africa.

Many CSOs depend on foreign funding in order to effectively pursue their missions. However, accessing foreign funding can be fraught with challenges. Restrictions may include outright prohibitions to access funding, requiring CSOs to obtain government approvals prior to receiving funding, and requiring the transfer of funds to a centralized government fund. These barriers limit CSOs' ability to fund projects, and affect the impact and sustainability of their work.

CSOs look to both national and international benefactors for resources. These resources include but are not limited to financing, capacity building, and human capital. Such resources have become the foundation of the right of association as drafted in the 1948 United Nations Declaration on Human Rights. Article 13 of the Declaration on Human Rights Defenders stipulates, "everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means." International laws do not distinguish between funding from domestic or foreign sources. Many national level policies also recognize the importance of accessing resources and some governments have included clauses in their constitutions to ensure a conducive environment for CSOs.

This discussion paper seeks to build a shared understanding among civil society groups and governments of the right to receive donor assistance and to develop a common language that can be used to improve advocacy efforts to protect the right to access resources.

Ten individuals from Rwanda, Kenya, South Africa, Ethiopia, and Uganda participated in the discussion and 17 others observed the discussion via a Live YouTube Channel.

The discussion was designed to achieve the following outcomes:

1. To establish what CSOs understand about the right to access resources.
2. To highlight some of the policies and laws on the right to access resources in Anglophone Africa.
3. To understand if there are some restrictions by governments on accessing funds from foreign donors.
4. To share best advocacy strategies and practices.

What CSOs understand about the Right to Access Resources

Throughout the engagement, participants agreed that CSOs have the right to seek and secure funding from legal sources including businesses, civil society, international organizations, and inter-governmental organizations as well as local, national, and foreign governments.



A participant from Rwanda stated that “we have to call it a right because it is enjoyed by the people, and every person has the right to access resources.” She explained that although the right to access resources is often referred to as an individual right, groups also have a right to access resources collectively. For CSOs, the right to access resources is a collective right. Another participant from South Africa remarked that although his background is in law, his understanding of the right to access resources goes beyond the legal perspective. He emphasized the need for CSOs to receive foreign funding which allows CSOs to positively affect citizens and their communities and complement the efforts of government and national development more broadly.

One of the attendees from Zimbabwe said, “defining the right to access resources is not simple in many of our countries.” She said that in Zimbabwe, this right is not protected for some organizations. A few organizations that don’t pose a threat to the government are privileged and are even given access to information, but others that speak out against the government don’t have their right to seek and utilize funds from outside Zimbabwe protected. She continued, “I think that the right to access resources is all about allowing civil society access to information on where funds are, allowing them to compete for the funds, and developing reasonable policies for them to receive the abovementioned funds and utilize them.” Concluding she said, “[CSOs] are ready to report to the government on every single detail on how those funds were utilized, but some organization are not allowed to even get [funding].”

The discussion then focused on whether accessing resources is an absolute or qualified right. A participant from Uganda said that accessing resources should not infringe on other rights, therefore it should not be perceived as an absolute right. Similarly, one of the attendees from Kenya said that the right to access resources is not an absolute right but a conditional [or qualified] right. “In Kenya, some organizations have allegedly accessed funds to be used in terrorist activities. In this case, I don’t think the restrictions on receiving such funds would be called a violation of rights.”

Policies and Laws on the Right to Access Resources in Anglophone Africa

In every country, there are laws and policies ensuring or restricting the right to access resources. Participants shared examples of laws from their countries that address the issue of accessing foreign funding.

“In our country, NGOs and other nonprofit organizations are registered and monitored by the government, who also provides CSOs with capacity building and advice on legal support,” said a participant from Ethiopia. According to an ¹ICNL report, *Closing the Door on Aid*, “the Ethiopian government recently passed a law that would prevent charities receiving more than 10% of their funding from foreign sources from engaging in certain activities. The prohibited activities include “the advancement of human and democratic rights.” By closely monitoring CSO’s activities and restricting their ability to carry out democracy promotion work, the government makes it clear that they perceive CSOs as a threat to their power. The ICNL report observes that those who are caught carrying out human rights work can be subject to “human rights abuse which includes, politically-motivated killings, torture, arbitrary arrest, and detention.”

When asked about the report, the same participant responded, “Yes, there has always been attacks on the CSOs in Ethiopia. The Charities and Societies Agency has shut down more than 200 NGOs for noncompliance with the Charity and Societies Proclamation and for lack of funds. Many of the NGOs

¹ Rebecca B. Vernon, “Closing the Door on Aid”, *International Journal for Not-for-Profit Law*, August 2009



were shut down because of lack of funds which was largely due to the restrictions on accessing funds from foreign benefactors. I used to work for an organization that received foreign funds but that couldn't withdraw money for activities. They were told that there was an investigation on that money. That lasted 4 years."²

The situation differs in Kenya. One of the participants from Kenya claimed that "In normal circumstances, our government does not impose any restrictions on the right to access resources; they can only do so in order to preserve national security." Many argue that the government uses "national security" as justification for repressing civil society and that civil society in Kenya is under more aggressive attack than at any time in recent memory. She noted that governments attempt to silence independent civic groups that have broad reach by depriving them of their right to seek funding abroad, even when domestic funds are unavailable.

In Kenya, civil society organizations that receive funding from foreign sources are sometimes accused of promoting foreign agendas. In 2013, the government of Kenya proposed an amendment to the Public Benefits Organisation Act (PBO) that would restrict the amount of foreign funding CSOs are allowed to accept to just 15% of their budget. The amendment was introduced by President Uhuru Kenyatta partially in response to civil society's support for International Criminal Court investigations regarding his role in human rights abuses in the country. In 2015, a task force was created to advocate for CSOs ability to access foreign funding. The task force seeks to operationalize the PBO without the amendment restricting foreign funding. However, as of November 2016, the amendment was still under consideration by the government. NGOs have also denounced a proposal to funnel all foreign funding through a centralize government agency.

A participant from Zimbabwe said, "Restrictions are there. Some organizations in my country were shutdown on the pretext that they should be political parties not NGOs and others were forced to close because they did not have a clear way to access financial resources to implement their activities. In Zimbabwe, when your organization is not involved in any political act or advocacy, you are free to operate."

Lastly, one of the participants from Rwanda remarked, "In my country, I haven't heard of any cases of the government restricting CSOs from accessing foreign funding, as long as your organization is registered, which is the hard part because the process is long and arduous." However, he stated that "in Rwanda, the government took a step forward by creating the Joint Action Development Forum which brings together CSOs, government institutions, and agencies through a localized entity (district level) to work together, to share best practices and experiences, but most of all to find solutions to the existing problems, including accessing funding."

Advocacy Strategies and Practices

Several times during the discussion participants indicated that the most important thing they needed to advocate for their right to access resources was education and capacity building. One of the participants from South Africa summarized her experience on this issue, stating "CSOs need to know their rights, and governments their obligations towards CSOs. For this to be possible, all parties have to be educated on

² The 2008 Charities and societies proclamation is a law that places extensive restrictions on the activities of human rights organizations.



the same level about the right to access resources. I haven't had any opportunity to discuss these issues in all of the 10 years that I have been in CSOs in Africa and I never realized it was such a problem across the continent." Advocacy against shrinking civic space is most successful when it has a broad base of support, representing a diversity of CSOs and perspectives. National, regional, and sub-regional groupings have been formed across Africa to reinforce civil society advocacy efforts. These African groups have further collaborated with global partners to obtain funds, skills, and information not readily available in the local contexts. However, we need to see more exchanges on this issue happening to ensure that activists are equipped with the right tools to stand up to repressive governments that continuously limit access to foreign funding.

Concluding Segment

The right to access resources is a concept that requires further evaluation and more in-depth discussions to determine its parameters and identify strategies to counter existing restrictive laws that prevent civic spaces from thriving.