COVID-19 & CLOSING CIVIC SPACE IN WEST AFRICA:

a threat to health, rights, or space?
The new Corona Virus (Covid-19) is exacting a terrible toll on every society. It is disrupting the public health of countries, economies, social networks and livelihoods, and many other aspects of society. Since the outbreak of the pandemic in Wuhan in the Hubei province of China in November 2019, it has raged rapidly across the world with now over 10 million confirmed cases and a staggering number of deaths. In West Africa, the pandemic started slowly with the first case reported in Nigeria on 28 February and eventually spread to all ECOWAS Member States. As of 1 July, the West Africa Health Organisation reported a total of 76,357 confirmed Covid-19 cases, 1,327 deaths, and 42,313 recoveries across the region, with the hardest hit been Nigeria (25,694 confirmed cases) and Ghana (17,741 confirmed cases). Compared to other parts of the world, mainly Europe and North America, however, the numbers in West Africa are still low. Nonetheless, as the number of confirmed cases shows no signs of abating, coupled with the historically poor health systems in the region, it rarely goes without mention that Covid-19 could have a devastating toll on the region if robust mechanisms are not put in place to mitigate the virus and its associated impacts on society.

Acting on the recommendations of the World Health Organisation (WHO) and its warning that “Africa must prepare for the worst”, governments announced inter alia COVID-19 preventative measures including restricted movement in major cities, border closures (land, air and sea), dawn to dusk curfews, closure of churches and mosques, enhanced health protocols, and social distancing. Most governments backed these measures with new legislations or through executive orders. A report from International Center for Not-for-Profit Law, showcases over 100 laws and regulations, orders/decrees, executive orders/decrees by African government in less than 90 days after the first case was recorded.

While it is argued that the preventive measures taken by governments in the wake of the pandemic may be necessary to protect the weak public health system from abrupt collapse, save the economy, and uphold livelihoods, a dangerous pattern seems to be emerging: as the measures and implementation have been consistently criticised for being draconian, selective, and impinge on fundamental human rights, freedoms, and civic space. Reports show that some governments are increasingly taking advantage of the pandemic to implement measures that, if unchecked, could significantly weaken human rights and democracy systems, and further shrink civic space. Thus, civic society actors fear that if these new trends fester, it would not only reverse the gains made over the years in the protection of civic and human rights but further deteriorate civic space and freedoms across the region. Citizens, civil society, and key stakeholders such as Economic Community of West African States (ECOWAS) therefore have a responsibility to assess the implications of COVID-19 inspired legislations and enforcements on fundamental human rights, freedoms, and civic operations, and propose remedial actions.

It is against this backdrop that the West Africa Civil Society Institute (WACSI) under the auspices of its regional dialogue series platform, West Africa Policy Dialogue Series (WAC-PODIS), held a second webinar under its special Covid-19 series on 17 June 2020, themed: COVID-19 and Closing Civic Space in West Africa: a threat to health, rights, or space? Moderated by Ms. Victoria Ibezim-Ohaeri, Executive Director, Spaces for Change Nigeria, the webinar featured distinguished civil society leaders as panelists, including: Mr. Madi Jorbateh, The Gambia Country Representative, Westminster Foundation for Democracy (WFD); Ms. Doumbia Mama Koite, President, Mali Women Leaders Platform; Dr. Benjamin Olagboye, Senior Democratic Governance Advisor and International Consultant; and Mr. Sidikou Moussa, President, Coalition of Nigerian Children’s Rights Organisations (CONIDE) representing and sharing local and regional perspectives from the Gambia, Mali, Cote d’Ivoire, and Niger respectively. The webinar also saw participation of representatives from the ECOWAS Human Security and Civil Society Directorate of Humanitarian and Social Affairs and over 70 key civil society leaders and actors from across West Africa and beyond.

The panelists discussed the impact of COVID-19 from country to regional levels, highlighting the extent to which COVID-19 enthused restrictive measures and legislations have impacted civic operations, citizens’ freedom and fundamental human rights, as well as proposed remedial actions to reclaim and protect civic space and operations. The webinar also created the platform for civil society actors to share, learn, foster solidarity and collectively discuss means to address cross-boundary challenges to civic space, rights and freedoms, while calling on ECOWAS Commission to invest in the protection of community citizens in a safe, secured, and progressive environment.

This brief articulates specific impacts of COVID-19 on shrinking civic space, human rights and freedoms and offers policy recommendations to key stakeholders including civil society, government and ECOWAS.

STATE OF CIVIC SPACE AND RIGHTS BEFORE THE PANDEMIC

Civic space has been shrinking way before the outbreak of COVID-19. From the mid-2000s, there has been a disturbing trend in the shrinking of the space that was previously available for civic organising and operations. Across the globe, a growing number of governments deployed both formal and regulatory measures to restrict civic voices,
operations, and space. In West Africa, with the exception of Cape Verde, these restrictions have come in the form of increasing attacks and the clamping down on activists, human rights defenders, the activities of civil society and the deliberate attempts to delegitimize their activities, and often under the guise of anti-money laundering measures, restrict international aid support for civic groups or denounce such support as political meddling1.

The internet has also become new frontiers for restrictions on freedom of expression by governments around the world. The news is also replete with African governments who have increasingly unleashed attacks on civic space beyond physical clamp downs to online platforms, notably the complete shutting down of the internet to prevent citizens from mobilising and sharing information. In August 2017, for instance, the Togolese government shut down the internet as a means for social control and censorship when civil society and political opposition parties mounted a spirited demonstration for constitutional reforms and the resignation of President Faure Gnassingbé2.

While the ECOWAS Court in its recent ruling held the Togolese government liable for the violation of the citizens’ freedom of expression when it shut down the internet in 2017—indicative of justice to citizens and civil society, it is important to underscore that West African governments may assume far-reaching powers which may elicit more social resistance from citizens and unrests, in the wake of the pandemic.

While CSOs and movements have also risen to counter such undemocratic and restrictive forces, the wider trend of shrinking civic space continues unabated. The outbreak of Covid-19 only further presents a range of new challenges to human rights and civic freedom–repressive regimes are responding to the pandemic in ways that upends the basic rights and freedoms of citizens. Further, governments have adopted complex emergencies to curtail citizens’ freedoms, and with a disturbing knack of keeping restrictive policies beyond emergency periods. For a region with history of civil wars such as Liberia and Sierra Leone3; political crises as witnessed in the last decade in Guinea Bissau, Ivory Coast, Guinea and recently Mali; increased terrorist activities as evident across the Sahelian countries including northern Nigeria, Mali, Niger, Chad and Burkina Faso4; and excesses of state machinery, the raft of restrictive measures poses a potential risk to civic space, and increases the chance for illiberal governments to impede on democratic values.

## Catalogue of civil space index for West African countries in 2018, 2019 and 2020

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<thead>
<tr>
<th>Country</th>
<th>2018</th>
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<td>Open</td>
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</tr>
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<td>Sierra Leone</td>
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<tr>
<td>Togo</td>
<td>Obstructed</td>
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## STATE OF CIVIC SPACE AND RIGHTS ACROSS WEST AFRICA AMID THE PANDEMIC

State responses to COVID-19 are, in many cases, redefining freedoms–civil space, citizens’ rights to freedom of association and expression. As observed across different jurisdictions globally (including West Africa), the implementation of measures to curtail the spread of the pandemic, often under the guise of public health and security, appears to be worsening the already shrinking civic space. Many states through their COVID-19 inspired laws and other directives are exploiting the pandemic to further stifle dissent, clamp down on basic freedoms and activities of citizens, as well as push through agendas beyond objectives related to disease control. This is an affront to the spirit of the many international and human rights instruments such as the International Covenant on Civil and Political Rights (ICCPR)5 and the African Charter on Human and Peoples Rights (ACHPR)6 that

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1. https://charityandsecurity.org/analysis/restrictive_laws_how_fatf_used_to_justify_laws_that_harm_civil_society/
West African governments are signatories to, as well as to their respective constitutions, many of which guarantee fundamental rights including freedom of association, assembly and expression.

- **Increased COVID-19 Inspired legislations:** Across West Africa, enforcing Covid-19 inspired legislations has not only exacerbated shrinking civic space, it has specifically increased infringement of citizen’s right to associate, mobilise, and speak in selected cases. The region has recorded varying degrees of police brutality and harassment of citizens as witnessed in Burkina Faso, Ghana, Guinea, Togo, Benin and Nigeria—the latter recorded some deaths in the process. Likewise in Liberia, a journalist was attacked by government security forces for reporting on COVID-19, in Ghana a clash with the military during lockdown led to the death of a civilian, while in Cote d’Ivoire citizens clashed with police over misunderstanding around the siting of a coronavirus testing centre. Meanwhile, the Gambian Police Force admitted to torturing a 20 year old and brutalising others during enforcement of Covid-19 measures, just to mention a few.

- **Excessive use of force and brutalities:** Across the region, there have been series of accusations levelled against law enforcement authorities of the increase in selective and excessive use of force in enforcing new legislations. In the Gambia, for example, there have been arbitrary arrests of some religious leaders for flouting lockdown and social distancing rules during prayer sessions, while others were overlooked for the same offence. In Ghana, the ruling government’s New Patriotic Party (NPP) in its parliamentary primaries completely ignored the government measures of mandatory wearing of masks and social distancing. Many accused the government of selective justice, especially when some citizens have been prosecuted and jailed for violating lockdown and social distancing measures. In Cote d’Ivoire, citizens have bemoaned the bias use of force by law enforcement officers to classes of citizens who committed similar offenses. In most cases, rather than dispersing any gatherings that congregate during the curfew hours, law enforcers have rather employed and unleased all forms of brutalities.

- **Threats to civic activities and sustainability:** Furthermore, the pandemic has had adverse effects on the health, resilience, and sustainability of civic activities. The sweeping government bans on large gatherings—in office settings or in public, lockdowns or the introduction of remote working policies—in the wake of the pandemic have had immediate impacts on civil society operations, including denying many the opportunity to meet physically, hold workshops and continue operations at various communities. Likewise, social distancing rules are upending face-to-face interactions, including civic organizing and advocacy. This has been particularly difficult for social justice organisations who primarily engage in grassroot organising or drive social movement agenda across national boundaries. It completely denies citizens the chance to make meaningful connections with policymakers, duty-bearers, communities, and public officials in bid to strengthen social contract and foster inclusive and participatory governance. As social distancing protocols and movement restrictions continue to disrupt the ability to physically engage, the need for civil society to find innovative ways to continue to meet, organize, advocate, and to engage government and public officials is at an all-time high, however, civil society’s capacity remains quite low.

- **Increased digital surveillance and violation of privacy:** The pandemic has also seen the rise and spread of digital surveillance on citizens enabled by artificial intelligence. While surveillance has always been a measure in monitoring public health crises, it is especially true in governments’ coronavirus responses. There is no evidence of West African governments deploying such technology yet (except those surveillance technology adopted for security reasons, i.e., terrorism and cyber-security, mainly), however, there are growing fears that new powers granted to governments under Covid-19 related laws may allow them to surveil citizens. A secret installation of a COVID-19 monitoring app on all mobile devices took place with the support of giant telecommunication companies, without prior conversation, justification, or announcement to citizens and customers alike. This was a clear violation of citizens’ privacy, and one which has the tendency for misused in the future.

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7 https://closingspaces.org/tag/covid-19/
12 https://foroyaa.net/policeman-admits-torture-apologises/
14 https://www.theguardian.com/attorney-general-sued-over-new-powers-for-president-on-coronavirus-fight/
15 https://www.technologyreview.com/2020/05/07/1000961/launching-mittr-covid-tracing-tracker/
Further, states are likely to use this technology beyond its intended purpose and clamp down on civil society. Privacy International reports, for example, that the law allowing the government in Niger to intercept communications of citizens for security reasons could lead to governments’ harassment and violation of citizens’ privacy, which could then constrain citizens for fear of reprisals. It is predictable that the spread of digital surveillance to other parts of the world would be a significant legacy of the pandemic, if not nipped in the bud. Not only is the potential for the wrong use of technology by governments high, but we are also witnessing a chorus of non-state actors, such as, internet hackers stepping up cyber-attacks amidst the pandemic to disrupt people’s privacy and organisations.

CIVIC SPACE AMID THE CONFLUENCE OF COVID-19 AND ELECTIONS

COVID-19 and government’s response mechanisms both have negative implications to the work of civic society in promoting inclusive participation in democratisation processes (specifically elections) and in strengthening democratic institutions. Generally, elections periods are sensitive and often marked by varying degrees of restrictions including possible monopolisation of states security apparatuses by incumbents to shutdown dissenting voices, oppress opposition parties, civil society groups and media, who covers electoral issues. As Ghana, Burkina Faso, Niger, Guinea, Cote D’Ivoire, and Mali prepare for general elections this year, there is higher potential to shrink civic space, aggravate human rights violations, and repress civic freedoms. COVID-19 restrictions are likely to escalate, with incumbents repurposing these emergency powers for all kinds of parochial agendas, including social and political control, prohibition of rallies, clamping down on opposition, or in the worst case scenario, an illiberal cancellation of elections without reference to law. Already, in Niger, all processes related to impending elections have been suspended, and depending on the COVID-19 situation, further measures to control political activity ahead of elections might be adopted by incumbents–unless checked now. There is also a growing suspicion that incumbents may use COVID-inspired legislations and other restrictive measures to control and direct electoral processes in their favour. The outcome of such elections is likely to lead to protracted political tensions and conflict amid a global health crisis.

ELECTIONS IN WEST AFRICA FOR THE YEAR 2020

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>ELECTION</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ghana</td>
<td>Presidential and National Assembly</td>
<td>December 7</td>
</tr>
<tr>
<td>Guinea</td>
<td>National Assembly</td>
<td>Due 16 Feb 2020; postponed from Jan/Feb 2019</td>
</tr>
<tr>
<td></td>
<td>President</td>
<td>2020</td>
</tr>
<tr>
<td>Ivory Coast</td>
<td>President</td>
<td>31 Oct 2020</td>
</tr>
<tr>
<td>Mali</td>
<td>National assembly</td>
<td>Due May 2020; postponed from 30 Jun 2019</td>
</tr>
<tr>
<td>Niger</td>
<td>Local</td>
<td>1 Nov 2020</td>
</tr>
<tr>
<td></td>
<td>President &amp; National Assembly</td>
<td>Due 27 Dec 2020 (run off 21 Feb 2021)</td>
</tr>
<tr>
<td>Senegal</td>
<td>Local</td>
<td>Due Late 2020 (from December 2019)</td>
</tr>
<tr>
<td>Togo</td>
<td>President</td>
<td>Due 22 Feb 2020</td>
</tr>
</tbody>
</table>

While a number of African countries including Guinea, Benin, and Mali have already held national assembly and sub-national level elections despite the health risks of the pandemic, voter turnouts suffered immensely and thus poses implications for the legitimacy of elected representatives. Further, social distancing protocols, curfews, and other restrictive movements have weakened opposition and minority parties from holding public gatherings, engage in political campaigns or dialogues—thereby making it harder to mobilise support; and denied civil society the ability to effectively carry out electoral oversight responsibilities, including monitoring, observation, unbiased reporting and citizens advocacy during elections.

Civic Space and ECOWAS?

In all these, ECOWAS has not engaged civil society enough, and is yet to offer a strategy on how to proceed with election observation in these extraordinary times under a pandemic without compromising the health, democracy and mandate of citizens. While there have been suggestions that countries holding elections could adopt special voting arrangements including postal and online voting to reduce the risk of spreading the virus, many doubt if the infrastructure in most countries would allow for such arrangements. In such a situation, having a unified regional strategy on how to proceed with elections and engage widely with civil society and other key stakeholder across the region is sure a necessity.

19 https://africanarguments.org/2020/05/20/how-africa-countries-dealing-elections-covid-19/
Implications of closing civic space

Civil society plays a crucial role in the development of every nation, and this has been widely affirmed by the international community and norms/frameworks, including the Paris Declaration on Aid Effectiveness, the Accra Agenda for Action,21 the Busan Partnership for Effective Development Co-operation,22 and the 2030 Agenda for Sustainable Development.23 The third sector in West Africa, like in other parts of the world, complements government efforts in providing essential social services, humanitarian relief, and capacity building. However, the shrinking civic space in the wake of the pandemic means that civil society’s ability to continue to provide for the critical needs of the most vulnerable is severely challenged.

The Sustainable Development Goals and its achievement also hinges on the democratic participation of all citizens, governments and development partners—of which civil society plays a key role facilitating. The activities of organisations working on poverty reduction, gender equality, education and health, sanitation, and those strengthening the accountability of the development process, contributing to better public services and laws, uprooting corruption or anti-corruption crusaders, among others make up the core of the SDGs. Therefore, a shrinking civic space have direct impact on the democratic and human rights-based systems critical for the achievement of the SDGs. Without a fully engaged civil society, countries are bound to fail in several of their targets under the SDGs.24

While COVID-19 represents a significant threat, it also presents opportunities to innovate, learn, and adapt. For civil society, success in continuing to execute mandate and contribute to civic freedoms and sustainable development largely will depend on how the sector faces this pandemic head-on, build solidarity with its constituents, rally society behind its effort, while working collaboratively with government and other stakeholders such as the ECOWAS Commission to protect civil liberties and protect civic space.

POLICY RECOMMENDATIONS

The following policy recommendations and call-to-action are targeted at civil society, government, and ECOWAS.

Civil society should:

• Build cross-border networks and alliances to share knowledge and resources, engage lawmakers, and work collaboratively towards good governance and accountability.
• Ensure that government policy or measures against the pandemic does not subvert the rights and freedoms of citizens, and promptly speak out whenever it does.
• Intensify its role as watchdogs on the implementation of the raft of emergency laws and the use of government resources or other financial resources allocated to fight Covid-19.
• Embrace technology to continue and sustain efforts during and post-pandemic, and must innovatively adopt digital tools and information technology for operational efficiency, social engagement and offering solutions.
• Resist to recoil under the weight of the pandemic but digitally engage governments to decry human rights violation, civic space restriction, citizens’ mobilisation and to promote inclusive and safe space for civic operations.
• Prepare for more post COVID-19 shift in issues including flexibility, redefinition and realignment of organisational missions to fit new actors, and specifically respond to emerging issues around shrinking civic space, civic operations, human rights and freedoms.

Governments should:

• Set positive precedents by ensuring that all COVID-19 inspired legislations have sunset clauses, and do not threaten civic space in anyway but rather promote freedoms of all citizens.
• Be deliberate about instituting systems, laws and processes that encourages inclusive, participatory

23 https://ec.europa.eu/environment/sustainable-development/SDGs/index_en.htm#:~:tex-t=The%20Agenda%20is%20a%20commitment,towards%20sustainable%20development%20for%20all.
and open government that leaves no one behind in its responses and post-pandemic recovery plan.

- Build the capacity of police and other law enforcement authorities to respect and protect human rights in the cause of discharging their duties and those found culpable should face the full wrath of the law.
- Follow good practices such as transparency, commitment to free and fair elections, and by supporting civic education necessary for a healthy democracy.

**ECOWAS should:**

- Take leadership and respond to the various threat to civic space, fundamental human rights and freedoms, by working collaboratively with civil society representatives across the region.
- Facilitate information sharing sessions between its specialised agencies such as WAHO and civil society on one hand; and on existing protocols, norms and framework across thematic areas to bridge prevailing knowledge gap within civil society sector, on the other.
- Proactively engage regional CSOs, networks and other stakeholders to study the feasibility of—and adopt—innovative means to promote peaceful, free, fair electoral participation and deployment of election observation mechanisms to all impending elections in the region;
- Encourage member state to consider alternative voting systems such as electronic voting and the digitalisation of electoral procedures, in order to observe highest preventive protocol against the pandemic, protect health and lives of citizen, eliminate political distrust and potential violence that undermine credibility of elections and confidence of citizens in electoral process.

**CONCLUSION**

In conclusion, the outbreak of the pandemic has indeed introduced new dynamics to threatening situations of shrinking civic space, human rights violations and freedom of association and expression. Besides Cape Verde whose civic space has remained open consistently for 3-years, and Ghana which has suffered a minor setback to the ‘narrowed’ status, others are staggering between ‘obstructed’ and ‘repressed’ status. Nigeria for example, has been repressed for 2-years, due to various attempts by government to clamped down the civil society sector through obnoxiously introduced but fiercely rejected legislations. Likewise, the decision to proceed with elections despite the gangrening pandemic has raised different concerns on governments’ preparedness, credibility of the process under COVID-19 restrictive measures, confidence on newly introduced systems, possible absence of international observers, protection and safety of electorates, among others. Certainly, the implications of COVID-19 pandemic on impending elections cannot be underrated, thus, it behoves on all stakeholders to act in the interest of upholding democratic principles, and make the citizens’ votes count.

**Contributors:**

*Omolara Balogun,*  
Head, Policy Influencing and Advocacy Unit, WACSI  
@omolarabalogun

*John Frinjuah,*  
Programme Officer, Policy Influencing and Advocacy Unit, WACSI  
@frinjuah

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**For more information on previous or subsequent webinars, please email us at pia@wacsi.org**

No. 9 Bamboo Street, East Legon, Accra  
P.O. Box AT 1956, Accra, Ghana.  
TEL: +233-303-937264/ (0) 302 550222  
Website: www.wacsi.org