

On “shrinking space”: a framing paper

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Across the world, in both democratic and non-democratic states, many activists and social justice organisations face an increasingly repressive and securitized environment and unprecedented attacks on their legitimacy. From the attempts to suppress *Black Lives Matter* to the assassination *Berta Cáceres*, the criminalization of the *Boycott, Divestment, Sanctions* movement to the micro-tyranny of Bangladesh’s new Voluntary Activities Regulation Act, individual and collective activism is facing a global pushback from states, corporations and the Far Right.

The current emergency has been a long time in the making. But only recently has it galvanized a concerted response by organized ‘civil society’, which is now mobilizing to understand and counter what is termed ‘shrinking space’, a metaphor that has been widely embraced as a way of describing a new generation of restrictions on political struggle. The concept of space itself having different definitions depending on who you talk to. Some see it as limited to space to influence policy (a seat at the table) while others mean political space to organize, to operate, to have a legitimate voice, to protest and to dissent. The former tends to depoliticize contestations while the latter is empowering them.

This paper attempts to deconstruct the ‘shrinking space’ narrative by explaining what it means and unpacking some of the problems inherent in the concept. It also considers who is most affected by ‘shrinking space’, and why; where the trend is headed; how it relates to the other dominant paradigms of the 21st century; and how progressive social movements should respond.

1. What is ‘shrinking space’?

Within the ‘shrinking space’ discourse are at least nine, often interrelated trends that are seen to constrain the political space in which civil society organisations (CSOs) operate:

- (i) ‘philanthropic protectionism’, which encompasses a raft of government-imposed constraints on the ability of domestic CSOs to receive international funding (as seen most prominently in states such as India, Russia and Ethiopia, but now found in dozens of national laws);
- (i) domestic laws regulating the activities of non-profits more broadly (for example by imposing onerous registration, licensing, reporting and accounting obligations on NGOs and allowing states limitless discretion in sanctioning organisations for ‘compliance’ failures);
- (i) policies and practices imposing restrictions on the rights to freedom of assembly and association

¹ A work-in-progress produced by the Transnational Institute following a workshop on shrinking space involving representatives of its partners, networks, and like minded organizations that took place in Berlin towards the end of 2016.

(for example by banning demonstrations outright, using national security laws to restrict mobilisation, cracking down on unions or militarizing police forces in the name of ‘public order’);

- (i) the criminalization, stigmatisation and de-legitimation of so-called ‘Human Rights Defenders’ (HRDs) (a term that encompasses all actors engaged in non-violent advocacy for human rights and social justice) as well as the criminalization of refugees' solidarity;
- (i) the restriction of freedom of expression in general as well as online, directly through censorship and intimidation, and indirectly through ‘mass surveillance’;
- (i) intimidation and violent attacks against civil society by religious conservatives, corporations, the Far Right or non-state actors;
- (i) risk aversion and securitization on the part of public and private civil society donors resulting in the limiting or withdrawal of funding available for both grassroots activism and marginalised causes (such as Palestinian self-determination and counter-terrorism and human rights) in favour of larger, less politicized organisations and ‘safer’, less ‘controversial’ issues;
- (i) the capture of spaces traditionally inhabited by CSOs by private interest groups, lobbyists, GONGOs (government-oriented NGOs) and corporate social responsibility initiatives as well as attempts to discredit CSOs;
- (i) the exclusion of civil society organisations from the banking system under the guise of counterterrorism measures, which is a relatively new but escalating phenomenon in the discourse on ‘shrinking space’.

2. Why can the concept be problematic?

In many respects, ‘shrinking space’ is simply a more nuanced and convenient way of talking about the problems of exclusion and repression that many social, political and civil rights movements have long faced. As a contemporary discourse it clearly responds to quite novel and often sophisticated political, legal and corporate methods of containing activists and campaigners.

But bringing these techniques under the twin rubrics of ‘shrinking space’ and ‘civil society’ also massively de-politicises what is actually political policing of the highest order, shifting the focus away from the tangible repression of one kind of politics in the service of another, to something more palatable and less discomfiting.

This, in turn, has enabled the shrinking space discourse to be integrated into dominant geopolitical narratives around development and philanthropy in problematic ways. Western governments, for example, have been able to profess support for ‘civic space’ and human rights defender initiatives in the Global South while adopting domestic policies that contribute to ‘shrinking space’, and wilfully ignoring the abuses meted out by their client states and multinational corporations.

Moreover, framing the repression and de-legitimation of certain quarters of civil society as some kind of

vice-like device that can easily be turned in one direction or the other, carries a significant risk of both oversimplifying the problem and misidentifying the potential solutions.

3. Space for whom?

Central to the ‘shrinking space’ discourse is how ‘civil society’ is defined in the first place. Governments and philanthro-capitalists tend to view civil society through the narrow lens of incorporated/registered non-profit organizations, think-tanks and ‘social entrepreneurs’ – to the exclusion of all others, such as social movements, informal collectives, grass-roots/community-based groups, practitioners of ‘direct action’ and indigenous peoples. A much wider array of activists, initiatives and organisations self-identify as ‘civil society’, either because they genuinely believe that they are part of a community of common interests and collective activity for social and political change, or to fit the definitions that policy-makers and funders have instituted.

Regardless of how civil society is defined, it is clear that not everyone’s space is shrinking in the same way. While those engaged in the kind of highly professionalized NGO activism that is entertained and supported by the Davos class may suffer the occasional crisis of relevance, legitimacy or funding, their space does not appear to be ‘shrinking’. Indeed many NGOs enjoy bigger platforms than ever as they increasingly become preferred partners for donors because they can swallow (due to their large size, heavy bureaucratic set-up and strong “branding”) all the requirements and still have strong negotiating power.

Meanwhile, it is grass-roots, community-based, and issue-based social, economic, political and environmental justice movements that appear to be bearing the brunt of the crackdowns by authoritarian governments, which now includes democratic governments who have long since dispensed with their commitment to universal human rights and aped the clampdowns of their repressive counterparts.

4. One door closes...

The ‘shrinking space’ dilemma is by its very nature characterized by groups which in practice face little more than ‘first world problems’ speaking on behalf of those activists who never had any space to begin with – groups whose very existence has always been premised on carving out that space in the face of tremendous adversity and repression.

This suggests that in talking about political spaces, we should at the very least begin by acknowledging that there is not and never has been one single space in which everyone participates on an equal footing. To suggest otherwise is liberal democratic fantasy that ignores the politics and institutional biases of the public and private arenas in which different actors jostle for space, and in which a diverse range of political spaces are constantly being closed down and opened-up.

There can be no better example of this than the burgeoning space that ‘shrinking space’ occupies today – as evidenced by the groundswell of initiatives, conferences and funding now dedicated to it. Perversely, these new political spaces, which primarily offer large and professional International NGOs the chance to mobilise and advocate, are predicated on the very closure of more-and-more political spaces on the ground.

This framing matters a great deal. If we are to understand, and more importantly, respond in a meaningful way to the multiple problems that ‘shrinking space’ engenders, the focus surely has to be on the spaces that are closing – so as to understand both why they are closing, and how to reopen them.

It also suggests that one-size-fits-all solutions, such as the new Civic Charter, may be symbolically important, but are unlikely to provide any relief to those organisations and movements who face systematic repression, exclusion or annihilation.

5. ‘Shrinking space’ as political managerialism

An alternative to the structural abstractionism that ‘shrinking space’ engenders is to view it as part of a wider struggle within contemporary neoliberalism to marketise the state, hollow-out democracy and reduce opposition by (re)defining the contours of legitimate, extra-parliamentary, political activity and redefine space for policy as multistakeholder spaces, where CSOs have to negotiate both with the state and corporations as the new mode of governance.

It has long been clear that the gatekeepers of mainstream political spaces have simultaneously co-opted and instrumentalized key civil society organisations while pushing more critical and radical civil society actors into a shadow realm where they face delegitimisation, persecution and excessive control – with the precise aim of countering their appeal. This is reflected daily in the exclusion of many political activists and social movements from contemporary conversations with or about ‘civil society’.

A broader process of de-legitimisation is a prerequisite for the techniques of repression described above. It allows ‘enlightened rulers’ to simultaneously claim to recognize the importance and uphold the freedom of a diverse civil society sector within their borders, while carefully managing and defining civil society from above. This is classic divide-and-rule and it pits different forms of civil society organizing against one another while seeking to break the bonds of solidarity which form the backbone of struggles for fundamental rights and social justice.

6. Degrees of separation

In terms of ‘shrinking space’, the contemporary difference between liberal democracies and authoritarian states is not one of unbridled freedom in the former and absolute restriction in the latter, but the extent to which the various constraints on civil society identified above are enforced, and against whom they are enforced. The crucial differences that do endure are found in the level of meaningful protection for groups and individuals from acts of state violence that the law provides, for example in respect to physical assault, extrajudicial killing and the torture of activists and defenders. But even here the lines are constantly blurred by the introduction of more subtle techniques of repression, such as the use of ‘less-lethal weapons’ and police tactics like ‘kettling’. 2

Even in countries where new, restrictive civil society laws have caused most concern – India and Israel, for example – it is not civil society writ large that is suffering, but CSOs with particular aims and objectives.

Only where civil society faces complete subjugation under the law, as is the direction of travel in the likes of Egypt and Russia, can we identify something approaching an apolitical form of ‘shrinking space’.

Elsewhere, and without exception, the means of ‘shrinking space’ in the government toolbox are applied selectively. Restrictions on foreign-funding, for example – which represent a genuine crisis of legitimacy for the funding of pro-democracy and rights-based organisations by western donors in many parts of the world – are being ruthlessly exploited by populist politicians who have taken the opportunity to bankrupt those CSOs they see as political opponents while maintaining foreign funding for uncontentious actors and programmes.

Consider also the plethora of domestic laws regulating the non-profit sector whose very *raison d’être* is to draw a line between *bona fide* and thus legitimate organizations on the one hand, and those whose activities may be called into question and thus restricted on the other. Attacks on freedom of expression and association operate in much the same way, and are invariably justified on the grounds that certain political activities may be legitimately curtailed by the state, whether under the banner of protecting the ‘public interest’, ‘social cohesion’, ‘national security’ or ‘counter-terrorism’.

Surveillance and censorship online is also predicated on the claim that those targeted have illegitimate or unlawful aims. Even the recent spate of CSO bank account closures and blocked financial transactions is predicated on legitimacy, with financial institutions claiming that the affected organisations are no longer within their ‘risk appetite’, while they continue to provide financial services to ‘legitimate’ actors. Ultimately, even conversations about ‘shrinking space’ boil down to whom and what is included – and thus legitimate – and whom and what is excluded.

7. Talking about a revolution

Marxist theories of the state hold that the repressive state apparatus and the ideological state apparatus work in tandem to suppress threats to the hegemonic order, first through benign forms of social repression involving the governance of individual and collective behaviour and norms, then through more violent interventions.

Yet, despite appearing more relevant than ever, notions of hegemony, repression and ideology are all but entirely absent from debates about ‘shrinking space’. In their place is a stated concern for ‘democratisation’ and ‘securitisation’. The former attempts to defend the legitimacy of civil society in the face of shrinking space, the latter attempts to critique the direction that state policy and practice has taken with reference to culture (i.e. a culture of security predicated on a politics of fear) rather than ideology (i.e. a belief in superiority and entitlement predicated on a politics of Othering).

However, it is only by linking these two concepts that we approach anything like a theory of ‘shrinking space’, with securitisation predicated on a ‘net-war’ approach that includes (or others) certain civil society groups in a continuum; encompassing social movements, political activists, resistance groups and terrorist organisations, and reaching the point that it threatens the development or practice of democracy.

But this is by no means a mainstream view of ‘shrinking space’; nor does it explain its uneven development and impact.

8. The business of civil society

To understand ‘shrinking space’ we should also consider trends within the ‘civil society’ sector. In 2003, the Heritage Foundation and others started writing about the ‘non-profit industrial complex’ and the ‘growing power of the unelected few’. It did so, of course, with the aim of delegitimising civil society in defence of the Bush administration, the free market and unfettered corporate profit.

This kind of grand narrative has an innate tendency to substitute coherent theory for what we might call ‘truthiness’. But as we’ve seen with Brexit and the US election, the values and beliefs that are currently propelling the Far Right to power may serve the interests of racist and even fascist demagogues, but the wider political narrative driving their electoral success has ‘elements of truth’ that resonate with many people, regardless of the incoherence of their platforms.

And so it is with the enduring critique of the ‘non-profit industrial complex’. The marketization of NGO activism; the apparently counter-productive business model, at times pushed upon the sector, which favours competition over cooperation and solidarity among civil society; the focus on the individual rather than the struggle (c.f. the ‘human rights defenders’ discourse; the idea of civil society champions; talking about ‘women and girls’ in place of women’s rights and gender equality, etc.); the transformation of peoples’ struggles into transaction-based funder-grantee relations; the corporate governance and securitization of many donors – all of this has divided civil society in ways that have expanded the space for some activities while radically restricting the space for others.

We should be mindful of whose interests we serve when we reflect on the shortcomings of civil society, but we should keep in mind the fact that all of the most fundamental social and political changes of the past 100 years, like mobilizing against exploitation, oppression and for an emancipatory vision, have come from not from development-oriented initiatives or top-down philanthropy but the grassroots; from people on the ground mobilizing their communities to assert or claim rights.

9. A crisis of solidarity

If attempts to define ‘civil society’ as legitimate, ‘professionalized’ organizations have always been accompanied by deliberate attempts to exclude certain voices and de-legitimise other forms of political activism, then the failure to refute these definitions and resist the cosy establishment relations created when big NGOs try to distinguish themselves from smaller activist groups should be seen as part of the problem. This is because the lack of solidarity with those individual activists and political campaigns that have been exposed to demonization and criminalisation, and a growing disconnect between the concerns of many mainstream NGOs and the victims of these tactics, appears to have contributed to shrinking space in a very real way.

Rather than simply looking up to the powerful to understand and counter ‘shrinking space’ then, we should be looking to the voices and experiences of those on the margins whose political space is being obviously and radically restricted.

We should look, for example, at what is happening to the *Boycott, Divestment, Sanctions* (BDS) movement,

launched in July 2005 by Palestinian civil society. Whatever you think about the merits or motivation of the campaign or its wider context, its legality and democratic legitimacy as a non-violent strategy to achieve change is beyond question. Yet across much of the democratic world we are witnessing flagrant and relentless attempts to delegitimise and criminalise BDS. Crucially, some of these attempts have failed due to the tenacity and creativity of the resistance to them. It follows that if we want to counter the criminalization of civil society in other arenas, we would do well to try to understand and build upon these successes.

In the same vein we should look to the hard state and Far Right responses to *Black Lives Matter*, an entirely legitimate movement against institutionally racist police forces that has been met by more securitisation, militarisation and de-legitimisation. We should look at what is happening under the ongoing 'state of emergency' to long-demonised Muslim communities in France post-Islamic State terrorism, and the treatment of those who speak out against the fascist turn of 'laïcité'. We should look at women's rights movements worldwide, which are increasingly squeezed between conservative and extremist forces on the one hand, and the paternalism of civil society regulations on the other. We should look at the criminalisation of environmental activists the world over who believe the Paris agreement is useless without radical action against extractivism, and the fate of indigenous and other marginalised communities who are forced to make way for 'development'. And we should look at the fate of our most celebrated whistle-blowers and the agents of 'radical transparency'.

All of this we should do by not just looking at how space is 'shrinking', but how that space is being defended, and by whom. It is only from these stories that we can weave together a coherent narrative about shrinking space and provide the tools of resistance to those who need them most.

10. Pacification, populism and beyond

Tragically, the failure to resist the criminalisation and demonisation of causes that address the very heart of established power, and many other forms of perfectly legitimate forms of political activism, has paved the way for a much wider attack on civil society, workers' unions, and movements by the populists and racist demagogues of the resurgent Far Right.

As a result, academics, mainstream NGOs, development organisations, independent expertise, 'political correctness', multiculturalism and even the 'liberal elite' are beginning to experience the kind of deligitimization that those at the margins and radical fringes have long been subject to, and who continue to bear the brunt of the new authoritarianism.

There is nothing to celebrate and no easy solution to the problem of 'shrinking space'. But if we are to tackle it, we need a better response: one that recognises that these problems cannot be solved by lip-service to human rights or some kind of 'enabling environment'.

We need to understand the distinct politics of the clampdown and its relationship to neoliberalism, authoritarianism, insecure bastions of power trying to regain control, and the global economic crisis (how does civil society relate to systems of power, or the 1%, or the 99%). We need to better define the problem in a way that speaks to the political, legal, physical and ideological battles at the heart of the 'shrinking space' dilemma.

We need to focus on the actors on the ground, who are genuinely challenging power and who face the most serious threat – and understand their ‘shrinking space’ with reference to those whose space is increasing. We also need to take seriously the proposition that ‘civil society’ may not be the appropriate lens to look at the wider repression of social movements, and that securitisation instrumentalizes CSOs to such an extent that it may one day permanently close the door on the spaces where real change is made.

We need to put the complicity of governments and corporations front-and-centre of the fight-back by not letting them claim that they support civil society and human rights defenders while they are flagrantly repressing them at home; or subcontracting them in an effort to look like they are engaged in legitimate civil society activism on the ground.

Most of all we need to rediscover genuine solidarity that resurrects the principle that injustice anywhere is a threat to justice everywhere, and give visibility to those whose struggles are being repressed to the ultimate detriment of us all.

ENDS