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UNDERSTANDING GENDER BACKLASH: SOUTHERN PERSPECTIVES

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Gender Equality vs 'Morality': The Erosion of Gender Agendas in Kenya*

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Abstract This article seeks to interpret the recent erosion of gender equality agendas in Kenya through a lens of anti-gender pushback, or patriarchal backlash. Since 2013, Kenyan governments have increasingly been appealing to citizens' emotions through apparently 'sound' discourse, citing simple de-contextualised narratives that resonate with many people, such as 'family values' and 'Kenyan moral codes'. Gender equality – and policies and praxis to advance this – is increasingly framed as 'non-African', with laws, policies, and practices focused upon gender justice depicted as destructive of the 'African family', underscored by a particular framing of religion and morality. By including a broader understanding of the diverse manifestations of backlash within the Kenyan context, this article focuses on how notions of morality are mobilised by a range of implicated actors – government, politicians, media, and repressive religious forces – to undermine policies, laws, and discourse that seek to further gender justice in Kenya.

Keywords gender equality, gender pushback, patriarchal backlash, Kenya, family, Africanism.

1 Introduction

Since 2013, following the first election held under the Constitution of Kenya promulgated in August 2010 (Government of Kenya 2010), Kenyan governments have been actively propagating forceful discourse to cite simple de-contextualised narratives that seem to resonate with much of the population, such as 'family values' and 'Kenyan moral codes'. The current government – elected on 9 August 2022 – has been a part of a broader renaissance of cultural and religious fundamentalism, through which efforts towards gender justice are portrayed as 'non-African', and as a system aimed at destroying the 'African family'. In establishing conformity to religious moral teachings, the government has been keen on reinforcing and supporting structures and actors promoting and defending what they perceive to be Kenyan moral

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codes. On 14 February 2023, during a prayer meeting held at the Nyayo National Stadium, President William Ruto told the Church that it would be at the centre of the nation's affairs. He said that he was happy that the Church had rediscovered its place in the governance of the country and expressed optimism that with God at the fore Kenya will prosper (*Nation* 2023).

Focusing on these dynamics through an analysis of an Advocates for Social Change Kenya (ADSOCK) study on Patriarchal Backlash Towards Gender Equality in Kenya (Otieno and Makabira, forthcoming), this article seeks to interpret the recent erosion of gender agendas in Kenya through a lens of anti-gender pushback, or patriarchal backlash. Including a broader understanding of the diverse manifestations of backlash within the Kenyan context, we focus on how notions of morality are mobilised by government actors, politicians, and repressive religious forces to undermine policies, laws, and discourse that seek to further gender justice. In section 2, we first lay out a way of conceptually framing patriarchal backlash. This is followed by a background section contextualising the recent pushback on gender justice in Kenya (section 3). Section 4 explores the increasing use of morality and supposed African family values in Kenya as our focused case in point. We then briefly reflect (section 5) and conclude (section 6) on the implications of our analysis for gender justice and for working more effectively with men to counter this trend.

2 Conceptual framing

Patriarchal backlash can be seen as an epicentre for open contestation about social norms in the present but also as initiating substantial structural change in societies for the future. Conceptualising backlash, Alter and Zürn (2020) highlight important elements such as (1) retrograde objectives, and (2) extraordinary goals and tactics that have reached the threshold of entering mainstream public discourse. Backlash movements are here conceived of as actors mobilised around achieving retrograde objectives promoted and pursued through emotional appeals, including nostalgia, and negative sentiments such as anger and resentment. The extraordinary nature of their goals often demands or inspires the breaking of taboos to underscore the claims. Reaching a threshold of entering mainstream public discourse often leads to the reshaping of institutions, both informally by repurposing and reinterpreting existing rules and processes, and formally through amending policies and processes to alter future trajectories of politics. As such, the dynamics of backlash are varied among different sectors, institutions, and milieus. Backlash can operate as a form of invisible power, as rhetoric and discourse instilling repressive normative frameworks and binaries, which in turn translate into concrete measures and initiatives, in some cases even as part of a wider policy and strategic approach.

Anti-gender campaigns have a longer history and started as soon as the term 'gender' was introduced in the UN in the 1990s (Corrêa 2017). Constellations of theocrats and other conservative actors organised around fighting 'gender ideology' which they alleged to be a tool of 'an ideological colonisation' that aimed at destroying the traditional family and family values, mobilised first in Europe and Latin America and then in Africa. Women's and human rights defenders – particularly those defending sexual and reproductive rights – were subjected to hostilities by these anti-gender movements which have also now become more evident in the Kenyan context.

We have recently seen new twists on the theme of gender justice in manifestations of – and tactics deployed in – Kenyan patriarchal backlash. This includes attempts to discredit arguments about gender equality or the gendered nature of violence, in ways which also support efforts to preserve existing gender norms and hierarchies in both private and public spaces. The Kenyan government has reneged on commitments to gender equality norms outlined in its manifesto, such as the establishment of a rule not allowing more than two-thirds of one gender in elective and appointive positions in the public sector, and appointing women to 50 per cent of its cabinet positions within 12 months of the election. Manifestations of backlash thus range from refusal by political elites and state institutions to comply with constitutional provisions and court orders, to verbal and physical violence witnessed in public spaces. Tactics have also included a muffling of the voices of certain civil society actors, through the government strategically employing people seen to be challenging the status quo and holding the government accountable; once in government, they can no longer question the same government in which they serve.

The apparent thinking underpinning these manifestations and tactics is also very binary and oppositional, specifically in terms of framing Kenya against the West and demanding a binary choice of position. For example, when the Supreme Court of Kenya (SCoK) upheld the right of the National Gay and Lesbian Human Rights Commission (NGLHRC) to register and associate, the anti-lesbian, gay, bisexual, transgender, queer/questioning, intersex+ (LGBTQI+) movement in Mombasa led protesters from the Makadara Grounds to the County Commissioner's Office to present a memorandum to protest the ruling. Clerics also asked President Ruto to 'unequivocally denounce LGBTQI+' like his Ugandan counterpart Yoweri Museveni (Bwana 2023). They alleged that Ruto 'appears to sit on the fence, fearing the wrath of the Western nations' (*ibid.*).

3 Background

Kenya has previously been seen as being relatively progressive on gender in socioeconomic development. The fact that pushback has now increased from more general inaction and resistance

to more active retrograde strategies is perhaps indicative of extraordinary tactics having reached the threshold of entering the mainstream. Backlash in Kenya has taken place in a context where state action or inaction with regard to promoting gender equality and women's rights features alongside persistent and fundamental problems such as negative social norms and shrinking civic space. An example of inaction is the two-thirds gender quota as stipulated in Article 81[b] of the Constitution of Kenya that states 'not more than two-thirds of the members of the elective public bodies shall be of the same gender' (Government of Kenya 2010). The realisation of this provision in the law has remained elusive since the promulgation of the constitution in August 2010. Non-implementation or poor resourcing can be a form of backlash: for instance, to date, the State Department for Gender Affairs (SDGA) and the National Gender and Equality Commission (NGEC) are not equipped with adequate specialisation, authority, and/or the requisite resources to enable them to effectively carry out their mandates. They have also faced restructuring and budget cuts in recent years. As a result, government commitments and policy statements on gender equality remain insubstantial.

Beyond formal policies and processes, discrediting arguments about gender equality and efforts to preserve gender hierarchies have gained traction over the last decade in Kenya. A few examples of how the co-optation and twisting/repurposing of language (Lewin 2021) has been happening within anti-gender and patriarchal backlash discourses include 'what-aboutism' (a shorthand for 'What about men and boys?'), particularly with regard to the boy child, and claims that men and boys are in crisis due to the feminisation of society. Political and religious leaders who are proponents of such narratives, posturing as a prosecuted minority, claim that men and boys are underprivileged in contemporary Kenyan society in the face of the over-empowerment of women and girls, which they claim is making men and boys lose their morally rightful place in society.

The boy child narrative has gained impetus since the initiative was taken over by the wife of the Deputy President, who is a pastor in one of the mainstream churches in Kenya. She has said time and again that once you mitigate the issues of a boy child, you mitigate the issues of a girl child:

Boychild is the carrier of the seed, he is the one that is carrying the seed for the future of this nation. And therefore if we are going to change this country, we must save our boy children. (Wanjala 2023)

The protagonists claim that the proverbial tables have slowly turned and that Kenya is staring at a cyclic gender evolution. ADSOCK's most recent study on Patriarchal Backlash Towards Gender Equality in Kenya shows the narrative of 'boys are under

siege' being expressed across its five study regions, with the vast majority of men who participated in the study saying that Kenyan men are in crisis because of what they consider to be the feminisation of society (Otieno and Makabira, forthcoming).

Patriarchal backlash in Kenya includes attempts to discredit arguments about gender equality or the gendered nature of violence and supports efforts to preserve existing gender norms and hierarchies in both private and public spaces. Relatedly, and crucially, as we argue in this article, religious and cultural essentialism play into efforts geared towards the preservation of what is considered 'Africanism' – at the expense of gender justice.

From a traditional African perspective, individuals are assigned the moral burden to bear children, putting an emphasis on heterosexual intercourse as a way through which this is to be achieved. A 'morally upright individual', according to this ideology, is one who values societal virtues and cherishes communal relationships. This school of thought promotes the ideology that procreation through heterosexual sex is the only proper way to ensure posterity in families and in the community. This notion is further buttressed by the Constitution of Kenya in Article 45[2], which states that 'every adult has the right to marry a person of the opposite sex, based on the free consent of the parties' (Government of Kenya 2010: 31).

This legal standpoint has been strengthened by the subsequent enactment of the Marriage Act 2014 (Kenya Law n.d.a.), which states that marriage is exclusively between individuals of the opposite sex. These stipulations have prompted the formulation of the current proposed Family Protection Bill of Kenya 2023 (Mokaya 2023), which seeks to sanction and criminalise same-sex relations and sexual conduct. Siring, raising children, and contributing offspring to one's lineage is thus considered a moral responsibility to one's family and to wider society.

This may well explain why there were celebrations in Kenya when President Yoweri Museveni of Uganda assented to the Anti-Homosexuality Act (Republic of Uganda 2023) on 29 May 2023. Despite the Ugandan Act being one of the strictest anti-LGBTQI+ laws in the world, many leaders (political, religious, and cultural) in Kenya saw it as a great move towards preserving the 'African family' and the moral code. Citing the constitution and religion, the Nyali Member of Parliament (MP), Mohammed Ali said:

Sections 162[a] and [c], 163 and 165 of our Penal Code criminalizes homosexuality and so do our faith values which we must not move away from, for we risk disintegrating our core family structures and falling deep into irredeemable mistakes that will cost us and the generations to come. (Jura 2023)

4 Manifestations of backlash in the form of morality and 'African values'

Analysis of the Kenyan context illustrates manifestations of backlash that are largely centred around the notion that gender justice is counter to African values and morality. President Ruto said that he would not allow Kenyans to be forced to get involved in foreign affairs. He further said that the 'constitution is very clear, that marriage is between a man and a wife, and that Kenyans should pray for our judges so that they can make decisions not to please the Western world' (Njaaga 2023). Reversals in advances towards gender equality are thus characterised by a return to 'Africanism'. Protesting the SCoK's decision to uphold the right of LGBTQI+ organisations to register and associate in Kenya, Sheikh Mohammed Khalifa of the Council of Imams and Preachers of Kenya (CIPK) said 'Kenya is a religious country, guided by God. The judges have gone against God's will in their decisions by following Western beliefs and all Kenyans of good moral standing must renounce the ruling' (*Capital News* 2023). The Senator for Nandi, Samson Cherargei, who led a group of parliamentarians in criticising the court's ruling, said the group would not allow any discussion about LGBTQI+ in parliament because Kenya is a God-fearing nation and that people must fear and obey God (Njaaga 2023).

Paradoxically, this professed vision of 'African values' is underpinned by interpretations of religion to protect 'African' mores from Western decadence, yet religion has been and continues to be imported via imperialism and colonisation. For instance, efforts to spread Christianity and assimilate African societies into Western cultures were embraced even though they were pivotal in facilitating colonial control. Yet the accusation of Western influence is frequently directed at visions of gender justice as a form of ideological colonisation. This is most clear in relation to contestations surrounding LGBTQI+ rights, comprehensive sex education, and reproductive justice. This is exemplified by assertions made by the Nyalii MP, Mohammed Ali, that 'homosexuality is a Western invention imposed on the continent' (Mersie and Hlatshwayo 2023).

We have witnessed pervasive human rights violations based on sexual orientation and gender identity in Kenya, with LGBTQI+ individuals and communities being frequent targets of physical harassment, discrimination, and violence. Such attacks are legitimised and underscored by the very notions of morality that backlash actors support and promote, including those in the government and the media, while legislative frameworks remain insufficient regarding protection or redress. Article 27[2] of the Constitution of Kenya (Government of Kenya 2010) provides for protection from discrimination by the state through taking legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

However, sexual and gender minorities are not explicitly mentioned in Article 27[4], with same-sex practices criminalised under the Kenyan Penal Code Section 162[4] (Kenya Law n.d.b), further paralysing an already complacent system, which creates an enabling environment for human rights violations.

Moves to change this context of repression for LGBTQI+ people and organisations have been met with fierce resistance, in the name of morality. For instance, as touched on above, on 24 February 2023, the SCoK ruled that the refusal by the NGOs Co-ordination Board to register an LGBTQI+ lobby group violates human rights based on sexual orientation. Reacting to this, National Assembly Speaker Moses Wetangula criticised the ruling by stating that the court's pronouncement may lead to unintended and unhelpful consequences, given that Kenya is a deeply religious nation (Mwangi 2023a). These sentiments were echoed by the Attorney General, Justin Muturi, who promised to challenge the ruling on grounds that the issue was not a matter for the corridors of justice but for public consultation (Kagonye and Muthoni 2023). The MP for Homa Bay Town, Peter Kaluma, stated that 'We are engaged in a war not only to save our society but to salvage humanity from homosexual perversion [sic]. The war is not easy but it must and shall be won' (Mwangi 2023b). Religious leaders also criticised the move, urging Kenyans of 'moral integrity' to reject, resist, and oppose the ruling (Otieno 2023). While there was celebration over the ruling by human rights defenders and the LGBTQI+ community, there was a caveat to it. In its divided ruling, the SCoK held that Section 162 of the Penal Code that prohibits 'unnatural offences' (defined as having carnal knowledge with any man or woman against the order of nature) is binding, and hence, those caught contravening it will face the law with punishment of up to 14 years' imprisonment.

Similar moral code discourses are deployed in resistance to moves towards reproductive justice for women, with initiatives to reform the restrictive legislation in Kenya under attack. Article 26[4] of the Constitution of Kenya 2010 curtails termination of pregnancy. It states that 'Abortion is not permitted unless, in the opinion of a trained health professional, there is need for emergency treatment, or the life or health of the mother is in danger, or if permitted by any other written law' (Government of Kenya 2010: 23). This restrictive abortion law and its procedural impediments have made it difficult for women to secure safe abortions.

In March 2022, the High Court of Kenya in Malindi affirmed that abortion care is a fundamental right under the Constitution of Kenya and that arbitrary arrests and the prosecution of patients seeking abortion services and health-care providers offering such services is illegal. The court further asserted that 'Protecting access to abortion impacts vital Constitutional values, including dignity, autonomy, equality, and bodily integrity [and therefore,] criminalizing abortion under the penal code

without Constitutional statutory framework is an impairment to the enjoyment of women's reproductive rights' (Center for Reproductive Rights 2022). This ruling is still not widely known, and many women still engage in unsafe abortion practices for fear of stigma and being arrested should they have the procedure through official channels.

During the International Conference on Population and Development (ICPD25) in Nairobi in November 2019 – which marked 25 years since the first ICPD in Cairo in 1994 – abortion opponents and faith-based groups held a parallel meeting at a Catholic church next to the conference venue, saying that the meeting did not reflect their views and positions (Nzwili 2019). Under the banner of what they called a 'Pro-family Caucus', they cautioned governments against making legal commitments to the Nairobi Statement (ICPD 2019) and to rather reaffirm their commitment to the ICPD Cairo Programme of Action (UNFPA 1994), which they said had a stronger 'pro-life and pro-family' platform (Nzwili 2019). In one of their statements, the group claimed that the organisers of the Nairobi Summit believed in anti-population and pro-abortion ideology, and that they wanted to use the summit to advance that ideology and to pile pressure on pro-family groups and countries that are pushing back against the sexual and reproductive health and rights agenda (*ibid.*). The Vatican-based jurisdiction of worldwide Catholicism reinforced declarations from various African religious leaders, especially that from Ghana where Catholic bishops denounced comprehensive sexuality education (CSE), terming it as a way of introducing homosexuality into the West African nation (Onyalla 2019).

It is not surprising that Kenya in its 17 commitments to ICPD25 made no mention of CSE or even the sexual and reproductive health rights of the LGBTQI+ community and other key populations. Mikael Rask Madsen (2020) posits that backlash politics against international institutions is transformed when seeking international institutional reform. This facilitates the process of entering a mutual brokering process, by means of changing the logic of diplomatic compromise, academic scrutiny, and the interest of the member states and civil society.

5 Reflections

We have learned much as Advocates for Social Change Kenya (ADSOCK) in endeavouring to delve deeper into understanding, framing, and countering patriarchal or anti-gender backlash through research, capacity building, and convening, especially considering that backlash is seemingly a nascent concept in the world of development and even more so in the Kenyan context. Indeed, history and research have shown that the path to a more equitable society is frequently met with resistance and pushback. In recent years, explicitly 'anti-gender' groups across the world have intensified their efforts to obstruct and dismantle policies aimed at promoting gender and sexual equality (Corredor 2019).

What if the resistance is not necessarily pegged to a specific group? Furthermore, what if discourses such as 'Africanism' and morality could be a backlash to gender justice, but it is, as yet, premature to classify them as such? In this case, a broader approach, one that moves beyond the dichotomy of movement and opposition, is critical.

With a long history of critically engaging men and considering their roles and relationships to gender equality, we feel it is crucial to 'reframe' men's roles in supporting gender equality, based on a recognition that efforts and initiatives to counter gender backlash so far have been driven by – and focused on – women. Investment in global efforts to stop the pushback will be met with flagging returns if the focus is not broadened. Therefore, efforts should be made to understand men's responsibilities and potential contributions to gender equality agendas in support of women's rights movements, including in countering patriarchal backlash. In Kenya, men remain key power brokers, decision-takers, and change-makers, and they are also the ones most implicated in patriarchal and gender backlash. As such, their engagement to bring about the desired changes cannot be gainsaid. This calls for using appropriate language that reflects and effectively encourages men to develop respectful, trusting, and egalitarian relations with women and others, whilst also holding men to account.

6 Conclusion

Whilst Kenya has previously been perceived as being relatively progressive on issues of gender equality in international circles, a recent swell of backlash against women's reproductive and sexual minorities' rights has taken many by surprise. By understanding this in terms of longer trajectories of retrograde projects using extraordinary tactics to reach the threshold of the mainstream, we can see how a range of actors have translated earlier inertia and resistance into widespread, visible, and proactive backlash. We argue that these actors have been particularly influential in shifting the mainstream through their use of emotive and divisive discourse on morality and supposed 'African values', which then also facilitates their pushing for changes in policies and processes against gender equality in a wide range of areas. As this is based on retrograde visions of male supremacy and patriarchal values, Kenyan men apparently stand to gain. This creates significant dilemmas for efforts to engage men in the struggle for gender justice.

Connecting issues and experiences – for example, gender roles in families, women's low representation in leadership and political positions, a particular institution's failure to effectively address men's violence against women – is critical if men are to become more effective partners in changing the attitudes, behaviours, and conditions that create gender inequities. Men must begin to address the societal, cultural, economic, religious, and political systems that either perpetuate or allow for continued

disparities and a rollback on gender equality gains. However, such engagement of men must also be centred in accountability to the women's rights movement through multifaceted approaches. It should start by men confronting their own masculinities and the patriarchal order, including questioning their own psychological and social identity – bearing in mind that the great majority of patriarchal and gender backlash protagonists are men. Such questioning will thus need to include critical reflection on men's attachment to – and understandings of – identity and masculinity, on their investments in ideas of 'Africanism', as well as on how we might understand 'family values' or 'morality' more honestly.

Notes

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