



THE 4TH ANNUAL CIVIC SPACE PROTECTION SUMMIT

18TH & 19TH SEPTEMBER 2024

PRIDE INN PARADISE, MOMBASA COUNTY

REPORT

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IN PARTNERSHIP WITH





THE 4TH ANNUAL
CIVIC SPACE PROTECTION
SUMMIT



The Civic Space Protection Summit Report comes in two parts, the first part contains the **Full Summit Report**. The second part is the **Outcome Package** prepared by the Workshop Rapporteur, reviewed by the Communications team and contains extracts from part 1.

Organized by the Civic Freedoms Forum (CFF) in close coordination with the Planning Committee drawn from CFF Members in Consultative Relationship with the CFF's Advisory Board, and the Coast Civil Society Network for Human Rights.

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Acronyms & Abbreviations

CFF	Civic freedoms Forum
COVID-19	Corona Virus Disease of 2019
CPA	County Policing Authorities
CPC	Community Policing Committees
CRECO	Constitution and Reform Education Consortium
CSOs	Civil Society Organizations
CSPS	Civic Space Protection Summit
EAC	East African Community
HELB	Higher Education Loans Board
HRDs	Human Rights Defenders
ICNL	The International Center for Not-for-Profit Law
IIE	Initiative for Inclusive Empowerment
IMLU	Independent Medico-Legal Unit
IPOA	Independent Policing Oversight Authority
KCDF	Kenya Community Development Foundations
KNCHR	Kenya National Commission for Human Rights
KRA	Kenya Revenue Authority
MCK	Media Council of Kenya
MUHURI	Muslims for Human Rights
NCIC	National Cohesion and Integration Commission

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- NHIF** National Hospital Insurance Fund
 - OSF** Open Society Foundation
 - PAYE** Pay-As-You-Earn
 - PBO PBORA** Public Benefits Organizations PBOs Regulatory Authority
 - PEN Kenya** Partnerships 4 Empowerment & Networking in Kenya
 - PwDs** Persons with Disabilities
 - UN** United Nations
 - UNDP** United Nations Development Program
 - USAID** U.S. Agency for International Development
 - VAT** Value Added Tax
 - WPA** Witness Protection Agency

PART 1: **FULL SUMMIT REPORT**



Introduction

The 4th Annual Civic Space Protection Summit, held on 18th and 19th September 2024 at the Pride Inn Paradise Hotel, Mombasa, Kenya, brought together over 100 civil society groups from across the forty-seven counties and over 60 Government agencies, Inter-governmental institutions, development partners, and the media to discuss challenges facing civic freedoms in the country and come up with possible resolutions under the theme: ***Contestation of Civic Space in the Context of Constitutional Democracy in Kenya***. The key guests of the Summit included Dr. Stephen Jackson, UN Resident Coordinator in Kenya; Jeffrey Szuchman, Office of Democratic Governance, Peace and Security, USAID; Madelena Monoja, Deputy Resident Representative UNDP – Kenya; Grace Maingi, Executive Director, KCDF; George Kegoro, Executive Director, OSF; Maurice Mugambi, Independent Policing Oversight Authority (IPOA); Lindon Otieno, PBOs Regulatory Authority; and Ephantus Kariuki, Witness Protection Agency (WPA).



2 Welcoming Remarks, Opening Remarks and Keynote Address

Moderator: Ceasar Ngule, KCDF



2.1 Opening

The forum was officially called to order by Wambua Kawive of Inuka Kenya Ni Sisi! - the summit's overall moderator. He then invited Ceasar Ngule of KCDF who was the moderator of Session 1. This session began with the singing of the Wimbo wa Mapambano followed by the National and East African Anthem led by Fred Okado of MUHURI. An icebreaker activity revealed that the key issues that the country is currently grappling with according to the participants include poverty, corruption, tribalism, police killings and abductions and the recent Adani Group scandal.

To start off the presentations, a survey was conducted and findings from this exercise revealed that 63% of the participants felt that the current relationship between the state, civil society, and the private sector in fostering societal development is conflictual with their interests being frequently at odds, leading to tension. Another 28% of the respondents felt that this relationship is disconnected and competitive as there is little interaction or cooperation between them as these sectors often compete for resources and influence. Only 9% felt that this relationship is collaborative and complementary characterized by these sectors working together effectively to achieve common goals while playing distinct but supportive roles.

2.2 Welcoming Remarks

Speakers: John Owegi, Executive Director, Civic Freedoms Forum (CFF) and **Zedekia Adika**, Chairperson, Coast CSO Network.

To kick off the discussions, welcoming remarks were given to officially welcome the participants to the summit.



John Owegi, Executive Director, CFF, welcomed participants to the summit and began by paying tribute to the fallen comrades of the past year. He then explained that the motivation for the forum was to consolidate the voices of all actors with the goal of finding practical solutions to issues within the civic space. He noted that challenges such as restrictions on freedom of assembly and freedom of expression continue to persist. Additionally, despite 14 years under the current Constitution, the Bill of Rights remains under threat. This year's summit is particularly informed by the recent Gen Z movement, especially in the area of digital activism, which has been highly impactful. Owegi emphasized that participants should engage in identifying both challenges and their practical solutions throughout the summit.

Zedekia Adika, Chairperson, Coast CSO Human Rights Network, began by referencing Article 19 of the Constitution, which outlines the Bill of Rights and its purpose in protecting and preserving human rights, as the basis of the summit. He then presented several issues affecting the coastal region, starting with concerns raised in a report by the Controller of Budget, specifically focusing on budget allocations. He noted that KES 1.9 billion had been spent on travel, with allocations including: Mombasa (KES 190 million), Lamu (KES 198

million), Taita Taveta (KES 201 million), and Tana River (KES 392 million) among other areas. Meanwhile, the minerals sector, a key source of income for the region, received no budget allocation. Furthermore, the vocational training sector, critical for the region where 75% of the youth are enrolled in vocational institutions, received only KES 190 million. This is a clear indication of lack of priorities in governance.

He further highlighted the GenZ protests which led to 3 deaths and about 100 citizens being arrested. Additionally, he also narrated a case of a particular blogger who held an X-space discussing the deployment of police officers to Haiti, and had received threats from police but through the Defenders’ Coalition he was protected and kept safe. In addition, he mentioned a case where 20 people were arrested and while in remand, to bar them from leaving, their charges kept changing. These instances raise concerns about directives and policies, questioning where Article 19 truly stands for the people of Kenya. He pointed out the withdrawal of security for a judge which contradicts Article 163. Adika emphasized that these issues needed to be discussed and addressed during the summit.

The speaker emphasized on the duty to ensure that state players, particularly senior officials, adhere to Article 19 of the Constitution and uphold civil rights. The speaker references previous instances where officials have violated these rights i.e. the case of Mr. Masengeli. He added that the summit should be able to provide key resolutions moving forward stating that; ***“Ladies and gentlemen, by the time we leave here tomorrow, it is important that we don’t go home folding our hands and saying, what do we do? The vibrancy of civil society and the vibrancy of Kenya is what will take Kenya to the next step.”***

He called for an open dialogue on how to strengthen and organize the civic sector, to enhance transparency and accountability. He also urged members to practice what they advocate such as ensuring fair treatment of employees. Adika raised the issue of transparency within the police service stating that the police force has historically been misused to limit civil society’s role, and addressing this issue is essential for safeguarding civic space. He concluded by urging members to be vigilant as this is what will progress our nation to the next level.



2.3 Opening Remarks

Davis Malombe, Chairperson, CFF Board, began by reiterating the theme: Contestation of Civic Space in the Context of Constitutional Democracy in Kenya, noting that that in itself is ironic. Two years after the Kenya Kwanza regime came into office, Malombe noted that the country is experiencing political and economical regression, which he defined as

a return to a previous, less advanced state, condition or way of behaving. He explained that this regression is occurring despite constitutional provisions that establish Kenya as a constitutional democracy.

Malombe referenced Article 4 (2) of the Constitution, which defines Kenya as a multiparty democratic state, founded on the principles of good governance, as outlined in Article 10. He also highlighted that the Constitution anticipates a humanized state, referencing Article 19 (1), which asserts that the Bill of Rights should guide social, cultural, and economic policies. Despite these provisions, Malombe pointed out that the country is facing a situation of state capture and state depression, worsened by the recent Gen Z protests, which have led to increased vulnerability and suspicion. Additionally, he also highlighted the global recession for democracy, emphasizing that the challenges facing democracy and human rights are not just local but worldwide.

He pointed out that the current state depression and regression in Kenya is manifested through various ways, including police excesses, killings, abductions and arrests. Malombe highlighted that one of the enablers of this is a colonial mentality in governance, which the new Constitution, particularly Article 238, aimed to dismantle. However, this mentality remains entrenched, and he called for measures to confront and combat it. He referenced the case of Masengeli, a state officer who has displayed blatant impunity by failing to appear in court despite being summoned seven times. This, according to Malombe, exemplifies the unchecked police impunity, which in his view is enabled by the presidency given that the National Security Council is chaired by the president, thus playing a role in authorizing these excesses.

Further, Malombe criticized the co-option of the opposition and the capture of parliament, which he argued add more pressure on civil society. He also noted the weakening of constitutional commissions and independent offices through controlled appointments and resource denial were also manifestations of the current civic state. Additionally, attempts to capture the media especially during the GenZ protests was highlighted as more instances of oppressive interventions by the state in attempts to control independent institutions.

Additionally, threats to civil society through punitive legal and institutional frameworks were also highlighted stating that some individuals and institutions were being targeted by the DCI as well as KRA. He expressed concern over a pending anti-protest amendment bill, which he believes could further limit civil liberties. He added that there are challenges especially with mistrust that the sector needs to deal with, in regard to the regulation of the Public Benefit Organizations.

Turning to the economic context, Malombe spoke of an oppressive taxation regime, the massive theft of public resources, and the defunding and delaying of county government disbursements, which undermines service delivery.

In Kenya, there is a pressing need for the country to control and own its decision-making processes, highlighting the challenges currently faced in managing national affairs. This situation necessitates increased vigilance and a more vibrant approach to monitoring government operations. It is essential to recognize that we are witnessing democratic regression rather than merely limitations on civic space. The government is restricting the

operations of all independent institutions and actors, both state and non-state, that are mandated with the task of oversight.

Drawing from a long history of liberation and resistance in Kenya dating back to 1895, he emphasized that even though Kenya is facing a period of depression, regression and oppression, the people have never given up and have always overcome the forces of oppression. To emphasize, he quoted Fredrick Douglass: ***“Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress.”*** He urged that, despite the challenges, Kenyans should draw inspiration from their past struggles and resilience. Many who fought against oppression in the past stood alone, without the support of civil society movements. This history should challenge and inspire everyone, especially the youth who are now being involved in democratic efforts.

To conclude he pointed out that Article 3, (1) of the Constitution requires every citizen to respect, uphold, and defend the Constitution, which serves as a guiding principle in the fight for democracy. He ended by calling attention to the second stanza of Kenya’s national anthem, highlighting its political and activist tone.



George Kegoro, Open Society Foundation began his remarks by acknowledging the profound pain the country is experiencing due to recent violent protests. He noted that the state’s response to the protests only aggravated this pain. Kegoro emphasized that the underlying issues that sparked the protests remain unresolved.

Despite this overwhelming hurt, he expressed a sense of hope. Kegoro urged participants to transform this hope into collective action, which can lead to something more enduring and sustainable. He underscored the importance of solidarity, stating that unity is essential during moments of breakdown. He encouraged everyone to continue working together, reminding them that it is their responsibility to shape the future of the country during these challenging times, saying, ***“this is our home, and this is our country.”***



Grace Maingi, Executive Director, KCDF, began by expressing KCDF’s mission of building flourishing and resilient communities in Kenya, acknowledging that this goal cannot be achieved without an enabling environment. As a result, KCDF is contributing to efforts to ensure that civil society thrives despite the numerous challenges facing the sector.

Building upon earlier remarks, she acknowledged the pain many Kenyans feel, particularly in light of recent tragic events. The representative shared a poignant conversation with a friend who remarked, “they killed our children,” underlining the depth of the pain and responsibility felt by Kenyans. The speaker then posed a challenge to civil society actors, asking whether they would be remembered as having been on “the right side of history” when the story of civil society’s growth and resilience is told.

Challenges faced by civil society are likely to become more complex over time. In light of this, civil society organizations need to reflect on their preparedness to tackle these increasing difficulties. Despite the hardships, the speaker found joy in the solidarity shown within the sector, celebrating the collective efforts of those working together for a common cause.

Raising critical concerns, she asked, **“To what extent can Kenyans stand up and support us when we are in trouble as civil society?”** She also raised questions regarding the extent of local organizations’ support for national organizations when faced with challenges and the accountability of civil society to everyday Kenyans regarding their activities and discussions. To gain this support, she stressed the necessity of strengthening local ownership and accountability within civil society, emphasizing that this will also prepare the civic sector to navigate the continuous, permanent crises and multiple challenges that face the sector.

There is a necessity for civil society to strengthen its ability to secure its own resources, noting that the PBO Act provides a viable avenue for establishing multiple streams of income. She referenced an earlier poll showing that 63% of participants perceive the relationship between CSOs and the government as conflictive, noting that a conducive regulatory environment would help reduce this perception to at least 2%.

The speaker recognized the Kenya Civic Space Founders Working Group, acknowledging their commitment to expanding civic space in Kenya. In conclusion, the speaker extended

an invitation for ongoing engagement, emphasizing the need to be on the right side of history in the journey to ensuring the continuous expansion of the civic space.



Maurice Mugambi, Independent Policing Oversight Authority (IPOA) informed members that the government is in the process of reconstituting a new IPOA board, as the previous board's term had recently lapsed.

He highlighted that, in accordance with its constitutional mandate under Article 244 of the Constitution of Kenya, IPOA actively monitored police operations during the recent Gen Z protests, which took place from June to August. Mugambi noted that IPOA's monitoring report is now publicly available, emphasizing that it is based on thorough, on-the-ground investigations conducted by IPOA officers.

Lindon Otieno, PBOs Regulatory Authority opened his remarks by expressing concern over the mutual mistrust between the government and civil society, emphasizing the need for a relationship that is complementary rather than combative or conflictive. Acknowledging that the mistrust between civil society and the government may never be fully eliminated, he suggested that it could be reduced to manageable levels, allowing for a more collaborative working relationship.

Otieno also highlighted the issue of conflicting interests within the civic space, specifically mentioning the lack of alignment between the NGO Council and CSOs. He stressed the importance of aligning these interests in order to move forward as a unified team, particularly given the transition that should be taking place under the PBO Act. He noted that the timelines for this transition are short, and that a significant amount of time has already been wasted.

He concluded by reminding participants that the PBO Act provides for a federation intended to serve the entire civil society sector, urging members to be proactive in addressing the existing issues so that both parties, the regulators and the civic sector, can proceed together as a unit.



Madelena Monoja, Deputy Resident Representative, UNDP - Kenya, began her remarks by stating that; ***“Indeed, a thriving civic space is essential for democratic governance.”*** The civil society plays a crucial role in advocating for rights, promoting transparency, and contributing to national development. She praised Kenya’s constitution, describing it as very progressive, adding that it is highly regarded not only in Africa but globally, serving as a model for other nations. Additionally, she also commended the civic sector for its effort in capacity building in other countries stating that the sector is well tested and has contributed to where Kenya is today.

The Gen Z protests, according to Monoja, were a testament to a thriving civic space where the youth want to be active in the implementation of democratic and governance processes. She emphasized that meaningful change can only occur when the masses collectively address issues rather than leaving them to specific groups. Monoja underscored the importance of youth involvement, mentioning, ***“I really see it as a moment of awakening”*** adding that this has also been an opportunity for other nations to learn from Kenya.

She pointed out that many issues raised by the youth during the recent protests remain unresolved and further questioned how civil society can effectively help address them. Monoja stressed the need for the civic space to establish mechanisms for ongoing engagement and resolution of these concerns, stating that these mechanisms should provide grounds for feedback. These protests had awakened a sense of civic engagement and activism across the country and there should therefore be a system for engagement with the authority and the stakeholders.

Madelena concluded her remarks by reaffirming UNDP’s commitment to Kenya’s stability and democratic progress adding that this can only be realized if Kenyans feel that they are happy, engaged, and that they are active citizens of this country.



Ephantus Kariuki, Witness Protection Agency (WPA) began by stating that their mandate is to provide a framework and procedure for giving special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution or law enforcement agencies. The functions of the WPA under Section 3C of the Witness Protection Act include:

- Establishing and maintaining a Witness Protection Programme.
- Determining the criteria for admission to and removal from the Witness Protection Programme.
- Deciding the type of protection measures to be applied.
- Advising government ministries, departments, agencies, or any other entities on strategies and measures regarding witness protection.
- Performing any necessary functions to ensure the effective implementation of the Act.

Due to limited resources, the agency is not able to protect all witnesses and has therefore put measures to help in selection of the cases that need witness protection. This include level of public interest, nature of evidence, prominence of the individuals involved as well as the seriousness of the offence. Kariuki reported that the agency also educates and advises CSOs and other agencies on how to safeguard the witnesses to avoid being harmed as they are the first ones in contact with these witnesses.



Jeffery Szuchman, Office of Democratic Governance, Peace and Security, USAID highlighted that this year holds great significance between the United States and Kenya,

as it marks 60 years of partnership between the two nations. Over the past six decades, the United States has stood alongside the Kenyan government and civil society to improve the lives of Kenyans, deepen democracy, and civic participation. He emphasized that significant progress had been made in strengthening democracy, from the advent of multi-party democracy to the promulgation of a progressive constitution in 2010 and a series of increasingly peaceful elections. Civil society has played a crucial role in these efforts by advocating for democracy, protecting rights, and promoting justice and governance, which in turn has supported inclusive and sustainable development.

Kenya is now at another pivotal moment in its democratic journey, referencing the operationalization of the PBO Act. Szuchman noted that this is a significant step towards ensuring that civil society and government can work together transparently and inclusively. While much work remains to be done in its implementation, Szuchman pointed out that the Act presents an opportunity for Kenya to stand against the global trend of weakening democracies. He emphasized the importance of seizing this opportunity to make it easier for citizens to participate in civic and political processes and to uphold justice and human rights.

Szuchman highlighted that following President Ruto's visit to the U.S., President Biden and other U.S. leaders made several new commitments to promote transparency, accountability, governance, combat corruption, protect human rights, and strengthen civil society in Kenya. One of these commitments included \$700,000 in new funds to support the implementation of the PBO Act. He then added that USAID is partnering with KCDF through the Uboru Mashinani Program to ensure that the Act is implemented in a way that strengthens civil society and enhances its partnership with national and local governments. Szuchman acknowledged that the PBO Act alone would not solve all challenges related to civic freedoms in Kenya. He highlighted issues, including the impact of emerging technologies on civil rights, new modes of engagement, expectations from Kenya's youth population, and fiscal challenges at both national and local levels. These issues, he noted, would need to be addressed alongside the implementation of the PBO Act.

He stressed that the summit provided an opportune time to bring stakeholders together to discuss these challenges and chart a path forward. Reflecting on a report done by CFF last year, Szuchman shared a statistic indicating that only 58% of Kenyans believe citizens should be free to join any organization, regardless of government approval while 42% believe it is acceptable for the government to ban organizations that oppose its policies. This is an indication of the work that needs to be done to realize the vision of the PBO Act and strengthen civil society independence.

USAID is working closely with local organizations to increase meaningful public participation at the county level, improve financial management in the health sector, and enhance citizen capacity to spotlight fraud and inefficiencies, make election and political processes more transparent and effective, increase accountability in governance and service delivery, and build trust between citizens and democratic institutions.

Sustainable progress requires collaboration between civil society, government, and independent institutions. He called on the government to uphold human rights protections

and standards of leadership and integrity as outlined in the Constitution, and to provide adequate technical and financial resources to independent institutions. He urged civil society organizations to engage fully in the development of regulations and structures under the PBO Act and to unite in protecting civic space.



2.4 Keynote Address

Dr. Stephen Jackson, United Nations Resident Coordinator in Kenya, began by referencing a joint statement issued by various civil society organizations in July, quoting: ***“Civil society organizations in Kenya have been the backbone of the nation tirelessly safeguarding democratic values and principles, amplifying the voices of vulnerable communities, promoting transparency and accountability.”*** He further contrasted this with a quote from the President of Kenya at the 76th global civil society conference, the first to be held in the Global South. The President stated: ***“Civil society has a role to play in the development of our country. We may not necessarily always agree, but that is the beauty of having diverse opinions. It is our responsibility to meaningfully involve civil society in shaping the future by consistently taking deliberate steps to dismantle barriers hindering their participation in political and public life.”***

The Resident Coordinator emphasized their role as a partner to both civil society and the Kenyan government, fostering mutual accountability. He reflected on the founding principles of the United Nations, pointing out that the UN Charter begins with the words “We the people”, implying that they are mandated to serve the Kenyan people. He also emphasized that civil society was embedded in the Universal Declaration of Human Rights from its inception, recognizing that peace, security, and development are interdependent. Achieving these goals requires inclusive and safe public and civil society participation. This participation must be meaningful, supported by an environment that ensures the diversity of voices is heard. The Coordinator pointed out the need to create such an environment in Kenya, where diverse voices, including those of civil society, are amplified in public debates. Additionally, he advocated for a vibrant media landscape that allows peaceful disagreement and dissent.

He also commended Kenya’s constitution, referring to it as an extraordinary document that recognizes the importance of civic space and presents a clear vision for why this space is crucial to Kenya’s development. He humorously compared it to Ireland’s constitution,

highlighting a recent failed attempt to remove outdated language regarding women's roles, underscoring his admiration for Kenya's constitution. He then emphasized that Kenya's constitution offers a roadmap and a guarantee for a democratic, prosperous, and equal future—one that both the United Nations and the Kenyan people desire.

The speaker then expressed a controversial stance on the term 'civic space', stating that while he supports the ideas and principles being discussed, he takes issue with the metaphor itself. He noted that in his 30-year career, he had never heard anyone say that civic space is increasing or enlarging; instead, it is always described as shrinking. This, he argued, is disempowering. Instead of focusing on whether civic space is expanding or contracting, he suggested that emphasis should be placed on both the struggles and the victories civil society has achieved.

Drawing on his own experiences in Kenya, the Coordinator reflected on the difficult early 1990s, when President Daniel Arap Moi dominated the news every evening. He used this historical perspective to highlight the significant progress Kenya has made since then, encouraging the audience to draw strength and inspiration from the strides the country has taken. Despite recent setbacks, the Coordinator urged participants to remember the achievements and victories that civil society has won over the years.

Jackson highlighted the essential connection between civic space and sustainable development, explaining that civic freedoms are not only human rights issues but also critical for peace and development. The Coordinator underscored that these freedoms are directly linked to the 2030 Agenda for Sustainable Development, particularly Sustainable Development Goal (SDG) 16, which emphasizes peaceful, just, and inclusive institutions. However, he stressed that the influence of civil society stretches across all 17 SDGs, as civil society promotes accountability, inclusivity, and the advancement of rights—elements essential for achieving sustainable development. As part of their mandate to support Kenya's development, the Coordinator expressed confidence in addressing the importance of civic freedoms, democracy, and accountability in such forums, reinforcing that civil society's role is vital for the broader objectives of development in the country.

Reflecting on the last 4 years, he outlined tangible and critical contributions of civil society in various areas, particularly focusing on four key accomplishments.

- a) **Response to Climate and Humanitarian Crises:** Civil society has been on the front lines, responding to disasters like droughts and flash floods, often being the first to act for vulnerable communities. This role has been critical as Kenya faces increasing climate-related challenges, and both the United Nations and the government heavily rely on civil society's swift and direct actions. Beyond humanitarian aid, civil society has also advocated for the rights of those displaced, ensuring that the human impact of climate crises is addressed.
- b) **Advocating for Economic Justice:** Civil society has played a pivotal role in drawing attention to Kenya's growing inequality. The Resident Coordinator highlighted the stark gap between the richest and the poorest, citing recent data revealing that a small elite—less than 0.1% of the population—owns more wealth than the bottom 99.9%. Civil society's powerful advocacy, exemplified by organizations like Oxfam,

has been vital in bringing these issues to public debate.

- c) Guardians of the 2022 Elections:** Civil society acted as guardians of the electoral process in Kenya's 2022 elections, which were marked by peace and transparency. Despite the narrow margin of victory, the elections stood out as one of the most peaceful in Kenya's history, thanks in large part to civil society's role in safeguarding democratic processes. This role was particularly notable given the challenges many other countries face in managing close electoral outcomes.
- d) Advocating for Accountability and Good Governance:** In the face of personal risk, civil society has persistently pushed for transparency, accountability, and good governance, particularly concerning the use of public funds. Civil society has helped bring these issues back to the forefront of Kenya's national agenda. The Resident Coordinator acknowledged the recent struggles, including the loss of lives, and assured that the United Nations continues to press for justice, including pushing the government to advance investigations into human rights violations.

The coordinator acknowledged the courage and determination of Kenyan civil society, recognizing their contributions as the life blood of democracy, both figuratively and literally, stating that the world is watching and acknowledging these efforts, which are vital for Kenya's development and democratic progress.

In discussing the need to uphold and protect the role of civic actors in Kenya's democracy, the speaker emphasizes several critical areas:

- a) Institutions and their Importance:** The 2022 elections in Kenya demonstrated the strength and resilience of various institutions, including the Media Council of Kenya, the National Cohesion and Integration Commission (NCIC), courts, and oversight bodies like the Independent Policing Oversight Authority (IPOA). Despite their imperfections, these institutions performed under significant pressure and upheld democratic processes. The speaker underscored that Kenya's constitution provides a clear framework for these institutions and stresses the importance of protecting and investing in them. Encouraging them to fulfill their constitutional roles while holding them accountable is crucial.
- b) Public Benefits Organizations (PBO) Act:** The PBO Act has been identified as a key opportunity for strengthening civic space. After being stuck for over a decade, its promulgation was seen as a major milestone. However, the speaker highlights that the next challenge is ensuring the Act is implemented in a way that fosters an enabling environment for civic participation. International partners, including the United Nations, are closely monitoring this process and are ready to offer support in making sure the Act achieves its intended purpose.
- c) Economic Challenges and Civic Participation:** Kenya's national economic situation poses a challenge, particularly highlighted by the controversy surrounding the Finance Bill. The speaker points out that while a finance bill is a necessary tool for government functioning, the content of the bill must reflect inclusive policies that support the country's development adding that the alternative is unpalatable and is a difficult situation

- d) **Participation in National and Local Processes:** Ensuring meaningful participation in both national and local processes is a fundamental right, and protecting this right is essential, particularly for those most vulnerable to oppression.

The United Nations Resident Coordinator commenced his closing remarks by outlining the United Nations' ongoing efforts in Kenya, focusing on three primary areas: protection, participation, and promotion of civic space. Emphasizing unwavering commitment, the Coordinator highlighted collaborative endeavors with the Kenyan government and international partners to foster accountability and enhance civic engagement.

- **Protection:** The Coordinator reaffirmed the United Nations' dedication to ensuring accountability for recent events in Kenya. They emphasized that the United Nations, alongside international allies, remains deeply engaged in addressing these issues and will persist in their efforts to uphold justice and accountability. Through candid dialogues with the government, there is a shared understanding that these matters cannot be overlooked.
- **Participation:** Highlighting the pivotal role of civil society in Kenya's development processes, the Coordinator discussed their leadership in the Development Partnership Forum. This forum, chaired by the Deputy President, the Coordinator, and the German Ambassador, aims to ensure representation of civil society within international partnerships. The ongoing collaboration seeks to maintain civic freedoms as a central agenda item. The Coordinator reiterated the United Nations' commitment to supporting the PBO Act's progression in alignment with its intended spirit. Additionally, the engagement of women's platforms and organizations was underscored as crucial, referencing the United Nations Security Council's Resolution 1325, which advocates for women's participation in peace and security.
- **Promotion:** The Coordinator lauded the decentralized and leaderless nature of recent protests in Kenya, recognizing it as an extraordinary organizational achievement facilitated by digital platforms like X and TikTok. They acknowledged the challenges these platforms pose for consensus-building but saw significant potential in evolving Kenya into a digitally deliberative democracy (3D). Emphasizing the constitutional importance of public participation, the Coordinator advocated for meaningful engagement mechanisms that extend beyond superficial acknowledgments, urging collaborative efforts to actualize the promise of public participation.

Looking ahead, the Coordinator introduced the upcoming **Summit of the Future** scheduled to coincide with the United Nations General Assembly in New York. This summit, initiated by Secretary-General Antonio Guterres, aims to address critical global challenges such as the climate emergency and the sustainability of development and governance models. A key focus is on renewing the social contract in the 21st century, addressing the fraying agreements between governing bodies and citizens worldwide. The Summit of the Future seeks to rebuild trust, restore legitimacy, and ensure that global decisions are informed by the diverse concerns and values of people globally. The Coordinator highlighted Kenya's active participation in the summit, anticipating that it will amplify Kenya's voice on issues like the responsible use of digital commons, financing for sustainable development, and

the restructuring of the international financial architecture to support Kenya's development trajectory.

In concluding, the Coordinator echoed the sentiments of Secretary-General Antonio Guterres quoting ***“Time and again, I have witnessed the enormous impact of civil society in every corner of the world. I see you easing suffering, pushing for peace and justice, mobilizing for change. I see you feeding the hungry, standing up for truth, advancing gender equality, and propelling sustainable development. Many of you work at great personal risk. Climate activists are being criminalized and persecuted; human rights defenders are threatened; and humanitarians killed. I salute you. I thank you. And I ask you to keep working with us to build a better world and let me just add, and a better Kenya.”***





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Session 2: Civic Space Status in Kenya

3.1 Presentation of Key Findings from HR Reports Presenters: CFF Members and Consultants

Moderator: Gathoni Njenga, UNDP Amkeni Wakenya



Presenters: Patrick Ochieng, Consultant, Jeremy Ouma, Program Assistant, Article 19, and Wangechi Kahuria, Executive Director, IMLU.

This session focused on presenting findings from various research studies conducted over the past year on human rights. The reports included the Civic Space Index Report, which

focuses on the state of civic space and freedoms. The other reports addressed the impact of measures aimed at preventing violent extremism and counter-terrorism on civic space, as well as human rights violations during last year's protests.

Patrick Ochieng, Consultant, began his presentation primarily focusing on the core logic behind the Civic Space Monitor index built around a key theme: the need for civil society to take charge of monitoring civic space more effectively and systematically.

He emphasized the importance of developing a robust database to track civic space dynamics across counties, outlining the primary objectives of their assignment: to produce the 2024 report on civic space and freedoms and to analyse the Civic Space Monitor provided by CFF. According to him, this report would not only offer visual representations of the evolving nature of civic space but also identify key variables that would enable more comprehensive evaluations.

Ochieng underscored the critical need to update the Civic Space Monitor based on established indicators. Central to this update is the lens of risk assessment, which focuses on two key variables: probability and severity. To illustrate this, he cited the recent Gen z protests in Nyeri, where the police response mirrored actions taken in other regions, despite the absence of prior anti-government protests there. This, he argued, highlighted the uniformity of state responses across different counties, reinforcing the need for better tracking of civic space risks at the local level.

To effectively monitor these risks, Ochieng proposed that CFF conduct biannual surveys across all 47 counties, aimed at assessing the likelihood of incidents like protests or police brutality. He suggested using a survey tool hosted on the CFF website, allowing monitors to report incidents in real time. "Our goal is to develop a dynamic, interactive report that will continuously reflect the current state of civic space across the country," he said.

Ochieng also elaborated on how incidents should be ranked in terms of risk and severity, providing a framework to assess events based on their potential impact. He outlined categories ranging from negligible incidents to catastrophic events, such as widespread police violence or major destruction of property. This clear categorization, he argued, would enhance the precision of the report and ensure that incidents are appropriately contextualized.

A major feature of his proposal was an incident assessment link that would facilitate real-time data collection. This data would feed into a comprehensive dashboard summarizing the state of civic freedoms in every county. The dashboard would offer a range of valuable information, including county population demographics, governor details, and the status of civic freedoms. In a powerful statement, Ochieng noted, "The map is useless if there is no data behind it." He stressed the importance of having a reliable data infrastructure to give life to the CFF map and ensure it offers actionable insights. The dashboard, he said, would allow stakeholders to access various datasets that could inform policy decisions and community engagement efforts.

As he neared the end of his presentation, Ochieng mentioned that the 2024 CFF report would also tackle critical topics such as the Gen Z protests, the ongoing economic struggles

faced by many communities, and issues related to police conduct. He pointed out the urgency of documenting incidents as they occur, underscoring the need for accuracy and reliability. “Relying on anecdotal evidence weakens our case,” he remarked, emphasizing the need for a real-time database to underpin advocacy and dialogue with the government.

In conclusion, Ochieng reiterated the importance of building a real-time database as a foundation for stronger advocacy. With reliable, up-to-date data, civil society would be better equipped to challenge police misconduct and other violations, thereby fostering more productive discussions with state actors.



Jeremy Ouma, Program Assistant, Article 19 delivered a presentation on the impact of measures aimed at preventing violent extremism and counter-terrorism on civic space. He began by highlighting the concerning rise in terrorism incidents within the country over recent years. Jeremy noted that, while government efforts to combat terrorism are necessary, they often lead to excessive actions that encroach on individual freedoms. He introduced the concept of a “counter playbook,” explaining that similar patterns of government overreach have been observed globally, where national security is used as a pretext to stifle civil liberties.

Drawing from recent examples such as the Occupy and Gen z protests, Jeremy illustrated how governments often invoke national security to justify limiting civic freedoms. In these protests, claims of safeguarding the public masked efforts to suppress legitimate dissent. Jeremy’s research sought to establish a baseline understanding of civic space, particularly in the context of such security measures. The study was divided into three key areas: the effects of government actions on civic space, strategies civil society could employ to defend against these actions, and an examination of the surveillance technologies used against activists.

One of the most significant findings of the research was the pervasive sense of fear among human rights defenders, many of whom feel they are under constant surveillance. This sentiment was echoed by several attendees during the presentation. Jeremy explained that this atmosphere of fear leads communities to distrust anyone associated with the security sector, as any perceived support could be construed as aligning with terrorist sympathies.

“The mere presence of security personnel makes people wary of expressing their views openly,” Jeremy noted, highlighting the chilling effect this has on civic engagement. This

fear, he explained, severely limits the capacity of civil society organizations to mobilize and advocate for their causes.

In his concluding remarks, Jeremy offered a set of recommendations aimed at civil society, government, and donors. He emphasized the urgent need to monitor and document threats to civic space, encouraging the adoption of a human rights-based approach in counter-terrorism efforts. Jeremy also stressed the importance of increasing funding to strengthen civil society's capacity to defend their space, particularly in the face of these growing challenges. "Bridging the gap between civil society efforts and the resources available is crucial if we are to safeguard civic space," he concluded, urging stakeholders to take collective action.



Wangechi Kahuria, Executive Director, IMLU addressed the audience, urging them to reflect on the protests held 2023 and the alarming consequences of state actions. She provided insights from their report titled "Death, Blood, and Tears," which paints a grim picture of the human rights violations documented over the past year. Wangechi shared deeply unsettling statistics: 61 reported deaths, 67 enforced disappearances—37 of which have been resolved while 30 individuals remain missing—and more than 1,500 injuries, alongside numerous cases of arbitrary arrests and the intimidation of human rights defenders.

She reminded the audience that the Kenyan Constitution explicitly mandates the police to protect and uphold human rights. The operational independence of the Inspector General of Police, she explained, must align with these constitutional obligations. However, Wangechi expressed frustration and disappointment, pointing out that these safeguards have not been respected in practice. Despite the gravity of the situation, there has been a conspicuous lack of formal acknowledgment from the government. Wangechi recalled instances where officials dismissed the severity of the violations, casting doubt on the state's commitment to addressing these abuses.

In her presentation, Wangechi outlined key recommendations from the IMLU report, stressing the need for immediate action. She called for the suspension of commanding officers implicated in the violations to allow for unbiased investigations. The Independent Policing Oversight Authority (IPOA), she insisted, must conduct thorough inquiries into these cases, ensuring accountability. Additionally, Wangechi emphasized the legal responsibility of the police to report all incidents of injury and death, something that has not been consistently observed.

One of the report's major recommendations was a review of the Public Order Act, specifically to ensure it aligns with constitutional standards regarding the use of force. Wangechi argued that the current regulations provide too much latitude for lethal force, which has been abused during peaceful protests.

Throughout her presentation, Wangechi stressed the importance of collective action to protect civic space and uphold human rights in the face of increasing government measures. She urged civil society and stakeholders to take a unified approach in demanding accountability for the documented violations. "The gravity of the situation," Wangechi said, "necessitates a unified and urgent response, as we can no longer afford to stand by while fundamental freedoms are systematically eroded." Her call to action resonated with the audience, underscoring the need for coordinated efforts to safeguard civic space and ensure justice for the victims of these abuses.

3.2 Plenary Discussion (Feedback and Q&A):

- **Question:** Given that people have been lost in the same way since 1992 and no high-profile individuals have been held accountable, do you see any difference with the presence of IPOA? Is there hope that police brutality will be addressed?

Response: IPOA reports to be facing challenges particularly a lack of cooperation from other government agencies in investigations. However, there is a need for internal reforms within IPOA, encouraging people with the right intentions and experience to join its board to push for meaningful change from within. Instead of criticizing, the sector should take a proactive role in shaping IPOA's future by supporting qualified individuals, as well as encouraging active participation in the IPOA recruitment process, urging those with good intentions, knowledge, and experience to join the IPOA board to drive the necessary reforms from within. They call for a proactive approach, suggesting that instead of criticizing IPOA's perceived failures, the sector should take the opportunity to influence change by supporting capable individuals in leadership positions.

- **Question:** By continuing to provide recommendations to a government that ignores them and training people to comply with unconstitutional and anti-people laws, are we as a sector aiding the state in shrinking civic space? Should we stop asking communities to comply with an illegitimate government and instead start calling out the state for its actions?

Response: there was agreement with the critique, acknowledging that civil society might be enabling the government by reporting on issues that are then dismissed. Highlight how civil society provides valuable data, but the government often downplays these findings, accusing organizations of exaggeration. There should be a shift in approach, advocating for bolder, more strategic methods, inspired by newer generations like Gen Z, and urging civil society to adopt innovative tactics. Emphasize that data should drive the narrative regarding the state of civic space and that better documentation and distribution of findings are necessary. Additionally, the shrinking of civic space is not just a national issue but also

occurs at the county level, where local authorities suppress civic activities, often without any reporting.

Feedback: It was pointed out the importance of integrity in leadership and how it influences the effectiveness of institutions. highlighting the role personal integrity plays in resisting compromise, using the Kenya National Commission on Human Rights as an example of how leadership impacts an institution’s vibrancy and effectiveness. The discussion emphasized the need for individuals with integrity to take up roles in influential bodies like IPOA to drive change from within, even in the face of external interference. Additionally, the challenges of civic space, particularly in rural areas like Siaya, are underscored, where fear of government retaliation keeps people silent. The solution proposed is to encourage individuals of integrity to step into leadership positions to create meaningful change.

Response to Feedback: Critical issues in rural counties, particularly in Siaya, were highlighted, focusing on the dangers faced by gold miners, including murder, with their deaths often overlooked and treated as mere statistics. Police complicity in these crimes is common, leading to a lack of proper reporting. The need to address these hidden issues was emphasized, recognizing the role of youth, especially “Gen Z,” in pushing for government engagement. It was noted that the president had previously conceded to dialogue, showing that when the government genuinely seeks communication, they often do so through social media. This underscores the ongoing need for advocacy to tackle the challenges faced by rural communities.

- **Question and feedback:** The issue of how to proactively address areas identified as needing urgent attention, particularly in terms of mobilizing action once data is collected. What plans can be put in place to ensure a quick and effective response when such areas are identified?

It was also pointed out that IPOA recorded 56 deaths and 197 injuries in just three months, resulting in one inquest recommendation. However, significant concerns were expressed about the technical difficulties IPOA faces, particularly due to funding limitations.

Response: The need for a platform to identify urgent issues requiring immediate action across the nation was emphasized, noting that much of the reporting focuses on Nairobi and urban areas, which distorts the overall perception of the situation in Kenya. The importance of reconciling conflicting data was highlighted, particularly discrepancies between IPOA and IMLU’s reports on death tolls. Improved communication among organizations was urged to enhance credibility and accuracy in reporting, preventing misinformation.

Additionally, the necessity of involving Kenyans in data collection and mobilizing resources to address urgent needs for those affected by violence was underscored. Institutions like IPOA face significant challenges due to inadequate budgets, which limits their effectiveness, highlighting the importance of ensuring these organizations have the necessary resources to support Kenyan society.

3.3 Resolutions

- Develop a robust database for tracking civic space dynamics and conduct biannual surveys across all counties to assess risks.
- Establish a clear categorization of incidents based on risk and severity alongside a real-time data collection system.
- Adopt a human rights-based approach in counter-terrorism efforts and monitor and document threats to civic space rigorously.
- Increase funding to strengthen civil society's capacity and bridge the gap between civil society efforts and available resources.
- Suspend commanding officers implicated in human rights violations to allow for unbiased investigations and ensure thorough inquiries by the IPOA.
- Review the Public Order Act to align with constitutional standards on the use of force while fostering collective action among civil society and stakeholders to demand accountability for abuses.





Session 3: Break-Out Sessions (Open Space)

4.1 Breakout Session 1: Conduct of Security Agencies in Public Protests

Moderator: Khelef Khalifa, MUHURI; **Presenter:** Irungu Houghton, Amnesty International, Kenya



Panel Discussants: **Wangechi Kahuria**, Executive Director, IMLU, **Kamau Ngugi**, Executive Director, Defenders Coalition, **Maurice Mugambi**, IPOA and **Catherine Mbui**, Program Officer, Article 19 EA.

This section outlines the actions and strategies proposed to address police misconduct, enhance accountability, and advocate for justice in the context of recent protests and policing practices in Kenya.

1. **Advocacy for the Release of Bob Njagi, Aslam, and Jamil Longton:** The conference recommends intensifying efforts to advocate for the immediate release of Bob Njagi, Aslam, and Jamil Longton. These individuals have been unjustly detained, and the push for their release should be prioritized through public and diplomatic pressure.
2. **Advocacy Targeting the Acting Inspector General of Police:** Apply pressure on the acting Inspector General (IG) of Police to comply with court orders. This includes collaborating with countries and institutions that provide funding to the police force to ensure adherence to the rule of law.
3. **UN Working Group on Enforced and Involuntary Disappearances:** Advocate for the government to expedite the long-overdue sitting of the UN Working Group on Enforced and Involuntary Disappearances. The delay in this process continues to hinder justice for victims and their families.
4. **Government Accountability for Violent Policing During Gen Z Protests:** Campaign for government accountability for violent policing, with a specific focus on abductions and lost lives during the Gen Z protests. The government must acknowledge and address these violations of human rights.
5. **Strengthening County Policing Authorities (CPA) and Community Policing Committees (CPC):** Enhance the effectiveness of County Policing Authorities (CPA) and Community Policing Committees (CPC) to ensure better oversight and community involvement in policing practices at the local level.
6. **Participation in Police Reforms and Policy Reviews:** Civil society organizations (CSOs) should actively participate in ongoing police reforms and policy reviews. Strengthening police reforms will help curb the culture of impunity and ensure that the police service upholds human rights.
7. **Depoliticization of the Police Service:** Champion efforts to depoliticize the police service. This will allow the police to operate independently of political influence, ensuring impartiality in law enforcement and accountability for their actions.
8. **Accountability for Parallel Officers in Local Police Zones:** Police command structures must take responsibility for any parallel officers operating within their jurisdiction. These officers often contribute to irregularities, and ensuring accountability for their actions is essential for maintaining order.
9. **Police Adherence to Operational Orders and Protest Management:** Ensure that police officers follow operational orders and deployment plans during protests. Additionally, police should be held accountable for any violations of these plans to prevent unwarranted violence during demonstrations.
10. **Harmonization of Reporting Platforms for Data Collection:** Advocate for the development of a central reporting platform that can harmonize data on policing and human rights violations. This platform should integrate data from CSOs and

independent institutions such as the Independent Policing Oversight Authority (IPOA) to eliminate discrepancies in reporting.

- 11. Holding Political Leaders Accountable for Police Violence:** Political leaders must be held accountable for their role in violent policing during protests. Research comparing police behavior during the 2017, 2022, and 2024 protests indicates that police actions are influenced by the executive's stance on protests. Accountability should extend beyond the police to include the political class.
- 12. Strengthening Community Forensic Evidence Management:** Communities play a key role in managing forensic evidence in cases where state institutions are implicated in rights violations. Examples like the Mukuru Social Justice Center and the River Yala bodies highlight the importance of improving community capacities for evidence collection and preservation.
- 13. Supporting Independent Institutions:** CSOs should collaborate closely with independent institutions like IPOA to strengthen oversight and ensure police accountability. This collective effort will improve public order management and ensure that violations are properly addressed.
- 14. Collective Effort for Public Order Management Accountability:** Civil society organizations must enhance their collective efforts to hold law enforcement agencies accountable for how they manage public protests. This coordination can help address and mitigate abuses of power.
- 15. Ending the Normalization of Police Violence:** There is an urgent need to stop the normalization of police violence in Kenya. This should include broad public education campaigns to raise awareness about the dangers of police brutality and the need for humane policing practices.
- 16. Resource Ringfencing in Hospitals for Protesters:** Independent institutions should consider providing special resources for hospitals during protests. This includes ensuring that victims of police violence receive adequate medical care and protection during times of unrest.
- 17. IPOA's Role in Monitoring Protests:** IPOA should emulate the approach of journalists and adopt a more proactive stance during protests to monitor police conduct effectively. This will enable them to better keep pace with CSOs in documenting and addressing police abuses during demonstrations.
- 18. Enhancing Parliamentary Advocacy:** Improve advocacy efforts within Parliament by working with like-minded legislators such as Okiya Omtatah to push for legal and policy reforms aimed at curbing police violence and enhancing accountability.

4.2 Breakout Session 2: Digital Activism and Internet Freedom in Kenya: Challenges and Ways Forward



Moderator: Steve Biko, InformAction; **Presenter: Muthuri Kathure**, Mozilla Foundation

Panel Discussants: Joshua Changwony - CRECO, **Angela Minayo** - Article 19 and **Nerima Wako** - Siasa Place

The session on **Digital Activism and Internet Freedom in Kenya** highlighted significant challenges faced by activists and civil society, particularly regarding the suppression of online freedom and the manipulation of digital spaces. The presenter provided a comprehensive report on the state of digital activism in Kenya, followed by insightful discussions from the panel. Below are the key challenges and proposed solutions identified during the session:

Challenges:

1. **Political Microtargeting:** Politically motivated microtargeting is used to distract and mislead protestors, diluting the impact of activism and derailing their focus.
2. **Network Issues and Internet Outages:** Protestors face frequent disruptions due to internet outages, which hinder real-time communication and coordination during protests.
3. **Deliberate Internet Shutdowns:** During critical protest periods, especially when demonstrators occupy government premises, the government orchestrates internet shutdowns to silence protestors.
4. **Suppression of Social Media Posts:** Activists' messages and social media posts are systematically removed to prevent the spread of their ideas and to suppress dissent.
5. **Counter-Narratives and Misinformation:** Counter-narratives are deployed strategically by state actors to create confusion among protestors, weakening the effectiveness of protests.
6. **State-Backed Bloggers:** Bloggers funded by the state are engaged in spreading misinformation, disinformation, and propaganda to manipulate public perception and discredit activists.

7. **Weaponization of Legislation:** Laws are weaponized to suppress freedom of speech and activism, further restricting civic space.
8. **Lack of Organized Support for Gen Z Protestors:** Younger generations, particularly Gen Z, face significant challenges during protests due to the absence of organized support systems. Activists often display corporate logos or branding, indicating possible affiliations, but lack substantive grassroots support structures.

Resolutions:

1. **Embrace M-Changa for Local Fundraising:** Using M-Changa as a fundraising tool can help activists foster a strong sense of ownership within their communities. By raising local funds, activists can reduce their dependence on external funding and strengthen their initiatives.
2. **Intergenerational Collaboration:** Every generation, including older generations, should support the Gen Z activists in their fight for better governance and services. Unity across generations will create a more powerful movement.
3. **Plan Offline Strategies:** As internet shutdowns are a persistent threat, activists must develop strategies to organize and communicate without relying on digital platforms. Planning for offline activism is critical to ensure continued momentum during protests.
4. **Training on Digital Security:** Youth-led organizations must receive proper training in digital security to protect themselves from state surveillance and attacks on their online platforms. This will help safeguard their efforts and strengthen digital activism.
5. **Community-Based Events and Discussions:** Activism and advocacy discussions should move away from exclusive venues like 5-star hotels and instead be organized at the grassroots level. Future summits should invite participants, including Gen Z protestors, who were directly involved in protests, ensuring that the discussion reflects the experiences of those at the forefront.
6. **Storytelling Without Corporate Branding:** Gen Z activists demand the ability to share their stories authentically, free from corporate influence or branding. This will empower them to control their narratives and foster organic activism.
7. **Sustainability of the Gen Z Movement:** Civil society must work with Gen Z activists to ensure the sustainability of their movement. Discussions on long-term support and collaboration will help Gen Z initiatives endure beyond single protests.
8. **Shift in Government Engagement Strategies:** Civil society organizations (CSOs) need to recognize and adapt to the new paradigm of activism demonstrated by young people. There is a shift in how the government is being pushed for accountability, and CSOs must align with these evolving methods.
9. **Reform of Key Governance Institutions:** Discussions around the dissolution and restructuring of institutions like the **Independent Electoral and Boundaries Commission (IEBC)**, the **Maisha Card**, and the full implementation of the **Public Benefit Organizations (PBO) Act of 2013** are necessary. These reforms are critical to ensuring a more transparent and inclusive governance framework for activists.
10. **Digital and Internet Freedom Advocacy:** Advocacy efforts should encompass

technology-facilitated gender-based violence (GBV). Numerous online activists, both female and male, are often targeted, abducted, or even murdered during protests due to their online activism. This underscores the need for improved protection mechanisms within digital activism initiatives.

4.3 Breakout Session 3: The Human Cost Debate in the Struggle for the Protection of Civil Liberties in Kenya



Moderator: Yusuf Lule, HURIA

Panellists: Mahmoud Barroh - Kwale Mining Alliance, Phyllis Muema, - KECOSCE Mwalimu Ali Mkwasha - Pemba Community, Charity Chahasi, - Tunaweza PWD CBO

This session focused on the **human cost** of fighting for civil liberties in Kenya. The discussion covered the challenges faced by civil society organizations (CSOs), human rights defenders (HRDs), marginalized communities, and protestors. The panel highlighted the harassment, discrimination, and financial burdens placed on activists and proposed solutions to support and protect civil liberties more effectively.

Key Challenges:

1. **Targeting of Civil Society Organizations (CSOs):** CSOs and HRDs face systematic harassment from both county and national governments. They experience abductions, forced disappearances, and accusations of terrorism and money laundering, severely affecting their ability to function. The government employs **divide-and-rule tactics**, aligning some CSOs to its interests while marginalizing others, shrinking civic space and weakening independent advocacy.
2. **Media Suppression:** Media outlets operate under pressure, often filtering content to align with government directives, which limits freedom of speech and public accountability.
3. **Harassment of HRDs during GEN-Z Protests:** HRDs were subjected to intense intimidation, including arrests and the denial of access to banking services like

- Mpesa. Some were publicly exposed on social media, increasing personal insecurity.
4. **Human Rights Violations in Kwale County:** In resource-rich Kwale County, communities face rights violations by companies, including incidents of rape, harassment, and assault. The police fail to investigate these cases due to corruption and bribery.
 5. **Marginalization in Kwale County:** Marginalized communities in Kwale are excluded from development initiatives and public participation, limiting their influence in county decision-making.
 6. **Discrimination Against CSOs:** CSOs advocating for human rights are often labeled negatively, disqualifying them from accessing government benefits, such as bursaries, and excluding them from public forums.
 7. **Co-opting of CSOs:** The government has co-opted or “poached” many CSOs, shrinking the number of independent organizations capable of challenging injustices. This includes the exclusion of CSOs from key conversations, such as post-mining land use in Kwale.
 8. **Economic Toll on Protestors:** Protestors, often from disadvantaged backgrounds, bear heavy financial costs, including long hospital stays for injuries sustained during protests. Many young demonstrators lose their lives, devastating families and communities.
 9. **Stigmatization and Lack of Community Support:** Activists face stigmatization from their communities, which exacerbates their isolation and financial burdens.
 10. **High Cost of Civic Engagement:** Activism comes with significant personal risk, exemplified by the abduction and assault of a blogger in Mombasa. The financial and psychological costs of fighting for civil liberties continue to rise.
 11. **The Stateless Pemba Community:** The Pemba community is stateless, lacking access to basic services like healthcare and education. They are excluded from government aid, such as during the COVID-19 pandemic, due to their lack of identification, and face police harassment and land discrimination.
 12. **Slow Progress in Advocating for Stateless Communities:** Advocacy for stateless people, including the Pemba, has been slow, with many too afraid to speak out due to fears of persecution.
 13. **Struggles Faced by Persons with Disabilities (PwDs):** PwDs face numerous challenges, including high medical costs, social exclusion, and a lack of accessible public services. Many have become disabled due to police brutality during protests, further limiting their opportunities for employment and community participation. Mental health issues among PwDs are often neglected, and they are excluded from leadership and employment opportunities. Education remains inaccessible to many PwDs, particularly children with cerebral palsy, due to limited specialized schools and rehabilitation centres.
 14. **Limited Data and Poor Regulation:** The lack of data on PwDs and insufficient regulations make it harder to advocate for their rights and services.
 15. **Psychological Cost:** Human rights defenders (HRDs) experience psychological impacts, especially during arrests. Frequent court appearances and legal challenges can demoralize HRDs, particularly in the absence of a strong support system. Defenders Coalition was commended for their prompt actions in assisting HRDs in distress, ensuring quick responses during critical situations such as arrests.

Resolutions:

- 1. Prioritize Wellness of CSO Staff:** CSOs need to focus on the wellness of their staff to ensure they can effectively advocate for civil rights and social justice.
- 2. Psychosocial Support for HRDs:** Human rights defenders need comprehensive psychosocial support to help them cope with the stress and trauma of their activism.
- 3. Annual Conference in Marsabit:** CFF should plan the 5th Annual Conference in Marsabit, focusing on campaigns and addressing issues affecting marginalized communities.
- 4. Clear Donor Funding Decisions:** Donors should clearly decide whether to support CSOs or government initiatives, as government budget constraints are used to undermine CSO effectiveness.
- 5. Promote Inclusion of PwDs:** Efforts should be made to create more opportunities for PwDs in employment, education, and community participation. This includes ensuring PwDs have equitable access to services and opportunities.
- 6. Economic Empowerment of PwDs:** Programs should be developed to economically empower PwDs, enabling them to become self-reliant and contribute to their communities.
- 7. Advocate for PwDs Bill and Board Formation:** CSOs should advocate for the enactment of the **Persons with Disabilities (PwDs) Bill** and the establishment of a dedicated board in Mombasa County to oversee the rights and needs of PwDs.
- 8. Ensure Protestor Protection:** Consider licensing trusted CSO members to carry firearms for the protection of protestors during demonstrations to prevent police aggression and infiltration.
- 9. Certified Resolutions from Public Forums:** Governments should provide certified copies of resolutions from public participation forums immediately after they conclude, ensuring transparency and accountability.
- 10. Political Education for HRDs:** Implement political education programs for HRDs to enhance their understanding of Kenya's political landscape and strengthen their advocacy skills.
- 11. Community Involvement in Development Projects:** Engage communities in conversations about their preferences and involve them in planning and executing development projects.
- 12. Combine Public Funds for Infrastructure in Marsabit:** Funds such as **CDF** should be amalgamated to support major infrastructure projects like roads, hospitals, and schools in Marsabit County.
- 13. Combat Stigma Against Activists:** Community education initiatives should be introduced to reduce stigma and discrimination against activists, fostering solidarity for civil liberties and human rights.
- 14. Stronger Protection for CSOs:** Strengthen legal frameworks to protect CSOs from government intimidation, harassment, and disappearances. Implement clear legislation to safeguard their freedom to operate.



5 Session 4: Regulation of Civil Society Sector: Rough Road Ahead

Moderator: Chris Mbiti, PEN Kenya



Panellists: Faith Kisinga, ICNL, **Justus Masabe**, Tax Consultant, **Nickson Omondi**, Tax Consultant and **Lindon Otieno**, PBOs Regulatory Authority

This session focused on the regulation of the civic sector, particularly in light of recent developments following the enactment of the PBO Act this year. A history of the PBO Act was shared, along with recommendations for the way forward. Additionally, the issue of taxation in the civic space was discussed, with an emphasis on the need for tax compliance.

Faith Kisinga, ICNL noted, self-regulation is not a new concept in Kenya; in fact, the country has been a trailblazer in this regard. As early as 1990, Kenya became the first country in

Africa to enshrine self-regulation into law with the NGO Act - a ground-breaking move even across the Commonwealth. This legislation granted NGOs a unique position, allowing them to incorporate self-regulation into their operations, a privilege that had previously been reserved for professional bodies like law societies and medical associations.

Having set such a high standard, the sector is challenged to maintain this legacy. Civil society actors bear the responsibility of upholding credibility, transparency, and accountability. These values are not merely theoretical; they are deeply embedded in the core of the sector's operations, evident from the preamble of the PBO Act to specific sections like Section 37, which outlines key principles.

Transparency and accountability are fundamental values that guided the development of the PBO Act. For years, the sector has recognized that accountability issues pose a significant challenge. These values must be practical standards that the sector embodies to retain public trust ; arguably its most valuable asset.

The challenges of self-regulation, particularly regarding the NGO Council, were also discussed. Over the years, the council became politicized, leading to internal leadership wrangles and resulting in a fractured body that no longer met the sector's needs. This evolution in discussions surrounding self-regulation has led to the consideration of two main options: strengthening the existing council or transitioning towards federations that could better ensure accountability. The PBO Act emerged as a compromise, providing for federations but making their establishment non-compulsory, instead offering a mechanism for coordinating self-regulation across the sector.

A crucial takeaway from the discussions is the necessity for NGOs to voluntarily engage in self-regulation to uphold their own codes of conduct. The PBO Act encourages this approach by allowing civil society organizations to set their own operational standards. Supporting this perspective, international best practices emphasize that membership in any umbrella organization should be voluntary to respect the constitutional right of freedom of association.

The timeline of work done around self-regulation within the sector has often been hampered by political agendas. Political interference in regulatory attempts has historically derailed self-regulation initiatives. This interference highlights the critical need for an enabling legal framework that supports the sector's work without fear of overregulation.

Reflecting on setbacks, particularly the delays in operationalizing the PBO Act, it becomes clear that despite initial hopes for swift progress in self-regulation, political and legal uncertainties have stalled these efforts. The internal fragmentation of the NGO Council has made it difficult for the sector to enforce its own standards, resulting in a significant decline in the public image of NGOs.

There is now a renewed commitment to self-regulation, with the sector recognizing the need for improvement. This drive does not stem from fear of regulatory constraints, but rather from an internal acknowledgment that the sector must get its house in order to maintain public trust. Moving forward, the challenge remains to ensure that self-regulation mechanisms are firmly in place and operational, enabling civil society organizations to uphold the values critical to their mission and identity.

Collaboration within the civil society sector is vital as it moves towards implementing self-regulation mechanisms. Voluntary participation from all organizations—both large and small—is crucial for ensuring buy-in across the sector. Recognizing the diverse capacities of organizations is essential, as is providing support to smaller entities that may lack the resources to fully meet self-regulation expectations. Building the capacity of all organizations should be a key focus of this process.

Continuous learning within the sector is also essential, as self-regulation should be viewed as a dynamic process that evolves with the sector’s needs. Working in networks fosters mutual learning and problem-solving, allowing organizations to adapt and refine their approaches over time. This learning should not be confined to the sector alone; it should be shared with regulators, peers across the continent, and the broader region to enhance collective growth.

Ultimately, self-regulation must not serve as a gatekeeping mechanism that excludes certain organizations. Instead, it should be an inclusive process open to reflection, evaluation, and continuous improvement. By ensuring that self-regulation serves as an educational and capacity-building tool, the sector can prevent political agendas and external influences from undermining its purpose. Remaining open to change and growth will enable the sector to avoid the pitfalls of the past, ensuring that its self-regulatory mechanisms remain effective and credible.



Justus Masabe, Tax Consultant, focused on a critical yet often overlooked issue within civil society: tax compliance. It began by reflecting on concerns that the government might weaponize the Kenya Revenue Authority (KRA) against civil society actors, raising the

question of why KRA would be used in this way. As civil society fights for human rights and against police brutality, it is also important to recognize the role of organizations as taxpayers. He urged CSO's to consider their levels of tax compliance, with a reminder that while civil society organizations may face targeting for their advocacy, tax issues should not become another vulnerability. The CSOs were challenged to assess whether they are compliant and confident in their adherence to tax laws.

Increasing scrutiny from KRA was highlighted, with a demand for comprehensive records of an organization's tax history since its inception. Instances were shared where organizations applying for compliance were informed of outstanding tax debts from decades prior, often catching them off guard. This underscored the importance of proper record-keeping and compliance within civil society. The nuances of tax obligations were emphasized, particularly for organizations receiving grants and donations. While donations may be exempt from tax, tax liabilities such as Pay-As-You-Earn (PAYE) and withholding tax arise when those funds are used for salaries or services. It was made clear that once donations are disbursed for salaries or payments, tax obligations come into effect.

The overarching message was clear: civil society must remain vigilant not only in advocacy but also in financial and tax compliance. Ensuring full compliance with tax regulations is crucial, especially for those seeking to benefit from exemptions under the Public Benefit Organizations (PBO) Act. The audience was cautioned to reflect on their standing before criticizing regulatory practices.

The session concluded with an introduction to a colleague who would further elaborate on qualifying for tax exemptions and the potential downsides of non-compliance. The remarks resonated with the audience, prompting reflection on their dual role as activists and responsible taxpayers.



Nickson Omondi, opened with an anecdote highlighting the power of civil society in influencing corporate tax accountability, referencing the 2012 push for fair taxation in the U.S. that led Apple to pay \$38 billion in taxes—not due to any violation of law, but as a result of public pressure from civil society groups advocating for fair taxation. Similar actions against Starbucks in the U.K. further demonstrated the significant impact civil society can have on taxation policies.

Transitioning to the Kenyan context, the Matindi case in Malindi was highlighted, where a challenge was mounted against tax exemptions granted to Japanese companies. The court's ruling to nullify those exemptions underscored the influence civil society can exert over tax policies, particularly in contemporary debates surrounding the Finance Bills of 2023 and 2024.

An overview of Kenya's tax structure was provided, focusing on key exemptions within the second schedule of the Income Tax Act. The intricacies of various taxes were discussed, beginning with corporation tax, levied on profits made by companies. Withholding tax was explained through an example of payments to consultants, illustrating that while 5% of the payment must be withheld, this amount can be reclaimed during tax filing. It was noted that withholding tax rates vary based on the nature of the payment; for instance, interest earned by civil societies from a bank account incurs a 15% withholding tax.

The turnover tax, applicable to businesses with a turnover below KES 25 million, offering a simplified process for small businesses with a fixed rate of 1.5% as of March 2024, following the introduction of the housing levy. Additionally, capital gains tax, applicable to gains from the sale of capital assets like land and buildings, was discussed, with the current rate set at 15%. The monthly rental income tax for those earning less than KES 15 million annually, with an effective rate of 7.5% as of January 2024, calculated monthly as a final tax on rental income. Other taxes mentioned included Value Added Tax (VAT) at 16% on goods and services and excise duty, initially targeting alcohol and cigarettes but now expanded to luxury goods such as jewelry, mobile phones, and airtime. Import duty was also highlighted as part of a broader East African Community (EAC) framework, ensuring consistency across member states.

When discussing income tax exemptions for Public Benefit Organizations (PBOs), it was noted that income derived from membership subscriptions and donations is exempt from taxation, provided it is not classified as business income. A landmark case involving the Baptist Church, where the court ruled that tithes and offerings were not taxable since they did not qualify as business income. While grants and donations are exempt from tax, organizations must provide corroborating evidence for the sources of these funds to avoid allegations of income diversion. Membership organizations, such as chamas, are also exempt since their activities are mutual and not considered business ventures.

Complexities surrounding PBOs engaged in active business were acknowledged. Such organizations can be taxed but may apply for an exemption certificate to avoid tax on income from interest or dividends, with the tax-exempt status valid only if business proceeds are used for public benefit, such as poverty alleviation or educational activities within Kenya.

Capital gains tax applies to PBOs when transferring assets like land, even with an exemption certificate. Additionally, customs duty on imported goods is waived only if the Cabinet Secretary grants an exemption, a process tested in the Matindi case.

the importance of adhering to regulations regarding donations was emphasized, particularly that they should not provide any benefit to the donor. Critique was offered on organizations that use donations for self-promotion, a practice frowned upon under current income tax laws. CSO's were encouraged to stay informed about these regulations and seek clarification from tax authorities to avoid missteps.



Lindon Otieno, PBOs Regulatory Authority began with a crucial question posed to the audience: “Do you know about the contents of the PBO Act?” He emphasized that while some may be familiar with the Act, there remains a collective responsibility to thoroughly understand it section by section to facilitate meaningful engagement in future discussions. Reflecting on the PBO Act’s journey, he noted that the process began in 2006, culminating in its passage in December 2012 and being signed into law by the late President Kibaki in January 2013. Despite its enactment, the law was shelved until recently when it became operational. An important point from Article 116 of the Kenyan Constitution was highlighted, indicating that if a law isn’t operationalized within a certain timeframe, it automatically becomes effective. Letters from Parliament regarding this article in relation to the PBO Act were recalled.

Recent developments revealed that both regulators and civil society were caught off guard by the President’s directive to operationalize the Act. “Since May 14th,” he said, “we’ve been scrambling to make preparations.” This included consultations with stakeholders across government, civil society, and development partners. Now, the focus must shift from consultations to implementation, starting with public participation.

The groundwork for implementation includes two zero-draft regulations—one for the civil society sector and another for regulators. The next step is to harmonize these drafts and initiate public participation, beginning in Mombasa and expanding across the country.

Several new provisions in the Act were noted, including sections 7, 8, 10, and 11, which introduce innovations such as the Tribunal under Section 50. Communication with the Judiciary has already begun to prepare for its implementation. Sections 62 and 63 address the investigation and protection of assets acquired during a PBO’s lifetime, alleviating previous regulatory challenges.

He also mentioned Section 65, which allows a PBO to establish a company to support its charitable objectives through business activities, promoting sustainability and reducing dependency on donor funding. Discussions with the Kenya Revenue Authority (KRA) regarding the tax implications of this section have commenced, focusing on whether profits reinvested in charitable activities should be exempt from taxation. Involving KRA in public participation is seen as a way to provide clarity and prevent legal challenges.

A particularly contentious point is Section 4, which mandates government funding for PBOs. Given the government's financial struggles, this provision raises significant concerns. "It's a very tall order," he remarked, "asking the government to give tax exemptions and also fund PBOs."

Turning to the NGO Council, he reflected on how it was once a well-functioning institution but became fragmented over time, leading to the emergence of different factions like the CSO Reference Group and the CFF. During the drafting of the Act, there was consideration of abolishing the council entirely, but concerns about creating a power vacuum led to the establishment of the PBO Federation instead. The challenge now lies in uniting the various factions.

He urged the sector to begin envisioning the desired structure of the PBO Federation and to establish systems in preparation for the eventual transition. This proactive approach would ensure that the Federation can be formed without delay once an agreement is reached. Public participation is crucial in this process, with documents to be sent to stakeholders in advance to facilitate meaningful discussions.

An ambitious timeline for the implementation of the PBO regulations was outlined, aiming to start public participation by early next month. A PBO summit in Nairobi will consolidate and validate input before presenting the document to Parliament and the Cabinet Secretary. The goal is to have the regulations gazetted by January 2025, allowing for a three-month sensitization and transition period before the May 15, 2025, deadline. Collaboration from all stakeholders is essential to meet these tight deadlines.

5.1 Plenary Discussion (Feedback and Q&A):

Feedback: The introduction of the PBO Act, initiated by the president, surprised many in civil society, but it was seen as a response to longstanding demands from the sector, creating an opportunity for growth. The PBO Authority presents a chance to reset relationships within civil society, with participants stressing the importance of swift registration under the new Act to align with the new regulations and avoid delays. A clear distinction was made between the PBO Federation and the former NGO Council, emphasizing that the PBO Federation is not merely a successor but should represent a broader, more committed group of organizations ready for transition. To ensure a smooth transition, participants called for a user-friendly process, similar to the e-Citizen platform, which would allow organizations to migrate easily and meet the presidential directive for full compliance. Inclusive representation was strongly emphasized, with a focus on including representatives from Kenya's 26 civil society sectors to enhance the federation's legitimacy. Additionally, suggestions were made to audit and restructure existing NGO councils, redefining them as networks under the PBO Federation to foster a unified and stronger civil society.

Question: If we are promoting self-regulation, why does the composition of the authority include so many public sector representatives, and can we expand membership to better reflect CSOs?

Response: The distinction was clarified between regulation and self-regulation, with regulation being established by law, as seen in the PBO Act, while self-regulation is voluntarily developed by civil society to uphold standards beyond mere legal compliance. The authority's role is to support self-regulation efforts without direct involvement, acknowledging that the State does not interfere with self-regulation but recognizes the forums established by the sector. Discussions on self-regulatory forums have commenced, potentially leading to recognition agreements that could benefit funding and incentives. Additionally, the establishment of a self-regulation framework is being supported by funding from UNDP and the Netherlands, with practical applications demonstrated in case studies from Kilifi and Kwale. A recent closed-door meeting involving KECOSCE, UNDP, and the PBO Authority focused on aligning these frameworks with the newly implemented PBO Act.

Question: How can we trust the PBO Authority to create a thriving environment for CSOs, especially considering past actions and concerns about state interference?

Response: Concerns regarding potential political biases in board appointments were acknowledged, with specific qualifications established to mitigate such influences. Although the appointing authority retains the discretion to select board members, this process remains outside the regulator's control.

Question: How do we ensure that the self-regulation frameworks have captured the new Act?

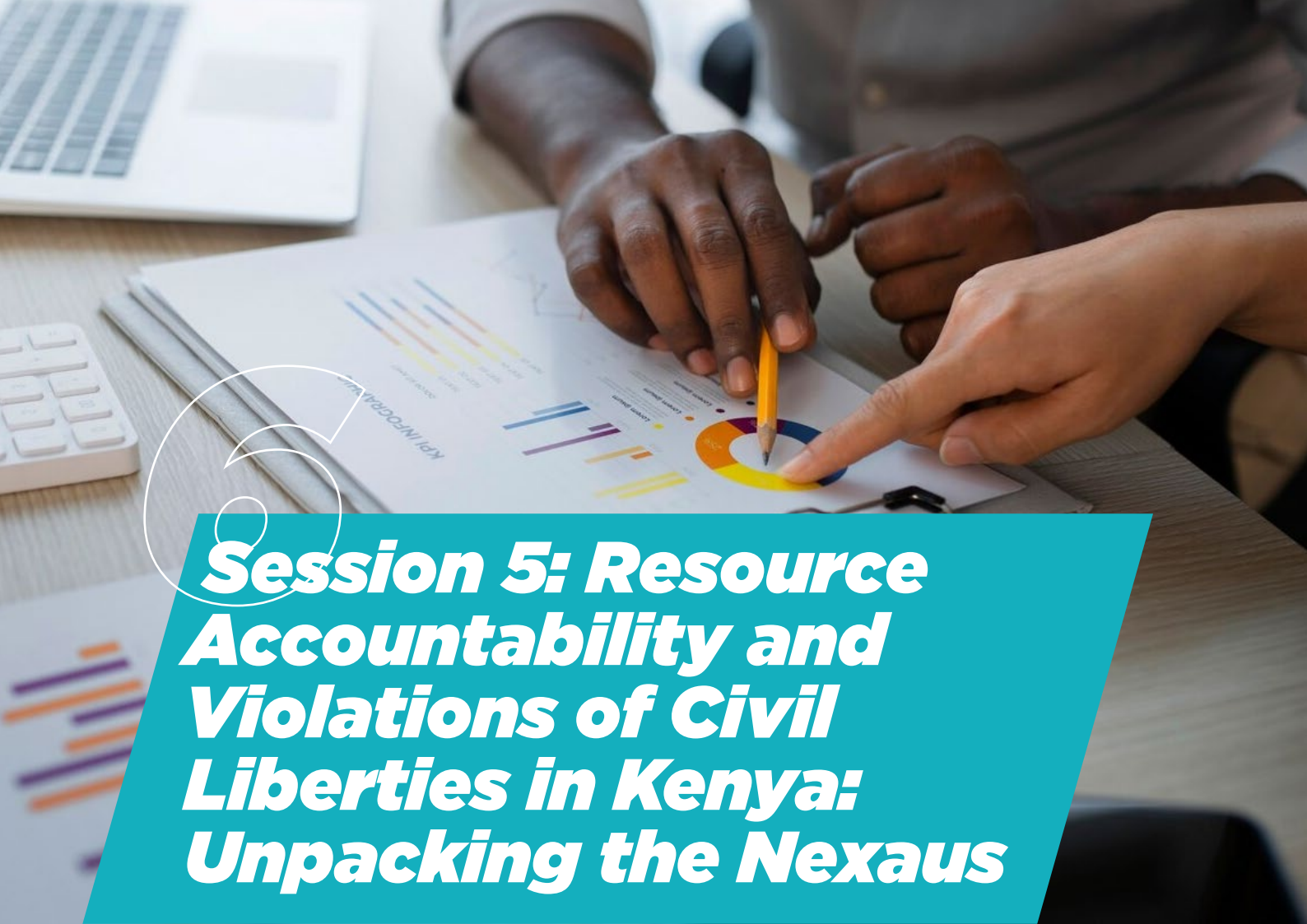
Responses: Involve a wide range of stakeholders, including civil society organizations, through public participation in discussions to gain insights on how the PBO Act to ensure self-regulation.

5.2 Resolutions:

- Civil society organizations are encouraged to proactively engage in voluntary self-regulation by establishing and adhering to high operational standards.
- The sector must reinforce existing regulatory frameworks, to ensure effective oversight of civil society activities.
- Organizations should foster collaboration and provide support to smaller entities, helping them meet self-regulatory expectations.

- Civil society organizations must prioritize tax compliance and maintain thorough records to avoid potential liabilities.
- Organizations need to thoroughly understand their tax obligations, particularly concerning donations and operational expenditures.
- Engaging stakeholders in public consultations is essential for the effective implementation of the PBO Act.Q
- The sector must work on establishing a cohesive PBO Federation that unites various factions.
- All stakeholders must collaborate promptly to meet the timeline for implementing new PBO regulations.





Session 5: Resource Accountability and Violations of Civil Liberties in Kenya: Unpacking the Nexus

Moderator: Khelef Khalifa, MUHURI



Panel Discussants: **Sheila Masinde**, Executive Director, Transparency International - Kenya, **Prof. Marion Mutugi**, Kenya National Commission for Human Rights and **Daniel Ndirangu**, Institute of Public Finance.

The fifth session of the summit focused on the lack of resource accountability, covering issues such as conflicts of interest, public debt, government interference, and weakened oversight. Additionally, violations of civil liberties are at an all-time high, with increased killings, abductions, and unchecked police misconduct.



Khelef Khalifa, Director, MUHURI highlighted several critical issues in Kenya, focusing on long-standing problems of resource accountability and civil liberties violations. He drew parallels between the current government and the oppressive practices of the Moi regime, citing increasing police brutality, extrajudicial killings, and civil society’s failure to respond effectively. Khelef stressed the need for greater scrutiny of government spending, particularly on President Ruto’s costly international trips and the inflated state house budget. He criticized civil society’s inaction in confronting police misconduct and shared personal experiences illustrating the flaws in the justice system. Khalifa also emphasized the lack of transparency in the management of public funds, particularly with regard to loans like the Eurobond and SGR projects, which he argued burden future generations without delivering tangible benefits. He called for civil society to be more assertive in holding the government accountable and protecting citizens’ rights.



Daniel Ndirangu, the Institute of Public Finance began by sharing two illustrative stories;

Story 1: Chamari’s Teacher and Midwife - Ndirangu narrated the story of a teacher from Chamari, Kilifi, who also works as a midwife. The teacher has successfully delivered 19 children, while, tragically, six infants did not survive due to the long distances to the nearest healthcare facilities. Ndirangu stressed that the government must provide healthcare in such regions, as the private sector is not motivated to invest due to poor returns in underdeveloped areas. Without government intervention, child mortality in these areas will continue to rise.

Story 2: Health Centre Misuse - Daniel Ndirangu recounted a troubling example of mismanagement. A health centre was constructed with a maternity wing, but due to either negligence or the misappropriation of funds, quarters for doctors were not built. As a result, the doctors on night duty use the maternity wing as their residence. When a maternity case arises, the doctor moves out temporarily to deliver the baby and then converts the space back into their bedroom. Ndirangu highlighted the absurdity of this situation, noting that this is happening in the 21st century, specifically in 2024, in a country that has been striving for nearly 60 years to eradicate disease, ignorance, and poverty.

Ndirangu, a practitioner in public finance management, shifted his focus to issues of government accountability, attributing the challenges in the two stories to its absence. He compared the current state of public administration with the past, using former President Mwai Kibaki's administration as a benchmark:

- **State House Pending Bills:** During Kibaki's tenure, 4 billion Kenyan shillings was required for State House operations. Today, State House has 4 billion in unpaid bills. Ndirangu pointed out that this is just one example of the many departments with unpaid bills, which affects the private sector.
- **Private Sector Investment:** Under Kibaki, private sector investment grew from 15% to 20% of the country's wealth. However, under President Uhuru, it fell to 19%, and under President Ruto, it has declined back to 15%, indicating a regression in private sector growth.
- **Ease of Doing Business:** According to a 2023 index survey on ease of doing business, Kenya ranked fourth in East Africa, only ahead of South Sudan, indicating that doing business in Kenya is increasingly difficult.

Touching on public debt concerns, Ndirangu also addressed the alarming state of public debt, highlighting the concept of "odious debt"—debts accrued without public participation and whose benefits cannot be verified. Between January and June 2024, Kenya accrued over 500 billion Kenyan shillings in debt, with a debt doubling rate every four years. By 2027, the national debt could exceed 20 trillion. This debt burden will have to be repaid through sectors such as business, agriculture, and industrialization—areas in which Kenya currently lags.

The speaker also narrated that in 2023, the employment and job creation sector generated approximately 24 million jobs. However, only 8 million of these jobs were in the formal sector, meaning only 8 million individuals received a regular salary. This leaves 16 million people working in the informal sector, which is challenging to tax and is now the target of the new social health insurance scheme (SHIF). Ndirangu raised concerns about the feasibility of integrating the informal sector into this scheme. Given the difficulty of taxing this sector, he questioned how likely it would be for people to voluntarily sign up for the social health insurance program. He also questioned the government's ability to expand access to healthcare under the SHIF without a more effective approach. Furthermore, Ndirangu pointed out that out of the 8 million formal jobs, the government employs 3 million people. These 3 million public employees consume 30% of Kenya's 3 trillion shilling budget, meaning that 1 trillion is spent on just a small fraction of the population, while the remaining

50 million Kenyans have to rely on the rest of the budget.

Ndirangu highlighted the issue of tax expenditures, explaining that these are funds the government effectively spends by exempting certain sectors from paying taxes. This practice primarily benefits multinational corporations. In the previous year, these tax expenditures amounted to 379 billion Kenyan shillings. He questioned the rationale behind this policy, noting that despite the government foregoing such a large sum to attract private investment, the desired growth is not materializing given that the private sector investment has decreased from 19% to 15% of the country's total wealth. Ndirangu criticized the practice of not collecting taxes under the assumption that it would spur investment, which is not happening.

He further stressed that the government is more focused on reporting outputs, such as foreign trips and large expenditures, without linking them to tangible outcomes like poverty reduction or lower maternal mortality rates. This disconnect between investment and results points to a lack of accountability, a consistent theme throughout his speech.



*Photo credits:
kenyanwallstreet.com*

Sheila Masinde, Transparency International, Kenya continued the discussion initiated by Daniel, emphasizing a critical issue of conflict of interest within government projects. She pointed out that many government initiatives, including major infrastructure projects like the SGR, expressway, and port developments, tend to disproportionately benefit private individuals at the expense of the public. Masinde asserted that addressing conflict of interest is essential to overcoming the problems identified in earlier discussions.

Masinde raised concerns regarding national debt, particularly focusing on commercial loans, especially those sourced domestically. She noted that discussions have primarily centred on external debt, such as loans from China, while neglecting the issue of pending bills owed to local entities. She highlighted that many of these companies that have provided services to the government may be politically connected individuals or entities, leading to a situation where the government owes money to itself. Citing the NYS scandal, she questioned the legitimacy of services provided and ownership of companies benefiting from government contracts. She further criticized the government's approach to loan management, revealing that some domestic loans remain unused, accruing interest without being allocated for immediate needs. Masinde urged civil society to scrutinize government audits and budgets closely, particularly concerning debt incurred by various entities.

Masinde expanded on ongoing deals, including those involving the Adani Group, questioning the transparency of the processes followed and the absence of parliamentary oversight. She noted that in the past two years, the government has attempted to reduce parliamentary oversight regarding privatization, which limits public accountability in critical infrastructure decisions. She addressed the issue of conflict of interest in the context of new legislations like the Social Health Insurance Fund (SHIF), suggesting that the government may be legislating corruption by facilitating benefits for specific private entities without proper oversight.

Masinde also referenced a conflict of interest bill proposed in 2018, which is now under scrutiny due to amendments made in the Senate. She emphasized the need for strong provisions to combat conflict of interest, arguing that failure to address corruption ultimately undermines civil liberties and citizens' rights to essential services, such as health care and education. She expressed concerns for those who risk their safety to expose corruption. Masinde highlighted the fear many individuals have about reporting corruption, noting that a significant portion of the population refrains from reporting due to intimidation and fear of reprisals.

Lastly, she stressed the importance of addressing corruption at the county level, acknowledging that while many cases are exposed at the national level, similar issues persist in counties. She referenced an ethics and anti-corruption report indicating that only 13% of Kenyans would report corruption, raising questions about the safety and support needed for those who witness wrongdoing to come forward.



Prof. Marion Mutugi, Kenya National Commission for Human Rights (KNCHR) commenced her address by raising critical questions about the safety of judges and human rights defenders in Kenya. She underscored the dangers faced by those in positions of authority and responsibility, highlighting instances where judges' security has been compromised following their rulings.

Prof. Mutugi emphasized that human rights advocacy is a calling rather than a profession. She stated, "human rights defenders are not people who are trained like in school to be human rights defenders... they are people who have a calling to promote and protect the rights of others." She acknowledged the presence of the audience as individuals driven by this calling.

Kenya National Commission on Human Rights (KNCHR) relies on civil society organizations for grassroots information and knowledge, emphasizing the importance of collaboration across various sectors such as agriculture, health, governance, and women and children’s rights. Prof. Mutugi cautioned against the potential regression of gains made in civic space and governance. She posed rhetorical questions about improving existing systems like the National Hospital Insurance Fund (NHIF) and the Higher Education Loans Board (HELB) rather than discarding them for uncertain alternatives. She highlighted the plight of the educated youth, particularly Gen Z, who benefited from free education but face unemployment, questioning the effectiveness of existing support systems.

Addressing food sovereignty, Prof. Mutugi reflected on the Kibaki regime’s ban on genetically modified foods and organisms. She expressed concerns about the recent lifting of this ban, emphasizing the risks of dependency on foreign seeds and the potential loss of local agricultural sovereignty. She advocated for strengthening local seed production; Kenya Seed, to ensure national food security and independence.

Prof. Mutugi raised alarms about the threats faced by independent institutions like the KNCHR. She described these institutions as being “suffocated, threatened, intimidated, frustrated,” hindering their ability to perform oversight functions effectively. She stressed the importance of protecting these bodies to uphold civil liberties and ensure the fulfillment of citizens’ rights.

Concluding her speech on an optimistic note, Prof. Mutugi emphasized the power of collaboration between independent institutions and civil society. She recounted successful joint efforts during the RejectFinanceBill movement where information sharing and verification led to accurate data release, even in the face of governmental contestation. She encouraged continued cooperation, asserting that “Our strengths together can achieve more.”



6.1 Plenary Discussion (Feedback and Q&A):

- 1) Is the perceived lack of delivery by the Kenya National Human Rights Commission (KNHRC) due to funding issues, or is there interference from other arms of government? Does the commission need civil society to come to its defence?**

Government interference has manifested in various ways, including defunding and public

statements that question the commission's credibility. Such challenges not only affect the KNHRC but also undermine the capabilities of all independent bodies, which appear to be facing systematic attempts to weaken their oversight functions. While acknowledging the need for the commission to be more visible and active, the commission chooses a collaborative approach, working alongside civil society in areas where they may have limited access, as demonstrated during the Gen Z protests. They urged the sector to remain open to diverse strategies, highlighting that collective efforts can lead to greater achievements. The speaker posed a challenge to civil society, urging them to actively support the commission in public discourse. They emphasized that backing from third parties is crucial for amplifying the commission's work and reinforcing its credibility.

2) What are the provisions in the policy and legal framework that allow public officials to sign non-disclosure agreements and as we seek information, especially in cases like the SGR project, how do we deal with secret clauses that prevent effective oversight?

Non-disclosure agreements lead to a lack of accountability moreso in the negotiation and execution of contracts, particularly when these contracts are made without the oversight of institutions like Parliament. This absence of oversight means that the executive can take actions on behalf of the Kenyan people without being held accountable. To address issues related to debts and contracts, there needs to be sufficient access to information. However, while there is currently limited information, it is still possible to identify accountability issues within the existing data. Before expanding the inquiry into unknown areas, the focus should first be on addressing known problems to ensure effective use of available information.

3) Is there a deliberate attempt to undermine devolution, considering that counties are underfunding critical sectors like agriculture and water while ceding control of national resources and public utilities to private corporations? How can this issue be effectively addressed?

There is a perceived attempt to undermine devolution in Kenya, particularly regarding the allocation of resources. Counties are set to receive the same budget of 380 billion as last year, despite an increase in population and demand for services. This stagnation in funding makes it increasingly difficult for counties to maintain service delivery. While accountability issues exist within county governments, supporting devolution is crucial for effective service provision, as counties are the closest units to the public. Advocating for an increase in funding from the national government is essential, especially since the law stipulates that revenue shortfalls should be absorbed by the national government.

4) How do we address the chaos in the informal sector that inhibits individuals from paying taxes and contributing as citizens, especially when someone is benefiting from this chaos?

Many individuals do not willingly pay taxes because they perceive that the services funded by taxes are often inadequate or not beneficial to them. Instead, they rely on private solutions for public needs, such as private health insurance and schooling. This reliance diminishes their motivation to contribute to a tax system they view as ineffective. Furthermore, there is an inequity in the tax burden. For instance, those in the informal sector may end up paying more in taxes compared to larger businesses that pay significantly less. This disparity raises questions about the fairness and equity of tax collection and resource distribution. Additionally, tax incentives are disproportionately granted to foreign companies, which raises concerns about job creation and whether these incentives are genuinely beneficial for the local economy. The potential for kickbacks between foreign companies and public officials involved in defending these tax exemptions further complicates the issue and suggests a systemic problem in governance and accountability.

5) How do we use this space to address the issue of misplaced priorities in public funding, where funds are allocated to non-priority areas at the expense of critical sectors like health especially with increased cases of chronic illnesses such as cancer? In the event that public funds are being misused, how do we hold those responsible accountable and ensure that the funds are replaced or returned to the public office?

Kenyans hold significant power through their constitutional right to public participation. By actively engaging in governmental processes, particularly in budget-making, citizens can influence government priorities and ensure their needs are addressed. Recent events have demonstrated that persistent advocacy and collective action can effectively challenge governmental intentions and lead to positive change. The importance of continued civic engagement—such as asking questions, writing petitions, and participating in demonstrations—cannot be overstated. By doing so, Kenyans can fully exercise their constitutional rights and enhance governance in the country.

6) Are civil society organizations (CSOs) mirroring the government's inefficiency by concentrating resources in select areas, duplicating existing projects, and neglecting regions that need help the most?

Collaboration among various sectors is essential to address critical issues in Kenya. Stakeholders should unite and work strategically, leveraging each other's strengths and expertise. Active participation and advocacy are crucial; silence allows detrimental actions to go unchecked, while collective voices can create a stronger impact, making it more difficult for negative influences to prevail.

7) Is the government making the right decision with transitions such as from NHIF to SHIF and from Huduma Number to Maisha Number, or are these initiatives benefiting certain individuals at the expense of taxpayers' money? Why are Kenyans required to register for such systems when they remain unused after

several years and when hospitals lack basic services?

Government transitions, like from NHIF to SHIF and from Huduma Number to Maisha Number, often serve the interests of a select few rather than benefiting the public. These initiatives appear to be designed for financial gain for individuals in power, with past experiences suggesting that similar projects will continue to emerge, primarily focused on enriching those in government. To combat this, citizens must remain vigilant and continue questioning these initiatives, holding leaders accountable for their actions. Public pressure and demand for transparency can drive change, shifting the focus from personal gain to decisions that prioritize the public good. Additionally, enforcing regulations regarding the disclosure of interests can help expose corrupt practices and ensure that individuals in public service are held accountable for their financial dealings.

Another concern was raised regarding the planned nuclear plant in Uyombo, a residential area that boasts rich biodiversity, including forests and a marine park. There is a strong call for NGOs and civil society organizations to collaborate in raising awareness about this project, emphasizing its potential impact on the entire country. By uniting efforts, these organizations can ensure that the issue of the nuclear plant is recognized as a national concern and advocate for the protection of the region's ecological and community interests.

It added that it's essential to leverage information from well-meaning Kenyans in various sectors to expose corruption. Given the constant emergencies and issues arising, there is a need for individuals working in specific sectors to unite and take action on critical issues.

In conclusion, we must actively speak out against governance issues and corruption. People in government are significantly increasing their wealth, with one individual going from 100 million to 300 million in just a year, which raises serious questions about accountability. Meanwhile, many individuals have had their bank accounts closed due to unaccounted funds, yet those who accumulate wealth without clear sources get away with it. To combat this, there must be transparency in government projects. Every government project should publicly display information about the winning tender, costs, duration, and company ownership. Additionally, the vetting process for government nominees needs improvement. Candidates should be required to explain their wealth growth and demonstrate tax compliance. Civil society must be included in this vetting process to enhance accountability. In a country where businesses are failing and the government faces financial challenges, it is troubling that some individuals can rapidly increase their wealth. There should be a thorough vetting and verification system in place to check the financial declarations of nominees before they reach Parliament. Institutions like the Kenya Revenue Authority (KRA) and the Ethics and Anti-Corruption Commission (EACC) must conduct these verifications to ensure integrity in the nomination process.

6.2 Resolutions:

- Citizens should engage actively in government processes, particularly in budgeting, to influence priorities and ensure that public needs are addressed and civil society must rigorously scrutinize government audits and budgets, especially regarding

debt incurred by public entities.

- Advocacy for increased county government funding is crucial due to increase in population and demand for services. The laws stipulate that revenue shortfalls must be absorbed by the national government.
- Continued civic engagement, such as questioning government actions, writing petitions, and participating in demonstrations, is essential for exercising constitutional rights and enhancing governance. Silence enables harmful practices, while collective advocacy strengthens impact and creates greater accountability.
- Enforcing transparency in the disclosure of interests will expose corruption, and holding public officials accountable for financial dealings is key.
- Government projects must be transparent, with publicly available information on tenders, costs, duration, and ownership.
- Civil society should be involved in vetting processes to improve accountability. Financial declarations of government nominees should be vetted by institutions like the KRA and the EACC to ensure integrity before nominees reach Parliament.



Way Forward

Moderator: Waleed Kassim, MUHURI



Following the presentation of the findings from the breakout session, the following recommendations were given to better the summit and the sector at large.

- **Youth Leadership in the Sector:** There is a call for civil society organizations (CSOs) to practice what they preach. The CSO sector often critiques the government for not providing leadership opportunities to the youth, yet many top leaders within CSOs are not young people. The sector should prioritize mentoring the younger generation and ensure their participation in leadership roles. While advocating for

youth leadership, CSOs must also reflect this commitment in their internal practices.

- **Participation in the Summit:** The voices of Generation Z (GenZ) and young people should be included in summit panels. Despite frequent references to this demographic, their representation was notably lacking. Youth participation must be more prominent in future events. Furthermore, there should be greater involvement of frontline activists, including those not affiliated with formal organizations, as many grassroots defenders are essential to addressing local challenges and should be included in collective efforts.
- **Infrastructure and Development in Marsabit:** The government must address urgent infrastructure challenges in Marsabit, such as schools affected by floods and deteriorating roads near Lake Turkana.
- **Inclusion of People with Disabilities:** Future summits should provide resources such as braille to ensure that individuals with disabilities can fully participate. While advocacy for human rights is crucial, there must also be a focus on disability mainstreaming to ensure inclusivity across all efforts.

Waleed then delivered the vote of thanks, after which the ***Tribeless Youth*** led a candle-lighting session in honour of the lost comrades.





Annexures

- Link to photos of the first day of the Summit: <https://photos.app.goo.gl/REy8cxpuyCXD9bZq5>
- Link to photos of the second day of the Summit <https://photos.app.goo.gl/vVTetYap7bnxo2rS8>
- Link to livestream for first day of the Summit: <https://www.youtube.com/live/RzelCaVlqvg?si=85NZNW3Q0vULqaoQ>
- Link to livestream for second day of the Summit: <https://www.youtube.com/live/318VL2GtpsY?si=NNoETNIpKd7xVYWc>



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PART 2: **OUTCOME PACKAGE**



Introduction

The 4th Annual Civic Space Protection Summit, held on 18th and 19th September 2024 in Mombasa, Kenya, brought together civil society groups, government officials, human rights advocates, and other key players to discuss challenges facing civic freedoms in the country and come up with possible resolutions under the theme: **Contestation of Civic Space in the Context of Constitutional Democracy in Kenya**. The summit entailed remarks from key stakeholder, presentations of key findings from Human rights reports, breakout sessions on The Conduct of Security Agencies in Public Protests, Digital Activism and Internet Freedom In Kenya as well as The Human Cost Debate in the Struggle for Protection of Civil Liberties in Kenya. Additionally, there were panel discussions on the Regulation of Civil Society Sector as well as Resource Accountability and Violation of Civil Liberties in Kenya.

Session 1

OPENING

Welcome remarks and Opening Remarks

The current civic and democratic space is viewed to be in a state of economic and political regression. This is characterized by key issues, including a lack of prioritization in budgetary processes, where significant funds are allocated to non-essential areas like travel, while sectors that generate income and other critical areas such as education and health receive little or no allocation. Police misconduct, including threats, killings, and abductions, continues unchecked, with state officers evading accountability. The economic landscape is also deteriorating due to oppressive taxation, theft of public resources, and delays in county fund disbursements, which hinder service delivery. State capture has compromised media and independent institutions, the opposition is being co-opted, and punitive legal frameworks are used to intimidate dissent. Many grievances raised by the youth in recent protests remain unresolved, further highlighting the disconnect. Additionally, there is a conflictive relationship between the civil society sector and the government, compounded by internal conflicts of interest and mistrust between the sector and regulatory authorities. However, despite all these challenges, there is a sense of hope, and this period is seen as an awakening.

Resolutions

- Strengthen the civic sector by promoting accountability and transparency, which will build public trust and support for civic space efforts. Increased vibrance and vigilance in the sector is what will push the sector and our nation forward. The sector is also called to practice what it preaches.
- Draw inspiration from Kenya's history of resilience and overcoming oppression as a source of motivation to continue progressing despite current challenges.
- Ensure full implementation of the PBO Act to unlock its potential benefits. Civil society organizations should actively engage in developing regulations and structures under the Act and unite in protecting civic space.
- Strengthen the civic sector's capacity to secure its own resources, given the increasing scarcity of funding and support.
- Create mechanisms to address protest grievances by engaging stakeholders to establish clear mechanisms that address issues raised during protests. These mechanisms should facilitate continuous feedback and dialogue.
- Strengthen collaboration between civil society, government, and independent institutions. The government should uphold constitutional values of human rights, leadership integrity, and provide sufficient technical and financial resources to support independent institutions.

Keynote Address

Civil society was embedded in the Universal Declaration of Human Rights from its inception, recognizing that peace, security, and development are interdependent. To achieve any of these goals, there must be meaningful participation supported by an environment that ensures the diversity of voices is heard. Additionally, civil society stretches across all 17 SDGs, as civil society promotes accountability, inclusivity, and the advancement of rights—elements essential for achieving sustainable development. Regrettably, civic space is often described as shrinking, never expanding, which can be disempowering. However, over the past four years, the sector has made critical contributions, including: responding to climate and humanitarian crises, advocating for economic justice, safeguarding the 2022 Elections and advocating for accountability and good governance. These contributions are the lifeblood of democracy. Therefore, the sector should remember the achievements and victories civil society has secured over the years rather than focusing solely on current challenges.

Resolutions

- **Protect and invest in independent institutions:** It is essential to encourage these institutions to fulfill their constitutional roles while holding them accountable.
- **Implement the PBO Act effectively:** Ensure that the PBO Act is executed in a manner that fosters an enabling environment for civic participation, upholding the right to meaningful participation in both national and local processes, particularly for those most vulnerable to oppression.
- **Demand accountability for recent events:** Engage in candid dialogue with the government regarding accountability for recent GenZ protests.
- **Enhance civil society representation:** Ensure the representation of civil society within international partnerships, such as the Development Partnership Forum, to maintain civic freedoms as a central agenda item. Additionally, the engagement of women's platforms and organizations is crucial.
- **Evolve into a digitally deliberative democracy (3D):** Transform Kenya into a digitally deliberative democracy to enhance public participation, creating meaningful engagement mechanisms that go beyond superficial acknowledgments and fostering collaborative efforts to actualize the promise of public participation.
- **Address global challenges through the Summit of the Future:** Focus on renewing the social contract by addressing the fraying agreements between governing bodies and citizens worldwide. The aim is to rebuild trust, restore legitimacy, and ensure that global decisions are informed by the diverse concerns and values of people around the globe.

Session 2

CIVIC SPACE STATUS IN KENYA

Presentation of Key Findings from HR Reports

The Civic Space Monitor index report highlighted the pressing need for civil society to systematically track civic dynamics across counties. This was especially evident during the Gen Z protests in Nyeri, where uniform state responses to civic unrest became apparent. Developing a robust database emerged as a crucial tool for effective advocacy, with proposals made for biannual surveys to assess risks and categorize incidents by severity. Moreover, the impact of counter-terrorism measures on civic space according to the Article 19 report, noted that the government often used national security as a pretext to suppress freedoms. To counteract this, CSOs are urged to adhere to a “counter playbook” that outlined patterns of government overreach, thus enabling proactive responses to threats against civic engagement. The chilling effect of security personnel on public discourse, emphasized the need for a human rights-based approach and increased funding for civil society. This was further backed by Alarming statistics from the “Death, Blood, and Tears” report that illustrated the dire consequences of state actions, revealing 61 reported deaths and over 1,500 injuries during protests held 2023. In light of these findings, immediate actions were required, including suspending implicated officers and reviewing the Public Order Act to ensure alignment with constitutional standards regarding the use of force.

Resolutions

- Develop a robust database for tracking civic space dynamics and conduct biannual surveys across all counties to assess risks.
- Establish a clear categorization of incidents based on risk and severity alongside a real-time data collection system.
- Adopt a human rights-based approach in counter-terrorism efforts and monitor and document threats to civic space rigorously.
- Increase funding to strengthen civil society’s capacity and bridge the gap between civil society efforts and available resources.
- Suspend commanding officers implicated in human rights violations to allow for unbiased investigations and ensure thorough inquiries by the IPOA..
- Review the Public Order Act to align with constitutional standards on the use of force while fostering collective action among civil society and stakeholders to demand accountability for abuses.

Session 3

BREAKOUT SESSIONS

There were 3 breakout sessions discussing:

1. The Conduct of Security Agencies in Public Protests
2. Digital Activism and Internet Freedom In Kenya
3. The Human Cost Debate in the Struggle for Protection of Civil Liberties in Kenya.

Resolutions

- Hold the government accountable for violent policing during protests by demanding adherence to court orders from the acting Inspector General of Police, advocating for the UN Working Group on Enforced and Involuntary Disappearances to convene, and ensuring accountability for police violence, especially concerning the Gen Z protests
- Enhance the effectiveness of County Policing Authorities and Community Policing Committees to improve local oversight of policing practices. Civil society organizations should actively participate in police reforms, support independent institutions like IPOA in monitoring police conduct, and foster community capacities for managing forensic evidence related to rights violations. Additionally, promote public education campaigns to address and mitigate the normalization of police violence in Kenya.
- Encourage the use of M-Changa for local fundraising to foster community ownership and reduce reliance on external funding. Promote intergenerational collaboration to unite activists across age groups, ensuring that older generations support Gen Z in their advocacy for better governance and services.
- Provide training on digital security for youth-led organizations to protect against state surveillance and attacks, while developing offline strategies to maintain activism during internet shutdowns. Shift activism discussions to grassroots levels, ensuring inclusive participation from those directly involved in protests.
- Prioritize the wellness of civil society organization (CSO) staff and provide comprehensive psychosocial support for human rights defenders (HRDs). Promote the economic empowerment and inclusion of persons with disabilities (PwDs) in various sectors, advocate for the enactment of the PwDs Bill, and ensure equitable access to services and opportunities.
- Advocate for stronger legal protections for CSOs against intimidation and harassment and ensure clear donor funding decisions to enhance the effectiveness of CSOs in their advocacy efforts. Implement political education programs for HRDs to strengthen their understanding of the political landscape and advocacy skills.

Session 4

REGULATION OF CIVIL SOCIETY SECTOR: ROUGH ROAD AHEAD

Kenya is recognized as a pioneer in NGO self-regulation. This therefore calls for the sector to keep up its reputation as a trendsetter by maintaining credibility, transparency and accountability. Despite the challenges posed by the politicization of the NGO Council, it became evident that NGOs must voluntarily adopt self-regulatory measures to uphold high operational standards. This commitment was viewed as essential for fostering trust among stakeholders and the public. It is imperative for CSOs to be tax compliant and to adhere to KRA regulations to avoid vulnerabilities, particularly considering increasing scrutiny from regulatory bodies as well as penalties. Civil societies play a critical role in enhancing tax accountability and advocating for financial integrity as is evidenced by several cases both locally and internationally where they intervened to ensure fair taxation.

A thorough understanding of the PBO Act is imperative, coupled with public participation in the regulatory process. An outlined timeline for new regulations included:

- ❖ January 2025: Have the PBO Act regulation gazetted.
- ❖ Three-Month Sensitization and Transition Period: Before May 15, 2025

Resolutions:

- Civil society organizations are encouraged to proactively engage in voluntary self-regulation by establishing and adhering to high operational standards.
- The sector must reinforce existing regulatory frameworks, particularly the NGO Council, to ensure effective oversight of civil society activities.
- Organizations should foster collaboration and provide support to smaller entities, helping them meet self-regulatory expectations.
- Civil society organizations must prioritize tax compliance and maintain thorough records to avoid potential liabilities.
- Organizations need to thoroughly understand their tax obligations, particularly concerning donations and operational expenditures.
- Engaging stakeholders in public consultations is essential for the effective implementation of the PBO Act.
- The sector must work on establishing a cohesive PBO Federation that unites various factions.
- All stakeholders must collaborate promptly to meet the timeline for implementing new PBO regulations.

Session 5

RESOURCE ACCOUNTABILITY AND VIOLATIONS OF CIVIL LIBERTIES IN KENYA: UNPACKING THE NEXUS

The current regime is regressing toward practices reminiscent of the Moi era, with increasing incidents of police brutality, extrajudicial killings, and disappearances. Concerns about government spending were highlighted, showing a worrying trend of economic decline. For instance, between 2002 and 2012, the private sector grew from 15% to 20%, but it has since fallen back to 15%, the level it was at in 2002. Kenya's ranking in ease of doing business is also concerning, currently 4th out of 5 in East Africa. The country's debt is doubling every four years, emphasizing the need for stricter scrutiny of government expenditures. The discussion also pointed out the intimidation that hinders reporting corruption, as only 13% of Kenyans would report it. Civil society was called upon to unite and take a more proactive role in addressing police misconduct, corruption, and the overall violation of citizens' rights, urging courage and action.

Resolutions:

- Citizens should engage actively in government processes, particularly in budgeting, to influence priorities and ensure that public needs are addressed and civil society must rigorously scrutinize government audits and budgets, especially regarding debt incurred by public entities.
- Advocacy for increased county government funding is crucial due to increase in population and demand for services. The laws stipulate that revenue shortfalls must be absorbed by the national government.
- Continued civic engagement, such as questioning government actions, writing petitions, and participating in demonstrations, is essential for exercising constitutional rights and enhancing governance. Silence enables harmful practices, while collective advocacy strengthens impact and creates greater accountability.
- Enforcing transparency in the disclosure of interests will expose corruption, and holding public officials accountable for financial dealings is key.
- Government projects must be transparent, with publicly available information on tenders, costs, duration, and ownership.
- Civil society should be involved in vetting processes to improve accountability. Financial declarations of government nominees should be vetted by institutions like the KRA and the EACC to ensure integrity before nominees reach Parliament.

