



TERMS OF REFERENCE

CONSULTANCY TO DEVELOP CIVIC AND DEMOCRATIC SPACE INDEX IN KENYA

Post level: Short - term Consultancy

Expected Start Date: 1st July 2024

Expected end Date: 20th August 2024

About Civic Freedoms Forum (CFF)

Civic Freedoms Forum (CFF) is a national platform whose core mission is for consolidating and coordinating of civil society actions in the promotion and protection of civil liberties. Its membership comprises of Civil Society Organizations (CSOs) operating at the national level with a track record and commitment to the protection of human rights, civil liberties, and democracy. See more at <https://cff.or.ke/>

About PEN Kenya

CFF is currently hosted by PEN Kenya, a member of CFF and a Public Benefit Organization registered since December 2001 as Poverty Eradication Network but has since changed its name to Partnerships 4 Empowerment & Networking in Kenya. PEN Kenya believes that a strong civil society sector is fundamental to the development of any country and its ability to have sustainable impact on poverty. PEN Kenya was established to contribute towards the eradication of absolute poverty in Kenya, through building and strengthening the institutional capacity of civil society organizations (CSOs) and other not-for-profit organizations and public institutions. See more at <https://www.penkenya.org/>

BACKGROUND

The shrinking civic and democratic space has become a major governance issue for the civil society and other independent voices and actors, at all levels in the society. From 2005 to date, there have been several attempts by the Kenyan State to constrain the civic and democratic spaces through punitive and prohibitive governance frameworks targeting Public Benefits Organizations (PBOs), Faith Based Organizations (FBOs), media organizations, trade unions, Constitutional Commissions among other independent state and non-state actors. The state of civic and democratic spaces in Kenya is directly affected by the political regimes. This is evident from the changing civic and democratic journey over the past eight decades. The August 9th General Elections ushered in the Kenya Kwanza Government led by President H.E William Ruto who was elected on an economic-recovery political agenda.

Under the Kenya Kwanza regime, Kenya is experiencing a sharp rise in the number of restrictions on the civic space occasioned by the capture of the national Legislature by the Executive to propose enact draconian and retrogressive legislation that targets civic activism and civil society organisations. The DNA of these restrictions is evident through violent crackdowns on demonstrators, illegal arrest and detention of dissenting voices, threats, intimidation, verbal attacks on the media and journalists and murder of human rights defenders. The digital civic space has not been spared either. Digital space users have reported illegal arrests, detention, and intimidation for using the space to advance various causes. Global reports on media freedoms also reveal that the state is clamping down on the press. According to *Reporters without Borders*, Kenya has dropped forty-seven positions globally



since 2022 and entered the “Difficult Situation” by end of 2023. Ranked at 116, Kenya is now two positions lower than Burundi and two above South Sudan. On April 26, the Assembly and Demonstration Bill of 2024 was published. The Bill, which proposes to repeal sections 5 and 6 of the Public Order Act, if enacted may claw back on the gains made on Freedom of Assembly under the Constitution of Kenya. It is important to note that there are several over fifty other legislative frameworks that need to be either repealed or amended to aligned to international human rights law and the basic requirements under the Bill of Rights in the Constitution of Kenya. Most of these laws date back to colonial period and have never been revised to align with the current context and the require global standards.

On a more positive note, H.E William Ruto the president gave the greenlight to operationalize the progressive PBO Act 2013. The PBO Act replaced a thirty-four-year-old one-party state NGO Coordination Act thereby introducing a new legal, regulatory, and institutional environment for the sector). The commencement marked the culmination of a lengthy process that began with the Act receiving presidential assent on 14 January 2013. As the PBO Act is operationalized, the transitional provisions set out in the Fifth Schedule triggered several actions as part of operationalization process. Some of those process include: Automatic transition of all NGOs registered under the repealed law; Transition of the NGOs Coordination Board to the PBOs Regulatory Authority; Transition of the National Council of NGOs to National Federation of PBOs; Development and adoption of regulations pursuant to Section 69 of the Act; Establishment of PBOs Disputes Tribunal; Voluntary registration of new PBOs who would like to enjoy benefits under the PBO Act; Voluntary registration of civil society organizations who are currently registered under other regimes but would like to enjoy benefits under the PBO Act.

Last year, CFF published its first Annual Civic Space Index Report which explored the disconcerting trend of shrinking civic and democratic space in Kenya. This report partly resulted into the development of [Civic Freedoms Monitor](#) which facilitates access to civic and democratic space challenges based on four categories: Freedom of assembly; Freedom of Association; Freedom of expression and the right to Access to Information. The users can produce overviews of civic space cases by region, country, and civic space themes as well as to perform text searches. The Civic Space Index Report is an annual report, is expected to derive its data from the Civic Space Monitor that evaluates the state of civic space in the forty-seven counties and at national level. The Monitor, which is currently in its second pilot phase is expected to compare and combine several indicators to quantify the degree of freedom or civic space in each county. Each of the indicators examined is also expected to fit into one of 3 categories.

OBJECTIVE OF THE ASSIGNMENT

The main objective of this assignment is to

- a) Produce an analysis of the prevailing civic space contextual challenges in Kenya (for the past one year) in the four civic space index categories (Freedom of Assembly; Freedom of Association; Freedom of Expression; and right to Access to Information).
- b) Do an analysis of the CFF’s Civic Space Monitor to identify emerging variables and develop key indicators which will be used as standard parameters for evaluation and quantification of the degree of civic space in each county.



SCOPE OF THE ASSIGNMENT

Assignment period (1st July to 20th August 2024).

The assignment will involve:

- a) Desk review of relevant documents such as human rights reports by CSOs, news articles,
- b) Carry out key informant interviews with relevant sector players, and other state actors.
- c) Make the presentation of draft report in a stakeholders' feedback session.
- d) Based on the emerging indicators, the consultants will support CFF Secretariat to initiate updating of the Civic Space Monitor.
- e) To draft an MS PowerPoint presentation, to be included with the Final Civic Space Index Report, that will describe the justification, objectives, methodology, and main recommendations that may be used by CFF members.

DELIVERABLES

The consultant will be expected to deliver the following:

- a) Separate sheet of indicators which will be used to evaluate civic space and areas for improvement for the Civic Space Monitor.
- b) Final Civic Space Index with clear challenges and recommendations. The final report must be accompanied by MS PowerPoint presentation describing describe the justification, objectives, methodology, and main recommendations.

QUALIFICATIONS AND EXPERIENCE

- a) A degree in social sciences with ten years of experience in working in the civil society sector.
- b) Demonstrated understanding of civic and democratic space in Kenya will be an added advantage.
- c) Demonstrated prior experience in the production of human right index reports
- d) Experience in policy analysis and policy recommendation.
- e) Experience in qualitative data collection, methodologies, tools.

1.0 How to Apply

For consideration, please submit Technical Proposal (inclusive of detailed methodology and work plan, CV), financial proposal and at least one sample of previous work) no longer than 8 pages in English with the email subject 'EoI – Civic Space Index to info@cff.or.ke and cc mmwelesa@cff.or.ke by 24th June 2024.

Due to high volumes of applications received, should you not have received feedback on your application within one week of the closing date, please consider your application unsuccessful. We reserve the right to withdraw any of our vacancies at any time.