



THE 4TH ANNUAL CIVIC SPACE PROTECTION SUMMIT

Concept Note

Theme:

Contestation of Civic Space in the Context of Constitutional Democracy in Kenya

Dates:

18th and 19th September 2024

Venue: Pride Inn Hotel, Paradise,
Mombasa County

In Partnership with



INTRODUCTION

The 4th Civic Space Protection Summit under the umbrella of Civic Freedoms Forum (CFF) will take place on **18th and 19th September in Mombasa County**. The Summit's theme, "*Contestation of Civic Space in the Context of Constitutional Democracy in Kenya*", is deliberate to provide an opportunity for civil society actors to reflect on the push-and-pull on the operating environment between the state and the civil society sector and identify practical solutions. This forum will also reflect on the resolutions of the third summit with the aim of assessing the status of implementation. The discussions at the Summit will cover the following broad areas: *Unpacking Resource Accountability and Violation of Civil Liberties in Kenya; The Conduct of Security and other State Agencies in Public Protests; Digital Activism and Internet Freedom in Kenya: Challenges and Ways Forward; The Human Cost Debate in the Struggle for Protection of Civil Liberties in Kenya; and Regulation of Civil Society Sector: Rough Road Ahead*

Thematic Overview

Unpacking Fiscal Accountability and Violation of Civil Liberties in Kenya

Over the past two years, the country has witnessed attacks on independent fiscal institutions, which seriously threaten democracy, accountability, and the rule of law in the country and the essence of our sovereignty. The demand for independent regulatory and oversight institution offices in Kenya is, without a shadow of a doubt, in response to the rise of widespread authoritarian leadership, heightened corruption, and the mismanagement of public resources by the previous governments. The lack of fiscal accountability directly impacts human rights in Kenya. Mismanagement of public funds and corruption reduce the government's ability to provide essential services, leading to public discontent and protests. The government's response to these protests often involves police brutality, abductions, extra judicial killings, heightened surveillance on CSOs and citizens by the state, political intimidation and harassment through weaponization of state institutions such as Kenya Revenue Authority, Central Bank of Kenya through commercial banks, Department of Criminal Investigations, Civil Society regulators among others.

Freedom of Assembly/Right to Free Protest

In 2024, the right to protest in Kenya remains a constitutionally protected but highly contested area of civic engagement. In most instances, the Inspector General of Police and the Cabinet Secretary in charge of internal security have termed protests as illegal and denied protestors "permission" to proceed with peaceful demonstrations. These actions by the Inspector General of Police and the Cabinet Secretary are illegal and unconstitutional as they contravene the Public Order Act, Police Standing Orders as well as Article 37 of the Constitution. As at August 2024, and as a result of the #RejectFinanceBill2024 Protests, Civil Society Organizations (CSOs) reported 50 {(Nairobi (21), Nakuru (3), Laikipia (2), Narok (1), Kajiado (3), Uasin Gishu (4), Kakamega (2), Kisumu (3), Kisii (1), Mombasa (3), Siaya (1), Kiambu (1), Nandi (1), Embu (1), Homabay (1), Nyeri (1) and Bungoma (1)} extrajudicial, summary, and arbitrary executions (EJE) – Fatal police shootings, 413 people were injured, 682 arbitrary arrests and 59 abductions. Most of the cases against perpetrators have not been initiated due to gaps in forensic and medical investigations as well as fear for reprisal.

Digital Activism and Internet Freedoms

In 2024, digital rights during Gen-Z protests in Kenya have become a critical area of concern as young people increasingly use online platforms to organize, mobilize, and amplify their voices. Gen-Z, known for their tech-savviness and digital activism, relies heavily on social media and other digital tools to advocate for social and political change. However, these activities are often met with challenges that threaten their

digital rights. For example, in June 2024 during the #RejectFinanceBill protests, Kenyans first-handedly experienced the curtailment of the freedom of expression online. Several Kenyans were abducted by State agents due to their active participation of the online protests on social media platforms. On 25th of June 2024, Kenya also experienced an internet shutdown following the protests that led to the occupation of Parliament. The use of social media platforms like X and Tiktok has heightened during this revolutionary period. Kenyans are using these platforms as advocacy tools for civic education, amplification and mobilization. As a result, Kenyans on X witnessed the suppression of the hashtags #RejectFinanceBill2024, #OccupyBungeKe and #RutoMustGo. This was a direct violation of the freedom of expression by the state. Even with the passing of the Data Protection Act (2019), most abductions that occurred during the #RejectFinanceBill2024 protests were aided by sharing of private data to the State agencies by Telecommunication Service Providers. This included sharing of the live locations of private citizens as well as access to their social media accounts. Gen-Z protesters faced cybersecurity threats, including hacking, surveillance, and doxing (the practice of publishing private information about individuals online). These tactics are used to intimidate activists and disrupt protest activities. Cases of Misinformation and Disinformation continue to be on the rise especially on social media platforms. While it is every Kenyan's right to freely express themselves, we continue to experience cases of Mis/Disinformation especially during the #OccupyBunge protests and the events that followed. Some social media users were accused of misinforming the public on the abductions that were occurring this period thereby questioning the legitimacy of the HRDs that were abducted.

The Human Cost Debate in the Struggle for Protection of Civil Liberties in Kenya

The struggle for protection of civil liberties in Kenya has been marked by a significant human cost over the years. This cost manifests in various forms, including loss of life, injuries, unlawful arrests, harassment, and the suppression of freedom of expression. Human rights defenders, journalists, and activists continue to face threats, harassment, and extrajudicial killings. The fight for land rights, especially in areas like the Coastal region and parts of the Rift Valley, has led to violent confrontations and the deaths of activists and community members. The human cost extends beyond the individuals directly involved in activism. Families and communities have suffered from the loss of breadwinners, displacement, and long-term psychological trauma resulting from the violence and repression. The ongoing Gen-Z protests in 2024 highlight the enduring struggle for digital rights, freedom of speech, and the right to peaceful assembly. The response from authorities, often characterized by violence and arrests, further adds to the human cost. The fight for human rights in Kenya is ongoing, and while progress has been made, the price paid by many Kenyans over the decades serves as a sobering reminder of the challenges that remain.

Regulation of Civil Society Organizations in Kenya

The regulation of civil society organizations (CSOs) in Kenya is a significant aspect of the broader civic space and has evolved over the years to reflect the political, legal, and social environment of the country. Despite the constitutional and legal requirements on freedom of association and expression, the state has continued to execute selective application of the law to ensure that the CSOs are harassed and intimidated with the aim of realizing self-censorship. The Community Groups Registration Act of 2022 and Public Benefits Organizations Act of 2013 which were expected to provide progressive environment for community groups and other charity organization have been spined into political guns. The past 12 months have witnessed regressive administrative action by the regulators on behalf of the executive. Civil society organizations that advocate for political accountability from the state have received various forms of negative response from various state agencies which have been weaponized to play the tune of the executive. Most recently, the PBOs Regulatory Authority was accused of selectively applying the PBO Act

to target CSOs that are critical of the government or that focus on sensitive issues such as corruption, human rights abuses, and electoral integrity. In addition, these CSOs have been subjected to excessive bureaucratic scrutiny, with repeated demands for documentation, financial audits, or other compliance measures. Some CSOs have received demands for documentations from either their banks or Kenya Revenue Authority (KRA), while others have been subjected to legal threats and summons from the Department of Criminal Investigations. Donor agencies such as Ford Foundation have also received demand letters from the state under the excuse of funding CSOs in Kenya to support political protests.

THEMATIC OVERVIEW



METHODOLOGY

The Forum will adopt the **Open Space Approach** with sub-thematic sessions running concurrently. After the main speeches by the chief guests, the participants will be expected to break out into different conference rooms where session facilitators will lead the discussion by breaking down the sub-theme and thereafter allow the participants to contribute into the subject before finally build consensus on recommendation. The facilitators will be expected to prepare conference papers in advance. The sessions will be expected to take one and a half hours. While the facilitators will be expected to make their presentations for fifteen minutes, the plenary discussions will be expected to take an hour and fifteen minutes. Each Session will have a

rapporteur who will help to take notes during the discussions. Participants will be at liberty to join any session that is of interest to them. After the break-out sessions, the session facilitators and the rapporteurs will be expected to report back to the main conference where all participants will be expected to converge. After the Summit, all conference papers will be published as part of the *Special Civic Space Journal Issue #2*. The Conference will be **held in-person** with an option for those who cannot attend in-person to follow the Conference proceedings **via livestreaming**. Daily sessions of the Conference will take place from **09:00 -17: 00 EAT on day one** and **09:00 -15:30 EAT on day two**

OBJECTIVES

1. To provide a platform for civil society organizations to reflect on the status of civic space since the inauguration of the Kenya Kwanza Government.
2. The Summit will allow for stakeholders to analyze the status of implementation of State commitments on civic space made during the third Civic Space Protection Summit.
3. To consolidate new policy actions and intervention areas for advocacy in the next 12 months.

PARTICIPANTS

The Summits hopes to attract between 100 to 150 participants drawn from leaders of civil society organizations, head of diplomatic missions, development partners and state agencies.