



RESEARCH REPORT

**STATE OF THE CIVIL
SOCIETY SECTOR
FUNDRAISING LANDSCAPE:
THE CASE OF DEMOCRATIC
GOVERNANCE CSOs**

SUBMITTED TO
CIVIC FREEDOMS FORUMS

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LIST OF ACRONYMS

ASAL	Arid and Semi-Arid lands
CBO	Community-Based Organization
CFF	Civic Freedoms Forum
CSOs	Civil Society Organizations
DG	Democratic Governance
FGD	Focus Group Discussion
GenZ	Generation Zed
HRBA	Human Rights-Based Approach to Development
INGO	International Non-governmental organization
KCDF	Kenya Community Development Foundation
KII	Key Informants Interview
NGO	Non-Governmental Organization
NOK	Norwegian Knorrs
ODA	Overseas Development Assistance
PBO	Public Benefits Organization
PBORA	Public Benefits Organizations Regulatory Authority
PEN	Partnership 4 Empowerment and Networking in Kenya
SJC	Social Justice Center
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
USAID	United States Aid for International Development

EXECUTIVE SUMMARY

With support from the Kenya Community Development Foundation (KCDF) and Partnership 4 Empowerment and Networking in (PEN) Kenya, Civic Freedoms Forum (CFF) commissioned a study aimed at assessing the changing funding landscape and its implications for CSOs in Kenya. The study focused on CSOs involved in the promotion of democratic governance and human rights, commonly referred to as DG-CSOs. The study sought to examine global shifts in donor funding trends, identify opportunities and threats emanating from these shifts; document opportunities for diversification of funding sources and make recommendations on adaptations of CSOs to the evolving funding landscape.

The study was conducted using mixed methods approach entailing quantitative methods (survey) to assess perceptions of CSO leaders on matters under consideration and qualitative methods to generate deeper insights and perspectives on funding issues. The survey reached out to 23 officials from varied organizations drawn from the DG CSOs with an interest in civic space issues. The key informant interviews reached 15

persons drawn from among CSO leaders, officials from funding agencies and regulators. A focused group meeting was convened, bringing together members of the Civic Space Funders Working Group, where some key findings were presented by the consultant for interrogation and feedback from participants. A validation workshop was organized to consider the draft report and enrich its content with more feedback before finalization.

This study has established that the recurrent global economic crises, unprecedented rise of China (and by extension the BRICS) as a dominant global player, and the resilience of the right-wing populism in politics of the Global North, have prompted a fundamental shift away from the traditional policy of democracy promotion to “aid for trade”. The policy shift has seen a de-prioritization of funding for DG CSOs in favour of private sector promotion and engagement in sectors considered to be strategic for respective western donor nations. In America, this shift was heralded by the Obama administration and followed through by Trump and Biden regimes. In Europe, the rise of conservative governments, egged on by right wing populism began the shift

in the early 2010s and successive governments have followed suit. This has led to decline in funding for the sector, from western bilateral funders.

The study has established that private funders, community philanthropy and non-traditional sources have increased their prominence as serious alternative sources of funding for the DG sector. The study also found that despite the donor shifts, there is still space for increased commitments from bilateral funders especially around key events such as elections, acceleration towards realization of the SDGs agenda by 2030, mainstreaming of HRBA in climate change actions and fighting corruption. However, restrictions in civic space, inability of DG CSOs to demonstrate results as pressurized by constituencies of funding governments and shifting attention due to emergent global crises will constrain these governments from sustaining their interest in raising funding or improving funding modalities for DG CSOs

Social entrepreneurship and impact investments provide major diversification opportunities for DG CSOs to venture into the market and raise revenues from a growing Kenyan economy despite the persistent risks in the country's investment climate. Consistent growth of Diaspora remittances have pointed to the possibility of DG CSOs raising significant resources from this category of stakeholders for fill-in gaps left by traditional funders. Non-traditional funders from Asia and BRICs present an opportunity but their funding agenda may not necessarily be aligned with the rights-based agenda of DG CSOs. Non-implementation of the PBO Act may constrain civic space, upend efforts to create a robust self-regulatory mechanism (principally the PBO Federation) and undermine the regulatory environment for social entrepreneurship opportunities for CSOs



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The study identified key scenarios on future funding of civil society and the factors that may contribute to materialization of these scenarios. The scenarios add a layer of issues for which recommendations for appropriate position of DG CSOs and funders can be made.

Thus, the study makes the following pointed recommendation for enhanced position of DG CSOs to realize improved sustainable funding:

a. Engagement with the PBO Regulatory Authority (PBORA) to accelerate the implementation of the PBO Act: this is meant to fast-track development of regulations and procedures on migration of NGOs to PBOs, establishment of PBO Federation, engagement of PBOs in social enterprises, tax reliefs and subsidies from government

b. Strengthen self-regulatory capacities: CFF should consider reviving Viwango Initiatives and promote its certification process among CSOs and funders. Self-regulatory frameworks should organize training for CSO leaders and personnel on leadership and governance

c. Enhance community philanthropy: DGCSOs should partner with East African Philanthropy Network (EAPN) to build internal capacities engaging individuals and communities to fund their work

d. Strategy on engagement of Kenyans in the Diaspora: DG CSOs should develop a strategy for engaging with Diaspora communities, with a view to soliciting resources to finance flagship initiatives in Kenya. A strong PBO Federation could ensure large scale mobilization of diaspora to fund the sector in a major way. Hence, a diaspora engagement strategy should be among the key policy frameworks which the new Federation should develop and implement.

e. Engagement with non-traditional funders: DG CSOs should engage with these donors more, by seeking to establish funding partnerships. Through roundtables, DG CSOs should influence local foundations in mainstreaming HRBA in their work as a way of opening-up funding opportunities locally.

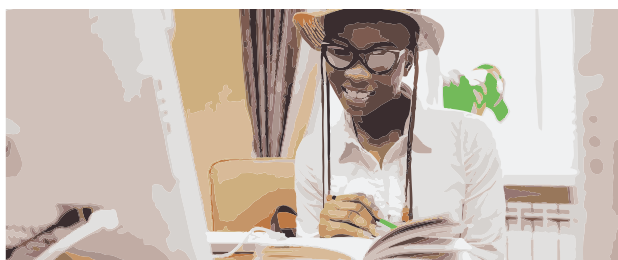
f. Closer engagement with traditional funders: DG CSOs should push for establishment of regular and systematized high-level engagement forums with local representatives of funding agencies,

to share information and lobby for alignment of priorities

g. Promotion of social entrepreneurship: Social entrepreneurship provides a meaningful pathway to sustainable financing of CSOs anchored on a growing Kenyan economy. CFF and self-regulatory networks of DG CSOs should forge partnership with the Social Enterprises Society of Kenya with a view to tapping into capacity building resources and networks of the latter.

h. Engagement with private sector: DG CSOs should consider resource-based partnerships with private sector to enable businesses mainstream human rights in their work and mitigate harms caused by their operations

i. Engagement with the government: through a robust PBO Federation, DG CSOs should lobby the state to provide access to funding for the sector, within a strong ethical framework to safeguard civil society from intrusion and control by the State.



The study acknowledges the duty and role funders play in fostering sustainability of DG CSOs and therefore proposes the following:

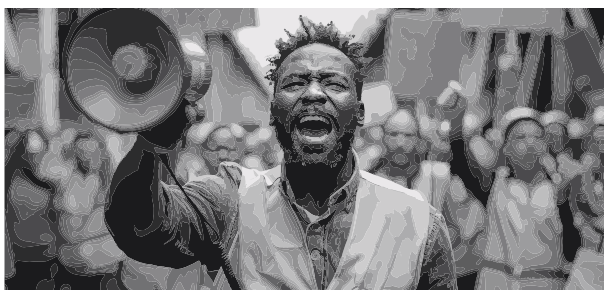
- a. Sustain support for democracy promotion initiatives in light of new risks to democratic reversals in Kenya:** traditional funders should consider expanding scope for DG CSOs support in light of risks to electoral processes, corruption risks, slow implementation of SDG agenda. There is need for non-traditional funders (local and external) to mainstream human rights in their funding mandates
- b. Adopt flexible funding modalities for sustainability of DG sector:** adjust funding frameworks to accommodate flexible funding modalities that support organizational strengthening and sustainability of DG CSOs
- c. Embrace transparency in reporting funding resources:** post funding data in existing open aid platforms.

- d. Embrace mainstreaming of HRBA in other development assistance domains:** Climate change actions have received considerable global attention and financing recently. Thus, financiers of climate change should actively engage DG CSOs in mainstreaming human rights in supported actions. This is also likely to result in a resource-based relationship
- e. Embrace institutionalized engagement forums with DG CSOs:** establish routine roundtables to foster this type of engagement with DG CSOs.

“Non-traditional funders from Asia and BRICs present an opportunity but their funding agenda may not necessarily be aligned with the rights-based agenda of DG CSOs. Non-implementation of the PBO Act may constrain civic space”



1 INTRODUCTION



1.1 Background to the Study

Civil society is a recognized actor in the socioeconomic development and political processes in Kenya. Vision 2030 recognizes the role of civil society as part of institutions in society that provide ultimate defence against abuse of office, while underscoring government's commitment to support and engage with civil society actors in the promotion of democracy and participation.¹ Indeed, the Constitution mentions the term civil society within the context of the right to participate in cultural life.² In the statute books, there are at least six laws that regulate

the establishment and operations of civil society organizations, signifying the legal importance of this sector.³

Globally, civil society has grown over the years, with international NGOs estimated to have risen from less than 1000 in 1950 to about 30,000 in 2014.⁴ Civil society in Kenya is characterized as robust and vibrant, with over 12,000 organizations registered as non-governmental organizations, and over 200,000 as community-based organizations. It is also viewed as a diverse sector, differentiated in terms of geography, size, mandates and capabilities. The sector is significantly dependent on external or foreign donors for funding, due to limited governmental support and under-exploited local philanthropy.

In recent years, concerns have emerged in the sector over the sufficiency of funding of civil society in light of plateauing or declining of external funding.⁵ In the health sector for instance, decline in funding is attributable to shifts in

1 Republic of Kenya, Sessional Paper No 12 of 2012, at piii & 159

2 Constitution of Kenya, Art 44 (2) (b)

3 These include the Public Benefits Organizations Act of 2013; Companies Act, Trustees (Perpetual Succession) Act, Community Based Organizations Registration Act, Income Tax

4 See Gani Aldashev & Cecilia Navarra, 'Development NGOs: basic facts' (2018) 89 Annals of Public and Cooperative Economics pp125-156

5 *ibid*; the authors indicate that amount of funds channeled through NGOs by OECD countries rose up for \$2B to \$17B in 2010 before

development landscape, increase in income status of recipient countries and attainment of disease burden thresholds, thus compelling major funders to transition responsibility for programme funding to national governments.⁶ Similar concerns have been raised regarding the democracy and governance sector. For instance, it has been noted that the changing development landscape has forced traditional donor countries to shift their priorities from democracy consolidation to private sector promotion, in light of stiff competition from China on investments in Kenya and Africa for that matter.⁷

These concerns prompted the Civic Freedoms Forum (CFF) to commission a study into the funding landscape of civil society in Kenya, with a focus on implications for the democratic governance CSOs. The Civic Freedoms Forum (CFF) is a national membership-based platform established to consolidate and coordinate civil society actions in the promotion and protection of human rights, civil liberties and democracy in Kenya. The formation of the CFF was informed by the significant threats to civic space in Kenya, following several attempts since 2015 by the State to constrain the operational environment of civil society actors through punitive and prohibitive frameworks. CFF is hosted by the Partnership 4 Empowerment and Networking in (PEN) Kenya. Presently, CFF plays the role of a umbrella convener, coordinator of joint actions and a platform for consultations on civic space issues in Kenya.

In terms of scope, the study focused on establishing the funding situation and prospects for civil society organizations involved in promotion of human rights and democratic governance. For purpose of this study, civil society is taken to mean a sphere of associational life which is outside the family, state and market, where people associate to advance their interests.⁸ Thus, CSOs are the organizational forms created to facilitate associational life. In Kenya, CSOs will include organizations registered under different legal regimes including community-based organizations, public benefit organizations, charitable companies and trusts.

For purposes of this study, CFF has deliberately chosen to focus on CSOs that work on issues of promotion of human rights, political participation, anti-corruption initiatives among others, which fall under the broad umbrella of democratic governance promotion, hence the term democratic governance (DG-) CSOs. This focus is informed by the fact that funding landscape of CSOs is an area which has attracted limited attention. For instance, whereas the regulator, the NGO Coordination Board, was required to publish a report on the status of PBO sector (including funding situation), the reports provide little analysis on DG CSOs.⁹ These CSOs are geographically situated as county, national and international. In terms of funding levels, the study conveniently described DG CSOs as micro (less than Ksh50M budget), meso (50- 200 Million budget) and mega (over 200 Million budget).

The study examined funding of DG CSOs in terms of revenue realized from contributions made by external benefactors as well as income generated from own sources (social enterprises, investments and donation from members/ affiliates/constituencies. Ordinarily, DG CSOs have relied on funding from rich OECD governments predominantly from the western world (bilateral donors), foundations and multilateral institutions (World Bank, UN system, the EU). These are normally referred to as traditional funding sources. In recent years, CSOs have ventured into fundraising from emerging economies such as the BRICs and the Gulf states, which are now viewed as non-traditional funding sources.¹⁰ Besides, foundations that previously never funded DG priorities have been targeted for fundraising by these organizations and therefore are considered as non-traditional as well.

“Presently, CFF plays the role of a umbrella convener, coordinator of joint actions and a platform for consultations on civic space issues in Kenya.”

plateauing and declining from then on.

⁶ Amy McDonough & Daniela Rodriguez, 'How donors support civil society as government accountability advocates: a review of strategies and implications for transition of donor funding in global health' (2020) 16 Globalization and Health, pp2-18

⁷ Jacqueline Wood, 'Unintended consequences: DAC governments and shrinking civil society space in Kenya' (2016) 26 Development in Practice 532-543

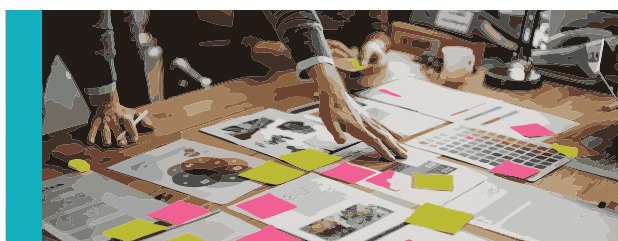
⁸ Malena C & Heinrich V.F. "Can we measure civil society? A proposed methodology for international comparative research" in Development in Practice, Vol17 No.3 June 2007 pp338-9

⁹ See for instance, NGO Coordination Board, *Annual NGO sector report year 2021/2022* (NGO Coordination Board, Nairobi, 2023)

¹⁰

The research entailed collecting basic quantitative data from primary and secondary sources for purpose of meeting relevant requirements of the consultancy. A survey targeting CSOs in the democratic governance sector was conducted, primarily to collect data on perspectives on current and future state of funding. From literature sources, the consultant collected data on funding flows to CSOs disaggregated into various sectors. The study adopted a scenarios building approach in anticipating future funding trends and outcomes for the CSO landscape.

This report contains the overview of the design of the study, assessment of the context of funding of civil society generally, findings from the fieldwork, discussion of the findings and conclusions with pointed recommendations on the way forward.



1.2 Methodology

The study was designed using the mixed method approach, combining both quantitative and qualitative methods. The specific objectives of the study were:



a) To assess global shifts in donor trends and how they impact on civil society funding landscape.



b) To identify opportunities and threats presented by the donor shifts for CSOs in Kenya



c) To document local opportunities available for fund diversification by the civil society in Kenya



d) Make recommendations on adaptation of CSOs to the evolving funding landscape.

The study employed the following methods of data collection:

Online Desk Research: The consultant accessed and reviewed online resources relevant to this

study, including statutes, policy frameworks, official reports and academic writings on CSO funding landscape. The consultant used their extensive access to online databases of journals and repositories, from which relevant literature for this study was accessed. Through review of these documents, the consultant was able to distil key issues relevant to this study, which informed tool development, assessment of contextual issues, trends analysis and triangulation of findings.

Survey: A survey targeting DG CSOs was conducted to collect and aggregate views and perspectives on current funding situation as well as prospects for the future. A survey questionnaire was designed to capture the required data. The questionnaire was mounted on google platform and a link sent to the sampled respondents. A pretest of the survey tool was conducted before roll-out, target three non-participants. The findings were used to refine the tool before deployment.

The survey respondents were selected from the list of participants drawn from DG CSOs that are affiliated to CFF through participation in previous PBO Summits, which attracted participants from across the country. These CSOs are drawn from the democratic governance sector and demonstrate significant variability in terms of categorization of CSOs targeted by this study (urban/rural' micro/meso/macro; CBO/NGO/INGO). As such, the population of respondents was deemed as fairly representative of the entire CSO universe and hence amenable to non-probability sampling method. Out of a possible sample population of 369, the consultants sought to achieve a sample size of 15% or 55 respondents. Using systematic sampling, the consultant set the picking interval as every 6th person (i.e. $369/55 = 6.7$). An extra 20 persons were sampled to enlarge the same in order to cater for non-responses.

In-depth interviews: Key informant interview checklists or guides were constructed using the parameters of funding trends, concerns, threats and remedial actions. A pre-test of the survey tool was conducted before roll-out, targeting one non-participant. The feedback was used in refining the tool.

The consultant sampled and sought to interview 13 key informants purposively sampled drawn from CSOs, funding actors (both traditional and non-traditional), CSO regulators, experts and academia. The study achieved a sample of 15

CSO representative, drawn from all categories except non-traditional funders, due to non-responsiveness. All interviews were conducted virtually (except one) as per the qualitative aspects of the task and augmented the scenarios projected from the literature review as well as initial findings from the survey. Recordings of interviews were transcribed for analysis. Below is a list of key informants targeted in this study:

Category	Sub-Category	Target	Achieved
DG CSOs	County-based	1	5
	National	1	3
	International	1	3
Funders	Traditional Bilateral	1	0
	Traditional Multilateral	1	1
	Traditional Foundation	1	1
	Non-traditional bilateral	1	0
	Non-traditional foundation	1	0
	Non-traditional multilateral	1	0
CSO experts	Philanthropy expert	1	1
	Social enterprise expert	1	0
Academia	Researcher	1	0
Regulator	PBO Regulatory Authority	1	1
Total		13	15

Analysis: To analyse data from key informant interviews, the study utilized qualitative methods of clustering and discerning trends and identification of emergent themes relevant to the key objectives of the study. The responses from the online survey were subjected to simple quantitative methods (counts, averages and percentages) will be used to quantify perceptions as well as funding flows and trends for CSO sectors.

Focus Group Discussion: The CFF partnered with the Civic Space Donor Group to convene a meeting to interrogate the initial findings from the study. This group brings together development partners and foundations which support work around protection and promotion of civic space in Kenya. As such, the group tends to channel its funding mostly to DG CSOs and therefore better understands the sector. The meeting took the format of a FGD. The consultant presented the findings and received pointed feedback from participants, which fed into further analysis and refinement of the report

Validation meeting: A half-day virtual validation workshop will be held to discuss the draft research report. The participants will be drawn from key

stakeholders representing stakeholders of this study as well as experts as identified jointly with CFF. The findings of the workshop will enrich the final draft report.



1.3 Limitation of the Study

The study achieved a rather small sample size comprising organizations and individuals who work closely with the CFF and therefore key DG CSO players operating outside the ambit of CFF missed out. The results of the survey therefore may contain inherent bias and therefore caution should be exercised when attempting to generalize the findings to the entire DG CSO sector. This notwithstanding the results of the survey may nevertheless provide an indicator of underlying trends in CSOs funding.

Secondly, the consultant was not able to conduct key informant interviews with traditional bilateral funders due to time and other constraints. However, some of these players participated in the FDG meeting and shared their perspectives.

The consultant was able to gather data on funding trends by some of these players from available sources, and this helped alleviate this limitation.



1.4 Outline of the Study Report

After introducing the study, the report explores the context of civil society funding in Kenya. The key conceptual issues related to civil society and rationale for funding are clarified. In the third part, the report provides findings from data collection and analysis. In the fourth part, the report examines the various funding scenarios that hold out for DG CSOs. IN the final part, the report provides conclusions and recommendations on positions and other actions which DG CSOs and stakeholders ought to consider towards promoting sustainable funding of the sector.

“From literature sources, the consultant collected data on funding flows to CSOs disaggregated into various sectors.”





2 CONTEXT OF CIVIL SOCIETY FUNDING IN KENYA

This section looks at some of the key issues relating to funding of civil society in democratic governance sector generally and particular to Kenya's context. The nature and role of civil society in democratic governance process is first appraised. Lastly trends in funding of democratic governance CSOs in globally and locally will be gleaned from the literature.



2.1 Nature of civil society in Kenya

As defined in the first chapter, civil society is viewed as a realm of associational life, which is autonomous from the state and market. In this regard, some have conceptualized it as a space or frame wherein the agency and imagination

of individuals can be combined to address the key issues of the day.¹¹ The level of autonomy and voluntary nature of civil society is perhaps contentious and elicits disputation over the term and its application in society. For instance, there is a radical interpretation of the term, which views civil society as providing challenge to status quo and providing alternative visions for society, whereas neo-liberal aspects emphasize on the service provision role of civil society actors in response to state or market failure.¹² The radical view of civil society therefore presupposes greater aspect of autonomy whereas, the neoliberal form would necessarily stress on close collaboration between civil society actors and the state or market. The democratic governance CSOs therefore align more with the radical espousal of the concept.

The notion of civil society is not entirely a product of western scholarship and traditions. In precolonial Africa, it has been asserted that forms of civil society thrived, comprising community institutions including self-help and

¹¹ Michael Edwards, 'Introduction- civil society and the geometry of human relations' in Michael Edwards (ed) *The oxford handbook of civil society* (Oxford University Press, New York, 2011) at p3
¹² Ibid p6

solidarity groups which sought to promote welfare and development of communities.¹³ Such groups existed in the form of age-groups, lineages, self-help groups, trade associations and communal labour groups. In most communities, age-groups and lineages acted as checks on the exercise of political authority and where excesses occurred, it was not uncommon for a particular age-set to instigate a revolution, leading to replacement of political leaders. In this regard therefore, precolonial civil society espoused the radical view advanced in western scholarship.

Civil society is categorized by the nature of actors operating in its realm, depending on their organizational and geographical settings. The service delivery or non-profit CSOs are perhaps the most ubiquitous in both developed and developing countries. They are usually characterized by high levels of formality (including legal registration), external funding (as opposed to membership support), play role of intermediaries between grassroots communities and the governments and/or funders.

¹⁴These organizations are said to have origins in the welfare state, for they were established to render services where government or the market was unable to effectively do so, particularly for the low income, vulnerable and excluded groups.

¹⁵Outside the western world, such CSOs have existed as kinship groups in Africa (explained above) and equivalents in China (guanxi), Melanesia (wantok) and Arabia (wakf).

¹⁶Generally, non-profits tend to be close to the state and markets, often receiving funding (as grants, tax exemptions or fees) to sustain their work and this is said to affect their ability to be responsive to community needs and act as conduits for citizen pressure.¹⁷

Development CSOs is another category, which also goes by the term 'non-governmental development organizations of development NGOs. These category of CSOs are often (but not all times) characterized by having such attributes as separate legitimacy and governance from governmental bodies; base their work on tenets

of international aid; not established to generate wealth for their owners; operate at multiple levels and sectors and; are non-partisan in politics.¹⁸ At the international level, such visible (northern) NGOs as Oxfam, CARE and Action Aid International fall under this category. At the national level, (southern) NGOs have been established and operate under regulated environments either as affiliates of their international counterparts or in their own right. These types operate often as intermediaries between their funders and communities, supporting development innovations and interventions, therefore acting as alternative instruments of development support vis-à-vis the government. Their reliance on external funding is quite significant and often, they are indistinguishable elements the international aid system. Thus, any changes in the aid system, including shift in priorities of key donors will necessarily affect their operations and autonomy.¹⁹

Community based organizations or grassroots associations constitute perhaps the largest category of civil society actors. These actors operate at the community level, characterized by more democratic and less hierarchical forms of governance and accountability, strong volunteer (non-paid) workforce and deep grassroots presence.²⁰ Residents associations, community self-help groups, welfare associations are examples of formal community based organizations. There exists vibrant informal community associations that are based on traditional family, clan, language, trade or village affiliations, which nevertheless play a critical role in providing welfare support.²¹ Whereas the strong volunteerism base of CBOs contribute to their sustainability and resilience, their less formalized governance arrangements predispose them to patronage by politically or economically dominant members of the community. Likewise, organized crime is known to manifest its overt activities through CBOs, providing services and acting at fronts in areas controlled by gangs where there is limited state policing.²²

13 Priscilla Wamucii, 'Civil society organizations and the state in East Africa: from the colonial to the modern era' in E. Obadare (ed) *The handbook of civil society in Africa* (Springer, New York, 2014) p109

14 Steven Smith, 'The non-profit sector' in Michael Edwards (ed) *The oxford handbook of civil society* at p31

15 Ibid, pp32-33; the author distinguishes three types of welfare state regimes which spawn their own peculiar non-profit types as liberal (US & UK), Corporatists (Germany) and Social democratic (Scandinavian).

16 John Casey, 'Comparing nonprofit sectors around the world: what do we know and how do we know it' (2016) 6 *Journal of Nonprofit Education and Leadership* pp187-223

17 Smith, 'The non-profit sector' pp32 & 38

18 Allan Fowler, 'Development NGOs' in Michael Edwards (ed) *The oxford handbook of civil society* pp44-45

19 Ibid

20 Frances Kunreuther, 'Grassroots associations' in Michael Edwards (ed) *The oxford handbook of civil society* pp55-67

21 Casey, *Comparing nonprofit sectors* p213

22



In the Kenyan context, community-based organizations are the earliest forms of civil society actors. During the colonial period, authorities deemed it necessary to tightly regulate grassroots associations as a way of curtailing pro-independence sentiments. In the post-independence period, CBOs were regulated through policy, with the requirement that to operate legally, they should register with government departments responsible for social affairs at the local level. Today, these organizations are regulated under the Community Groups Registration Act. It is estimated that there are over 200,000 CBOs operate in Kenya. In recent years, there has emerged associations of community-based human rights defenders and paralegals, operating under the banner of social justice centers. The SJs provide awareness, legal aid and assistance and mobilize communities to hold duty bearers accountable for civil, socio-economic and environmental rights violations as well as delivery of services.²³ According to the Social Justice Center Working Group, there are 80 SJs operating in 20 counties and thus are considered as democratic governance CSO actors.²⁴

Social movement is also viewed as an integral of civil society, for they are considered as informal networks created by multiplicity of individuals, groups and organizations involved in political or cultural conflicts as a basis of shared collective identity.²⁵ Even though there is a tendency by some to distinguish movements from civil society organizations, it is nevertheless acknowledged that both overlap in their quest from promoting autonomy of individuals from the market and

state.²⁶ Movements have emerged to champion single issues at national and transnational scales such as environment protection, gender equality, debt forgiveness and lately, climate change. These organizations have also become more institutionalized, with some evolving to become national or global civil society organizations. In Kenya, examples of movements include the now defunct National Convention Executive Council (NCEC), the Ufungamano Initiative, Jubilee Campaign on debt forgiveness. Recent versions include OKOA Uchumi, a coalition that was formed to campaign against high cost of living, unsustainable public debt and economic mismanagement. Movements also have a transient nature, rising when the issue which their members coalesce around become topical and collapse or transform into another form in pursuit of new issues.



2.2 Funding of Civil Society and its Implications for DG CSOs

Among the earliest initiatives to render support for democratic governance promotion in developing countries in the 1960s and 70s was the law and development programmes initiated by the Ford Foundation, USAID in collaboration with law schools largely from America.²⁷ The programmes, which targeted Latin America and Africa sought to promote role of law in shaping economic development in the developing world, on the assumption that such initiative would lead to economic growth and thus lead to promotion of human rights. However, the initiative floundered but was reignited in the 1990s by the World Bank and promoted as a rule of law initiative, in support of liberal democracy and free markets.²⁸

23 See for instance the mandate and history of Mathare Social Justice Center which was established in 2015 and is located in one of Nairobi's iconic Mathare slum at < <https://www.matharesocialjustice.org/our-team/> > last accessed on 27 Sept 2024

24 See < <https://socialjusticecentrewg.org/about-us/> > last accessed on 27 Sept 2024

25 Donatella Porta & Mario Diani, 'Social movements' in Michael Edwards (ed) The Oxford handbook of civil society p69

26 Ibid

27 John Merryman, 'Comparative law and social change: the origins, style, decline & revival of the law and development movement' (1977) The American Journal of Comparative Law

28 David Trubek, 'The "rule of law" in development assistance: past present and future' (June 2003) accessed on 30 Oct 2024 from < <https://ruleoflawus.info/Economy/Rule%20of%20Law%20in%20Development%20Assistance%20.pdf> >

Even though the initial recipients of this support in the 60s and 70s were law schools and scholars from developing countries, in the 1990s and beyond, DG- CSOs became beneficiaries. Indeed, the vibrant human rights movement that emerged during this period in developing countries is partly credited to these initiatives. In addition, these initiatives supported DG CSOs role in championing for legal reforms, including constitutional and statutory reforms to undergird robust bill of rights, strengthened judiciary and checks and balances.

Funding to DG CSOs has also emerged and rapidly expanded as a result of instrumentalization of such organizations as tools of foreign policy or agendas of donor countries or organizations.²⁹ This trend became more prominent in the post-Cold War period, when the emergent Western countries began finding ways of increasing their influence in the post-Soviet bloc as well as developing countries. For instance, it is noted that (former) President Bill Clinton revived the National Endowment for Democracy and also created the Center for Democracy and Governance at the USAID to promote democracy abroad.³⁰ Britain followed suit by creating the Westminster Foundation (1992), while the EU created the European Initiative for Democracy and Human Rights with similar aims.

Through their embassies and development assistance agencies, the western countries poured millions of dollars into registered NGOs with the aim of advancing their foreign policy by influencing domestic policies and politics. For instance, in the US, foreign aid for civil society shot from \$56million in 1991 to \$234million in 1999 destined for ex-Soviet bloc, sub-Saharan Africa and Latin America.³¹ The private foundations and multilateral funding agencies soon followed suit.

The leaders of the recipient ??.....

What emerged out of this funding relationship was a type of DG-CSOs described as “NGO-crazy,” characterized by professional CSO leaders or elite that lacked a constituency in society.³² Because of

heavy reliance of western donors, the NGOs saw no need or had very little motivation to anchor their organizations on local support through membership drives, promoting voluntarism or seeking local philanthropy. When Barrack Obama assumed office, his administration signaled change of foreign policy agenda from promotion of democracy as the key foreign policy goal to defense, diplomacy and development and this heralded shift in funding for civil society.³³ When donor support dried up or their leadership got co-opted into government, the NGOs simply folded-up or scaled-down their work into near-irrelevance.

NGOs began to provoke backlash from the political elite and governments in the developing world, who viewed their activities with suspicions and were labelled as neo-colonial serving a neo-liberal agenda by weakening the state, and undermining state sovereignty by receiving support from outside donors.³⁴ The invariably led to imposition of restrictions on funding and operation of NGOs, ultimately leading to restriction of civic space in many countries. In a quantitative study covering 153 low-middle income countries for the period 1993-2012, it was established that increase in foreign aid to NGOs increases the risk of adoption of restrictive laws by 6.7%, highlighting this particular undesirable consequence of NGO funding.³⁵

Another key thrust in the rise of DG CSOs and associated funding globally was the “rights-turn” in the poverty eradication efforts by development agencies and governments in the 1990s. This was brought about the Amartya Sen’s seminal work, which viewed underdevelopment as a matter of denial of fundamental rights.³⁶ The movement was largely driven by the UN system, which convened a workshop in 2003 whereby a statement of principles underlining HRBA were adopted, which underpinned a common approach to application of the same. HRBA was eventually adopted as a framework for development cooperation and assistance

29 Orysia Lutsevych, ‘How to finish a revolution: civil society and democracy in Georgia, Moldova and Ukraine’ (January 2013) Chatham House Briefing Paper No 1 of 2013, accessed on 04 Oct 2024 at < https://www.chathamhouse.org/sites/default/files/public/Research/Russia%20and%20Eurasia/0113bp_lutsevych.pdf >

30 Omar Encarnacion, ‘Assisting civil society and promoting democracy’ in Michael Edwards (ed) The Oxford handbook of civil society pp470-1

31 Ibid; civil society aid portfolio grew to become the largest within governance programmes of USAID

32 Lutsevych, How to finish a revolution n 29

33 Omar Encarnacion, ‘Assisting civil society and promoting democracy’ p472

34 Antoine Buyse, ‘Squeezing civic space: restrictions on civil society organizations and the linkages with human rights’ (2018) 22 The International Journal on Human Rights 966-988

35 Kendra Dupuy et al, ‘Hands off my regime@ governments’ restriction on foreign aid to non-governmental organizations in poor and middle-income countries’ (2016) 84 World Development 299-311

36 Amartya Sen, Development as freedom (Alfred Knopf, New York, 1999)

by leading international NGOs, development agencies and notably the European Union.³⁷

Under HRBA, aid was no longer viewed as charity or alms, rather as an obligation by developed countries to enable developing country governments to fulfil their legal obligations towards promoting and protecting the rights of their citizens as rightsholders.³⁸ Aid was also viewed as a legal entitlement by rightsholders, vital to enable them claim their rights in areas hitherto viewed as basic services whose provision was a matter of charity (education, health, social security, amenities etc). The approach also viewed discrimination and inequality as among the root causes of poverty and hence development assistance should be re-oriented to address marginalization and vulnerability.

The approach promoted use of activism and advocacy to promote inclusions and participation of all, in particular, the vulnerable and marginalized groups in the development process. These issues sit at the core of the mandates of DG- CSOs. Thus, the HRBA created opportunity for DG- CSOs to seek and access development assistance to work in areas that had hitherto been the province of humanitarian and development CSOs. For instance, in the Commonwealth of Independent States, a UNDP- funded water governance project was opened-up for participation by human rights organizations, which otherwise would have been excluded, while in Kenya, UNDP funding was made available to grassroots human rights organizations for the first time in the late 2000s.³⁹

However, it should be noted that commitment to rights-based approaches also began precluding DG CSOs from seeking funding from sources that appeared to violate rights in the first place.⁴⁰ Insistence on results-based approaches which is integral to HRBA also undermined the ability of DG- CSOs to demonstrate impact on their advocacy programmes, because of the methodological challenges, measurements

and time constraints of demonstrating change within lifetime of a project or programme.⁴¹

The western world has politically moved to the right characterized by populist nationalism (and distrust of multilateralism) with more conservative and ultra conservative parties winning mandates to form and run governments. Because of their nationalists' credentials, the right-wing governments prioritize domestic issues and prosperity as cardinal objectives to be pursued under their respective governments. The attitudes of these governments toward development assistance abroad is rather poor if not outrightly hostile, leading to de-prioritization of overseas development aid.⁴² It is important to distinguish left wing populism as progressive on issue such as identity, multiculturalism, foreign policy, international cooperation and hence development assistance.⁴³

Right wing populism was catalyzed by global financial crisis of 2008 that destabilized major economies and left households financially dislocated hence breeding discontent. Similar effects have been registered from global crises such as the middle east wars that provoked large scale immigration of Arabs into Europe and America. The influx of immigrants provoked fears that locals would lose their jobs and crimes escalate, breeding more local discontent. Fringe right wing parties and populist politicians have since fed on such discontent to grow their base and bring right wing politics into the mainstream. The foregoing provides a context against which DG CSOs globally began to receive funding and the trends that emerged out of the funding relationships. Funding enabled the DG-CSOs to expand their work and presence as credible development actors. However, the funding also came with challenges, which appear to have undermined the long-term viability of the DG-CSOs. In the next sections, we shall revisit some of these issues and examine how they conditioned funding of DG-CSOs in Kenya.

37 Andrea Cornwall & Celestine Nyamu- Musembi, 'Putting the rights-based approach' to development into perspective, (2004) 25 Third World Quarterly 1415- 1437

38 Morten Broberg & Hans-Otto Sano, 'Strengths and weaknesses in a human rights-based approach to international development- an analysis of rights-based approach to development assistance based on practical experiences' (2018) 22 International Journal of Human Rights 664-680

39 Shannon Kindornay, James Ron & Charli Carpenter, 'Rights-based approaches to development: implications for NGOs' (2012) 34 Human Rights Quarterly 472-506

40 Babatunde Olawoore, 'The implications of the rights-based approach on NGOs' funding' (2017) 27 Development in Practice pp515-527

41 David D' Hollander, Axel Marx & Jan Wouters, 'Integrating human rights in development policy: mapping donor strategies and practice' Leuven Center for Global Governance Studies Working Paper No 108, June 2013

42 Alexander Their Douglas Alexander, 'How to save foreign aid in the age of populism' in Foreign Policy, May 5 2016 edition, accessed on 30 Oct 2024 at < [How to Save Foreign Aid in the Age of Populism - Foreign Policy](#)>

43 Motoshi Suzuki, 'The punitive impact of radical right populism on foreign aid: immigration pressure and mainstream partnership' (2023) 15 European Political Science Review pp542-561



3

THE EMERGENT STATUS OF FUNDING OF DG CSOs: FINDINGS OF THE STUDY

The chapter presents the key results from analysis of findings from the data collection exercise. The results have been thematized around the key areas of inquiry.



3.1 Level of Funding for DG- CSOs

The study sought to establish the level of funding for CSOs in recent years. During the interviews, the respondents were asked to provide their assessment on funding levels for the last five years. A five-year period is considered long enough to cover a strategy period or cycle for an organization (CSO, donor or government) and therefore provides a good window to assess any changes that may have occurred in respect to the subject of this study.

There was a general view that level of funding

for the sector has been declining for the last couple of years. Most key informants observed that the decline in funding began in the early to mid-2010s, and has since persisted, with spikes especially during elections, when funding for voter education and observation peaks. Funding declined during COVID-19 pandemic period and has yet to reach pre-pandemic levels, despite the end of global transition from the recovery period. Results from the survey indicate that a slim majority of respondents held the opinion that funding has increased from traditional donors (57%) but a minority (43%) polled that funding from non- traditional donors had increased in the last 10 years. However, a minority (47% and 43% respectively) opined that number of traditional and non-traditional donors had reduced over the said period.

These results can be interpreted to mean that a majority of CSO respondents do not necessarily agree that funding has increased, which is still consistent with the dominant view from key informant interviews that funding has indeed declined. The few responses which indicated that funding had increased were from organizations

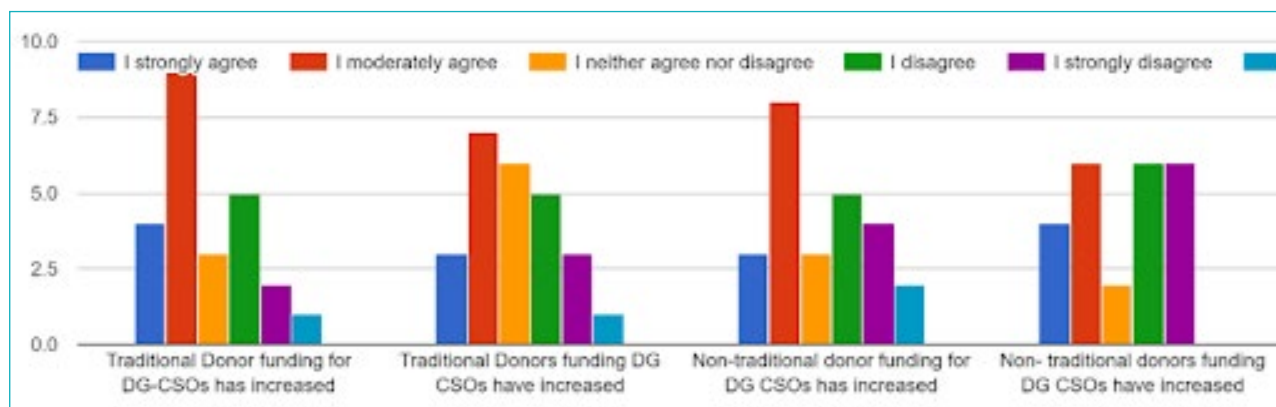


Figure 1: Levels of funding in the last 10 years

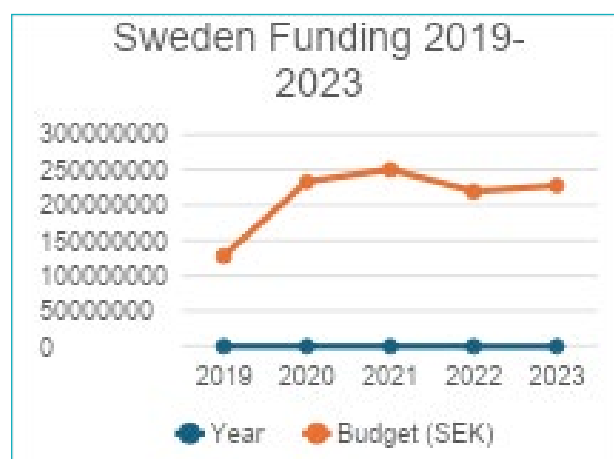
that had benefited from ongoing localization processes and hence had received more resources from traditional donors who now preferred channeling development assistance through local organizations.

The study also sought to establish from data from development partners whether funding was increasing or declining. From the online data bases that had complete datasets, the consultants were able to discern trends from four bilateral funders drawn from the OECD as follows:



Sweden's allocation of funding to Kenyan DG-CSOs through its foreign affairs ministry increased from 129M SEK to 228M SEK between the years 2019- 2023. Analysis of the funding disbursements indicated an initial incline from 2019- 2021 before a decline in 2022 before picking up in 2023. The decline is attributed to COVID-19 the lagged slow-down in disbursements. The number of DG-CSOs supported by Sweden within that period remained within the range of 60-70. This data goes against the commonly held view that funding for DG- CSOs had declined. Kenyan CSOs should be more optimistic about increased funding from Sweden, following recent policy shift by Swedish International Development Agency (SIDA) to fund global south CSOs directly, rather than

through Swedish intermediary NGOs. ⁴⁴ Seeming, this policy is informed by ongoing trend towards localization of aid through increased support for local organizations. However, it should be noted that Swedish intermediary NGOs may still get more of the competitive grants, given their long-standing relations with SIDA and knowledge of funding policies and requirements of the agency.



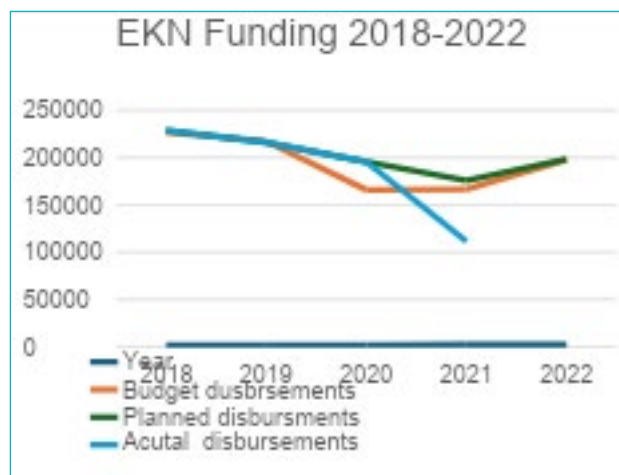
Available data from the Dutch official aid portal indicates that planned disbursements to DG-CSOs in Kenya reduced from 229M Euros to 198M euros between 2018 and 2022.⁴⁵ Analysis of the trend through the years shows a steady decline with a marginal increase in 2022, which coincided

⁴⁴ David Lewis, 'The break-up of Sweden's civil society funding system as seen from abroad' in Development Today (April 21 2024 edition) accessed on 12 Oct 2024 at <www.development-today.com>

⁴⁵ Kingdom of the Netherlands, 'Programme budget chapter XVII- Foreign trade and development cooperation' accessed on 13 Sept 2024 from <Workbook: Rijksbegroting Hoofdstuk XVII (tableau.com)>

3. THE EMERGENT STATUS OF FUNDING OF DG CSOs: FINDINGS OF THE STUDY

with the Kenyan election period. Like with Swedish funding, Dutch funding dramatically fell to a low of Euro 175M during the COVID pandemic peak, highlighting a common trend during the period. The decline in funding is consistent with the 'Aid for Trade' policy that was adopted by the Dutch government in 2013, wherein Kenya was categorized as among the low-middle income countries with burgeoning economies, for which Dutch investments would include aid for limited poverty reduction programs and trade promotion through increased market access.⁴⁶



c) Norway

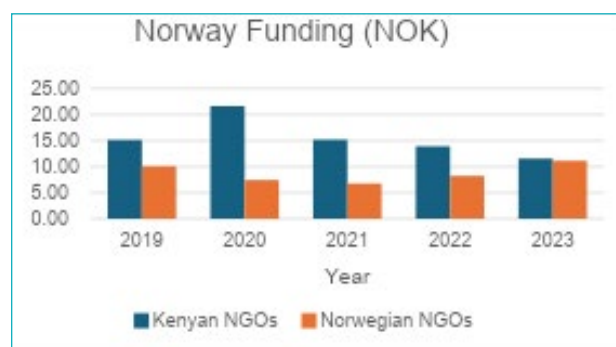
Photo Credits:
www.evaneos.com

The aid data base for Norwegian foreign aid shows that disbursements to Kenyan DG- CSOs in Kenya declined from NOK 15M in 2019 to NOK 11M in 2023.⁴⁷ The percentage of disbursements to Kenyan DG-CSOs fell from 13% to 7% of the total development aid disbursement to Kenya during that period. The total number of Kenyan CSO partners supported declined from 23 to 7 during the same period.

However, disbursements to Norwegian NGOs operating in Kenya in the democratic governance sector, increased marginally from NOK 10M in

2019 to NOK 11M in 2023, whereas total partners supported declined from 22 to 11. This means that significant volumes of Norwegian aid still go through Norwegian NGOs, showing little progress towards localization of aid agenda.

The trend analysis shows an initial increase in budgeted disbursements in 2020 but a gradual decline till 2023. The actual disbursements however showed a decline up to 2022 and a significant increase in 2023. In both cases, the peak of COVID pandemic coincided with the decline. Like its Scandinavian counterparts, Norway shifted its aid policy to embrace trade as the dominant issue, while retaining aspects of civil society strengthening. Trend analysis shows a consistent decline over the years. What is more, the proportion of DG portfolio funding has shrunk from 2% to 0.5% within the same period.



d) USA

Photo Credits:
expat-assurance.com

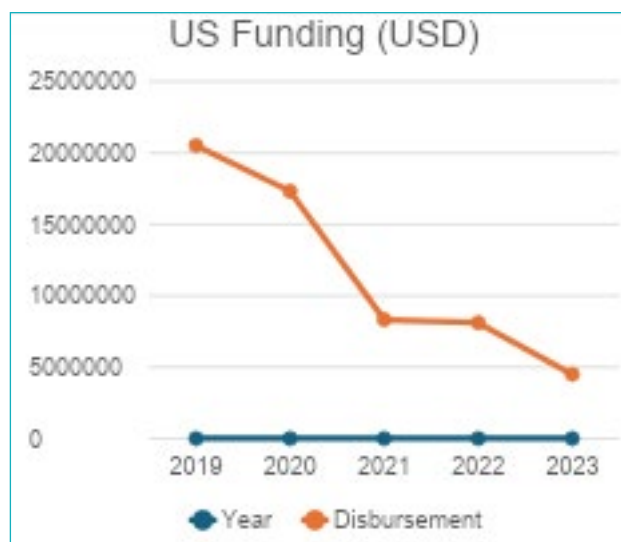
Data from USAID on funding of DG-CSOs was not provided but the same can be inferred from total funding allocated to the democratic governance portfolio, which reduced from \$USD 20.5M in 2019 to \$USD 4.5M in 2023.

This decline in funding for DG sector appears consistent with the US country strategy for Kenya (2020-2025) which prioritizes private sector engagement while democratic governance is mentioned as a sub-theme.⁴⁸

⁴⁶ Ministry of Foreign Affairs (Netherlands), 'A world to gain: a new agenda for aid, trade and investment' a policy note presented to Dutch Parliament on 05 April 2013, accessed on 15 Sept 2024 from < <https://kpsr.org/publication/a-world-to-gain-a-new-agenda-for-aid-trade-and-investment>>

⁴⁷ NORAD, 'Norwegian development aid statistics and results: Kenya' accessed on 13 Sept 2024 from < <https://resultater.norad.no/geography/africa/kenya?show=bistand>>

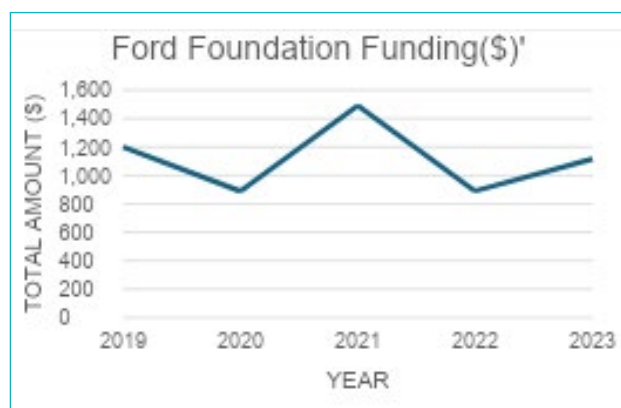
⁴⁸



e) Ford Foundation

Ford Foundation has operated in Kenya since (year?) and has consistently funded CSOs involved in democratic governance promotion. Analysis of funding to Kenyan DG CSOs has revealed an **upwards- downwards movement** over the last 5 years as shown in the graph.

Interestingly, Ford Foundation's funding dramatically surged at the height of COVID-19 pandemic, even though the description of funding provided in their website does not indicate that additional funding went into COVID relief efforts. The surge-drop trend notwithstanding, Ford appears to retain an element of consistency in funding DG CSOs.



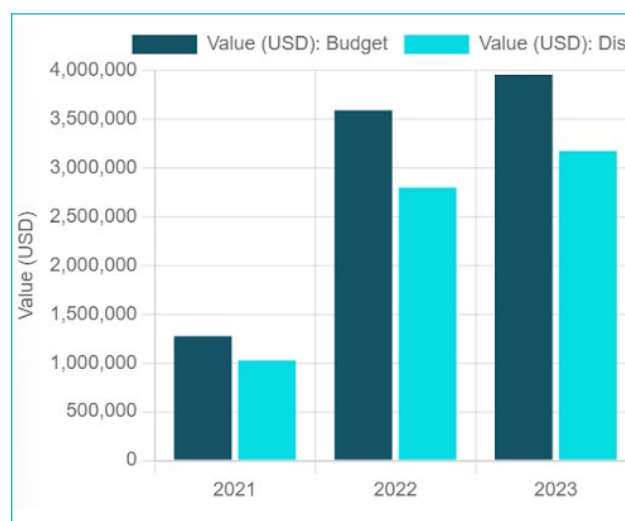
f) HIVOS

HIVOS is a Netherlands-based foundation founded in 1968 which works to build and strengthen social justice movements, support changemakers who confront structural oppressions and offer support to activists in danger.⁴⁹

HIVOS supports programs in Kenya through its East Africa Office, focusing on climate change, democratic governance, socio-economic inequality, sexual minority rights and women rights. Data accessed from IATI indicates that HIVOS funding in Kenya has increased from \$1 M in 2021 to \$3.18M in 2023 as indicated in the chart.⁵⁰

It should however be noted that HIVOS also raises significant amount (as much as 70%) of its funds from the Dutch government and the EU and hence some of the funding to Kenyan CSOs might be double-counted.⁵¹

The fact the HIVOS funding has increased underlines a possibility that funding through foundations has not necessarily decreased. It could also mean that the declining bilateral funding could be finding its way to Kenyan CSOs through north-based foundations.



49 See <https://hivos.org/east-africa/> accessed on 26 Oct 2024

50 Accessed on 29 Oct 2024 from <https://countrydata.iatistandard.org/data/reporting-organisation/NL-KVK-41198677/?filters=recipient_country_or_region%3AAKE%3Bsector_category%3A150%3Btransaction_type%3A3,4,budget%3Byear%3A2023>

51 HIVOS, Annual report 2023: Speaking up for change (HIVOS, Hague, 2024) p8



3.2 Effects of funding levels on DG- CSOs

The evident decline in funding for the DG CSOs has led to reduced programming for the affected organizations. As a consequence, the impacts of individual CSOs facing financial constraints as well as cumulative impacts of the sector are both declining with adverse implications for DG- CSOs. This is contributing to increased invisibility of the DG- CSOs in key governance discourses. One respondent noted that the GenZ protests exposed DG CSOs to their increased invisibility, as unorganized youth took upon themselves with limited organizational skills, to force the government to back track on implementation of the Finance Act of 2024.⁵²

Secondly reduced programming has lowered the confidence of DG- CSOs to take-up big ideas related to the discharge of their mandates.⁵³ In this sense, the advocacy roles of CSOs on sensitive or high profile governance issues is diminishing, and this reduces their clout as influencers of government policy. Thus, the hitherto instrumental role of CSOs in achieving policy goals of funding organizations is diminishing, given their increasing inability to influence such lofty policy agendas.

Thirdly, the reduced impact undermines the credibility of DG-CSOs as legitimate and effective development actors, given the due prominence given to demonstration of results for development funding. This further complicates the funding situation for these organizations by affecting their fundability as a result of limited demonstrable impact. For this reason, CSOs facing financial constraints are increasingly finding themselves in a downward spiral.

Reduction in funding has led to staffing constraints,

with some DG CSOs reporting staff losses of up to 50% of their workforce within the last 5 years. With reduced staffing, these organizations are experiencing capacity constraints, which further undermine their ability to produce desired and demonstrable impacts. This goes further to undermine their fundability. Related to the foregoing, funding decline has triggered a level of despondency among affected organizations, making them vulnerable to taking money from sources that may compromise their HRBA values.⁵⁴

Increasing funding constraints has exposed DG- CSOs to risk of constriction of civic space. Perceptions of weakening DG CSO sector has sent signals to some regulators that they may not be able to withstand future onslaught on civic space as has happened before.

The foregoing notwithstanding, the funding crisis has created opportunities for the DG sector. For instance, it has been noted that affected CSOs have learned to innovate in order to achieve more by using less. In this regard, CSOs are leveraging years of investment in technology (acquisition of ICT infrastructure) to conduct virtual meetings and online campaigns that cost less while still achieve equally same results.⁵⁵ Secondly, CSOs have been forced to collaborate in ways that were previously not envisaged. For instance, CSOs are increasing fundraising jointly, notwithstanding the high competition that has characterized the DG sector.⁵⁶

Thirdly, CSOs are increasingly sharpening their strategic focus partly to improve their fundability but also to ensure the limited resources at their disposal are invested in areas that make more sense or create maximum impact/change.⁵⁷

Fourthly, CSOs are adopting unprecedented approaches to fundraising and programming, as evidenced by NGOs from northern Kenya, who have taken to cross-border programming to attract funding from funder in Somalia and Ethiopia.⁵⁸

Due to vibrancy and elevated capacity of Kenyan CSOs, the northern Kenya NGOs are getting into cross-border fundraising with an edge over their Somali or Ethiopian counterparts.

Lastly, due to the high premium given to

52 Interview with a senior official of a FBO

53 Interview with a CEO of a leading consortium

54 Interview with an official from a funder organization

55 Interview with CSO leader from Western Kenya

56 Interview with CSO leader from the Coast region

57 Interview with an official from an global intermediary CSO

58 Interview with a programme manager from a development agency

achievement of result and in the context of dwindling resources, most funders are now finding it more cost-effective, channeling their development assistance through county and grassroots-based DG CSOs. This cadre of CSOs has lower overheads costs compared to the national or international intermediaries and therefore can provide better value for money.⁵⁹



3.3 Trends underpinning levels of Funding of DG CSOs

The study established the following as among the key trends explaining the funding situation:

3.3.1 Shifting donor priorities away from democratic governance promotion and towards stability and self-sufficiency of Kenya

For the bilateral funders, it is apparent that their respective governments have embraced the “aid for trade” policy, which prioritizes investments in private sector as the driver of economic growth. This aligns with global trend of traditional western donor countries, who began reorienting their development assistance policies away from democracy promotion to economic growth in the late 2000s and early 2010s. This policy shift was signaled or given impetus by the reclassification of Kenya as a lower middle-income country in 2015, following re-basing of the GDP.

The Netherlands for instance is explicit that their strategy focuses on sustainable economic growth and leaving no one behind as a prerequisite to the stability of the country.⁶⁰ However, Dutch strategy leave significant lee way for continued support to the DG- CSOs, by prioritizing enhancing civic space and voices of

marginalized groups. Even though the US has adopted a similar embrace of economic growth prioritization, its approach contains a strategic shift in its electoral support programme away from election administration to influencing the electoral environment in terms of political inclusion, participation and transparency.⁶¹ This shift is likely to continue ensuring support for DG-CSO actors in electoral programming around these issues.

It should however be noted that the enlarged focus on private sector development and promotion may not bear fruits as envisaged by donor countries. A study on aid for trade approach by the Dutch funding targeting the water sector in Kenya showed that there was limited involvement of private sector, but rather, pushed non-profit development organizations to adopt and incorporate behavior and practices associated with private sector or pursue projects targeting private sector.⁶²

The second major shift is towards promoting self-sufficiency of Kenya and its institutions, including civil society organizations. The USAID for instance adopted “The Journey to Self-Reliance” as an approach aimed at transitioning recipient countries away from foreign assistance by collaborative framing of development results, mobilizing local resources (from public and private sectors), strengthening local capacities and accelerating enterprise development.⁶³ This approach emphasizes on direct relationships with local actors and organizations while building exit strategies. It is therefore anticipated that the USAID will establish direct funding relationships with Kenyan CSOs as away of enhancing local capacities for sustainability. This policy could ensure more resources end up with local CSOs if well applied. The Ford Foundation has also prioritized sustainability of DG-CSOs through its Building Institutions and Networks or ‘Build’ initiative that allows grantees unrestricted funds and institutional strengthening support with leeway to acquire assets to sustain their operations (e.g. purchase of land or buildings).⁶⁴

59 However, CSO leader pointed out that the evolving funding arrangements should still accommodate the national NGOs- resource constraints notwithstanding- because of the capacity strength they bring to the table, which CBOs usually lack

60 Embassy of the Kingdom of the Netherlands ‘Multi annual country strategy 2023-2026 Kenya’ accessed on 20 Sept 2024 from <<https://www.netherlandsandyou.nl/documents/3651352/4374330/MACS%2BKenya%2B2023-2026%2BPublic%2BVersion.pdf/ed5b417a-24b9-8cd1-9f3e-7acec1fd530?version=1.0&t=1691666509460>>

61 USAID, Kenya country development cooperation strategy P13

62 Elisa Savelli, Klaas Schwartz & Rhodante Ahlers ‘The Dutch aid and trade policy: policy discourse verse development practices in the Kenyan water and sanitation sector’ (2018) Environment and Planning C: Politics and Space pp1-22

63 USAID, ‘The journey to self-reliance: supporting partner countries to lead their own development’ accessed on 20 Sept 2024 from <https://www.usaid.gov/sites/default/files/2022-05/J2SR_Fact_Sheet_June_2020.pdf>

64 Raphael Bisiaux et al, ‘Final report: BUILD developmental evaluation, March 2022, (NIRAS, Sweden, 2022) accessed on 30 Oct 2024 from <<https://www.fordfoundation.org/wp-content/uploads/2022/05/build-evaluation-final-report-1.pdf>>

The third shift relates to prioritization of new areas such as climate change, which align with security and stabilization agenda of western donor countries. The Dutch strategy for Kenya notes that “on improving abilities of communities living the ASALs, in Kenya to withstand climate-related shocks by partnering with county authorities” as part of its approach to dealing with stability and leaving no-one behind.⁶⁵ Such prioritization means that unless Kenyan CSOs reorganize their mandates in such a way that climate change dimensions of governance and human rights are mainstreamed, DG-CSOs will continue losing out on the opportunity of accessing climate financing.

3.3.2 Rise of nationalism and right-leaning governments in funding countries

This study revealed that such trend is a strong factor explaining shift in donor policy and declining funding for DG- CSOs. For instance, it was noted that the shift by the Dutch in using aid as a tool for promoting their trade interests in Kenya is a central plank of foreign policy by the nationalist government that ascended into power recently.⁶⁶ It was also noted that US support for democracy took a back seat during the first term of President Trump because aid prioritized for strengthening trade and military cooperation with East African region.⁶⁷ These views are supported by literature, which argues that right wing populist leaders of the Global North use bilateral aid to punish recipient countries abroad which do not address issues (e.g. stemming immigration flow or addressing radical extremism) that are of concern to their domestic political constituency at home.⁶⁸ Even where right wing governments have no leeway to reduce aid, they can still repurpose it (through reallocations) to defund issues that are not of concern to their political base.⁶⁹ The abrupt cuts in reproductive health support to Kenyan NGOs in 2016 by the Trump administration is testament to this. Respondents in this study identified this trend as a long-term trend,⁷⁰ given the resilience of right-wing politics and the socio-economic conditions that persist in global North which feeds into populism.

3.3.3 Inordinate focus on results and its impact on fundability of DG- CSOs

The insistence on delivery of measurable results by DG-CSOs as a conditionality of funding has been identified as a key issue that will continue to affect the fundability of the sector.⁷¹ The difficulties in formulating, measuring and achieving measurable results for DG projects compounds the situation. Yet some development partners have acknowledged this problem but nevertheless continue to insist on delivery of results, due to pressure from their home governments.⁷² Thus, this trend is likely to persist for as long as funding governments or their constituents continue demanding for results as a form of aid accountability.

To go round this problem, some development partners have begun having discursive approaches to formulation of results with funding recipient through co-creation processes. This ensures that the results to be measured are feasible while addressing measurability concerns from both parties.⁷³ Some foundations are no longer insisting on the use of logical frameworks (logframe) as the primary result-based management tools, whereas the theory of change framework is increasingly gaining popularity for the way in which it frames the desired change to be pursued by interventions, and the pathways underpinning the same. There is therefore need for greater advocacy targeting funders stuck in logframe approach to consider alternatives that align with the rather unique context of DG-CSOs.

3.3.4 Rights-based approach conditionalities

By making their funding available to only CSOs that would mainstream particular rights (especially LGBTQ rights), some funders were alienating key DG- CSOs from seeking funding relationships, particularly faith-based organizations.⁷⁴ This restricts and all together excludes some DG CSOs from possibilities of accessing this type of funding.

⁶⁵ Embassy of Kingdom of Netherlands, Multi annual country strategy p1

⁶⁶ Interview with a FBO leader and Feedback from a focus group discussion with civic space funders

⁶⁷ Interview with CSO leader

⁶⁸ Suzuki, The punitive impact of radical right populism on foreign aid p560

⁶⁹ Stephen Brown, ‘All about that base? Branding and the domestic politics of Canadian foreign aid’ in Richard Nimijean & David Carment (eds) Canada, nation branding and domestic politics (Routledge, London, 2020) pp20-38

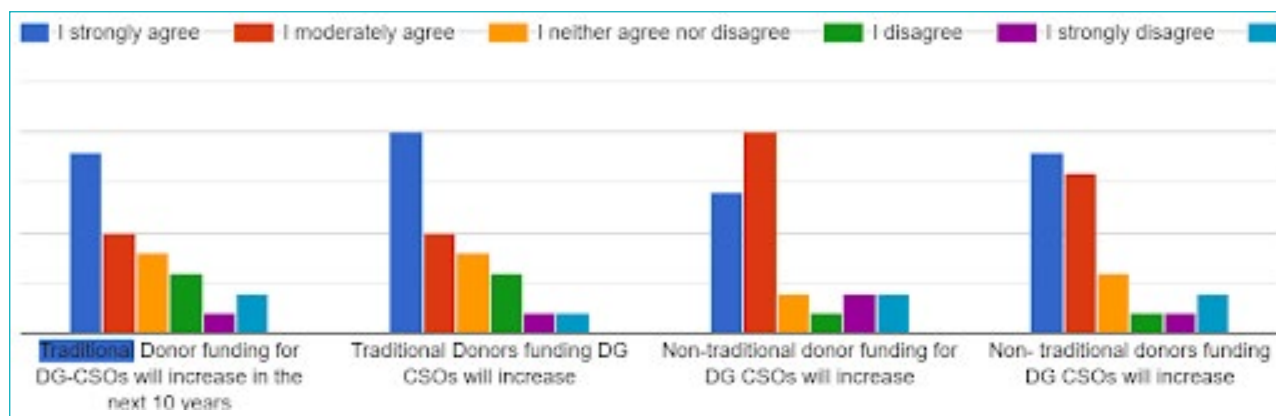
⁷⁰ Feedback from the FGD with Civic Space Funders Working Group

⁷¹ This was raised by key informants from all categories of CSOs as well as funding agencies.

⁷² Key informant interview with a senior officer working for a funding agency

⁷³ In the key informant interviews, Ford Foundation was mentioned as among the funding agencies that have adopted this approach.

⁷⁴ Interviews with two officials from FBOs (one representing a funding intermediary agency and another a recipient CSO).



This is a trend that is likely to persist, as mainstreaming of human rights continues in all domains of development. Given the increasing efforts to accelerate the SDG agenda as 2030 approaches, with the overarching goal of leave no one behind, the issue of rights' mainstreaming will continue having currency in many development spheres.

3.3.5 Civic space restrictions

Threats to civic space through restrictions for funding that have persisted in Kenya since 2013 have dissuaded some potential funders from supporting DG CSOs.⁷⁵ When the Kenyan government accused Ford Foundation of financing NGOs and activists that were allegedly behind the GenZ protests in June-July 2024, this underscored the lingering tensions between the State and CSOs.⁷⁶

However, with the operationalization of the Public Benefits Organization Act of 2013 in June 2024, the threat of restricting civic space has drastically reduced. This trend may therefore continue but with moderate risk and impact, unless the implementation of the Act is sabotaged or delayed. The risk may also heighten, if the next elections are characterized by high stakes and as well, if the incumbent suffers electoral losses but somehow manages to retain power. PBOs present an easy scapegoat for electoral losses, which incumbents may sustain.

3.3.6 Cautious optimism of increased funding

DG-CSOs remain optimistic that funding will increase in the short-term future. Results from the survey indicate that most respondents are very optimistic about increased funding, both from traditional as well as non-traditional donors in the near future as per the chart in the next page:

This cautious optimism is based on the following considerations: First, if Kenya slides back into authoritarianism, liberal funders may decide to increase their support to DG CSOs to serve as a bulwark against violation of rights.⁷⁷ Given the country's history of reproachment between main opposition leaders and the ruling party after every disputed election, there is no real check to authoritarian exercise of power by the Executive. At the time of writing of this report, extrajudicial killings and enforced disappearance of persons spiked, targeting those alleged to have organized the GenZ protests. It also worrisome that the US has rated Kenya as a country exhibiting high risk of external debt distress and a highly fragile state, vulnerable to conflict and collapse.⁷⁸ These are potential signs of volatility that may reinforce resort to authoritarianism by leaders in a bid to control citizens and repress any dissent. This trend is likely to persist into the medium term.

Secondly there are signs that the 2027 elections will be bitterly contested hence increasing risk of violence and further repression, thus warranting robust support to DG CSOs through civic education, conflict prevention and election observations, hence more funding.⁷⁹ This

⁷⁴ Interviews with two officials from FBOs (one representing a funding intermediary agency and another a recipient CSO).

⁷⁵ Interview with two officials from funding agencies.

⁷⁶ Phidel Kizito, 'Govt formally writes to Ford Foundation over role in recent chaos' Capital News World, July 19 2024 post, accessed on 29 Oct 2024 from <<https://www.capitalfm.co.ke/news/2024/07/govt-formally-writes-to-ford-foundation-over-role-in-recent-chaos/>>

⁷⁷ Interview with CSO leader from Northern Kenya

⁷⁸ See USAID, 'Country roadmap portal: Kenya FY2025 roadmap' accessed on 10 Oct 2024 from < <https://roadmaps.usaid.gov/country/kenya> > ; On risk of fragility, Kenya is scored at (on a score of 86 out of 120), where 0 is the lowest risk score.

anticipation looks plausible in light of the GenZ protests of 2024 which caused widespread political reawakening among the youth and recent acrimonious impeachment of the Deputy President. It is therefore anticipated that a credible challenger to the incumbent will emerge and ride on the youth discontent. With little electoral reforms achieved thus far, concerns over vote rigging will heighten the stakes and invite more risks. This however is a short-term trend, which may dissipate if electoral preparedness is taken seriously by the State and political actors to diffuse any potential risks.⁸⁰ Thirdly, it has been argued that some of the trends leading to decline in donor funding are reversible. For instance, civic space restrictions can be offset by robust implementation of the PBO Act, hence restoring donor confidence in funding the sector. Governments in Europe and America have regularly been oscillating between left- and right-wing political parties. For instance, the UK resoundingly elected Labour government back to power after two decades of Conservative rule. Some of the adverse policies on ODA are likely to be reversed by the new Labour government. This, however, is a short- term trend.



3.4 Opportunities for Improving Funding of DG CSOs

The study identified the following as key opportunities:

3.4.1 Social entrepreneurship

Many respondents in both key informant interviews and online survey identified creation of new revenue streams through social entrepreneurship as an opportunity which DG- CSOs should embrace. Some CSOs had

embarked on this journey with initial success. For instance, Legal Resources Foundation (LRF) had established an online (Haki FM) radio station as a social enterprise to broadcast democratic governance-themed programmes along with entertainment and advertisement.⁸¹ In addition, LRF had established a consultancy entity, which actively solicits for research and advisory work from other CSOs in the sector.

Because CSOs leaders may not have access to capital or resources to engage in social entrepreneurship, it was suggested that these organizations should forge partnerships with private sector. For instance, impact investors are readily seeking partnerships with CSOs to invest in areas that create social impact but returns on investments. Private investors also have the skills and knowledge to impart to CSOs on entrepreneurship and business management to guarantee success of social enterprises. Private sector can also guarantee market access for CSOs good and services, if well engaged.

3.4.2 Enhancing community philanthropy

Raising money from the community was identified as a key opportunity by majority of respondents even though the means of raising such money varied. This is in line with the concept of community philanthropy, which means the practice of mobilizing various resources at the community level to improve the lives of communities in the long run.⁸² Soliciting cash and in-kind contributions from communities where DG CSOs undertake their activities was suggested as a way of not only reducing cost of activities borne by CSOs but also as a way of promoting community ownership of interventions.⁸³

Secondly, DG CSOs should target online communities and raise funds through crowd-funding. This approach proved very successful with the GenZ protest organizers, who were able to raise over Ksh25M to cater for legal and medical aid as well as burial expenses for those arrested, injured or killed respectively. Crowdfunding is quite flexible because it allows for small donations

79 Interview with leader of a CSO consortium and CSO leader from the Coast region

80 Interview with a representative of a foundation

81 Interview with a leader of a CSO network to which LRF is a member

82 East African Philanthropy Network & ICNL, Strengthening an enabling environment for community philanthropy in East Africa (EAPN, Nairobi, 2022) p6 accessed on 30 Oct on <<https://eaphilanthropynetwork.org/eapn-publications/strengthening-an-enabling-environment-for-community-philanthropy-in-east-africa/>>

83 Interview with leader of CSO network with grassroots CSOs

to be collected from many sources anonymously thus creating a good environment for giving.

Thirdly, DG CSOs should consider opening up their organizations to membership and hence solicit resources from their members. This will not only raise needed resources but will also anchor the DG CSOs in local constituencies, hence enhancing their legitimacy and escape the discrediting label of “foreign agents”. Fourthly, DG CSOs can also engage local volunteers to provide much needed technical expertise. Given the high level of unemployment among Kenyan graduates, this also offers a good pathway for internship and industrial training opportunities for youth wishing to take up employment in the sector as future careers.

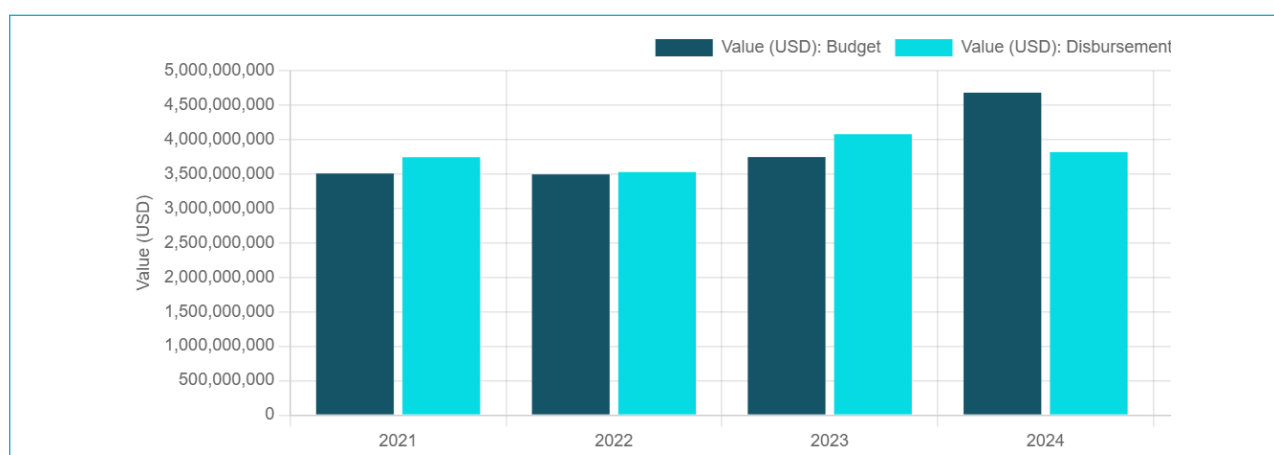
3.4.3 Engaging government as source of funding

The government at both levels (national and county) present good opportunities for funding DG CSOs. It was pointed out that the PBO Act envisages creation of funding relationships between PBOs and the government.⁸⁴ Thus, DG CSOs can exploit this opportunity and seek funding from the exchequer to carryout activities for which government is not best suited to carryout. This is not unprecedented in Kenya. In 2021/3, the government established the Kenya National Integrated Civic Educational(KNICE) Programme under the-then Ministry of Justice and National Cohesion and with support from development partners, DG CSOs received funding to carryout civic education on the newly

promulgated Constitution of Kenya ahead of the elections.⁸⁵ Voter education present a good opportunity where DG CSOs could partner with the national government to prepare Kenyans for the next electoral cycle.

In addition, the PBO Federation provided for as a self-regulatory body under the Act could also act as a platform for mobilizing resources from government and other stakeholders to fund initiatives by PBOs.⁸⁶ It should be recalled that the defunct NGO Council (a self-regulatory body that was established under the repealed NGO Coordination Act) was part of the DG CSOs that developed and established the National Civic Education Programme (Phase One), which mobilized resources and provided grants to DG CSOs to conduct civic education on the need for a new constitution, between 2001 and 2023.⁸⁷ If the proposed PBO Federation is established with robust structures, it could also play a similar role as its predecessor.

County governments have a role to play in promotion of democratic governance and therefore could provide resources to DG CSOs.⁸⁸ In the area of civic education, it is noteworthy that a private senator’s Bill has been published which seeks to provide for a role of CSOs to conduct civic education under the regulatory ambit and possibly with funding from County governments.⁸⁹ The Bill however requires improvement to guarantee CSO funding, if it is to be enacted. CSO advocacy efforts may be required to make this Bill a reality and therefore an opportunity for increased funding for DG CSOs.



⁸⁴ Interview with an official from CSO regulator

⁸⁵ Grace Maingi, ‘Citizenship education in Kenya’ (20222) accessed on 21 Oct 2024 from <<https://www.bpb.de/die-bpb/partner/nece/505385/citizenship-education-in-kenya/#:~:text=Following%20the%20promulgation%20of%20the,It%20is%20no%20longer%20active.>>

⁸⁶ Interview with an official from CSO regulator

⁸⁷ The author was a member of one of the Consortium that participated in this process and therefore is privy to this information

⁸⁸ Interview with a FBO leader

⁸⁹ County Civic Education Bill, 2004, Kenya Gazette Supplement No 39 (Senate Bills No 4)

3.4.4 Mainstreaming democratic governance work in other fundable sectors

A significant majority of respondents opined that climate change programming which currently is attracting funding offers a good opportunity for mainstreaming governance issues. This could in turn provide DG CSOs with expertise in this area, an opportunity to fundraise and undertake mainstreaming work. Alternatively, DG CSOs could lobby donor funding this area to mainstream HRBA in climate change programming in order to realize desirable outcomes, as mandated by the Paris Agreement. In turn, this could create consultancy opportunities for DG CSOs to render advisory services to climate change actors, with a view to mainstreaming human rights issues.

3.4.5 Engaging non-traditional funders

As a diversification strategy, non-traditional funders, comprising non-western bilateral funders and private foundations that have recently entered into funding arena on DG work present good opportunities for Kenyan CSOs. The study noted that funders from Asia had recently emerged as significant sources of NGO funds, donating an estimated Ksh3Billion in 2022 to various humanitarian and development projects in Kenya.⁹⁰ DG CSOs need to undertake research on funding preferences of these funders and explore potential for collaborations.

Secondly, BRIC governments have recently emerged as formidable supporters of development initiatives in the Global South. According to the Turkish embassy in Kenya, Turkey government has provided aid in health, and agriculture, education

and security sector since 2012, without disclosing the financial resources involved.⁹¹

Thirdly, private and family foundations have recently taken up support to rights-based causes which align with the mandates of DG CSOs. For instance, Mastercard Foundation has taken up empowerment of youth and women in Kenya, supporting such rights-based organizations as Center for Rights Awareness and Empowerment for Women (CREAW). Its funding for Kenyan programmes has been increasing over the last 3 years as shown in the chart. DG CSOs therefore need to engage such funders, whose appetite for investing in Kenya does not seem to follow the trends by traditional bilateral funders.

3.4.6 Targeting diaspora remittances

Diaspora remittances were seen as a possible source of funding for DG-CSOs. It was noted that Kenyan communities in the diaspora (especially in the US) were active contributors to political parties during elections, and therefore had an inclination to fund DG causes.⁹² Some also suggested that the remarkable fundraising efforts by the coordinators of the GenZ protests benefit a lot from the Kenyan diaspora communities through such remittances.⁹³

Indeed, according to data from Central Bank of Kenya, Diaspora remittances in the last 5 years have increased from \$2.8B in 2019 to \$4.1B in 2023, representing a 46% growth.⁹⁴ As a share of the global total, remittances from the North America (US and Canada) have increased from 48% to 58%, while Europe decreased from 24%

Year	ODA (\$)	FDI (\$)	Remittances (\$)
2023	DNA	1,504,342,820	4,189,920,200
2022	2,652,010,009	393,583,092	4,027,882,340
2021	3,176,919,921	463,348,935	3,717,893,200
2020	3,989,209,960	426,305,189	3,094,271,910
2019	3,171,919,921	469,940,266	2,796,607,170

90 NGO Coordination Bureau, Annual state of NGO sector report- 2022/23 FY (NGO Board, Nairobi, 2024) p

91 Embassy of Turkey, 'Turkey- Kenya relations' accessed on 29 Oct 2024 from <<https://nairobi-emb.mfa.gov.tr/Mission/ShowInfoNote/353967>>

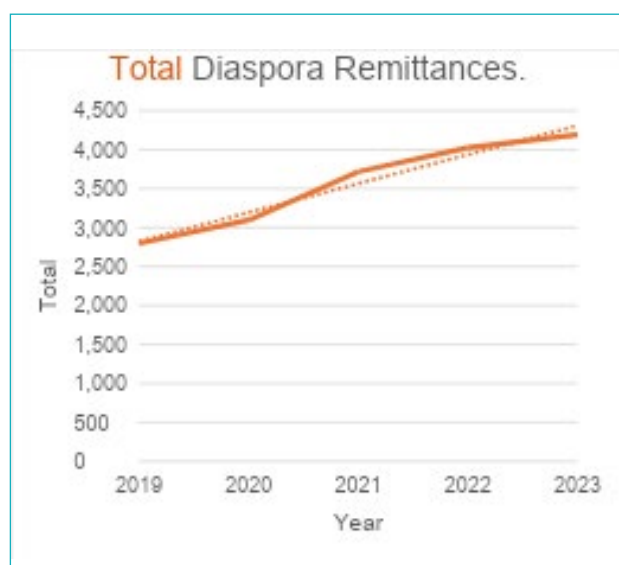
92 Interview with an official from a funding agency

93 Ibid

94 See <https://www.centralbank.go.ke/diaspora-remittances/> last accessed on 24 Sept 2024

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Globally, aggregate remittances begun to exceed overseas development assistance in LMIC countries since 2000, in Kenya, this milestone was attained in 2021 as per the figures below:⁹⁵



Remittances are far higher than what Kenya has been attracting as FDI as per the table above.⁹⁶ It has been argued that remittances in Africa, though targeted at households, nevertheless hold key to financing of sustainable development goals.⁹⁷

Thus, remittances could form real and sustainable source of revenue for CSOs, given the relative growth of their volumes and likelihood of continued emigration of Kenyans to foreign countries. Politicians and presidential candidates have demonstrated the real possibility of raising money from the Diaspora. Therefore, DG- CSOs should take cue from politicians and presidential candidates, who have established networks for mobilization of diaspora communities during elections.

3.4.7 Engaging traditional funders

Traditional funders, representing western bilateral and multilateral organizations have demonstrated policy reversals in the past, leading to increases in

funding for DG CSOs. This presents an opportunity for DG CSOs to engage these funders more closely, with a view to influencing their funding policies in favour of more sustainable funding of the sector. Where it is not possible to convince the funders to increase their funding, at least DG CSOs can articulate better funding terms. For instance, long-term, unrestricted funding with institutional strengthening is something worth pursuing. It was noted for instance that besides Ford Foundation, UNDP Kenya through its Amkeni Wakenya programme had amended its grant requirements, allowing grantees to spend as much as 5% of the total grant towards acquisition of assets and capabilities that would contribute to their long-term sustainability.⁹⁸ Though a modest contribution from UNDP, such ideas could in the long-run provide much required resources to anchor organizational sustainability among the DG CSOs.

There are some key moments in the near horizon which may prompt traditional funders to loosen their purse strings, notwithstanding the long-term policy shifts away from democracy promotion. First, the risk around a disputed 2027 election (and future elections for that matter) may prompt additional allocations for promoting an enabling electoral environment, and this might translate into a significant opportunity for new DG CSO funding. Already, the US government has signaled its intention to intervene in the 2027 election cycle through supporting CSOs to enhance participation and accountability.

Secondly, as the SDGs near the 2030 cutline, there will be increasing pressure for governments to honour their commitments and accelerate the realization of these goals. This was a key issue resolved at the recent UN Summit of the future.⁹⁹ The role of CSOs in holding accountable governments to deliver on their commitments will increase. A funding opportunity for DG CSOs will emerge, to address accountability gaps and sustain advocacy towards realization of SDGs. This opportunity is likely to be created by the multilateral aid system which underlines the global SDG agenda.

⁹⁵ For ODA inflows to Kenya, see World Bank data from <https://data.worldbank.org/indicator/DI.ODA.ALLD.CD?locations=KE> last accessed on 24 Sept 2024

⁹⁶ For FDI, see data from World Bank at <https://data.worldbank.org/indicator/BX.KLT.DINV.CD.WD?locations=KE> last accessed on 24 Sept 2024

⁹⁷ Olayinka Akanle, Demilade Kayode & Irenitemi Abolade, 'Sustainable goals (SDGs) and remittances in Africa' (2022) 8 Cogent Social Science available at <<https://doi.org/10.1080/23311886.2022.2037811>>

⁹⁸ According to leader of a CSO network that benefitted from UNDP Kenya grant, the 5% allocated for sustainability was used in purchase of tents and public address system, which obviated the need for hiring the same in future, hence translating into institutional savings. The same is also hired out to generate income.

⁹⁹ United Nations General Assembly, 'The Pact of the Future' adopted as Resolution A/79/1.2. of the 79th Session of the General Assembly on 20 September 2024, at para19

Thirdly, as climate change and other global challenges increasingly take center stage and grip attention of policymakers, the need to mainstream human rights and governance issues will escalate. DG CSOs therefore have opportunity to engage policymakers to provide resources for pushing the mainstreaming agenda.

Fourth, corruption remains a key impediment to realization of economic growth (as promoted by western governments) and access to basic services by Kenyans. Official efforts to address corruption without effective civil society engagement have so far not yielded fruit. The need therefore to support DG CSOs in combatting corruption by stimulating accountability demands from below will increase.

3.4.8 Engaging with Private Sector

Private sector organizations often comprise key violators of human rights. However, with increased focus on environment social and governance (ESG) credentials of businesses, private sector is under pressure to mainstream human rights and environmental protection within their policies and operations. This presents a good consultancy opportunity for DG CSOs to support private sector in undertaking mainstreaming work. In the same vein, DG CSOs should consider forging resource-based partnerships with companies with high risk of committing violations (e.g. high-tech firms) with a view to assisting in prevention and mitigation of such harms.¹⁰⁰



3.5 Threats to improving sustainable funding of DG- CSOs

The study also analyzed threat to improving sustainability of current funding as well as diversification of sources of funding for DG CSOs. The following are the key findings:

3.5.1 Delays in implementation of PBO Act 2013

The PBO Act has key provisions that may impact on financial sustainability of CSOs as discussed above. However, operationalization of these provisions is contingent on adoption of regulations, which elaborate further the obligations and requirements to ensure required regulatory actions and compliance. Development, consideration and adoption of these regulations requires a collaborative and consultative process, if the resultant rules are to achieve requisite legitimacy and internalization, given the history of mistrust between the state and civil society. Any delays therefore would upend reliance on DG CSOs on these provisions to pursue sustainability options offered by the Act.

Secondly, implementation of PBO Act is critical for guaranteeing enabling and safe civic space. Considering that restrictions in civic space undermine fundability of DG CSOs while also discouraging funders from operating optimally in Kenya, full implementation of PBO Act is an imperative. There is therefore need for concerted efforts to get this done.

Thirdly the establishment of PBO Federation and self-regulatory forums envisaged in the PBO Act is necessary to enhance self-regulation but also provide a platform for pursuing collaborative fundraising efforts among PBOs. Rules for operationalizing the PBO Federation are among the key issues which CSOs should focus on the catalyze the establishment of this vital forum.

3.5.2 Inadequate self-regulation by DG CSOs

Key respondents pointed the integrity challenges and accountability deficits plaguing DG CSOs as a key issue undermining their fundability.¹⁰¹ There have been cases of DG CSOs getting blacklisted for failing to account for funds or misusing resources. Even though misuse of funds is a criminal act which ordinarily should invite state sanctions or regulatory action, a preventative approach would require CSOs to establish and uphold highest standards of integrity and compliance as a function of self-regulation. Existence of vibrant self-regulatory forums would act as institutional devices to promote adherence to these standards.

¹⁰⁰ Interview with a representative of a funding agency; it is also noteworthy that Meta (owner of Facebook) has been sued by content moderators employed by an agent of Meta, over poor working conditions that predisposed them to mental health issues.

¹⁰¹ Key informants from funding agencies raised this point

It is notable that CSOs drawn from various sectors came together and established standards of governance and organizational performance under the umbrella of the Viwango Initiative.¹⁰² The initiative formulated a certification process, whereby interested CSOs would subject themselves to a peer assessment on the extent to which they had attained the set standards. It was anticipated that funding agencies would rely on Viwango certification to evaluate fundability of a prospective funding applicant. However, the Initiative did not manage to gain the required traction and therefore fizzled out.

It is also notable that DG CSOs have a long-established tradition of establishing networks and coalitions of common interests, geared towards pursuing common goals. Overtime, some of these networks have evolved to embrace self-regulations goals thereby setting collective standards and pursuing them with varied levels of success. A good example is the Constitution and Reform Education Consortium, which has identified DG CSO sector governance and integrity as a vital pillar of its work.¹⁰³ These are good practices which should be imported into the PBO Federation for self-regulation to be achieved at a sectoral level or scale.

3.5.3 Inadequate visioning for sustainability

The inadequate focus of DG CSO leadership on sustainability was identified a key impediment to realization of viable funding for these organizations. This was evidenced by a considerable number of DG CSOs which had received funding for more than two decades but were yet to for instance, acquire their own premises, an indicator considered important for organizational sustainability. This state of affairs was attributed to limited visioning at the governance realm of DG CSOs. Without an expansive vision of sustainability of the respective organizations, efforts to pursue sustainability would be ad hoc and non-cumulative.

3.5.4 Inadequate capacities for pursuing sustainability

Fundraising is a recognized area of expertise for which training and exposure is a prerequisite for success. Given the turnover of staff in DG CSOs due to declining funding, there is capacity bleeding that has been going on.¹⁰⁴ Thus, to keep organizations competitive in the race for funding, it is essential to replenish lost capacities through continuous capacity building in this area.

Secondly the emerging area of social enterprises and impact investment require business management and entrepreneurial skills sets which may be lacking among DG CSO personnel and leadership.¹⁰⁵ Success in enterprises also requires an attitude change- adopted a business mindset, which is also probably inadequate in the sector. Thus, investing in capacities acquisitions for DG CSOs is a priority that needs to be addressed to enable these organizations transition into these new ventures successfully.

Thirdly, fundraising in the prevailing uncertain, ambiguous and volatile environment requires adeptness of DG CSOs to continuous analysis of the environment to identify potential signals of promise or looming disappointments.¹⁰⁶ Thus conducting periodic research and gathering of donor intelligence is necessary to support this type of analysis. Fourthly, failure by DG CSOs in profiling their work and successes had undermined their ability to attract funders, pointing to a gap in organizational branding.¹⁰⁷

3.5.5 Challenging business climate for social enterprise investments

Even though the Kenyan economy has been growing consistently for the last two decades (with the exception of 2007/8 post-election violence and the peak of COVID-19 pandemic years), the prevailing investment climate has generally been rated as positive.

¹⁰² See <https://www.penkenya.org/project/kenya-civil-society-standards-viwango/#:~:text=The%20standards%20are%20organised%20under,programming%3B%20partnerships%20and%20external%20relations>. Accessed on 30 Oct 2024

¹⁰³ See <https://www.crecokenya.org/our-programs/> accessed on 30 Oct 2024

¹⁰⁴ Interview with CSO leader from western region

¹⁰⁵ Interview with an official from a funding agency

¹⁰⁶ Interview with an official from an intermediary organization

¹⁰⁷ Interview with a FBO leader

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However, concerns still abound over high taxation rates, rampant corruption, insecurity (relatively high crime rates) and infrastructure gaps (especially in electricity).¹⁰⁸ These issues constrain the business environment and may undermine success of a business, both in the short and long term. Thus, for CSO intending to engage in social enterprises or impact investment, then they need to take into account of these risks.

3.5.6 Ethical dilemmas on new potential sources of funding

Some new or emergent opportunities for funding may pose some challenges to DG CSOs. First, fundraising from individuals may predispose recipient CSOs to accepting wrong money such as proceeds of crime or money laundering. Secondly, some non-traditional funders such as private sector foundations may be backed by businesses whose practices undermine human rights or democratic governance. Thirdly, accepting money from government may compromise the independence of recipient CSOs. It is therefore necessary to address these risks through adoption of appropriate frameworks.

“It is also notable that DG CSOs have a long-established tradition of establishing networks and coalitions of common interests, geared towards pursuing common goals.”



¹⁰⁸ US State Department of Trade, '2023 Investment climate statements: Kenya' accessed on 01 nov 2024 at <<https://www.state.gov/reports/2023-investment-climate-statements/kenya/>>



SCENARIOS FOR FUTURE FUNDING SITUATION(S) FOR DG CSOS

In this chapter we anticipate the various funding scenarios that may play out for DG CSOs and the implications of the same to DG CSOs going forward. The Scenarios are characterized as best-case, grey-case and worst-case scenarios.



4.1 Best Case Scenario

This scenario is characterized by optimal funding to DG CSOs and appropriate funding modalities that enhance organizational sustainability. Optimal funding in this case would entail availability and access to financial and other resources which would enable DG CSOs achieve impact above the threshold that would in turn enhance their legitimacy and fundability of these CSOs. As such, the CSOs would also attract resources from local community philanthropy and the Diaspora due

to enhanced legitimacy. Non-traditional funders would increasingly find DG CSOs attractive for support due to their perceived effectiveness and autonomy. Appropriate funding modalities are those that will allow DG CSOs to enhance their institutional strength and enable them acquire assets or capabilities that place them into sustainability trajectories.

This scenario will materialize if the following factors obtain:

- Funding agencies recalibrate their funding policies to embrace support for DG sector, despite resilience of right-wing populism in their respective countries or pressure from their domestic constituencies to demonstrate results which DG CSOs may not be able deliver.
- DG CSOs will advocate successfully for accelerated implementation of the PBO Act, thus guaranteeing an enabling civic space and conducive regulatory environment for CSOs to engage in social enterprises.

- c. DG CSOs will enhance their self-regulatory capacities, pursue establishment of PBO Federation and protect it from risk of fragmentation and use the forum as a platform of building capacities, synergies and collective action on fundraising for the sector from governments (national and county) as well as development partners.
- d. DG CSOs will position themselves as credible partners in promoting participation in the next elections and holding government accountable for realization of SDG agenda by 2030, thereby attracting additional resources from traditional bilateral and multilateral funders.



4.2 Grey-Case Scenario

This scenario is characterized by optimal funding to DG CSOs without appropriate funding modalities or sub-optimal funding with appropriate funding modalities. In both cases, the overall sustainability of DG CSOs will be constrained. CSOs will increasingly find it difficult to mobilize resources through community philanthropy due to limited rootedness. However, the CSOs may succeed in getting resources from non-traditional sources where key gaps emerge (e.g. risks to large scale human rights violations during contested elections). This scenario will materialize if:

- a. Funding agencies identify DG CSOs as a priority sector for support but underemphasize restructuring funding modalities due to inadequate persuasion by recipient CSOs or rigid funding rules preclude the possibility.
- b. Funding agencies are constrained by rigid funding policies of their home governments or constituencies, which domestic (right-wing) politics but due to their recognition of the paramountcy of DG CSOs, concede on improving flexibility of funding arrangements that promote organizational sustainability.
- c. DG CSOs will lose focus on advocating for

accelerated implementation of PBO Act and therefore opportunities for either improved civic space or regulatory environment for social enterprises will be lost. As such, DG CSOs will not be able to take advantage of either optimal funding or flexible funding arrangements to improve on their own sustainability.

- d. DG CSOs enhance their self-regulatory capacities but will not leverage this to pursue meaningful sustainability measures.

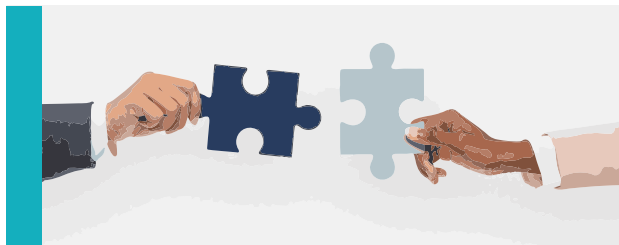


4.3 Worst Case Scenario

In this scenario, CSOs cannot access nor obtain optimal funding from funding partners whereas the appropriate funding modalities fail to materialize. The upshot of this is weak sustainability of DG CSOs characterized by disjointed efforts, limited impact and poor organizational performance. Out of desperation, CSOs will take money from anyone or any source, without due regard to ethical or compliance considerations, leading to integrity risks that further undermine their credibility and fundability. The sector slips into a downward spiral, for which a comeback increasingly becomes impossible. Digital forms of associational life begin to replace DG CSOs as accountability demand spaces. This scenario will play out if:

- a. Funding partners continue to deprioritize DG CSOs and its work but instead, focus on enhancing economic growth prospects through more private sector engagement. This is meant to appease their respective domestic political constituencies. The funding partners are no longer interested in the sustainability of the DG CSO sector.
- b. DG CSOs neglect improving their self-regulatory capacities. This in turn make the CSOs unaccountable and therefore increasingly unfundable. The few who attract funding bungle on the same by unethical practices such as misuse of funds.

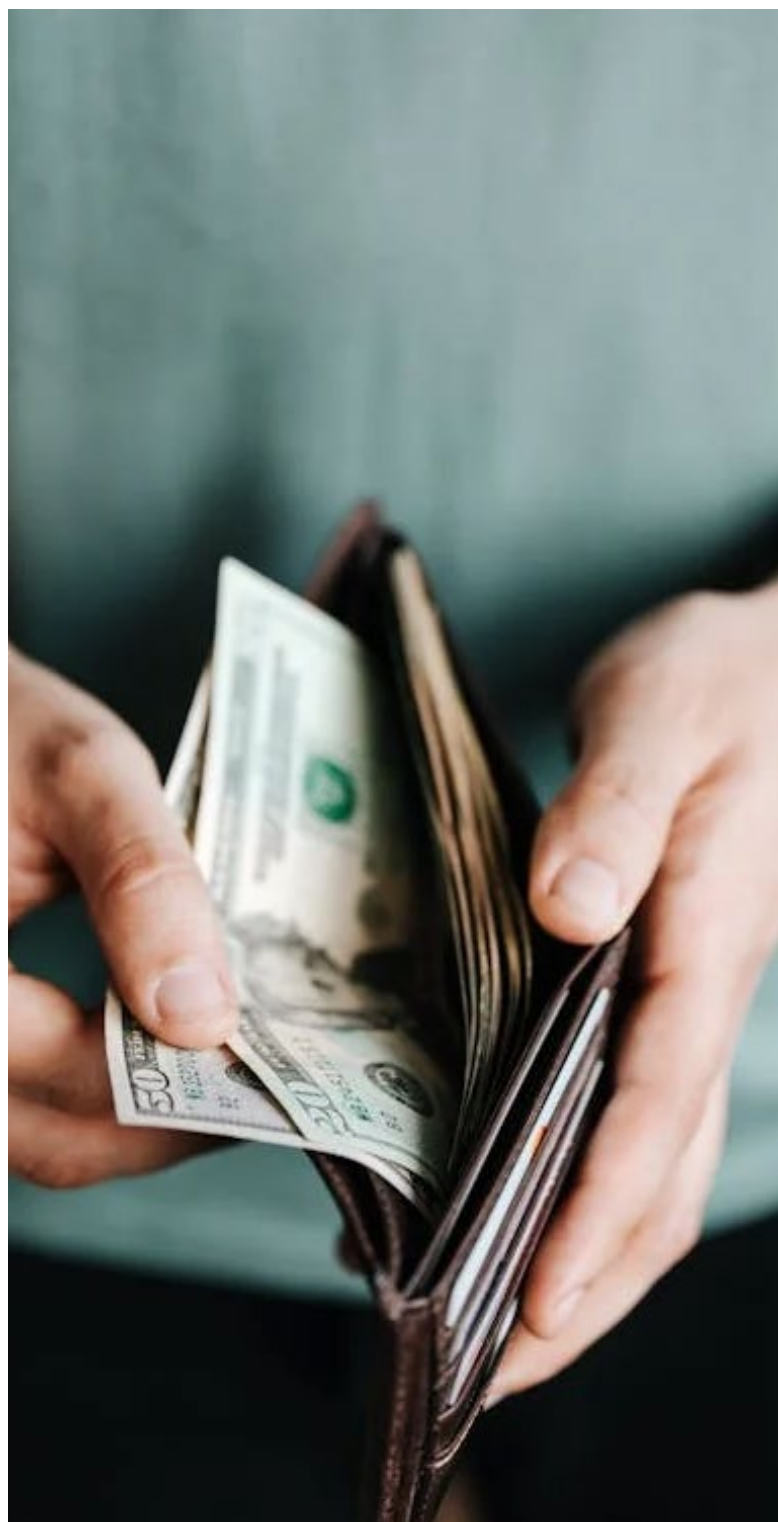
c. DG CSOs lose focus or interest in pushing for acceleration of implementation of PBO Act. The State initiates crackdown of DG CSOs leading to severe restrictions on civic space thus discouraging funders from supporting DG CSOs.



4.4 Implications

The foregoing scenarios are not in any way exhaustive but nevertheless, paint a picture of possible funding futures for DG CSOs. The factors which may lead to a particular scenario present either opportunities or risks which CSOs need to consider and find either reinforcement (for positive factors) or mitigation measures (for constraining factors) as may be appropriate. This will enrich the repertoire of recommendations for strengthening DG CSOs and ensure their effective positioning to improve the funding situation and sustainability.

“CSOs will increasingly find it difficult to mobilize resources through community philanthropy due to limited rootedness. However, the CSOs may succeed in getting resources from non-traditional sources where key gaps emerge ”





5 CONCLUSIONS AND RECOMMENDATIONS

This chapter contains conclusions based on inferences from previous analysis and recommendations on how CSOs and funders could position themselves to realize improved sustainable funding for the DG CSOs. As such, the recommendations therefore contain options considered to be within the means and control of these two key critical actors.



5.1 Conclusions

This study sought to identify the global shifts in donor trends and how this is impacting on the civil society landscape. The study has established that the recurrent global economic crises, unprecedented rise of China (and by extension the BRICS) as a dominant global player and the resilience of the right-wing populism

in politics of the Global North have prompted a fundamental shift away from the traditional policy of democracy promotion to “aid to trade”. The policy shift has seen a de-prioritization of funding for DG CSOs in favour of private sector promotion and engagement in sectors considered to be strategic for respective western donor nations. In America, this shift was heralded by the Obama administration and followed through by Trump and Biden regimes. In Europe, the rise of conservative governments, egged on by right wing populism began the shift in the early 2010s and successive governments have followed suit. This has led to decline in funding for the sector, from western bilateral funders.

The study further sought to identify opportunities and threats presented by the shifts for CSOs. The study has established that private funders, community philanthropy and non-traditional sources have increased their prominence as serious alternative sources of funding for the DG sector. The study also found that despite the donor shifts, there is still space for increased commitments from bilateral funders especially around key events such as elections, acceleration

towards realization of the SDGs agenda by 2030, mainstreaming of HRBA in climate change actions and fighting corruption. However, restrictions in civic space, inability of DG CSOs to demonstrate results as pressurized by constituencies of funding governments and shifting attention due to emergent global crises will constrain these governments from sustaining their interest in raising funding or improving funding modalities for DG CSOs.

In addition, the study sought to identify opportunities available for diversification of funding sources for DG- CSOs. Social entrepreneurship and impact investments provide opportunities for DG CSOs to venture into the market and raise revenues from a growing Kenyan economy despite the persistent risks in the country's investment climate. Consistent growth of Diaspora remittances have pointed to the possibility of DG CSOs raising significant resources from this category of stakeholders for fill-in gaps left by traditional funders. Non-traditional funders from Asia and BRICs present an opportunity but their funding agenda may not necessarily be aligned with the rights-based agenda of DG CSOs. Non-implementation of the PBO Act may constrain civic space, upend efforts to create a robust self-regulatory mechanism (principally the PBO Federation) and undermine the regulatory environment for social entrepreneurship opportunities for CSOs.

The study identified key scenarios on future funding of civil society and the factors that may contribute to materialization of these scenarios. The scenarios add a layer of issues for which recommendations for appropriate position of DG CSOs and funders can be made.



5.2 Recommendations

The following options merit consideration by DG CSOs and their funders

5.3 Positioning of DG CSOs to harness opportunities and mitigate threats to funding

5.3.1 Engagement with the National government and PBORA on implementation of the PBO Act

CSOs under the umbrella of CFF have opportunity to initiate engagement with the PBO Regulatory Authority (PBORA) with a view to fast-tracking development and adoption of regulations required to kick-start implementation of the Act. Priority should be accorded to regulations governing migration of NGOs to PBO status, establishment of PBO Federation, engagement of PBOs in social enterprises and extension of tax relief measures.

5.3.2 Strengthen self-regulation capacities

DG CSOs should begin mobilization of PBOs over establishment of the PBO Federation. They should participate in the development of the Federation's constitution and prepare for elections of its representatives. PBOs should erect strong guardrails against hijacking and capture of the Federation by vested interests, keen on undermining the autonomy and effectiveness of self-regulation. In this regard, CFF should lead DG CSOs in developing an elaborate roadmap toward operationalization of the PBO Federation. Alongside the Federation, PBOs should strengthen the existing thematic and regional self-regulatory forums.

Secondly, CFF should facilitate the revival of the Viwango Initiative and popularize the standards and process of certification as a way of reintroducing CSO focus on integrity, accountability and highest standards of organizational performance. Ultimately, the Viwango Initiative should be hosted by the Federation and therefore the roadmap towards establishing the forum should include a discussion on how Viwango standards ought to be institutionalized within the Federation. There is also need for sustained donor outreach on Viwango certification processes in order to stimulate uptake in the funding decisions.

Thirdly, there is need for continuous capacity strengthening of DG CSOs on internal leadership and governance. This effort should be linked to improving the visioning of CSO leaders on sustainability issues, for which self-regulation is a key determinant.. This is something which individual CSOs should prioritize and existing self-regulatory forums ought to coordinate.

5.3.3 Enhance community philanthropy

DG CSOs should review their internal policies to give due priority to raising resources through local philanthropy. There is need to forge partnerships between DG CSOs and the East African Philanthropy Network, with a view to enhancing capacities for engaging in community philanthropy. The CFF could play the role of linkage between DG CSOs and the EAPN on this matter.

5.3.4 Strategy on engagement of Kenyans in the Diaspora

Borrowing a leaf from political actors, the DG CSOs should develop a strategy for engaging with Diaspora communities, with a view to soliciting resources to finance flagship initiatives in Kenya. This could entail establishing networks with vocal diaspora groups (e.g. Kenya Community Abroad), organizing joint fundraising initiatives (e.g. dinner circuits) in foreign cities and dedicated online platforms to constantly engage the diaspora on updates of funding initiatives to sustain their interest and support. A strong PBO Federation could ensure large scale mobilization of diaspora to fund the sector in a major way. Hence, a diaspora engagement strategy should be among the key policy frameworks which the new Federation should develop and implement.

5.3.5 Engagement with non-traditional funders

Global North private foundations have demonstrated ability to raise and deliver resources in Kenya without necessarily following the trends of established traditional funders. For this reason, DG CSOs should engage with these donors more, by seeking to establish funding partnerships. Through roundtables, DG CSOs should influence local foundations in mainstreaming HRBA in their work as a way of opening-up funding opportunities locally. To achieve this DG CSOs should also invest in development communications capacities, with a view to producing and disseminating stories of change, that will reinforce messages on mainstreaming HRBA.

DG CSOs should engage with BRICS and Asian nations through their local embassies. To this

end, CFF and self-regulatory forums of DG CSOs should consider convening high level forums with BRICS ambassadors or their political counsellors and explore possibilities of establishing funding relationships. However, CSOs should develop robust engagement frameworks with these funders, to avoid instances where funding agenda of these prospective entities do not compromise the HRBA credentials of DG CSOs.

5.3.6 Closer engagement with traditional funders

DG CSOs and CFF should sustain engagement with traditional funding agencies on the opportunities alluded to in previous sections. Whereas there exists various working group that bring together DG CSOs and embassy officials to tackle thematic issues (civic space, protection of HRDs, migration etc) a regular high-level engagement with respective Ambassadors is required. DG CSOs should endeavor to co-convene such forum in order to maintain their independence.

5.3.7 Promotion of social entrepreneurship

Social entrepreneurship provides a meaningful pathway to sustainable financing of CSOs anchored on a growing Kenyan economy. CFF and self-regulatory networks of DG CSOs should enhance capacity of CSOs in this regard. CSOs should also forge partnership with the Social Enterprises Society of Kenya with a view to tapping into capacity building resources and networks of the latter.¹⁰⁹ This partnership could also lead to forging of linkages between DG CSOs and impact investors to access capital on favourable terms for establishing viable social enterprises.

5.3.8 Engagement with private sector

CFF and self-regulatory forums of DG CSOs should forge links with umbrella private sector bodies and pursue discussions on mainstreaming of human rights within private sector policies and operations and how this could translate into a resource-based relationship.

109 See < <https://www.socialenterprise.or.ke/> > last accessed on 01 Nov 2024

5.3.9 Engagement with government

DG CSOs should view funding from government of Kenya (at both levels) as a legitimate source and engage with the state over this possibility. A robust PBO Federation would be better placed to advocate on behalf of DG CSOs for access to state funding. However, there should be a robust ethical framework to safeguard CSOs from intrusion and control by the State through this funding.



5.4 Positioning of Funders to enhance sustainability of funding for DG CSOs

5.4.1 Sustain support for democracy promotion initiatives in light of new risks to democratic reversals in Kenya

For traditional funding partners, the continued civil society strengthening is integral to realization of common agendas e.g. anti-corruption and promotion of economic growth; SDG acceleration and reduction of inequalities hence stability; electoral support and stability. Thus, local representatives of traditional funders should consider recasting their country strategies to reflect these dynamics.

For non-traditional funders (local and external), mainstreaming of HRBA in their funding mandates has clear outcomes in terms of promotion of sustainable development and addressing inequalities. Thus, they should be amenable to mainstreaming of rights issues within their existing mandates.

5.4.2 Adopt flexible funding modalities for sustainability

Experiences of Ford Foundation and UNDP Kenya on allowing grantees to utilize grant resources towards improving their sustainability

presents some form of proof of concept. Funding agencies (both traditional and non-traditional) should learn from these experiences and consider altering their respective funding frameworks to allow for longer term and flexible funding towards improving organizations strengthening and therefore sustainability of DG CSOs.

5.4.3 Embrace transparency in reporting funding resources

It is encouraging that transparency (open aid) reporting platforms have emerged in recent years. Funding agencies should therefore embrace these platforms and post data to enable DG CSOs and other stakeholder discern funding trends and reposition accordingly. Such data will also assist DG CSOs make evidence-based decisions on which funders to approach or otherwise.

5.4.4 Embrace mainstreaming of HRBA in other development assistance domains

Climate change actions have received considerable global attention and financing recently. However, without mainstreaming of rights, it is doubtful if the actions will benefit equitably the poor and vulnerable. Thus, financiers of climate change should actively engage DG CSOs in mainstreaming human rights in supported actions. This is also likely to result in a resource-based relationship.

5.4.5 Embrace institutionalized engagement forums with DG CSOs

Funders should embrace the idea of routine roundtables and expanded working groups to engage more effectively with DG CSOs.





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ANNEXES

Key Informant Interview Guide

