

Recasting Advocacy: Civic Space Dynamics in East Africa

CSOs Resilience and Civic Space Dynamics In East Africa



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Anne Nyabera,

Chief Executive Officer

ABBREVIATIONS

ACHPR	-	African Commission on Human and People's Rights
AfriCOG	-	Africa Centre for Open Governance
AIDS	-	Acquired ImmunoDeficiency Syndrome
CBO	-	Community Based Organisation
CFF	-	Civic Freedoms Forum
CHADEMA	-	Chama Cha Demokrasia na Maendeleo
CIVICUS	-	World Alliance for Citizen Participation
CSO	-	Civil Society Organisation
DGF	-	Democratic Facility Fund
EAC	-	East African Community
EACT	-	East African Community Treaty
ECOWAS	-	Economic Community of West African States
FGD	-	Focus Group Discussion
HIV	-	Human Immunodeficiency Virus
HRNJU	-	Human Rights Network for Journalists in Uganda
ICCPR	-	International Convention on Civic and Political Rights
ICT	-	Information and Communication Technology
KHRC	-	Kenya Human Rights Commission
KKA	-	Kenya Kwanza Alliance
KII	-	Key Informant Interview
LDI	-	Liberal Democracy Index
MMA	-	Mixed Methods Approach
MVC	-	Missing Voices Coalition
MUHURI	-	Muslims for Human Rights
NGO	-	Non-Governmental Organisation
PBO	-	Public Benefits Organisation
PRWG	-	Police Reforms Working Group
REC	-	Regional Economic Community
ROCC	-	Resilience Organisation in Changing Civic Space
SJCWG	-	Social Justice Centres Working Group
SPSS	-	Statistical Package for Social Sciences
UPR	-	Universal Periodic Review

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EXECUTIVE SUMMARY

This study on civic space in East Africa, focusing on Kenya, Tanzania and Uganda, was carried out between December 2023 and February 2024. It was informed by the need to create a knowledge base for advocacy on civic space. Closing civic space has been a concern in the East African region like other regions of the world. This report is based on data gathered from 77 survey respondents, 34 Key Informant Interviews (KIIs) and 24 participants in three Focus Group Discussions.

On the basis of the analysis the report makes three key conclusions: that although the closing of the space is not experienced in the same way by all CSOs, it is closing in some cases, and closed in other cases; that the internal divisions and leadership wrangles and lack of capacity are key factors that diminish the resilience of civil society organisations; and that the external factors that diminish civil society resilience include government-imposed restrictions, including legislation and policy measures and inhibition of freedom of expression and association as well as violence especially around election periods.

It has been recommended that civil society must strengthen knowledge-building and evidence-based advocacy, engage in continuous and targeted capacity assessment and building in view of changing civic space dynamics. Also, civil society must build coalitions and networks nationally, regionally and internationally, diversify its resource bases and design and implement strategic national and regional responses to civic space infringements. It is critical also to invest in technology, strengthen security training and programming and increase community outreach and constituency building. CSOs must also develop a crisis-response plan which includes cultivating support from among government officials as an early warning plan. These measures will bolster the internal resilience of civil society organizations (CSOs). These measures collectively aim to enhance the organization's ability to navigate and effectively manage unexpected challenges, promoting resilience and ensuring a timely response to crises.

1. INTRODUCTION

1.1 Overview

The phenomenon of shrinking, closing or closed civic space has been a concern not only in East Africa or Africa, but globally. A good number of studies and other programmes have been instituted in the last decade to understand the phenomenon and its various manifestations and to have interventions to address it. This section introduces the study into civic space and resilience in East Africa. It details the background to the study, research objectives, research questions and methodology.

1.2 Background to the Study

The civic space discourse in Africa, and East Africa in particular, can only be understood within the confines of debate on democratisation and the role that civil society plays therein. Liberal democratic theory promotes the idea of a government by popular consent characterised by four features: popular representation, popular control of government, freedom of choice, and smooth political recruitment and succession.¹

Application of the liberal democratic theory to governance in Africa has been fraught with contradictions. Ludeki Chweya points out that there is need to rethink Africa's democratic experiment based on its "political heritage", which "subsumes elements from Africa's pre-colonial past as well as from the Western variants acquired initially through colonialism."² But, in response to this position, other scholars point out that states like Kenya "did not have a precolonial prototypical state model to which the present day Kenya could refer to if it undertakes a process of reforming and democratise itself."³

While postulating that Kenya will not develop a "full liberal democracy" and will only continue practicing minimum "electoral" democracy, Abdalla Bujra notes as follows,

...this form and level of democracy is suitable to and benefits both the donor Community and the Kenyan elite, since it excludes the masses of

¹ L Chweya, "Western Modernity, African Indigene and Political Order", IN L Chweya (ed), *Electoral Politics in Kenya*, CLARIPRESS, 2002.

² *Ibid.*

³ Abdalla Bujra, "Liberal democracy and the emergence of a constitutionally failed state in Kenya", IN Abdalla Bujra, *Democratic Transition in Kenya: The Struggle from Liberal to Social Democracy*, ACEG & DPMF, 2005.

*the Kenyan People: this is why it is being advocated strongly by these two groups...*⁴

It is within these controversies about liberal democracy that the debate on civic space, specifically, and CSOs in general, is located. CSOs give physical and legal form to organised civil society. They are a diverse typology of organisations ranging from Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs), Faith-Based Organisations (FBOs), professional organisations, lobbies, and many others.

One of the key assumptions of liberal democracy is that CSOs provide the basis for interest articulation and expression outside the traditional channels of political parties, trade unions and government bureaucracies. As such, they can also be perceived to be centres of creating alternative leadership as a counterweight to dominant political formations. In addition, the role of CSOs in the democratisation process include being a source of “legitimisation for state power” as well as a site of manufacturing “political consent”.⁵ Furthermore, CSOs are credited with,

*...broadening the avenues of societal representation of interests and of individual and group influence and participation... creating a new political culture of citizenship that stresses rights, obligations, protest and contestation... and prompting political liberalisation*⁶

A study carried out by Grindle in Latin America and Africa found out that an invigorated civil society,

*...heightened public debates, media criticisms, political mobilisation and public agitation, and contestation for increased participation over policy and governance, resulting in the opening up of space for negotiation, redefinition and reconstitution of state-society and state-economy relations...*⁷

The controversies on the roles of civil society are further fueled by the assumptions of liberal democracy. The civil society is, therefore, seen primarily as a site for challenging state power. This puts CSOs at loggerheads with traditional centres of power in the state such as ruling political parties, government bureaucracies and security agencies, including police and military formations.

⁴ *Ibid.*

⁵ Jephias Mapuva, “Challenges to the democratisation process in Africa”, *Journal of Sustainable Development in Africa*, (Volume 12; No. 10, 2010):
https://jsd-africa.com/Jsda/V12No2_Spring2010_B/PDF/Challenges%20to%20the%20Democratization%20Process%20in%20Africa.pdf

⁶ Jephias Mapuva, “Challenges to the democratisation process in Africa”, *ibid.*

⁷ Jephias Mapuva, “Challenges to the democratisation process in Africa”, *ibid.*

Activities of CSOs, including demands for accountability, are construed from the narrow prism described above. They are not seen as proactive ways of seeking to enhance the effectiveness of the state in providing services to its citizens and ensuring transparent management of resources generated from taxpayers. Protests and other forms of agitation are not seen as genuine attempts to increase state capacity, but as destabilising activities and challenges to power.

One of the paradoxes is that the same wielders of state power who reject calls for accountability from CSOs, at the same time often welcome CSOs that bridge the service provision gap by providing services to sections of the population that cannot access services due to poverty or other reasons. Thus, CSOs involved in education, health, sanitation, etc., provision may not suffer the same harsh restrictions that CSOs that take part in activities that are perceived to challenge the power wielders, do.

The above challenges are compounded by the fact that CSOs receive most of their funding from external sources. In this regard, they are considered not only challengers to traditional power wielders, but also as actors who represent the interests of their foreign funders.⁸ Wielders of political power, therefore, often react by attempting to limit their access to such external funding or by prescribing the amounts they can receive or the purposes to which the resource can be put. In more extreme cases, they freeze their accounts and ban their activities.⁹

It is the general context painted in this introductory section that studies on civic space in Africa and elsewhere, are undertaken. In its 2013 State of Civil Society report, the World Alliance for Citizen Participation (CIVICUS), concluded that the conditions in which CSOs operate globally, are “shaky at best and deteriorating in many parts of the world.”¹⁰

The report further underscored the manifestations of this phenomenon, including, “a litany of threats to civil society, from outright violence against civic leaders to legal restrictions on CSOs, to dramatic funding cuts.”¹¹ In its study of civic space in East Africa, Westminster Foundation for Democracy (WFD) underscored the role of legislation in the continued shrinking of civic space in the region.¹²

⁸ Griddle M.S. Challenging the State: *Crisis and Innovation in Latin America and Africa*. Cambridge University Press: <https://repositorio.cepal.org/bitstreams/35d4101e-d842-4382-a59b-86136791eb6a/download>

⁹ See, for example, Westminster Foundation for Democracy, “

¹⁰ Westminster Foundation for Democracy (2017). “Background Paper on the State of Legislation for Civil Society Organisations in the East African Community and its Effect on CSO Operating Environment: <https://www.wfd.org/what-we-do/resources/background-paper-state-legislation-civil-society-organisations-east-african>”

¹¹ Ibid

¹² Ibid

1.3 Problem Statement

The study of resilience in civil society is motivated by the need to create interventions that expand the civic space. This is, in turn, motivated by the need to enable civil society organizations to continue playing an active role in democratization and the struggle for effective governance that improves the welfare of the majority of citizens.

As governments continue to take legislative, administrative and other actions that negatively affect the working environment for civil society, the need to build resilient CSOs has become more pronounced.¹³ This underscores the need to understand the factors behind civil society resilience, which in turn can be harnessed into programmes, strategies and actions to support the expansion of civic space.

Resilience has a relationship with closing space. Defined as the “the process and outcome of successfully adapting to difficulties or challenges in the operating environment” it involves the different ways in which CSOs are able to survive and continue their operations within the reality of shrinking and closing civic space. There are both proactive and reactive strategies that inform resilience. Understanding these strategies is an important step in addressing the problem.

1.4 Justification of the Research Problem

Action research is a type of research motivated by the need to solve societal challenges. Developed by Kurt Lewin in the early 1990s, action research focuses on practical action to solve problems, away from mere academic interest. It seeks to transform society by understanding it through reflective processes. In this sense, it can be looked at as an interactive enquiry that creates data and information geared towards transforming some social phenomenon in the service of mankind within specific contexts. According to Mugenda, who applied the concept in tackling educational challenges, action research starts with identification of problems and formulation of questions to guide the inquiry.¹⁴ This study applied the action research model in understanding the problem of closing civic space in East Africa.

Interrogating the problem of closing civic space has mainly practical relevance to various stakeholders. Civil society actors are the most affected by closing civic space, therefore their interest is to institute advocacy actions that lead to better working environments. Donors are driven by the need to understand the terrain of their work so that they are able to intervene where their support is needed. Within the government bureaucracy and political

¹³ Ibid

¹⁴ Abel Gitau Mugenda, “Social Science Research: Theory and Principles,” 2008, page 94.

structures, there are those in favour of democratic progress and would, therefore, benefit from data on what works and what does not work in the civic space and broader democratisation conversation.

1.5 Objectives of the Study

The broad objective of the study was to examine the state of CSO space and resilience in the East African region in the context of closing civic space. It aimed to pursue the following questions:

- (i) What is the current state of civic space in East Africa?
- (ii) What are the internal factors that increase or diminish civil society resilience in the context of challenges in the operating space?
- (iii) What are the external factors that increase or diminish civil society resilience in the context of challenges in the operating space?

1.6 Research Questions

The study further aimed to pursue the following objectives:

- (i) To investigate the state of operating space for CSOs in the East Africa region
- (ii) To investigate the internal factors that increase or diminish civil society resilience in the context of closing civic space; and
- (iii) To assess the external factors that increase or diminish civil society resilience in the context of closing civic space.

1.7 Conceptualising Civic Space

Civic space is defined as “the political, legislative, social and economic environment, which enables citizens to come together, share their interests and concerns, and act individually and collectively to influence and shape policy-making.”¹⁵ It can also be conceptualised as, “the realm of organized social life that is voluntary, self-generating, self-supporting, autonomous from the state and bound by a legal order or set of shared values.”¹⁶ This is a liberal perspective that differentiates civil society from the two other “sectors” of society – the public sector (the state) and the market (business or profit

¹⁵ International Civil Society Centre, “Emerging Lessons on Resilience and Solidarity Mechanisms to Civic Space Restrictions:

<https://icscentre.org/wp-content/uploads/2021/07/Solidarity-Playbook-Emerging-lessons-on-resilience-and-solidarity-mechanisms.pdf>

¹⁶ Westminster Foundation for Democracy (WFD), “Background Paper on the State of Legislation for CSOs in the East African Community and its Effect on Operating Environment,”:

<https://www.wfd.org/what-we-do/resources/background-paper-state-legislation-civil-society-organisations-east-african>

sector). CSOs are the organisations that operate within the civil society “space”. They are useful in aggregating the interests of citizens and generally organizing their civic lives in pursuance of common interests.

The first step in conceptualizing civil society is to consider the roles that CSOs play in society. CSOs are engaged in the following “core” areas of work: advocacy and activism, social cohesion, service delivery, monitoring human rights and other aspects of public management, transparency and accountability, citizen participation/engagement, protection, and social transformation

Some scholars reduce these to two types of civil society: advocacy CSOs and service delivery CSOs. As the word suggests, advocacy CSOs are involved in carrying out activities that challenge or question government policies so as to realise better services for citizens and act as a check against abuse of power. They contribute to policy formulation with a view of making such policies capable of addressing the priorities and needs of the most vulnerable members of society. They also confront corruption and other elements of misuse of power, which contribute to poverty, inequalities, poor services, among other negative outcomes.

When CSOs engage in service delivery e.g. health, education, etc., they complement the government, which is primarily responsible for these public services. They may choose to do so without questioning the causes of inadequate service provision. CSO activities are deemed to be “political” when they choose to confront the underlying causes of inadequate service delivery to citizens.

Civic space can be defined simply as the environment in which CSOs operate. This definition considers the totality of the factors that shape the participation of civic actors in the nation’s policy making terrain. The World Alliance for Citizen Participation (CIVICUS) defines it as “The ability for civil society and individuals to organise, participate and communicate without hindrance, and in doing so, influence the political and social structures around them.”¹⁷ It has many facets, which include the policy, administrative, legal, political and social elements of the environment.

Ideally, factors in the environment such as government policies, should facilitate CSOs to undertake their work. Concerns with civic space arise, therefore, when CSOs find it difficult to carry out the functions that are

¹⁷ Resiliency + Framework: A Guide for Civil Society to Thrive in Uncertain Times: <https://solidarityaction.network/wp-content/uploads/Resiliency-Framework-1.pdf>

assigned to them by virtue of their organizational mandates. CSOs may be confronted by policies, laws or administrative procedures that erect hurdles in their work. The politics of the day (i.e. the power structures; who wields power, decision-making, etc) may make it difficult for organizations to operate in whole or in parts of the country. The funding policies of donors may be restrictive to the development of institutions or CSOs may find the cultural elements of the environment inhibiting to advocate for certain rights.

1.8 Conceptualising Resilience

The word resilience has been used in different ways by scholars and practitioners in the broad field of development. One of the fields in which it has been applied is in the field of crisis management. In this field, resilience is assumed to emanate from emergencies, disruptions and other factors that cause vulnerability to the society as a whole or sections of it. Scholars in this field look at events that are responsible for causing vulnerability. The definitions below cover the overall thinking of scholars in this field:

1. Resilience is “the ability of an entity to recover, or “bounce back” from the adverse effects of a natural or man-made threat.”¹⁸
2. [Resilience is] “the capacity of a system to absorb disturbance, undergo change, and retain essentially the same function, structure, identity, and feedback”
3. “We define resilience as: a process linking a set of adaptive capacities to a positive trajectory of functioning and adaptation after [emphasis added] a disturbance.... resilience emerges from a set of adaptive capacities”
4. “The capacity of a system to survive, adapt and grow in the face of change and uncertainty”
5. “Resiliency is defined as the capability of a system to maintain its functions and structure in the face of internal and external change and to degrade gracefully when it must”
6. “Resilience can be defined as: “the ability of an entity — e.g., asset, organization, community, region — to anticipate, resist, absorb, respond to, adapt to, and recover from a disturbance.”¹⁹

If one juxtaposes the above perspectives to the world of CSOs, one would look at some of the key features that are applicable to CSOs:

1. CSOs are faced with challenges that make them vulnerable, for example, policies and laws that limit their ability to raise funds for their activities or donor policies that inhibit instead of enabling their institutional growth

¹⁸ Resilience: Theory and Applications: <https://publications.anl.gov/anlpubs/2012/02/72218.pdf>

¹⁹ Carlson, L (et al), “Resilience: Theory and Applications”: <https://publications.anl.gov/anlpubs/2012/02/72218.pdf>

2. To varying degrees, CSOs have been able to develop adaptive capacities to overcome the barriers created in their way
3. To varying degrees, CSOs in the three countries under study – Kenya, Tanzania and Uganda – have been able to continue functioning even after barriers have been erected on their way
4. CSOs have also applied diverse strategies to survive and continue functioning in the civil society space despite the challenges they have faced. Some of the strategies are proactive (instituted to preempt negative developments in the civic space) while some are reactive (aimed at resisting changes that are deemed to be inimical to the survival of CSOs).

The interest of this study was to understand the civic space situation in the three countries and the factors that promote and hinder the performance of CSOs as well as to understand what resilience factors have helped organizations to survive. Resilience factors were divided into two: internal and external resilience factors. This conceptualization was important in discerning the responses of CSOs to the situation in their desire to remain active and relevant.

1.9 Limitations of the Study

Due to limited resources and time, all the data collection processes were carried out through virtual platforms. Even though this did not affect the results in any discernible way, it denied the researchers the opportunity to have face-to-face interactions which could, potentially, provide opportunity for more probing and observation of the working of CSOs in the three countries.

2. LITERATURE REVIEW

2.1 Overview

This section reviews the existing literature on civic space and civil society resilience. It is organised in three subsections: Status of Civic Space in East Africa; Internal Factors that Influence Civil Society Resilience; and External Factors that Influence Civil Society Resilience.

2.2 Status of Civic Space in East Africa

CSOs play an increasingly important role in generating the political, economic and social developments that shape daily life in the contemporary and global society. A CSO is as an independent actor that assists people to “claim their rights in promoting rights-based approaches, in shaping development policies and partnerships and in overseeing their implementation”. Civil society’s ability to act rests on three fundamental rights: the right of association, the right to peaceful assembly, and the right to freedom of expression. Together, these three fundamental rights outline the boundaries of the civic space within which civil society can operate.²⁰

Furthermore, the East African region has witnessed “associational revolution”: with countries that comprise East Africa witnessing an increase in the number and activities of civil society organizations and a vibrant civil society movement of diverse entities that are engaged in various aspects of prevention and counter violent extremism such as legal, policy and community advocacy, resilience building, anti-corruption, governance, justice, law and order sector reforms, climate change, economic empowerment, inter-faith dialogue, access to justice and promotion of human rights, mental health, awareness creation and reintegration in the last two decades. Partly responsible for the growth of civil society in East Africa is also disillusionment with the failure of the state to promote development and improve democratic conditions.²¹

Although important social and political reforms have taken place in the region during the past decade, CSOs and human rights defenders are living dangerously. People and organisations working for human rights continue to be subjected to threats, violence, random arrests and even murder. Civil

²⁰ Buyse, A. (2018). Squeezing civic space: Restrictions on civil society organizations and the linkages with human rights. *The International Journal of Human Rights*, 22(8), 966-988.

²¹ Muraya, K. (2023). Exploring Eastern Africa's Landscape: A Scoping Study on an Independent Civil Society-UN Counter-Terrorism Engagement Mechanism. *African Journal of Empirical Research* Vol. 4 (Iss. 2), 157-168.

society has sometimes been portrayed as “evil society” by those in power, thus throttling the full exercise of civic freedoms and undermining civic space.

Since 2013, civic space in East Africa has been obstructed by the systematic repression of protests and protesters, attacks against journalists, the judiciary, sporadic de-registration and vilification campaigns targeting specific CSOs.²² As in other African countries, East Africa’s shrinking space has become a major governance issue for civil society at various levels. Not only does the government attempt to silence civil society by restrictive legislative measures, arbitrary funding limits and harassment, but also by jailing bloggers critical of government officials. The space for media freedom, independence, and as an accountability instrument is heavily challenged.

There is, in addition, an emerging consensus in the literature on the importance of CSOs as actors in regional governance and integration schemes. Although regional integration is a state led endeavour, scholars have underscored the role of non-state actors including civil society in influencing this process. Gilbert *et al* note that this role has been brought into sharp focus by the modification of the previously tight linkages of geography, territorial governance and territorial community occasioned by globalization.

Trans-border and regional civil society activities on environmental issues, tax justice, HIV/AIDS and human rights have grown tremendously.²³ Kamatsiko observes that CSOs have engaged with regional intergovernmental bodies on peace and security issues, implemented cross-border peace initiatives and have worked on common conflict and peace issues affecting different countries.²⁴ With new regionalism, civil society actors can connect, exchange information as well as debate, contest, and contribute to the norms that govern politics and policy-making within and across states.

2.2.1 Civic Space in Kenya

Kenya’s civil society remains one of Africa’s bravest and most vocal. This can be attributed partly to the enlarged civic space in the country following the adoption of the country’s 2010 Constitution, and partly to its historical vibrancy. Thus, civil society has become vigilant in their work, especially about holding the government and key institutions accountable for their actions. Majority of the civil society activism has extended to the online space, given the increasing levels of access to Information and Communication Technologies (ICT).²⁵

²² Lazar, M. (2023). Somewhere Over the Rainbow: LGBTQ+ Policy Advancements in Southern Africa (Doctoral dissertation, Michigan State University).

²³ Gilbert, K., Oluoch, K., & Opondo, P. A. (2021). Civil Society Organizations (CSOs) and Regional Integration in the East African Community (EAC): A Literature Review.

²⁴ Kamatsiko, V. V. (2017). Civil society organizations, Africa’s Great Lakes Region conflict, and attempts at regional peacebuilding. *Journal of Civil society*, 13(1), 54-70.

²⁵ Ong’ayo, A. O. (2022). Civil society and state accountability: holding the state accountable in the context of shrinking civic space in Kenya. In *The State of Accountability in the Global South* (pp. 98-124). Edward Elgar Publishing.

On the other hand, efforts to push back against civic activism by governments are increasing across the world. The result has been the shrinking of civic space which has been defined as an environment of reduced opportunities for CSOs to undertake public actions. While the restrictions on civic space vary across countries, the following trends are emerging: exclusion from participation in policy-making; feeling unsafe or stigmatised; restrictions on peaceful protests; limitations and exclusion from funding; and restrictions through legislation.²⁶

In response to these threats to human rights and the civic space, CSO actors have employed various tools to safeguard their space and push back. These include sustained advocacy efforts for increased compliance with human rights standards and principles and accountability for violations. In this regard, CSOs continue to engage not only at the national level but through regional and international mechanisms including the African Commission on Human and Peoples Rights (ACHPR) processes and at the UN through opportunities such as the Special Mechanisms and the Universal Periodic Review (UPR) process which also provide platforms for continuous engagement and joint reviews with government.

Secondly, CSO actors have continued to leverage on their strength in numbers through coalitions and movements which not only serve as a shield against victimisation but also as a mechanism of pooling resources, diversity of expertise and voices for greater impact. Some of these notable coalitions are the Police Reforms Working Group (PRWG) in Kenya that has been pressing for police reforms and accountability, the Missing Voices Coalition (MVC), whose vision is to end enforced disappearances and extrajudicial killings, the Civic Freedoms Forum (CFF), which seeks to consolidate civic actions for the advancement of human rights, civic liberties and democracy, and the Social Justice Centres Working Group, bringing together various social justice centres based in various communities.

Thirdly, CSOs in Kenya have also employed strategic litigation as a tool for interpretation of laws and declaration of rights. The courts have been instrumental in safeguarding rights and curtailing attempts by the State to pass laws or interpret laws in a manner that undermines the exercise of these fundamental rights. The High Court has upheld the fair trial rights of suspects of terrorism, the courts have also thwarted State efforts to freeze accounts belonging to or de-registration of various organisations including HAKI Africa, Muslims for Human Rights (MUHURI), the Kenya Human Rights Commission (KHRC), Africa Center for Open Governance (AfriCOG), among others. The Courts have also halted the implementation of a digital ID system in Kenya twice starting with the Huduma Namba case in 2020 and more recently the

²⁶ Mpagi, S. (2022). The Impact of Shrinking Civic space on Youth activism, the resilience of civil society, and social sustainability.

Maisha Namba (2023) with concerns on data protection and possible use of data for surveillance arising in both instances.

2.2.2 Civic Space in Tanzania

The situation in Tanzania is comparable to other regions of the world where deterioration of democracy affects CSOs civic space. Internationally, CIVICUS categorized Tanzania as a country with “restricted civic space” and Freedom House located it in the group of “partly free” democracies, citing increased restrictions, de-registration, legal harassment, and the unlawful arrests of CSO activists. However, some scholars argue that restricting dissent by opposition parties and citizens during Magufuli’s term was nothing new, but an ongoing characteristic of Tanzanian democracy.²⁷ V-DEM (2023) rates Tanzania as among the bottom 40–50% in the growth of democracy from 2012 to 2022, scoring 0.25–0.5 out of 1.0 in the Liberal Democracy Index (LDI).²⁸ In addition, the MO Ibrahim Foundation (2023) reveals that, in 2021, Tanzania scored 30.0% out of 100% of the situation of civic space. This is the deterioration by 20.2% from 2012.²⁹

Legislative actions have contributed to shrinking of space. Amendments have been proposed to the 2020 Electronic and Postal Communications (Online Content) Regulations, which have led to the severe restriction of online freedom of expression and digital media freedom. In addition, there are other areas of concern such as the criminalisation of what is perceived as ‘fake news’ or misinformation. In this area, authorities have retained ultimate arbitrary power to take action and have so-called ‘prohibited content’ removed within two hours. The list of prohibited content, which is open to interpretation and has been used to restrict media freedom and the freedom of expression in the past, remains.

Regarding the freedom of peaceful assembly, restrictions have become harsher, and reprisals against individuals seem to be the new norm. For example, the shooting of opposition leader and former president of the Law Society, Tundu Lissu, has never been resolved.³⁰ Other opposition leaders have faced arrests in controversial circumstances, for example, Freeman Mbowe.³¹

²⁷ Kontinen, T., & Nguyahambi, A. M. (2023). Negotiating CSO Legitimacy in Tanzanian Civic Space. In Civil Society Responses to Changing Civic Spaces (pp. 121-144). Cham: Springer International Publishing.

²⁸ V-DEM (2023), “Democracy report 2023: defiance in the face of autocratization”, available at:

https://www.v-dem.net/documents/29/Vdem_democracyreport2023_lowres.pdf

²⁹ MO Ibrahim Foundation (2023), “2022 Ibrahim index of African governance: index report”, available at:

www.mo.ibrahim.foundation/iiag (accessed 27 January 2023).

³⁰ “Lissu: the MP shot 38 times for standing up to Magufuli”:

<https://www.standardmedia.co.ke/article/2001386054/lissu-the-mp-shot-38-times-for-standing-up-to-magufuli>

³¹ “Freeman Mbowe speaks out on charges, eight months behind bars”:

<https://www.theeastafrican.co.ke/tea/news/east-africa/freeman-mbowe-behind-bars-3739844>

2.2.3 Civic Space in Uganda

Different literature review reveals that human rights and the rule of law as well as freedom of assembly and association are the two most restricted civic space dimensions in Uganda rating them at 75 per cent and 71.4 per cent respectively.³² The means used to restrict these civic space dimensions is enactment of laws that are selectively enforced to suppress citizens' dissenting voices and to silence the political opposition. Specifically, the right to freedom of assembly and association have been significantly restricted. The laws responsible for this include: the Public Order Management Act (2013) the NGO Act (2016), the Penal Code Act (1950), the Anti-Terrorism Act (2002), the Police Act, cap 303 and the Press and Media Act (2000).³³

According to Chaputula, the third most restricted dimension of civic space in Uganda is the freedom of information and expression at 57.1 per cent in terms of being restricted. Again, studies cited a number of laws that have been used by the administration to restrict this freedom. These include the Official Secrecy Act (1964), the Electronic Media Act (2011), the Press and Journalist Act (2000), the Electronic Transactions Act, the National Information Technology Authority, Uganda Act (2009), the Computer Misuse Act (2011) recently amended, the Interception of Communications Act (2011), the Uganda Communications Act (2013) and the Anti-pornography Act (2014).³⁴

Analytical reports on media freedom released by Human Rights Network for Journalists Uganda (HRNJ-U) - (2011-2020) depicted a worrisome trend of continued harassment and intimidation of journalists. Whilst Uganda seems to have good safeguards and has domesticated a number of laws to guarantee the freedom of expression and information, during the past decade, there are practices that have consistently shrunk this space.³⁵

2.3 Internal Factors that Influence Civil Society Resilience

CSOs capacity to absorb resources (absorptive capacity), weaknesses in governance and leadership structures and mechanisms, a lack of highly skilled personnel, weak infrastructure, and lack of trust, accountability and transparency hinders the development of CSO, are among the factors that hinder the development of CSOs resilience. Below some of these internal factors are looked at in depth.

³² Mpagi, S. (2022). The Impact of Shrinking Civic space on Youth activism, the resilience of civil society, and social sustainability.

³³ Elepu, C., Acanga, A., & Mwesigwa, D. (2023). Stakeholder participation and academic performance: A study among primary schools in Alebtong District, Uganda.

³⁴ Chaputula, A. H. (2023). Tracking progress in the implementation of the Access to Information (ATI) Act. Global Knowledge, Memory and Communication.

³⁵ Mbaine, A. E. (2020). The challenges of establishing a sustainable regulatory system for journalists for media accountability to society: A case study of Uganda. University of Johannesburg (South Africa).

2.3.1 Governance

Governance is the process by which an organisation is constituted and determines how authority is exercised.³⁶ In the public sector, good governance is based on a system of checks and balances between the legislative, executive and judicial branches. This means that it includes a process of regular consultations between government bodies and the general public, so civil society can hold the government responsible and accountable for their trust and ensure that their needs and interests are served.³⁷

Within the non-profit sector, good governance principles work almost the same: CSOs exercise good governance practice, when they have internal systems of checks and balances, which ensures they serve the public good. Good governance of CSOs is based on the differences between organizational units (management and governing entities) and the distribution of decision-making powers between them. Such arrangements help to limit and mitigate control over any person or group, ensure good management of the organization's resources, and assure the CSO's public service orientation.³⁸

2.3.2 Capacity Development

Capacity development has been recognised as a fundamental component of development in the 21st Century. One conclusion from several major events of the last decade, like the Commission for Africa, the Millennium Review, the Paris Declaration on Aid Effectiveness, among others, is that capacity development is a critical issue for both donors and partner countries. However, many scholars and practitioners are unanimous in their assertion that the concept of capacity development, including its systems and approaches are not well defined.³⁹

Developing, expanding individual skills, the creation of opportunities, and the incentive for people to extend the acquired skills through institutions and networks is the central role of capacity development and is crucial to propel countries to greater transformation towards development. However, international capacity development bodies and donor agencies still have a very important role to play in supporting the resilience of states, CSOs and individuals and promoting a favourable environment where they can respond to different challenges.⁴⁰ Investment in capacity building at organisational

³⁶ Kjaer, A. M. (2023). *Governance*. John Wiley & Sons.

³⁷ Begashaw, G. (2019). Good Governance with Checks and Balances in Ethiopia. *International Journal of Ethiopian Studies*, 13(2), 185-196.

³⁸ Bhargava, V., Elmendorf, E., Gray, S., Kafka, B., Ritchie, D., & Little, S. (2019). *Expanding civil society contributions to the governance agendas of the sustainable development goals and international financial institutions*. Partnership for Transparency. Washington.

³⁹ Bracho, G., Carey, R. H., Hynes, W., Klingebiel, S., & Trzeciak-Duval, A. (2021). Origins, evolution and future of global development cooperation: The role of the Development Assistance Committee (DAC) (No. 104). *Studies*.

⁴⁰ McDonough, A., & Rodríguez, D. C. (2020). How donors support civil society as government accountability advocates: a review of strategies and implications for transition of donor funding in global health. *Globalization and health*, 16(1), 1-18.

level is important for CSOs and their resilience. It puts them in a good position to manage relations with other stakeholders, especially government regulatory agencies, and be compliant to legal requirements including contractual arrangements.

2.3.3 Well-being and Mental Health

In terms of well-being and mental health of activists, expert interviews and reports indicate that burnout, depression, 'compassion fatigue' and 'helping-induced trauma' is prevalent among civil society activists, not only in disaster and war zones, but also in western societies. There are a multitude of reasons for this, ranging from direct contact with severely traumatised people to advocating for difficult issues, sometimes against majority views or state positions. Further reasons include feeling personally attacked by negative discourse and smear campaigns, working long hours as well as a lack of recognition.⁴¹

Compassion fatigue or secondary traumatic stress is fairly common among individuals who work directly with trauma victims, and CSO activists often face issues similar to police officers, social workers or doctors. Sufferers can exhibit several symptoms, including hopelessness, a decrease in experiencing pleasure, constant stress and anxiety, sleeplessness or nightmares, and a pervasive negative attitude. However, trauma symptoms are not always recognised.⁴²

2.3.4 Transparency and Accountability

Transparency is the precondition of accountability. According to this principle, CSOs have to be transparent to internal and external constituencies. CSOs are expected to be transparent in regard to their activities and financial and managerial information and share it with the public through such tools as websites. Civil society accountability is nowadays both a necessity and a duty. Civil society has grown, it has gained visibility and has a more prominent role than ever in local, national and international development; as a result, it has a greater responsibility to account for what it does and how it does it. Just as CSOs are often hailed as examples because of their good actions, they are also examined, observed and questioned.⁴³

As in other areas of human activity, some cases of corruption, misuse of funds or bad practices have been identified in some CSOs. This is a limited phenomenon, but if it is not dealt with properly, it may end up putting in question the legitimacy of civil society in general – not just of the

⁴¹ Baumann, A. E. (2014). Non-governmental organizations as key partners in mental health in Europe. *Die Psychiatrie*, 11(01), 27-34.

⁴² Baumann, A. E. (2014). Non-governmental organizations as key partners in mental health in Europe. *Die Psychiatrie*, 11(01), 27-34.

⁴³ Ruvalcaba-Gomez, E. A., & Renteria, C. (2020). Contrasting perceptions about transparency, citizen participation, and open government between civil society organization and government. *Information Polity*, 25(3), 323-337.

organisations affected. In this sense, transparency and accountability are a factor of legitimacy and therefore an element that is necessary for the sustainability both of individual CSOs and civil society as a whole. But they are also ethical duties, as organisations use resources that are ultimately public, in the sense that they come from the public, whether they are handed to them by the state, international cooperation agencies, private companies or individual donors.⁴⁴

Unlike what happens with democratic governments, the legitimacy of civil society does not result from elections. On the contrary, civil society must produce and reproduce its own legitimacy every day through the work it does in defence of rights, the protection of the environment, the strengthening of democracy and in addressing the needs of the most vulnerable sectors.⁴⁵

2.3.5 Transparency

Transparency is the basis of social trust. The implementation of the international principles of conducting transparent, accountable and public CSO activities contributes to raising the level of trust of society, donors and partners in the whole third sector. Moreover, the implementation of clear, understandable standards and tools for assessing and controlling CSOs will also require increasing accountability from both the government and the private sector.⁴⁶

Transparency is the position to provide complete and accurate information about the status and activities of the organization. It is a communication activity that an organization develops, when it regularly provides relevant and accurate information about its mission, strategy, management, decisions, actions, results, obligations and consequences. This information allows stakeholders to evaluate, formulate opinions and criteria for an organization's activities over a period of time, facilitate understanding of compliance, etc. Such information may be made available on the initiative of the organization itself or at the request of an interested party.⁴⁷

It is not enough to formally inform how the institution functions, how the work is performed, what the internal processes are, how and in what environment decisions are made or what results have been achieved in the work. The organization must ensure that information is disseminated openly,

⁴⁴ Annan, P. (2022). The Influence of External Funding on the Effectiveness of Civil Society Organizations in the Fight Against Corruption—a Case Study of Transparency International Kenya (Doctoral dissertation, University of Nairobi).

⁴⁵ Popplewell, R. (2018). Civil society, legitimacy and political space: Why some organisations are more vulnerable to restrictions than others in violent and divided contexts. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 29(2), 388-403.

⁴⁶ Annan, P. (2022). The Influence of External Funding on the Effectiveness of Civil Society Organizations in the Fight Against Corruption—a Case Study of Transparency International Kenya (Doctoral dissertation, University of Nairobi).

⁴⁷ Davis, K. (2017). An empirical investigation into different stakeholder groups perception of project success. *International Journal of Project Management*, 35(4), 604-617.

is truthful, understandable and easily accessible to anyone, who has interest in it. However, transparency cannot exist without good governance, the use of good governance practices that guarantee the quality of the organization and the effective, efficient and ethically correct operation of the institution, the tools for monitoring and reporting, all of which help CSOs achieve the organization's mission.⁴⁸

2.4 External Factors that Influence Civil Society Resilience

CSOs play pivotal roles in enabling people to claim their rights, advance rights-based approaches, shape and develop policies, form partnerships, and administer their implementation. They also provide services in areas that are complementary to governments and the private sector, but they are limited by international, national and organisational barriers.⁴⁹

In undertaking their duties, CSOs are confronted by several factors that include the regulatory environment under which they operate. Researchers have noted the tight regulations and policies for civil society in most African countries. Heiss and Kelley observe that African CSOs operate under tricky conditions with host governments.⁵⁰ A number of African governments have been accused of weaponizing laws to stifle and limit the legitimacy, effectiveness and sustainability of civil society, especially those groups that are perceived to be critical of the government.⁵¹ However, legislation is only one of the this that concern civil society actors. Below is a thorough review of the external factors that threaten civic space.

2.4.1 Technological Advances

Technological developments, especially in relation to online forums, are emerging as a critical tool shaping the way civil society interacts with citizens. Emerging trends, such as social media and expert blogs, now offer faster modes of disseminating information and a non-hierarchical mode of communication where CSOs can respond directly to citizens, regardless of their geographical location. Unlike traditional forms of engagement such as rallies or physical assemblies, technological advances offer an innovative platform where barriers to entry for new civic organisations are low and an environment where CSOs are able to capture and simultaneously engage a wide audience, and thus be able to identify information that is crucial in influencing government behaviour. That said, most CSOs have been slow in transitioning their operations towards technology-intensive platforms, in part

⁴⁸ Addink, H. (2019). Good governance: Concept and context. Oxford University Press.

⁴⁹ Walker, D. (2015). How can we help you? State of Civil Society Report-2015, pp.370-376.

⁵⁰ Heiss, A., & Kelley, J. (2017). Between a rock and a hard place: International NGOs and the dual pressures of donors and host governments. *The Journal of Politics*, 79(2), 732-741.

⁵¹ Brechenmacher, S. (2017). Civil society under assault: Repression and responses in Russia, Egypt, and Ethiopia (Vol. 18): Carnegie Endowment for International Peace Washington, DC.; Yeshanew, S. A. (2012). 'CSO law in Ethiopia: Considering its constraints and consequences'. *Journal of Civil Society*, 8(4), 369-384.

owing to complexities in understanding the various types of technologies as well as the associated risks.⁵²

While presenting a novel opportunity for CSOs, online platforms can also have a disruptive role due their power to misinform, thus generating divisions rather than cohesion. Emerging evidence shows that social media and other online platforms have been associated with illegal political campaigns, election interference as well as radicalisation. As such, these platforms can act as tools to disseminate false information, given the difficulty for citizens to verify the authenticity of online information. If such distortions have a negative impact on the credibility of CSOs, such forums can pose a threat to enhancing democratic participation.⁵³

2.4.2 Shifts in Financing Models

The growing uncertainty regarding funding opportunities is likely to affect the capacity of CSOs to attain their objectives. CSOs continue to face a reduction in funding from donors due to austerity measures triggered by fiscal pressures, government debt and economic crises in developed countries. In addition, most donors have modified their financing models to include stringent requirements, such as forging partnerships with the private sector.⁵⁴

These changes imply that CSOs have to innovatively explore alternative sources of finance in order to enhance their sustainability. At the same time, CSOs are witnessing an increase in new forms of financing models from philanthropists and social entrepreneurs, a feature that provides an opportunity to maximise the available resources. Pousadela and Cruz argue that the reduction of funding for CSOs can be attributed to factors affecting bilateral donors, economic growth, and operational and financial restrictions stemming from political polarisation and increased government hostility towards CSOs in various countries.⁵⁵

2.4.3 Political Will/Commitment

The issue of political commitment is obviously an important factor which influences the ability of CSOs to interact with executive levels of government. Political commitment is problematic in the literature, partly because it is ill-defined and partly because it is the result of numerous other interrelated

⁵² Ronceray, M., Tine, L., Salzinger, M., & Bakari, R. M. (2023). The ECOWAS democracy agenda: Channels, lessons and digital technologies for civil society engagement. Discussion paper 350. Maastricht: ECDPM.

⁵³ Bennett, W. L., & Livingston, S. (2023). A brief history of the disinformation age: Information wars and the decline of institutional authority. In Streamlining political communication concepts: Updates, changes, normalcies (pp. 43-73). Cham: Springer International Publishing.

⁵⁴ McDonough, A., & Rodríguez, D. C. (2020). How donors support civil society as government accountability advocates: a review of strategies and implications for transition of donor funding in global health. *Globalization and health*, 16(1), 1-18.

⁵⁵ Inés M. Pousadela & Anabel Cruz (2016) The sustainability of Latin American CSOs: historical patterns and new funding sources, *Development in Practice*, 26:5, 606-618, DOI: 10.1080/09614524.2016.1188884

factors. Political will is something which gets made, broken and remade due a complex set of highly interrelated factors, some of which are detailed in this literature review.⁵⁶ interactions between CSOs and government can be limited because there is insufficient commitment to tackle the day-to-day challenges of governance. This makes states see CSOs as an unnecessary intrusion into the affairs of the state.

Furthermore, the role of CSOs depends mostly on the political context of a specific country. Civil society in a democratic government is a channel through which citizens participate in making and implementing public decisions; in identifying, prioritising and solving public problems, and in allocating and managing public resources. In non-democratic states, the civil society sector plays a significant role in lobbying and pressuring government to democratise politics and subsequent policy changes.⁵⁷

Various authors emphasise that a strong civil society is an important prerequisite for democracy to flourish. The presence and active functioning of civic groups and organisations that can act as facilitators and catalysts for development, especially rural development, are essential to enhance a democratic culture and to activate citizens to participate in governance.⁵⁸

According to Haysom (2014), “civil society is the sphere where social movements become organised, organisations of civil society represent a base, constituency, and thematic orientations, as well as types of activities that could include, inter alia, church-related activities, trade unions, cooperatives, CBOs, youth groups, women’s associations, and academic institutions”. CSOs channel people’s participation in economic and social activities and organise them into more groups to influence public policies and to gain access to public resources for development, especially for the poor.⁵⁹ Political commitment is an integral part of the positive environmental factors that can contribute to CSO success.

⁵⁶ Lassa, J. A., Surjan, A., Caballero-Anthony, M., & Fisher, R. (2019). Measuring political will: An index of commitment to disaster risk reduction. *International journal of disaster risk reduction*, 34, 64-74.

⁵⁷ Hollander, S. (2018). Synthesis literature reviews ‘New roles of CSOs for inclusive development’. Leiden: Knowledge Platform on Inclusive Development Policies (INCLUDE). URL: https://includeplatform.net/wp-content/uploads/2019/06/Strategic_actors_synthesis.pdf.

⁵⁸ Haynes, J. (2013). *Democracy and civil society in the Third World: Politics and new political movements*. John Wiley & Sons.

⁵⁹ Haysom, K. (2014). Civil society and social movements. In Jürgen Habermas (pp. 177-195). Routledge.

3. METHODOLOGY

3.1 Overview

CSOs play an increasingly important role in generating the political, economic and social. The main focus of the study was to understand the nexus between civil society organization space and resilience. Below, the details of study design, data collection, sampling procedures and methods, study sites, data collection tools and data analysis, are provided.

3.2 Study design

The study adopted a Mixed Method Approach (MMA) utilising both primary and secondary data as well as qualitative and quantitative methods of data collection and analysis. Quantitative data provided measurable indicators of resilience while qualitative data provided a detailed explanation on the state of civic space and civil society resilience by gathering in-depth views from respondents.

3.3 Scope of the Study

The study was carried out in three countries in the East African region: Kenya, Tanzania and Uganda. These three countries are members of the East African Community (EAC) alongside four other countries.⁶⁰ The three countries were the original members of the EAC. They not only border each other but also share many socio-cultural features. Kenya is the largest economy among the three and has been a key anchor of the regional integration process. Kiswahili, which is widely spoken in the East and Central region of Africa, is a shared language even though it has more speakers in Tanzania than in Kenya and Uganda.

3.4 Study population

The target population for this study was CSOs that work in the democracy, governance and human rights sectors in the three countries. The unit of analysis for the study was taken to be CSOs as institutions. Questionnaires were responded to by leaders of CSOs or their alternates. Those interviewed represented the perspectives and experiences of their organisations.

3.5 Data collection methods

The study relied on primary and secondary data as well as qualitative and quantitative data. The primary data was collected through an online survey tool

⁶⁰ The other countries are: Rwanda, Burundi, South Sudan, DRC Congo and Somalia

(KoboCollect). A total of seventy-seven (77) respondents from the three countries took part in the questionnaire survey, while thirty-four (34) Key Informant Interviews (KIIs) were conducted. An additional 24 participants took part in the three (3) Focus Group Discussions (FGDs) held with CSOs. Secondary data was acquired mainly through review of existing literature.

3.6 Sampling procedures

- (i) **Survey:** The consultants undertook a simple random selection of different organizations within the scope of the study in Kenya that fall within the relevant sectors, that is, CSOs championing governance, democracy and human rights.
- (ii) **KIIs:** Key informants were sampled purposively based on their knowledge of the subject matter. The participant selection took into account the relevant sectors of CSO work as outlined in the study design.
- (iii) **FGDs:** Participants in FGDs were purposively sampled based on their knowledge of the subject matter. The researchers identified key CSO personalities in Uganda and Tanzania, explained the objectives of the research and used them to identify those that fit into the criteria especially in regard to the sectors and the desired experience.

3.7 Data collection tools

The study utilized three main types of data collection instruments: an online survey questionnaire that was self-administered, KII and FGD guides.⁶¹ The survey questions were populated in a **KoboCollect toolbox** and a link shared with CSOs across the three countries.

3.8 Data analysis

Data analysis was supported by statistical tools. Questionnaire responses were entered into the Statistical Package for Social Sciences (SPSS) for statistical analysis. Descriptive & inferential statistics were applied. The analyzed data was presented in the form of tables, charts and figures.

⁶¹ See Annexes

4. STATE OF CIVIC SPACE IN EAST AFRICA

4.1 Overview

This section discusses the findings of the study in regard to the civic space in East Africa with a specific focus on Kenya, Uganda and Tanzania. It characterises the space in its different dimensions, including the legal and political imperatives that underlie the activities of CSOs, and the notable civic space trends across the region.

4.2 The Legal and Political Imperatives

Many of those interviewed in the study acknowledged the presence of progressive laws in all the three countries under examination. They pointed out, for example, that the constitutions of these countries have well-defined bills of rights, which include the rights to freedom of assembly, freedom of speech and freedom of association, some of the key ingredients in characterising civic space. Denial of these rights diminishes the ability of citizens to organise themselves and participate in their nation's affairs. One of the key informants expressed it as follows,

...many countries on the African continent have laws that are progressive. The problem is the people in leadership. They invest heavily in elections and after they win, they see the need to recoup their "investment", hence engaging in massive corruption. They have to capture institutions and silence dissent for them to achieve this purpose⁶²

This situation is made more complicated because of lethargy on the part of citizens, and the fact that many other spheres and institutions that could empower citizens are also being systematically weakened. This is how another key informant captured the situation,

...media space is also shrinking because of revenue. The media can no longer sustainably retain their most competent and talented journalists. The government of Kenya has come up with ways to deny media government advertising. Government has also used laws such as anti-terror laws to target key human rights organisations. The labour movement has largely been compromised...⁶³

⁶² Kenya CSOs Key Informant Interview (KII) No. 1/December 2023.

⁶³ Kenya CSOs Key Informant Interview (KII) No. 12/January 2024.

Kenya's constitution enacted in 2010 significantly expanded the Bill of Rights.⁶⁴ Chapter four of the constitution grounded human rights as an integral part of the country's democratic state and the framework for social, economic and cultural policies. It stated boldly that the purpose of protecting human rights is to "preserve the dignity of individuals and communities and to promote social justice and the realisation of the potential of all human beings".⁶⁵ Therefore, human rights were not to be treated as fringe considerations but rather as a key ingredient in formulation and implementation of law and policies.

For the first time, the constitution included environmental rights, social and economic rights, rights that pertain to language and culture, rights that pertain to the family unit, consumer rights, right to fair administrative action, etc. It therefore went beyond the narrow confines of civil and political rights such as the right to freedom of association, the right to the freedom of expression, freedom of conscience, freedom of worship, among others.

Uganda's constitution, enacted in 1995, is also detailed when it comes to the bill of rights.⁶⁶ It similarly expanded the bill of rights to include economic rights, social rights, rights of marginalised groups, rights of persons with disabilities, environmental rights, the right to information, etc. Other key rights entrenched in the constitution are: the right to fair hearing, respect for human dignity and protection from inhuman treatment, affirmative action in favour of marginalised groups, and prohibition of derogation from particular human rights and freedoms.

Tanzania's constitution, enacted in 1977, provides for fundamental rights.⁶⁷ Under section three, it entrenches the right to equality, the right to life, freedom of movement, freedom of expression, freedom of association, freedom of worship, freedom to participate in the affairs of the nation, among others. It also entrenches individuals' obligations to society including the obligation to work, and the obligation to obey the country's laws.

It is worth noting that civic space does not exist in isolation from political processes and activities. This means there are moments of heightened tension between CSOs and the state or more directly the political establishment. Because power wielders consider CSOs as contestants for power, election periods, for example, are moments of heightened tension. During these moments, politicians in power become apprehensive of the possible alignment of CSOs with their opponents, which could tilt the balance of power. In fact, in all three countries, elections are not only moments of tension, but periods when gross human rights violations occur mainly as a

⁶⁴ Article

⁶⁵ Article 19(2)

⁶⁶ Chapter 4, Articles 20 to 58

⁶⁷ Section 3: Rights and Obligations

result of perceived challenges to power wielders or the imperatives of consolidating power.

In Kenya, for example, almost all elections from 2007 have been accompanied by high levels of violence, including riots and police killing of protesters.⁶⁸ The latest incident of electoral violence happened after the 2022 elections. Similarly, in Uganda, pre-election and post-election violence, including killings, have been the norm.⁶⁹ In Tanzania, 3 people were killed in Arusha after the 2010 elections for protesting the electoral outcome. Notably, Tanzanian laws does not provide any avenue for legally challenging the results of a presidential election. In the case of Arusha, the police are said to have used “unjustifiable force” including live bullets.⁷⁰

4.3 Notable Trends in Civic Space

Actions that deny citizens their fundamental rights also often contravene the constitutions of these countries. They also go against the human rights instruments, such as the International Convention on Civil and Political Rights (ICCPR), which the states are party to. Interviews with key informants revealed the following trends across the three countries:

4.3.1 Non-adherence to the rule of law

The rule of law is one of the most important cornerstones of constitutionalism. The concept of rule of law connects the norms/rules, institutions and procedures, which ensure that every individual in the society is treated fairly. It assumes the existence of “legal systems that are fair and applicable to all without discrimination. An independent judiciary, which is impartial and capable of enforcing laws without fear or favour, is an important prerequisite.”⁷¹

Non adherence to the rule of law either directly impinges on civic space or creates conditions for such impingement by both state and non-state actors. The key features of non-adherence to the rule of law observed in the region

⁶⁸ See, for example, Human Rights Watch, Kenya: Post Elections Killings, abuse: Investigate Police Use of Excessive Force; Uphold Right to Peaceful Protest: <https://www.hrw.org/news/2017/08/27/kenya-post-election-killings-abuse>; Makumi Mwagiru, The Water’s Edge: Mediation of Violent Electoral Conflict in Kenya, *IDIS Publications on International Studies*, no. 3; Philip Ong’uny, Electoral Violence in Kenya, 2007—2008: The Role of Vernacular Radio: <https://www.eisa.org/storage/2023/05/2019-journal-of-african-elections-v18n1-electoral-violence-kenya-2007-2008-vernacular-radio-eisa.pdf>; The Waki Report on the 2007/8 Post-Election Violence: https://www.knchr.org/Portals/0/Reports/Waki_Report.pdf;

⁶⁹ Uganda: Elections Marred with Violence: Investigate Security Force Conduct: End Repression; Ensure Justice: <https://www.hrw.org/news/2021/01/21/uganda-elections-marred-violence>

⁷⁰ William Tate Olenasha, “The State of Constitutionalism in 2010: Issues, Debates and Perspectives from Tanzania Mainland, IN Morris Odhiambo (Eds), *Annual State of Constitutionalism in East Africa 2010*, Fountain Publishers, Kampala, 2012, pg. 113.

⁷¹ William Tate Olenasha, “The State of Constitutionalism in 2010: Issues, Debates and Perspectives from Tanzania Mainland,” IN Morris Odhiambo (Eds), *Annual State of Constitutionalism in East Africa 2010*, pg. 104.

include: disregard for court orders,⁷² the practice of arraigning citizens before court martial against orders of the court,⁷³ refusal to implement laws that are capable of improving the environment for CSO and citizen participation in national affairs,⁷⁴ enactment of laws that claw back on freedoms that are guaranteed by the constitution and implementation of laws that go against constitutional requirements.⁷⁵

4.3.2 Denial of funding for CSOs by closing down existing avenues for funding from key donors or attempts to enact laws to restrict funding

The Ugandan case involving the suspension and eventual closure of the Democratic Governance Facility (DGF) is the most significant case where the government deliberately denied CSOs access to funding.⁷⁶ It was reported in February 2021 that President Yoweri Museveni had ordered the closure of the facility that was jointly funded by the governments of Denmark, Ireland, Austria, United Kingdom, Norway and the European Union.⁷⁷

According to different documented sources and key informant interviews, the president ordered the Inspector General of Government, the police and the State House Anti-Corruption Unit to investigate “how the Ministry of Finance authorised the DGF to operate in Uganda and to bankroll NGOs and government agencies to undermine him.”⁷⁸ The president’s statement suggested that the suspension was as a result of political considerations as his statement did not focus much on the actual programmatic work of the CSOs. Both scholars and activists weighed in on the debate giving different perspectives.⁷⁹ Most key informants held the view that the President was worried by the potential of the facility to impact on electoral outcomes.⁸⁰ The president’s actions impinged on the right to associate, which is often facilitated by funding from different sources, including that from donors.

⁷² The Standard, “Ruto will be the loser if he defies court order on the housing levy”: <https://www.standardmedia.co.ke/health/michael-ndonye/article/2001488341/ruto-will-be-the-loser-if-he-defies-court-orders-on-the-housing-levy>; *Daily Nation*, Ignoring court orders a recipe for anarchy: <https://nation.africa/kenya/blogs-opinion/editorials/ignoring-court-orders-a-recipe-for-anarchy-4504824>

⁷³ See, for example, the ruling in *Kipoi v Attorney General* (Miscellaneous Application No. 230 of 2018)[2019] UGHCCD 44 (8 February 2019): <https://ulii.org/akn/ug/judgment/ughccd/2019/44/eng@2019-02-08>; The Monitor: “Court Martial Ruling: A positive for Criticized Constitutional Court”: <https://www.monitor.co.ug/uganda/magazines/people-power/court-martial-ruling-a-positive-for-criticised-constitutional-court-3468104>

⁷⁴ Kenya: Last warning from the court to implement the PBO Act, 2013: <https://www.refworld.org/docid/591eb2bd4.html>

⁷⁵ Key informant interviews across the three countries. This was a common theme.

⁷⁶ Multiple key informant interviews with Ugandan CSOs. Ugandan CSOs Focus Group Discussion (FGD); February 23, 2024.

⁷⁷ The Citizen, “Museveni orders closure of Democratic Governance Facility dealing blow to NGOs”: <https://www.thecitizen.co.tz/tanzania/news/africa/museveni-orders-closure-of-democratic-governance-facility-dealing-blow-to-ngos-3279976>

⁷⁸ The Citizen, “Museveni orders closure of Democratic Governance Facility dealing blow to NGOs”

⁷⁹ See, for example, Nathan Vandeputte, “The Suspension of the Democratic Governance Facility in Uganda: The Illusion of “Politically Smart Aid”: <https://www.tandfonline.com/doi/full/10.1080/09614524.2023.2238915>

⁸⁰ Multiple key informant interviews with Ugandan CSOs. Ugandan CSOs Focus Group Discussion (FGD); February 23, 2024.

The story of the Public Benefits Organisations Act (PBO Act, 2013) demonstrates a somewhat similar trend for CSOs in Kenya. Although the government of Kenya has not made significant attempts to stop individual donors from funding CSOs, it has sought to negatively impact donor funding by seeking to enact legislation that would restrict access to funding.⁸¹ This is how one of the participants in the Kenya CSOs Focus Group Discussion captured the situation:

*...a number of actions by government have led to closing civic space in Kenya. The PBO Act is yet to be operationalised. Successive regimes have failed to operationalise it. They consider it too liberal; it limits the ability of the government to control CSOs. Government attempted many times to amend the law and the most draconian amendment was that limiting funding to CSOs...*⁸²

After its enactment in 2013, the Jubilee administration that took power that year attempted to enact various amendments to the Act. Among these proposed amendments, which were defeated in the National Assembly after successful lobbying by CSOs, was one that put a ceiling on the funding of CSOs.⁸³ This move is usually attributed to the government's attempts to introduce restrictions akin to those that CSOs in Ethiopia have endured for years. Needless to say, the Kenya Kwanza Alliance (KKA) administration, like Jubilee before it, has failed to implement the PBO Act, a law that was enacted after collaboration between CSOs, government regulatory agencies and the National Assembly.

4.3.3 Denying citizens the rights to freedom of association and expression by criminalising public protests and generally harming or killing protesters

Even though the shooting of opposition political leader, Tundu Lissu,⁸⁴ in Tanzania has never been resolved, there are many who feel it was done to scuttle opposition to former President John Pombe Magufuli. Though extreme, the shooting of the politician, a former chairman of the Law Society of Tanzania, did not come as a surprise to activists in Tanzania. It had, in fact, been preceded by a number of incidents that showed high levels of intolerance to alternative views and attacks on the right to freedom of

⁸¹ Kenya Human Rights Commission, "Open Letter on Amendments to the PBO Act":

<https://www.khrc.or.ke/2015-03-04-10-37-01/press-releases/397-open-letter-on-amendments-to-the-pbo-act.html>

⁸² Kenya CSOs Key Informant Interview (KII) No. 12/January 2024.

⁸³ Kenya Human Rights Commission, *Ibid*.

⁸⁴ The Citizen: "Tanzania's Tundu Lissu: jailed, shot, but refusing to back down":

<https://www.theeastafrican.co.ke/tea/news/east-africa/tanzania-s-tundu-lissu-jailed-shot-but-refusing-to-back-down-2723240>

association. Many of those who bore the brunt of these actions in Tanzania are opposition political parties and civil society.⁸⁵

Kenyans trying to show solidarity with Palestinians in Gaza facing violence, found themselves denied the right to protest, not once, but twice, at a time when citizens all over the world were protesting.⁸⁶ Amnesty International issued statements condemning the arrests as unlawful.⁸⁷ The organisation pointed out that “banning demonstrations, including those held in support of Palestine, amounts to an unlawful attack on the right to protest.”⁸⁸ However, the right to protest was not denied those “supporting” government programmes.⁸⁹

4.3.4 Restrictive legal and administrative procedures

Some of the legal and administrative procedures that CSOs are exposed to were found to be overly restrictive. In Tanzania and Uganda there are requirements for the annual renewal of registration, which opens an avenue for targeting of individual CSOs or individual leaders seen as unfriendly by the government. In some cases, requests for the annual registration take more than one year to respond to, making it difficult for organisations to continue their operations. In Tanzania, there is a threshold in terms of funds an organisation receives which has to be reported to the authorities for authorisation.⁹⁰

The closure of organisation’s accounts is a practice that has been going on for some time in East Africa. Anti-terror laws and anti-money laundering laws are some of the legislations that have been used to close the space for civil society operations in this manner. In Kenya, the Muslims for Human Rights and Haki Africa organisations had their accounts frozen allegedly for funding terrorism.⁹¹ However, the courts exonerated the two asserting that there was no evidence to support the allegations.⁹² The actions were, therefore, only geared towards frustrating or slowing down their work. In some cases, laws

⁸⁵ Multiple key informant interviews with Tanzania CSOs. Tanzania CSOs Focus Group Discussion (FGD); February 18, 2024.

⁸⁶ Kenya: Pro-Palestine protesters targeted by police:

<https://www.africanews.com/2024/01/25/kenya-pro-palestine-protesters-targeted-by-police/>; Pro-Palestine protesters briefly detained in Kenya: <https://africanpeace.org/pro-palestine-protesters-briefly-detained-in-kenya/>

⁸⁷ Police restrictions on Palestinian Assemblies unlawful:

<https://www.amnestykenya.org/police-restrictions-on-palestinian-assemblies-unlawful/>

⁸⁸ Police restrictions on Palestinian Assemblies unlawful:

<https://www.amnestykenya.org/police-restrictions-on-palestinian-assemblies-unlawful/>

⁸⁹ Citizen Digital: “Youth hold protests in Nairobi to support affordable housing project”:

<https://www.citizen.digital/news/youth-hold-protests-in-nairobi-to-support-affordable-housing-project-n333882>

⁹⁰ Multiple key informant interviews with Tanzania CSOs. Tanzania CSOs Focus Group Discussion (FGD); February 18, 2024.

⁹¹ RFI, “Kenyan Muslim NGO accounts stay frozen despite terror links ruling”:

<https://www.rfi.fr/en/africa/20150612-kenya-bank-accounts-muslims-ngos-remain-frozen-despite-ruling-terrorist-links>

⁹² Kenya: Court Declares NGOs did no Wrong:

<https://freedomhouse.org/article/kenya-court-declares-ngos-did-no-wrong>

and administrative procedures were applied to stop organisations from engaging in “political” activities. This happened in Tanzania when some of the most prominent organisations were barred from engaging in electoral activities.⁹³

4.4 The Civic Space Dynamics

Survey respondents brought out important nuances in the discussion. In Kenya, 17% of the respondents agreed with the statement that “many CSOs have been silenced by the actions of government and are less vocal today than they were previously”. In addition, 13% agreed with the statement that “the actions taken by the government have made it difficult for us to operate”. Cumulatively, 30% of the respondents viewed the actions of government to be detrimental to the activities of CSOs, making it difficult for them to operate, and silencing the quest for government accountability.

On the other hand, 24% of the respondents were of the view that government’s actions, however detrimental to CSOs operations, did not completely silence them and, therefore, a robust, advocacy-based CSO sector had continued to develop. A significant proportion of the respondents (27%) was categorical in asserting that the operational space had expanded because of CSO activism and not because of the actions of government. This was further emphasised when only 9% of the respondents expressed the view that “the space for CSO operations has been expanding as a result of government actions including legislation. The results are presented in the table below.

Table 4.1: Kenya CSOs thinking about operating space in Kenya

CSO Operating Space	Number of the Respondents
The space for our operations has been expanding as a result of government actions including legislation	9%
There has been an increase in laws that inhibit our work	10%
The actions taken by the government have made it difficult for us to operate	13%
Many CSOs have been silenced by the actions of government and are less vocal today than they were previously	17%
The last 10 years have witnessed the development of a robust civil society particularly in the area of advocacy	24%
The operating space has been expanding because of CSO activism	27%
Grand Total	100%

Source: Field Survey, 2024

⁹³ NGOs excluded from election observer list to contest decision:

<https://www.thecitizen.co.tz/tanzania/news/national/-ngos-excluded-from-election-observer-list-to-contest-decision-2712906>

The findings above are in stark contrast to the findings from Tanzanian and Ugandan civil society experts who filled the survey instrument. In Tanzania, only 5.3% of the respondents said the operating space for CSOs was expanding because of CSO activism. In other words, attempts by CSOs to expand the space in Tanzania were not yielding positive results. There was an even score on the three major variables as shown in the box below:

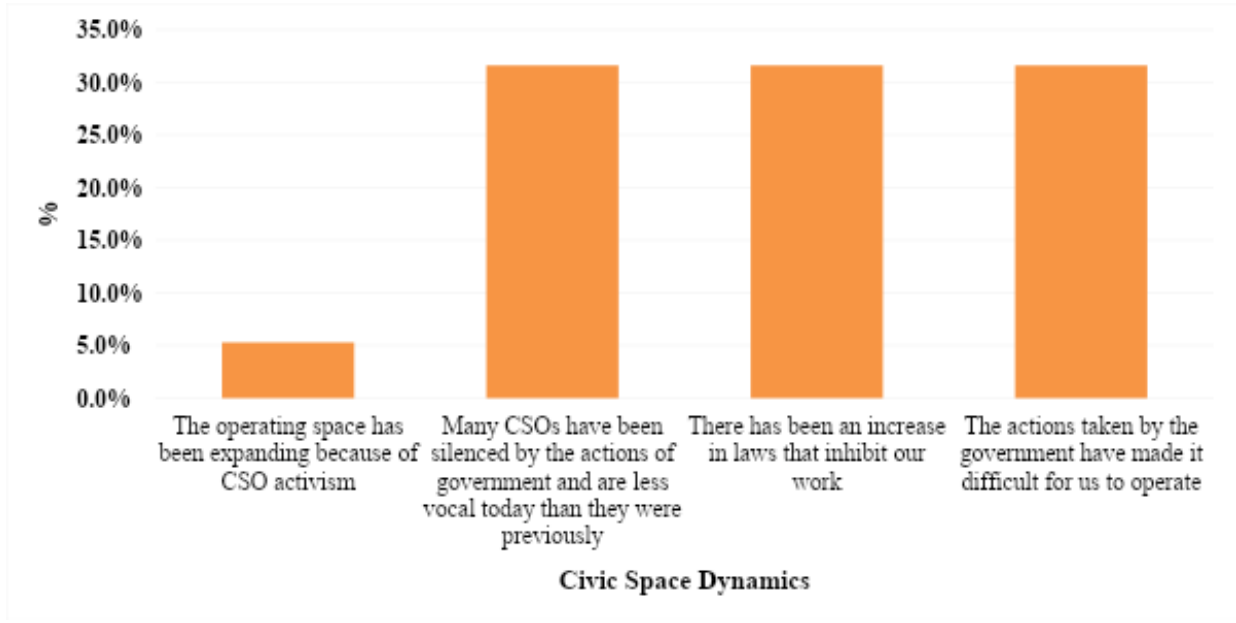
31.6% - Many CSOs have been silenced by the actions of government and are less vocal today than they were previously

31.6% - There has been an increase in laws that inhibit our work

31.6% - The actions taken by the government have made it difficult for us to operate

The results are further presented in the figure below:

Figure 4.1: Civic space dynamics in Tanzania



Source: Field Survey, 2024

Comparative analysis of key variable 1: “Many CSOs have been silenced by the actions of government and are less vocal today than they were previously”

Kenya - 17% **Tanzania - 31.6%** **Uganda - 26.7%**

Comparative analysis of key variable 3: *“The actions taken by the government have made it difficult for us to operate”*

Kenya - 13%

Tanzania - 31.6%

Uganda - 20.0%

Comparative analysis of key variable 2: *“There has been an increase in laws that inhibit our work”*

Kenya - 10%

Tanzania - 31.6%

Uganda - 33.3%

These findings are in line with both the literature the perspectives of the key informants and FGD participants in all three countries that suggests the civic space in Tanzania is more closed than that in Kenya. There was consensus that CSOs in Kenya have achieved more in their advocacy efforts to expand the civic space. The need to increase opportunities for lessons' learning from each country on what works and what does not work in expanding civic space was emphasised by the respondents.

*...the past governments in Tanzania created very stringent laws that were aimed at closing the space for civil society. The situation is slightly better now but those laws are still being implemented thus creating roadblocks for civil society. To implement a simple project, a CSO needs permission from a number of government agencies and officials, which does not serve any useful purpose except to delay and frustrate the CSO...*⁹⁴

Another key informant identified the weakness of other sectors of the Tanzanian society in terms of organising as a major concern:

*...the media is weak. The civil society is weak. The labour movement is weak. This has made the state much more powerful because the other sectors cannot stand for their rights and check government excesses. We don't have farmers associations that are active and they all say they are part of the ruling party...*⁹⁵

The same pattern as that in Tanzania was analysed for Uganda though the responses were much more nuanced than those for Tanzania. The findings on the major variables are shown in the box below:

⁹⁴ Tanzania CSOs Key Informant Interview (KII) No. 4/January 2024.

⁹⁵ Tanzania CSOs Key Informant Interview (KII) No. 5/January 2024.

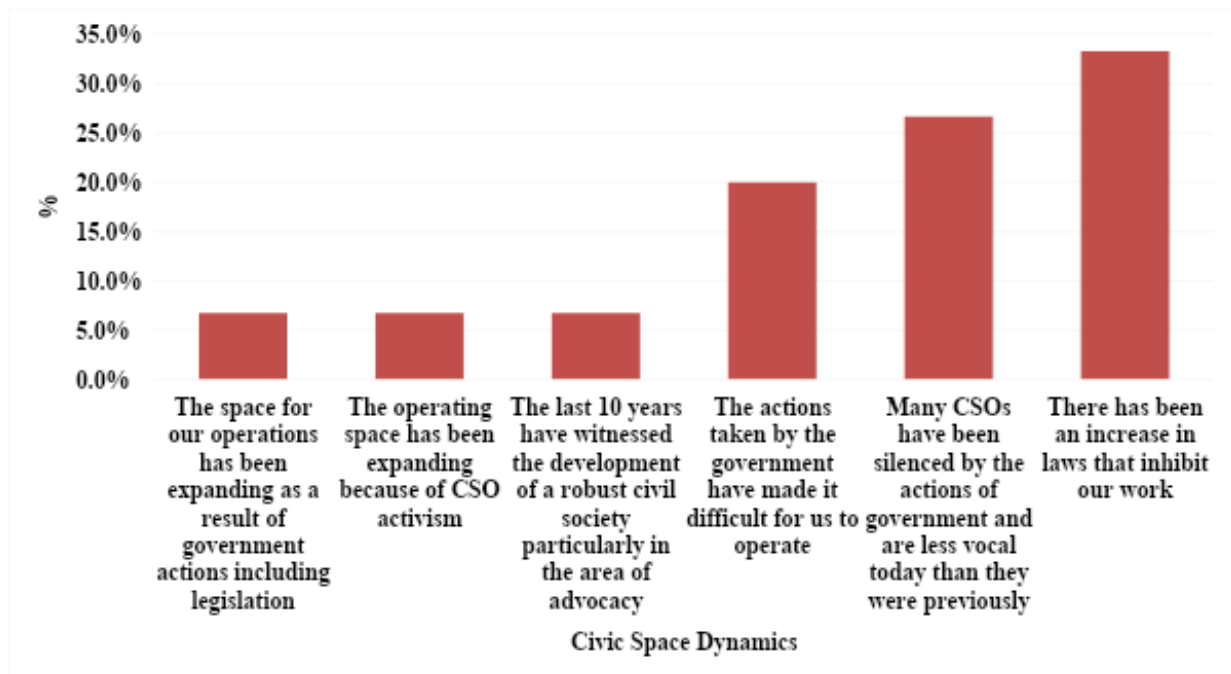
33.3% - *There has been an increase in laws that inhibit our work*

26.7% - *Many CSOs have been silenced by the actions of government and are less vocal today than they were previously*

20.0% - *The actions taken by the government have made it difficult for us to operate*

The findings from Uganda contrasted sharply with those from Kenya. In Uganda, only 6.7% of the respondents agreed with the statement “CSO space was expanding because of CSO activism” compared to 27% in Kenya. The results for survey responses from Uganda are further illustrated in the figure below:

Figure 4.2: Civic space dynamics in Uganda



Source: Field Survey, 2024

These results go well with the sentiments expressed by key informants. This is how one key informant described the situation in Uganda:

...the language we use when we say “civic space is shrinking or closing” assumes that it has been open, which is not conceptually correct. Uganda has always had governments that are suspicious of civil society. NGOs have always been placed under the Ministry of Internal Affairs, meaning that they are treated as a security threat. Organisations such as ActionAid Uganda, the Great Lakes Institute (GLISS), have been raided and have lost equipment and other office

facilities. This is the reality that has shaped civil society government relations for many years in the country...⁹⁶

4.5 Consequences of Closing Civic Space

Further analysis shows that the effects of closing civic space have been felt differently across the region. The results show that more optimism in terms of expanding civic space was expressed by CSOs in Kenya as opposed to those in Tanzania and Uganda. The results are shown in the table below.

Table 4.2: Consequences of closing civic space in Kenya

Consequences of closing space in Kenya	% of the Respondents
They have been unable to find new and innovative ways of working in the face of closing civic space	6%
Some CSOs have closed down their operations because they are unable to cope with the challenges in the operating environment	12%
Many advocacy organizations have changed their mandates as a way of coping with closing civic space	13%
They have found ways of overcoming challenges in the operating environment	16%
They have continuously challenged government actions that infringe on their ability to operate	24%
They have found many ways to continue working even though the environment has become increasingly challenging	29%
Grand Total	100%

Source: Field Survey, 2024

The first set of three responses focused on the reactions of CSOs to shrinking or closing civic space. Whereas 13% of the respondents agreed with the formulation: “many advocacy organisations have changed their mandates as a way of coping with closing civic space”, 12% agreed with the statement, “...some CSOs have closed down their operations because they are unable to cope with the challenges in the operating environment”. Finally, 6% stated that they had not found new innovative ways of working in the face of closing civic space. Cumulatively, this (31%) proportion of respondents signified that up to one-third of the organisations are unable to continue executing their mandates.

The majority (69%) of the respondents indicated high levels of optimism in the ability of CSOs to protect their operational space in Kenya. Out of the 69%, 24% said that CSOs in Kenya had continuously challenged government actions that infringe on their ability to operate, 29% indicated that the CSOs had found many ways to continue working even though the environment

⁹⁶ Ugandan CSOs Key Informant Interview (KII) No. 4/December 2023.

“had become increasingly challenging”. At the same time, 16% agreed with the statement that “CSOs have found ways of overcoming challenges in the operating environment”. Cumulatively, 69% of the respondents identified with these statements that speak to the ability of CSOs to continue operating and, indeed, challenging the negative conditions imposed on them by government.

Comparative analysis show that the consequences have been more harsh for Tanzania and Uganda than they have been for CSOs in Kenya. The findings for Tanzania are presented in the box below:

26.3% - Some CSOs have closed down their operations because they are unable to cope with the challenges in the operating environment

21.1% - They have continuously challenged government actions that infringe on their ability to operate

21.1% - They have found many ways to continue working even though the environment has become increasingly challenging

The findings above are in complete contrast to the findings from Tanzanian and Ugandan civil society experts who filled the survey instrument. The results for Tanzania and Uganda are presented in tables 4.2 and 4.3 below:

Table 4.3: Consequences of closing civic space in Tanzania

Consequences of closing space in Tanzania	Percentage
They have continuously challenged government actions that infringe on their ability to operate	5.3%
They have been unable to find new and innovative ways of working in the face of closing civic space	10.5%
They have found ways of overcoming challenges in the operating environment	15.8%
They have found many ways to continue working even though the environment has become increasingly challenging	21.1%
Many advocacy organizations have changed their mandates as a way of coping with closing civic space	21.1%
Some CSOs have closed down their operations because they are unable to cope with the challenges in the operating environment	26.3%
Total	100%

Source: Field Survey, 2024

The same pattern was analysed for Uganda though the responses were more much more nuanced than those for Tanzania. The results can be illustrated as follows:

Table 4.4: Consequences of closing civic space in Uganda

Consequences of closing space in Uganda	%
Many advocacy organizations have changed their mandates as a way of coping with closing civic space	16.7%
They have found many ways to continue working even though the environment has become increasingly challenging	25.0%
They have continuously challenged government actions that infringe on their ability to operate	25.0%
Some CSOs have closed down their operations because they are unable to cope with the challenges in the operating environment	33.3%
Total	100.0%

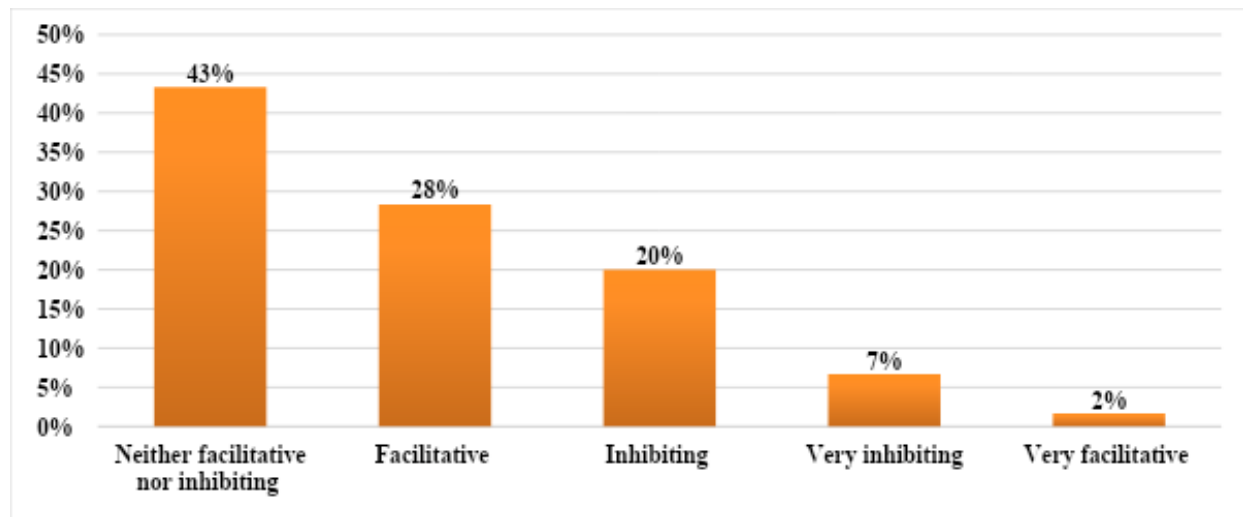
Source: Field Survey, 2024

<p>Comparative analysis of key variable 4: <i>“Some CSOs have closed down their operations because they are unable to cope with the challenges in the operating environment”</i></p> <p>Kenya - 12% Tanzania - 21.1% Uganda - 33.3%</p>
<p>Comparative analysis of key variable 5: <i>“Many advocacy organizations have changed their mandates as a way of coping with closing civic space”</i></p> <p>Kenya - 13% Tanzania - 26.3% Uganda - 16.7%</p>
<p>Comparative analysis of key variable 6: <i>“They have found many ways to continue working even though the environment has become increasingly challenging”</i></p> <p>Kenya - 29% Tanzania - 21.1% Uganda - 25%</p>

4.6 Government Actions in Improving Conditions for CSOs

The above perspectives were further captured in the question regarding the commitment of government of Kenya to facilitate a conducive environment for CSO operations. The majority (43%) of the respondents signaled that government actions were “neither facilitative nor inhibiting” in terms of “improving conditions for the operations of CSOs”, whereas 30% felt that government actions were very facilitative (2%) and facilitative (28%). Furthermore, 20% said that government actions were “inhibiting”, while a further 7% said government actions were “very inhibiting”, bringing the total to 27%. The figure below presents these findings.

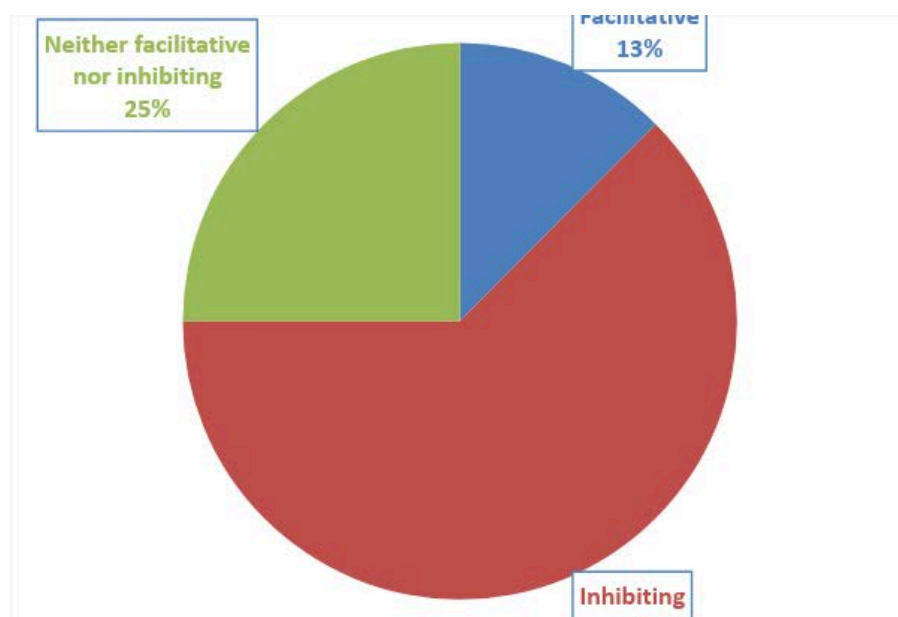
Figure 4.3: Government's actions in improving the conditions for the operations of civil society in Kenya



Source: Field Survey, 2024

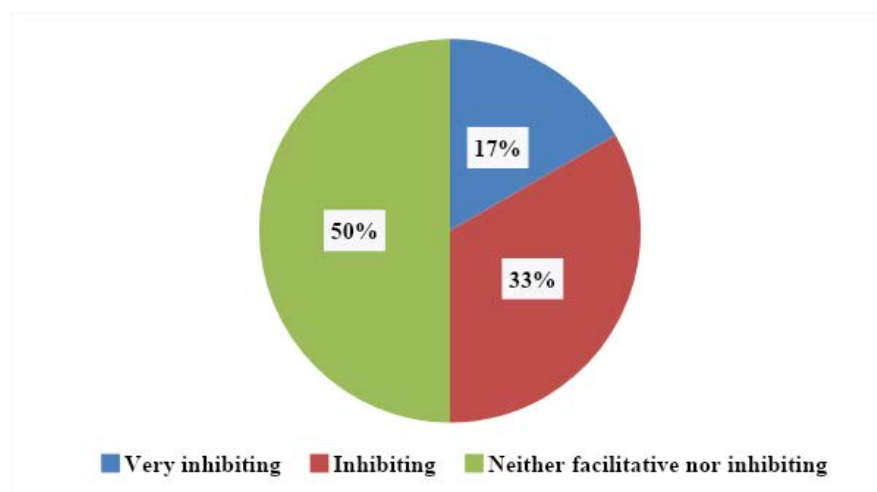
The above results show the tally is almost equally distributed among those seeing government actions as facilitative and those seeing government actions as inhibiting. This signifies the need for CSOs to do more in terms of advocacy to influence government actions in improving the operating environment for CSO operations. This is a constitutional imperative that should be informed by the principle of public participation. The results differ significantly from Tanzania and Uganda as indicated in the following figures.

Figure 4.4: Government's actions in improving the conditions for the operations of civil society in Tanzania



Source: Field Survey, 2024

Figure 4.5: Government's actions in improving the conditions for the operations of civil society in Uganda



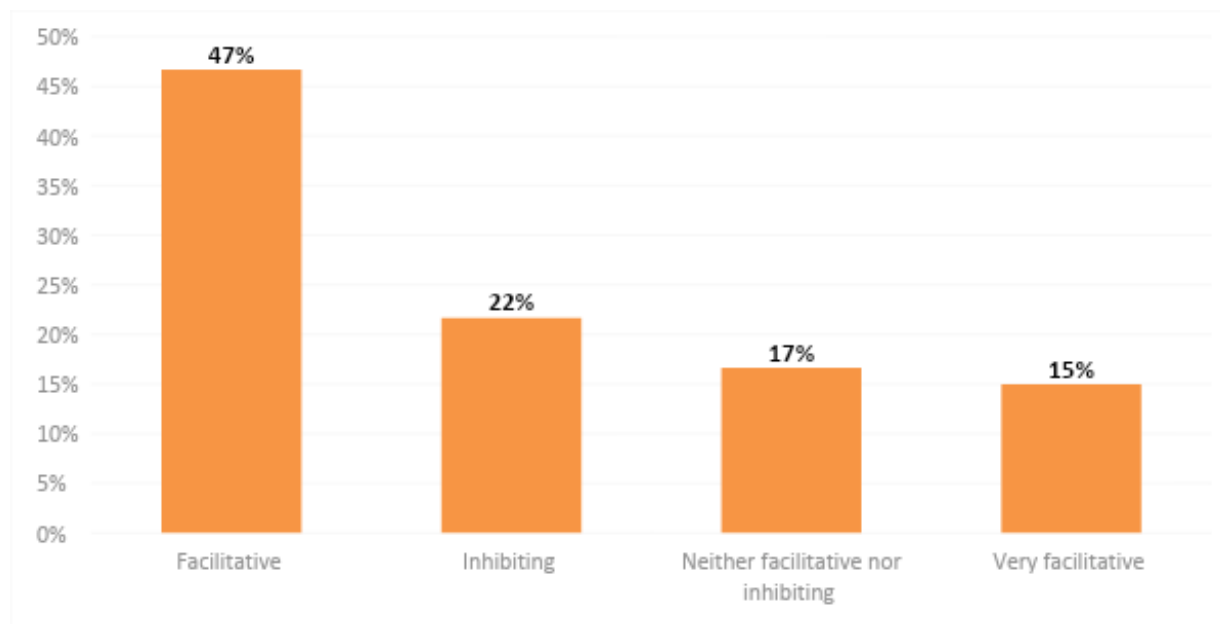
Source: Field Survey, 2024

The figures above show that the trend of worsening civic space conditions in Tanzania and Uganda is maintained across different variables.

4.7 Donor Policies in Improving the Conditions for CSOs

The results of the survey further show greater confidence in donor policies in facilitating a conducive environment for CSO operations across the region as opposed to government actions. The figure below details these findings.

Figure 4.6: Funding policies of donors in improving the conditions for the operations of civil society in Kenya

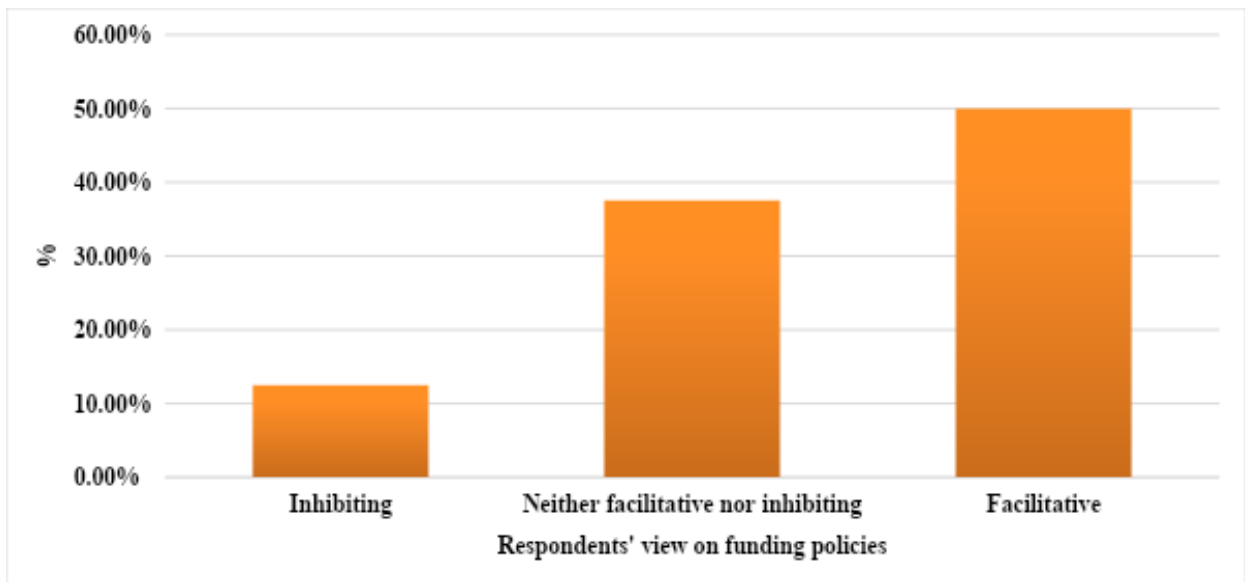


Source: Field Survey, 2024

According to the figure, almost half (47%) of the respondents indicated greater confidence in donor policies as a facilitator of conducive CSO operational environment. At the same time, 15% of the CSOs indicated that donor policies are very facilitative, bringing the total to 62% of those who were of the opinion that donor policies are facilitative of CSO operations. This figure compares favourably to the 22% who described donor policies as “inhibiting”.

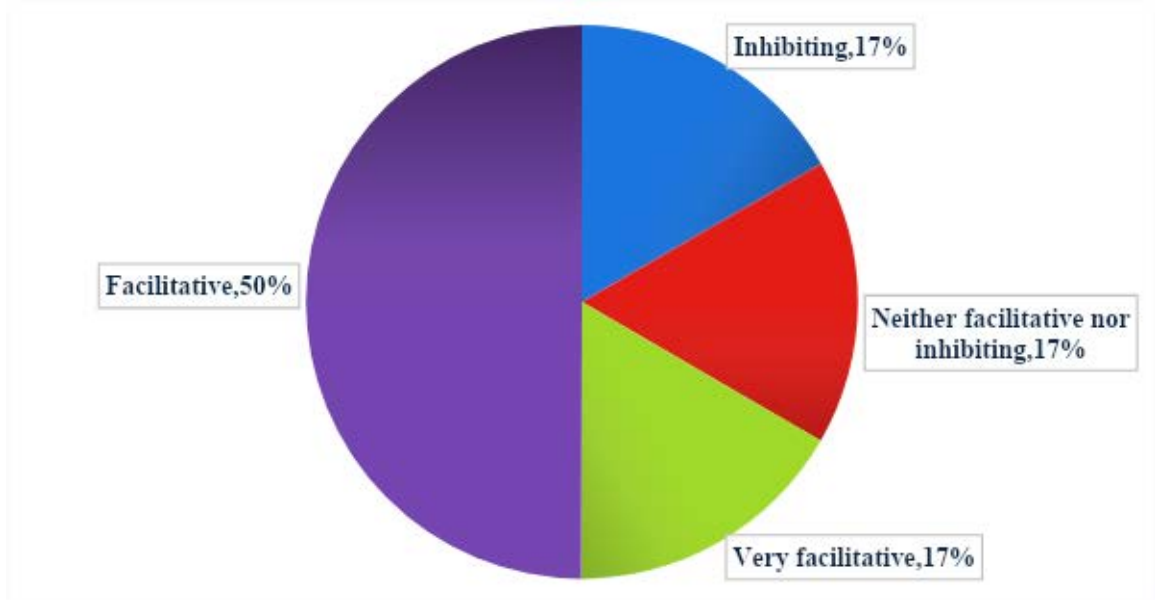
The two figures below show that this trend is the same in the three countries of study.

Figure 4.7: Donor policies in expanding civic space in Tanzania



Source: Field Survey, 2024

Figure 4.8: Donor policies in expanding civic space in Uganda



Source: Field Survey, 2024

The data shows that CSOs consider citizens and development partners to be more dependable allies in advocating for expansion of civic space (20% and 18% respectively), as opposed to government institutions such as parliament (8%), judiciary (11%) and the executive (5%). It is significant that the executive scored the least on this question since it is the one that plays the greatest role in limiting civic space generally through laws and administrative/regulatory

actions. Though not by a large margin, the judiciary scored slightly better than the other two arms of the state because it has often ruled in favour of expanding civic space, for example, in the MUHURI and Haki Africa case.

5. CSO RESILIENCE FACTORS

5.1 Overview

This section discusses the internal and external factors that shape organisational resilience. Internal resilience factors are those within the control of CSOs. They include issues that fall within the purview of CSO's governance and management functions. External factors mostly refer to the range of policy (referring to the government and other entities such as funders), administrative, institutional and other components that affect the operations of CSOs. They also include the arena of CSOs interactions with other entities that are external to themselves. These may include their interaction with the media, development partners, etc. CSOs have no control over these factors, but can influence them positively through advocacy.

5.2 Discussion of Internal Factors

Internal resilience factors are those that concern the internal dynamics of individual CSOs. They concern the governance, management and other internal processes that organisations carry out in fulfilling their mandates. Unlike external factors, internal factors are within the control of an organisation. Their fulfillment, however, is subject to the capacity of the organisation. In this discussion, internal resilience factors are divided into four: internal factors that increase CSOs' ability to operate and internal factors that inhibit CSOs ability to operate.

5.2.1 Internal factors that increase CSOs ability to operate

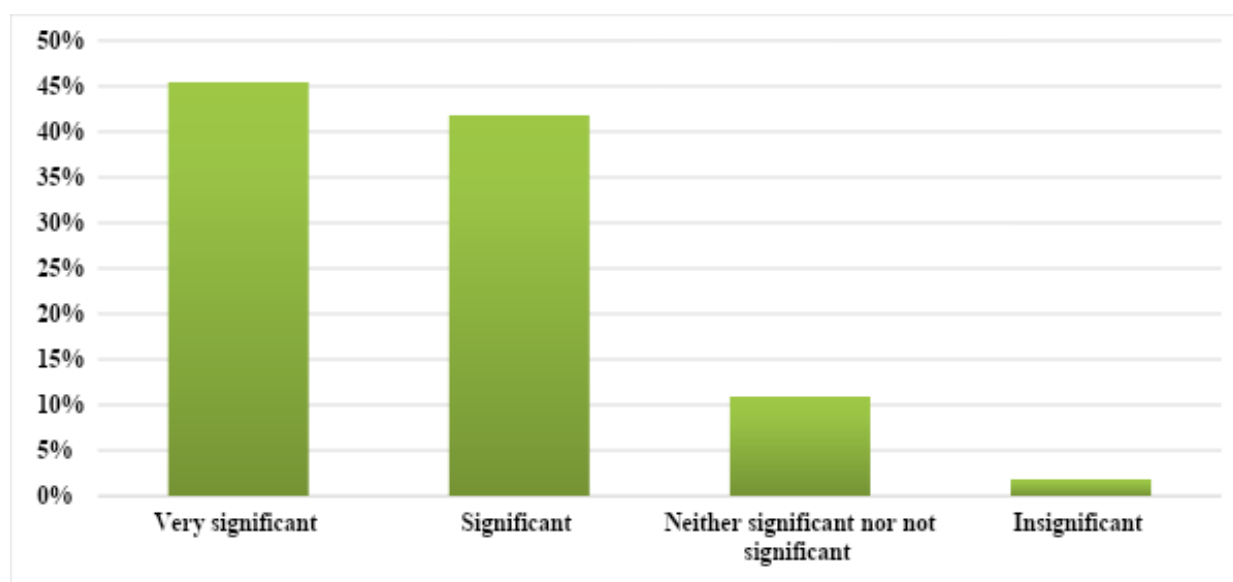
The survey further noted the pivotal role played by internal governance and management practices in ensuring smooth operations and compliance with statutory requirements. Efficient administration, open communication and visionary leadership contribute to organizational effectiveness. The commitment and passion of CSO members towards their communities, aligned with constitutional values, form the foundation for effective interventions.

In addition, strategic resource utilization, encompassing financial, human and material aspects, was emphasised, with capacity building initiatives ensuring ongoing institutional development. The ability to adapt to changing circumstances, resilient structures and a commitment to justice contributes to the overall success of CSOs. The results of the survey for CSOs in Kenya are presented below.

One key informant underscored the role of leadership, both at the board of directors and management levels, the capacity of individual CSOs, solidarity among CSOs and the question of staff welfare. On wellness specifically, the key informant observed the following:

*...we consider wellness to be very important though this might depend on issues an organisation is working on. We deal with the rights of children and so for us it is very important that we have wellness days. Some of the situations we encounter are traumatic, hence the importance of mental wellness. I believe that all human rights defenders should mind their mental wellness...*⁹⁷

Figure 5.1: Significance of the internal factors in ensuring CSO resilience in Kenya

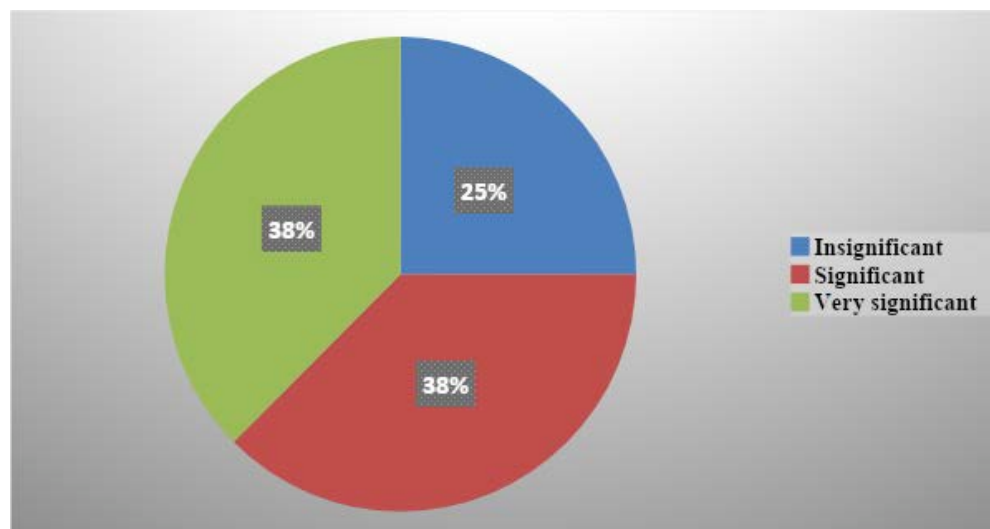


Source: Field Survey, 2024

The majority (87%) of the respondents emphasised the importance of internal resilience factors with 45% saying they are very significant and 42% saying they are significant. Only 2% of the respondents thought these factors are not significant at all. The overall implication is that both external and internal resilience factors are important. The findings for Tanzania and Uganda show the same trend in terms of significance of these factors. The results are shown in the two figures below.

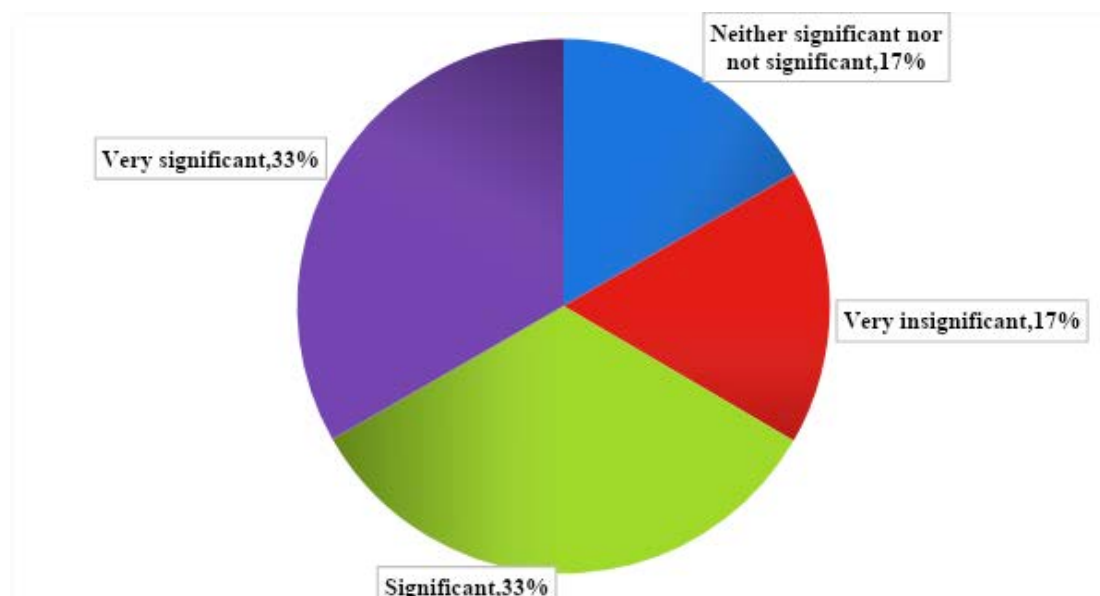
⁹⁷ Ugandan CSOs Key Informant Interview (KII) No. 6/December 2024.

Figure 5.2: Significance of these internal factors in ensuring CSO resilience



Source: Field Survey, 2024

Figure 5.3: Significance of internal factors in ensuring CSO resilience



Source: Field Survey, 2024

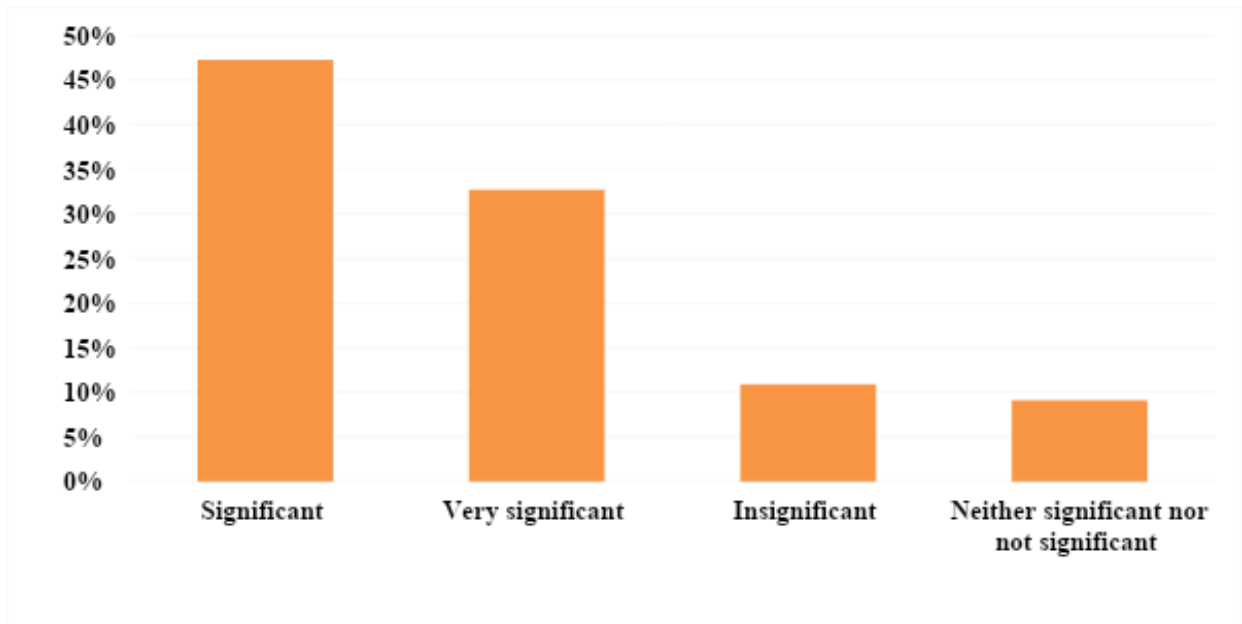
5.2.1 Internal factors that limit CSOs ability to operate

The respondents provided diverse internal factors that limit the effectiveness of CSOs. Key among the challenges discussed was the issue of limited resources, with majority of the respondents stating that they are facing a chronic lack of funding, resulting in inadequate financial resources for both operational costs and community mobilization.

The financial instability often forces CSOs to prioritise short-term projects over sustained, long-term programmes. Moreover, internal organizational issues, such as leadership wrangles and poor governance, can impede the smooth functioning of these organizations, diverting them from their core missions.

Operational challenges, such as unproductive competition among CSOs, lack of flexibility in responding to community needs and poor relations with major stakeholders, also contribute to the limitations faced by these organizations. Additionally, dependency on external funding sources, especially foreign donors, exposes CSOs to the risk of shifting priorities and availability of funds from these sources.

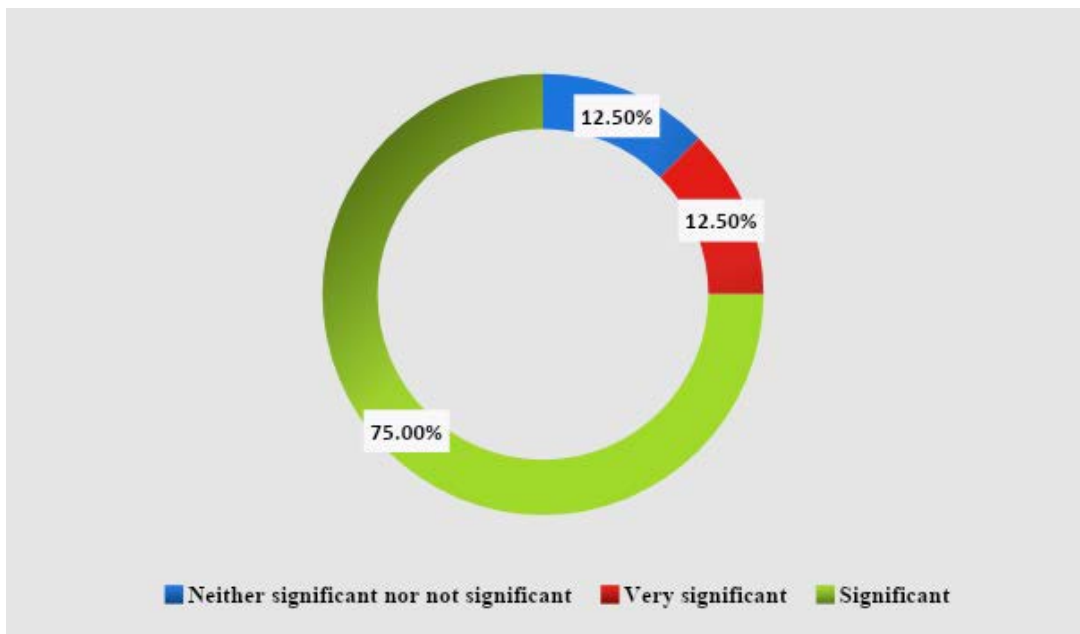
Figure 5.4: Significance of internal factors in limiting the ability of CSOs to operate in Kenya



Source: Field Survey, 2024

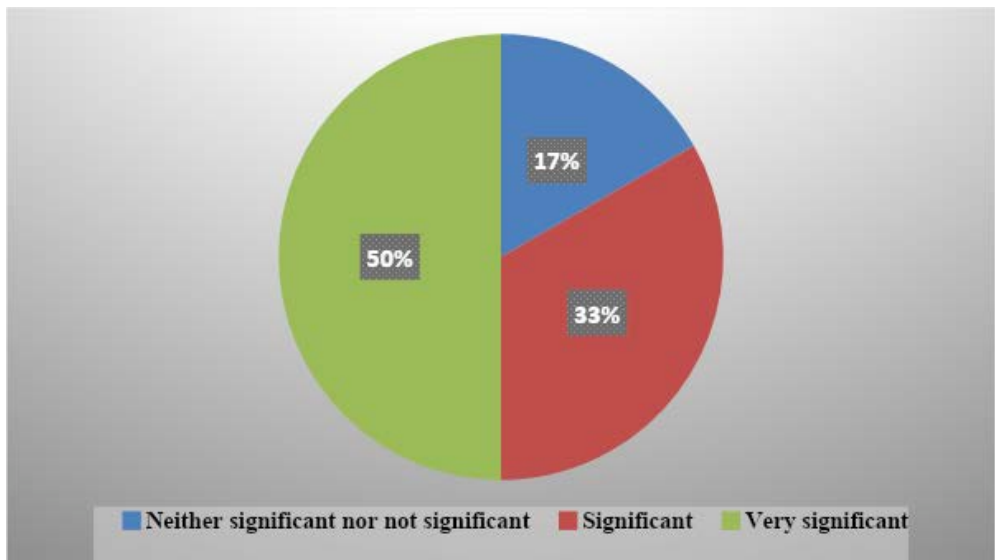
The analysis for Tanzania and Uganda shows that there was convergence on the question of significance of the internal resilience factors as presented in the two figures below.

Figure 5.5: Significance of internal factors limiting the ability of CSOs to operate in Tanzania



Source: Field Survey, 2024

Figure 5.6: Significance of internal factors in limiting CSOs ability to operate in Uganda



Source: Field Survey, 2024

The key informants and FGD participants emphasised the link between internal resilience factors and the governance, management, and other internal functions of CSOs. As institutions, CSOs are creatures of laws,

regulations, procedures, processes and systems. These are the key factors that regulate their internal workings. A typical CSO is expected to have documents that detail its internal governance and management procedures. As a system, each organisation is required to have well defined structures that show the relationship between its different organs (e.g. membership, governance and management structures), their decision-making roles and the embedded system of checks and balances.

The table below details the internal processes of a CSO.

Table 5.1: Internal procedures of a typical CSO

Category	Procedures and processes	Basis of the procedures and processes
Governance	Relevant legislation Annual General Meeting procedures/decision making powers of members Requirements for CSO membership Board of directors' meetings and proceedings/functions of board of directors Rules and regulations relating to the membership Qualifications of board members	Constitution Board of directors' code of conduct Board of directors' procedure manual
Management	Relevant legislation Management teams and their terms of reference Qualifications of management team members Manuals for different components of management e.g. human resource manual Staff job descriptions	Constitution Management manuals Labour laws and regulations Reporting procedures to regulatory agencies and donors

Category	Procedures and processes	Basis of the procedures and processes
Compliance	Laws and regulations Constitution Manuals Contracts Procurement laws and regulations Financial manuals Reporting regulations and donor contracts	Constitution Management manuals Labour laws and regulations Reporting procedures to regulatory agencies and donors
Conflict management		Constitution Management manuals Labour laws and regulations

Source: Author's own construction, 2024

In order to fulfil their obligations, CSOs have to develop their internal capacities to be able to undertake the functions above. Failure to do so compromises their integrity. Also, it is apparent from the interviews that regulatory agencies usually look out for organisations that fail to undertake some procedures not necessarily to assist them as required by law in some cases, but to take action against them. The problem is not the regulations *per se*. Like any other organism, an organisation requires time to grow and mature before it is able to realise “full” capacity. There are times in their growth phases when an organisation is too young to undertake certain legal requirements. On the flip side, there are those whose leaders deliberately fail to adhere to legal requirements. The key should be how to assist organisations to grow and mature.

CIVICUS proposes the use of an assessment tool for CSOs to determine their performance on a set of indicators.⁹⁸ The tool, called Resilience Organisation in Changing Civic Space (ROCC) Self-Assessment, measures an organisation's capacity to “to withstand and thrive in civic space contexts.” Such a tool can be useful as a tool for strategic management alongside other tools. However, it would still require the fulfillment of other factors to finally lead to action to make the organisation resilient. In other words, an assessment tool cannot in

⁹⁸ Partners Global, “Resiliency + Framework: A Guide for Civil Society to Thrive in Uncertain Times: <https://solidarityaction.network/wp-content/uploads/Resiliency-Framework-1.pdf>

itself improve resilience; however, it can point the way forward for an organisation seeking to build resilience.

But CSOs must also adopt a systems thinking. They should look at the CSO terrain as a part of a system. Proactive strategies meant to influence the ecosystem, such as building strategic bridges with government officials, should be an ongoing process. The same principle should be applied to networking, cross-learning and scenario planning, which should be ongoing endeavours. These should aim to produce both reactive and proactive strategies that pre-empt government actions and protect the space for CSO work.

It follows logically that leadership is very important in this process. Even in diversity, it is a good idea to have some semblance of a united voice. Networks and coalitions can be organised such that there is sectoral leadership as well as an overall structure of leadership. In all three countries, thematic networks abound. These thematic networks should have some common reference point. It need not be necessarily hierarchical; leadership can be disbursed and be made rotational. There are some lessons to borrow from professional organisations in this case even though some of them are statutory with the advantage of well-structured leadership structures and mandatory participation.

5.3 Discussion of External Factors

Those interviewed raised the issue of restrictive funding policies as an important external factor. External funding to CSOs worldwide has been dwindling over the years. This situation has been made worse by donor policies that emphasise providing funds for undertaking projects but not what is required to sustain organisations and develop their internal capacities.⁹⁹ The fact that funding for many CSOs is generated from external sources has often been used to vilify them by calling them external agents pursuing foreign agendas. There is also the shifting priorities of donors. For some years now, attention has shifted to trade, away from concerns with human rights. One of the respondents in the Kenyan FGD captured the issue of shifting donor interests as follows:

There has also been shifting donor priorities generally with more focus on trade than aid. If you look right now at the funding... the way most development funders are working, they are even funding private sector... private sector institutions like Kenya Private Sector Alliance, Kenya Association of Manufacturers, and so on, are getting more funds. We are now competing with governments, competing with private sector, entities that have more money and are better organised. For them it is easier than it is for us because of the

⁹⁹ Kenya CSOs Focus Group Discussion (FGD); February 1, 2024. Uganda CSOs Focus Group Discussion (FGD); February 23, 2024.

*changing preferences of donors towards trade. These are some of the external factors we must talk about...*¹⁰⁰

The answer is for CSOs to lobby donors to relax some of their more restrictive policies if they are to be resilient. The other “solution” often talked about but difficult to operationalise, is cultivating local philanthropy to increase local fundraising. This strategy could help “depoliticise” donor funding and boost the legitimacy of organisations.¹⁰¹

The policy and legal environments within which CSOs operate are controlled by government and its agencies, which are responsible for legislation and policy formulation. In contexts that are more open, CSOs are able to participate in policy and legal formulation and therefore are able to influence their own legislation.

This was the case when CSOs in Kenya developed the Public Benefit Organisations (PBO) Bill in 2001 and lobby for its enactment by early 2013. Though this was seen as an indicator of progress when it comes to CSO participation in governance, the subsequent refusal by government to implement the law meant that it was not able to achieve its objectives of creating a better environment for CSOs and streamlining CSO registration and other regulatory requirements.¹⁰² But given the fact that policy and legal processes are not in the direct ambit of CSOs, there is no obvious alternative to striving to establish a good working relationship with government agencies.

5.3.1 External factors that increase CSOs ability to operate

The Kenyan CSOs engaged in the survey were asked, among others, to discuss the external factors that increase the ability of CSOs to operate and their significance. Once again, funding was mentioned as pivotal, with increased donor support being a driving force behind the capacity of CSOs to implement projects effectively. Positive relations with donors, often manifested through donor goodwill, was noted to play a crucial role in fostering enduring financial partnerships that are indispensable for the sustained success of CSO initiatives.

The legal environment in which CSOs operate is equally consequential. Enabling laws provide the necessary foundation for CSOs to function without undue hindrances. Supportive government policies are instrumental in creating a collaborative environment, aligning governmental objectives with the goals of CSOs. The availability of different donor partners who provide funding for different aspects of CSO work, was found to be important.

¹⁰⁰ Kenya CSOs Focus Group Discussion (FGD); February 1, 2024.

¹⁰¹ Kenya CSOs Focus Group Discussion (FGD); February 1, 2024. Uganda CSOs Focus Group Discussion (FGD); February 23, 2024.

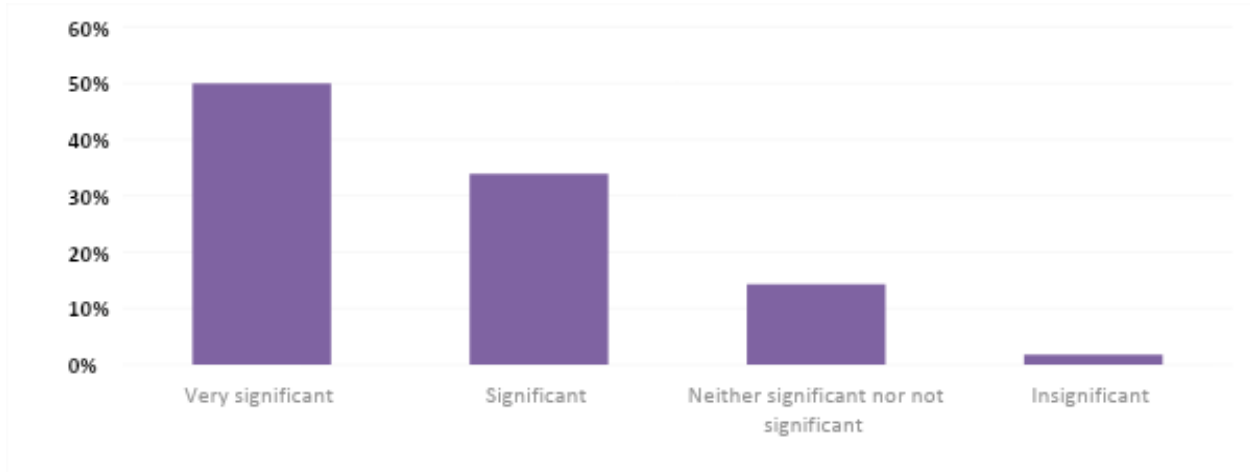
¹⁰² Kenya CSOs Focus Group Discussion (FGD); February 1, 2024.

Public support emerged as a cornerstone for the success of CSO activities. A positive response from the community and target groups signifies grassroots backing, facilitating the smooth execution of projects. Thus, garnering support from citizens was considered as paramount, with public awareness and involvement being key contributors to the amplification of CSO initiatives. The positive effects of constituency building can also be enhanced through networking between organisations. On of the key informants observed as follows:

*...in most jurisdictions where civic space is closing, CSOs have tended to unite around networks that enable them to be more effective.... coming together establishes vibrant movements that have enabled them to safeguard their space and make collective decisions on how to respond to intrusion...*¹⁰³

Legal foundations, such as the constitution, which empowers the people, provide a robust framework for CSOs interventions. Networking and collaboration with like-minded organizations further amplify the collective impact and create synergies that benefit the broader CSO agenda. A large proportion of the Kenyan CSOs that responded to the survey, signified the importance of these factors as demonstrated in the figure below.

Figure 5.7: Significance of these external factors that increase the ability of CSOs to operate in Kenya



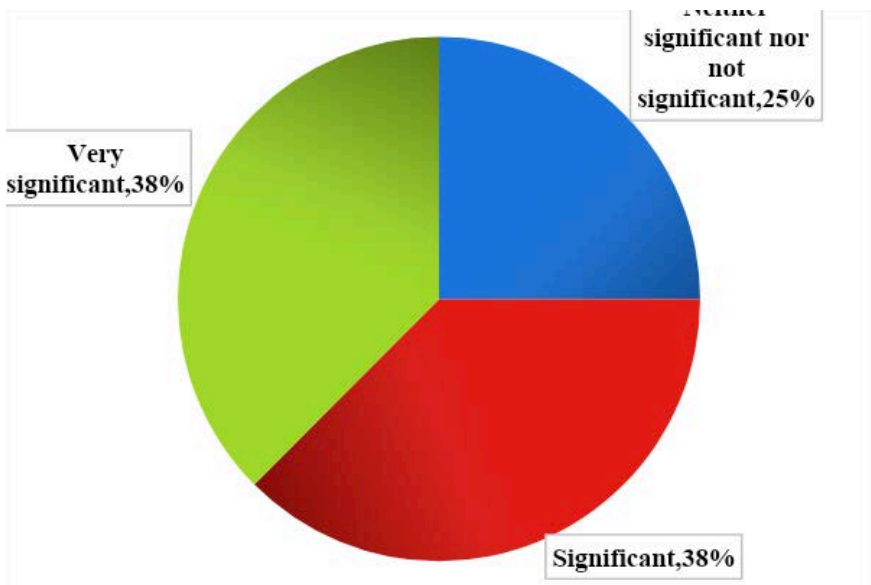
Source: Field Survey, 2024

According to the figure, 84% of the respondents thought the factors are either very significant (50%) or significant (34%). Only a paltry 2% thought they are not significant. This implies that any attempts to build the resilience of CSOs

¹⁰³ Kenyan CSOs Key Informant Interview (KII) No. 6/December 2023.

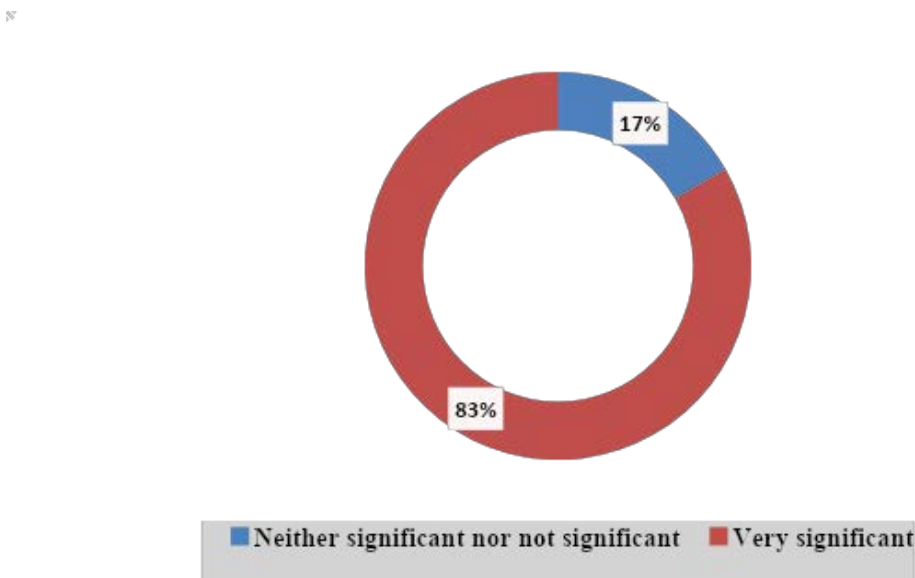
have to take these factors into consideration. The findings on this variable were not significantly different for Tanzania and Uganda as shown in the two figures below:

Figure 5.8: Significance of external factors that increase the ability of CSOs to operate in Tanzania



Source: Field Survey, 2024

Figure 5.9: Significance of external factors that enable CSOs to operate in Uganda



Source: Field Survey, 2024

5.2.1 External factors that reduce CSOs ability to operate

Respondents were also asked to discuss the external factors that reduce the ability of CSOs to operate. These include government interference, manifested through punitive laws, differing policies and political motivations, often hinders the autonomy and freedom of CSOs. Financial constraints, including shrinking funding sources and unequal distribution favoring larger organizations, pose significant obstacles.

In Uganda and Tanzania, it was found that there are “difficult authorisation and reporting regimes that make it difficult to operate. In regard to Tanzania, it was revealed, for instance, that when an organisation receives more than Tsh.20 million, it is required to get authorisation to spend the money. In Uganda, there are multiple reporting requirements that stretch the capacity of organisations. Those interviewed revealed that such requirements are not imposed on other sectors e.g. the business sector. This makes it apparent that they are a result of government’s suspicion of the work of CSOs.”¹⁰⁴

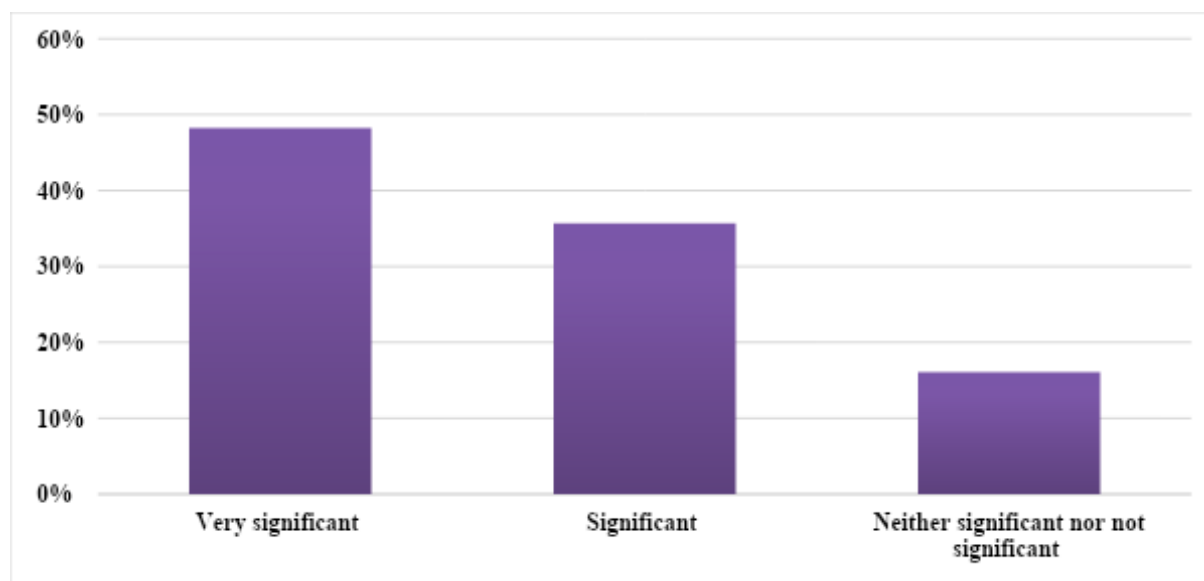
Political and government interference further complicates the landscape for CSOs. Hostility and profiling by governments as anti-government or Western-influenced entities create a challenging environment. In some cases, governments actively target human rights defenders, undermining the political goodwill necessary for CSOs to operate effectively.

Donor-related issues, such as shifting priorities and prescriptive conditions were also noted to be major contributors to the unpredictability of funding. Legal restrictions, including laws infringing on civic space further challenge CSOs. Attacks by government agencies, media misinformation and climate change-related distractions were noted by the respondents to creating environments of fear and divert attention from social issues.

Additional external factors that impede CSO operations include competition for resources, as well as challenges in networking and establishing partnerships. Inhibiting laws, state impunity, and government surveillance create an atmosphere of suspicion. Political goodwill, or lack thereof, significantly influences the collaboration between CSOs and the government. Economic factors, including recessions and pandemics, compound financial challenges for CSOs. The CSOs indicated the significance of these factors as demonstrated in the figure below.

¹⁰⁴ Multiple key informant interviews with Tanzania CSOs. Tanzania CSOs Focus Group Discussion (FGD); February 18, 2024.

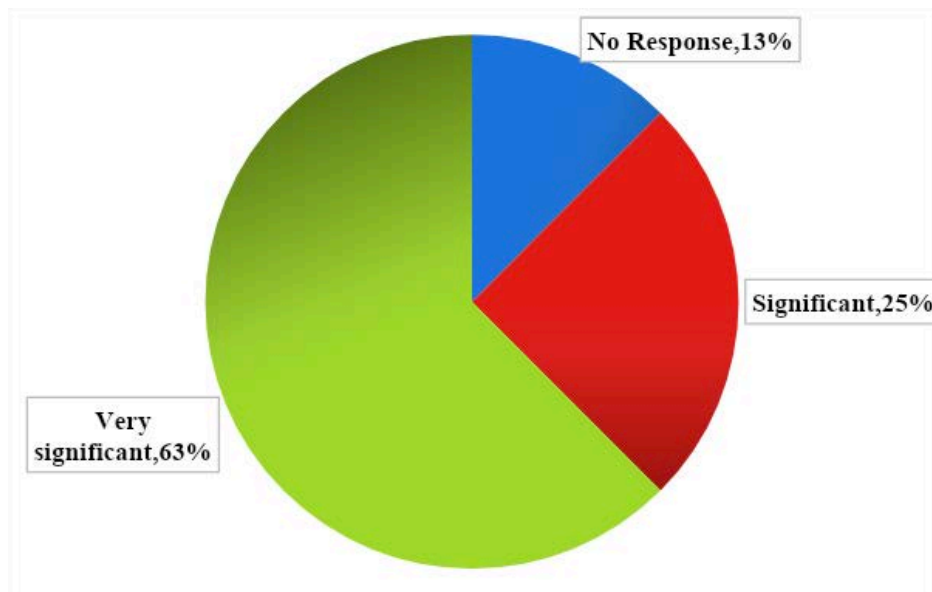
Figure 5.10: Significance of the external factors that reduce CSO's ability to operate in Kenya



Source: Field Survey, 2024

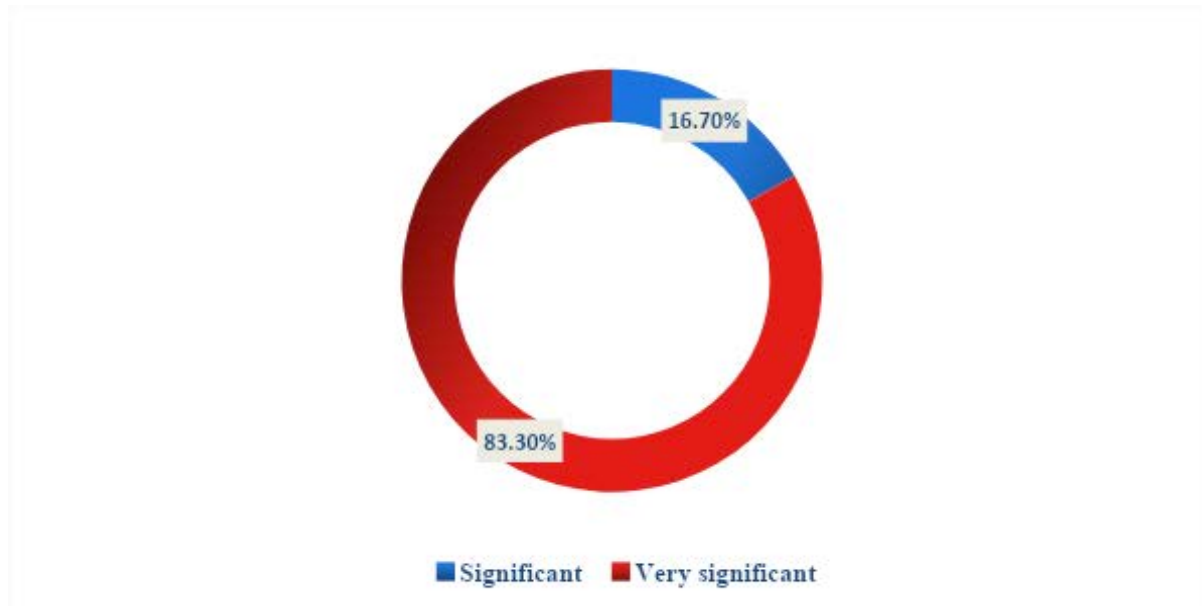
As the figure shows, 84% of the respondents thought the external factors that reduce the ability of CSOs to operate, are either very significant (48%) or significant (36%). No respondent thought these factors are insignificant. This suggests that programmes that address resilience must take into account these factors and their negative impact on the CSO operating environment. Similar high levels of support for the significance of the external factors were expressed by respondents in Tanzania and Uganda as shown in the two figures below.

Figure 5.11: Significance of external factors that reduce the ability of CSOs to operate in Tanzania



Source: Field Survey, 2024

Figure 5.12: Significance of external factors that reduce CSO's ability to operate in Uganda



Source: Field Survey, 2024

The findings indicate a high level of concurrence across the region on the importance of attending to those external factors that reduce CSOs ability to

operate. This means any interventions aimed at expanding civic space must take these factors into account.

6. CONCLUSIONS AND RECOMMENDATIONS

6.1 Overview

The last two sections discussed the results of the study in line with the objectives. Section 4 looked at the state of civic space while section 5 looked at the internal and external resilience factors. This section presents the summary, conclusions and recommendations of the study.

6.2 Conclusions

- ***What is the current state of civic space in East Africa?***

Much of the literature reviewed for the study points to the fact that the civic space is closing in some cases, and closed in some. However, the closing of the space is not experienced in the same way by all CSOs. There was consensus on the fact that it is mostly the advocacy organisations that suffer from this phenomenon. Most of the service-oriented CSOs, which augment government in providing services, are spared this phenomenon. Though this was not in any way a comparative study, there was consensus among KII and FGD discussants that Kenya is slightly better when it comes to civic space restrictions. Kenya's situation was related to the resilience of its civil society and the country's long struggle for civil liberties and a new constitutional order which came into being in 2010.

There is evidence that CSOs in all three countries apply different strategies to fight for expansion of civic space with differing outcomes. The courts have been very useful in all the countries in beating back executive excesses. However, in all three countries the evidence shows that court orders are routinely ignored. Uganda presented an extreme case in which citizens are often brought before court martial, which has no jurisdiction when it comes to private individuals not associated with the military. Even in this case, the ruling of the courts were ignored with the practice continuing.

In addition, threats to civic space, both external and internal, are diverse. The predominant external actor in restricting space is the executive arm of the government. This is the arm that wields "enforcement" power and the power to determine the direction of policy and law. Most parliaments are at the beck and call of the executives when it comes to legislation. CSOs that responded to the online survey in Kenya expressed more confidence in the role of development partners in safeguarding civic space as opposed to their own government institutions. Internal threats include organisation's own weak capacities, which make them unable to deliver on their mandates and undertake the necessary compliance requirements, among others.

- ***What are the internal factors that increase or diminish civil society resilience in the context of challenges in the operating space?***

Organisational weaknesses compound the effects that external threats have on CSOs. Internal divisions and leadership wrangles are among the issues that came to the fore in the discussion. Insufficient capacity to undertake functions like fundraising, annual audits, compliance, reporting to core constituencies, government regulatory agencies and donors, also arose as ever-present impediments to organisational resilience. These weaknesses make CSOs vulnerable to attacks from government functionaries and regulatory agencies.

- ***What are the external factors that increase or diminish civil society resilience in the context of challenges in the operating space?***

Emphasis was placed on government-imposed restrictions, including legislation and policy measures. Some of the reporting requirements were found to be lengthy and tiresome. At the same time CSOs in some of the countries under study were required to adhere to multiple reporting requirements that do not seem to apply to other sectors. This implies that such conditions are only imposed on CSOs to make it difficult for them to operate. Freedoms of expression and association, which are at the core of civic space were found to be at risk in all the three countries. In fact, in all three countries, violence has often been used as a way of exerting control over the population. This was also noted in relation to elections. Election moments proved to be filled with tension and anxiety and are times when protests are banned, freedom of media abused and social media platforms closed. All these limits the ability of citizens to organise and take part in the governance of their countries.

6.3 Recommendations

- ***Civil Society Organisations***

1. Knowledge-building and evidence-based advocacy

The need to build the evidence base for purposes of advocating for expanded civic space in East Africa, and particularly in Kenya, Tanzania and Uganda, has never been stronger. There is significant regression among the countries of East Africa when it comes to progress in building democratic, human rights-respecting, rule of law-abiding, states. Across the region, ruling elites are ignoring the rule of law with disastrous consequences to the rights of individuals and groups.

First, this study brought out important similarities and differences in the civic space discussion in the three countries. Although different organisations have invested in efforts to increase the civic space, the differences between

countries in this important cause are yet to significantly influence civic space programming.

Second, as African countries make progress on the path to continental integration, there is need for more policy convergence and common standards among different states. Carrying out studies on civic space across the different Regional Economic Communities (RECs) is an important development that can contribute fundamentally to this cause. This is especially important given the situations of volatility in countries like South Sudan, Burundi, the Democratic Republic of Congo, etc.

2. Continuous capacity building

Lack of capacity is a key issue that creates vulnerability for CSOs. Like any other organisation, CSOs are initiated and go through various stages in their growth path. They need different capacity building approaches as they grow. Their governance and management functions become more complicated and differentiated as they grow. Young CSOs need to have capacity building embedded in their plans from the time they are initiated. This way they can effectively respond to internal and external challenges.

3. Continuous capacity assessment including on the situation of civic space

The emerging trend is to carry out capacity assessments not only on internal governance and management functions, but also to do so in view of an organisation's vulnerability to changes in the civic space. This is in recognition of the importance of civic space dynamics to the well being and continued existence of a CSOs.

4. Defining strategic national and regional responses to attacks on civic space

A clear understanding of the situation in each country is useful in defining the advocacy options available to CSOs. It is also useful in assessing the kind of assistance and solidarity that may come from without. This study has brought out the nuances in the debate in terms of what may or may not work in each country. Thus, for example, whereas in Kenya the litigation route seems to produce results, despite non-observance of court orders, in Tanzania and Uganda, this avenue may not work well. A regional approach to advocacy is desirable. However, it must take into account the peculiarities in each country for it to succeed.

5. Building coalitions and networks nationally, regionally and internationally

International human rights instruments remain a key source of material and motivation for advocacy on civic space. In this regard the Declaration on Human Rights Defenders is a key instrument that can help structure activism at the country, regional and international levels. Such instruments should also

provide motivation to build and strengthen national coalitions, regional and international coalitions.

6. Strengthening security training and programming

One of the trends that have taken root in the struggle against closing civic space is capacity building in the area of security of human rights defenders. Several organisations have developed programmes in this area in the last one decade. Also, many human rights defenders have benefited from protection programmes. This is a positive trend that should continue. In addition, all CSOs should be motivated to undertake security training for their staff and embed security protocols as part of their broader institutional and risk management strategies.

7. Cultivating support from among government officials

As a long-term strategy, CSOs must continuously cultivate support from within the political and bureaucratic structures in their countries through institutional and programmatic engagements. However, this has to be done strategically by first carefully weighing the options and assessing the risks of such engagements. The fact that advocacy involves influencing people in power means the importance of cultivating relationships with those who occupy positions of authority in society cannot be gainsaid however, challenging it may be in reality.

8. Investing in technology

The advantages of adopting technology in CSOs work are apparent. Since 2020, at the peak of the Covid-19 pandemic, many organisations managed to effectively continue their work using online platforms. Many lessons have been learned since then. It is important to harness those lessons and formulate more concrete plans at organisational level on how to use technology more effectively as a tool for communication, mobilisation and advocacy. For example, it is important to know how to deal with the dysfunctional elements of information and communication technology such as misinformation and disinformation.

9. Increasing community outreach and constituency building

Constituency building and sustenance of public support is important to sustain the legitimacy and work of CSOs. CSOs exist in a context in which political players constantly seek the support of citizens for their programmes and activities. Some of the activities of political players are motivated by their own survival interests. The fact is that CSOs have to compete for public support with these political players. The ideals that CSOs stand for may not always be attractive to populations that are poor and lack the most basic services thus making them vulnerable to manipulation and control. Investment in constituency building is therefore crucial to maintaining the influence of CSOs.

10. Diversifying funding sources

Diversifying funding sources is a crucial strategy for bolstering the internal resilience of civil society organizations (CSOs). By seeking financial support from various channels such as grants, donations, partnerships, and earned income, CSOs can mitigate the risks associated with dependency on a single donor or revenue stream. Relying on diverse funding streams not only enhances financial stability but also provides a cushion against fluctuations in the availability of resources.

Grants and donations may come from governmental and non-governmental sources, partnerships can involve collaborations with businesses or other organizations, and earned income may be generated through fee-based services or social enterprises. This multifaceted approach not only broadens the financial base of the organization but also allows for greater adaptability in responding to changing economic conditions or shifts in the funding landscape. Ultimately, a diversified funding portfolio contributes significantly to the long-term sustainability and resilience of civil society organizations.

11. Developing a crisis response plan

The Crisis Response Plan advises civil society organizations to proactively prepare for emergencies through two key elements that includes establishment of clear emergency protocols by defining roles and responsibilities, along with communication protocols. This ensures a swift and coordinated response during crises. The second element is that the plan to emphasize the importance of a resource mobilization strategy. CSOs are encouraged to develop strategies for mobilizing additional resources during emergencies, which could include creating an emergency fund or leveraging existing donor networks.

• Governments

12. Changing perceptions towards CSOs

The study findings revealed cases where civil society has influenced policy for the betterment of society. In Kenya, for example, the civil society worked with government departments and parliament to draft the Public Benefits Organisations Act, 2013. Evidence shows that civil society has engaged in other areas of reforms such as police reforms working together with the ministry in charge of internal affairs and security.

13. Tapping into technical capacities resident in CSOs

CSOs world over, and in East Africa in particular, bring to the policy discourse important issues such as human rights, climate change, among others, that are ultimately significant to human progress. Organisations invest in research, public education, and other priorities in regard to these issues. Tapping into

the expertise developed by CSOs on such important development topics does not take away the role of government. It, in fact, enhances those roles with the possibility of benefiting a wider section of the society.

14. Creating a favourable environment for CSOs

The gazettment of the Public Benefits Organisations Act, 2013, in Kenya on 9 May, 2024, once again demonstrated the futility of creating unnecessary antagonism between government and CSOs. At end of the day, CSOs are a sector that makes a positive contribution to the politics and economy of a country. Through diverse programmes, CSOs are able to mobilise resources and create employment even as they strive for democratic change in a particular country. The closure of the Democratic Governance Facility in Uganda does not serve any purpose and only takes away resources that could have been useful in building Uganda's economy.

- **Donors**

15. Demonstrating more commitment towards safeguarding civic space

The factors that diminish civic space go beyond legal and political issues that are ultimately the responsibility of the state. The literature reviewed for this study demonstrated that even funding mechanisms and policies can be responsible for losing civic space. Shifting of funding priorities and policies are often a burden to CSOs that are forced to also shift their priorities leading to credibility questions.

16. Building solidarity and bridging influence

Donor organisations committed to important topical issues such as climate change can use resources in their disposal to influence the participation of citizens and their organisations in policy spaces deliberating on such issues. This will lead to empowerment of citizens to take part in policy discourses as well as have the positive effect of strengthening the capacity of citizen's organisations. An investment of this nature will then be useful in sustaining policy debates among citizens.

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ANNEXES

Annex 1: Survey questionnaire

Introduction:

Thank you for participating in our study. Your input is important in understanding the resilience of civil society organizations in the face of closing civic space in East Africa. Please respond to the following questions by selecting the most appropriate response from the provided options and filling in the provided spaces for open ended questions. Please note that some questions allow multiple responses as per instructions given.

NB: In this study, Civil Society Organisational Resilience is defined as the process and outcome of adapting to challenges in the operating environment. Organizations adopt different resilience strategies to survive and continue delivering on their mandates.

Demographic Characteristics:

1. Name of the organization (Optional).....
2. In which sector/sectors of CSO engagement does your organization work (multiple responses allowed)?
 - a. Governance
 - b. Human rights
 - c. Democracy
 - d. Regional integration
 - e. Gender
 - f. Children's rights
 - g. Others (specify):.....
3. Designation/position (person filing the questionnaire):.....
4. For how long has your organization been in operation?
 - a. 1 – 5 years
 - b. 6 – 10 years
 - c. 10 – 15 years
 - d. More than 16 years

The Status of Regional Civil Society Operating Space:

(To investigate the current state of operating space for civil society organizations)

5. Which of the following statements capture your thinking about operating space for civil society in the last 10 years in your country? **(you can tick more than one answer)**
 - a. The space for our operations has been expanding as a result of government actions including legislation

- b. The operating space has been expanding because of CSO activism
 - c. The last 10 years have witnessed the development of a robust civil society particularly in the area of advocacy
 - d. Many CSOs have been silenced by the actions of government and are less vocal today than they were previously
 - e. There has been an increase in laws that inhibit our work
 - f. The actions taken by the government have made it difficult for us to operate
6. How would you rate the government's actions generally in increasing the ability of civil society to operate in your country?
- a. Very facilitative
 - b. Facilitative
 - c. Neither facilitative nor inhibiting
 - d. Inhibiting
 - e. Very inhibiting
7. How would you rate the laws in your country in terms of improving the operating environment for civil society?
- a. Very facilitative
 - b. Facilitative
 - c. Neither facilitative nor inhibiting
 - d. Inhibiting
 - e. Very inhibiting
8. How would you rate the actions of regulatory agencies in your country in terms of improving the operating environment for civil society?
- a. Very facilitative
 - b. Facilitative
 - c. Neither facilitative nor inhibiting
 - d. Inhibiting
 - e. Very inhibiting
9. How would you rate the policies of donors in terms of improving the operating environment for civil society?
- a. Very facilitative
 - b. Facilitative
 - c. Neither facilitative nor inhibiting
 - d. Inhibiting
 - e. Very inhibiting

Internal factors that increase or diminish civil society resilience:

(To investigate the internal factors that increase and diminish civil society resilience in the face of closing civic space)

10. Which of the following statements capture your thinking about the resilience of civil society organizations in your country in the last 10 years? **(you can tick more than one answer)**
- a. CSOs have found ways of overcoming challenges in the operating environment
 - b. CSOs have found many ways to continue working even though the environment has become increasingly challenging
 - c. CSOs have continuously challenged government actions that infringe on their ability to operate

- d. CSOs have been unable to find new ways of working in the face of closing civic space
 - e. Some CSOs have had to close down their operations because of their inability to cope with the challenges of closing space
 - f. Many advocacy organizations have changed their mandates as a way of coping with closing civic space
11. In your view, are there internal organizational factors that increase CSO's ability to operate in challenging circumstances?
- a. Yes
 - b. No
12. If yes, what are these factors?
-

13. Please rate the significance of internal factors in ensuring resilience?
- a. Very significant
 - b. Significant
 - c. Neither significant nor not significant
 - d. Insignificant
 - e. Very insignificant
14. In your view, are there internal factors that inhibit civil society organisation's resilience?
- a. Yes
 - b. No
15. If yes, what are these factors?
-

16. Please rate the significance of internal factors that inhibit resilience?
- a. Very significant
 - b. Significant
 - c. Neither significant nor not significant
 - d. Insignificant
 - e. Very insignificant

External factors that increase or diminish civil society resilience:

(To assess the external factors that increase and diminish civil society resilience in the face of closing civic space)

17. In your view, are there external factors that increase the resilience of civil society organizations?
- a. Yes
 - b. No
18. If yes, what are these factors?
-

19. Please rate the significance of external factors in ensuring resilience?
- a. Very significant
 - b. Significant
 - c. Neither significant nor not significant
 - d. Insignificant
 - e. Very insignificant
20. In your view, are there external factors that reduce the resilience of civil society organizations?
- a. Yes
 - b. No
21. If yes, what are these factors?
-

22. Please rate the significance of external factors in inhibiting resilience?
- a. Very significant
 - b. Significant
 - c. Neither significant nor not significant
 - d. Insignificant
 - e. Very insignificant

General issues:

23. In your view, what can CSOs do to increase their resilience in the current environment in your country?
-

24. In your view, what can CSOs do to increase the civic space in your country?
-

Annex 2: Checklist for CSOs

What is the current state of civic space in East Africa?

- Studies have for many years shown that the civic space is shrinking and closing. Could you describe the general situation at the moment in this regard in your country?
- What are the things that you would say have changed in favour of civil society?
- What are the things that have continued to affect civil society negatively?
- Are there laws that have negatively affected the operating space for civil society?
- Are there laws that have positively affected the operating space for civil society?
- How has civil society reacted to the challenges in the operating space?
- How have other interests such as donors reacted to the challenges in the operating space?

What are the internal factors that increase or diminish civil society resilience in the context of challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors internal to CSOs that affect increase their resilience?
- What are the factors that decrease their resilience?
- Probe: would you say there are internal governance issues that affect resilience? Probe for other factors not mentioned: capacity, succession planning, technology, wellness, adaptability (technological and otherwise), security, financial stability, innovation, leadership, etc
- In general, what factors should CSOs take into consideration to build better resilience?

What are the external factors that increase or diminish civil society resilience in the context of the challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors external to CSOs that affect increase their resilience?
- Probe: what are the external factors that decrease their resilience?
- Probe: in general, what external factors should CSOs take into consideration to build better resilience?

Annex 3: Checklist for Development Partners

What is the current state of civic space in East Africa?

- Studies have for many years shown that the civic space is shrinking and closing. Could you describe the general situation at the moment from your perspective as a development partner?
- What are the things that you would say have changed in favour of civil society?
- What are the things that have continued to affect civil society negatively?
- Are there laws that have negatively affected the operating space for civil society?
- Are there laws that have positively affected the operating space for civil society?
- How have the CSOs you work with reacted to the challenges in the operating space?

What are the internal factors that increase or diminish civil society resilience in the context of challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors internal to CSOs that increase their resilience?
- What are the factors that decrease their resilience?
- Probe: would you say there are internal governance issues that affect resilience from your perspective as a development partner? Probe for other factors not mentioned: capacity, succession planning, technology, wellness, adaptability (technological and otherwise), security, financial stability, innovation, leadership, etc
- In general, what factors should CSOs take into consideration to build better resilience?

What are the external factors that increase or diminish civil society resilience in the context of the challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors external to CSOs that affect increase their resilience?
- Probe: what are the external factors that decrease their resilience?
- How can CSOs deal with these factors in your view as a development partner?

- Probe: in general, what external factors should CSOs take into consideration to build better resilience?

Annex 4: Checklist for Government Officials

What is the current state of civic space in East Africa?

- Studies have for many years shown that the civic space is shrinking and closing. Could you describe the general situation at the moment from your perspective as a government agency?
- What are the things that you would say have changed in favour of civil society?
- What are the things that have continued to affect civil society negatively?
- Are there laws that have negatively affected the operating space for civil society? (For Kenyan agencies, probe for the non-implementation of the PBO Act)
- Are there laws that have positively affected the operating space for civil society?
- How have you as government agencies reacted to the challenges facing CSOs?
- Probe: have you done anything to ensure smooth operation of CSOs?

What are the internal factors that increase or diminish civil society resilience in the context of challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors internal to CSOs that increase their resilience?
- What are the factors that decrease their resilience?
- Probe: would you say there are internal governance issues that affect resilience from your perspective as a government official? Probe for other factors not mentioned: capacity, succession planning, technology, wellness, adaptability (technological and otherwise), security, financial stability, innovation, leadership, etc
- In general, what should CSOs do to build better resilience?

What are the external factors that increase or diminish civil society resilience in the context of the challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors external to CSOs that affect increase their resilience?
- Probe: what are the external factors that decrease their resilience?
- How can CSOs deal with these factors in your view as a government agency?

- Probe: in general, what external factors should CSOs take into consideration to build better resilience?

Annex 5: FGD checklist

CSOs FGD Guide

Preliminary session

My name is Morris Odhiambo and my colleague is Chrispine Nyang'wara. We are carrying out a study on the resilience of civil society organizations in East Africa. We define resilience as the **process and outcome of adapting to challenges in the operating environment. Organizations adopt different resilience strategies to survive and continue delivering on their mandates.** I want to thank you for agreeing to be part of this exercise today.

Thank you.

An FGD is a method that allows participants to discuss issues freely. It does not seek to build consensus on an issue but to simply know what your views are. We may have different opinions on the issues we are discussing. This is welcome.

I will moderate the discussion, which will be recorded for the purpose of writing our report. The procedure is simple: I will ask questions and we shall take turns to provide answers. If you feel like interjecting, just raise your hand or post a message on the chat section.

We can now open with introductions. Tell us your name and the organization you represent.

Guiding questions

What is the current state of civic space in East Africa?

- Studies have for many years shown that the civic space is shrinking and closing. Could you describe the general situation at the moment from the perspective of your organisation?
- What are the things that you would say have changed in favour of civil society?
- What are the things that have continued to affect civil society negatively?
- Are there laws that have negatively affected the operating space for civil society? (For Kenyan CSOs, probe for the non-implementation of the PBO Act)
- Are there laws that have positively affected the operating space for civil society?
- How has your organisation reacted to the challenges in the operating environment?

What are the internal factors that increase or diminish civil society resilience in the context of challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors internal to CSOs that increase their resilience?
- What are the factors that decrease their resilience?
- Probe: would you say there are internal CSO governance issues that affect resilience? Probe for other factors not mentioned: capacity, succession planning, technology, wellness, adaptability (technological and otherwise), security, financial stability, innovation, leadership, etc
- In general, what should CSOs do to build better resilience?

What are the external factors that increase or diminish civil society resilience in the context of the challenges in the operating space?

- There are those who have pointed out that civil society has to be resilient to cope with the negative factors that affect their operating environment. What in your view are the factors external to CSOs that affect increase their resilience?
- Probe: what are the external factors that decrease their resilience?
- How can CSOs deal with these factors in your organisation's view?
- Probe: in general, what external factors should CSOs take into consideration to build better resilience?