



DEFENDERS
COALITION

REQUEST FOR PROPOSALS
AN ASSESSMENT OF THE CIVIC SPACE IN KENYA
DEADLINE: 25TH JUNE 2024

TERMS OF REFERENCE

A. Introduction and Background

The National Coalition of Human Rights Defenders – Kenya also known as the Defenders Coalition is a national membership organization established in 2007 and registered under Kenyan law as a Trust. The Defenders Coalition works primarily for the protection of Human Rights Defenders (HRDs) in Kenya. Among others, the Defenders Coalition strengthens the capacities of HRDs to work more effectively, besides advocating for favourable legal, policy and institutional environments to reduce their vulnerability to the risk of persecution and or harm.

Civic space is crucial for any democratic country to thrive. When civic space is open, citizens and civil society organisations can participate, organize and express themselves without hindrance. The Constitution of Kenya calls for the active participation of its citizens on issues of civil liberties and its implementation. However, trends and experiences over the last couple of years point to an onslaught on the civics where the Kenyan State has been keen to constrain the civic and democratic space through punitive and prohibitive governance frameworks targeting the individuals, Public Benefits Organizations (PBOs), Faith Organizations (FBOs), media organizations, trade unions, Constitutional Commissions among other independent state and non-state actors. It is imperative to note that this phenomenon is not a local issue but a global one and demands our full attention. Globally, active citizenship is under attack and the space for civic engagement is closing including in democracies with longstanding traditions of supporting freedom of association, assembly, and expression. The formulation of restrictive laws and regulations and colonial attitudes continue to influence how civics participate in governance and democracy thus the promotion and protection of human rights.

Under the Kenya Kwanza regime, Kenya is experiencing a sharp rise in the number of restrictions on the civic space occasioned by the capture of the national Legislature by the Executive to propose enact draconian and retrogressive legislation that targets civic activism and civil society organisations. The DNA of these restrictions is evident through violent crackdowns on demonstrators, illegal arrest and detention of dissenting voices, threats, intimidation, verbal attacks on the media and journalists and murder of human rights defenders. The digital civic space has not been spared either. Digital space users have reported illegal arrests, detention, and intimidation for using the space to advance various causes.

In May 2024, the president gave the green light to operationalize the progressive PBO Act 2013. The PBO Act replaced a thirty-year-old one-party state NGO Coordination Act (1990 and introduced a new enabling legal, regulatory, and institutional environment for the sector). This follows a policy window that opened during the 2022 electoral campaigns with the Kenya Kwanza manifesto that expressly promised to implement the PBO Act should they be elected. Another policy opportunity emerged with the 9-11 May 2024 United Nations Civil Society Summit for the Future. With 1,700 CSOs attending the event in Nairobi, gazetting the PBO Act before the meeting offered an opportunity for President William Ruto to demonstrate his administration's commitment to civil society on an international stage. Among other benefits, the PBO Act will provide a favorable environment for the setting up, growth and running of PBOs; put in place a useful system of rules, laws and institutions that support efficient registration and functioning of PBOs; trigger a re-birth of values within the sector by strengthening self-regulation; put in place an independent complaint and redress mechanism – The PBO Disputes Tribunal – to give PBOs and members of the public access to remedies where the dispute resolution mechanisms have failed and specifically allowing PBOs to take part in income earning activities in order to support their public benefit objectives.

B. Purpose of the consultancy

The purpose of this consultancy is to:

- I. Gather information on the prevailing perceptions of human rights defenders, CSOs, PBOs and their role among public and duty bearers.
- II. Collect critical baseline data following the commencement of the PBO Act, 2013 and consequently, an Annual Civic Space Monitor Index to be benchmarked on but not limited to the following dimensions.
- III. Freedom of Information and Expression including that of the media/
- IV. Freedom of Assembly.
- V. Freedom of Association.
- VI. Citizen Participation.
- VII. Non-Discrimination and Inclusion.
- VIII. Human Rights / Rule of Law.

The findings of this study will inform strategic advocacy and capacity-building initiatives, for relevant stakeholders, that aim to address repressive norms, laws and regulations and advocate for the implementation of enabling legislation and policies that support the work of HRDs, CSOs, CBOS and the media.

The Consultancy is intended produce an analysis of the prevailing civic space contextual challenges in Kenya – with an emphasis on a comparison on the law and practice – spotlighting challenges and opportunities for non state actors, key stakeholders and policy makers at the local, national, regional and international levels and developed a policy brief on safeguarding the civic space in Kenya with clear advocacy pathways.

Specifically, the Defenders Coalition aims to assess the status of civic space in Kenya. This will entail in-depth studies into the following key areas:

1. The regulatory frameworks that regulate the space in Kenya.
2. A perception survey on Kenya's civic space that will result in an annual civic space monitor.
3. A perception survey on Human Rights Defenders and CSOs among members of the public and duty bearers in Kenya.
4. An analysis of key trends regarding civic spaces in Kenya that will culminate in a Human Rights Violation Index.



C. Specific Tasks

- To document and analyse the current trends and recent developments within the civic space in Kenya under the Kenya Kwanza regime and what “Obstructed” pertains to as per CIVICUS Monitor .
- To identify rights violations pertaining the priority civic space dimensions mentioned above (both in law and practice); to include an analysis of recently introduced laws or reforms and assess their impact on the enjoyment of rights in particular that of HRDs, CBOs, CSOs and the media sector;
- To review the existing legal frameworks that regulate Kenya’s civic space.
- To conduct surveys among relevant duty bearers to determine their perceptions on HRDs and CSOs.
- To conduct a survey among members of the public, CSOs, CBOs, trade unions, HRDs and other groups to determine their perceptions regarding the civic space in 2024 and at the commencement of the PBO Act, 2013.
- To analyse key trends regarding the civic space in Kenya and document experiences of HRDs, CSOs, CBOs involved in addressing concerns between the progress made in addressing the shrinking civic space by the stakeholders such as the HRDs, CSOs, CBOs and media for the period 2022 – 2024.
- To identify opportunities, and lessons learned and recommend how Defenders Coalition can employ strategic actions at the local, national and regional levels to address the shrinking space. Recommendations should target the legislature, AU/ACHPR member states, UN Human Rights Council the regional/international advocacy mechanisms, media and civil society as key stakeholders.
- Based on the recommendations from the assessment, the Consultant will develop a comprehensive advocacy strategy for engagement at various levels.
- To draft an MS PowerPoint presentation, to be included with the Final Report, that will describe the aims, methodology, and main results that may be used at the discretion of the Defenders Coalition.

D. Duration of the consultancy

The consultancy will last for a period of 60 days over three months.

E. METHODOLOGY AND SCOPE OF WORK

The Consultant(s) will apply the most appropriate methodology focusing on the highlighted objectives, mainly by using desk review, focus group discussions, surveys and key informant interviews. The Consultant will further be expected to provide the preferred methodology in the inception report.

Defenders Coalition staff will collaborate with the consultant to map some of the key groups and individuals for the field research. The consultant will collect the data and analyse it.

F. Key Deliverables

The following are the expected deliverables:

1. Baseline at commencement of implementation of PBO Act to be followed by Annual Civic Space Monitor Index.
2. Perception surveys Human Rights Defenders and CSOs among members of the public and duty bearers in Kenya.

Milestone documents will include:

- Inception reports
- Draft reports
- Final report
- Policy briefs.
- Summaries of the reports.

G. Duration of Assignment, Duty Station And Expected Places Of Travel

Duration: 15th July 2024 to 15 November 2024

Duty Station and expected place of travel: The consultant (s) will work remotely, with travel required if necessary.

Scope of assignment: Kenya

H. Coordination of the Project

The Defenders Coalition will coordinate the planning and execution of the consultancy through the Executive Director and the Director of Programs.

I. Qualifications and Competencies of the Consultant (s)

1. Academic Qualification

- Minimum doctorate degree or equivalent in research, political sciences, law, development studies, human rights, international development, Gender studies, Project Planning and Management international relations, or any other relevant academic qualification.

2. Technical Experience

- At minimum 10 years of experience in the fields of political science, Law and/or human rights.
- Experience in qualitative and quantitative data collection methodologies, tools, especially in protection of HRDs and CSOs.
- Proven knowledge of digital data analysis and its reporting.
- Experience in coordination of human rights related projects; and
- Experience in policy analysis and policy recommendation.
- Highly desirable on gender issues related policy.

iii. Competency

- Excellent legal research and drafting skills with experience authoring scholarly publications or institutional reports of a similar nature.
- Excellent oral and written communications in English.



J. Required Application Documents

Interested consultants who meet the requirements are required to submit the following documents/information to demonstrate their qualifications.

- i. Letter of confirmation of interest and availability with the Technical and financial proposal addressing the Executive Director.
- ii. Technical and Financial Proposals:
Technical Proposal – This should include the methodology and understanding of the work to be done, Work Plan and any other requirements as specified in this document. Maximum of 10 Pages for both the methodology and Work Plan.

Financial proposal – with clear breakdown of all costs associated with the study. The Consultant must quote a financial proposal based on the lump sum amount. The total amount quoted shall be all-inclusive and include all costs components required to perform the deliverables identified in the ToR, including professional fee and all other applicable costs to be incurred by the consultant completing the assignment. The cost of consultancy will be a fixed output-based price regardless of the extension of the herein specified duration. The budget should be in Kenya Shillings and indicate professional rates.

- iii. CVs of the Key Personnel handling the work.
- iv. A summary of examples of prior relevant work completed (not more than 4 years).

K. Selection Process

Defenders Coalition will undertake a competitive process of identifying the most suitable candidate for the assignment.

L. Remuneration

The consultant shall present to the Defenders Coalition a technical and financial proposal indicating costs of carrying out the study. Defenders Coalition consideration shall be guided by the experience and track record of the consultant and the accompanying qualifications.

M. Application Process

All interested consultants/firms are requested to write an expression of interest by describing their competence in management and a proposal to show how they will deliver to meet the objectives above.

All applications should be addressed to the Executive Director, Defenders Coalition and sent via email to info@defenderscoalition.org CC procurement@defenderscoalition.org with the subject line Assessment of The Civic Space In Kenya.

The Deadline for submission of Expression of Interest **is on 25th June 2024 at 5.00 PM EAT.**