



MALAWI CIVIC SPACE DIALOGUE



23-24 August, 2024
Bingu International
Conference Centre
Lilongwe
MALAWI

**Safeguarding the Civic Space:
Fostering Inclusive and
Accountable Governance**

BACKGROUND OF THE DIALOGUE

Malawi is considered one of the leading constitutional democracies on the African continent, where the judiciary is demonstrably independent, and the executive has expressly committed to deepening democracy. Malawi's Judiciary stand out as a model judiciary in Africa, that enforce the rule of law and human rights impartially, in defence of constitutional democracy.

The process of deepening democracy requires regular constructive dialogue among stakeholders regarding the civic space as a key aspect of constitutional democracy. The civic space refers to the space within which individuals and groups can organize themselves and participate in public affairs in order to hold their government accountable and to provide input in public decision-making processes. The openness of the civic space is dependent on individuals and groups being guaranteed and permitted to exercise a range of human rights, including freedom of expression, freedom of association and freedom of assembly, and the right of access to information, both online and offline.

Malawi has made considerable progress in enacting laws and policies which protect the civic space and

the judiciary has played a significant role in protecting the civic space related rights. However, as is the case with many other constitutional democracies the world over, there are challenges which affect Malawi's progress towards entrenching and protecting its the civic space.

The ongoing digital transformation and proliferation of Artificial Intelligence (AI), for example, present opportunities for the opening up of the civic space; but it also presents cyber security related challenges which must be addressed, without disproportionately undermining the civic space related human rights.

It is against this background, that the AJJF, YAS and the Malawi's Judiciary convened a dialogue with policy makers, legislators, the legal profession and civil society. The aim of the dialogue was to take stoke of Malawi's progress in entrenching and promoting the civic space, identify the challenges, and exchange ideas on how the challenges can be addressed. Thus, the dialogue sought to enhance collaboration and cooperation between various stakeholders in Malawi, and to serve as an example in the region and the African continent, on how to collaborate and collectively promote constitutional democracy.



QUOTES FROM CONFERENCE SPEAKERS

Malawi's governors should not be like the captain of the Titanic, who having received many signals, ignored them, leading to great disaster. How many warnings are we getting in our constitutional democracy? Are we listening to the voices? Do we notice the democratic icebergs? We need a complete plan of action to promote the civic space, so as to be an example to the world, about what we can achieve." — **Charles Kajoloweka, YAS Executive Director**



It is possible to organize the gathering of the three arms of government because of the peace that Malawi enjoys. It's the peace that we have, it reflects how serious we are about our peace in this country. The civic space is important in this regard. —**Justice Charles Mkandawire, AJJF board member**

In our African context, civic space is more than just a concept; it is the lifeblood of our democracies. It is the space where our rich traditions of community dialogue, collective decision-making, and social solidarity thrive. It is a space that allows the rich diversity of voices, experiences, and perspectives to come together in the pursuit of common goals. This space must be protected, nurtured, and expanded, as it is fundamental to the strength of our democracies and the protection of our rights as citizens. —**Minister of Information Moses Kunkuyu**



The independence of the judiciary is public property or a public good that ought to be safeguarded and entrenched. Undermining and mitigating the independence of the judiciary can deal a fatal blow to the rule of law. Thus, everyone should strive to safeguard and defend these to the hilt for the sake of constitutional democracy, the rule of law and protection of human rights, even in the face of relentless criticisms received. —**Chief Justice Rezine Mzikamanda**

QUOTES FROM CONFERENCE SPEAKERS



The first line of Malawi's National Anthem is a prayer for a Malawi that is peaceful with its people, living free from fear. It should not remain a prayer. It must become reality, and making it reality is when each and every Malawian, individuals and groups continues to do something, and invests in the spaces that enables Malawians to freely organize themselves and participate in national affairs, in a way that holds self and duty bearers accountable. Leave no one behind should be the clarion call, to create an atmosphere of inclusivity, where everyone can feel that their voices are heard. — **UN Resident Coordinator Rebecca Adda-Dontoh**



The laws, policies and institutions that a country has in place are essential in enabling a thriving civic space. They also play a critical role in determining the extent to which members of society, both as individuals and as part of informal or organised groups, can freely and effectively exercise their basic civic freedoms without fear of being persecuted. Ultimately, the degree to which a country creates laws that protects civic freedoms is a strong gauge of the health of its democracy more broadly. —**Hon. Justice Dunstan Mlambo, Judge President of the Gauteng Division of the High Court, South Africa**

The Executive makes sure all persons are acting within the law, including civil society organisations. The Executive ensures civil society organisations are not hindered in exercising rights, as long as they do not impinge on others' rights. However, sometimes civil society organisations choose to misunderstand the rights as restricted by law, though such restrictions are recognized by the international community. The Executive ensures there is freedom. It ensures the Police are not harassing or arresting persons as they exercise their rights, as wrong as they are not acting against the written law. — **Titus Mvalo, Minister of Justice**

Civil space does not operate in a vacuum there are a number of thematic areas that are involved such as rights and obligations. — **Retired Tanzania Chief Justice Mohamed Chande Othman**



The civic space of women and youth is also a good area of interest. There are more huddles for women rights activists including young women. Women activist face backlash from society. It is therefore important for the civic space to open up to young women, including children and marginalized groups. An enabling the civic space will empower more women to participate in politics. — **Habiba Osman, Executive Secretary for the Malawi Human Rights Commission**



PICTORIAL FOCUS OF CIVIC SPACE DIALOGUE



Justice Nyirenda, Othman and YAS ED share a joke on the sidelines of the meeting



Attorney General Thabo Chakaka Nyirenda makes a point during the discussions



High-level panelists during one of the sessions



Panelists during one of the sessions



A cross-section of the participants



Panelists and presenters pose for a photo



A cross-section of the participants



Retired Tanzania Chief Justice Chande Othman, Retired Malawi Chief Justice Andrew Nyirenda and current Chief Justice Rezine Mzikamanda pay close attention



Retired Chief Justice of Tanzania Muhamad Chande Othman, MHRC's Habiba Osman, Justice Minister Titus Mvalo and Justice Kenyatta Nyirenda



CHRR executive director Michael Kaiyatsa makes a point during the deliberations



Vitumbiko Phiri of the Southern Africa Litigation Centre



FEDOMA's Simon Munde makes a presentation



Participants deliberate



THE LILONGWE CIVIC SPACE PACT RESOLUTIONS ADOPTED BY THE DELEGATES

Recognizing the essential role that YAS, AJJF and the Malawi's Judiciary must play in sustaining Malawi's democracy; and recognizing that the protection and promotion of civic space is critical to ensuring the participation of all sectors of society, including the judiciary, executive, parliament, civil society, media, and the legal profession, in the democratic processes of the nation; the Malawi Civic Space Dialogue reaffirmed the commitment of all stakeholders to work collaboratively in preserving and enhancing civic space.

The participants adopted key resolutions which will serve as a roadmap for safeguarding the democratic values that underpin Malawi's constitutional democracy. Continuous engagement, transparency, and proactive measures will be essential in this endeavour.

1: The resolutions are as follows:

Regular Sectoral Dialogues: To ensure ongoing collaboration, regular sectoral dialogues will be conducted, focusing on the specific challenges each sector faces concerning civic space. These dialogues will be guided by the constitutional mandates of the Judiciary, Executive, Parliament, Media, Legal Profession, and Civil Society to develop tailored solutions for upholding and

expanding civic space.

2: Multi-Stakeholder Evaluations:

Continuous monitoring and evaluation of civic space will be conducted through regular multi-stakeholder dialogues. These evaluations will identify emerging challenges and propose solutions to maintain an open and vibrant civic environment in Malawi.

3: Awareness and Education on Civic Space Rights:

A concerted effort will be made to promote awareness among stakeholders regarding civic space rights, human rights, and obligations. This includes educating stakeholders about the limitations of rights and freedoms, particularly in the context of disinformation, misinformation, and the ethical use of digital platforms.

4: Research and Advocacy:

Ongoing research and advocacy efforts will be supported to protect civic space. This will include audits of legislative compliance with international standards and identifying challenges related to the enforcement of laws regulating civic space, especially considering emerging technologies such as artificial intelligence.

5: Protection of Institutional

Independence: Proactive measures will be taken to safeguard the independence of institutions established to promote and protect civic space. Immediate action will be required whenever the autonomy of these institutions is threatened or violated.

6: Improved Funding for Critical Institutions: Enhanced engagement with Parliament and the Executive will be pursued to secure better funding for institutions vital to the protection of civic space, including the Malawi Human Rights Commission and the Judiciary. Adequate funding is necessary for these bodies to fulfil their mandates effectively.

7: Independence of Civil Society and Media: Recognizing the crucial role of civil society and the media, steps will be taken to protect their independence while ensuring adherence to ethical standards. Measures will be put in place to guarantee their freedoms, enabling them to operate without undue influence or pressure.

8: Transparency in Law and Policy-Making: The importance of increasing transparency and public participation in the law and policy-making process, particularly regarding regulations that impact civic space, was emphasized. Stakeholder engagement will be prioritized to ensure that laws and policies reflect the needs and aspirations of the Malawian people.

8: Monitoring and Reporting of Power Abuses: Efforts will be made to monitor and report abuses of power, particularly in enforcing cyber laws and regulations governing the freedom of peaceful assembly. Vigilance in this area is crucial to preventing the misuse of authority that could undermine civic space.

9: Alternative Avenues for Civic Space Protection: The need to explore and utilize alternative avenues for protecting civic space, beyond relying solely on judicial interventions, was acknowledged. This includes leveraging community-based initiatives, international partnerships, and the efforts of non-governmental organizations.

10: Access to Justice for Vulnerable Groups: A commitment was made to explore ways to promote access to justice for vulnerable and marginalized groups. Ensuring that all Malawians, regardless of their socio-economic status, can exercise their rights within an open civic space is essential.

11: Establishment of a Civic Space Protection Task Force: In light of the upcoming elections, the Dialogue resolved to establish a task force dedicated to addressing threats against civic space. This task force will include key state and non-state actors and will focus on ensuring that civic space remains protected during the electoral period.



ABOUT THE ORGANIZERS OF THE DIALOGUE SESSION



YOUTH AND SOCIETY

Youth and Society was founded in 2012 and is a Non-Governmental organisation (NGO) whose mission is to promote and defend human rights and democratic governance in Malawi. The principal interest of Youth and Society is young people and marginalised groups. More about YAS can be found at <https://www.yasmw.org/>



AFRICA JUDGES & JURISTS FORUM

Africa Judges and Jurists Forum is a network of eminent judges and jurists from across the continent of Africa, who are committed to promoting the rule of law and development in Africa. More about AJJF can be found from <https://africajurists.org/>



The Malawi Judiciary is the branch of the Government of Malawi which interprets and applies the laws of Malawi to ensure equal justice under the law and to provide a mechanism for dispute resolution. The Constitution defines the judiciary as a hierarchical system of courts, with the highest court being the Supreme Court of Appeal, together with the High Court and a number of Subordinate Courts. The Malawi Judiciary exists to serve all manner of people to access Justice and offer effective legal remedies. More about the Malawi's Judiciary can be found at <https://www.judiciary.mw/>

THE PARTNERS



For further information contact

The Executive Director
Youth and Society
Mzuzu, Malawi.

Email: info@yasmw.org

Phone: +26588409936

