

Support to the Realization of Human Rights and Access to Justice in Kenya – Terms of Reference for End of Project Evaluation

BACKGROUND

In August 2010 Kenya promulgated a new Constitution which for the first time includes an advanced and comprehensive Bill of Rights. Article 59 (1) of the 2010 Constitution established the Kenya National Human Rights and Equality Commission (KNHREC) to monitor implementation and to operationalize the Bill of Rights. However, Article 59 (4) allowed Parliament through legislation to restructure the KNHREC into two or more separate Commissions. In 2011 laws were enacted to establish three separate but related successors Commissions to the KNHREC; The Kenya National Commission on Human Rights (KNCHR), The National Gender and Equality Commission (NGEC), and The Commission on Administrative Justice (CAJ), also known as the Office of the Ombudsman.

The three Commissions with very distinct mandates present the opportunity of devoted institutions that are practically effective towards promotion of good governance, administrative justice, gender equality and non-discrimination, and human rights protection of vulnerable groups. The Commissions achieve this through respective mandates in promoting human rights compliance pursuant to their core functions of monitoring, education, advocacy, capacity strengthening, advisory, research, and complaints handling and redress.

Brief description of the Project

After establishment of the three institutions, in partnership with the Government of Sweden and Finland, UNDP defined a 3 year programme with KNCHR, NGEC and CAJ to extend support to these three institutions along two core areas of a) Institutional strengthening and b) programmatic assistance to core strategic areas towards progressive fulfilment of their new distinct but interrelated mandates relating to rights and access to justice. Within these two core areas, programmatic activities are elucidated through specific outputs. These include:

Result 1: Article 59 Commissions' Capacity Strengthened in Order to Implement Their Mandates More Effectively

The project enhances the institutional capacity of the KNCHR, NGEC and CAJ through various organisational development activities. Some of these address key organisational weaknesses identified including internal systems on IT, finance, procurement and monitoring and evaluation. A key organisational strengthening activity supported is the development and finalisation of strategic plans for the Commissions. Other activities are more outward focused to increase the profile of the Commissions and to build awareness of their mandates. The project also supports the Commissions to fulfil their mandates regarding the monitoring of government treaty obligations.

Result 2: Capacity of Government Staff Strengthened to Apply a Human Rights Based Approach (HRBA) and related principles

The MTPII of Kenya's Vision 2013 states that all government development plans (national and county level) should be consistent with the human rights based approach to development.

Furthermore HRBA should guide the implementation of policies and plans at all level to ensure that the government is compliant to the principles of human rights. The project seeks to ensure that this will happen by strengthening the capacity of government staff at different levels and providing training on HRBA and related topics. The related topics include important issues relating to administrative justice and ethics as well as issues of equality. Furthermore, the capacities of police and prison officers are strengthened through training and through feedback provided after prison monitoring visits.

Result 3: Economic, Social and Cultural Rights Enhanced

The inclusion of economic, social and cultural rights in the Bill of Rights has brought about increased interest in ECOSOC rights and their implementation and monitoring. Despite the indivisibility of rights, focus has in the past been more on political and civil rights. As work on ECOSOC rights is fairly new in Kenya, there is a need to create awareness of the bill of rights in the constitution including ECOSOC rights, and to develop standards for implementation and monitoring. The ECOSOC area includes business and rights, the Commissions' work on the right to health, and raising awareness of ECOSOC rights.

Result 4: Strengthened Framework on Access to Justice at National and County Level Applying HRBA Approach

The Article 59 Commissions play an important role in strengthening access to justice by providing a framework in which victims of violations relating to human rights, administrative justice, gender or discrimination can submit complaints and seek redress. The project helps to improve the current complaints handling mechanisms. Output 1, through the activity to establish regional offices, interlinks with the output 4 on the strengthened framework on access to justice. Additionally the project supports activities on penal, judicial and security sector reforms through initiatives such as support to court user committees.

Result 5: Transitional Justice Processes Strengthened to Effectively Redress Historical Injustices

The activities supported under output 5 are driven by the conviction that establishing truth about the past human rights violations, punishing those responsible and delivering justice is a prerequisite for establishment of democracy, a culture of respect for human rights and the rule of law.

Result 6: Capacity of State and Non-State Actors Enhanced to Deliver on Their Human Rights Obligations

Under this output activities focus on building state and non-state capacity on rights, administrative justice and equality, including the role of the private sector in ensuring human rights are realised and not violated in the Kenya con-text.

Result 7: Electoral Processes Monitored with Respect to Abuse of State Resources, Engagement and Participation of Women, Youth and Other Marginalised Communities

March 4th elections provided an important opportunity for the constitutional Commissions to hold the government, and other agencies involved in the elections, accountable from a human rights perspective. The project provided for NGEN and CAJ to carry out monitoring activities before, during and after the elections to ensure human rights compliance. NGEN observed activities from gender and discrimination perspective and CAJ focused on the use of state resources during the campaign period.

By June 2015, approximately \$5 million would have been utilised to support project activities between Jan 2012 – June 2015. The main funders are the Government of Finland, Government of Sweden and UNDP.

EVALUTION PURPOSE

The KNCHR, The CAJ, The NGEK and the UNDP seek to engage a private consultancy to undertake an end phase evaluation of the human rights and access to justice project.

The purpose of the end-of-project evaluation is to assess achievements made in influencing good governance, access to justice and human rights in Kenya over the project period, to harness lessons and offer strategic and operational recommendations which will inform the next phase of the project. The evaluation is needed at this particular time as the 3.5 year project is coming to an end in June 2015 and a new phase is being developed. The evaluation will provide an analysis of appropriateness, relevance, effectiveness, efficiency and sustainability of the project. The scope of the evaluation will cover all outputs of the project. The geographic coverage of the evaluation will be Nairobi and selected counties (where there have been many interventions and a critical number of project beneficiaries).

Specifically, the consultants are expected to:

1. Assess the relevance of the project in the Kenyan context
2. Determining the contribution of the project to national reforms priorities on democratic governance and the programme's impact on various stakeholders
3. Determine the extent to which the project results were realised by assessing the achievements of the project
4. Assess the extent to which the project resources were utilised for the realisation of the desired results
5. Identify the factors which facilitated or hindered the achievement of the outcomes, both in terms of the external environment and those internal to the project and document lessons learned
6. Propose recommendations for future of the programme

In pursuit of the overall objectives of the evaluation, the following key questions will be addressed:

Relevance

- Was the project relevant to the Kenyan context (policy relevance, and impact relevance)?
- Was the project useful in influencing good governance, access to justice and human rights
- Relevance of the project to minority and special groups (women, marginalized communities, LGTB, persons with disabilities, the elderly etc)

Effectiveness

- Was the project effective in delivering desired/planned results?
- What difference has been made through the project?
- Achievements towards identified outputs and contribution towards outcome?
- Project's contribution to capacity development at three levels – individual (citizens and public officers), organizational and systemic.
- Has the project contributed to improvements in good governance, access to justice and human rights? The extent the intervention sought to strengthen the application of the rights-based approach and mainstream gender in development efforts.

- Effectiveness of the partnerships that have been created through the project.

Efficiency - of implementation of the project

- Was the process of achieving results efficient?
- Were the resources effectively utilized?
- Did project activities overlap and duplicate other similar interventions (funded nationally and /or by other donors?)
- Are there more efficient ways and means of delivering more and better results (outputs and outcomes) with the available inputs?
- Could a different approach have produced better results?
- Was the management processes appropriate in supporting delivery?

Sustainability

- To what extent are the benefits of the projects likely to be sustained after the completion of this project?

Lessons Learned

- Key lessons learned throughout the period of the project which can be utilized to guide future strategies, and projects
- How could the project be improved to ensure increased sustainability? Particularly, in relation to future project design and management.
- Provide a set of recommendations for a similar initiative that UNDP may embark on, especially the development of a second phase of the project.

METHODOLOGY

The following are some of the proposed methodology that may be used by the consultant. Additionally the consultants can also incorporate other methodologies should they deem it appropriate in undertaking the assignment.

1. Desk review of relevant documents including project reports produced during the life cycle of the project
2. Briefing and debriefing sessions with KNCHR, NGECC, CAJ, UNDP and donor representative.
3. Focus Group Discussions/consultation meetings/interviews with key staff involved in management and implementation of the project; key staff of development partner(s), and key stakeholders identified.
4. Where necessary, field visits to selected regions/counties and discussions with stakeholders/beneficiaries.
5. The most significant change technique

DELIVERABLES

- Evaluation inception report. A proposal indicating the detailed methodology (including tools) to be used in the evaluation process as well as a work plan for completion of work within five (5) days after recruitment. The inception report should include: should include:
 - Evaluation purpose and scope—A clear statement of the objectives of the evaluation and the main aspects or elements of the initiative to be examined.

- Evaluation criteria and questions— The criteria and questions that the evaluation will use to assess performance and rationale
- Evaluation methodology— A description of data collection methods and data sources to be employed, including the rationale for their selection (how they will inform the evaluation) and their limitations; data collection tools, instruments and protocols and discussion of reliability and validity for the evaluation; and the sampling plan
- Evaluation matrix— This identifies the key evaluation questions and how they will be answered by the methods selected
- A revised schedule of key milestones, deliverables and responsibilities.
- Detailed resource requirements tied to evaluation activities and deliverables detailed in the work plan
- Draft Evaluation Report for discussion including all annexes of detailed work done and discussions/focus meetings held
- Final Evaluation Report, in hard and soft copy (MS Word and Acrobat Reader) that should include at least include the following contents:
 - Executive summary
 - Introduction
 - The development context
 - Findings and conclusions
 - Lessons learnt
 - Recommendations
- Presenting the report

DURATION

The consultancy will take approximately 20 working days (in April/May) spread out as follows:

Activity	Days	Duty Station	Responsible Party
Inception report	2 days	Home Based	Evaluation Team
Briefings with UNDP & Commissions	1 day	PSTD/PCD Boardroom	UNDP Commissions Evaluation Team
Desk Review	2 days	Home Based	Evaluation Team UNDP
Interviews including field visits	9 days	TBC	Evaluation team UNDP, Commissions
Preparation of main findings and recommendations	3 days	Home based	Evaluation team
Preparation and submission of 1 st draft of the evaluation report	1 days	Home based	Evaluation team & UNDP
Feedback on draft reports from UNDP and the Commissions			UNDP and Commissions

Validation meeting	1 day	UNDP	UNDP Commissions Evaluation Team
Finalization of evaluation report and submission	1 day	Home Based	Evaluation Team

QUALIFICATIONS OF THE FIRM

The consultancy firm is expected to have the following qualifications;

- Education: The firm must have professionals with graduate degrees in a relevant field
- Quantitative and qualitative analysis skills: The professionals must have proven qualitative and quantitative skills and expertise in the use of standard data management software and statistical analysis packages
- Previous experience in monitoring and evaluations of GOK/Donor funded programme of similar magnitude.
- Broader experience in programme management.
- Knowledge of the local region.

Team leader

- Master's degree in a relevant field with Public Administration, And/or Project Management, and/or political Science, and/or Law, and/or Good Governance and/or Development studies from a recognized university.
 - At least 7 years' relevant experience (governance, human rights, institutional development, gender)
 - Demonstrable experience of M&E assignments with GOK/Donor funded projects
 - Knowledge and understanding of aid effectiveness issues such as using and strengthening national systems
- Must be able to communicate effectively (verbally and written), and present complex ideas to a non-specialist audience

Team member

The Team member should have the following qualifications and experience

- At least a bachelor's degree in relevant field (Public Administration, and/or political Science, and/or Law, and/or Good Governance and/or Development studies from a recognized university).
- At least 3 years' relevant experience (governance, human rights, institutional development, gender)

Competencies of the firm:

- Ability to work with minimal supervision.
- High level written and oral communications skills in English and Kiswahili.
- Must be result oriented team player with excellent interpersonal skills, including enthusiasm, tact, diplomacy and high level of integrity.
- Excellent networking skills
- Concise and analytical skills
- Professional in working with government partners

- Must be able to communicate effectively (verbally and written) in cross cultural, politically sensitive environment and present complex ideas to a non-specialist audience

SCOPE OF PROPOSAL PRICE AND SCHEDULE OF PAYMENTS:

- 20% at the submission of the inception report
- 30 % on submission and clearance of the draft report
- 50% on submission and clearance of the final report

Payment: Within thirty (30) days from the date of meeting the following conditions:

- a) UNDP's written acceptance (i.e., not mere receipt) of the quality of the outputs; and
- b) Receipt of invoice from the Service Provider.

REPORTING ARRANGEMENTS

The consultants will report to the Deputy Country Director (Programmes) of the UNDP Kenya Country Office or his assigned representative.

TRAVELS

National travel is anticipated under this consultancy within Nairobi and selected counties. Cost of travel within Nairobi will be covered by the firm. Travel to selected counties will be facilitated by UNDP.

KEY DOCUMENTS TO BE REVIEWED

The results will be measured based upon the following key programme documents:

- a) UNDP CPAP 2009-2013
- b) Project Document (2011) and Update Project Document (2013)
- c) Annual Work Plans (2012; 2013; 2014; 2015)
- d) Project reports (quarterly and annual reports)
- e) Commission strategies
- f) Mid-term review of project

The following UNDP Evaluation Corporate Policy Documents will act as reference for the Consultants:

- Handbook on monitoring and evaluation for results
- UNDP results management technical note
- UNDP evaluation Policy

The assignment shall be carried out within a period of one and half (1.5) calendar months.