

A consultancy to develop a legal opinion on The Prevention, Protection and Assistance to Internally Displaced Persons Act of 2012 (IDP Act, 2012)

Consultancy Terms of Reference (ToR).

1. Project Background:

The Refugee Consortium of Kenya (RCK) is a national non-governmental organization established in 1998. RCK's mission is to promote and protect the rights and dignity of refugees, asylum seekers, IDPs, and other forced migrants in Kenya and the wider East African region. It was established as a response to an increasingly complex and deteriorating refugee situation in Kenya and the region. RCK's core mandate is to: provide legal aid services and psycho-social counselling; engage in advocacy for policy change by providing technical support towards development of relevant legislations in line with international instruments regulating the management of refugees and other forced migrants; and to raise awareness regarding the plight and rights of the vulnerable groups through research and information dissemination.

The Heinrich-Böll-Stiftung (HBS), a non-profit organization, is part of the Global Green Movement headquartered in Berlin Germany, with a footprint in over 30 countries. The HBS principles are anchored in ecology and sustainability; democracy and human rights; self-determination and justice. They place particular emphasis on gender democracy meaning social emancipation and equal rights for all genders. This particular partnership seeks to advance progressive political and socio-economic transformation through its thematic focus on sustainable development, gender democracy, dialogue and civic spaces.

The Prevention, Protection and Assistance to Internally Displaced Persons Act of 2012 (IDP Act, 2012) is an Act of Parliament that was passed to make provision for the prevention, protection and provision of assistance to internally displaced persons and affected communities; give effect to the Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons and the United Nations Guiding Principles on Internal Displacement. Despite the existence of the IDP Act, 2012, (which became operational in 2013), there exist legal challenges in the prevention, protection and assistance to persons displaced as a result of climate change or development in Kenya.

Contextually, development of a legal opinion is a critical step in creating a discourse on comprehensive implementation of the IDP Act 2012. The opinion shall identify challenges, deduce conclusions and recommendations for consideration by stakeholders, HBS and RCK. The opinion shall encompass research findings from a research analysis conducted analyzing climate and development induced displacement in Kenya: The case of Turkana, Tana River and Nairobi Counties. The legal opinion shall front approaches to sustainable peace through advocacy to transform understandings of displacement, inform more comprehensive and coherent strategies, political engagement, and creation of legal and advocacy interventions for the implementation of the IDP Act.

2. Purpose and objective(s) of the consultancy:

2.1 Purpose

This assignment is aimed at drafting a legal opinion on The Prevention, Protection and Assistance to Internally Displaced Persons Act of 2012 (IDP Act, 2012). The written opinion shall interpret and analyze the IDP Act, 2012 among other laws and documents related to internal displacement. The legal opinion will contain expert opinion intended to be relied on by RCK and its stakeholders to develop an advocacy strategy. The legal opinion shall interrogate the operationalization of IDP Act, 2012, identify challenges to full operationalization, and propose recommendations from the findings. Additionally, the legal opinion shall consider inputs (findings and recommendations) of the just concluded research on the analysis of climate and development induced displacement in Kenya: The case of Turkana, Tana River, and Nairobi Counties.

2.2 Overall objective

To draft a legal opinion identifying implementation challenges for the categories of IDPs as per the Act. Additionally, the legal opinion shall propose recommendations for the implementation of the IDP Act (2012). Additionally, the opinion shall encompass findings from the RCK HBS climate and development-induced displacement in Kenya research.

2.3 Specific Objectives

- i. To analyze the efficiency and effectiveness of implementation of the IDP Act 2012 and other related law(s) and regulation(s);
- ii. To analyze internal displacement in the specific field sites in relation to climate and development displacement. Additionally, it shall purpose to understand specific vulnerabilities, rights, capacities and needs of populations affected by displacement (populations at-risk of displacement, displaced populations and host communities);
- iii. To recommend how governance institutions can be supported to implement the IDP Act (2021).
- iv. To analyze the IDP Act 2012 regulatory framework, and give a legal opinion with recommendations to effectively implement it.

3. Methodology:

The consultant applying for this particular role **MUST** propose designs and methodologies in their submissions which shall be deliberated and agreed upon with RCK at the inception of the consultancy. The consultant(s) should note the key elements outlined below:

- i. Data sources;
- ii. Proposed data collection methods and analysis;

The methodology shall be developed along this indicative variable:

- i. The evidence and/or facts

- ii. The issues;
- iii. The law;
- iv. The Opinion; and
- v. Recommendations;

4. Key deliverables of consultant and timeframe:

The timeframe provided for the deliverables allows for quality assurance by the RCK technical team. The consultant shall be expected to provide the mentioned below deliverables in the table as per the agreement:

No.	Deliverable	Deadlines of Submission to RCK/HBS	Deadline
1	Analysis Inception Report	This report should be submitted by the consultant	28 th October 2022
2	Draft analysis Report	In accordance with the timeline agreed with the hired consultant, the draft report needs to meet the minimum requirements and structure as agreed upon with RCK technical team.	18 th November 2022
3	Final analysis Report	The Final Report needs to meet the minimum requirements and structure as agreed upon with RCK technical team.	25 th November 2022

5. Required Competencies:

- LLB Degree from a recognized University;
- Member of the Law Society of Kenya.
- Advocate of the High Court of Kenya;
- Master's degree in related field is an added advantage;
- At least 5 years' experience in conducting research and writing legal Opinions (candidates **MUST** submit at least 3 legal opinions authored by them as an attachment to their application);
- Proven experience in working in forced displacement settings;
- Ability to work in a fast-paced environment with minimum supervision, meet short and tight deadlines, plan and implement effectively, and be a team leader;
- Prior experience in applying gender and human rights-based approaches, peace building, and Do no harm principle is an added advantage;
- Excellent written and spoken communication skills in English.

7.1. Refugee Consortium of Kenya (RCK)

RCK, through its technical advisors, shall provide overall supervision of the development of the opinion, analysis and reporting.

7.2. Consultant

The consultant will be responsible for undertaking the legal opinion from start to finish; managing the research assistant(s) (if applicable); Collecting and analyzing data; and drafting and presenting the final report in English under the overall supervision of RCK. In addition, the consultant shall be expected to deliver the below:

- i. Conduct a desk review of relevant secondary data and literature;
- ii. Present the findings in a legal opinion.

8. Deliverables and timeline:

During the assignment, the consultant will deliver:

Stage of Evaluation	Key Task	Responsible	Number of working days required	Timeframe
Inception stage	Briefings of consultants to orient the consultant	RCK Technical Advisors	5 working days	28th October 2022
	Desk review of key documents	Consultant /s		
	Finalizing the analysis design and methods	Consultant /s		
	Submit draft Inception report	Consultant /s		
	Review Inception Report and provide feedback	RCK Technical Advisors and HBS.	3 working days	2nd November 2022
	Incorporating comments and revising the inception report	Consultant /s		
	Submitting final version of inception report	Consultant /s		
	Review final Inception Report and approve	RCK Technical Advisors and HBS.		
Analysis stage	Desk research	Consultant /s	5 working days	

	Analysis and interpretation of findings	Consultant /s		18th November
Draft Report.	Preparing a first draft report	Consultant /s	5 working days	
	Review of the draft report with key stakeholders for quality assurance	RCK Technical Advisors and HBS.	6 working days	
	Consolidate comments from all the groups and submit the consolidated comments to RCK Technical Advisors	RCK Technical Advisors		
	Incorporating comments and preparing second draft report	Consultant and RCK Technical Advisors		
Final Report.	Final review and approval of report	RCK Technical Advisors and HBS.	7 days	25th November
	Final edits and submission of the final report	Final edits and submission of the final report		

9. Other provisions:

9.1. Budget

The budget shall be discussed with the selected candidate.

9.2. Terms and Conditions

This work will be undertaken by an external consultant. Proposals should include and adhere to the time frame set to complete the work at a costed rate. Additionally, the consultant will submit all the original document(s) to RCK through its focal person. The consultant shall not re-produce information of this exercise in any form (electronic, hard copies, etc.) to third party without written permission from RCK.

10. Application process:

10.1. Submissions of the Proposals

Interested applicants who meet the required profile are invited to present an expression of interest by submitting both technical and financial proposals (separately) in PDF format with the subject clearly marked “**A consultancy to draft a legal opinion on The Prevention, Protection and Assistance**

to Internally Displaced Persons Act of 2012 (IDP Act, 2012) ” on or before 13th October 2022, 5pm EAT via email to procurement@rckkenya.org. For further information, please see www.rck.org.

All applications must have the following:

1. **Cover letter;**
2. **Technical proposal:** Summarizing the understanding of the TOR (written submission); methodology to be used; suitability statement of the individual or company, including CVs of consultant and other participating consultant(s)/ research assistant(s) (if applicable) with details of qualifications and experience in this and/or similar assignments; work-plan clearly indicating the activity schedule; and a risk analysis and mitigation strategy;
3. **Financial proposal:** providing cost estimates (costs per activity line, and staff, etc.) and technical consultancy fees; and
4. **Testimonials and contacts** of three organizations that have recently contracted you to carry out similar assignment. In addition to this, submit at least 3 legal opinion report authored by yourself as an attachment to the application.

Only shortlisted candidates will be contacted.