

## IB21-006 - Terms of Reference

### DEVELOPMENT OF A PUBLICATION ON DEVOLUTION IN KENYA TEN YEARS ON: A REVIEW OF IMPLEMENTATION AND EFFECTS

#### BACKGROUND AND CONTEXT

Konrad Adenauer Stiftung (KAS) is a think tank working in Kenya since 1974. The core mandate of KAS in Kenya is the promotion and consolidation of democracy. The Constitution of Kenya 2010 provides the road map for political development. The implementation of devolved system of governance is one of the processes through which the constitution advances democracy in the country. KAS works with key stakeholders charged with overseeing the implementation of devolution specially to ensure inclusive socio-political and economic development. In order to achieve its core mandate in the country, KAS intends to carry out a study **on devolution in Kenya @10** that intends to put into perspective the status of implementation of devolution, governance challenges, some emerging issues and priority areas.

The Terms of Reference are based on five key objectives as consequently explained. Firstly, is to relook at how devolution concept is internalized in the county governments. Focus will be paid on the understanding of the concept and the 14 functions of the county government of which pronounce the meaning of devolution.

Secondly, the Term of Reference will present the legal framework of devolution. Our interest would be to examine policy and legal gaps in the framework with a view of suggesting amendments towards improving devolution. To tease out legal gaps, the reference point would be court cases with respect to devolution.

Thirdly, the Term of Reference is interested to understand devolution processes and implementation since inception. Here the focus would be to show case success of some of the key processes like planning and budgeting, public participation, vetting of county officials, monitoring and evaluation in some selected cases. The aim would be to ask perceptive question as to why devolution seems to be working in some counties and not others.

Fourthly, the Term of Reference is interested in exposing governance challenges in the implementation of devolution. While the implementation of devolution has seen establishment of intergovernmental institutions, devolution laws and transfer of some devolved, a number of challenges have also emerged, mainly interference of key institutions in the implementation of devolution, corruption, lack of human capacity, lack of public participation, delayed disbursement of funds to county government, perennial conflict between the National Assembly and the Senate. Here the study would attempt to expose why these challenges have persisted and what needs to be done to remedy the

situation. Where possible, the study would draw lessons from comparative jurisdictions on the best practices.

Fifthly, the Term of Reference would reflect on devolution processes and implementation since inception in terms of emerging issues and what needs to be prioritized. With regard to emerging issues, the study would examine the importance of improving the concept of the Senate *Mashinani*; legislative and oversight relationship between county assemblies and the Senate; financing devolution and stakeholders' engagement. In terms of prioritization, do we need for example to revisit revenue sharing formula, strengthen the oversight role of county assemblies, strengthening health sector, procedures for impeachment of governors.

**The study questions include the following;**

1. What is the understanding of the concept and how is the implementation of devolution internalized in county governments?
2. What are the legal gaps militating against the implementation of devolution?
3. Why have some counties been able to manage devolution processes than others?
4. What explains the persistence of some governance challenges in devolved system?
5. What are the emerging governance issues and what needs to be amended or prioritized towards improving devolution?

**Main Objective**

The main objective for this task is to look at devolution ten years on. What has worked and what has not? What is the current status of implementation of devolution as a concept in Kenya? What are the challenges and emerging issues? Finally, provide recommendations as a way forward.

**Intended Outcome**

The final output would strengthen knowledge and enforce actions that strengthen public control among devolution supporters, the media and the CSOs among other stakeholders on processes, challenges, emerging issues and priority areas in Kenya.

**The consultant's scope of services includes;**

1. Provide KAS with a detailed work plan and inception report after signing of agreement
2. Do a mapping of the target stakeholders to be interviewed and mobilize for the key informants to take part in the study
3. Collect data using both primary and secondary data collection methods and triangulate the data after analysis. Methodology is expounded below

4. Provide KAS with a final study report. KAS will closely monitor the progress of the work and thus it would be advisable to check with KAS after every step before the final draft is submitted.

## **Methodology**

This study will adopt both primary and secondary methods of data collection. For the primary data collection, the researchers will conduct Key Informant Interviews (KII)s. The KII will be conducted through purposive sampling technique and will involve a few of the elected MPs/MCAs, officials at the county assemblies, Ministry of Devolution and planning, Council of Governors, the Senate, the National Assembly among other relevant actors. The researchers will also interview representatives of civil society organizations to generate useful knowledge for this study. A number of 50 respondents is recommended.

Secondary method of data collection will also be utilized. Here, the researchers should interrogate documents, research studies, opinion papers, journals on devolution in Kenya.

## **Key deliverables**

The consultant will be expected to produce well-researched study inform of a book publication with scientific evidences and scenarios of the current status of devolution which includes (processes, challenges, emerging issues and priority areas in Kenya) and provide practical recommendations. The number of pages expected shall be discussed at the inception stage together with KAS.

## **Duration of the assignment**

This task will be conducted between the months of August with 30 days distributed in 2 months. A work plan and inception draft for implementing the task will be shared within one week after contractual agreement is signed. The final draft of the publication is expected by 30<sup>th</sup> September, 2021.

## **Payment terms for the consultancy**

The consultant's fee will be paid in two instalments of 50% at the inception stage and after sharing the work plan and inception report (3-5 pages) and the balance 50% after submission of the final drafts only if it meets the KAS' expectations as stipulated in the contract of agreement and Terms of reference.

Please send your Expression of Interest (EOI) together with your budget proposal by 28<sup>th</sup> July, 2021 to [jeanette.nyanjom@kas.de](mailto:jeanette.nyanjom@kas.de).

The subject should read: IB21-006 EOI, (Your Company's/or individual name).

**Note:** Please take note of the general information about Covid-19 and the instructions from the Ministry of Health in Kenya while conducting this study.

<http://www.health.go.ke/covid-19/>

