



**12<sup>th</sup> FEBRUARY 2020**

## **Terms of Reference –Digital Rights Consultant (Digital Rights Expert)**

### **About Mzalendo**

Mzalendo is a non-partisan entity that keeps an eye on Kenyan Parliament with a mission to facilitate public participation in Parliamentary processes through information sharing, research and networking. Our vision is to see Informed, Empowered and Engaged citizens transforming society by holding their leaders to account. Mzalendo was an initiative in the form of a blog in 2005 and registered as a trust in late 2013.

### **About the Project**

With support from The Collaboration on International ICT Policy for East and Southern Africa (CIPESA), Mzalendo will implement a project titled, *Enhancing Awareness and Sustained Data Rights*. The project seeks to create public awareness on the current legal architecture of data rights in Kenya, enhance further civic engagement on data rights and further, document the perceptions and impact of the Proposed Huduma Bill (2019), Data Protection Act 2019 and other existing data rights and access to information laws. The project is aimed at *boosting civic awareness on data rights and increase civic engagement in improving regulation of the digital ecosystem*.

### **Background information**

Data protection is a great concern for most African states with the increasing efforts to promote digital transformation and the digital economy. In Kenya, the journey towards data protection and privacy began with the promulgation of the Constitution of Kenya in 2010 that guaranteed every person with the right to privacy and this includes information relating to their family, private affairs and communications under Article 31.

However, the centrality of digital rights gained unprecedented public attention in 2019 following the Government's launch of Huduma Number, a nation-wide registration exercise that sought to gather personal information from each individual with the main aim of generating the National Integrated Identity Management System (NIIMS). A section of the public raised concern, expressing strong reservations on the security of their data.

With the enactment of the Data Protection Act in 2019, it is expected that the enforcement of privacy rights will be encompassed within a stringent regulatory framework. Despite this, there has also been lack of implementation of other existing legislation such as the Access to Information Act, 2016. Coupled with the fact that interactions and transactions are increasingly shifting to the online space, and that the space experiences constant evolution, the need to assess

the current legal framework is imperative so as to gauge the implementation and how to improve protection of digital rights in Kenya.

### **Objective and scope of Work – Digital Rights Consultant**

In view of the foregoing, Mzalendo seeks to engage a Research Consultant to undertake research to assess the impact and perceptions of data protection and access to information related laws, proposal and policies. Specifically, the Consultant will be expected to:

- Review the history regarding digital rights and accompanying laws in Kenya;
- Review existing data rights and access to information laws in Kenya, and their implementation, with a special focus on the Constitution, the Access to Information Act, the proposed Huduma Bill, 2019 and the Data Protection Act 2019;
- Identify the perceptions, implementation and impact of the relevant legislation and policy proposals;
- An analysis of the recent Huduma Number judgement and;
- Identification of potential opportunities for enhancing and advancing digital rights in Kenya.

### **Proposed Methodology**

The consultant, in collaboration with the project team, will:

- Agree on methodology of the assignment, prepare adequate tools putting into consideration the objectives and timelines of the project.
- Prepare for and conduct the studies highlighted in this term of reference.
- Present findings and recommendations of the study.

In undertaking the research, the Consultant will be expected to undertake desk review and key informant interviews with actors in the data rights and access to information ecosystem.

### **Key deliverables**

- Inception report including tools to be applied for the study;
- Draft Report;
- Final Report and;
- Facilitation of validation meeting.

### **Profile of the Consultant**

The consultant will be required to demonstrate –

1. University Degree in Law, Political Science, Public Policy and/or related field. A Masters' Degree will be an added advantage.
2. Relevant experience of at least 5 years in legal, governance, public policy and legislative drafting work;
3. Experience in research methodology, selecting and evaluating information as well as conducting and evaluating interviews e.g. FGDs and KII methodologies;
4. Relevant professional/educational qualifications;
5. Ability to work independently within strict timeframes;

6. Availability during engagement period;
7. High level of professional integrity and;
8. Good communication skills.

### **Consultancy days**

The consultancy days for this assignment shall be 30 Days.

### **How to apply**

1. The consultant is required to submit a proposal of no more than 7 pages to include a brief résumé highlighting relevant background and experience of not more than 2 pages;
2. The consultant will also prepare a brief proposal including methodology, proposed outputs, budget, and profile of the team to be involved in this assignment.
3. The proposal and email subject should be clearly labeled and sent [community@mzalendo.com](mailto:community@mzalendo.com) by **21<sup>st</sup> February 2020** COB.
4. Any clarification to be emailed to [community@mzalendo.com](mailto:community@mzalendo.com).