

## TERMS OF REFERENCE

### Summary

<b>Title</b>	Consultancy to review the Law on Persons with Disabilities in Viet Nam
<b>Purpose</b>	To formulate evidence-based recommendations for the Government of Viet Nam to amend the Law on Persons with Disabilities
<b>Location</b>	Home-based and data collection at national level (Ha Noi) and in selected provinces
<b>Duration</b>	1 September – 30 December 2022
<b>Start Date</b>	1 September (tentative)
<b>Reporting to</b>	Chief of Social Policy and Governance
<b>Type of consultancy</b>	Blended approach which opens to both institutional and individual applicants

### 1. Background and Justification

According to the National Survey on Persons with Disabilities (2016), there are 6.2 million people with disabilities in Viet Nam; this represents 7 per cent of the total population. Of these persons with disabilities, 58 per cent are women and 11 per cent are children aged 2-17.<sup>1</sup> Children with disabilities are identified by the government as one of the 14 groups of children living in extremely difficult circumstances that need state support.<sup>2</sup> To promote the living condition of persons and children with disabilities, Viet Nam adopted the Law on Persons with Disabilities in 2010.<sup>3</sup>

The existing Law on Persons with Disabilities prescribes the rights and obligations of people with disabilities; the responsibility of the State, family, and society towards people with disabilities in different areas of life, including disability certificates, education, health care, vocational training and employment, culture, sports, entertainment and tourism, infrastructure, and accessibility.

The Government of Viet Nam signed the United Nations Convention on the Right of Persons with Disabilities (UN CRPD) on October 22, 2007, making it the 118<sup>th</sup> member of the Convention. By signing the ratification, Viet Nam has committed to ensure and promote the realization of fundamental human rights and freedoms for all persons with disabilities without any discrimination.

After more than 10 years of implementation, the Law on Persons with Disabilities (issued on June 7, 2010) also revealed many gaps including the gap between the legal and actual implementation coverage. For example, in Article 40, the law issued a roadmap for the renovation of apartment buildings and public works, but after nearly 10 years of enforcement,

<sup>1</sup> GSO (2018), National Survey on Persons with Disabilities, link: [https://www.gso.gov.vn/du-lieu-va-so-lieu-thong-ke/2019/03/\\_\\_\\_trashed-4/](https://www.gso.gov.vn/du-lieu-va-so-lieu-thong-ke/2019/03/___trashed-4/)

<sup>2</sup> Article 10, Children Law 2016.

<sup>3</sup> Law on Persons with disabilities, 2010. Link: <https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=96045>

the access to services for persons with disabilities is still limited.<sup>4</sup> Also, there are some provisions in the law that do not comply with CRPD and some other international conventions/treaties to which Viet Nam is a party. For instance, the definition of “independent living” in Article 2 Para 7 Persons with Disabilities Law is not in line with Article 19 of CRPD on living independently and being included in the community.

In 2018, UNICEF Viet Nam conducted a study on legal gaps for children with disabilities to examine the implementation gaps related to children with disabilities with a particular focus on the Law on Persons with Disabilities, Law on Children and relevant legal documents on education. Specifically, the study analysed the situation of children with disabilities in different aspects of their lives and recommended amendments to laws and policies to protect the rights of children with disabilities. The gap analysis proposed recommendations for the revision of the law on persons with disabilities. However, the recommendations in that study just focus on children with disabilities and were not comprehensive and detailed enough, specifically on what and how articles should be amended or added. Furthermore, the study did not identify what Viet Nam had done with regard to persons with disabilities in general but just focused on children with disabilities.

Therefore, it is critical to undertake a comprehensive report and policy paper to identify gaps in the current Law on Persons with Disabilities and provide evidence-based recommendations for the amendment of this law to support the Government of Viet Nam in the law revision process and protect the rights of both persons and children with disabilities.

**Justification:** This exercise requires a high level of technical expertise, intensive human resources with a good network and access to national and relevant data from ministries and government agencies in relation to persons and children with disabilities. Therefore, it is important for UNICEF to recruit **an Institution or an Individual Consultant** with relevant qualifications, competencies and skills in law-making, human rights, and disability rights with an understanding of the situation of persons and children in Viet Nam.

## 2. Purpose and Objectives

The purpose of this study is to support Viet Nam in ensuring the revision of the Law on Persons with Disabilities is in alignment with international conventions and treaties. Specifically, UNICEF Viet Nam, in partnership with the Ministry of Labour, Invalids and Social Affairs is planning to prepare a report and policy paper to support the law’s amendment. The assignment will inform Viet Nam’s government about the gaps between the Law on Persons with Disabilities and other relevant laws and policies and international treaties, in law enforcement, lessons learned from the development and/or revision of the disability laws of other countries and evidence-based recommendations for the law amendment with a strong focus on children and women with disabilities.

The objectives of the assignment are as follow:

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<sup>4</sup> VFD (2020), Independent Report on The Implementation Of The Un Convention On The Rights Of Persons With Disabilities In Viet Nam, p 22. Specifically, only 22.6 per cent of medical facilities, 20.8 per cent of educational facilities, 13.2 per cent of exhibitions and galleries, 11.3 per cent of conference centres and office buildings, 5.7 per cent of supermarkets, 3.8 per cent of gymnasiums, post offices, stations, border gates, 7.5 per cent of nursing homes, retirement clubs and 2 per cent of banks were accessed by persons with disabilities.

- Support the government to compare the current Law on Persons with Disabilities (LPD) and other relevant laws and policies to the international treaties, including but not limited to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), Convention on the Rights of the Child (CRC), etc.
- Document international experience on developing or amending the LPD and level of law's compliance to international treaties to inform the process of amending the LPD in Viet Nam.
- Identify the gaps between the law and law enforcement and formulate specific evidence-based recommendations for the amendment of the LPD, with a strong focus on children and women with disabilities.
- Propose comprehensive and specific recommendations for the amendment of the current LPD and other relevant laws and policies to be better aligned with international standards.

### 3. Scope

The work will be implemented with the central government of Viet Nam in Ha Noi and leaders of organizations of persons with disabilities (OPDs), and individuals with disabilities in local governments.

**Research question:** What are the main gaps in the current LPD in Viet Nam and what realistic key amendments can be proposed in light of the United Nations Convention on the Rights of Persons with Disabilities and Convention on the Rights of the Child?

The following are the research sub-questions:

- What has been done in the current LPD and other relevant laws and policies, that are in compliance with CRPD and CRC?
- What are the gaps between the legal and effective implementation coverage of the LPD?
- What are the key gaps between the LPD/other relevant laws and policies and the international treaties to which Viet Nam is a party?
- What are the experiences of other countries that have strong disability laws and enforcement? To what extent the experience can be applied in Viet Nam?
- What specific recommendations can be proposed for the amendment of the LPD, with a strong focus on children and women with disabilities? Which parts should be reviewed? Which part should be added?
- What laws/legal provisions should be amend to be in compliance with recommendations proposed in LPD amendment?

### 4. Methodology

The selected institutional consultancy team or a lead international consultant will be required to present a mixed methodology to conduct this assignment. It is anticipated that the research plan will comprise the following components:

**Desk review** of, but not limited to legal frameworks, policies, plans and relevant documents and studies related to the law on persons with disabilities with a more focus on children and women with disabilities. The desk review will guide the design of the subsequent steps and detailed methodology as well as tools to conduct the policy paper.

**Consultative approach and in-depth interviews:** The consultants will work closely with MOLISA, UNICEF, MOET, MOJ and MOH, NGOs, OPDs and relevant stakeholders across the country on the draft report and policy paper. In-depth interviews will be conducted with key stakeholders especially OPDs (both at national and sub-national level) and persons, particularly women, adolescents and children with disabilities.

A qualified research institution or an international consultant is expected to provide suggestions on a sound methodological approach based on their existing knowledge and experience. In addition, it is also required to obtain ethical clearance for this research.

## 5. Specific tasks and deliverables

Task summary	Deliverables	Tentative Timeframe
<b>1. Inception phase included the development of research protocols based on the following specific following steps:</b> <ul style="list-style-type: none"> <li>- Desk review of relevant documents</li> <li>- Elaboration of quality control plan to address data quality assurance and identify appropriate data entry package and customize it for the questionnaire allowing for easy data entry, automatic calculation of variables, checks and reporting.</li> <li>- Development of the data collection method and tabulation plan</li> <li>- Develop research protocols and obtain ethical clearance.</li> <li>- Develop the report outline</li> </ul>	Inception report agreed with both UNICEF and MOLISA including: <ul style="list-style-type: none"> <li>- Draft data collection tools, data entry and analysis tables</li> <li>- Detailed work plan</li> <li>- Ethical clearance.</li> <li>- Report outline</li> </ul>	10 days (5 days for each researcher) (1-18 September 2022)
<b>2. Data collection and data entry:</b> Data collection including kick-off meetings, and in-depth interviews (IDIs) with key stakeholders, provinces, and partners, and	Data collection and data entry were completed to a high standard.	30 days (10 days for lead consultant and 20 days for research member) (15 September 2022 to 30 October 2022)

Task summary	Deliverables	Tentative Timeframe
consultation with relevant stakeholders, including but not limited to representatives of line ministries, NGOs working on PwDs, OPDs and people and children with disabilities, etc.		
<b>3. Data analysis and draft policy paper</b>	Draft report.  Submit the zero draft on legal gaps and recommendations for disabilities law amendment for comments and review	20 days (10 days for lead consultant and 10 days for research member)  (31 October – 27 November 2022)
<b>4. Finalize the report and policy paper</b> based on the comments from both internal and external stakeholders from the above consultations.	Final package including: <ul style="list-style-type: none"> <li>- Final report (50 pages max);</li> <li>- Three-pager policy paper covering key findings and recommendations for the law revision; and</li> <li>- A power-point presentation (max. 15 slides).</li> </ul>	10 days (5 days for lead consultant and 5 days for research member)  (28 November – 30 December 2022)
<b>Total number of days</b>		<b>70 days</b>

**Duration:** The timeframe for this institutional or individual contract is 70 days, between 1 September – 30 December 2022. All deliverables are expected to be developed in both Vietnamese and English, with the responsibility for translation belonging to the contracted institution or individual consultant.

## 6. Management

The assignment will be undertaken under the supervision of the Chief of Social Policy and Governance Programme (SPG) with the day-to-day support of the focal points – Social Policy and Governance Specialist and Child Right Officer (Social Policy and Governance Programme).

UNICEF Viet Nam's focal points will ensure a consolidated workplan for this assignment. It will facilitate the joint work of both contracted institution and any personnel assigned by MOLISA, UN and NGOs disability working groups, OPDs and any relevant stakeholders.

## 7. Payment Schedule

The payment for the contract will be in three installments:

- The 1st payment upon approval of the inception, desk review report, research protocols and ethical clearance (deliverable#1): 30%.

- The 2nd payment upon approval of the draft report (deliverables #2, and #3) : 40%.
- The last payment upon the approval of the final comprehensive report, policy brief and PowerPoint presentation (deliverable #4): 30%.

#### 8. Performance indicators for evaluation

- Quality of deliverables meets the standards set by UNICEF and specifications outlined in the contract;
- Deliverables are submitted in a timely manner, as per the timeline in the contract;
- Technical assistance delivered in a contextualized and drawing on inputs provided by the partners.

#### 9. Qualification

An institution that is able to deploy a team comprised of at least one lead consultant and one team member or a lead international consultant who will be responsible for recruiting other support personnel. In both cases, the research team is expected to meet the following qualifications:

##### **For institution:**

**Senior international consultant** Holding an advanced university degree (master or higher) in laws, social science, international development, public policy, social work sound knowledge of disability programming, disability laws and familiarity with the rights of children.

- At least 15 years' experience working in the field of human rights, with focus on disability and children's rights, with demonstrated experience in law development and/or legal gap analysis for children with disabilities.
- Knowledge about socio-economic context and political economy of Viet Nam context is desirable.
- Having a dedicated team leadership and management track record, as well as excellent analytical, negotiation, and report writing skills.
- Having in-depth knowledge of the UN's human rights, gender equality and equity agendas. Strong knowledge and understanding of the global developments in disability rights and of the situation in Viet Nam is considered an asset.
- Committed and willing to work independently, with limited regular supervision; s/he must demonstrate adaptability and flexibility, client orientation, proven ethical practice, initiative, concern for accuracy and quality.
- The ability to concisely and clearly express ideas and concepts in written and oral form as well as the ability to communicate with various stakeholders in English.

##### **Requirements for team members**

- Advanced degree in public (social) policy, development studies, social work, laws, statistics, and other relevant fields.
- Over 10 years of experience in undertaking situational analysis using both secondary and primary data from different sources.
- In-depth knowledge on disability rights, especially the rights of children with disabilities.

- Knowledge of Viet Nam's socio-economic context as well as disability in Viet Nam would be an asset.
- Good listening skills as well as reporting writing and communication skills.
- Excellent teamwork skills.

**For individual consultant:**

In view of the purpose, scope, focus of the disability law revision, UNICEF is looking for a qualified individual consultant as a lead consultant for this exercise. This lead consultant is responsible for proposing two-member consultants to support him/her throughout the exercise.

**Team Leader**

- Master's in law, public policy, human rights, disability, social science, or related fields or its equivalent in training and self-study or work experience;
- Professional experience in working in areas of human rights, with a focus on disability and children's rights, with demonstrated experience in law development and/or legal gap analysis for children with disabilities would be an asset;
- In-depth knowledge of socio-economic context and the political economy of Viet Nam are desirable;
- Knowledge and experience in UN's human rights, gender equality and equity agendas. Strong knowledge and understanding of the global developments in disability rights and of the situation in Viet Nam are considered an asset.
- Excellent communication and facilitation skills and ability to manage diversity of views in different contexts, especially in working with stakeholders related to people and children with disabilities.
- Language: Excellent knowledge of written and spoken English.

**10. Structure of the Technical Proposal**

Interested institutions/Individual consultants are required to submit a detailed technical proposal including the following:

1. Credentials document outlining the expertise of the company, detailing general and specific experience with similar clients and assignments, including the samples (e.g., reports, materials, products) of past relevant works OR detailed CV of the consultant.
2. Details of the proposed team for the assignment including the following information:
  - Title/Designation of each team member on the project
  - Past experience in working on similar project and assignments – List similar projects they worked on and their roles on the project.
3. The team needs to include different members who have the background and working experience in the following key fields: social protection, public policy, education, child protection and disability right research/study
4. Provide a brief summary of the approach that the agency would take to meet the specific objectives and deliverables outlined above.
  - *Submissions must be made in English.*
  - *No price information should be contained in the technical proposal.*

- Any submissions made outside of the allotted time frame or without adequate information will be automatically disqualified.

## 11. Evaluation process and methods

### Weighted ratio between the technical and the price criteria: (80:20)

Such the proposed programme is new and not available in Viet Nam. Given the newness, complexity, and strong requirement of innovation and creativity of the assignment, the ratio between the technical and the financial proposal for this task is 80:20 respectively. Only those proposals that score 65% of technical points on the technical proposal will be shortlisted.

Each technical proposal will be assessed first on its technical merits and subsequently on its price. A maximum of 80 points is allocated to the technical component and 20 points for the price component, with a maximum possible total score of 100 points.

The proposal obtaining the overall highest score after adding the scores for the technical and financial proposals is the proposal that offers the best value for money and will be recommended for award of the contract. UNICEF will set up an evaluation panel composed of technical UNICEF staff.

In making the final decision, UNICEF considers both technical and financial aspects. The evaluation panel first reviews the technical aspect of the offer, followed by the review of the financial offer of the technically compliant vendors.

The proposals will be evaluated against the following two elements:

- Technical Proposal

### For institutional consultancy

Criteria		Points
<b>1</b>	<b>Company Information</b>	5
1.1	Legal Structure (Registration and taxes)	
1.2	Years of expertise and experience	
1.4	Financial capacities (Statement on consolidated sales and revenue in the past 5 years)	
<b>2</b>	<b>Technical Expertise</b>	30
2.1	Relevance of the approach to meet the specific objectives and reach the specific target audience	
2.2	Present/prior similar experience working with high profile customers (name of clients and project engagements)	
2.3	Present/prior experience in performing qualitative and quantitative analysis.	
<b>3</b>	<b>Personnel</b>	30
3.1	Management position and technical competencies (CV)	
3.2	Number of key staff assigned to the project management	
<b>4</b>	<b>Innovative and Creative portfolio</b>	15

4.1	Samples of innovative and flexible research methodologies for research and studies related to PWDs and CWDs	
4.2	Samples with demonstrated experience in \ research, studies, and analysis for Persons with Disabilities and Children with Disabilities	
	<b>Total</b>	<b>80</b>

**For individual consultant:**

For the evaluation and selection method, the Cumulative Analysis Method (weight combined score method) shall be used for this recruitment:

Technical Qualification (max. 80 points)

- Qualifications and experience of the Team (30 points)
- Knowledge, skills and competencies of the Team (40 points)
- Languages (10 points)

b) Financial Proposal

The Financial Proposal should be broken down for each component of the proposed work. Please make sure to have separate line items in price proposal for the following:

- Strategy and planning
- Creative Conception and Execution
- Field visit, consultation - data collection
- Designing and development process and options
- Consultation and finalization of the products

**Mandatories**

- All prices/rates quoted must be exclusive of all taxes as UNICEF is a tax-exempt organization.
- Financial Proposals must be submitted separately to Technical Proposals .
- The total amount of points allocated for the price component is 20. (The maximum number of points will be allotted to the lowest price proposal of the technically qualified proposals).
- Proposals must be submitted in pdf. Format, duly signed/stamped by the Consultant/authorized representative of the Institution.
- UNICEF will award the contract to the vendor whose response is of high quality and meets the specific objectives.