

Terms of Reference (ToR)

Consultant for Legal and Policy Analysis on Fishing Sector in Bangladesh from Human Rights perspectives

1. Background:

Manusher Jonno Foundation (MJF), a non-government and non-profit organization works with local organizations to improve the well-being of poor and marginalized communities, through increasing their voices, capacities, realization of their fundamental rights and demand-driven institutional responsiveness. This project will be implemented by [BILS](#) and [COAST Trust](#) in close collaboration with [MJF](#).

This ‘Terms of Reference’ details a part of working modalities of a project on “Sustainable Oceans: Improving sustainable economic growth and development opportunities through efficient and sustainable use of human rights-centric aquaculture resources in Bangladesh”.

The consultant will analyze all the relevant laws and policies relevant to Fisheries sector and fisher folk communities of Bangladesh, including newly adopted laws. The scope of this analysis will essentially cover, but is not limited to;

- National Laws, Policies, Regulations and Legislations,
- National Institutional Frameworks and Entities, and
- Regional and International Frameworks.

Manusher Jonno Foundation is the implementing authority of the project in Bangladesh. The main project in Bangladesh constitutes a partnering project between Manusher Jonno Foundation, Bangladesh Institute of Labor Studies (BILS) and COAST Trust, in which the Danish Institute for Human Rights (DIHR) is the global partner. The project also has a country-level component in Chile, together with global level activities and it is supported by Swedish International Development Cooperation Agency (SIDA).

2. Sustainable Oceans Project:

Oceans are the source of human life. They provide crucial ecosystem services and nutrition, they support human well-being and livelihoods, and underpin poverty eradication, food security, employment and protection from natural disasters. Reflecting the importance of oceans, the 2030 Agenda for Sustainable Development encompasses Sustainable Development Goal (SDG) 14, which aims to conserve and sustainably use the oceans, seas and marine resources for sustainable development.

The fisheries and aquaculture sectors bring together key challenges to realize the human rights of all, and balance the interlinked and interdependent economic, social and environmental dimensions of the 2030 Agenda for Sustainable Development. So far, however, the human rights implications related to sustainable oceans have only been addressed in a fragmented and piecemeal manner that has not allowed for more strategic and prioritized engagement of human rights actors from the local to the global levels. This project aims at pursuing strategic engagement of human rights actors at local, national, regional and global levels in policy and programming processes related to the fisheries and aquaculture sectors, and the implementation of SDG 14, by developing strong partnerships and generating knowledge and tools.

3. Objectives:

The purpose of contracting a Consultant is to support BILS in developing a legal and policy analysis of existing Bangladeshi laws related to the Fisheries sector or the project titled

“Sustainable Oceans: Improving sustainable economic growth and development opportunities through efficient and sustainable use of human rights-centric aquaculture resources in Bangladesh”. This analysis will be used as a core output for the project and will serve as a basis for the final report and to determine advocacy and follow-up initiatives. More specifically, the key objectives of this analysis would be;

- To analyse national Laws & Policies, relevant frameworks and entities
- To assess international human rights and other relevant instruments & commitments
- To identify gaps (through comparative analysis) in particular in relation to human rights, and
- To prepare a set of recommendations for future policy advocacy.

4. Scope of Services:

The Consultant will be responsible to carry out the assignment based on following areas:

a) National Laws, Policies, regulations and Legislations: This would include, but not limited to;

- Bangladesh Labour Act-2006 (amendment-2018)
- Bangladesh labour Rules-2015
- Bangladesh Labour Policy-2012
- Occupational Health & Safety Policy-2013
- National Fisheries Policy (NFP)-1998
- National Fisheries Strategies-2006
- Bangladesh Fisheries Development Corporation Act-1973
- The Marine Fisheries Ordinance-1983
- The Protection and Conservation of Fish Act-1950 and Rules-1985
- National Water Policy-1999
- Government Jalmahal Management Policy-2009
- Environmental Protection Act -1995
- Environment Conservation Rules – 1997
- National Environment Policy
- Plans to develop new polices: A National Marine Fisheries Policy/Act (mentioned in the Fisheries Master Plan’ 2018).

b) National Institutional Frameworks and entities: analyzing what is the scope of work/activities, projects, commitments & service provisions of;

- Ministry of Fisheries & Livestock
- Department of Fisheries: Including review of the ‘Fisheries Master Plan’ 2018, and the Sustainable Coastal and Marine Fisheries Project with the World Bank and the project’s small ethnic community development framework (SECDF)
- Fisheries and Livestock Information Office
- Marine Fisheries Academy
- Ministry of Environment and Forest
- Ministry of Food and Disaster Management
- Bangladesh Food Safety Authority
- Bangladesh Fisheries Development Corporation-BFDC
- Ministry of Land
- Local Government
- Rapid Action Battalion (RAB)
- Bangladesh Coast Guard
- Bangladesh Navy
- Bangladesh Police.

- c) Regional and International Frameworks: This will include, but is not limited to;
- Sustainable Development Goals-SDGs (focusing SDG target 14.7 and 14.b)
 - ILO Conventions and Recommendations (as relevant)
 - FAO Small Scale Fisheries Guidelines
 - Asia-Pacific Fishery Commission (APFIC)
 - The Bay of Bengal Programme Inter-Governmental Organization (BOBP-IGO).

The areas of scope outlined here are non-exhaustive. There might be other relevant laws, policies and frameworks which are not included, which will be considered by the consultant.

5. Methodology:

The Consultant will generate a detailed Legal and policy Analysis Report (narrative) on the rights of the fisher folk in Bangladesh, essentially from human rights perspective, through following way;

- a) The Consultant will conduct the analysis based on (but not limited to) below indicators (whether below topics are covered/addressed in the relevant laws, policies, framework and entities):
 1. Safety and security
 2. Governance
 3. Livelihood
 4. Labor rights
 5. Gender
 6. Trade, and
 7. Environment and Climate change.
- b) The consultant will present a comparative analysis in a tabular format, highlighting the potential policy gaps/loopholes for further improvements of the lives and rights of the fisher folk community.
- c) The Consultant will formulate a set of recommendations to act on and advocate by MJF, BILS and COAST Trust to develop fisher folks' life and the fishing communities in Bangladesh.

This analysis is expected to follow relevant tools and techniques as preferred by the consultant. Desk review method is particularly preferred for the analysis. However, to collect secondary information particularly to know about the views and opinions of a few experts and potential partners, consultation methods such as face to face and phone interviews can be considered.

6. Conditions:

If required, the Consultant will be expected to work together in partnership with other project partners in a positive manner to ensure successful delivery of the legal and policy analysis report. The Consultant must respond positively to the need for complementary analysis that BILS may request to deliver its Sustainable Oceans project objectives.

The total services will need to be delivered over a contract period of 30 working days but may be extended on mutual agreement. The payment to the Consultant would be made on man-days basis depending on actual works carried out.

7. Style and length of report:

The Consultant should prepare and submit both electronic version and signed hard copy to BILS. The main body of the report shall be plus/minus a 30 pages document, but could be longer based on the scope of the study. Necessary supplementary information is to be attached as annexes. The report must provide due acknowledgement to sources. The Consultant will also provide a short 5-page summary of the analysis.

8. Deliverables and deadline:

The analysis (as specified in Scope of Services section) is expected to start from 25 March 2019 for an estimated duration of 30 working days. This will include desktop research and reviews, consultations, analysis and draft report for sharing.

The consultant will submit an inception report along with final work plan with key milestones within 3 days of signing the contract; this work plan will be reviewed and approved by BILS. It is anticipated that the final report will be produced within 30 working days after signing of the contract. While the draft report is produced, it should be shared with BILS and BILS will provide feedback on draft report within 3 working days after receiving the draft report. During the period of the assignment, as possible, follow up meetings will be held between the contracted consultant and BILS, COAST and MJF.

9. General Terms & Conditions:

The report produced in connection with this assignment, shall be strictly confidential. After completion of this assignment only the implementing organizations (MJF, BILS, COAST Trust and DIHR) shall be eligible to use the report. However, in case of any emerging need to use it or any part of it by any academics or other users, prior informing and written endorsement from the implementing organizations (MJF, BILS and COAST Trust) is mandatory. The copyright of the final product will be endowed with BILS.

In the event of any emerging priorities and needs, concerned authority at BILS shall enjoy all authority to reschedule operational framework of this assignment.

The Consultant, shall, submit all collected and reviewed documents (in whatever form they are available) including the consultation reports (if consultation is done) to BILS along with the final report.

10. Required Qualification and Experience:

The consultant is desired to fulfill the following requirements:

1. At least a LL B degree from an accredited college or university in law
2. At least 5 years of experience of working in the legal research field for relevant project in a relevant enterprise (for e.g. legal institution, academic institution, research institution, NGO, project-based firm, consultancy firm);
3. Experience in fisheries laws, labor laws is preferred;
4. Experience in analyzing laws and preparing legal documentations is required;
5. Experience producing reports for external audiences including using references
6. Must have strong and proven written and oral communication and presentation skills in Bangla and English language;

11. Application Procedure:

The consultant should prepare and submit a financial and technical proposal including proper business certificate, cover letter, work plan, CV, evidence of similar work experience

(National/International), Tax Identification Number/certificate by 20 March 2019. VAT & Tax will be deducted at source as per govt. rules. 15% VAT can be shown in the proposal but Tax will be included in Fees.

Please note that a presentation will have to be made before BILS team who will score according to set criterion and only the successful shortlisted consultants' financial proposal will be opened and negotiated.

12. Payment mode:

- Payment will be made in a/c payee cheque or through bank transfer on submission of invoice. 40% payment on submission of inception report & work plan and 60% on submission of final report. All costs incurred in the preparation of a proposal responding to this request for quotation (RFQ) will be the responsibility of the bidder and will not be reimbursed by BILS.
- Tax and VAT will be deducted at source as per Government Rules,
- If any circumstances, any failure at your end happened, you will compensate those or refund the proportionate amount to BILS within a shortest possible time,
- In the event of a major natural disaster, war or major civil or political unrest this agreement may be renegotiated and jointly revised between the two parties recognizing any consequent change in the environment for implementation.

13. Termination of the agreement:

Either party can terminate this agreement with a written notice within 10 (ten) days from the date of signing this agreement. BILS reserves the right to unilaterally terminate the contract if:

- The consultant/organization cannot fulfill any clause of Terms of Reference
- The consultant/organization cannot conduct 30% of work in due time.

14. Ownership agreement:

Any document, information or data entrusted to or produced by the Consultant in connection with this assignment shall be strictly confidential and cannot be used by the consultant for any other purpose without the written consent of the BILS authority. This provision shall remain valid even after the completion of this assignment.

Note: Failure to comply with any of the above requirement will cause the proposal to be rejected. Submission should be sent through email: bils@citech.net. For any query, please contact;

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