

## **Terms of Reference (*Detailed*)**

### **AN INTERNATIONAL CONSULTANT AND A NATIONAL CONSULTANT FOR THE REVIEW OF 10 YEAR IMPLEMENTATION OF THE GENDER EQUALITY LAW (*December 2017 – December 2018*)**

#### **1. BACKGROUND**

Viet Nam has made great strides in promoting gender equality, largely driven by strong Government commitment. It is signatory to numerous international instruments addressing gender equality, women's rights, and women's empowerment, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). These provide a comprehensive framework for guiding all rights-based actions for gender equality that states must take to eliminate discrimination against women. Viet Nam also adopted the Beijing Platform for Action, which sets a landmark in the global agenda for women's human rights, gender equality and women's empowerment. The country also adopted the Millennium Development Goals (MDGs) and the Sustainable Development Goals (SDGs) which take gender equality and women empowerment as a separate development goal.

Besides, Viet Nam has made good progress in developing its legal and policy framework for the promotion of gender equality and women's rights. According to Article 26 of the 2013 Constitution, "Male and female citizens have equal rights in all fields. The State shall adopt policies to guarantee the right to and opportunities for gender equality." The same Article also prohibits gender discrimination. More detailed measures to ensure gender equality are set out under the Law on Gender Equality which was passed in 2006. It mandates Government bodies to fulfil their responsibilities on gender equality and to ensure that violations are addressed. Subsequent guidance documents and implementing decrees delineate the responsibilities of each agency or organization in organizing the implementation of the Law on Gender Equality. This includes targeted policies and measures such as the National Strategy on Gender Equality for the period 2011-2020, the Action Plan on Gender Equality (2011-2015; and 2016-2020), as well as the introduction and/or revision of other legislation of vital importance to the promotion of gender equality and the protection of women's rights and interests.<sup>1</sup>

After 10 years of implementing the Gender Equality Law, many positive changes have been made in supporting gender equality in Vietnam. However, there are still gaps between the law and the reality. In the education sector, serious concerns remain about drop-out rates and vocational opportunities for girls and young women. Access to, and quality of education and educational outcomes for girls from ethnic minorities and rural communities is of particular concern as these girls are often under pressure to stay home and undertake household and caring work. Besides, women continue to face a double burden of unpaid and under-valued care work as well as productive work for the household. Moreover, women domestic workers and migrant girls are at great risk of sexual exploitation and abuse with less means to seek redress. The difference in retirement age of men and women not only negatively impacts women's income but also leads to the discrimination against women in terms of hiring, promoting and training opportunities resulting in women receiving lower pensions than men. Women remain a minority at all levels of politics. Regarding women's health, equal access to quality services and skilled providers remains an issue, especially for migrant women and women in remote areas. In addition, violence against women (VAW) is highly prevalent in Viet Nam, and survivors face major gaps in access to justice and protective services.

Among the key challenges to implementation of Gender Equality Law are the prevailing patriarchal attitudes and deep-rooted gender stereotypes that privilege men over women. These

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<sup>1</sup> Viet Nam Gender Briefing Kit (UN Viet Nam, 2016).

attitudes and beliefs are held by law and policy makers, media institutions and the general public, and create an enabling environment for practices that discriminate against women and for the acceptance of the status quo.

In this context, the Government of Viet Nam has assigned Ministry of Labour, Invalids, and Social Affairs (MOLISA) – the State Management Agency of implementing Gender Equality Law to amend and supplement the Law as already stipulated in the Prime Minister's Decision No. 251/QĐ-TTg dated 13/02/2014 on promulgation of the Government's plan to implement the Constitution of the Socialist Republic of Vietnam. To implement this decision, MOLISA has completed the report on 10 years implementation of Gender Equality Law 2007-2017. In addition, in order to provide scientific evidence and good foundation for the amendment and supplementation of the Law, MOLISA has requested UNFPA to technically support for conducting an independent review of the Law in a rigorous manner.

In this regard, UNFPA Viet Nam Country Office is seeking an international consultant and a national consultant with expertise on gender, human rights and law to conduct the review of 10 year implementation of Gender Equality Law. The international consultant will use the international human rights normative frameworks as the analytical frameworks to identify gaps while the national consultant will focus on gaps within the legislation and its implementation. The review process will be conducted from December 2017 to December 2018.

## **2. OBJECTIVES**

### ***The overall objective:***

The overall objective of this consultancy is to review the Gender Equality Law and the implementation of the Law since it has come into effect from 2007 to 2017, and to provide recommendations for the Law amendment and supplementation.

### ***The specific objectives of this consultancy are to:***

1. To provide an independent review of:
  - The appropriateness of the Law with the international treaties;
  - The appropriateness of the Law with other related Vietnamese laws;
  - The implementation of the Law since it has come into effect from 2007 to 2017;
2. To identify the gaps that need to be taken into account in the revision of the Law as well as the gaps to be addressed to ensure better implementation of the Law ;
3. To provide recommendations for the amendment and supplementation of the Law.

## **3. FINAL PRODUCTS**

The final products are:

- A set of data of the review;
- The final review report.

In addition, the international consultant and national consultant are required to provide the following deliverables during the implementation of the assignment:

- A technical proposal that addresses all the requirements of this TOR, including an outline of the report and a detailed work plan;
- Study tools including questionnaires, interview guidance, sampling frame etc.,
- Training manual for data collection including the study methodologies, interview guidance, monitoring and supervision for data collection, and data entry/quality assurance;
- Clean transcripts of interviews ready for analysis (the collected data will be submitted in an Excel spreadsheet for storage and potential other usages by the UNFPA);

- A PowerPoint presentation on the preliminary findings of the review;
- Draft and final review reports;
- A PowerPoint presentation on the key findings of the review and recommendations.

All of the above deliverables will be submitted in both English and Vietnamese.

#### **4. INTENDED USES & USERS**

##### ***4.1 Intended uses:***

To provide concrete evidence-based information for MOLISA to:

- revise Gender Equality Law as stipulated in the Prime Minister's Decision No. 251/QĐ-TTg dated 13/02/2014 on promulgation of the Government's plan to implement the Constitution of the Socialist Republic of Vietnam.
- better implement Gender Equality Law.

##### ***4.2 Intended users:***

*Primary users:* MOLISA, relevant line ministries, Provincial People' Committees, Viet Nam Fatherland Front, and UNFPA;

*Secondary users:* Policy-makers, programmers, professionals, researchers, managers and others from relevant ministries and government agencies, mass media, NGOs, CSOs, donors, UN agencies and interested bodies, who are concerned about gender equality in Viet Nam, would also find information and evidence useful in their specific work.

#### **5. SCOPE AND FOCUS**

The review will cover all specific objectives of this consultancy assignment, focus on:

- Reviewing the contents of the Law on Gender Equality to see if it is appropriate with the international treaties and relevant Vietnamese laws. (Please see Annex 1 for the suggested list of relevant Vietnamese laws that need to be reviewed).
- Reviewing the implementation of the Gender Equality Law since it has come into effect from 2007 to 2017.
- Identifying the enabling factors and challenges in the implementation of the Law in reality;
- Identifying the gaps to be taken into account in the revision of the Law as well as the gaps to be addressed for better implementation of the Law;
- Providing recommendations for the amendment of the Law.

#### **6. APPROACH AND METHODOLOGY**

##### ***6.1. Approach:***

- The review will be transparent, gender and human rights responsive, inclusive, and participatory, involving a broad range of partners and stakeholders.
- The methodology takes into account the overall objectives, the needs of the users and other stakeholders, and ensures a complete, fair and unbiased assessment.

## **6.2. Methodology:**

A detailed methodology has to be included in the technical proposal submitted by the selected international consultant and national consultant, including the study approach and sample frame.

The research team will identify limitations to the review and ways to mitigate them.

## **7. ACCOUNTABILITIES**

### ***7.1. The selected international consultant and national consultant will:***

- be technically and contractually accountable to UNFPA Country Office and Project Management Board of MOLISA for all aspects of the assignment;
- deliver the tasks of this TOR in close consultation and collaboration with the gender team leader, the responsible UNFPA Programme Officer and other technical staff at all times;
- brief UNFPA and MOLISA on the progress of the review after each milestone set in the timeframe;
- consult UNFPA in case any difficulties are faced during the progress of the consultancy assignment;
- be responsible for the quality of the report, expected results and deliverables.

### ***7.2. UNFPA Country Office (CO) will:***

- provide background documents to selected consultants for desk review;
- provide the necessary logistic arrangements to selected consultants to complete the assignment, mentioned in this TOR;
- assign one focal point from Viet Nam CO to work with the consultants during the mission;
- monitor the progress and quality of the consultancy assignment;
- provide comments to the technical proposal, survey tools, training manual, PP presentation and reports before they are finalized.

### ***7.3. Project Management Board of MOLISA will:***

- provide background documents to UNFPA for consolidating;
- establish Advisory Board to provide technical support to selected consultants to complete the assignment, mentioned in this TOR; The Advisory Board consists of five members who are national gender experts in different areas such as law, labour, gender based violence etc.,
- organize consultation workshops on technical proposal, study tools and preliminary findings;
- provide the necessary logistic arrangements and support the liaison for selected consultants to conduct meetings with relevant stakeholders and field work;
- assign one focal point from Gender Equality Department to work in collaboration with UNFPA during the mission.

## **8. PROVISION OF MONITORING AND PROGRESS CONTROLS**

The selected international consultant and national consultant will work under the supervision of UNFPA Gender Team Leader and Leader of Gender Equality Department - MOLISA, and will contact with an assigned staff of UNFPA to update on the progress made, and possible obstacles via meetings, email or telephone.

The international consultant will act as the team leader and will be responsible for leading the development of technical proposal, preparation of detailed work plan, document review, development of survey tools, conducting interviews with UN agencies and international

development partners, developing and ensuring quality of the power-point presentation and review report. In addition, the international consultant will take the key role in reviewing the appropriateness of Gender Equality Law with the international treaties.

The national consultant will be responsible for assisting the international consultant to develop technical proposal, detailed work plan, review documents, interview UN agencies and international development partners, develop survey tools, power point presentation, and review report. Besides, the national consultant will present at the consultation workshops, conduct the pretest of the questionnaires and field trips, interview national counterparts and representatives of CSOs. Also, reviewing the coherence of the Law with other related Vietnamese laws/policies is a key task of the national consultant. Moreover, the national consultant will translate the technical proposal, survey tools, pre test and field trip reports, PP presentation, draft and final review report etc., from English into Vietnamese and vice versa.

The international consultant and the national consultant will work during December 2017 to 31<sup>st</sup> December 2018 according to the following timeframe:

Tasks	Location	No of working days		Deadline
		Int. Cons.	Nat. Cons.	
Desk review of related documents	Home based	10	10	3 <sup>rd</sup> week of Dec 2017
Develop a draft detailed technical proposal including review design, methodologies and tools, implementation process, and outline of the review report	Home based	03	01	4 <sup>th</sup> week of Dec 2017
Translation of draft detailed technical proposal	Home based		Word count basis (**)	2 <sup>nd</sup> week of Jan 2018
Meeting with Advisory Board on detailed technical proposal	Hanoi		01	4 <sup>th</sup> week of Jan 2018
Revise detailed technical proposal	Home based	0.5	0.5	2 <sup>nd</sup> week of Feb 2018
Attend the consultation workshop on Technical Proposal of the Review of 10 year implementation of Gender Equality Law that will be organized by MOLISA	Hanoi		01	1 <sup>st</sup> week of Mar 2018
Finalise technical proposal and prepare a detailed work plan for the review	Home based	01	01	1 <sup>st</sup> week of Mar 2018
Finalize the translation of final technical proposal and detailed workplan	Home based		Word count basis	2 <sup>nd</sup> week of Mar 2018

Tasks	Location	No of working days		Deadline
		Int. Cons.	Nat. Cons.	
			(**)	
Develop survey tools	Home based	02	01	3 <sup>rd</sup> week of Mar 2018
Translate survey tools	Home based		Word count basis (**)	2 <sup>nd</sup> week of Apr 2018
Meeting with Advisory Board on survey tool	Hanoi		01	3 <sup>rd</sup> week of Apr 2018
Revise survey tool	Home based	0.5	0.5	3 <sup>rd</sup> week of Apr 2018
Pre test	Hanoi and selected provinces		03	2 <sup>nd</sup> week of May 2018
Write pre test report	Home based		01	3 <sup>rd</sup> week of May 2018
Finalise survey tools	Hanoi and Home based	01	01	3 <sup>rd</sup> week of May 2018
Finalize the translation of final survey tools	Home based		Word count basis (**)	2 <sup>nd</sup> week of Jun 2018
Field trips	Hanoi and selected provinces	10 (*)	(***)	4 <sup>th</sup> week of Jun 2018
Data entry and analysis	Home based	06	(***)	4 <sup>th</sup> week of Jul 2018
Prepare power point presentation on preliminary findings (in English and Vietnamese)	Home based	02	01	4 <sup>th</sup> week of Aug 2018
Present preliminary results to UNFPA, MOLISA, Advisory Board and relevant stakeholders at a consultation workshop	Hanoi		01	2 <sup>nd</sup> week of Sept 2018
Write draft report	Home based	08	06	2 <sup>nd</sup> week of Oct 2018

Tasks	Location	No of working days		Deadline
		Int. Cons.	Nat. Cons.	
Translate draft report	Home based		Word count basis (**)	1 <sup>st</sup> week of Nov 2018
Revise and finalise review report	Home based	05	03	End of Nov 2018
Finalize the translation of final review report	Home based		Word count basis (**)	End of Dec 2018
Deliver presentation at the dissemination workshop	Hanoi	1 (*)	1	1 <sup>st</sup> week of Dec 2018
<b>Estimated total</b>		<b>50</b>	<b>34</b>	

(\*) *International consultant is required to have a mission in Viet Nam*

(\*\*) *National consultant is required to translate all relevant documents for this review (technical proposal, survey tools, draft report, final report, consolidated comments...) from English into Vietnamese and vice versa as necessary. The rate of translation service follows UN-EU established cost norms.*

(\*\*\*) *National consultant will lead the data collection in the field trip and data entry. This task will be included in another TOR for a data collection team.*

Note: During the development of the review report, second or third drafts of the report may be required based on the quality of the draft report.

## 9. BACKGROUND DOCUMENTS

*Please see Annex 3 for List of background documents. These will be uploaded into the Google drive later.*

## 10. DEGREE OF EXPERTISE AND QUALIFICATIONS

*The international consultant (team leader) should have the following experience and qualifications:*

- Educational background:
  - ✓ Master's degree in Law, preferably International Human Rights Law
- Experience

- ✓ At least 10 year experience working in the area of gender and the law, particularly related gender based violence.
- ✓ At least 10 year experience in advising on formulation of laws from a gender equality perspective.
- ✓ At least 10 year experience in criminal justice and law reform from a gender perspective.
- ✓ At least 10 years experience in monitoring and evaluation and/or results based management.
- ✓ Knowledge of Viet Nam government processes, national strategies, national plans for gender and gender based violence, and international frameworks.
- ✓ Knowledge of the social and political context of Viet Nam.
- Competencies
  - ✓ Strong gender analysis skills.
  - ✓ Relevant research skills, especially in legal aspects are needed.
  - ✓ Understanding of the One UN reform context and in-depth knowledge of the UN system.
  - ✓ Excellent written and oral communication skills in English.
  - ✓ Demonstrated ability to deliver quality results within strict deadlines.
- Language requirements
  - ✓ Fluency in spoken and written English is essential.

***The national consultant (team member) should have the following experience and qualifications:***

- Advanced university degree in law, women’s rights and/or other social sciences related areas relevant for the assignment.
- Work Experience: At least 10 years of professional experience with law enforcement, women's rights, gender equality or related issues is required, including working experience with international organizations.
- Specific Professional Knowledge and Experience.
- Good understanding of the Vietnamese legal system.
- Good understanding of gender based violence problems in Viet Nam.
- Experience of detailed legislative reviews.
- At least 5 years experience in monitoring and evaluation and/or results based management.
- Understanding of the One UN reform context and in-depth knowledge of the UN system.
- Proven subject matter expertise in working with governmental officers, victims of gender based violence, and stakeholders.
- Proven subject matter expertise in police responses to violence against women.
- Fluency in both English and Vietnamese.

**11. REVIEW TIME REQUIRED AND PAYMENT TERM**

- An individual consultant contract (ICC) will be signed with each selected consultant at an agreed consultancy rate. For working days in locations out of the consultant’s place of



residence, travel expenses including Daily Subsistence Allowance (DSA), terminal allowances, air ticket will be settled by UNFPA and follow UN regulated cost norms;

- Payment is based on all-inclusive rate (inclusive of all applicable tax and insurance, and other subsidies, if any) and made as follows:
  - First instalment: 13 working days (for international consultant), and 11 working days (for national consultant) after receipt of the draft detailed technical proposal including review design, methodologies and tools, implementation process, and outline of the review report;
  - Second instalment: 23 working days (for international consultant), and 13 working days and an amount of translation fee (for national consultant) after receipt and delivery of the power point presentation; and
  - Final instalment: The remaining working days (for both international and national consultants) and translation fee for national consultant, upon satisfactory acceptance of the final reports (in English and Vietnamese).

## ANNEXES

### **Annex 1: Suggested list of relevant Vietnamese laws that need to be reviewed.**

#### **I. Policy Sector**

1. Law on election of Deputies to the National Assembly and Deputies to People's Councils

#### **II. Economic Sector**

1. Bidding Law
2. Law on support for small- and Medium-sized enterprises

#### **III. Labor Sector**

1. Labor Law
2. Social Insurance Law
3. Law on Occupational Safety and Health
4. Law on sending Vietnamese laborers to work overseas
5. Employment Law

#### **IV. Training and Education Sector**

1. Law on Education
2. Law on Vocational Education

#### **V. Science and Technology Sector**

1. Law on Science and Technology

#### **VI. Health Sector**

1. Law on Health Insurance
2. Law on medical examination and treatment

#### **VII. Family**

1. Land Law
2. Law on Marriage and Family
3. Law on domestic violence
4. Children Law

#### **VIII. Others**

1. Law on legal aid

2. Civil Law
3. Criminal Law
4. Law on the Promulgation of legal documents
5. State Budget Law
6. Youth Law
7. Law on human trafficking prevention and combat
8. Law on disabilities
9. Law on elderly

**Annex 2: Suggested list of relevant stakeholders that need to be involved in the review.**

1. At National Level: Leader/ official of Women Union, Ministries (Justice, Health, MOSCT, Home Affairs, GSO....)
2. At Province Level: Leader / official of Department of (Justice, Health, MOSCT, Home Affairs, GSO....)
3. At local level: people in community, commune officials

**Annex 3: List of background documents**

- Annual Report on National Targets Implementation by Gov
- Research on gender equality in relevant sectors

**Annex 4. Ethical Code of Conduct for UNEG/UNFPA Evaluations**

Evaluations of UNFPA-supported activities need to be independent, impartial and rigorous. Each evaluation should clearly contribute to learning and accountability. Hence evaluators must have personal and professional integrity and be guided by propriety in the conduct of their business.

Evaluation team /Evaluators:

1. To avoid **conflict of interest** and undue pressure, evaluators need to be **independent**, implying that members of an evaluation team must not have been directly responsible for the policy-setting/programming, design, or overall management of the subject of evaluation, nor expect to be in the near future.

Evaluators must have no vested interests and have the full freedom to conduct impartially their evaluative work, without potential negative effects on their career development. They must be able to express their opinion in a free manner.

2. Should protect the anonymity and **confidentiality of individual informants**. They should provide maximum notice, minimize demands on time, and respect people's right not to engage. Evaluators must respect people's right to provide information in confidence, and must ensure that sensitive information cannot be traced to its source. Evaluators are **not expected to evaluate individuals**, and must balance an evaluation of management functions with this general principle.

3. Evaluations sometimes uncover evidence of wrongdoing. Such cases must be reported discreetly to the appropriate investigative body.

4. Should be **sensitive to beliefs, manners and customs** and act with integrity and honesty in their relations with all stakeholders. In line with the UN Universal Declaration of Human Rights, evaluators must be sensitive to and **address issues of discrimination and gender equality**. They should avoid offending the dignity and self-respect of those persons with whom they come in contact in the course of the evaluation. Knowing that evaluation might negatively affect the interests of some stakeholders, evaluators should conduct the evaluation and communicate its purpose and results in a way that clearly respects the stakeholders' dignity and self-worth.

5. Are responsible for the clear, accurate and fair written and/or oral presentation of study limitations, evidence based findings, conclusions and recommendations.

For details on the ethics and independence in evaluation, please see UNEG Ethical Guidelines and Norms for Evaluation in the UN System

<http://www.unevaluation.org/search/index.jsp?q=UNEG+Ethical+Guidelines>

[http://www.unevaluation.org/papersandpubs/documentdetail.jsp?doc\\_id=21](http://www.unevaluation.org/papersandpubs/documentdetail.jsp?doc_id=21)

(UNFPA evaluation policy 2010)

## **Annex 5: Quality assessment for the final draft of report**

*Below are quality assessments will be used for the final report submitted by the consultants.*

### ***1. Structure and Clarity of Reporting***

*Does the report clearly describe the research/evaluation, how it was conducted, the findings and their analysis and subsequent recommendations?*

*Is the structure logical? Is the report comprehensive?*

*Can the information provided be easily understood?*

### ***2. Completeness and concision of the executive summary***

*Does it read as a stand-alone section, and is a useful resource in its own right?*

*Is it brief yet sufficiently detailed, presenting the main results of the research/evaluation, and including key elements such as methodology and conclusions and recommendations?*

### ***3. Justification of the design and of the methodological approach***

*Is the methodology used for the research/evaluation clearly described and is the rationale for the methodological choice justified?*

*Have cross-cutting issues (vulnerable groups, youth and gender equality) been paid specific attention (when relevant) in the design of the research/evaluation?*

*Are key processes (tools used, triangulation, consultation with stakeholders) discussed in sufficient detail? Are constraints and limitations made explicit (including limitations applying to interpretations and extrapolations; robustness of data sources, etc.) and discussed?*

### ***4. Reliability of Data***

*Are sources of data clearly stated for both primary and secondary data?*

*Is it clear why case studies were selected and what purpose they serve?*

*Are all relevant materials related to case studies, interviews (list of interviewees, questionnaires) etc. annexed to the report?*

*Are the limitations, and methods to address them, discussed?*

*What other data gaps are there and how have these been addressed?*

***5. Validity of the conclusions***

*Do the conclusions amount to a reasonable judgment of the findings and are their links to evidence made clear?*

*Are there any limitations and are these made clear?*

*Do they present an unbiased judgment by the consultants of the intervention or have they been influenced by preconceptions or assumptions that have not been discussed?*

***6. Usefulness of the recommendations***

*Is there a logical flow from the conclusions to recommendations?*

*Are they strategic and clearly presented in a priority order which is consistent with the prioritization of conclusions? Are they useful – sufficiently detailed, targeted and likely to be implemented and lead to further action (e.g for policy advocacy)?*

*How have the recommendations incorporated stakeholders' views and has this affected their impartiality?*

***7. Meeting Needs***

*Does the report adequately address the information needs and responds to the requirements stated in the ToRs?*