



## TERMS OF REFERENCE

FOR A NATIONAL CONSULTANT:

### **Preliminary Study on Re-examination, Review and Recommendations on Codification of a New Code of Civil Procedure**

<b>A. Project Title:</b>
Preliminary Study on Re-examination, Review and Recommendations on Codification of a New Code of Civil Procedure.
<b>B. Description of the Assignment</b>
Consultancy to make an in-depth assessment to codify a new Code of Civil Procedure through constructive indication of possible areas for review, re-examination and recommendation on Code of Civil Procedure of 1908 (Act No. V of 1908). The main goal of the project is to make an assessment towards making a modern Civil Procedure Code which would allow the litigant public to settle their civil disputes in a shorter period with less expense.
<b>C. Project Description:</b>
Code of Civil Procedure of 1908 (Act No. V of 1908) is one of the most important laws which is applicable to all sorts of civil litigations. Thus, Code of Civil Procedure, 1908 has a distinct place in legal arena from its commencement. Like the society, the nature of civil disputes are always changing. So after a long period of more than 100 years of its commencement, now it is the demand of time, to enact the Code afresh, so that it can be more convenient for the Court and the litigant as well to settle their disputes. The Code of Civil Procedure, 1908, consists of a set of formalities, some of which seem unnecessary in the context of 21 <sup>st</sup> century. However, in the past years no proper initiative was taken to address these issues. So the Code of Civil Procedure, 1908 and other

relevant enactments, are needed to be revised widely so that a new statute can meet the challenge of the present time to mitigate the inconvenience caused due to the loopholes of existing Code of Civil Procedure, 1908.

#### D. Background and Context:

The enactment and adoption of the Code of Civil Procedure, 1908 was a path-breaking judicial measure introduced in Bangladesh, which changed the entire system of conducting civil litigations in courts of law of the Country. It may be recalled that the rules incorporated in the Code of Civil Procedure, 1908, was based predominantly on the basis of Common laws in England. The Code of Civil Procedure, 1908 introduced a standard set of rules applicable to all kinds of civil disputes, since 1908 in this part of the world.

But during the last 100 years, the laws in England has been modernised from time to time but nothing tangible made in this respect in Bangladesh.

With the large scale change in social structure, new sorts of civil rights and developments in communication system, a new approach to the dispute resolution process/procedure to be noticed or recognised by the court of law. But in the frameworks of the existing Code of Civil Procedure, 1908 that has become difficult.

In the same way some existing provisions of the Code of Civil Procedure, 1908, also contribute to the problem of backlog.

So, to address all these problems it is necessary to revise and re-enact the Code of Civil Procedure, 1908. In order to achieve such a goal an in-depth study and assessment is very much required.

#### E. Scope of Work

An in-depth assessment in order to identify the relevant areas of Code of Civil Procedure (Act No. V of 1908), is necessary to find out the loopholes of the existing civil laws with recommendations towards fresh enactment(s).

The consultant will:

- Examine and scrutinize the laws mentioned above.
- Examine and assess the problem areas of existing laws related to civil dispute resolution by court of law in the country
- Identify necessary areas of reformations with specific findings
- Organize necessary research workshops towards identifying various problems specially about back logs
- Submit the final report containing in-depth preliminary assessment identifying the relevant areas of existing laws engaged in administration of civil justice for the purpose of codification of a new and comprehensive Code of Civil Procedure afresh.

The consultant is expected to deliver a detail paper which will reflect the above mentioned criteria.

#### F. Duration of the Work, Duty Station and Required qualification

The duration of the assignment will be 35 working days, beginning in 10<sup>th</sup> of May, 2015 including consultation research workshops.

Working Place:

Law Commission  
Judicial administration Training Institute Complex  
15 College Road  
Dhaka-1000

Requirements for qualifications and experiences:

- Academic qualifications and experiences
  - A degree on Law preferably together with a degree on Barrister at Law or of similar degree
  - Publication of Books or Articles on Code of Civil Procedure is highly preferable

- Teaching experience for 10 years in any public University is preferable
- Technical experiences:
  - Professional experience of working in Supreme Court of Bangladesh (both High Court Division and Appellate Division) for 20 years
  - Sound knowledge on civil and criminal justice system in Bangladesh
  - Strong analytical and time management skill
- Competencies:
  - Independent and flexible
  - Ability to work under pressure in a challenging and complex environment
  - Excellent communication skills
  - Creative and result-oriented
- Other Requirements:
  - Demonstrated fluency in written and spoken English and Bangla
  - Computer proficiency, including working knowledge of MS Office products (Word, Excel, PowerPoint)
  - Demonstrated ability to administer workshops of between 25 and 150 persons

However, the above requirement may be relaxed of the candidate has a long practical experience in the field of Judicial service or as a professional in the courts.

#### G. Final Products/Services

- 12-20 Consultation meetings with Research team of Law Commission
- Draft Research Report
- National Workshop
- Final Research Report

H. Timeframe and deadline:

Activities and tentative Completed products	Indicative tie frame
Mid Report	Day 15
Final report with in-depth assessment to codify a new Code of Civil Procedure	Day 35
National Workshop on Draft enactment	During the project time

Progress and Payment Installments:

- Payments will be made to the consultant based on the submission of the draft report (50%) and final report (50%).
- Payment for services of the consultant at each stage will be made upon satisfactory certification by the Commission and UNDP

Provided that the payment for the service may be made proportionately at each stage upon satisfactory completion of the work of that stage with concurrence of UNDP