

# Terms of Reference – Legal and Policy Development Writer to Develop Print-Ready Policy Papers based on the GOJUST’s Comprehensive Jail Decongestion Study

**Required expert:  
One (1) Senior Legal and Policy Development Writer**

## **Purpose**

The specialist contractor terms of reference (ToR) is a document that sets out the specialist contractor’s contribution to the task. The template is designed to set out the aims of the task and what the contractor is responsible for in order to achieve those aims.

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File location	

**Consultancy role title: Senior Legal and Policy Development Writer**

**Location: Philippines**

**Apply by: 26 October 2024, 11:59 PM Manila time**

## **1. Background and context about the project**

### *A. Overview of the British Council*

We support peace and prosperity by building connections, understanding, and trust between people in the UK and countries worldwide.

We uniquely combine the UK’s deep expertise in arts and culture, education, and the English language, our global presence and relationships in over 100 countries, our unparalleled access to young people and influencers, and our creative sparkle.

We work directly with individuals to help them gain the skills, confidence, and connections to transform their lives and shape a better world in partnership with the UK. We support them to build

networks and explore creative ideas, to learn English, to get a high-quality education and to gain internationally recognised qualifications.

We work with governments and our partners in the education, English language and cultural sectors, in the UK and globally. Working together we make a bigger difference, creating benefit for millions of people all over the world.

We work with people in over 200 countries and territories and are on the ground in more than 100 countries. In 2021–22 we reached 650 million people.

## *B. Background to the Programme*

The Government of the Republic of the Philippines with the support of the European Union is implementing the Justice Sector Reform Programme: Governance in Justice II (GOJUST II). GOJUST II builds on and continues the work of the predecessor programme, GOJUST that was implemented from April 2016 to September 2020. GOJUST II is implemented in joint co-financing with the Spanish Agency for International Development Cooperation. The overall objective of GOJUST is *to contribute to inclusive and sustainable socio-economic development through improved access to justice for all in the Philippines. Specifically, it aims to develop more responsive and accountable justice services*. It includes two components focusing on justice and human rights, respectively. The programme is being implemented from December 2020 to June 2025.

GOJUST II seeks to achieve four major result areas, as follows:

- |          |                                                                                             |
|----------|---------------------------------------------------------------------------------------------|
| Result 1 | Justice sector coordination mechanisms are improved                                         |
| Result 2 | Strengthened institutional efficiency and effectiveness in the delivery of justice services |
| Result 3 | Increased access to the justice system for vulnerable groups, including women               |
| Result 4 | Justice policy and practice is informed by evidence and responds to justice needs           |

Justice and Human Rights policies are at the heart of the Philippine Development Plan 2017-2022, which for the first time includes a dedicated chapter on justice, chapter 6, titled “Pursuing Swift and Fair Administration of Justice”. The chapter enshrines the principle of coordination as a mechanism for bringing about long term and sustainable justice sector reform. The focus is on the enhancement of “civil, criminal, commercial and administrative justice” and the improvement of sector efficiency and accountability while also directing the Commission on Human Rights (CHR) to intensify its efforts to facilitate access to justice by improving, monitoring and evaluation, empowering the people living in poor and marginalised situations to seek response and remedies for injustice, improving legal protection, awareness and aid, enhancing civil society and parliamentary oversight, addressing human rights violations in the justice sector and, strengthening linkages between formal and informal justice providers.

The justice component will continue and expand some previous GOJUST activities such as improved coordination between and within the justice sector agencies and case management automation interventions to strengthen capacities to decongest overburdened courts, prosecution offices, and reducing pre-trial detention. GOJUST II will also focus on new result areas such as increased access to justice for vulnerable groups and evidence-based policy research and advocacy to inform policy making for improved justice outcomes.

The programme is managed by a Programme Steering Committee (PSC) headed by representatives of the Supreme Court, Department of the Interior and Local Government, and the Department of

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Justice. A Programme Director has also been appointed to be the main focal point and point of coordination for the smooth implementation of the programme.

In line with the Direct Management component of the Financing Agreement, a Pillar-Assessed Contribution Agreement (ACA/2020/ 418-821) for the provision of *Technical Assistance for the Justice Sector Reform Programme: Governance in Justice II (GOJUST II)* was awarded to the **British Council** on 7 December 2020 for a period of implementation of 54 months. The PACA contract requires the provision of a Technical Assistance Team consisting of four (4) key experts that will be responsible for the four (4) result areas (justice sector coordination, effective institutions of justice, access to justice by the disadvantaged groups, and evidence-based policy research). In addition, the contract also includes the provision of 3,200 working days of non-key experts that will support the work of the key experts in the delivery of results under the programme.

## 2. About the role of the specialist contractors

The Philippine justice system has been grappling with the perennial problem of jail congestion for many decades now. As of 31 December 2021, the estimated number of persons deprived of liberty (PDL) was 199,079 or at least 179 PDLs per 100,000 population. Of this number, 69.51% (equal to 138,380) of PDLs were undergoing preventive detention and 30.49% (equal to 60,700) were serving their sentence. The GOJUST II comprehensive study on jail congestion found that the year-end Bureau of Jail Management and Penology (BJMP) jail population kept increasing since 2011, peaked in 2017 during the peak of the war on drugs, when it reached 146,302 PDLs, started to decrease from 2018 to 2020, and started to rise again in 2021. For the last 11 years, PDL admissions in BJMP were always higher than the number of PDL releases. As of December 31, 2021, PDLs with drug-related case were around 69% of the total BJMP population, with 15% of which are female PDLs.

The increase in jail population has led to serious overcrowding. As of December 31, 2021, 70% of BJMP facilities were overcrowded or congested with an average congestion rate of 386%. The average occupancy rate of BJMP facilities was 357% but the maximum occupancy rate recorded was 2,748%. BJMP facilities for female PDLs were more overcrowded than for male PDLs, though this varies per region.

The Bill of Rights of the 1987 Constitution of the Philippines clearly states that:

*Article III, Section 19 (2): The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.*

Further, the Constitution states that:

*Section 19 (1): Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. xxx*

And finally, Section 13 of the Constitution states that: *“All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.*

The Commission on Human Rights (CHR) has time and again lamented that Philippine jails do not meet the United Nations standard as well as the Bureau of Jail Management and Penology's own Manual on Habitat, Water, Sanitation, and Kitchen in Jails. Overcrowding and the conditions that it breeds are according to the CHR, tantamount to cruel, degrading, and inhuman treatment or punishment and thus, transgresses human dignity. It further said that prisons are meant to help restore and rehabilitate persons deprived of liberty (PDLs) and not diminish their humanity. It is thus imperative for all relevant state agencies and instrumentalities to act rapidly on this seemingly unceasing crisis in detention facilities.<sup>1</sup> The need to alleviate the significant burden placed on our justice system and its impact on persons deprived of liberty, on communities, and on the administration of justice cannot be overemphasized.

While significant efforts have been undertaken by the Justice Sector Coordinating Council to address jail overcrowding, more need to be done as the country's prison facilities have become strained, stretching resources to their limits, and hindering the effective rehabilitation of inmates. The consequences have been far-reaching: jail living conditions are deplorable; there is increased violence; there is limited access to necessary services and programs; and the judiciary is struggling to manage the overwhelming caseload. Conditions of vulnerable PDLs such as pregnant, elderly, and people of diverse SOGIE are not substantively addressed.

To popularise the GOJUST study entitled Comprehensive Jail Decongestion Study as part of GOJUST's knowledge-sharing initiatives; and more importantly, to ensure that the study reaches the decision and policy makers for them to consider the innumerable recommendations in the study, it is imperative to make the study digestible and easy to read (reader-friendly), and thus, convert into several policy papers.

### **General Objective**

This engagement aims to develop four policy papers based on the GOJUST's Comprehensive Jail Decongestion Study.

### **Specific Objectives**

- Draft four policy papers on the following topics: (1) National Jail Congestion Conditions; (2) Alternatives to Detention; (3) Strengthening the Criminal Justice System; and (4) Summary of Critical Recommendations, which may be directed to the following: Supreme Court, Department of Justice, Department of Interior and Local Government, and Congress.

### **Outcome and outputs**

The supplier shall carry out the following:

- Develop four (4) print-ready policy papers based on the Comprehensive Jail Decongestion Study
- Work closely with a visual artist to ensure the policy papers are substantive and reader-friendly

The **output** of this engagement is the following:

- Four Print-Ready Policy Papers on the following topics:

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<sup>1</sup> Press Statement of CHR Spokesperson, Atty. Jaqueline Ann de Guia, chr.gov.ph

All outputs and correspondence must be in English.

All outputs must be submitted by the expert electronically in the format provided at the start of the mission. Comments by the Technical Assistance Team and key stakeholders on the various policy papers, will be provided to the experts as soon as possible. Draft final policy papers must be submitted before the debriefing by the experts to the Technical Assistance Team.

### **Indicative Activities and Number of Days Required**

Expertise required and number of days needed

<b>Number of Position/s</b>	<b>Designation</b>	<b>Type of Expertise</b>	<b>Duration (days)</b>
<b>1</b>	Senior Non-Key Expert	Legal and Policy Development Writer	35 days intermittent 2 December 2024 – 28 February 2025

For guidance of suppliers, the indicative activities for the assignment are the following:

<b>Indicative Activities</b>	<b>Estimated Days</b>
Kick-of meeting with TAT	0.5
Review of the Comprehensive Jail Decongestion Study	3.5
Writing of the Four Policy Papers	30
Draft Final and Print-Ready Policy Papers	1
<b>Total</b>	<b>35</b>

### **3. Timeline**

<b>Activity</b>	<b>Date / time</b>
TOR is posted	12 October 2024
Deadline for submission of Expression of Interest	<b>26 October 2024</b>
Final Decision	31 October 2024
Contract Period	2 December 2024 – 28 February 2025

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## 4. Fee & expenses

Please submit a Pricing Approach using the template in Annex 1.

## 5. Reporting and communication

The NKE will be under the supervision of the Technical Assistance Team.

The consultants will be required to provide the Services in **the Philippines** and such other locations as may be agreed between the parties in writing from time to time.

All working days for preparatory work, comprehensive desk review and report writing are foreseen to be performed by the expert from his/her home base, i.e., at his/her usual place of residence, both at the initial stages of the mission and later on during the whole assignment.

A point of contact within the British Council technical assistance team will be assigned following contract signature.

## 6. Qualifications and experience required

### *Skills and Competencies*

The expert should have the following **skills and competencies**:

- Fluent in spoken and written English
- Excellent analytical competence, technical writing skills, and detail oriented
- Good communication skills, both written and verbal
- Active listening skills and strong writing skills
- Fluent in English and Filipino
- The ability to work independently and as a part of the team
- A positive approach in a busy working environment

### *Qualifications*

- Juris Doctor, LLM preferred

### *General Professional Experience*

- At least 15 years of experience in legal and policy development work
- Must have published articles and/or papers in reputable journals and/or presented authored papers in local or international conferences

### *Specific Professional Experience*

- Experience in teaching, writing, and publishing legal and policy papers
- Previous experience working with the Supreme Court of the Philippines, the Philippine Judicial Academy, DOJ National Prosecution Service is preferred
- Should be able to provide evidence of the validity of experience and qualifications, including work done for other organisations.

## **7. How to apply**

Send your cover letter, CV, three (3) character references, and Pricing Approach to Lalaine Alfaro (Programme Officer), [Lalaine.Alfaro@britishcouncil.org](mailto:Lalaine.Alfaro@britishcouncil.org) by 26 October 2024, 11:59 PM Manila time.

## **8. Criteria for evaluation**

<b>Criteria</b>	<b>Weighting</b>
Qualifications and skills	25%
General professional experience	25%
Specific professional experience	30%
Pricing Approach	20%