

CAPACITY ASSESMENT

FINAL REPORT



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER



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ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION

TABLE OF CONTENTS

Abbreviations	4
Executive Summary	5
Chapter 1: Introduction	13
1.1 Background	13
1.2 Structure of Report	13
1.3 Capacity Assessment, Process & Methodology	13
1.4 Uzbekistan Ombudsman’s Office	15
Chapter 2: Capacity Challenges and Issues	18
2.1 Strengths	18
2.2 Challenges & Core Capacity Issues	18
2.3 Capacity Gaps	20
Chapter 3: Core Institutional Capacity	21
3.1 Legal Mandate & Credibility	21
3.2 Strategic Planning	22
3.3 Staffing	23
3.4 Funding and Other Resources	25
3.5 Staff Induction & Professional Development	26
3.6 Databases	27
Chapter 4: Regional Strengthening	29
4.1 Legal Status, Public Recognition & Remuneration of Regional Representatives	29
4.2 Secretariat & Physical Infrastructure for Regional Representatives	31
Chapter 5: Promotion of Human Rights	33
5.1 Developing a National Human Rights Culture	33
5.2 Human Rights Education	34
5.3 Public Awareness	35
Chapter 6: Protection of Human Rights	37
6.1 Complaints Handling	37
6.2 Detention Monitoring & National Preventive Mechanism	40
6.3 Special Reports & National Inquiries	44
6.4 Legislation & Policy Review	46
6.5 Amicus Curiae	48

Chapter 7: Cooperation & Engagement	49
7.1 Parliament, Judiciary & State Officials	49
7.2 Civil Society, Religious Groups & Private Sector	50
7.3 International & Regional Engagement	52
Chapter 8: Summary & Table of Recommendations	54
Appendix 1: Capacity assessment concept note	57
Appendix 2: Capacity Assessment Team Schedule	61
Appendix 3: Documents considered by the Capacity Assessment Team	63
Appendix 4: Core Capacity Issues	65
Appendix 5: Self-assessment Questionnaire	67
Appendix 6: Responses to Questionnaire	69
Appendix 7: Implementation Table	71

LIST OF ABBREVIATIONS

APF	Asia Pacific Forum of National Human Rights Institutions
CA	Capacity Assessment
CD	Capacity Development
CASI-NHRI	Central Asia Regional Initiative of National Human Rights Institutions
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
COs	UNDP Country Offices
CPED	International Convention for the Protection of All Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSOs	Civil society organisations
ESCR	Economic, Social and Cultural Rights
GANHRI	Global alliance of National Human Rights Institutions
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
MOH	Ministry of Health
MOJ	Ministry of Justice
MOU	Memorandum of Understanding
NGOs	Non-government organisations
NHRIs	National Human Rights Institutions
OHCHR	Office of the High Commissioner for Human Rights
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Paris Principles	Principles relating to the status and functioning of national institutions for the promotion and protection of human rights in Commission on Human Rights Resolution 1992/54 and General Assembly Resolution 48/134
SCA GANHRI	Sub-Committee on Accreditation
SOPs	Standard Operating Procedures
UN	United Nations
UNDP	United Nations Development Programme
UPR	Universal Periodic Review

EXECUTIVE SUMMARY

In June 2018, His Excellency Ulugbek Muhammadiev, the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman) requested the assistance of the Asia Pacific Forum of national human rights institutions (APF) to undertake a capacity assessment (CA). In undertaking capacity assessments APF works in partnership with the United Nations Development Programme (UNDP) and the United Nations Office of the High Commissioner for Human Rights (OHCHR).

This report details the findings and recommendations of the CA undertaken from 25 September to 4 October 2018.

The CA was conducted by the Ombudsman. The process undertaken is one of self-reflection and self-assessment. Led by the Ombudsman, all management, staff and regional representatives were interviewed and completed a questionnaire. The CA was facilitated by a team from APF, the United Nations Development Programme (UNDP) Istanbul Regional Hub and the Office of the United Nations High Commissioner for Human Rights (OHCHR) Regional Office for Central Asia.

The objective of the capacity assessment was to provide a rigorous review of the current strengths and challenges of the Ombudsman's Office and the extent to which it has the fundamental elements to meet its mandate to promote and protect human rights. It identifies five overarching priorities and proposes actions for strengthening capacity and filling capacity gaps.

The CA process included:

- analysis of relevant documents and reports (see appendix 3);
- discussions with the Ombudsman, Deputy Ombudsman, the Secretary-General, staff and regional representatives;
- government agencies and civil society organisations interviews in Tashkent, Samarkand and Bukhara (see appendix 4 for the full CA schedule);
- identification of core capacities issues, 18 in all, on the basis of the group discussions (see appendix 5);
- a self-assessment questionnaire for the 18 specific key capacity issues, through which the Ombudsman and staff members provided quantitative capacity ratings and qualitative comments (see appendix 6).

The CA focused on development issues in the five core capacity areas identified in the APF, OHCHR, UNDP Capacity Development framework:

- leadership
- policies, procedures and processes, including organisational structure
- human resources and knowledge
- financial and other resources
- accountability.

The CA questionnaire contained the 18 key capacity development issues identified in the discussions with the Ombudsman, Deputy Ombudsman, staff and regional representatives; and with government agencies, civil society organisations and Parliamentary leaders.

This report groups the 18 key capacity issues under five headings:

- Core Institutional Capacity

- Regional Strengthening
- Promotion of human rights
- Protection of human rights
- Cooperation and Engagement

Twenty-five people completed the questionnaires – 11 in the national office and 14 regional representatives. This was a 100% completion rate, the highest of any NHRI so far.

Key findings

The capacity assessment undertaken by the Ombudsman / Commissioner for Human Rights of the Oliy Majlis/Parliament of Uzbekistan has confirmed that the Ombudsman's Office has sound legal foundations and a strong case for increased resources to enable it to more fully implement its legal mandate to promote and protect the human rights of everyone in Uzbekistan.

The capacity assessment team greatly respects the decision of His Excellency Ombudsman Ulugbek Muhammadiev to commit his Office staff and Regional Representatives to a process of self-assessment not previously undertaken by any government agency or institution of the state in Uzbekistan. The decision in itself indicated the commitment of the Office to improve its ability to promote and protect the human rights of every person in Uzbekistan.

Strengths

During the discussion groups the Ombudsman, his staff and the regional representatives identified developments that have strengthened the Office's effectiveness as a national human rights institution for the promotion and protection of human rights.

Of greatest impact has been the improved political environment led by President Shavkat Mirziyoyev. This has led to further enhancing the Parliamentary human rights oversight status of the Ombudsman's Office by:

- strengthening the law and mandate;
- improving its financial independence with a separate budget line;
- extending its detention monitoring authority.

A further strength of the Ombudsman's Office is its presence in every region. Its regional representatives have Parliamentary accreditation and, as the CA team observed, are highly respected in their regions. They have developed different ways of working, for example by establishing regional expert working groups and agreeing Memorandums of Understanding with key agencies

The Ombudsman and his staff also highlighted the Office's:

- special reports;
- international and national cooperation;
- unannounced visits to places of detention.

The CA facilitators were able to witness the strengths summarised above. The Ombudsman's Office therefore has sound foundations on which to build.

Challenges

Equally the challenges faced by the Ombudsmen's Office were evident, as it works to become a fully "Paris Principles" compliant national human rights institutions. Those challenges included:

- lack of understanding about human rights amongst the people of Uzbekistan and in government

- agencies;
- insufficient resources to employ sufficient staff;
- the voluntary nature of the regional representatives, work and the lack of secretariats in the regions;
- insufficient funding to expand promotion and protection programme activities;
- insufficient gender balance and diversity among leadership and staff.

The top five capacity gaps identified through the questionnaires were:

★ **1st Human Rights Education: 0.94 gap**

Capacity Issue: The Ombudsman's Office has the capacity and funding to promote sustainable human rights education programmes for state officials.

★ **2nd Public awareness: 0.57 gap**

The Ombudsman's Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office's role, functions and mandate through a strong external communications strategy and media relations.

★ **3rd Staffing levels: 0.56 gap**

The Ombudsman's Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate.

★ **=3rd Resourcing: 0.56 gap**

The Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital.

★ **5th International engagement: 0.50 gap**

The Ombudsman's Office has the capacity to effectively engage with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions.

The full list of 18 core capacities identified during the focus groups, and the corresponding responses from the Questionnaire are as follows:

#	Core Issue	Current capacity	Future required capacity	Capacity Gap
Institutional Capacity				
1	Whether the Ombudsman's Office has the legal mandate to effectively protect and promote human rights in Uzbekistan.	4.15	4.63	0.48
2	Whether the Ombudsman's Office is trusted, respected and perceived as independent by all people of Uzbekistan.	4.41	4.71	0.30

3	Whether the Ombudsman's Office has a strategic plan and annual activity plans so that the Ombudsman, the Deputy Ombudsman, staff and regional representatives have clear priorities for their work	4.75	4.75	0.00
4	Whether the Ombudsman's Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate.	4.00	4.56	0.56
5	Whether the Ombudsman's Office reflects gender balance in its leadership and its staff and effectively promotes and protects gender equality through its work	4.53	4.87	0.34
6	The capacity to ensure all staff receive an appropriate induction and professional development in areas relevant to their skills and expertise.	4.44	4.75	0.31
7	Whether the Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital.	3.75	4.31	0.56
8	The capacity to store, manage and analyse information relating to complaints and all other activities, including through the use of user friendly online databases.	4.50	4.87	0.37
Protection of Human Rights				
9	The capacity to monitor and report on systemic human rights issues in Uzbekistan, assessing compliance with its international human rights obligations.	4.69	4.93	0.24
10	The capacity to effectively engage with the international human rights mechanisms, including through the drafting of shadow reports.	4.38	4.86	0.48
11	The capacity to review all received complaints and undertake prompt, impartial and comprehensive human rights complaints investigations and resolve them in a timely manner.	4.50	4.86	0.36

12	Whether the Ombudsman's Office has effective checklists, manuals and guidelines in all areas, especially in relation to complaints handling, inspections of places of detention and reporting	4.64	5.00	0.36
Promotion of Human Rights				
13	The capacity to conduct quality policy research and analysis, present persuasive legislative and policy proposals and advocate for implementation of their recommendations.	4.71	4.93	0.22
14	Whether the Ombudsman's Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office's role, functions and mandate through a strong external communications strategy and media relations.	4.29	4.86	0.57
15	The capacity and funding to promote sustainable human rights education programmes for state officials.	3.85	4.79	0.94
Cooperation, Engagement & Partnerships				
16	The capacity to develop and maintain cooperation with Parliament, judiciary and state officials	4.79	5.00	0.21
17	The capacity to develop and maintain cooperation with civil society organisations, religious groups and the private sector	4.64	4.93	0.29
18	The capacity to engage effectively with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions.	4.43	4.93	0.50

Identified Strategic Priorities and Recommended Actions

Priority 1: Strengthen the core institutional capacity of the Ombudsman's office

1. Expedite the implementation of the proposed expanded organisational structure prioritising:
 - a. The creation of Deputy Ombudsmen for Women, Children, People with Disabilities;
 - b. Increased staffing to allow for communications specialists, legal and policy advisors, human rights educators and IT support;
 - c. Gender balance and diversity among the leadership group, staff and regional representatives;
 - d. Advocacy for separate increased staffing for the future National Preventive Mechanism.
2. Develop a costed organisational 3-5 year Strategic Plan in consultation with all staff and key stakeholders.
3. Advocate for regular programmatic funding to implement strategic activities and priorities.
4. Design and implement a comprehensive programme of induction, training and professional development for all staff and Regional Representatives
5. In full consultation with all staff and regional representatives design and develop a user friendly database for complaints management and tracking all other core activities.

Priority 2. Invigorate the regional presence

6. Achieve enhanced status for Regional Representatives and ensure their full independence and effectiveness by:
 - a. Taking steps to transform the Regional Representatives roles into salaried positions;
 - b. As soon as practical, providing a minimum of two paid specialist staff for each regional representative;
 - c. Ensuring independent and accessible office space, infrastructure and access to transport;
 - d. Exploring the appointment of District Representatives of the Ombudsman's office;
 - e. Encouraging increased cooperation with a diverse range of civil society organisations, including human rights defenders.

Priority 3. Increase the capacity to effectively promote human rights within the national cultural context

7. Drawing on the Strategic Plan, develop a fully costed Communications Plan. [Upto 2021-harmonise with national roadmap]
8. Raise the public profile of the office by:
 - a. Issuing more frequent public statements on human rights issues;
 - b. Building relationships with all forms of media;
 - c. Producing a range of information materials (including for radio, T.V, social media).
9. Develop a fully costed Human Rights Education Plan, targeted at specific communities across Uzbekistan most at risk of human rights violations and at key government agencies.

10. Foster a national understanding of human rights within the cultural and contemporary context of Uzbekistan.

Priority 4. Increase the capacity to effectively and systematically protect human rights

11. Through consultation with Regional Representatives develop:
- a. Systematic and standardized training for all investigators which should include human rights monitoring, documentation, interview, reporting, including through a gender sensitive lens and while conducting detention centre visits;
 - b. Standardized procedures on complaints handling (including detainee complaints) and separate methodology NPM preventive detention monitoring.
12. Strengthen capacity to provide legislative and policy proposals and special reports, and track implementation.
13. Evolve the capacity to identify and analyse systemic human rights issues and undertake national inquiries.
14. Continue to monitor strategic court cases and facilitate legal assistance where required.
15. Further develop the provision of expert human rights advice to the courts in strategic cases with a human rights dimension, building on the current practice of drafting recommendations and submitting them to the Supreme Court; including through the capacity to intervene in Court cases as amicus curiae.

Priority 5. Continue to build office capacity to cooperate and engage nationally, regionally and internationally

16. Develop capacity to demonstrate linkages between human rights and the Sustainable Development Goals and proactively identify entry points for engagement with Government on human rights through the SDGs.
17. Increase engagement with civil society organisations, including human rights defenders, in order to expand the work and impact of the Ombudsman's office.
18. Strengthen human rights promotion and protection by:
- a. Sharing information, expertise and best practices regionally and internationally, in particular through CASI-NHRI, the APF and GANHRI; and with the International Ombudsman's Institute (IOI)
 - b. Cooperating regularly with the United Nations human rights mechanisms through the submission of parallel reports in the framework of periodic reporting and stakeholders' submissions in relation to the Universal Periodic Reviews, submit information to the UN Special Procedures, advocate and support future visits of the Special Procedures;
 - c. Advocating for and monitoring implementation of recommendations made by the United Nations human rights mechanisms to Uzbekistan.

Next Steps

The CA was undertaken through the CASI-NHRI project. The APF, OHCHR and the UNDP, partners in the initiative, are committed to supporting the Ombudsman to implement the recommendations of the CA report.

APF, OHCHR and the UNDP will consult with the Ombudsman, after the submission of the report, on the implementation of the actions proposed in this report that he accepts and wishes to implement, including consulting on what assistance Office may require with implementation.

The Ombudsman is asked to give serious consideration to the final report's proposals for action to build capacity and provide a formal response to those proposals to the APF, the OHCHR and UNDP indicating which proposed strategies and actions it accepts and will implement and with what priorities and timetable.

This report should be provided to the staff and Regional Representatives of the Office. The Ombudsman may also consider providing it to the President and to the Parliament and others who participated in the process.

APF requires an annual report on implementation of those proposals for action that are accepted by the Ombudsman.

A template for the Ombudsman's response to the report is in Appendix 7.

CHAPTER 1

INTRODUCTION

1.1 Background

1. This is the report of the findings and recommendations of a Capacity Assessment (CA) of the Office of the Commissioner for Human Rights/Ombudsman of the Parliament of Uzbekistan (Oliy Majlis).
2. The capacity assessment was requested by the Ombudsman and took place from 25 September to 4 October 2018. It was conducted by the Office of Ombudsman itself, facilitated by the Asia Pacific Forum of National Human Rights Institutions (APF), United Nations Development Programme (UNDP) and the United Nations Office of the High Commissioner for Human Rights (OHCHR) in accordance with the concept note agreed with Ombudsman's Office in August 2018.
3. The capacity assessment was undertaken through the Central Asia Regional Initiative of National Human Rights Institutions (CASI-NHRI), a joint initiative of the APF, Istanbul Hub of United Nations Development Programme (UNDP) and the OHCHR Regional Office for Central Asia (ROCA).

1.2 Structure of the report

4. The structure of the report:
 - begins by introducing the CA process and provides the background of the Office of Ombudsman and the context of the CA;
 - analyses the results of the CA process for the Office of Ombudsman, according to the 18 key capacity issues identified by the Ombudsman and staff of Office of Ombudsman;
 - proposes a number of actions for the CD aimed at enhancing the operational effectiveness of the NHRI;
 - annexes provide additional materials and information on the Office of Ombudsman and the CA process and the detailed results of the questionnaire about the core capacity issues.

1.3 Capacity assessment, process and methodology

5. The objective of the capacity assessment was to provide the Ombudsman with a rigorous review of the Office's current strengths and weaknesses and the extent to which it has the necessary elements to meet its mandates in a very challenging human rights environment. It proposes strategic priorities and actions for strengthening capacity and filling capacity gaps.
6. The CA process is not an external evaluation of the Ombudsman's Office. Nor is it a research project on either the Office or the human rights situation in the Uzbekistan. It is a self-assessment based on the perspectives of the Ombudsman, the deputy Ombudsman, the staff and regional representatives of Uzbekistan's national human rights institution (NHRI).
7. The CA is participatory and inclusive. It involves everyone in an NHRI—leaders (Commissioners or Ombudsmen), senior managers and all staff at all levels. The CA report reflects the full range of perspectives within the NHRI and draws on the expertise of all the NHRI's leaders and staff. It also engages with government agencies, civil society organisations and academics.
8. The process accepts, analyses and reports on the self-assessments given by the leaders and staff, including inconsistent views and opinions where they arise. It seeks to reflect accurately what participants in the CA say in individual interviews, in discussion groups and report in questionnaires. This is the basis on which a programme for Capacity Development (CD) is proposed for the NHRI.

9. The facilitators for the capacity assessment were:
 - Rosslyn Noonan (team leader), senior envoy of the APF
 - Ash Bowe, Samoa National Institution for Human Rights¹
 - Ainura Bekkoenova, UNDP Istanbul Regional Hub
 - Natalya Seitmuratova, OHCHR Regional Office for Central Asia.
10. Hussein Bitar, formerly of the Jordan National Center for Human Rights, assisted the CA team with the analysis of statistical data in responses to the CA questionnaires.
11. The CA team was greatly assisted by the UNDP Uzbekistan Office in the scheduling and arrangements for the CA and provided daily support throughout the process.
12. The CA process included:
 - analysis of relevant documents and reports to understand the context of the Office of Ombudsman and the CA;²
 - discussions with the Ombudsman, Deputy and Head of Security, Head of the Secretariat, Chief Finance Officer, Human Rights Senior Specialists, regional representatives - 25 persons in all³;
 - interviews or discussions with representatives of external stakeholders, including Parliament’s Senate and Legislative Chamber, General Prosecution Office, ministries of justice, interior, health, local government authorities (mahalla), the Chamber of Lawyers (Bar Association), trade union, NGO representatives⁴;
 - the identification of 18 core capacities issues on the basis of the group discussions⁵;
 - a self-assessment questionnaire for the 18 key capacity issues, through which 25 managers, staff and regional representatives of the Office of Ombudsman provided quantitative capacity ratings and qualitative comments in full or in part⁶.
13. The CA focused on development issues in five core capacity areas identified in the UNDP CD framework:
 - leadership;
 - policies, procedures and processes, including organizational structure;
 - human resources and knowledge;
 - financial and other resources;
 - accountability.
14. It analysed these five core areas in relation to six functional and technical capacities:
 - capacity to plan strategically and implement plans;
 - capacity to investigate, manage and handle complaints and conduct human rights research and analysis;
 - capacity to advocate and raise awareness;
 - capacity to engage with stakeholders and create and manage partnerships;
 - capacity to monitor and evaluate.
15. The CA questionnaire contained specific capacity indicators of the 18 key capacity issues identified in the discussion groups. The quantitative self-assessment used a six-point capacity rating system, from 0 to 5, defined as follows:

Category	Capacity rating	Definition
No capacity	0	Relevant capacity does not exist
Very low	1	Very low level of relevant capacity exists
Low	2	Only basic or low level of capacity exists

1 Samoa NHRI undertook a capacity assessment in 2014 and a capacity assessment review in 2018
 2 See Appendix 2
 3 See Appendix 3
 4 Ibid
 5 See Appendix 4
 6 See Appendix 5

Medium	3	Partially developed level of capacity exists
High	4	Well developed level of capacity exists
Very high	5	Fully developed relevant capacity exists

1.4 The Commissioner for Human Rights/Ombudsman of the Parliament of Uzbekistan (Oliy Majlis)

17. The Commissioner for Human Rights of the Oliy Majlis/Parliament of Uzbekistan plays an important role in promoting and protecting human rights in Uzbekistan. The position of the Commissioner of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman) was established on 6 May 1995.
18. The mandate of the Commissioner for Human Rights has been enhanced significantly over recent years and, in particular, in 2017 following the human rights reforms initiated by the new President of Uzbekistan Shavkat Mirziyoev. The major strategic framework for the reforms – Action Strategy for the five priority areas of the Republic of Uzbekistan in 2017-2021 years^[1] – explicitly envisages measures not only to promote human rights, but also to strengthen rule of law and reform the judicial system.
19. Numerous laws, decrees and resolutions were adopted during 2017-2018 to advance these reforms. Following the visit to Uzbekistan of the UN High Commissioner Zeid Ra'ad Al Hussein in May 2017, an action plan for cooperation with OHCHR was adopted (by resolution of the Parliament of Uzbekistan) which foresees actions to implement major recommendations of UPR and UN Human Rights Treaty Bodies.
20. Several presidential decrees were also adopted on measures promoting the 70th Anniversary of adoption of the Universal Declaration of Human Rights, enhancing cooperation of Uzbekistan with United Nations, IFIs and other development partners. Implementation of agreements were made with UN High Commissioner on Human Rights in NY on 18-20 September 2017. These new legal initiatives, amongst other aims, enhanced the mandate of the Ombudsman to align it with Paris Principles, starting amendment of the Law on Ombudsman (which was adopted in 2017), establishment of the NPM, Council on Women's and Children's Rights, preparations for the accreditation with GANHRI and other measures.

Legal Mandate

21. The activities of the Ombudsman are regulated by the Constitution of the Republic of Uzbekistan, the Law of the Republic of Uzbekistan "On the Ombudsman of the Republic of Uzbekistan for Human Rights (Ombudsman)" and other regulatory acts of the Republic of Uzbekistan. The Ombudsman is elected by the majority vote of MPs of both Parliament's Chambers (Legislative Chamber and the Senate) for a term of five years and the candidates are recommended by the President of Uzbekistan.
22. According to the legislation, the Ombudsman ensures parliamentary control over implementation of the legislation on human rights by state bodies, enterprises, institutions, organizations and officials. The Ombudsman also contributes to the improvement of the legislation on human rights and bringing it into line with the norms of international law, the development of international cooperation, contributes to the improvement of public awareness of citizens on human rights. The main principles of the Ombudsman's activities are legality, justice, democracy, humanism, publicity, accessibility for each person. The report on the activities of the Ombudsman is annually heard at meetings of the chambers of the Parliament of Uzbekistan.
23. The August 2017 amendments introduced into the Law on Ombudsman⁷, were intended to bring closer his powers to the Paris Principles, including by providing additional rights to propose issues for consideration by the Constitutional court, waiver of court fees for the cases submitted by Ombudsman, the right to submit the special reports to the Parliament, the right to provide recommendations to heads of state agencies on human rights issues, broader mandates in handling complaints related to human rights abuses in places of detention and allocation of a separate line in the state budget. The new legislation also envisaged closer cooperation of the Ombuds-institution with civil society in delivering its mandate and a stronger role in promoting human rights through education and communication with the general public.
24. A number of safeguards exist to ensure the independence of Ombudsman, including:
 - In implementation of his/her duties, the Ombudsman is independent from other state agencies and

⁷ Can be found at the link http://uzsm.uz/en/press_center/uzb_news/on-the-strategy-for-the-further-development-of-the-republic-of-uzbekistan/

- officials, and reports to the Oliy Majlis of the Republic of Uzbekistan;
- S/he can not be held legally responsible, detained, arrested, imprisoned or subjected to an administrative case without the consent of the Chambers of the Oliy Majlis of the Republic of Uzbekistan;
 - Criminal proceedings against the Ombudsperson can be instituted only by the Prosecutor General;
 - Forcible arrest, detainment, and as well as inspection of personal belongings, luggage, transport, residential and office accommodation of the Ombudsperson are prohibited;
 - S/he cannot be detained and brought to the body of internal affairs or another law enforcement body and prosecutors⁸.
25. However, the law does not explicitly mention the power of Office of Ombudsman to make its own rules and procedures, the authority to appoint its own staff and consultants and financial independence.
26. The Law on Ombudsman authorizes the Ombudsman to undertake a number of functions including to:
- consider appeals received in the form of statements, proposals and complaints,
 - show the complainant the ways and methods how he/she could protect his/her rights, freedoms and legitimate interests,
 - forward the complaint to an organisation or official competent to resolve the issue,
 - provide the complainant with the access to documents, decisions and other materials relating to his/her rights and legitimate interests,
 - reject a complaint with obligatory validation of the reasons for such rejection,
 - inform the complainant about the results of consideration,
 - seek assistance from state agencies/institutions/officials in investigation of circumstances to be clarified,
 - invite officials and representatives of organisations to investigate the circumstances to be clarified,
 - request for and receive documents, materials, and other information from organisations and officials,
 - recommend an organization/official to change or substantiate a decision,
 - submit proposals on the development and adoption of laws, amendments and additions to laws, and participation of the Republic of Uzbekistan in international treaties,
 - takes measures to raise awareness and awareness of citizens about laws,
 - take other measures not contradicting to the legislation.⁹
27. In relation to complaints of human rights violations from arrested and detained persons, the Ombudsman is to receive all the letters they send. The Ombudsman has the right to make visits to penal institutions, places of detentions and the right of unhindered access to rehabilitation centres.
28. A Commission for the Observance of Constitutional Human Rights and Freedoms was also formed under the chairmanship of the Chambers of the Kengashes of the Chambers of the Oliy Majlis of the Republic of Uzbekistan. The Commission comprises the representatives of non-governmental non-profit organizations, mass media, scientists having professional and practical knowledge in the field of human rights and freedoms. The Commission also includes representatives of executive bodies with an advisory vote. The mandate and election of members of the Commission were specified in detail in the regulations adopted in December 2017.
29. The positive effects of amendments made to the Law on Ombudsman in 2017 were explained by the Deputy Ombudsman:

"The amendments strengthened the mandate of the Ombudsperson. The Office of the Ombudsman gained the following mandate: the right to appeal to courts, the right to appeal to the Constitutional Court, the right to submit special reports to the Parliament and the right to make proposals to listen reports of state officials before the Parliament."

8 Law "On amendments and additions to the law of the Republic of Uzbekistan "on the Authorized Parson of the Oliy Majlis for human rights (Ombudsman)" adopted by Senate of the Parliament on August 24 and 29, 2017 - see at <http://lex.uz/docs/3321107>

9 Ibid., Articles 10, 13, 14, 15, 17, 20-1, 20-2.

Organisational structure and staffing

30. According to the current structure, Office of Ombudsman consists of 11 staff at the central level:
- Ombudsman
 - Deputy Ombudsman
 - Head of Secretariat of Office of Ombudsman
 - Senior Desk Officer
 - Chief Accountant
 - Senior Human Resource Officer (cashier)
 - File clerk
 - IT specialist.

CHAPTER 2

CAPACITY CHALLENGES & ISSUES

2.1 Strengths

31. During the discussion groups the Ombudsman, his staff and the regional representatives identified developments that have strengthened the Office’s effectiveness as a national human rights institution for the promotion and protection of human rights.
32. Of greatest impact has been the improved political environment under the leadership of President Shavkat Mirziyoyev. As a result the Parliamentary human rights oversight status of the Ombudsman’s Office has been enhanced by:
 - strengthening the law and mandate;
 - improving its financial independence with a separate budget line;
 - extending its detention monitoring authority.
33. A further strength of the Ombudsman’s Office is its presence in every region. Its regional representatives have Parliamentary accreditation and, as the CA team observed, are highly respected in their regions. They have developed different ways of working, for example by establishing regional expert working groups and agreeing Memorandums of Understanding with key agencies.
34. The Ombudsman and his staff also highlighted the Office’s:
 - special reports;
 - international and national cooperation;
 - unannounced visits to places of detention.
35. The CA facilitators were able to witness the strengths summarised above. The Ombudsman’s Office has sound foundations on which to build.

2.2 Challenges & core capacity issues

36. Equally the challenges faced by the Ombudsmen’s Office were evident, as it works to become a fully “Paris Principles” compliant national human rights institutions. Those challenges included:
 - little understanding about human rights amongst the people of Uzbekistan and in government agencies;
 - insufficient resources to employ sufficient staff;
 - the voluntary nature of the regional representatives, work and the lack of secretariats in the regions;
 - insufficient funding to expand promotion and protection programme activities;
 - lack of gender balance and diversity among leadership and staff.
37. The 18 core capacity issues identified by the Ombudsman, his staff and regional representatives for further examination through the questionnaires were divided into four categories: institutional capacity, protection of human rights, promotion of human rights and cooperation, engagement and partnership.

Institutional Capacity	
1	Whether the Ombudsman’s Office has the legal mandate to effectively protect and promote human rights in Uzbekistan.
2	Whether the Ombudsman’s Office is trusted, respected and perceived as independent by all people of Uzbekistan.

3	Whether the Ombudsman's Office has a strategic plan and annual activity plans so that the Ombudsman, the Deputy Ombudsman, staff and regional representatives have clear priorities for their work
4	Whether the Ombudsman's Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate.
5	Whether the Ombudsman's Office reflects gender balance in its leadership and its staff and effectively promotes and protects gender equality through its work
6	The capacity to ensure all staff receive an appropriate induction and professional development in areas relevant to their skills and expertise.
7	Whether the Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital.
8	The capacity to store, manage and analyse information relating to complaints and all other activities, including through the use of user friendly online databases.

Protection of Human Rights

9	The capacity to monitor and report on systemic human rights issues in Uzbekistan, assessing compliance with its international human rights obligations.
10	The capacity to effectively engage with the international human rights mechanisms, including through the drafting of shadow reports.
11	The capacity to review all received complaints and undertake prompt, impartial and comprehensive human rights complaints investigations and resolve them in a timely manner.
12	Whether the Ombudsman's Office has effective checklists, manuals and guidelines in all areas, especially in relation to complaints handling, inspections of places of detention and reporting

Promotion of Human Rights

13	The capacity to conduct quality policy research and analysis, present persuasive legislative and policy proposals and advocate for implementation of their recommendations.
14	Whether the Ombudsman's Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office's role, functions and mandate through a strong external communications strategy and media relations.
15	The capacity and funding to promote sustainable human rights education programmes for state officials.

Cooperation, Engagement & Partnerships

16	The capacity to develop and maintain cooperation with Parliament, judiciary and state officials
17	The capacity to develop and maintain cooperation with civil society organisations, religious groups and the private sector

18	The capacity to engage effectively with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions.
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39. The questionnaire asked respondents to indicate, on a scale from 0 to 5, the Ombudsman’s Office’s current capacity in relation to each individual issue and the required future capacity, in three to five years’ time, on that issue. After calculating the average rankings for current and desired future capacity based on the scores from 25 questionnaires, the CA Team then calculated the difference between average current capacity and average desired future capacity for each issue, to produce a “capacity gap” score for each issue - the amount of improvement needed to progress from the current level to the desired future level.
40. The questionnaires also provided an opportunity for comment on current capacities, and suggestions on how to improve in order to reach desired future capacities.
41. The responses to the questionnaires, both quantitative and qualitative, are completely consistent with what was said in the interviews and discussion groups.

2.3 Capacity gaps

42. The top five capacity gaps identified through the questionnaires were:

★ **1st Human Rights Education: 0.94 gap**

Capacity Issue: The Ombudsman’s Office has the capacity and funding to promote sustainable human rights education programmes for state officials.

★ **2nd Public awareness: 0.57 gap**

The Ombudsman’s Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office’s role, functions and mandate through a strong external communications strategy and media relations.

★ **3rd Staffing levels: 0.56 gap**

The Ombudsman’s Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate.

★ **=3rd Resourcing: 0.56 gap**

The Ombudsman’s Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital.

★ **5th International engagement: 0.50 gap**

The Ombudsman’s Office has the capacity to effectively engage with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions.

43. The following chapters provide a summary of both qualitative and quantitative responses to each of the 18 core capacity issues.

CHAPTER 3

CORE INSTITUTIONAL CAPACITY

3.1 Legal mandate and credibility

"The Ombudsman's Office has the legal mandate to effectively protect and promote human rights in Uzbekistan."

Current capacity 4.15 / Capacity gap 0.48

"The Ombudsman's Office is trusted, respected and perceived as independent by all people of Uzbekistan."

Current capacity 4.41 / Capacity gap 0.30

Overview & Strengths

44. The CA team heard from staff, management and external stakeholders alike, how the Office of the Ombudsman has capitalised on the current period of rapid legislative reform and democratisation to strengthen its legal mandate. Through negotiations with Parliament, the Office mandate was bolstered in 2017 (amendments signed by President on 29 August 2017) by including the right to conduct unannounced monitoring visits to places of detention, submit special reports to Parliament, the right to appeal to the Courts, bestowing legal status on Regional Representatives and the creation of a special budget line for the office, further guaranteeing financial independence.
45. The office now has a broad, robust mandate founded in legislation, covering the following functions:
 - Complaints handling
 - Monitoring places of detention
 - Legislative and policy review
 - Review of court decisions
 - Civil society and international engagement and cooperation
 - The promotion of human rights.
46. This was reflected in the CA questionnaire in relation to its mandate to protect and promote human rights where staff and regional representatives gave the current capacity of the office an average score of 4.15 out of 5.
47. The 2017 legislation is widely held to be a great success and clear evidence of the credibility of the office and Ombudsman in the eyes of Parliament, a view commonly supported in focus group discussions during the CA. The credibility of the office extends beyond Parliament - civil society and government agencies also conveyed to the CA team the esteem in which the office is held, and this was also reflected in the CA questionnaire response.

Areas for improvement

48. The legislative mandate and credibility of an NHRI are the foundations upon which its work is based. Without a broad legal mandate it lacks the power to undertake meaningful work to protect and promote human rights. Without credibility it lacks the ability to persuade implementing agencies to act, the courts or international community to listen, or for it to forge the close community links necessary to best represent their interests and respond effectively to their needs.
49. The Office of the Ombudsman is well placed in terms of both legal mandate and credibility. The challenge

now is to build on this foundation - to fully implement the mandate and build its reputation further. The ways in which this can be achieved form the basis of the remainder of this report.

Paris Principles

"A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence."

3.2 Strategic planning

"The Ombudsman's Office has a strategic plan and annual activity plans so that the Ombudsman, the Deputy Ombudsman, staff and regional representatives have clear priorities for their work."

Current capacity 4.75 / Capacity gap 0.00

Overview & Strengths

- 50. Staff and regional representatives described to the CA team how central and regional work plans are developed annually, with priorities decided through a consultative process and (for the first time last year) taking into account an analysis of complaints.
- 51. At the national level Government is taking a strategic approach, with the adoption of the National Development Plan 2017-21. Encouragingly, one of the sub-priorities of the plan is 'providing guarantees of protection of rights and freedoms of citizens' and a further activity, 'ensuring... introduction of modern forms of informing in relation to the rights, freedoms and legal interests of individuals'.

Areas for improvement

- 52. There is a clear commitment within the Office of the Ombudsman management team to operate strategically, as shown by the approach taken to the development of annual work plans. It was acknowledged to the CA team that a full Strategic Plan is now necessary to ensure the medium-long term success of the organisation through the coordinated pursuit of agreed strategic priorities.

"It is important to develop work plans for a long term period of 3-5 years."

- 53. Further, it was identified that such a plan should be aligned with the National Development Plan cycle to ensure effective coordination with Government actions and advocacy on budget requests for the Office.

"If the Ombudsman can communicate better with state agencies and develop a roadmap for collaboration that would help us achieve our goals in a systematic manner." (Government Agency)

Recommendation

- 54. In developing a Strategic Plan it is essential for the process to be driven internally and involve consultation with key stakeholders, in order to achieve the ownership necessary for successful implementation. Therefore, whilst an external (preferably national) resource person could be used to facilitate the planning process, the plan itself should be formulated by the Ombudsman, management, staff and regional representatives, with a draft shared publicly with stakeholders for inputs.
- 55. All activities in the plan should be fully costed, with indicators for success. A good Strategic Plan holds the office accountable to Parliament and provides the framework for demonstrating impact, which in turn can be used to lobby for increased budgets in future years. Such a plan is also a good opportunity to link the work to the National Development Plan and Sustainable Development goals, generating greater political will and support by highlighting the added value of protecting and promoting human rights in Uzbekistan.
- 56. In order for the office to have a truly effective Strategic Plan provision must also be made to monitor and evaluate progress throughout its life cycle.

Develop a costed organisational Strategic Plan in consultation with all staff and key stakeholders.

3.3 Staffing

"The Ombudsman's Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate."

Current capacity 4.00 / Capacity gap 0.56

"The Ombudsman's Office reflects gender balance in its leadership and its staff and effectively promotes and protects gender equality through its work."

Current capacity 4.53 / Capacity gap 0.35

Overview & Strengths

57. The CA team was told of a positive working environment within the Office of the Ombudsman where staff turnover is low, commitment is high and female employees enjoy respect and a commitment to gender equality from senior management downwards (although there are only three female members of staff in central office - a senior accountant, an intern and an investigator who is currently on maternity leave).
58. The office has also been greatly encouraged by the Presidential Decree of May 2018, which provides explicit support for the development of the institution:

"Strengthening and improving the structure of the Secretariat of the Authorized Oliy Majlis for Human Rights (Ombudsman) in accordance with the areas of activity defined by law."

Areas for improvement

59. The current strengths of the office and political support for development provide the necessary platform for the office to address the institutional weakness identified to the CA team as most pressing - lack of staffing and resources. Whilst the office has a broad mandate, all those interviewed emphasised that it does not have the necessary staff or financial resources to fulfil effectively that mandate.
60. At 0.56 the capacity gap identified by staff and regional representatives as part of the questionnaire is the third highest among the issues considered. It reflects the views given within the focus group discussions held internally and with external stakeholders and the acknowledgement of the need for increasing numbers of staff both centrally and regionally (regional needs are discussed in greater detail in chapter 4.2 below).
61. The office receives in excess of 9,000 complaints every year. It has a mandate to monitor approximately 44,000 detainees across 60 penitentiary institutions in addition all other places of detention including pre-trial detention facilities, social and psychiatric/neurological institutions. It is required to review draft legislation, intervene in court decisions, increase legal literacy among the public, educate state officials and vulnerable groups and generally promote awareness and understanding of human rights and responsibilities.

"Since I have started my work here I have tried to highlight (to Parliament and the Senate through the annual report) how difficult it is to manage the workload with this staff and if you want results you need to expand the office staffing and space." (Ombudsman)

62. In addition to the obvious shortfall in human resources related to the existing activities, a clear need was also communicated to the CA team for additional resources to be able to effectively protect and promote human rights in Uzbekistan. Notably this included developing internal capacity to promote human rights through public awareness and expanded human rights education. Further, the need for additional deputy Ombudspersons to provide high quality leadership focused on promoting and protecting the human rights of women, children and people with disabilities, has been identified internally and externally.

"It would be good for the Ombuds Office to visit institutions for persons with disabilities. As far as I heard they don't have enough numbers of staff and if that's the case it will be difficult for them. We support the proposed expansion of the office." (Government Agency)

63. In recognition of these shortcomings a proposed expanded structure has been submitted to Parliament for consideration, which would create additional divisions and increase staffing numbers in central office:
- Organisational financial support (5 persons)
 - Complaints (18 persons)
 - Legislative monitoring and case analysis (6 persons)
 - National Preventive Mechanism (5 persons)
 - Legal culture and public awareness (8 persons)
 - International cooperation (3 persons).

Recommendation

64. The CA team fully endorses the proposed expanded organisational structure for the central office and staffing levels within each division. Should the office be given the NPM mandate this unit should be fully staffed in addition to the proposed eleven new staff members anticipated in the coming months that the CA team were told of.
65. The CA team also stresses the importance of placing additional specialist Deputy Ombudsmen (women, children, people with disabilities and any other future areas) within the existing office, rather than creating new separate institutions as currently proposed by UNICEF for a Children's Ombudsman. The argument against such an approach and for an integrated model within the existing NHRI is compelling.
66. First, creating separate institutions requires substantially more resources than the integrated approach, which allows for shared administrative and support staff, office space, utilities, etc. Secondly, focusing only on a specific area such as children ignores the inherent link with other areas of human rights protection. It is not possible to comprehensively ensure or even analyse the enjoyment of child rights without considering the rights of the wider family. This is especially true in Uzbekistan where the family unit is essential in the fabric of society. Conversely, by housing all such specialist Ombudsmen under one roof, they can strengthen the wider work of the organisation through a shared understanding of the related issues and develop combined approaches with better chances of success.
67. Finally, it is important to remember that a country may only have one accredited NHRI. Therefore a fragmented approach with multiple Ombudsman offices potentially weakens the existing office, whilst conversely passing up on the opportunity to strengthen it. In principle all future specialist Ombudsmen should be housed within the existing Office of the Ombudsman.
68. Art. 12 of the Ombudsman Law allows for complaints to be submitted in other languages, apart from Uzbek. In this regard, it would be important to ensure linguistic diversity among the Ombudsman staff members to ensure the rights of national and ethnic minorities in Uzbekistan to appeal to the Ombudsman in their native language.
69. In undertaking this period of expansion the Office should pay close regard to the Paris Principles requirement of pluralism and take the opportunity to better ensure gender equality within the institution at all levels of seniority where possible. This will be of benefit to the office in a number of ways:
- Ensuring it is better connected to all communities within Uzbek society and therefore more aware of and able to respond to human rights issues;
 - Practising the values it is established to protect and promote and in turn fostering greater public credibility;
 - Ensuring the institution has the relevant expertise and understanding of gender at a time when the matter is starting to become more widely discussed.

Expedite the implementation of the proposed expanded organisational structure prioritising:

- **The creation of Deputy Ombudspersons for Women, Children, People with Disabilities;**
- **Increased staffing to allow for communications specialists, legal and policy advisors, human rights educators and IT support;**
- **Gender balance and diversity among staff and regional reps;**
- **Advocacy for separate increased staffing for the NPM.**

3.4 Funding and other resources

"The Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital."

Current capacity 3.75 / Capacity gap 0.56

Overview & Strengths

- 70. The CA team were told of a number of institutional strengths relating to funding and resources of the Office of the Ombudsman, including the recent creation in 2017 of a special budgetary line for the office, salary parity with the Parliament and an annual budget increase in line with other government agencies.
- 71. Furthermore, it is widely felt within the office to be a significant boost to receive Presidential commitment for strengthening the institution as part of the 70th anniversary celebrations of the UDHR, as detailed in section 2.3 above.

Areas for improvement

- 72. However, as with most NHRIs globally, there is also recognition that the Office is under-resourced, and that is reflected in the perceived capacity gap being as large as it is in terms of required staffing levels and the third highest gap overall.
- 73. Two specific areas of shortfall were raised with the CA team:
 - programmatic funding; and
 - material resources.
- 74. Additional issues were raised in relation to resources for regional representatives that are dealt with separately in chapter 4.2.
- 75. The current situation for obtaining programmatic funding (for events such as roundtable discussions) was reported as requiring a cost change request to be submitted to the Ministry of Finance and that there is a limit of four requests per year. In addition, 'representative costs' can be sought in advance, which can cover items required for activities (such as gifts for visitors).
- 76. Currently the promotion mandate of the office is undertaken mainly on an ad hoc basis and the funding allocation reflects this. The Paris Principles emphasise that to be accredited, a national human rights institution must commit to promoting human rights equally with protecting them. With the planned expansion of the office, it will be necessary for the office to plan promotional activities in advance and have an annual budgetary allowance.
- 77. It is also acknowledged that an expansion of the workforce will require new office space and that there is an argument to be made for provision of a vehicle, rather than having to rely on the Government carpool scheme as is currently the case. Of a more general nature it was noted that the office is often unable to renew resources as they become obsolete.

Paris Principles

The national institution shall have an infrastructure, which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government.

Recommendation

- 78. The need for a bigger office has been acknowledged by office management and discussions are already underway to address this matter. In relation to a vehicle for central office and the need to renew certain existing resources, the CA team did not hear sufficient evidence to be able to make a relevant and realistic recommendation in these areas. Nonetheless, the team encourages the Ombudsman to continue to pursue the larger office space, ensuring it is accessible for persons with disabilities and enhances their independence from Government. Further, consideration could be given to whether a depreciation fund would help with regularly replacing and upgrading equipment.

79. The matter of programmatic funding is, however, of greater importance for the overall effectiveness of the office at this juncture. Developing the promotional capacity of the institution is essential to becoming a fully functioning effective NHRI and this means securing an annual budget to undertake such activities. The development of a Strategic Plan will enable the Office to lobby Parliament for such funding. A secondary strategy (especially in the short term) would be to seek programmatic funding from external donors, whilst ensuring any such partnerships do not unduly influence the direction or activities of the institution. Once again, having a Strategic Plan should help to demonstrate to donors where they can support. In addition to the question of funding promotional activities, the content and approach for such a programme is discussed further in chapter 5.

Advocate for regular programmatic funding to implement strategic activities and priorities.

3.5 Staff induction and professional development

"The Ombudsman's Office has the capacity to ensure all staff receive an appropriate induction and professional development in areas relevant to their skills and expertise."

Current capacity 4.44 / Capacity gap 0.31

Overview & Strengths

80. A level of pride in the quality and competency of their peers was expressed to the CA team by staff of the Office. The fact that most have been in their roles for a number of years is seen to equip them well for their roles.

Areas for improvement

81. While not identified as a high priority, with the imminent arrival of new staff, and in potentially significant numbers, an area for improvement is considered to be the development of a staff induction programme and ongoing training and professional development.
82. Staff of the Ombudsman Office and his Regional Representatives are all highly qualified experts with many years of experience, including in public associations. The CA team learnt that many of them have been to various training sessions on international human rights standards. However, more practical training was requested, in particular, if new complaints handling system is introduced in the future. Specific training on the Istanbul Protocol was mentioned as one of the topics of interest. Staff and Regional Representatives were interested in having an opportunity to hear about the work of other NHRIs, including those from the CA region, and welcomed creation of a special platform for such professional exchanges.
83. Currently there is no induction process in place for new staff, nor a system of professional development to identify the training needs of each person. The CA team heard that training opportunities are sporadic and often too general to be of great use in the course of a person's day to day work.

Recommendation

84. Prior to the planned expansion it is an excellent time to further professionalise the Office and introduce both an induction programme for new starters and professional development for existing staff.
85. Having an understanding of human rights standards and norms and how they apply to state agencies, civil society and communities is essential for any NHRI staff member and an induction process is an important first step in this regard. Such a process should not only cover human rights principles and standards but also the role of the Ombudsman's office and any required areas specific to the person's functions, such as detention monitoring methodology.
86. Identifying the training needs of existing staff and providing them with a programme of professional development will enhance the impact of the office and strengthen staff retention rates. Both the induction programme and ongoing training and professional development should be equally available to central office staff and regional representatives.

Design and implement a comprehensive programme of induction, training and professional development for all staff and Regional Representatives.

3.6 Databases

"The Ombudsman's Office has the capacity to store, manage and analyse information relating to complaints and all other activities, including through the use of user friendly online databases."

Current capacity 4.50 / Capacity gap 0.0.37

Overview & Strengths

87. Currently all complaints received by the Office of the Ombudsman are recorded in a database, which is also used to allocate cases at the central level. It allows the user to index each complaint from a list of 300 categories, which in turn allows analysis of trends and identification of priority areas. It is this analysis that has started to feed into the planning process in developing the annual workplans.

Areas for improvement

88. The Office's ability to store, manage and analyse complaints data and other information was rated relatively high. Nevertheless, limitations and risks inherent in the current system were highlighted to the CA team. First and foremost is the need to backup the current system which presently only exists on one computer.
89. Secondly, taking a unified Excel approach means the information cannot be widely accessed or analysed, especially in the regions or in real-time.
90. Thirdly, the current approach is resource intensive as it requires duplication of efforts (regional representatives must log and then submit complaints to central office who then have to enter and upload them).
91. Finally, the current system is limited only to complaints and does not capture any information about the wider activities of the office.
92. The appetite for a more sophisticated system to collect and track institutional data was made clear to the CA team by investigators and management.

"A key priority is to have a unified case management system/case database. Regional offices and the capital-based Secretariat should be all connected through one network in order to ensure proper case storage, analysis and follow up monitoring."

Recommendation

93. Once again, the potential expansion of the office presents an opportunity to effectively implement organisational change, such as introducing new software and working practices. However, there are many pitfalls to designing, building and implementing such systems and if it is not done well then it is unlikely to achieve its aims, as many other NHRIs have already discovered. The Ombudsman's Office itself has already had one such attempt in partnership with OSCE that failed due to a lack of funding and the complexity of the system itself.
94. If the office can find the required support and funding it should seek to design / customise an existing tool that:
- Manages complaints, allowing regional offices and all authorised staff to enter, track and analyse data;
 - Collects data and allows analysis in relation to all core activities undertaken by the office.
95. The office can minimise the risk of failure by putting the user at the heart of the development. In practice this means consulting all end users from the outset on what it is they require from the tool and conducting regular consultations during the development to ensure it remains relevant, user friendly and will ultimately make their work easier and more effective. Such a process also requires a project manager with knowledge of these types of systems and an understanding and appreciation of human rights and the work of NHRIs.
96. Specific features to include would be having the ability to enter data offline (and upload the next time a user

is online), user access restriction levels to ensure data protection, and for an independent security audit to be undertaken before it is rolled out.

97. The ongoing resource requirements should also be provided for in advance. Ongoing IT support will be required for such a system, as will provision of a small budget for hosting and future development / bug-fixing. Adequate training and intensive support in the roll-out phase will likely be necessary too.

In full consultation with all staff and Regional Representatives design and develop a user-friendly database for complaints management and tracking all other core activities.

CHAPTER 4

REGIONAL STRENGTHENING

4.1 Legal status, public recognition and remuneration of Regional Representatives

"The Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital."

Current capacity 3.75 / Capacity gap 0.56

Overview & Strengths

98. The Office of the Ombudsman has 14 Regional Representatives. Their value and credibility was strongly emphasised by office staff and external stakeholders alike. These positions are held by respected members of local communities - academics, lawyers, health professionals, etc. - and separate provisions have now been adopted by Parliament regulating the status and activities of their position.
99. This legal recognition entitles the Regional Representatives to an official office ID. This is a positive development and reflects the effectiveness of their work to date. The breadth of activities undertaken across the regions is truly impressive, and covers receiving and resolving complaints (with some referred to central office), detention monitoring and outreach and awareness activities, including legal literacy.
100. In addition undertaking the regular functions of the Ombudsman's Office, the CA team heard of many other commendable activities undertaken on the initiative of various of the Regional Representatives. These included partnerships with civil society organisations and good working relationships with local governance structures, MOUs agreed with local lawyers to provide pro bono assistance where required and addressing systemic issues of human rights such as freedom of religion.
101. The CA team was told that annual thematic priorities of Regional Representatives are identified on the basis of analysis of complaints from the previous year as reflected in the annual reports of Regional Representatives. These reports should be made public and be accessible on the Ombudsman's website.
102. Complaints received in the regions are usually dealt with directly by Regional Representatives, and are referred to Tashkent only if alleged violations cannot be addressed locally. The CA team was told that ad hoc commissions comprised of representatives of local state authorities are often formed and such practice reportedly facilitates resolution of complaints in a swift manner. Regional Representatives regularly join meetings convened by heads of regional administrations with the local constituencies. Complaints are heard in a semi-public format. Such an approach may fall short of international standards on confidentiality and such practices may need to be closely analyzed in order to avoid the conflict of interest between the Ombudsman functions and functions of state administrations.
103. To date, the success of these representatives has been such that an expectation has been raised among external stakeholders.

"We are jointly developing a programme on increasing political literacy. The Omb could be working on this too but maybe they don't have enough staff. They have the regional reps who can do that though."
(Regional Government Agency)

Areas for improvement

104. The Regional Representatives ensure that wherever they live in Uzbekistan, people have a reasonable access to the Ombudsman's Office – they don't have to travel to the capital.

"There are lots of interests in the regions so the representatives are well placed as they know the situation and the mentality rather than people sitting at the central level." Prosecutor's general office

105. The importance and achievements of the Regional Representatives is widely and unanimously acknowledged. However, so too is an inherent weakness in the current arrangement - that these positions are unsalaried, and those in them do so on a voluntary basis and, for those not retired, in conjunction with their other positions.

"One shortcoming is that regional representatives work on a voluntary basis. Their work is going well but providing remuneration for those representatives is an issue." Office of the Prosecutor General

"It would be good to pay the regional reps to provide stimulus to their work. They are already doing a good job. People trust them." Civil society organisation

106. To the credit of the Ombudsman efforts have been made to address this issue already. He has lobbied for legislative amendments, to ensure that each regional representative would be included into the staff table of the Office of the Ombudsman. Assurances have been received that in 2019 all regional representatives would be officially recruited and would receive remuneration.
107. This is encouraging because the current situation is wholly unsatisfactory and has significant consequences. Not least the lack of sustainability and certainty in how long the representatives can continue to volunteer their time. Or the disparity among regions in terms of how much time they can allocate to the role due to competing interests and the need to earn a salary.
108. Further as regional Ombudsman's Offices are established, in order to ensure a gender sensitive approach to complainants, each regional office should include at least one female staff member who has been trained on interviewing of victims of human rights violations, complaint handling and information management.

Paris Principles

An NHRI must "Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence"

Recommendations

109. It was made quite clear to the CA team that there is the need to make the Regional Representative's permanent salaried positions and for them to be provided with support staff to meet the demands of the role. This was also reflected in the capacity gap identified in the survey where the organisational structure was highlighted as one of the key areas for reform.

"It would be good to have at least one staff member - this way my work on complaints handling and follow up to complaints would be more effective".

110. The achievements under the current arrangement are impressive but in order for these successes to be felt equally among the regions and for it to be sustainable additional and permanent human resources must be secured.

Achieve enhanced status for Regional Representatives and ensure their full independence and effectiveness by:

- a. Taking steps to transform the Regional Representatives roles into salaried positions;
- b. As soon as practical, providing a minimum of two paid specialist staff for each regional representative;
- c. Ensuring independent and accessible office space, infrastructure and access to transport;
- d. Exploring the appointment of District Representatives of the Ombudsman's office;
- e. Encouraging increased cooperation with a diverse range of civil society organisations, including human rights defenders.

4.2 Regional secretariat & physical infrastructure

Overview & Strengths

111. In addition to the strengths of the representatives set out above, another important asset is the widespread recognition of the importance of such a regional presence.

"We have realised the need to strengthen the Ombudsman's office. Through the Ombudsman mechanism we can go deeper into sensitive areas in Uzbekistan. Therefore the Ombudsman is used in the area of human rights." Deputy Speaker of the Senate

112. One of the roles of the Ombudsman is to act as a voice for marginalised and disempowered groups, and to bridge local communities, local authorities and central authorities. The fact that there is an appreciation of this internally and among key stakeholders is an important asset.
113. To undertake the role it is only possible with a physical presence and the required resources. In addition to the acknowledging the legal status of the representatives, the recent Parliamentary regulations require local government to provide office space, furniture and access to vehicles.

Areas for improvement

114. The current arrangements mean that resources and effectiveness of regional presences depend largely on goodwill, informal arrangements and flexibility of representatives with their other commitments. (see also 4.1)
115. The CA team heard how some regions have computers while some do not, some have access to vehicles while most do not, some have forged strong links with civil society organisations while others have not had the time.
116. Many of the regional representatives also utilise the infrastructure and human resources of their day job to support their work for the Ombudsman. It was not uncommon for the CA team to hear how office receptionists or other support staff would receive and record complaints for the regional representatives if they were unavailable, despite having no formal association with the Office of the Ombudsman.
117. This kind of volunteerism, resourcefulness and resource sharing with local government is an understandable response to the need to provide for regional support staff, infrastructure and resources. However, it cannot be endorsed for it raises issues of effectiveness, credibility, independence and sustainability. It is a situation that is widely recognised as unsatisfactory.

"They need some secretariat support at the regional level. If they had a bit of human resources – it would help them work even better." External stakeholder

"They should also have 2-3 staff members at least" Prosecutor General's office

118. Office space and resources must also be provided for under the Office budget to ensure its independence and credibility. The provision of office space and resources by local government undermines both as it creates a public perception of interdependence. The regional representatives, and the office as a whole, are generally perceived as independent but this is largely thanks to the Ombudsman and representatives themselves. Real safeguards of independence need to be instilled, and in the regions this means having full time salaried representatives and staff with independent and accessible offices that are adequately resourced.

The Paris Principles and general observations of the Sub-Committee on Accreditation

The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

119. As many vulnerable persons may be geographically remote from the major cities where most NHRIs are located, establishing a regional presence increases the accessibility of NHRIs, giving them as wide a geographical reach

as possible, and enabling them to have full national coverage for the receipt of complaints. It is essential that, where regional offices exist, they be adequately resourced to ensure their effective functioning.

Recommendation

¹²⁰. International guidance in this area is clear - NHRIs should have adequately resourced regional presences with guarantees of independence. The Regional Representatives in Uzbekistan have demonstrated their importance through their work to date and provided strong evidence of how much more could and should be achieved through their strengthening. Of significant importance to the overall effectiveness of the NHRI the CA team makes the following recommendation to invigorate the regional presences.

Achieve enhanced status for Regional Representatives and ensure their full independence and effectiveness by:

- a. Taking steps to transform the Regional Representatives roles into salaried positions;
- b. As soon as practical, providing a minimum of two paid specialist staff for each regional representative;
- c. Ensuring independent and accessible office space, infrastructure and access to transport;
- d. Exploring the appointment of District Representatives of the Ombudsman's office;
- e. Encouraging increased cooperation with a diverse range of civil society organisations, including human rights defenders.

CHAPTER 5

PROMOTION OF HUMAN RIGHTS

5.1 Developing a national human rights culture

Overview & Strengths

121. The rapid period of reform Uzbekistan is undergoing has led to previously taboo issues, such as gender-based violence, becoming more acceptable topics of conversation and human rights emerging from being an unspoken concept to being at the heart of Presidential policy.

"with the new President human right protection became a priority. Now the policy is more liberal and the government system has become more open."

122. The current climate is conducive to strengthening the protection and promotion and human rights and the Office of the Ombudsman has capitalised on this environment so far through advocating for legislative reform and institutional capacity building.

Areas for improvement

123. Notwithstanding the success of the office in expanding its mandate and political support for its expansion, the CA team was told of further work required around developing a national culture of human rights through increased and improved promotional activities.
124. During the CA discussions it was clear that there remains a reluctance for self-reflection and an inability or unwillingness to identify human rights issues, especially within state agencies. For example, when asked whether torture or ill-treatment still occurs in places of detention most respondents were adamant the recently adopted Presidential policy had put a stop to such practices. This ignores the reality that a transition phase during which law enforcement officers need to be trained in non-violent techniques has not yet been implemented and also the fact that complaints about ill-treatment remain the most prevalent type of complaint to the Office of the Ombudsman.
125. It is also reflected in the focus on legal literacy the office adopts, underpinned by the mantra heard by the CA team a number of times that 'there are no human rights violations, people just don't understand the law - if they did there would be no complaints'. Whilst legal literacy is important, so too is being able to identify areas of human rights concern and address them through investigation and education.
126. Neither of the two areas identified above are surprising; human rights is only just emerging as a popular concept. The CA team was informed that there is currently no strategic approach to communications and promotion and that this must be addressed to effectively promote human rights, as per its mandate.

Recommendation

127. The transition period Uzbekistan now finds itself in gives rise to a number of opportunities for the Office of the Ombudsman, and this includes the potential to play a leading role in shaping the national consciousness and creating an environment conducive to the effective promotion and protection of human rights.
128. One of the foundations of success for any NHRI is a society that is aware of its rights and responsibilities, is able to critically analyse its own shortcomings and collaboratively develop paths for improvement. Feeling unable to acknowledge the existence of any issues (as highlighted above) is a considerable barrier to change and the Office of the Ombudsman must therefore develop a communications and education strategy that seeks to foster self-awareness and develop spaces for people to think and speak critically, without fear of reprisals.

129. Uzbekistan is not the first country to open up the civic space in the way it has done recently, nor try to face up to a society unable or unwilling to think critically after years of oppression. Approaches taken by other countries can help guide Uzbekistan, and the Office of the Ombudsman can position itself at the heart of this conversation by educating people in the need for greater self-awareness and development of safe spaces for critical discussions.
130. Creating a society which is able to identify, acknowledge and address human rights is one part of the overall communications strategy the Office of the Ombudsman should address in order to create the necessary foundation for the effective promotion and protection of human rights. The other is in developing a national understanding of human rights within the cultural and contemporary context of Uzbekistan.
131. The CA team heard how some people view human rights as a foreign concept, one that is either not relevant or potentially harmful to the social fabric of Uzbekistan. It is the role of the Ombudsman's Office to develop a narrative that demonstrates the links between Uzbek culture and human rights norms and standards.
132. The office is uniquely placed to interpret international human rights within the Uzbek context. If done effectively international experience has shown how an NHRI can change attitudes towards human rights in a relatively short period of time. This then creates a national understanding of how human rights applies within the country and how it can actually strengthen national identity and culture, rather than threaten it.

"Through the Ombudsman mechanism we can go deeper into sensitive areas in Uzbekistan." Senate deputy speaker

133. For example, as the debate around gender based violence becomes more widespread the Ombudsman could explore how Uzbek family ties, adoration for children and respect for women are threatened by such acts and how the human rights framework shares the same position and aims to protect against it. Such an approach, proven in effectiveness, can only be adopted by a national institution, headed by an independent and respected member of the community.
134. To effectively discharge its mandate to promote human rights in Uzbekistan the office therefore needs to seek to adopt the two broad approaches described above throughout its awareness raising and education activities, both of which are discussed in greater detail in the sections below.

Foster a national understanding of human rights within the cultural and contemporary context of Uzbekistan.

5.2 Human rights education

"The Ombudsman's Office has the capacity and funding to promote sustainable human rights education programmes for state officials."

Current capacity 3.85 / Capacity gap 0.94

Overview, Strengths & Areas for Improvement

135. During the CA, the value placed on human rights education by the office was made clear.

"Human Rights Education... is one of the most important components of human rights protection."

136. However, the CA questionnaire also highlighted that this is a significant gap in the capacity of the office, in particular in relation to providing human rights education to state officials. At 0.94 the identified capacity gap within the institution is deemed by staff and regional representatives to be almost twice as big as the next gap among the issues covered in the questionnaire.
137. The reasons for this shortcoming were clearly and consistently communicated to the CA - a lack of personnel and a lack of programmatic funding.
138. The acute need for human rights education among state officials was also evident during the focus group discussions where it was clear that understanding of human rights and how it applies to all areas of Government

work is still in its infancy. The urgency to address the internal gap to meet the external need is therefore high.

Paris Principles

A national institution shall... have the following responsibilities; (b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation; (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles.

Recommendation

139. Implementation of the CA recommendations in relation to staffing and programmatic funding is essential in developing the office's capacity for effective human rights education, but they are not the only actions needed. A strategic approach to human rights education is required and this means developing a Human Rights Education Plan that identifies priority target groups, methodologies, key messages and costed activities.
140. In developing such a plan consultations should be undertaken with external stakeholders, especially potential audiences, to determine educational needs. Priority areas should be decided following an internal analysis of needs using all information available to the office, including complaints data, and link directly to the Strategic Plan.
141. The plan should retain a degree of flexibility in order to respond to requests for activities but at the same time the office must take care not to fall into the trap of agreeing to every request, especially when resources are limited. Having clearly defined priorities and a defined decision making process will help in this regard.

Develop a fully costed Human Rights Education Plan, targeted at specific communities across Uzbekistan most at risk of human rights violations and at key government agencies.

5.3 Public awareness (of the Ombudsman's Office and of human rights)

"The Ombudsman's Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office's role, functions and mandate through a strong external communications strategy and media relations."

Current capacity 4.29 / Capacity gap 0.57

Overview & Strengths

142. The Office of the Ombudsman is more visible and well known than ever before. The CA team was told of public statements made by the Ombudsman, such as in relation to the case of the woman abused by the police officer, which have raised the public profile of the office.
143. A number of awareness raising activities are being undertaken such as legal literacy workshops for NGOs and joint workshops between educational institutes and regional representatives on a range of human rights topic, as well as the information the office makes publicly available via its website.

Areas for improvement

144. Nonetheless, staff and regional representatives highlighted this as one of the main areas where the office needs to develop, and the capacity gap of 0.57 identified in the questionnaire was the second largest of all the issues considered.
145. During the focus group discussions staff, regional representatives and external stakeholders elaborated on this gap, raising a number of areas the office needs to address. Once again, the overriding issues were of staffing and resources. Without specialist staff there is reported to be little ability to undertake effective awareness raising and communications, including developing good media relations.

146. A further consequence is that often the work of the office does not receive the coverage it deserves. The CA team heard of some excellent examples of complaints resolutions, court interventions and the two recent special reports (on birth registrations and places of detention) that had not been made as widely publicly available as possible because of the lack of internal communications staff and expertise.

"They have to be more visible. They report to Parliament but they need to report to the people. Maybe you could recommend them to be more active." External stakeholder

147. Staff and regional representatives also spoke about the lack of promotional materials, such as pamphlets, posters and videos and how that impacted their ability to raise awareness in the course of their work.
148. Despite the increasing awareness of the Office of the Ombudsman, the CA team was told of a widespread lack of understanding of the role of the office and of human rights in general.

In the districts – there is... no understanding of human rights and entitlements among the population.

149. Two consequences of this knowledge gap were communicated during the focus groups. The first is that without a basic understanding of human rights and responsibilities there is no national consciousness which leads to respect and fulfilment of rights being demanded and better respected. The second, linked to the first, was that as a result of not understanding the role of the office nor general concepts of human rights, staff spend considerable time dealing with issues that do not fall within the mandate of the office.
150. Feedback from the NGOs during the CA was reasonably clear. The office is starting to become more visible but it needs to secure the required resources and increase its activities in this area. They also made the point that awareness raising is not just a one-way information process - that through its promotional work the office will be better connected to the communities and state agencies, providing more information on human rights issues and potential approaches.

"He should organise more press conferences, more events. It would provide them more information and more ideas."

Paris Principles

A national institution shall... have the following responsibilities; (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Recommendations

151. Aside from implementing the recommendations contained elsewhere in the CA report to develop the human and financial resources to better promote human rights the office should also develop a full costed communications plan and seek to continuously raise the profile of the office.
152. The development of a communications plan would allow the office to analyse its audiences, design specific approaches, identify and plan activities and codify the office's commitment to linking human rights and Uzbek culture.

Drawing on the Strategic Plan, develop a fully costed Communications Plan.

Raise the public profile of the office by:

- a. Issuing more frequent public statements on human rights issues;
- b. Building relationships with all forms of media;
- c. Producing a range of information materials (including for radio, T.V, social media).

CHAPTER 6

PROTECTION OF HUMAN RIGHTS

6.1 Complaints handling

"The Ombudsman's Office has the capacity to review all received complaints and undertake prompt, impartial and comprehensive human rights complaints investigations and resolve them in a timely manner."

Current capacity 4.50 / Capacity gap 0.36

"The Ombudsman's Office has effective checklists, manuals and guidelines in all areas, especially in relation to complaints handling, inspections of places of detention and reporting."

Current capacity 4.64 / Capacity gap 0.36

Overview & Strengths

153. During interviews the CA team learnt that there is great public awareness of the Ombudsman's work and there has been a visible increase in the number of complaints submitted. Mostly, complaints pertained to socio-economic grievances of the people. In 2017, 9074 complaints were received and in 2015-2016 – 12,000 complaints. The right to an adequate housing, employment opportunities, social entitlements and payment of alimonies were apparently the most frequent issues complained of. After various policies and measures introduced by the President, including Presidential reception offices in the regions, the flow of complaints has been decreasing.
154. All four staff members who deal with individual complaints (one on maternity leave) in the Secretariat have a legal background. They regularly prepare background analytical briefs on identified concerns which are shared by the Ombudsman with the Parliament. The CA team was told that such briefs contain general recommendations on how identified human rights concerns can be remedied. It would be advisable that such briefs are made public and are available on the Ombudsman's website.

Legal basis

155. According to the amended Law on the Ombudsman, Art. 10-14 stipulate in detail all powers and obligations of the Ombudsman with regard to individual complaints. The Law authorizes the Ombudsman to conduct investigations into complaints and to act upon information received from the third parties, including NGOs if there is a relevant consent of the individual concerned. The Ombudsman can receive written, oral and on-line complaints. The overall rules and timeframe for handling of individual complaints are governed by the separate Law on the Procedure of the Review of Individual Complaints by State Bodies. Art. 12 of the Ombudsman Law foresees the right of the Ombudsman to conduct human rights investigations at his/her own initiative.
156. During interviews with staff members, several examples of in-depth investigations, mostly into labour, compensation for demolished housing, social protection issues, pension payments, rights of persons with disabilities and domestic violence cases, previously conducted by the Ombudsman staff were shared with the CA team.
157. Examples of complaints shared with the CA team pointed to the need to have a well functioning law on free legal aid in the country (the Action Strategy on five priorities of development of Uzbekistan for 2017-2021 under point 2.6. outlines a need for improving the legal aid system and services). The CA team was told that currently, the Ombudsman Office relies on the MoU with the Chamber of Lawyers that provide defense lawyers' pro bono legal advice to the most vulnerable persons who approach the Ombudsman office. Such pro bono assistance deserves appreciation, however, cannot be seen as the most sustainable mode of free

legal aid.

158. Art. 13 of the Ombudsman Law states that the Ombudsman can advise a complainant on the ways and methods how to protect one's rights. The CA team could not obtain detailed information in writing or during interviews with the Ombudsman staff on how many complainants received detailed advice on available legal remedies and how many have been provided with remedial action by duty bearers after the Ombudsman's intervention each year.
159. During interviews, the CA team understood that existing positive outcomes of past investigations and interventions were not made public by the Office. The interviewed staff believed that success stories and conclusions made with regard to the root-causes of initial violations should be widely publicized by the Ombudsman through all available information resources in order to have a preventative effect, including through the recently upgraded website of the Ombudsman.

Applications from detained and imprisoned persons

160. The decision of the Senate's Committee on Issues of Defense and Security adopted after presentation of the Special Ombudsman's Report on Monitoring Places of Detention and Penitentiary Institutions mentions that during five months of 2017 the Ombudsman received 399 (565) applications from detained persons and prisoners. Fifty-five came from prisoners who complained about the use of physical or psychological pressure at the pre-trial stages. The Ombudsman's Special Report mentions that during conducted visits to penitentiary institutions, 800 prisoners participated in group meetings with the Ombudsman and his Regional Representatives. Twenty-eight individual meetings were conducted. The complaints included: seven complaints regarding verdicts, three clemency requests, two requests for transfer to other penal institutions, two health assistance requests, and 14 requests to assist families of the prisoners. Reportedly, no complaints regarding misconduct of penitentiary staff were voiced.
161. Article 14-1 foresees the right of detainees to send complaints to the Ombudsman and such complaints and replies from the Ombudsman cannot be censored by administrations of the respective detention facilities. All complaints must be sent to the Ombudsman in a sealed envelope within 24 hours (telegrams must be sent immediately). During interviews, both staff of the Secretariat and the Regional Representatives noted that these legal provisions are strictly complied with by relevant administrations of places of detention.

"In one of the Pre-Trial Detention Centers there are currently 400 people held on remand. A mailbox for applications to the Ombudsman is placed in this detention facility. Only I, as the Regional Representative of the Ombudsman, have access to this mailbox. I retrieve applications 3 times a month. Complaints mostly relate to the rights of juvenile offenders, access to medical assistance in detention, requests for parcels from families to be received and a need to have meetings with relatives".

Public reception of complaints

162. The annual report of the Ombudsman for 2017 mentions that the Ombudsman participated in public reception events in 144 districts and towns of Uzbekistan and in monitoring missions regarding socio-economic development in Tashkent, Namangan and Andizhan regions. Based on these outreach campaigns, the Ombudsman reported on creation of his on-line Virtual Public Reception at www.ombudsman.uz and hot-line "10-96". The number of applications to the Ombudsman Office has increased by 1.9 times as compared to 2016 and constituted 2.429 complaints received through hot-line and the on-line system. In 2017, the Ombudsman travelled to nine cities of Uzbekistan and received complainants in person. Such visits were publicly announced in advance through internet, local printed media, TV and radio.
163. 1.774 complaints (1.2 times more than in 2016) were received by the Ombudsman Office through the Public Reception located on the ground floor of the Secretariat in Tashkent.

Follow-up to the complaints

164. In his annual report for 2017, the Ombudsman reported that in line with the Presidential Resolution "On immediate measures to ensure accelerated socio-economic development of the regions" from 8 August 2017, the Ombudsman Office reviewed all individual applications and identified families and persons who require socio-economic state assistance. Such information was sent to the Council of Ministers of Karakalpakstan and heads of regions and Tashkent city, as well as public associations such as the Women's Committee of Uzbekistan, the foundations of "Makhalla" and "Nuroniy". Targeted follow up on 411 applications is ongoing. The Ombudsman Office plans to continue to collate and analyze complaints with the view of referring them to relevant duty-bearers and public associations on a quarterly basis. This commitment to continue to

analyze all received complaints in order to identify trends and prioritize the work of the Office in line with the identified trends was reaffirmed to the CA team during interviews with the Ombudsman staff.

165. With regard to torture complaints, in his 2017 Annual Report the Ombudsman referred to the Presidential Decree “On additional measures to strengthen human rights guarantees in judicial-investigative activities” from 30 November 2017 and the Schedule of oversight-analytical events on torture prevention that has been approved on 29 December 2017 by the Ombudsman with two Chambers of the Parliament. Such events foresee joint discussions of results of complaints’ reviews, hearing reports of law enforcement officials and planning of follow up monitoring activities.
166. Existence of such a plan to follow up on received complaints in cooperation with the Parliament is one of the effective ways to feed into state’s policy and laws.
167. In his 2017 Annual Report the Ombudsman reported on introduction of a special mode of registering and reviewing complaints about corruption, prevention of trafficking in human beings (THB) and labour rights. In 2017, the Ombudsman referred to the relevant authorities in total 83 complaints pertaining to these topics. Analysis of trends of violations pertaining to these topics may warrant an issue of special reports by the Ombudsman in the future.
168. During interviews, the CA team was told that in 2018 the Ombudsman Office had 18 MoUs concluded with different state authorities and institutions. These MoUs are useful tools that allow the Ombudsman to refer complaints to relevant duty-bearers and request urgent remedial action. Regional Representatives have also adopted a similar practice of MoUs and referrals.

SOPs on complaints handling

169. During interviews with the Ombudsman staff, the CA team was informed that the office receives in excess of 9,000 complaints every year. Throughout the CA mission, the CA team was trying to identify how exactly this volume of complaints is being processed and what procedural mechanisms ensure effective analysis, follow up and tracking of results of the Ombudsman’s interventions. The CA team was told that modus operandi of complaints handling system is learnt by new-comers through practice. The CA team understood that there are no written SOPs or manuals on complaints handling.

Analysis of complaints, results of interventions and identification of trends and patterns of human rights violations

170. CA team was told that analysis of complaints, identification of trends of violations and results of interventions is done on a quarterly basis, mostly manually. In-depth analysis are conducted when the Ombudsman’s annual report and annual reports of Regional Representatives are prepared. In order to ensure meaningful follow up on implementation of recommendations of the Ombudsman and his Regional Representatives, analysis of answers received in line with Art.16 of the Ombudsman Law and conclusions on trends and patterns of human rights violations carried out on a monthly basis may further boost the Office’s analytical outputs.
171. The Office may step up its recommendations on interventions at the regional level, and regular monitoring and evaluation of results of such interventions may further enhance the effectiveness of the Ombudsman’s work.
172. Generally, the Law on the Ombudsman in Art. 16 and 17 stipulate that the Ombudsman can only issue recommendations to which duty bearers must provide a substantiated reply.
173. Recommendations of the Ombudsman are not legally binding. Some of those interviewed for the CA suggested that affording legally binding power to the Ombudsman’s recommendations may boost the institution’s human rights protection role.

Storage of complaints

174. According to the Ombudsman staff, security and confidentiality of hard copies of the complaints has been guaranteed. However, the lack of a special room to store hard copies of the complaints may compromise rules on security of information and confidentiality. Planned expansion of premises for the Office may offer an opportunity to designate a separate room for keeping the complaints’ archives. The Ombudsman office should explore a possibility to digitalize hard copies of all past complaints to avoid the storage of complaints in the paper format.

Timelines for reviewing complaints

175. All staff informed the CA team of the timelines that are strictly complied with when providing replies to the complaints: 5 working days – initial processing/referral; 15 days- in case of no follow up required and a standard reply is sent; 30 days – for a reply in more complicated cases where investigation is warranted; and

additional 30 days in more complicated cases. The CA team understood that interns are often used in order to prepare standard replies and send them out. This practice is indicative that the available human resource is clearly not sufficient to review and meaningfully follow up on all received complaints.

"Each complaint is labour-intensive. Each human rights investigator is swamped with complaints and there is no sufficient time to conduct monitoring in the field".

"There are not enough people. Currently, we get cases assigned by the system, and we have to review them, it's a lot of work but we work long hours and manage to comply with all deadlines".

Right to appeal to court

^{176.} In line with Art.14 of the amended Law on the Ombudsman, the Ombudsman is now authorized to appeal to courts and submit claims on behalf of individuals and such applications are exempt from court fees. It was not clear from the interviews or from the Annual 2017 Report how often the Ombudsman exercised this new power, so it is recommended that the Annual 2018 Report includes a relevant section on the number of appeals submitted to court by the Ombudsman.

Protection against reprisals

^{177.} Art. 15 of the Ombudsman Law grants vast investigative powers to the Ombudsman. Any obstruction to the activities of the Ombudsman is punishable by law. During interviews the CA team heard that there were several cases of reprisals against complainants. The Ombudsperson intervened in such cases with relevant duty-bearers at the central level. In this regard, a clear SOP on what should be done in such cases and what protection measures can be invoked by the Ombudsman should be made available to all human rights investigators and all complainants should be duly informed of their right to seek protection in case if they face reprisals. Moreover, all state officials, in particular those in the regions, should be further sensitized to the mandate of the Ombudsman and his functions.

Reception office

^{178.} The CA team was told by the Ombudsman staff that presence of police officers at the entrance of the building has not been noted by any individuals as a factor that may dissuade complainants to approach the office. The challenge for the Office is to make access for all as welcoming as possible.

Paris Principles

"3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(ii) Any situation of violation of human rights which it decides to take up (...).

Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal (...) of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence.

6.2 Detention monitoring and NPM

Overview & Strengths

179. The CA team was told that detention monitoring is a priority for the Ombudsman's work and that the Ministry of Interior and its Penitentiary Service are always receptive towards recommendations of the Ombudsman.
180. The Ombudsman has a mandate to monitor situation with approximately 44,000 detainees across 60 penitentiary institutions in addition all other places of detention including pre-trial detention facilities, social and psychiatric/neurological institutions.
181. Art. 14 of the amended Law on the Ombudsman vested the Ombudsman with a right to conduct detention visits and interview detainees. Under Art. 14-1, the Ombudsman has a right to conduct reactive as well as preventive detention monitoring. He is authorized to freely visit penal institutions, places of detention and special reception units without prior announcement. The Law obliges administration of these institutions to ensure safety of the Ombudsman.
182. The CA team was told that the Ombudsman and his Regional Representatives use their right to conduct detention monitoring freely, without any obstacles: administrations of visited detention facilities ensure unhindered and confidential meetings of detainees with the Ombudsman, under conditions that allow employees to see them but not to hear them. This is a positive development following August 2017 amendments of the Law. Prior to these amendments, each visit had to be agreed upon with the Ministry of Interior.
183. The Ombudsman staff noted positive improvements in the conditions of detention since two years. After monitoring visits, administrations of the visited detention facilities carry out necessary repairs, in line with recommendations of the Ombudsman. In the last 1.5 years repairs have been conducted in all detention facilities for women and juveniles. In August 2017, the President in his five-year programme committed to improve conditions of detention throughout the country, including through construction of new detention places equipped with medical and resocialization facilities as well as income generating activities.
184. The CA team was told that the number of prisoners in the penitentiary system has been decreasing – including as a result of three amnesties of the President during the last two years. There are 122 prisoners per 100 thousand of general population (the 2nd place among the CIS countries) and penitentiary institutions are filled only up to 60%. The CA team was informed that there have not been any serious complaints about relations between penitentiary staff and the inmates.
185. Detention visits take place on average once every three months, but letterboxes for complaints are checked by Regional Representatives on a more regular basis. Detention monitoring is usually conducted by the Ombudsman/his Deputy or Head of the Secretariat accompanied by one of the human rights investigators, or by Regional Representatives together with one of the Tashkent Office's representatives. Moreover, as of January 2018, on the basis of the MoU with the Parliament, the Ombudsman conducted joint monitoring visits with the MPs.
186. Regional Representatives informed the CA team that they visit all types of penal institutions, including women's colonies and juvenile facilities. During such visits, humanitarian aid and books are regularly delivered; focus groups, lectures as well as individual interviews are held. The CA team was informed that often detainees seek legal advice or complain about issues that do not constitute human rights violations (detainees ask for advice on how to mitigate their punishments, how to obtain social assistance to their families, etc.).
187. Regional Representative repeatedly noted to the CA team that conditions of detention in pre-trial detention facilities (SIZOs) have been brought in line with international standards and that all interviews with detainees are confidential as prescribed by the Law on the Ombudsman. Both, regular and reactive monitoring visits, triggered by complaints, are conducted. Conditions of detention, quality of food, facilities and medical assistance, as well as access to printed media and libraries are monitored.
188. Regional representatives also mentioned their monitoring of neurological and psychiatric institutions, and noted that in the future, monitoring of social and closed educational institutions will be explored, including orphanages and houses for elderly people.

Areas for improvement

Human resources, equipment and vehicles

189. The CA team was informed that since Regional Representatives do not have secretariats, they conduct detention monitoring either alone or together with a staff member of the Secretariat from Tashkent and

they are not remunerated for such work. Recommendations in earlier sections of this report on the need to guarantee salaries, staff and the payment of all expenses associated with detention visits by Regional Representatives are also valid here.

190. Given that there is only two female Regional Representatives (out of 14), ensuring equal gender representation among Regional Representatives and future regional staff is of paramount importance. Detention monitoring can be carried out through a gender sensitive lens and in line with basic principles of human rights monitoring only if there is a gender balance among monitors.
191. For the future NPM functioning, the Ombudsman will need to attract external experts with specialized knowledge. For instance, forensic and medical experts will need to be contracted through the Association of Emergency Doctors – relevant rules and procedures will need to be developed in this regard.
192. In order to ensure unannounced nature of preventive detention visits, it would be advisable to have vehicles that are readily available to the Ombudsman staff and his Regional Representatives. The current system of booking cars from the government car pool or from regional administrations may not be the best way to ensure the confidential and unannounced nature of detention visits.

Uniform monitoring checklists, manuals and guidelines

193. The CA team heard different views on whether there is a need to have standard monitoring tools – checklists and manuals on specific areas for human rights monitoring, including for detention visits. Some Regional Representative explained that while overall guidance and broad guidelines on monitoring are provided by the Secretariat in Tashkent, the actual questions for monitoring in the regions are adjusted in line with regional specifics. While acknowledging a need to take local reality into account, the CA team believes that availability of standard monitoring checklists and manuals may facilitate uniform information-gathering and thereby simplify ensuing analysis of trends and patterns of human rights violations.

Torture complaints

194. The CA team was told that there has been a very small number of complaints regarding ill-treatment and torture. There has been only a handful of cases where investigations under torture article or affiliated Criminal Code articles were launched. Most of the complaints after initial verification proved to be unsubstantiated, according to the Ombudsman staff.
195. This phenomenon may be indicative of three issues: 1. the situation in detention facilities has indeed improved after the Presidential decree aimed at torture prevention and intensified attention given by the General Prosecutor's Office to this phenomenon; 2. during monitoring visits there is no conducive environment for in-depth interviews with detainees that would allow for proper documentation of torture allegations; or 3. there is no effective investigation into initial allegations conducted by the law enforcement authorities. The CA team heard of examples when preventive detention visits aimed at assessing conditions of detention were conducted by Regional Representatives jointly with representatives of the Penitentiary service and Special Prosecutors. Such practice would appear to run counter to international standards on independent detention monitoring and should be avoided at all costs.
196. Self-critical analysis and periodic revision of procedures for detention monitoring have to take place inside the Ombudsman Office in order to ensure that international human rights monitoring rules are strictly complied with during each and every detention visit.
197. The CA team heard about MoUs with the Departments of Health that have been concluded by some Regional Representatives. According to these MoUs, when a torture allegation is made, a medical doctor can be invited to examine a victim. The CA team heard that such MoUs do not exist yet in every region. Training on Istanbul Protocol for medical professionals, staff of all detention facilities and the Ombudsman office's staff may be a good way to further promote cooperation between relevant professionals and ensure coherent approach to documenting torture complaints.

Referrals for legal assistance after detention visits

198. CA team heard about an MoU with the Chamber of Lawyers who provide lawyers free of charge when there is a need to provide legal advice to a detainee. Such practice is welcomed, however, more sustainable paths for provision of free legal aid to the detainees should be explored by the Ombudsman and relevant recommendations could be made on required changes to the existing laws and practices that would guarantee free legal aid for inmates of detention facilities.

Parliamentary oversight of the rights of persons ind detention, NPM functions and possible OPCAT ratification

199. During discussions with the Ombudsman the CA team was informed that creation of the NPM unit within

the Secretariat is being discussed separately from the debate about possible ratification of OPCAT. OPCAT ratification was recommended during the last Universal Periodic Review (UPR), and the decision will be made by the President and the Parliament after consultations with various state authorities.

200. The CA team learnt that the Ombudsman decided to promote establishment of the NPM, without waiting for OPCAT ratification. Currently, there is a package of three pieces of legislation that has gone through the first reading in the lower Chamber of the Parliament: a draft Law amending Art.14-1 (excluding paragraphs 3 and 4) and introducing two new articles: Art.20-9 and Art.20-10 to the Law on the Ombudsman, plus two Annexes. Draft Annex 1 contains Provisions on implementation by the Ombudsman of Parliamentary Oversight of Human Rights of Persons in Penal Institutions, Detainees and Persons in Remand Custody, as well as those subjected to administrative arrest, while draft Annex 2 contains Provisions on implementation of the NPM functions by the Ombudsman.
201. The CA team was told that this package of legal acts was drafted by the Ombudsman office taking into account best practices of other countries and was discussed with international experts during two events in 2018.
202. Copies of draft law and two Annexes shared with the CA team contain certain provisions that may benefit from further expert input in order to ensure that NPM functions foreseen are in full compliance with OPCAT provisions. While the CA team understands that the Ombudsman hopes that all three drafts will be adopted by the Parliament by the end of 2018, continued expert consultations on the drafts may reveal a need to amend certain provisions in order to clearly delineate preventive NPM monitoring work from reactive, complaints-related work and court representation functions that shall not be part of the NPM focus according to OPCAT.
203. The CA team was also informed that in the Memo submitted to the Ministry of Finance, the Ombudsman suggested to create an NPM Unit comprised of five staff members. They would be tasked to conduct regular monitoring of compliance with national laws and international treaties relating to the rights of persons in detention and in social care institutions, review complaints regarding torture, take part in court hearings and develop informational-analytical materials relating to the topic of deprivation of liberty.
204. The CA team notes that the Memo suggests that this Unit's functions would cover both preventive regular detention monitoring and reactive monitoring that is not part of the NPM functions under OPCAT. Moreover, the proposed number of five staff members appears to be insufficient.

Paris Principles

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

- (a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;
- (b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;
- (c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;
- (d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Recommendation

Through consultation with Regional Representatives develop:

- a. Systematic and standardized training for all investigators which should include human rights monitoring, documentation, interview, reporting, including through a gender sensitive lens and while conducting detention centre visits;
- b. Standardized procedures on complaints handling (including detainee complaints) and separate methodology NPM preventive detention monitoring.

6.3 Special reports and national inquiries

"The Ombudsman's Office has the capacity to monitor and report on systemic human rights issues in Uzbekistan, assessing compliance with its international human rights obligations."

Current capacity 4.69 / Capacity gap 0.24

Overview & Strengths

205. Following the Ombudsman's strengthened mandate, as of January 2018 the Ombudsman has a right to submit to Parliament special thematic reports.
206. In line with this new function, during 2018, the Ombudsman undertook monitoring of penitentiary institutions under the Ministry of Interior. The CA team was told that results of monitoring were presented in a special report that was heard by the Parliament and the Deputy Minister of Interior was invited to respond to the findings. After such hearings in the Parliament, the Senate's Committee on Defense and Security adopted a Decision outlining positive measures that have been implemented in Uzbekistan in order to prevent ill-treatment in detention facilities and to improve conditions of detention.
207. The Decision included information on the number of ill-treatment complaints received by various state bodies and what actions were taken by the Prosecutor's Office to follow up on such complaints. The Decision outlined the plans to install video-surveillance in all detention facilities as one of the effective means to prevent ill-treatment, to continue training medical staff on documenting signs of ill-treatment and torture; to consider the closure of several detention facilities where conditions fall short of international standards; to improve educational opportunities for detainees and upgrade their uniforms. The Decision of the Senata designated one Senate member as a person responsible to oversee follow up to the Decision and its recommendations. The Decision listed concrete measures that the Ministry of Interior and the General Prosecutor's Office are obliged to take in order to boost prevention of torture and ensure compliance of detention conditions with international standards.
208. Another unique follow up after this special report was the decision of the Ministry of Interior to share with the Ombudsman their internal SOPs. The Ombudsman commented on the SOPs' compliance with human rights principles and two concrete recommendations (on the use of phones by prisoners and the frequency of meetings with relatives) were duly implemented by the Ministry of Interior.
209. This positive example of how a special report of the Ombudsman influence national policies and practices clearly illustrates the important role that the Ombudsman office can play in protecting human rights.
210. The CA team heard about a few other special reports that have been or are currently being drafted, including on birth registration and conditions and rules of detention in 14 psychiatric institutions, including vis-à-vis alcohol addicted individuals. These two topics have been identified by the Ombudsman Office based on analysis of complaints and previous monitoring visits. The Ombudsman shared several examples when state authorities followed up on written interventions of the Ombudsman by adopting measures that rectify identified human rights shortcomings.
211. On birth registration, the Ministry of Health and the Government have changed their SOPs in order to ensure that each born child receives a birth certificate without undue bureaucratic hurdles. The recommendation was made on the basis of the Ombudsman Office's analysis of collected data that revealed numbers of undocumented children to the fault of hospitals and parents.
212. Another example of how special inquiry of the Ombudsman resulted in concrete changes in practice pertained to the payment of pensions. After inclusion of results of its inquiry into the Annual Report, the

identified technical mistake in pension payments was rectified by the Presidential decision to amnesty all past technical mistakes in pension calculations and ensure that access to pensions is restored to all those who were negatively affected by the past mistakes of the Pension Fund. The Ombudsman staff believed that this was a real achievement of their office in 2017.

213. Monitoring of forced labour in Karakalpakstan in 2018 was another example of a limited national inquiry, where hot lines were set up to receive complaints and public information campaign was carried out in line with the Presidential decision. Limited geographical scope of Ombudsman's monitoring was probably linked to the limited number of staff that could be deployed to conduct field monitoring. In the future, a more comprehensive monitoring of forced labour during cotton harvesting period could be explored, if the number of Ombudsman staff is increased.
214. When describing these positive examples, the Ombudsman staff were determined to have more interventions of this kind. However, the major constraint was the limited number of staff.

Areas for improvement

215. Based on interviews with all stakeholders, the CA team understood that monitoring of detention facilities was conducted using the knowledge of staff and Regional Representatives. In light of recommendations from previous chapters, in the future, such special reports and targeted inquiries could be conducted in line with the specifically designed monitoring plans and with the use of standard checklists, as was done when psychiatric institutions were monitored.
216. Findings and recommendations linked to concrete international human rights law provisions would be a good way to promote the wider knowledge and use of relevant UN human rights treaties by relevant state officials and MPs. A standardized report's structure foreseeing an overview of applicable international human rights provisions; quotes of relevant national laws and analysis of how findings correspond to the applicable international and national legal provisions would make special reports more user-friendly.
217. All findings of the Ombudsman contained in special reports or prepared after national inquiries should be widely advertised in order to have a preventive affect. The CA team was told that in the past, legal briefs were shared with relevant state authorities and when feasible, local officials were trained by the Ombudsman staff on relevant human rights standards in order to prevent future violations.
218. The CA team heard of the Ombudsman's plan to compile all past reports of the Ombudsman in a separate publication and disseminate it widely among state officials. Wide public dissemination, including through on-line resources, would appear to the CA team as a reasonable approach that would contribute to human rights awareness and wider public knowledge of the results of the Ombudsman's work.
219. The Ombudsman proposed the Government to expand his Secretariat. The proposed unit on monitoring and legal analysis of human rights protection would include six staff members. They would, inter alia, monitor compliance with legislation by state bodies, develop informational-analytical materials to support draft laws, for parliamentary public hearings and meetings of inter-agency working groups and commissions, as well as draft periodic and annual reports. The Ombudsman should ensure that well-qualified experts are hired to this new unit and that their professional and practical skills and knowledge are systematically advanced through targeted training and educational activities.

Paris Principles

"3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;

(iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government.

Belgrade Principles

Principle 16: "Parliaments should receive, review and respond to NHRI reports and ensure that they debate the priorities of the NHRI and should seek opportunities to debate the most significant reports of the NHRI promptly".

Principle 18: "Parliaments should hold open discussions on the recommendations issued by NHRIs".

Principle 19: "Parliaments should seek information from the relevant public authorities on the extent to which the relevant public authorities have considered and responded to NHRIs recommendations".

6.4 Legislation and policy review

"The Ombudsman's Office has the capacity to conduct quality policy research and analysis, prevent persuasive legislative and policy proposals and advocate for implementation of their recommendations."

Current capacity 4.71 / Capacity gap 0.22

Overview & Strengths

220. The CA team heard examples of successful contributions of the Ombudsman to recent policies and strategies, including the 2016 Development Strategy for 2017-2021. Following the Ombudsman's suggestion, the Presidential apparatus included into the Strategy a point on a need to amend the Law on the Ombudsman. August 2017 amendments reinforced the Ombudsman's mandate and expanded his functions, as well as granted a legal status to the Regional Representatives of the Ombudsman. The Provisions on the Regional Representative of the Ombudsman in Karakalpakstan, regions and the city of Tashkent were adopted on 29 December 2017 by a joint decision of both chambers of the Parliament.
221. According to the existing legislation, the Ombudsman has a right to formulate and make legislative proposals, take part in the working groups that prepare draft laws, conduct expert legal review of draft laws, participate in hearings of both chambers of the Parliament and make suggestions to draft laws discussed in the Parliament. In 2017, the Ombudsman took part in 40 hearings of the Legislative Chamber and in 5 hearings of the Senate and actively contributed to the discussions of various draft laws.
222. The Ombudsman has made a number of legislative proposals, including the NPM related package of laws, suggestions to the Law on Applications from Individuals and Legal Entities, to the Ombudsman Law, the Law on Dissemination of Information Related to Legal Awareness and Ensuring Access to Such Information; the Law on Protection of Children from Information Harmful to their Health; the Law on Administrative Procedures, etc. The Ombudsman exercises his right to make legislative proposals also through his cooperation with ministries and state agencies. In 2017 he has sent proposals to:
- The General Prosecutor's Office (on the Criminal Code's Art.235/torture and on various laws aimed to improve human rights protection during investigation; crime prevention and combating criminality);
 - To the Ministry of Interior (on administrative oversight over released former prisoners; on remand custody during criminal investigation);
 - To the Ministry of Justice (on the Labour Code);
 - To the Supreme Court (suggestions to the Resolutions of the Supreme Court's Plenum relating to various issues of criminal and civil law).
223. The Ombudsman plays an active role in various inter-agency working groups, including on anti-corruption; on countering trafficking in human beings; on implementation of action plans related to human rights and cooperation with the UN High Commissioner's Office and the Parliamentary commission on labour rights.
224. In his annual report for 2017, the Ombudsman noted that in 2017 his office developed 1 draft Law and 2 by-laws; and made suggestions to 16 other legal acts. In total, during 2017 the Ombudsman took part in 9 inter-agency working groups.

Areas for improvement

225. In light of multiple reform strategies existing in Uzbekistan, including the Action Strategy on five priorities of development for 2017-2021, the Ombudsman staff expressed readiness to step their proactive role to formulate

and submit legislative proposals in order to further improve human rights protection in the country. Existing limited human resources impose obvious limitations on the capacity of the Office to conduct numerous quality policy researches and analysis. In order to present persuasive legislative and policy proposals and actively advocate for implementation of their recommendations the Ombudsman Office would need to expand his current Secretariat in line with the proposal submitted to the Ministry of Finance.

226. Currently, four human rights investigators, the Deputy Ombudsman and Head of the Secretariat are tasked, among many other duties, to prepare informational-analytical materials and legislative and policy suggestions. Such materials and suggestions have to be based on analysis of received complaints and findings from monitoring visits. In light of all the constraints experienced by the Ombudsman office due to the lack of human resources, including in the regions, it is unrealistic to expect for six people to be able to effectively deliver on all tasks vested on them by their terms of reference.
227. The Ombudsman office is ready to enhance its analytical function in order to present analytical overviews of human rights situation in the country, inter alia on the basis of overview of the received complaints, and present such analysis on a quarterly basis to various state bodies and institutions and the Parliament. However, while recognizing importance of the Ombudsman Office's analytical inputs into the law-making processes and review of reports of high level state officials by the Parliament, the Ombudsman staff acknowledge that these tasks can be diligently performed only if existing human resources are reinforced with additional people. In this regard, the proposal to create a unit on monitoring and legal analysis of human rights protection issues that would comprise six people appears to be reasonable. The Ombudsman foresees that this unit would be responsible inter alia for analyzing existing human rights situation, development of analysis and suggestions to draft laws; preparing analytical memos for the Parliament and inter-agency working groups, as well as drafting special and annual reports.
228. The respective proposal has been shared with the Ministry of Finance. The CA team hopes that there will be a positive response from relevant authorities and the Ombudsman's plan will be implemented – such reinforcement of human resources would contribute towards the Office's compliance with the Paris and Belgrade Principles.

Paris Principles

“3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

(b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation”.

Belgrade Principles:

Principle 23: “Members of the relevant specialised parliamentary committee and the NHRI should meet regularly and maintain a constant dialogue, in order to strengthen the interchange of information and identify areas of possible collaboration in the protection and promotion of human rights”.

Principle 24: “Parliaments should ensure participation of NHRIs and seek their expert advice in relation to human rights during meetings and proceedings of various parliamentary committees”.

Principle 25: “NHRIs should advise and/or make recommendations to Parliaments on issues related to human rights, including the State's international human rights obligations”.

Recommendations

Strengthen capacity to provide legislative and policy proposals and special reports, and track implementation.

Evolve the capacity to identify and analyse systemic human rights issues and undertake national inquiries.

6.5 Amicus curiae

Overview & Strengths

- ^{229.} It was generally observed that the role and effectiveness of the Office has changed beyond all recognition in recent years and this is in part due to its expanded role, involvement and successes in relation to decisions of the courts.
- ^{230.} The 2017 amendments to the Ombudsman's mandate provided for the right to appeal court decisions, including those of the Constitutional court. This expansion of functions occurred in the context of a good judicial relationship with the Ombudsman's office and both have combined to great effect in a number of cases reported to the CA team.
- ^{231.} Two cases in particular were highlighted, both of which involved the review of decisions in murder cases as a result of investigation by Office staff and subsequent petitioning of the courts. The outcome in both instances were substantial sentences for the murderers, which otherwise would not have been handed down.
- ^{232.} Furthermore, in one of these cases the Office exercised its mandate to ensure the provision of legal assistance to one of the parties who would otherwise have not been able to afford representation. This was just one example of many the CA team heard of such support, which in some regions has been made possible through the signing of MoUs, as set out in chapter 3.2 above.

Areas for improvement

- ^{233.} Currently, Article 14 of the Ombudsman's legislation allows them to request documents related to a case, but only after it has been decided. The current climate of criminal justice reform represents an opportunity to expand the procedural status of the Ombudsman and to act as a friend of the court (*amicus curiae*), and support for this was communicated to the CA team from within the office.

Recommendations

- ^{234.} The facilitation of legal assistance to those in need is commendable and should continue wherever possible. The example given to the CA team by one Regional Representative of having signed an MoU to ensure legal assistance where required is an excellent example of what can be achieved. In the process of implementing the recommendations to strengthen the regional presences (chapters 3.1 and 3.2) consideration should be given as to whether this approach can be replicated to achieve increased legal assistance coverage.
- ^{235.} The *amicus* role is one which is being embraced by NHRIs globally. Undertaken well it can influence the outcome of individual cases to ensure human rights standards are upheld, and create jurisprudence and legal precedence which enshrines human rights norms domestically. The Ombudsman's office has several strengths and opportunities which mean this is a good time to consider adopting this function. These are a good relationship with the judiciary, a track record in court intervention (post-initial decision) and within a context of reform.

Continue to monitor strategic court cases and facilitate legal assistance where required.

Further develop the provision of expert human rights advice to the courts in strategic cases with a human rights dimension, building on the current practice of drafting recommendations and submitting them to the Supreme Court; including through the capacity to intervene in Court cases as *amicus curiae*.

CHAPTER 7

COOPERATION & ENGAGEMENT

7.1 Parliament, judiciary & state officials

"The Ombudsman's Office has the capacity to develop and maintain cooperation with Parliament, judiciary and state officials"

Current capacity 4.79 / Capacity gap 0.21

Overview & Strengths

- ^{236.} The discussions revealed that Office of Ombudsman has enjoyed a strong support from both Chambers of the Parliament in promoting its mandate and enhancing its respective legal framework. The senior members of the parliament have also displayed good understanding of the importance of the role of Office of Ombudsman in promoting and protecting human rights as part of the parliamentary control.
- ^{237.} Following the enhanced mandate, Parliament has allocated a special line for Ombudsman's Office budget. The Ombudsman has submitted a request for allocation of additional staff and resources to the Parliament, as well as draft law on NPM, which are currently under consideration. The Office of the Ombudsman and the Parliament of Uzbekistan work in close collaboration concerning the drafting of laws and Ombudsman participates in work of the commissions of the parliament and various inter-agency groups established on issues of anti-corruption, combating human trafficking, Coordination of implementation of roadmaps on human rights, labour rights, etc. The Office of the Ombudsman submits annual report to the parliament by 15th of February each year and the report is heard in both chambers of the parliament.

"We believe that the work of Ombudsman helps Parliament to understand better what are the realities of daily life of citizens and what are their needs for support. Based on the reports of Ombudsman we shape the vision of Parliament's strategies, laws and policies." (Vice Speaker of Senate of Parliament)

- ^{238.} The Office of the Ombudsman has concluded Memorandum of Understanding with many state institutions such as the Constitutional Court, the Prosecutor General's Office, the Ministry of the Internal Affairs, the Ministry of Health, the Ministry of Justice and others. Most of these institutions mentioned that the complaints received from Office of Ombudsman are under special control and there are specific timelines for addressing them. The new laws envisage stronger cooperation of Ombudsman with the judiciary system, e.g. he may now propose issues to Constitutional Court for consideration. Furthermore, the sanctions for abuses by law enforcement and judiciary have been toughened and Ombudsman plays an important role in addressing these complaints to ensure due process and fair trials. Following the new mandate, Ombudsman has started to conduct monitoring in places of detention, including medical facilities, under jurisdiction of MoI and MoH.
- ^{239.} Although with limited resources, the role of Regional Representatives of the Office of the Ombudsman and their cooperative attitude is widely recognized by the national institutions at local and national levels. Most of them highlighted the need to enhance the presence of the Office at the local level. The Office of Ombudsman also cooperates with the National Human Rights Center, which acts as the Government's mechanism for implementation, reporting and follow up to the recommendations of UN treaty bodies and UPR.

Paris Principles

3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, ... proposals and reports on any matters concerning the promotion and protection of human rights...:

(i) Any legislative or administrative provisions, ... and shall make such recommendations as

it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

Within the framework of its operation, the national institution shall:

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions);

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations... the functions entrusted to them may be based on the following principles:

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Areas for improvement

- 240. The CA team heard that the Ombudsman's Office could play a greater role in improving the awareness and understanding of civil servants of state institutions on human rights and human rights-based approaches.
- 241. The training of law enforcement (police, prosecutors and penitentiary) on human rights compliant practices, as well as on new functions of NPM, would be particularly important.
- 242. The MoH has indicated that the Office of Ombudsman could become more active in monitoring closed residences of people with mental and physical disabilities and in checking both access to and quality of medical services.

Recommendation

- 243. The cooperation with MoJ would be essential in increasing general public legal awareness and education, as well as in overall improvement of access to justice, especially as it relates to overcoming the barriers for marginalized groups and women. In addition to trials monitoring and resolving complaints related to the abuses by judiciary, the Ombudsman's office might also consider proposing its opinion and human rights expertise during consideration of cases, prior to verdict, especially on strategically important issues to set the precedence as "amicus curiae" (i.e. strategic litigation).
- 244. It would also be helpful to draft and sign an MOU with the National Human Rights Centre clearly outlining the roles, responsibilities and inter-relationship of the Ombudsman's Office as the independent National Human Rights Institution and the NHRC as the Government's National Mechanism for Implementation, Reporting and Follow-Up.
- 245. Finally, the Ombudsman can play a greater role in promoting interlinkages between SDGs and human rights in cooperation with the National Statistics Committee and Parliament.

Develop capacity to demonstrate linkages between human rights and the Sustainable Development Goals and proactively identify entry points for engagement with Government on human rights through the SDGs.

7.2 Civil society, religious groups and the private sector

"The Ombudsman's Office has the capacity to develop and maintain cooperation with civil society organisations, religious groups and the private sector."

Current capacity 4.64 / Capacity gap 0.29

Overview & Strengths

246. The Office of the Ombudsman and its regional branches work in close cooperation with the civil society and exchange information on complaints and systemic issues in various areas of social, labour and women's rights. Local self-organized groups (Mahallas), the Trade Union and the Women's Committee constitute the biggest partners of the office from the civil society. The Office shares MoUs with these civil society organizations and refer cases related to them if the case is within their specialty. For example, MoUs were signed between the Office of the Ombudsman and Women's Committee, the Bar Association of Uzbekistan (for providing free legal aid assistance), Society for Persons with Disabilities, Trade Union and others.
247. The role of Ombudsman as a bridge/intermediary between the civil society and the government authorities was recognized. CSOs often apply for support of Ombudsman in cases when their efforts to seek justice have not received sufficient support from state institutions. They also noted that the proactive role of the Office has intensified in recent years despite the insufficient resources allocated. They also mentioned the importance for their work of the mutual exchange information and expertise related to specific cases.
248. The Office of the Ombudsman conducts joint projects with CSOs to increase the impact at both national and local levels and refers cases to CSOs to benefit more from local expertise of these organizations. For example, the Regional Representatives of the Office conduct joint projects that target youth with local NGOs and Women's Committee.

Paris Principles

Within the framework of its operation, the national institution shall:

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Areas for improvement

249. The Office of the Ombudsman is the institution that can increase the contact points between the national authorities and the civil society in order to better promote and protect human rights. For this reason, in order to expand the work and its impact, the Office of the Ombudsman would need to increase its engagement with civil society organisations and include more groups and communities into its work. There are civil society and private sector organisations that could share their expertise in specific areas.
250. Current partnerships of the Office focus on a small number of civil society actors that are generally quasi-governmental or government friendly civil society organizations. According to civil society representatives, "non quasi-governmental NGOs are more independent and have closer connections with communities and societies". Some of the examples of other NGOs which can contribute to the work of the Office of the Ombudsman include NGOs working with commercial sex workers, foreign workers deported to Uzbekistan, with ex-prisoners, people with HIV, etc. It was also noted that while the Office of the Ombudsman works in close collaboration with NGOs on social and judicial areas, the cooperation with NGOs representing the rights of minority groups (e.g. religious, ethnic, LGBTI) could be strengthened. Currently the Office of the Ombudsman also has little cooperation with the private sector.

Recommendation

251. Closer cooperation with local self-organized groups (mahallas) which have significant impact on lives of local communities is required to ensure that their work is aligned with human rights principles, as they often serve as institutions of traditional/ patriarchal order (for example they work to "preserve families" and resolve cases of domestic violence which may contradict human rights principles).
252. Most of the NGOs have mentioned the need to conduct the massive human rights education and campaigns and that they are ready to help Ombudsman in this endeavour for broader outreach to the society. Cooperation with NGOs on special reports could be also strengthened.

Increase engagement with civil society organisations, including human rights defenders, in order to expand the work and impact of the Ombudsman's office

7.3 International and regional mechanisms

"The Ombudsman's Office has the capacity to effectively engage with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions."

Current capacity 4.43 / Capacity gap 0.50

Overview & Strengths

253. Significant progress on international and regional engagement was reported to the CA team through improved relationships with other Ombudsman offices and international partners, and the regular submission of shadow reports to international human rights bodies.

"Until the end of 2016, there was no contact with Ombudsperson's of other CA countries. Now, after Istanbul, we meet twice a year." Ombudsman

"We have submitted 6 alternative reports and we are planning to increase this cooperation. We have an agreement with other Ombuds offices for cooperation. We are also developing relationships with organisations like Human Rights Watch." Deputy Ombudsman

254. The added strength this increased engagement is giving the office is immediately evident. Cross-border issues can be dealt with through cooperation and collaboration where this was not previously possible. Institutional developments such as the addition on the NPM mandate are better informed through consultations with agencies such as Amnesty International and other Ombudspersons. It is exactly this type of engagement encouraged by the SCA.

"Through exchanges, NHRIs are provided with an opportunity to learn from shared experiences. This may lead to collectively strengthening each other's positions and contributing to resolving regional human rights issues."

Areas for improvement

255. The fact that these developments are relatively recent is reflected in the questionnaire responses which identified engagement with other NHRIs and international human rights organisations and mechanisms as one of the top areas for improvement. It is clear that the office is on the right path in this regard with active engagement with the Central Asian Ombudsmen through the CASI-NHRI project and further engagement with NHRIs is planned once the office becomes a member of GANHRI.

Paris Principles

The Paris Principles and the general observations of the SCA support the importance of the type of international and regional engagement the Office of the Ombudsman is beginning to entrench into its strategy. It also highlights an additional potential area of activity:

(d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations and, where necessary, to express an opinion on the subject, with due respect for their independence;

(e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights;

SCA General observation 1.4

"[E]ffective engagement with the international human rights system may include... monitoring and promoting the implementation of relevant recommendations originating from the human rights system".

Recommendation

256. The monitoring of recommendations is directly linked to broader oversight mandate of the office in relation to State implementation of its human rights obligations. The recommendations received from the Universal Periodic Review, various treaty bodies and any visiting Special Procedures provide an excellent framework for carrying out this role, and encouraging greater civil society oversight and engagement at the same time.
257. By disseminating recommendations and tracking progress, the Office of the Ombudsman can adopt a systematic approach to its oversight role. Furthermore, an effective strategy being adopted by other institutions is to link recommendations to the SDGs, to generate increased political support for implementation.
258. This is an area of interest and rapid development globally and there are a number of existing tools and approaches the Office of the Ombudsman could consider in developing such an approach. Assistance with identifying and assessing such opportunities can be provided by the CA team and their respective organisations.
259. Finally National Human Rights Institutions are unique in many respects. Experience has shown that sharing knowledge, expertise and experience with others, whether Ombudsman Offices or Human Rights Commissions, is a most effective way of developing relevant capacity in the promotion and protection of human rights.

Strengthen human rights promotion and protection by:

- a. Sharing information, expertise and best practices regionally and internationally, in particular through CASI-NHRI, the APF and GANHRI; and with the International Ombudsman's Institute (IOI)
- b. Cooperating regularly with the United Nations human rights mechanisms through the submission of parallel reports in the framework of periodic reporting and stakeholders' submissions in relation to the Universal Periodic Reviews, submit information to the UN Special Procedures, advocate and support future visits of the Special Procedures;
- c. Advocating for and monitoring implementation of recommendations made by the United Nations human rights mechanisms to Uzbekistan.

CHAPTER 8

SUMMARY & TABLE OF RECOMMENDATIONS

- 260. The capacity assessment undertaken by the Ombudsman / Commissioner for Human Rights of the Oliy Majlis/Parliament of Uzbekistan has confirmed that the Ombudsman’s Office has sound legal foundations and a strong case for increased resources to enable it to more fully implement its legal mandate to promote and protect the human rights of everyone in Uzbekistan.
- 261. The capacity assessment team greatly respects the decision of His Excellency Ombudsman Ulugbek Muhammadiev to commit his Office staff and Regional Representatives to a process of self-assessment not previously undertaken by any government agency or institution of the state in Uzbekistan. The decision in itself indicated the commitment of the Office to improve its ability to promote and protect the human rights of every person in Uzbekistan.
- 262. From the capacity assessment we identified four strategic priorities and 18 actions to implement them. The four strategic priorities are:
 - Priority 1: Strengthen the core institutional capacity of the Ombudsman’s office**
 - Priority 2. Invigorate the regional presence**
 - Priority 3: Increase the capacity to effectively promote human rights within the national cultural context**
 - Priority 4: Increase the capacity to effectively and systematically protect human rights**

Identified strategic priorities and recommended actions

Priority 1: Strengthen the core institutional capacity of the Ombudsman’s office
1. Expedite the implementation of the proposed expanded organisational structure prioritising: <ul style="list-style-type: none"> a. The creation of Deputy Ombudsmen for Women, Children, People with Disabilities; b. Increased staffing to allow for communications specialists, legal and policy advisors, human rights educators and IT support; c. Gender balance and diversity among the leadership group, staff and regional representatives; d. Advocacy for separate increased staffing for the future National Preventive Mechanism.
2. Develop a costed organisational 3-5 year Strategic Plan in consultation with all staff and key stakeholders.
3. Advocate for regular programmatic funding to implement strategic activities and priorities.
4. Design and implement a comprehensive programme of induction, training and professional development for all staff and Regional Representatives

5. In full consultation with all staff and regional representatives design and develop a user friendly database for complaints management and tracking all other core activities.

Priority 2. Invigorate the regional presence

6. Achieve enhanced status for Regional Representatives and ensure their full independence and effectiveness by:
 - a. Taking steps to transform the Regional Representatives roles into salaried positions;
 - b. As soon as practical, providing a minimum of two paid specialist staff for each regional representative;
 - c. Ensuring independent and accessible office space, infrastructure and access to transport;
 - d. Exploring the appointment of District Representatives of the Ombudsman's office;
 - e. Encouraging increased cooperation with a diverse range of civil society organisations, including human rights defenders.

Priority 3. Increase the capacity to effectively promote human rights within the national cultural context

7. Drawing on the Strategic Plan, develop a fully costed Communications Plan. [Upto 2021-harmonise with national roadmap]
8. Raise the public profile of the office by:
 - a. Issuing more frequent public statements on human rights issues;
 - b. Building relationships with all forms of media;
 - c. Producing a range of information materials (including for radio, T.V, social media).
9. Develop a fully costed Human Rights Education Plan, targeted at specific communities across Uzbekistan most at risk of human rights violations and at key government agencies.
10. Foster a national understanding of human rights within the cultural and contemporary context of Uzbekistan.

Priority 4. Increase the capacity to effectively and systematically protect human rights

11. Through consultation with Regional Representatives develop:
 - a. Systematic and standardized training for all investigators which should include human rights monitoring, documentation, interview, reporting, including through a gender sensitive lens and while conducting detention centre visits;
 - b. Standardized procedures on complaints handling (including detainee complaints) and separate methodology NPM preventive detention monitoring.
12. Strengthen capacity to provide legislative and policy proposals and special reports, and track implementation.
13. Evolve the capacity to identify and analyse systemic human rights issues and undertake national inquiries.

14. Continue to monitor strategic court cases and facilitate legal assistance where required.

15. Further develop the provision of expert human rights advice to the courts in strategic cases with a human rights dimension, building on the current practice of drafting recommendations and submitting them to the Supreme Court; including through the capacity to intervene in Court cases as *amicus curiae*.

Priority 5. Continue to build office capacity to cooperate and engage nationally, regionally and internationally

16. Develop capacity to demonstrate linkages between human rights and the Sustainable Development Goals and proactively identify entry points for engagement with Government on human rights through the SDGs.

17. Increase engagement with civil society organisations, including human rights defenders, in order to expand the work and impact of the Ombudsman’s office.

18. Strengthen human rights promotion and protection by:

- a. Sharing information, expertise and best practices regionally and internationally, in particularly through CASI-NHRI, the APF and GANHRI; and with the International Ombudsman’s Institute (IOI)
- b. Cooperating regularly with the United Nations human rights mechanisms through the submission of parallel reports in the framework of periodic reporting and stakeholders’ submissions in relation to the Universal Periodic Reviews, submit information to the UN Special Procedures, advocate and support future visits of the Special Procedures;
- c. Advocating for and monitoring implementation of recommendations made by the United Nations human rights mechanisms to Uzbekistan.

Next Steps

The CA was undertaken through the CASI-NHRI project. The APF, OHCHR and the UNDP, partners in the initiative, are committed to supporting the Ombudsman to implement the recommendations of the CA report.

APF, OHCHR and the UNDP will consult with the Ombudsman, after the submission of the report, on the implementation of the actions proposed in this report that he accepts and wishes to implement, including consulting on what assistance Office may require with implementation.

The Ombudsman is asked to give serious consideration to the final report’s proposals for action to build capacity and provide a formal response to those proposals to the APF, the OHCHR and UNDP indicating which proposed strategies and actions it accepts and will implement and with what priorities and timetable.

This report should be provided to the staff and Regional Representatives of the Office. The Ombudsman may also consider providing it to the President and to the Parliament and others who participated in the process.

APF requires an annual report on implementation of those proposals for action that are accepted by the Ombudsman.

A template for the Ombudsman’s response to the report is in Appendix 7.

OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS
OF THE OLIY MAJLIS OF UZBEKSITAN //
PARLIAMENTARY OMBUDSMAN OF UZBEKISTAN
CAPACITY ASSESSMENT 2018

Introduction

In June 2018, the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman) requested the assistance of the Asia Pacific Forum of national human rights institutions (APF) to undertake a capacity assessment.

The Ombudsman is elected by the Parliament, who is entrusted by the Constitution and the legislation to ensure parliamentary control over protection of human rights. In August 2017, a number of amendments were introduced into the Law on Ombudsman, to bring closer his powers to the Paris Principles, including broader mandates in handling complaints related to human rights abuses in places of detention and the right to initiate legislative changes. The new legislation also envisages closer cooperation of Ombuds-institution with civil society in delivering its mandate and a stronger role in promoting human rights through education and communication with general public. Furthermore, the Ombudsman's Office is currently planning re-alignment of the institution to achieve the broader scope of functions envisaged by the new laws, as well as to establish new positions of Ombudspersons on promotion and protection of rights of children, women and people with disabilities.

Since 2016, the Ombudsman has been taking an active part in the Central Asia Support Initiative for NHRIs, facilitated by UNDP Istanbul Regional Hub and OHCHR Regional Office for Central Asia in cooperation with the Asia Pacific Forum of NHRIs. As part of this initiative, the Ombudsman has expressed an interest in undertaking a capacity assessment to guide the strengthening of his institution in line with the Paris Principles, as well as in applying for accreditation with the Global Alliance of NHRIs.

A capacity assessment is therefore very timely.

Development of NHRI Capacity Assessments

Since 2008 the Asia Pacific Forum of National Human Rights Institutions (APF), the United Nations Development Programme (UNDP) and the National Institutions and Regional Mechanisms Section (NIRMS) of the Office of the High Commissioner for Human Rights (OHCHR) have undertaken a project to support the institutional capacity development of National Human Rights Institutions (NHRIs) in the Asia Pacific region through Capacity Assessments (CAs). Since 2008 they have facilitated CAs in 18 NHRIs in the region.

CAs assist NHRIs to generate an understanding of their capacity strengths and needs and to develop strategies to fill capacity gaps. They are one of the first steps of the capacity development process. They use a self-assessment process, facilitated by a team, to identify capacity strengths and needs of the individual

NHRI and to develop capacity development strategies and actions to address those needs. In close consultation with the NHRI, the CA team produces an analytical report of the self-assessment, measuring required future capacities of the NHRI against its current capacities and proposing capacity development strategies and actions. This report is presented to the NHRI in draft form for discussion and joint finalisation.

The benefits for NHRIs in developing and implementing capacity development strategies that result from CAs are immense. It provides a systematic approach to the capacity assets and needs of the NHRI. It fosters engagement of all NHRI members and staff and key external stakeholders, often across sectors. It leads to capacity development initiatives that are strategic, longer term and integrated, rather than ad hoc and fragmented.

Since 2008 the following APF members have undertaken a CA:

- Human Rights Commission of Malaysia (SUHAKAM) 2008-9 & 2017
- Human Rights Commission of the Maldives 2009
- Jordan National Centre for Human Rights 2010
- National Human Rights Commission of Thailand 2010
- Palestinian Independent Human Rights Commission 2011
- Afghanistan Independent Human Rights Commission 2011
- Mongolian Human Rights Commission 2011
- Sri Lankan Human Rights Commission 2012
- Australian Human Rights Commission 2012
- New Zealand Human Rights Commission 2012
- Philippines Commission on Human Rights 2012 & 2018
- Nepal National Human Rights Commission 2013
- Bangladesh National Human Rights Commission 2013
- Ombudsman's Office of Samoa 2014
- National Human Rights Commission of Oman 2014
- National Commission on Human Rights of Indonesia (Komnas HAM) 2014
- Provedoria for Human Rights and Justice of Timor Leste 2015
- National Institution for Human Rights of Bahrain 2017.

The Uzbekistan Ombudsman's Office Capacity Assessment

Objective

To identify strategic priorities and develop proposals to address the most important capacity needs of the Ombudsman's Office

Approach

- To enable the Ombudsman's Office to assess its current capacities against the capacities it requires to implement its mandate and its strategic plan
- To identify the capacity gaps, or deficits, that are the most important and most urgent to be addressed
- To identify priorities and actions to address the identified capacity gaps in a long-term manner.

The Capacity Assessment will assess:

- what the Ombudsman's Office does well;

- what it needs to do better; and
- how it can achieve a higher level of performance.
- The Ombudsman and his staff are invited to identify the 'capacity gaps' or 'capacity deficiencies' of the Office.

The Ombudsman, his staff and external stake-holders who engage with the Ombudsman's Office are asked:

- what does the NHRI do well?
- what does the NHRI need to do better to be more effective in undertaking its mandate?
- what strategies and actions can be taken to build the required additional capacity?

They take part in individual or focus group interviews.

Then the Ombudsman and his staff complete a questionnaire based on the issues raised during the interviews. The process provides both qualitative and quantitative data.

The participants

The CA is participatory and inclusive. It involves everyone in the Office – leaders (Ombudsman), senior managers and all staff, including lawyers, investigators, educators, administrative and finance staff, secretaries, drivers, everyone.

The CA report will reflect the full range of perspectives within the Office and draw on the expertise of the Ombudsman and all staff.

It will also involve a number of Government agencies and civil society organisations (CSOs). They will be interviewed but do not complete the questionnaire.

Coverage

The CA focuses on five core areas

- legal framework, policies, procedures and processes, and organisational structure
- leadership
- human resources and knowledge
- financial and other resources
- accountability

It analyses these five core areas in relation to six functional and technical capacities:

- capacity to plan strategically and implement plans
- capacity to investigate, manage and handle complaints and conduct human rights research and analysis
- capacity to advocate, educate and raise awareness
- capacity to engage with stakeholders and create and manage partnerships
- capacity to monitor and evaluate.

In the individual and focus group interviews, questions cover these areas.

The questionnaire is based on the issues that emerge from the interviews.

Programme

The key elements of the programme are set out in the Easy Guide: Capacity Assessment for National Human Rights Institutions

http://www.undp.org/content/dam/rbap/docs/Research%20&%20Publications/democratic_governance/RBAP-DG-2014-Capacity-Assessment-NHRI-Easy-Guide.pdf

THE ASSESSMENT VISIT

1. Conduct separate focus group discussions with NHRI leaders (that is, the Commissioners or Ombudsman), with the senior managers and with the other staff to identify core capacity issues, required future capacities and possible strategies and actions to address capacity gaps
2. Interview external stakeholders to obtain their views on the NHRI's capacity, including on coordination, collaboration, and past and planned engagement with the NHRI
3. Identify the core capacity issues
4. Prepare the questionnaires on the core capacity issues
5. Administer the questionnaires to leaders, managers and staff
6. Analyse qualitative and quantitative information from the discussion groups and questionnaires
7. Develop strategies and actions
8. Prepare a 'first (rough) draft' report, with findings and proposed strategies and actions
9. Present the 'first (rough) draft' report to NHRI leaders and senior managers, brief them on it and obtain their initial views on its findings and proposed strategies and actions

AFTER THE ASSESSMENT VISIT

10. Finalise the 'second (more refined) draft' report and submit it to the NHRI leaders and senior managers for comment
11. Following receipt of comments on the 'second (more refined) draft', incorporate comments and finalise the CA report and provide it to the NHRI
12. Obtain a formal response to the report from the NHRI, together with a schedule for the implementation of those proposed strategies and actions that the NHRI accepts
13. Obtain annual reports from the NHRI on implementation of accepted strategies and actions

APPENDIX 2

CAPACITY ASSESSMENT SCHEDULE

Day 1 – 25 September/Tuesday /Tashkent

- Briefing of Ombudsman and his Secretariat
- (90 to 120 minutes)
- Focus group discussion with Ombudsman and his senior staff - 3 people (90 to 120 minutes)
- Focus group discussion with staff in Tashkent - 10 people (90 to 120 minutes)
- Focus group discussion with regional representatives x 2

Day 2 – 26 September/Wednesday /Tashkent

- Interviews with external stakeholders (60 to 90 minutes each), including:
 - Parliament - Deputy Vice Speaker
 - Deputy Chair of the Senate
 - Office of the Prosecutor General
 - Ministry of Interior
 - Ministry of Health
 - Ministry of Justice
 - Bar Association
 - Civil society
- CA team identifies core capacity issues based on discussions
- CA team prepares CA questionnaire on core capacity issues

Days 3 - 27 September/Thursday/Samarkand

- Focus group discussion with regional representatives (6 regions)
- Interviews with regional government agencies
- Interviews with civil society

Days 4 - 28 September/Friday/Bukhara

- Focus group discussion with regional representatives (6 regions)
- Interviews with regional government agencies
- Interviews with civil society
- Questionnaire finalized / translated and distributed to all Ombudsman's Office staff

Days 5-6 – 29-30 September/Sat - Sun/Bukhara

- Internal CA team discussions

Day 7 – 1 October/Monday/Tashkent

- CA team commences drafting the focus group discussions section of the report

Day 8 – 2 October/Tuesday/Tashkent

- All Ombudsman's Office staff completed questionnaires returned to CA team
- CA team analyses data from questionnaires
- CA team prepares summary of the results of the CA and draft recommendations for the Ombudsman, deputy-Ombudsman and senior manager for their comments

Day 9 – 3 October/Wed/Tashkent

- CA team briefs Ombudsman and senior managers on findings and proposed recommendations / receives comments

Day10– 4 October/Thursday/Tashkent

- Debrief with UN RC / UNDP RR / UNDP CO
- Meeting with UNICEF
- Departure of CA team

Post CA assessment visit

Ombudsman receives Executive summary

Draft report provided electronically for formal response – corrections, amendments, additions.

Ombudsman's response received.

Ombudsman receives final report.

Appendix 3 - Document review list

Office of the Ombudsman, Uzbekistan Capacity Assessment Document Review List

Mandate

Constitution of Uzbekistan, Article 78

Law "On the Authorized Person of the Oliy Majlis for Human Rights (Ombudsman), 1997

LAW OF THE REPUBLIC OF UZBEKISTAN On Changes in and Amendments to the Law of the Republic of Uzbekistan "On the Authorised Person of the Oliy Majlis for Human Rights (Ombudsman)" 2004

Law "On amendments and additions to some legislative acts of the Republic of Uzbekistan in connection with the improvement of the activity of the Authorized Person of the Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman), 2008

Joint decision of the Kengash of the Legislative Chamber of Oliy Majlis of the Republic of Uzbekistan and Kengash of the Senate of Oliy Majlis of the Republic of Uzbekistan about the Commission for compliance with the constitutional rights and freedoms of the people, 2011

Law "On amendments and additions to the law of the Republic of Uzbekistan "on the Authorized Parson of the Oliy Majlis for human rights (Ombudsman)", 2017

Criminal Procedure Code, Articles 223, 239

Criminal Executive Code, Articles 18, 79

Law "On detention in management of criminal proceedings", 2011

Law "On the Parliamentary Control", 2016

The Constitutional Law "On the Constitutional Court of the Republic of Uzbekistan", 2017

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On the approval of the regulations on the Centers of Internal Affairs for rehabilitation of persons without a particular place of residence", 2018

Annual Reports

Annual Report 2017

Annual Report 2016

Media and Press

Press clippings provided by the Ombudsman's Office, 2018

Parliamentary and Presidential documents

Presidential decree No. 3293, On measures enhancing and developing cooperation of Uzbekistan with United Nations, IFIs and other development partners. Approving the Roadmap on promotion of initiatives of Uzbekistan presented at the 72nd session of UN GA and for implementation of agreements made with UN High Commissioner on Human Rights in NY on 18-20 September 2017

Joint resolution No.921-III/PK-200-III, Plan of action on further development of cooperation with OHCHR, June 2017

Joint resolution No.1646-III/PK-348-III, the 'Road-Map' to ensure Freedom of Religion or Belief, May 2018

Presidential decree No. 5434 on the Program of events dedicated to the 70th Anniversary of adoption of the Universal Declaration of Human Rights, May 5 2018

Presidential decree No. УП-5325, "On measures on radical improvement of the activities in support of women and strengthen the family institution", February 2018

Draft resolution on Fulfilment of the Functions of the National Preventive Mechanism by the Commissioner of Oliy Majlis for Human Rights (Ombudsman), 2018

Draft resolution on Exercising Parliamentary Control over of Rights and Freedoms of Individuals Serving their Sentence at Penal Institutions, Arrested and Detained, 2018

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On measures on implementation of the Law of the Republic of Uzbekistan "On the dissemination of legal information and access to it", December 2017,

Presidential order No. P-5006 "On measures to further improve the system of state support of disabled people", August 2017

Presidential resolution No. ПП-2752 "On measures on implementation of the regulations of the law of the republic of uzbekistan on the contradiction of corruption, February 2017 Presidential resolution No. ПП-2833 "On measures to further improve the system of prevention of offenses and struggle against crime", 2017

Persons as well as Persons Subjected to Administrative Arrest by the Commissioner of Oliy Majlis of the Republic of Uzbekistan for Human Rights (Ombudsman), 2018

External documents

100 Civil Society Organisations of Uzbekistan, March 2018 (UK FCO)

Legislative commentary on the draft revised law for the mandate of the Office of the Ombudsman, 2017 (European Ombudsmen's Institute)

Appendix 4 - Core Capacity Issues

Institutional Capacity	
1	Whether the Ombudsman's Office has the legal mandate to effectively protect and promote human rights in Uzbekistan.
2	Whether the Ombudsman's Office is trusted, respected and perceived as independent by all people of Uzbekistan.
3	Whether the Ombudsman's Office has a strategic plan and annual activity plans so that the Ombudsman, the Deputy Ombudsman, staff and regional representatives have clear priorities for their work
4	Whether the Ombudsman's Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate.
5	Whether the Ombudsman's Office reflects gender balance in its leadership and its staff and effectively promotes and protects gender equality through its work
6	The capacity to ensure all staff receive an appropriate induction and professional development in areas relevant to their skills and expertise.
7	Whether the Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital.
8	The capacity to store, manage and analyse information relating to complaints and all other activities, including through the use of user friendly online databases.
Protection of Human Rights	
9	The capacity to monitor and report on systemic human rights issues in Uzbekistan, assessing compliance with its international human rights obligations.
10	The capacity to effectively engage with the international human rights mechanisms, including through the drafting of shadow reports.
11	The capacity to review all received complaints and undertake prompt, impartial and comprehensive human rights complaints investigations and resolve them in a timely manner.
12	Whether the Ombudsman's Office has effective checklists, manuals and guidelines in all areas, especially in relation to complaints handling, inspections of places of detention and reporting
Promotion of Human Rights	
13	The capacity to conduct quality policy research and analysis, present persuasive legislative and policy proposals and advocate for implementation of their recommendations.
14	Whether the Ombudsman's Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office's role, functions and mandate through a strong external communications strategy and media relations.

15	The capacity and funding to promote sustainable human rights education programmes for state officials.
Cooperation, Engagement & Partnerships	
16	The capacity to develop and maintain cooperation with Parliament, judiciary and state officials
17	The capacity to develop and maintain cooperation with civil society organisations, religious groups and the private sector
18	The capacity to engage effectively with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions.

Appendix 5 - Self-Assessment Questionnaire

Capacity Assessment of the Office of the Ombudsman, Uzbekistan

THIS QUESTIONNAIRE IS CONFIDENTIAL AND ANONYMOUS

This questionnaire compliments the discussion groups with the Uzbekistan Office of the Ombudsman leaders, staff and regional representatives as part of the Capacity Assessment process. The issues in it address the matters most commonly raised during those discussion groups.

The Capacity Assessment process is driven by the staff and representatives of the office. Only issues raised in the course of the assessment will be addressed in the final report and recommendations. It is therefore of the highest importance when filling in the questionnaire that responses are honest and truly reflect this situation within the office and Uzbekistan generally.

You have until 7pm on Friday to complete the questionnaire.

WHAT THE QUESTIONNAIRE ASKS

There are 18 capacity issues covered in the questionnaire. You are not required to answer each one and you may skip any that you wish. However, we encourage you to complete as many as possible. For each capacity issue you will be asked:

1. Between 0 and 5, what is the **current** capacity of the Office for this issue?
2. Between 0 and 5, what capacity **should** the office have within 5 years for this issue?
3. Please explain your answer, if you would like.

The questionnaire is available in Uzbek and Russian and your written answers may be provided in either.

PERSONAL PROFILE

*** Gender**

Male

Female

Other

*** Position**

Leadership (Ombudsman, Deputy Ombudsman, Head of Secretariat)

Central office staff

Regional representative

Following the introductory questions (on the previous page), the same format was used for each capacity issue. Question 1 is shown below as an example:

салоҳият 1 / потенциал 1

Институционал салоҳият

Омбудсман офиси Ўзбекистонда инсон ҳуқуқларини самарали қимоя қилиш ва рақабатлантириш бўйича ҳуқуқий асосга эга.

Институциональный потенциал

Офис Омбудсмана имеет юридический мандат по эффективной защите и поощрению прав человека в Узбекистане.

3. 0 дан 5 гача баҳолаш тизимида Офиснинг hozirgi пайтдаги салоҳиятини қандай баҳолаган бўлардингиз?

Каков нынешний потенциал Офиса по этой проблеме, оценить по шкале от 0 до 5;

= 0

= 1

= 2

= 3

= 4

= 5

4. 0 дан 5 гача баҳолаш тизимида, сўнгги 5 йилда Офиснинг ушбу масала бўйича эга бўлиши керак бўлган салоҳиятини қандай баҳолаган бўлардингиз?

Какой потенциал должен иметь Офис в течение 5 лет по этой проблеме, оценить по шкале от 0 до 5;

= 0

= 1

= 2

= 3

= 4

= 5

5. Лозим топсангиз, жавобингизни изоқланг

Пожалуйста, объясните свой ответ, если хотите

Appendix 6 - Responses to Questionnaire

#	Core Issue	Current capacity	Future required capacity	Capacity Gap
1	Whether the Ombudsman's Office has the legal mandate to effectively protect and promote human rights in Uzbekistan.	4.15	4.63	0.48
2	Whether the Ombudsman's Office is trusted, respected and perceived as independent by all people of Uzbekistan.	4.41	4.71	0.30
3	Whether the Ombudsman's Office has a strategic plan and annual activity plans so that the Ombudsman, the Deputy Ombudsman, staff and regional representatives have clear priorities for their work	4.75	4.75	0.00
4	Whether the Ombudsman's Office has an organisational structure and a sufficient number of well qualified and well remunerated staff which allow it to fulfil its mandate.	4.00	4.56	0.56
5	Whether the Ombudsman's Office reflects gender balance in its leadership and its staff and effectively promotes and protects gender equality through its work	4.53	4.87	0.34
6	The capacity to ensure all staff receive an appropriate induction and professional development in areas relevant to their skills and expertise.	4.44	4.75	0.31
7	Whether the Ombudsman's Office has the funding, material assets and accessible premises it needs to fulfil its legal mandate in the regions as well as the capital.	3.75	4.31	0.56
8	The capacity to store, manage and analyse information relating to complaints and all other activities, including through the use of user friendly online databases.	4.50	4.87	0.37
9	The capacity to monitor and report on systemic human rights issues in Uzbekistan, assessing compliance with its international human rights obligations.	4.69	4.93	0.24
10	The capacity to effectively engage with the international human rights mechanisms, including through the drafting of shadow reports.	4.38	4.86	0.48

11	The capacity to review all received complaints and undertake prompt, impartial and comprehensive human rights complaints investigations and resolve them in a timely manner.	4.50	4.86	0.36
12	Whether the Ombudsman's Office has effective checklists, manuals and guidelines in all areas, especially in relation to complaints handling, inspections of places of detention and reporting	4.64	5.00	0.36
13	The capacity to conduct quality policy research and analysis, present persuasive legislative and policy proposals and advocate for implementation of their recommendations.	4.71	4.93	0.22
14	Whether the Ombudsman's Office conducts regular campaigns to raise public awareness and understanding of human rights and of the Office's role, functions and mandate through a strong external communications strategy and media relations.	4.29	4.86	0.57
15	The capacity and funding to promote sustainable human rights education programmes for state officials.	3.85	4.79	0.94
16	The capacity to develop and maintain cooperation with Parliament, judiciary and state officials	4.79	5.00	0.21
17	The capacity to develop and maintain cooperation with civil society organisations, religious groups and the private sector	4.64	4.93	0.29
18	The capacity to engage effectively with the international human rights organisations and mechanisms (including through the drafting of shadow reports) and other national human rights institutions.	4.43	4.93	0.50

Appendix 7

Implementation table

Priority 1

NO	ACTION	ACCEPTED/NOT ACCEPTED	RESPONSIBILITY FOR PREPARATION	REMARKS	TIMELINE	PROGRESS
1.1						
1.2						
1.3						

Priority 2

NO	ACTION	ACCEPTED/NOT ACCEPTED	RESPONSIBILITY FOR PREPARATION	REMARKS	TIMELINE	PROGRESS
2.1						
2.2						
2.3						

And so on for each priority and action