**Country: Uzbekistan**

**(Draft Project Proposal Concept)**

**Strengthening Rule of Law and Human Rights Protection in Uzbekistan**

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| **Project Title:** | Strengthening rule of law and human rights protection in Uzbekistan |
| **Expected Output(s)** | Improved and inclusive access to justice through establishing foundations for state-funded sustainable free legal aid system; enhanced capacity of National Human Rights Institution/Office of Ombudsperson and people-centered court service delivery addressing the needs of vulnerable populations of Uzbekistan (youth, women, people with disabilities, ethnic minorities, residents of rural areas) |
| **Implementing Agencies** | UNDP, Uzbekistan |
| **Total Budget Required:** | 1 500 000 EURO |
| **Duration:** | 2021-2024 |
| **Donor:** | Government of Finland |
| **National partners** | Ministry of Justice, National Human Rights Institution/Office of Ombudsperson, Supreme Court, Ministry for Support of Mahalla and Family of Uzbekistan, civil society and media |

## Development challenge

Despite recent reforms, access to justice is still hampered in Uzbekistan, given absence of legal framework for free legal aid, low awareness by the population of their rights to access justice and seek remedies, inaccessibility and unaffordability of justice institutions in remote areas, limited number of NGOs specialized in providing free legal aid services and prevailing traditional norms to resolve disputes informally[[1]](#footnote-1) or through corruption.

The vulnerable populations (especially rural, uneducated and poor people and women in rural areas) are lacking awareness of justice procedures and do not have access a high quality free legal aid. Access to justice is difficult for people in remote areas, where distances to court are greater, public transportation is less available, higher lawyers’ fees and ICT infrastructure in remote areas do not allow using modern interactive services introduced in courts. There are few free legal aid providers at the moment, such as legal clinics of universities, Ministry of Justice’s facilitated legal advice system that is maintained by NGO Madad (based on support of UK Embassy and model of UK Citizen Advice[[2]](#footnote-2)) and few others, while the private lawyers are more hesitant to practice pro bono work. Therefore, for courts outside the city of Tashkent, the availability and employment of private lawyers is not common and only 30-40% of disputed cases involve lawyers[[3]](#footnote-3). During his visit to Uzbekistan in 2019, [UN Special Rapporteur on independence of judges and lawyers](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25043&amp%3BL&fbclid=IwAR045U6Dnsm17PZjKiEs8gBjOmny8E6ycszsF1xNDop1zis33xehlaSWIuM) has also noted the Uzbekistan has a drastic shortage of lawyers and inaccessibility of legal aid and options for resolving grievances (other than courts) contributes to prevailing sense of injustice and impunity.

There are also significant socio-cultural obstacles to accessing justice in Uzbekistan. Uzbeks in general but rural residents in particular face strong social pressures to reconcile or mediate disputes. Going to court is considered as a last resort. Despite the absence of legal obstacles for women to access justice, prevailing traditional values assign women (especially rural) to the home and consider shameful women’s attending to court or other business in the public sphere.

Strong system of checks and balances among the three branches of power and presence of the independent and effective oversight mechanisms are of importance. In Uzbekistan, a presidential republic with strong executive branch and weak oversight institutions, the system of checks and balances is yet to be strengthened for stronger rule of law and efficient performance of the governance system. Weak checks and balance systems affect adversely accountability, transparency and efficiency of state institutions, as well as responsiveness of delivery of public and justice services to the needs of citizens.

In addition, weak checks and balances system indicates low level of independence of judiciary. Role of the judiciary in checks and balances system is to monitor effective application and enforcement of enacted laws. In addition, judiciary, exercising its law initiation function, should be able to draw the attention of executive and legislative bodies to the discrepancies in law enforcement practice. Effective realization of its role in checks and balances system can lead to increased legal certainty and predictability of legislation, which are crucial elements of rule of law. As per WJP report, Uzbekistan’s overall rule of law score increased 1.7% in this year’s Index. At 92nd place out of 128 countries and jurisdictions worldwide, Uzbekistan improved four positions in global rank. Uzbekistan’s score places it at 12 out of 14 countries in the Eastern Europe and Central Asia region and 14 out of 30 among lower middle-income countries. At the same time, it is reported that Uzbekistan is one of the three countries with lowest scores in the region along with Russian Federation and Turkey. While showing no raise in score, Uzbekistan has improved its ranking in Civil Justice (+1) and Criminal Justice factors (+2) compared to 2019.

Uzbek judiciary is not effectively performing its functions in division of powers (check and balances system). This is evidence by Uzbekistan’s rank in ‘Government powers are effectively limited by the judiciary’ sub-factor of the ‘Constraints on Government Powers Sub-factors for Uzbekistan’ factor (127th among 128 participating countries).Moreover, within checks and balances system, judiciary can use its legislative powers to lead the government efforts in implementation of international human rights standards including gender standards in national legislation by effective analyses of the law enforcement practice and drafting necessary proposals to legislation.

The Office of Ombudsperson, an oversight institution has been under opportune reforms with the new policies and legislations passed and will require support to enhance their capacity and independence. The Office of Ombudspersons, being a national human rights institution, man is also currently undertaking an effort to rollout the National Preventive Mechanism to prevent and monitor torture incidences in detention settings and prisons. It had applied for GANHRI accreditation in line with Paris Principles and decision on accreditation is expected at the end of 2020-early 2021.

## Government’s efforts

Overall, national counterparts share the vision of judicial reform launched by President that is aimed to improve access to justice for ordinary citizens, as well as transparency and accountability of the judicial system. The judiciary does not yet have a comprehensive strategy or roadmapthat would set out actions necessary to reach declared objectives of judicial reform by the President The Ministry of Justice is currently working on the draft law on Free Legal Aid (FLA), that would envisage delivery of free legal aid on criminal and civil cases and has requested an assistance from UNDP in its development process and its costing. The Law on Bar Association is also being re-considered to ensure more independence of lawyers. The Law on Meditation was adopted in January 2019 and envisages preparation of mediators via Academy of Lawyers.

UNDP’s support to rule of law and human rights is highly valued among national partners. UNDP currently works with Supreme Court on delivery of trainings; e-case management and expansion of successful ICT component/E-Sud to the remaining parts of the court system; strengthening of case management and improving women’s participation in justice. UNDP support Senate’s Gender Commission and Ministry for Support of Mahalla and Family on women empowerment, gender equality, protection of women from gender-based violence as well as gender statistics and implementation of CEDAW Committee recommendations. UNDP, jointly with OHCHR and Asia Pacific Forum, conducted capacity assessment of Ombudsperson office, followed by policy advocacy on NPM, capacity development of NHRI and its preparation to GANHRI accreditation in line with Paris Principles. In cooperation with National Human Rights Center, UNDP is advocating for better implementation of recommendations of UPR and UN Treaty Bodies, professional capacity building of civil servants and different duty-bearers on implementation of the international human rights commitments of Uzbekistan. UNDP has also facilitated the country visits of two UN Special Rapporteurs as well as contributed to the preparation of the country membership to UN Human Rights Council, to which Uzbekistan has recently been elected successfully.

Having a strong expertise in supporting design and delivery of free legal aid system across 155 countries and in contributing to enhanced access to justice and rule of law on over 100 countries, UNDP is well positioned to provide support to Uzbekistan in these areas in accordance with international guidelines and principles, relying on its network of global policy experts and the knowledge exchange platforms available within the UNDP Global Programme on Rule of Law and Human Rights.

## Project Description

Project will focus on three development areas in accordance with Outcome 1 of the Uzbekistan UNSDCF for 2021-2025:

1. Lack of access to justice with particular focus on vulnerable groups and population in rural areas

2. Low capacity of the oversight institutions

3. Lack of checks and balances among three main state powers

Thus, project will focus on three main components:

**Component 1. Increasing inclusive access to justice for vulnerable groups and population in rural areas**

* 1. Support Ministry of Justice and relevant CSOs in establishment of the sustainable state guaranteed system of FLA, including in design of free legal aid law, it’s costing, action plan and setting up of FLA centers and any other needs in accordance with UN Guidelines and Principles on Legal Aid in criminal justice systems and best practices from other countries;
  2. Conduct assessment of legal aid and justice needs, focusing on especially vulnerable populations (utilizing methodologies of OECD legal aid survey or UNDP access to justice assessments in other countries) in at least 3-4 provinces of Uzbekistan to inform policy making on access to justice and FLA;
  3. Support development of ADR/mediation system and other informal systems of dispute resolution that can help address the shortage of lawyers and relieve tensions prevailing due to lack of justice (in line with human rights standards).
  4. Support legal awareness campaigns in cooperation with Ministry of Justice, Ministry of Social Development, Youth Agency and the Ministry for Support of Mahalla and Family for vulnerable groups (youth, women, people with disabilities and ethnic minorities) and population in rural areas to raise their awareness and understanding of rights to justice and on available legal aid providers and remedies in their closest location. Cooperation will be sought with peer institutions in Finland (e.g. Social Development Ministry, Federation of Mother and child homes and shelters, PwD NGOs, etc) to share and learn the experience.

**Component 2. Enhancing institutional capacity of National Human Rights Institution/Office of Ombudsperson Office of the Republic of Uzbekistan**

2.1. Strengthening institutional capacity of NHRI/Office of Ombudspersor for fulfillment of their oversight and monitoring function (as per the recommendations of 2019 capacity assessment report provided by UNDP, OHCHR and Asia Pacific Forum of NHRIs)

2.2. Capacity building of Ombudsperson office’s staff (both on central and regional levels) to enhance effective cooperation with civil society, the government agencies by trainings and workshops related to case management, national preventive mechanisms (NPM) and data analysis on individual complaints

2.3. Capacity building of Ombudsperson in improving its communications and outreach to vulnerable populations, interaction with media and increasing accessibility of information on its activities, including a high-quality annual reporting to Parliament

2.4. Support the activities of NPM in regions of Uzbekistan and build the professional capacities of Regional Representatives of Ombudsperson. Support in arranging the twinning cooperation and peer-to-peer learning programme with Parliamentary Ombudsman of Finland.

**Component 3. People-centered delivery of courts services (with Supreme Court)**

3.1. Support development of comprehensive and actionable judicial reform plan or strategy (e.g. like in Kazakhstan, Serbia), that would envisage follow up to Special Rapporteur’s recommendations related to independence, impartiality, quality, competence and accountability of judges. As part of this strategy, devise actions that would improve effectiveness of courts and access to them for the most vulnerable groups, e.g. women, rural populations, people with disability, unemployed youth and others who have hindered access to justice.

Developing the legal framework and methodologies for effective analyses of judicial and law enforcement practice, including through knowledge transfer using the experience of Finland judicial system as well as other EU countries

3.2. Analytical support in developing legislative proposals related to access to justice, human rights and gender equality in accordance with best international standards, including the best practices from Finland and other EU countries;

3.3. Strengthening capacities of judiciary in effective cooperation with civil society organizations, expert community, etc. to improve the quality of legal drafting, analysis of cases and legal practice

3.4. Increasing accessibility of judicial data by introducing automated gathering and publication of data in line with the best international practices.

1.4. Advancing the professional skills of regional and district judges in criminal and administrative courts on use of international human rights conventions, due process and fair trial principles as well as digital tools

1. Final evaluation of joint programme of UNDP, USAID and Supreme Court of Uzbekistan Rule of Law Partnership in Uzbekistan, Sean Lees, August, 2017 [↑](#footnote-ref-1)
2. This new system will provide primary free legal advice in 201 districts, but their funding is unsustainable, and support is required according to MoJ [↑](#footnote-ref-2)
3. According to the respondents of the survey by Sean Lees, UNDP Evaluation expert, at the Yuqorichirchik Inter-district Court. [↑](#footnote-ref-3)