

# Judicial and Governance Reform in Uzbekistan

Mjuša Sever

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## Executive Summary

Since President Mirziyoyev assumed power as interim president in September 2016, a major agenda of reforms has been introduced in Uzbekistan. In this broader agenda, judicial and governance reform has been identified as key to the entire reform process.

The scope and speed of reforms outlined in this study are bold and unprecedented. Given the systematically negative coverage of developments in Uzbekistan prior to the transition of power, these reforms may appear to have emerged *ex nihilo*. But while little of a positive nature was reported, many of the reforms under Mirziyoyev trace their origins to developments in the past decade. Indeed, already in 2005, reforms in the judicial sector introduced *habeas corpus* and abolished the death penalty.

While change was slow, by 2010 the Uzbek government was convinced of the need for greater outreach to the international community. In subsequent years, reforms introduced the separation of powers, and strengthened the office of the Ombudsman. By 2014-15, a major effort was underway at the Ministry of Justice to reorganize and improve the legal system. The generational factor was important in this process: younger officials, often with foreign education, had begun to rise through the ranks and take on greater responsibilities. By 2015, the prior aversion to bring discussions on important issues to the public had begun to be overcome.

That being said, when Prime Minister Shavkat Mirziyoyev assumed the position of Interim President, he rapidly sent a major jolt through the system and launched the country's institutions on a path to rapid and comprehensive reform. Early on, he stated outright the principle underlying his actions: "It is time to end the period when people worked for the government. Instead, the government must start working for the people!"

Indeed, while still only the interim President, Mirziyoyev opened himself up to direct access through the Internet via his so-called “virtual office.” During a later address to Parliament, he advised parliamentarians to start doing the same. Parliamentarians then began taking regular trips to the countryside to meet with their constituents. The Governors, though still appointed by the President, were instructed to hold periodic receptions in all regions. These are now obligatory in every region.

Mirziyoyev’s insistence on putting the people’s voice on record, appears to have shifted the political atmosphere in his favor overnight. It vastly increased the popularity of both his national and local policies, allowed for an evaluation of the results of his national and local policies, and it provided him with the support necessary to start introducing substantial reforms and changes. This is a novel development in Uzbek political life and offers citizens a new mechanism for influencing the administration’s performance. Moreover, it serves as kind of watchdog while at the same time allowing officials direct contact with citizens in a way that makes them more susceptible to their grievances and concerns.

The initial reforms came in the form of presidential decrees. These included substantial judicial reforms and strict anticorruption measures. An October 2016 decree sought to reform the judicial system and strengthen the protection of rights and freedoms. It called for, among others, a review of more than 700 legal acts spread over more than 90,000 pages. This was followed up by legislation that took measures to strengthen public trust in judiciary. A new Anticorruption Law was entered into force in early January 2017 and was followed by a state anticorruption program.

After being elected president in January 2017, Mirziyoyev announced a comprehensive “Five Point Development Strategy Plan” outlining policy priorities for a five-year period. This Plan focused on improving the system of state and social construction; strengthening the rule of law and the judicial system; developing and liberalizing the economy; developing the social sphere; and improving security and implementing a balanced foreign policy.



The main legislative role in coordinating reforms was assigned to the Ministry of Justice, now staffed by an entirely new set of young officials. It was tasked with implementing administrative reforms, assuring that other ministries meet deadlines, reviewing draft legislation and internal regulations to bring them into line with the Constitution; and assuring that new laws comply with international standards and conventions.

A crucial element of the overall reform process is the strong political support accorded to the younger generation. Many talented young officials have been promoted to responsible posts, including as ministers and deputy ministers. In addition, a position of State Adviser on Youth has been added to the President's Cabinet. The inclusion of the younger generation led the administration to begin to pulse with new ideas. Rigidly bureaucratic modes of official interaction were abandoned as communication began to catch up with worldwide practice.

Further still in January 2017, a package of judicial reforms was introduced. These reforms aimed at ensuring that the judiciary is truly independent; increasing the authority of the courts; and at democratizing and improving the judicial system on the basis of the best national and international practices. Also highlighted, were the objectives of guaranteeing the protection of citizens' rights and freedoms; improving administrative, criminal, civil and commercial law; fighting crime and advancing crime prevention, including anticorruption measures; and strengthening the rule of law and building public trust in the legal system through communication with the public and media.

A key step in this direction was Mirziyoyev's handling of the previously all-powerful General Prosecutor's Office. At a January 2017 meeting with prosecutors, President Mirziyoyev stated that the country needed to establish efficient public control over this body, lest it again be perceived as a repressive and retaliatory institution. Sweeping changes were imposed on the internal structures and personnel of the Procuracy, designed to fundamentally transform what, along with the Ministry of the Interior and the Security Service, had long been the country's most powerful institution. The newly appointed senior staff at the General Prosecutor's Office appears clearly devoted to these reforms. The Ministry of Interior underwent similar reforms, including the screening and

restructuring of its staff, while the Police Academy is undergoing an internal review as well.

A key area of reform has been the restructuring of legal education. A Presidential decree of April 2017 focused on the Tashkent State University of Law. As a result, the curriculum was updated, teaching methods modernized, and a credit system introduced. The old lecture-based approach was abandoned in favor of experiential learning. The University proceeded to hire many young professionals, some with foreign degrees. Now the University's ambition is to become the regional hub for legal studies in Central Asia. Along with these reforms, the Supreme Court is preparing to establish an Academy to train judges, candidates for judgeships, and other court personnel.

While the reforms of the past eighteen months have taken exceptional steps forward, much still remains to be done. One example is to devise a stronger role for defense counsels and to develop of a road map on how to strengthen the independence and professional capabilities of lawyers. Prior tight state controls over the licensing of defense counsels long ensured that these officers of the court would remain weak. While ongoing reforms correctly envision the role of defense counsels, little has been done to date to implement the changes that are urgently necessary.

By December 2017, President Mirziyoyev sought to further accelerate the pace of reforms. In a widely distributed speech to a joint session of parliament, he spoke of many areas in need of further reforms. This included the need to reform civil service law, and to delineate the scopes and functions of executive bodies. Another area of focus was to reduce administrative influence on economic life and transition to an economy dominated by market mechanisms. This will include transferring functions from the state to the private sector. Mirziyoyev also emphasized the anti-corruption struggle, and the need to strengthen the role of parliament. He addressed the need to improve mobility and reduce the prevalence of domestic checkpoints. Perhaps most importantly, he directly targeted the National Security Service, decrying its pervasive influence on all sectors of the state and society. Following this, the President retired the highly

influential Head of the Security Service (who had been in place for almost two decades) and launched an effort to modernize the Security Services.

While these reforms are a work in progress and many remain at the declarative level, they have already had important implications. For example, the enlivened new leadership transformed Uzbekistan's previously dull media environment almost overnight. News in Uzbekistan nowadays is meaningful, timely and critical. It is true that media still mask criticism behind quotes from political leaders, but they no longer speak with only one voice. The media has become more timely and trustworthy, with more reporting on international affairs as well. The government claims that it wants the media to be stronger. However, there is still a lack of analytical articles and editorials that critically review the ongoing reform processes around the country. Moreover, the country's media is yet to incorporate and engage in investigative journalism.

Going forward, the main challenge for President Mirzyoyev's administration will be to deal with the country's pervasive culture of corruption, a legacy of the past that for decades has been consuming the country's resources like a dangerous cancer. New legislation is now in place that provides a solid basis for action. But the real test of the country's leadership will be to confront the bureaucratic legacy that makes corruption possible.

The leadership's moves to face down the law enforcement and security apparatuses of the past is positive and courageous. Only in this way can it erase the fear which for so long intimidated the population at large and government officials themselves. The new freedoms that have begun to emerge bring along a strong responsibility to act according to the rule of law as outlined in the Constitution.

To get all three branches of the government to act in accordance with newly reformed laws is one of Uzbekistan's most urgent priorities. But for these reforms to truly take root, it is also important to provide political openings for civil society and the media to engage directly with the process of governing.

## Introduction

“The weather will be changing!” These were the words of a senior official during one of the author’s many informal conversations in Tashkent in mid-2016. The statement reflected ongoing processes within the Uzbek political elite that were often hidden to outside observers. In fact, as one of the few foreign specialists working on the ground in Uzbekistan throughout the last 14 years, this author found the lack of understanding of Uzbekistan among Western observers to be an ongoing source of frustration. Most country reports on Uzbekistan relied heavily on rumors dating back to the early 2000s. Very few were based on facts. It is true that Uzbekistan’s relative self-isolation for close to a decade greatly contributed to this, by reducing the flow of information both within the country and with the outside world. International reports invariably painted the country in the darkest colors. As a result, in most fields it was considered a hardship to be posted to Uzbekistan.

A young state in a fragile region cannot simply copy foreign legislation that is deemed desirable. Besides adapting foreign models to local circumstances, it must change the mentality of all parties involved and to develop in local officials, the skills needed to implement reforms effectively, without causing massive disruption. This chapter is based largely on the author’s work on such issues in Uzbekistan over more than a decade. It draws on the experience of bringing more than one hundred experts from the West to work in the country, where they focused mainly on the rule of law and criminal justice. Inevitably, many of these experts perceived the complex political realities of Uzbekistan against the background of the more familiar processes of post-Soviet change in Central and Eastern Europe, a perspective that overlooked most of the complexities of Uzbekistan’s political landscape. But whatever their initial perspective, nearly all of these experts came to perceive that the changes taking place today in Uzbekistan are striking.

The aim of this study is to elucidate the process of Uzbekistan's reforms in the judicial and governance. It will begin by outlining the bold innovations outlined by President Shavkat Mirmonovich Mirziyoyev in his address to the Oliy Majlis (Parliament) in December 2017. It will then consider the onset of reforms during the decade prior to Mirziyoyev's election to the presidency. The paper will conclude with a detailed analysis of the reforms announced and initiated since the transfer of power in the fall of 2016.

## A New Beginning

On December 22, 2017, President Shavkat Mirziyoyev delivered a four-hour long speech to both chambers of Parliament, which was transmitted live both on national television and on his Facebook page.

The speech's forty-one-page transcript surveys the reform measures introduced after Mirziyoyev was appointed Interim President and during the thirteen months since his election as President in December 2016. It detailed the President's strategy for the future in all the key areas and concluded with his proclamation that 2018 would be: "The Year of Support for Active Entrepreneurship, Innovative Ideas and Technologies."

Mirziyoyev's speech touched on many important areas of judicial and government reform. In an important passage the President announced his intention to ensure that a law "On the Civil Service" would be drafted and adopted. Such a law, he indicated, would guarantee that civil servants would receive adequate pay, but would hold them fully accountable for their actions. He also stressed the need to delineate carefully the functions and scope of all executive bodies. Furthermore, Mirziyoyev called for a drastic reduction of administrative influence over economic life and for a new economy to be driven instead by market mechanisms. Many current state functions, he argued, must be transferred to the private sector. Indeed, he went so far as to announce that it was time "gradually to abandon centralized governance and to improve methods and approaches that will promote closer cooperation between the representative [i.e. elective] bodies and executive authorities." To achieve this, he proposed that many important services should be provided by lower levels of government, that the status of local authorities be increased, and that many entrenched methods be replaced by innovative new governmental practices. The President also pointed to the need for effective anticorruption mechanisms. To fulfill all these tasks, he

called on the government to implement proposals contained in his further document, "A Proposal of Administrative Reforms for the Republic of Uzbekistan."

These bold initiatives would have been considered courageous in any country. But Mirziyoyev went further, calling for Parliament "to become a real school of democracy" and the "initiator and main implementer" of reform. At the same time, he criticized Parliament for the fact that out of 136 legislative initiatives in 2017, only 27 had been initiated by the legislature. He noted that "the adoption of inefficient, contradictory laws and by-laws creates many problems." "Tell me, please," he asked, "who needs inefficient working groups and 'dead' laws that have no enforcement mechanisms and do not affect law enforcement?"

The President then went on to describe his priorities in the judicial area. He noted the establishment of a Higher Judicial Council but emphasized the need to create a parliamentary commission to protect the independence of the judiciary. Such a commission, he noted, must consider appeals received from the public and use parliamentary inquiries to analyze situations and solve problems in coordination with the Supreme Court and the Higher Judicial Council. The President zeroed in on the importance of protecting judges from influences that might impede access to impartial justice: "It is extremely important to identify cases of interference with the activity of the courts, to increase accountability, and to ensure that the punishment [of transgressors] is inevitable." A law on *habeas corpus* had been adopted several years earlier but Mirziyoyev pointed out that the issuance of search warrants and oversight over electronic surveillance and the tapping of telephones had yet to be transferred to the courts. He went on to announce the establishment of an Academy of Justice to prepare highly qualified judges and court personnel. Mirziyoyev reminded parliamentarians of his earlier decree banning torture and all psychological and physical pressure, and now introduced additional mechanisms to ensure the rights of prisoners.

The President then announced substantial prison reforms and indicated that traffic and patrol police would henceforth be equipped with video cameras to prevent abuses of power. He called for a reduction in the number of highway checkpoints that restricted freedom of movement and hindered the development

of trade and tourism. “Just think: today there are over sixty such posts across the country. To come from Khorezm to Tashkent one needs to pass seventeen of these checkpoints, and a person coming from the Fergana Valley will have to pass eight checkpoints. We must now remove all mobile regional checkpoints and drastically reduce the number of fixed checkpoints nationwide.”

Mirziyoyev stated as a given that Uzbekistan would become a democratic state. “Since we are building a democratic state,” he argued, “we need to train well-educated, highly qualified, and altruistic professional lawyers who will meet international standards.”

In this context, he praised reforms implemented at the Tashkent State University of Law, led by Rector Esemurat Kanyazov and his young faculty staff, with its newly functioning legal clinic. There, students under the mentorship of their professors dispense free legal assistance to the public, in the process learning practical skills through direct contact with clients. Mirziyoyev acknowledged that the approximately 600 lawyers who graduate annually from this university will not suffice to meet the country’s current and future needs. He therefore, announced his intention to attract respected foreign law schools to open branches in Uzbekistan. Of special importance was his plan to expand the role of defense lawyers, who have long suffered from second-rate status and have been relatively powerless compared to the state’s prosecutors and police.

The President then turned his attention to the principal institutions of state power, arguing that “the time has passed when it was possible to move beyond one’s competence to intervene in all fields, to overlook the interests of the Homeland and the people while [actually] acting for one’s own benefit and in the name of ‘the office.’” In his most daring words to date, Mirziyoyev targeted the National Security Service (SNB), previously believed by many to function like a state within the state:

The bodies of the National Security Service have been acting until the present day on the basis of a regulation approved by the government 26 years ago. This regulation has not been changed for a quarter of a century. Every ordinary issue has been regarded as a threat to national security, which led to the expansion of the agency’s powers. ... Given this, and also



taking into account all the threats arising in an era of globalization, it is time to reform the National Security Service. In this regard, I propose to draft and adopt laws 'On Law Enforcement Bodies' and 'On the National Security Service.' I believe that the adoption of these laws will create a legal basis for further strengthening the constitutional rights and freedoms of citizens and guarantees to them of a prosperous life.

This indicates clearly that President Mirziyoyev was taking his national reform plan to the next level, even at the cost of a direct confrontation with the SNB, the country's most powerful agency, which has long been assumed to control nearly every aspect of daily life.

While this reform agenda is breathtaking in its scope and pace, it is not entirely without precedent. As will be seen in the next section, the seeds of change were planted a decade before President Mirziyoyev's speech – indeed, soon after Shavkat Mirziyoyev became Prime Minister in 2003.

Following the Andijan crisis of 2005 and the ensuing rift between Uzbekistan and the West,<sup>1</sup> most international organizations and professionals either left the country or were asked to leave. For close to a decade Uzbekistan isolated itself internationally and little was known outside the country about the nation's internal developments. Most briefing papers and media coverage in the West remained negative and continued to focus almost exclusively on the events of 2005 and before. Yet life inside the country did not stop after the international organizations left. Indeed, at least one international organization continued to function in the area of judicial procedures and human rights. From observations gleaned on the ground over the decade before 2016, it is clear that many of the reforms being promoted today grew directly out of changes that the government itself had been promoting over the preceding decade.

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<sup>1</sup> Jeffrey Hartman, *The May 2005 Andijan Uprising: What We Know*, Washington/Stockholm: CACI & SRSP Silk Road Paper, May 2016. (<https://silkroadstudies.org/publications/silkroad-papers-and-monographs/item/13204>)

## The First Milestones of Change: 2005-16

Widespread condemnation by Western countries and organizations following the Andijan tragedy caused the government to distance itself from the West in the years that followed. But changes were nonetheless afoot within the country. Up until that time there had been no real separation of powers in Uzbekistan. The top-down decision-making process proceeded from the president through ministers and state advisers; the Parliament's role was limited to rubber-stamping presidential decrees. All political parties supported the presidential policies and elected representatives rarely uttered a critical word. The media was heavily controlled, which caused the coverage to be boring and reduced journalists nearly to the status of insignificant bystanders. The press in the country did not provide coverage in a timely manner. Digital media existed but many domestic and international websites were blocked.

In such a tense atmosphere, it came as a surprise that President Karimov on August 5, 2005, signed a decree abolishing the death penalty and introducing *habeas corpus* legislation. This important step showed that rational internal dialogue continued, although largely beyond the field of vision of outsiders. This dialogue built on the lessons learned in the years before the Andijan crisis and reflected the many personal efforts of a small number of individuals in both government and civil society.

In spite of this dialogue, the gap between government and the public remained wide. A second historic milestone was reached five years later. In the summer of 2010, ethnic clashes rocked the south of Kyrgyzstan – right next to the border with Uzbekistan – and ethnic Uzbek citizens of Kyrgyzstan bore the brunt of the violence.<sup>2</sup> The sudden influx of roughly 100,000 ethnic Uzbeks seeking refuge in

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<sup>2</sup> Shirin Akiner, *Kyrgyzstan 201: Conflict and Context*, Washington/Stockholm: CACI & SRSP Silk Road Paper, July 2016.

(<http://silkroadstudies.org/publications/silkroad-papers-and-monographs/item/13207>)

Uzbekistan's Ferghana Valley sent shockwaves throughout the country. Many people offered shelter to their ethnic kin. We do not know whether anyone in Tashkent contemplated military intervention to protect ethnic Uzbeks in Kyrgyzstan, a step that would surely have led to a disaster. President Karimov offered instead a measured and calm response to the crisis, even as it led to a discernible shift in Uzbekistan's foreign policy. Indeed, the Kyrgyzstan crisis helped build a consensus among Uzbek policymakers in Tashkent on the need for more open and balanced relations with the international community and for greater openness at home.

During the years that followed, President Karimov and his cabinet began a series of concrete steps towards political liberalization. For example, he strengthened the bicameral Parliament and gradually introduced the separation of powers. Uzbekistan's leadership closely studied the French, British, German and American systems of government, while also analyzing the experiences of other post-Soviet countries and of Asian states. Actual power remained with the President and his inner circle, especially the SNB, the Office of the Prosecutor General, and the Ministries of Internal and Foreign Affairs. Nonetheless, attention was now increasingly accorded to the role of Parliament.

### **The Activity of Human Rights Institutions**

Beginning around 2011, increasingly important roles were played by such government institutions as the National Center for Human Rights and the office of Ombudsman. These two institutions were cognizant of public opinion and well aware of the injustices that members of civil society were trying to bring to the attention of the government and foreign observers.

Ombudsman Sayyora Rashidova extended her network around the country. After she moved her offices out of the Parliament's heavily secured compound to a more readily accessible government building in downtown Tashkent, citizens' complaints began to flow in. Since the Ombudsman's office also had representatives in all regional capitals, complaints poured in not just in the capital but nationwide. This very important process, which was largely invisible to outsiders, brought citizens' complaints to the surface of public life. Data

published on the Ombudsman's website for those years indicate that the Ombudsman's offices received over 11,000 complaints per annum.<sup>3</sup> The most numerous of these were directed against the courts, with those directed against law enforcement ranking second. This was due to the fact that large parts of the public understood that the courts had failed to hold law enforcement bodies accountable before the law, and that in handing down sentences the courts continued the Soviet practice of "telephone justice," i.e., basing verdicts on phone calls from senior officials rather than on a foundation of actual laws.

A weak and heavily censored press enabled corruption and a lack of transparency in government institutions to continue, especially at the local level. This in turn contributed to feelings of resignation among the population – ordinary citizens and officials alike. However, it is important to stress that the government itself was increasingly aware of the fact that a powerful police force and security services could not by themselves assure the system's stability. Internal political stability could not be achieved without a strong economy. Key senior officials came to appreciate the fact that successful democratic systems could only be built on a basis of the rule of law and public trust. Without these foundations, chaos would ensue, which could threaten the entire system with collapse. President Karimov understood these realities and senior officials below him had an even more nuanced perception of them. As a consequence, these areas received growing interest and support from the top of the government. But most Uzbek laws were still based on Soviet legislation that was not amenable to mere adjustments. The drafting of entirely new laws necessarily drew upon the skills of many people and was by no means an overnight task.

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<sup>3</sup> In 2012 some 12,000 appeals, in 2013 11,733, in 2014 11,858 and in 2015 around 11,000.

Уполномоченный Олий Мажлиса Республики Узбекистан по правам человека (омбудсман), "Альтернативный доклад о соблюдении Республикой Узбекистан статьи 5 Международного Пакта об экономических, социальных и культурных правах", Tashkent, 2014 (<http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/Forms/DispForm.aspx?ID=1182>) and "Депутаты заслушали отчет Омбудсмана", Parliament of Uzbekistan, February 16, 2016. ([http://parliament.gov.uz/ru/events/chamber/15413/?sphrase\\_id=1044407](http://parliament.gov.uz/ru/events/chamber/15413/?sphrase_id=1044407))

## **The Generational Factor**

There were evident differences between the older generation, which had been raised under the Soviet system, and the younger one that became active during the last years of communism. Even bigger differences marked the post-independence generation, which now started to enter the government at all levels. Differences between members of the two older generations who were still firmly entrenched in power and their younger counterparts now began to emerge. The younger generation was internet savvy and able to elude governmental restrictions on information in the privacy of their homes. Some returned from studies abroad in democracies like the U.K., the United States, Japan, and Germany, and spoke languages in addition to Uzbek and Russian. They were eager to display their knowledge and use it for the good of the country. The older generations in power were at pains to keep up with this rising thirst for action. However, among the younger generation – including those serving in the government – a sense of impatience and frustration was increasingly apparent.

At the end of 2013, an initial group of senior officials took a well-organized trip to the United States, where they reviewed judicial institutions at both the federal and state levels. They conducted numerous meetings with their U.S. counterparts in two states-- Massachusetts and Minnesota – as well as the District of Columbia. In all three places they met with legal practitioners as well as prominent figures involved in judicial education and research. Upon their return they produced a booklet on the American judicial system and distributed it around the country. Their report to the country's leadership served as the basis for the first draft strategy of reform in this area. In his annual address to Parliament in early 2014, which was largely ignored in the West, President Karimov emphasized the need to build a strong legal culture and to strengthen the rule of law. He called for a review of the experience of leading Western countries and especially American judicial procedures in order to determine what could be incorporated into a revised Uzbek legal order.

Several study trips by governmental officials followed, both to the United States and to Europe. Numerous Western experts came on short visits to engage in detailed discussions with Uzbekistan's reform-minded legal authorities. This

deliberative process was as delicate as it was significant. These visits provided an opportunity for Uzbek jurists to build trust with European and American colleagues and to discover new solutions to old problems. As this process went forward the Uzbeks gained self-confidence, which facilitated more candid internal discussions on how to advance the process of reform. Indeed, the main benefit of these experiences for the new generation of potential leaders was the development of direct peer-to-peer contacts with like-minded Uzbeks.

These relationships were not burdened with external pressures or with political posturing. The resulting discussions among peers moved the assessment of practical matters to a higher level and encouraged creative problem solving. Participants eagerly shared their experiences with the country's leaders and with other prominent citizens. Their goal was to reproduce, on a national level within Uzbekistan, the constructive climate that had prevailed among Uzbek legal experts during these trips abroad and during visits by Western legal authorities to Tashkent.

The following two years (2014-15) were a time of very hard work. Most of the efforts focused on putting relations among the country's main judicial institutions on a more balanced and equal footing so that all actors in the judicial process could be properly heard. Considerable attention was devoted to reviewing both basic and advanced legal education. As a result, the Ministry of Justice, together with the leadership of the National Human Rights Center, became outspoken critics of the generally poor performance of the country's lawyers. Some initiatives during these two years also focused on reviewing the bureaucratic limitations that prevented institutions and individuals from keeping up with global professional and technological judicial developments in the legal and judicial spheres. Even though many at the time considered these all to be small steps, each step was in fact significant at the time and important for the future.

### **Bringing Discussions on Judicial Topics to the Public**

The June 2015 visit of a senior delegation from the U.S. Federal Judicial Center led by its Director, Judge Jeremy Fogel, marked the beginning of a new stage in the reform process in Uzbekistan. After meetings with all the principal figures in

the Ministry of Justice and judiciary, the guests and their Uzbek interlocutors presented a well-attended public panel. Together, the speakers delivered a joint message that certain aspects of the Continental and Anglo-Saxon judicial systems might be incorporated into the Uzbek judicial reforms. Equally important was the public nature of this presentation. Mid-level officials who had previously always tried to exclude the public were successfully overruled, no doubt thanks to interventions from more senior Uzbek officials. The latter clearly understood the importance of carrying directly to the public their proposals to make the judiciary more efficient, transparent and fair.

This episode reflected ongoing processes among the Uzbek political elite that are often far from obvious to outside observers. In May 2016, a small number of Western experts took part in discussions of the Uzbek Code of Criminal Procedure. These discussions occurred in an entirely new interagency format and were of very high quality. Both Uzbeks and foreigners who participated, understood that they represented a fundamental breakthrough heralding a new era. The Tashkent State University of Law, as co-organizer of these events, managed to bring together all the most relevant stakeholders in criminal justice reform: practitioners, operatives, academics and policymakers.

Participants witnessed unprecedented interactions involving all three branches of the government, interactions that were open and spontaneous. Breaking norms that had prevailed for years, arguments were presented without any show of disrespect or fear of speaking up. In these deliberations among senior officials highly motivated younger experts courageously took the lead, using their impressive knowledge and rhetorical skills to advance their well-thought out and common sensical arguments.

These events were soon followed by similar discussions led by the Supreme Court Research Center. These focused on judicial oversight of searches and electronic surveillance in the initial phase of investigations, which until then were still being conducted without court warrants. This was yet another example of very sensitive topics now being discussed by representatives from all three branches of government and in the presence of highly experienced international experts. Senior Uzbek officials leading this dialogue noted that it was the first such open

dialogue on extrajudicial law enforcement practices ever conducted in Central Asia. The presence of senior figures from all three branches of government, and also the National Security Council, and their active participation in all the discussions proved that Uzbekistan was ready to take the next steps: to begin implementing the principle of separation of powers and to strengthen the rule of law by reigning in the uncontrolled abuse of power.



## **Succession and a New Dynamic: “The Government Starts Working for the People!”**

The sudden death of President Islam Karimov was announced on September 2, 2016. And on September 8, Prime Minister Shavkat Mirziyoyev was named interim President. While Mirziyoyev was never publicly vocal nor particularly prominent until the transfer of power, he had obviously been deeply involved in, and well informed about, all the processes described above. Indeed, they would not have been possible without his approval.

Surprising changes already occurred in Tashkent during the first weekend after the interim President took over. Security barriers along the so-called “presidential roads” (those along which the President most frequently traveled) in Tashkent were removed overnight, bringing an end to the closure of city traffic when senior officials moved around the capital. In the days that followed crews began to repair many side roads that had previously been neglected. The interim President stated outright the principle underlying these and other actions: “It is time to end the period when people worked for the government. Instead, the government must start working for the people!”<sup>4</sup> Of course, at this point, these were only words. But the fact that the interim head of state uttered them loud and clear marked a new direction for Uzbekistan.

### **Initial Reforms through Presidential Decree**

The first reforms that indicated the new administration’s overall direction were issued in September and October 2016. Instituted by presidential decree, they included substantial judicial reforms and strict anticorruption measures. Mirziyoyev also banned unlawful moves against businesses by law enforcement

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<sup>4</sup> “‘It is big time the government bodies serve to the people, not vice versa’ - Shavkat Mirziyoyev”, *Tashkent Times*, October 26, 2016. (<http://tashkenttimes.uz/economy/131>)

entities and announced that meaningful economic reforms would henceforth be a top priority. On October 21, he signed a further decree on "Measures on further reforming the judicial system and strengthening the guarantees of reliable protection of the rights and freedoms of citizens."<sup>5</sup>

This document asserted that the main objective of state policy in the judicial sphere was to ensure the independence of the judiciary and strengthen the rights of citizens and their access to justice. The decree called for strict compliance with constitutional norms and legislative acts involving the independence of the judiciary, along with the imposition of sanctions for interfering with judicial actions. It also proposed changes in judges' tenure and stricter controls over their professional ethics. Finally, the decree established parameters for a number of changes in criminal law and in the codes of criminal and civil procedure, and outlined related legislation to be instituted on April 1, 2017.

A series of institutions, most notably the Supreme Court, the Higher Economic Court and the Prosecutor General's Office, were instructed to prepare by July 1, 2017, proposals to strengthen the legal protection of minors. The government also announced plans to amend the Constitution and to introduce anticorruption legislation, along with laws "On the protection of victims, witnesses and other participants in criminal proceedings," "On mediation" and "On administrative proceedings." The purpose of these decrees was to strengthen the public's trust in the judiciary. Uzbekistan's new administration fully understood that political and economic reform would be impossible until the country's judicial system had become independent and credible. It also understood that corruption, which stained the country's international image, needed to be addressed if Uzbekistan was ever to attract substantial foreign direct investment (FDI).

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<sup>5</sup> "Substantial reforms in judicial and legal system are forthcoming", *Regional Dialogue*, October 22, 2016. (<https://www.regionaldialogue.org/single-post/2016/10/22/Substantial-reforms-in-judicial-and-legal-system-are-forthcoming>); "Судебно-правовую систему ждет серьезное реформирование", *Gazeta.uz*, October 21, 2016. (<https://www.gazeta.uz/ru/2016/10/21/courts/>)

## **A New Approach to Governing**

The new leadership employed public discussion as its primary tool for bringing together officials, international visitors, and the public. The earlier practice of reflexively seeking to control what was said and done in public seemed to have evaporated. Momentum generated by the presidential elections provided the justification and mandate for this new approach. But most important of all had been the interim President's clear signal, explicit in his September and October decrees, that the times were indeed changing. This helped dissipate official apprehensions that arose when the previously mute citizenry began openly and actively to participate in political life.

Notable differences exist between the first and the second presidents of Uzbekistan. President Karimov was a highly skilled politician and a national icon, but he remained heavily guarded and nearly inaccessible to the public. As a result, all connections between him and ordinary citizens were, by their very nature, extremely limited. Mirziyoyev, by contrast, was already well-known as a man of dialogue and action. After President Karimov himself, he had long been the best-known figure in the country. During the electoral campaign he expanded his outreach to ordinary citizens with an unprecedented intensity. He travelled to every region of the country, continued to develop his "virtual office," and on his Facebook page invited citizens to approach him directly with their complaints, concerns, and initiatives. It was no wonder that he emerged as the clear winner in the presidential elections. What is important to note is that his call for reform went far beyond what was necessary to secure a victory in the snap election.

## **2017 – The Year of Dialogue with the People and the People's Interests**

In December 2016, the newly elected President Mirziyoyev declared that 2017 would be, "The Year of Dialogue with the People and the People's Interests."<sup>6</sup> This provided the context for the growing number of public discussions and seminars on various issues held at the capital and in provincial centers. Within a

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<sup>6</sup> "2017 proclaimed Year of dialogue with people", *Gazeta.uz*, December 7, 2016. (<https://www.gazeta.uz/en/2016/12/07/2017/>)

short time matters that had formerly been kept under official wraps and even blocked from websites were now openly discussed nationwide.

President Mirziyoyev and his team immediately went to work on more substantial reforms. As early as January 2017, only a month after the elections, he presented to a domestic and international audience a comprehensive “Five Point Development Strategy Plan of Policy Priorities for the Next Five Years.”<sup>7</sup> This caused Uzbek journalists and media outlets suddenly to awaken from their long slumber. Headlines in the Uzbek press suddenly became very interesting, and news reports became more factual and timely. Both traditional media and Internet news sites promptly publicized the many governmental staff changes. Journalists from governmental as well as private outlets began to compete in both the speed and quality of their reporting. Talented young journalists were suddenly full of follow-up questions and sought out the day’s most significant newsmakers for interviews. The political leadership finally gave the media a green light, which accelerated the communication of political news to the entire country.

### **Separation of Powers**

In a presidential system, presidential decrees can accelerate the process of reform but not complete it. Draft laws must still be prepared, all legislation must still go through the parliamentary processes. Thus, presidential decrees mainly set policy priorities, which are subsequently codified into law. Uzbekistan’s new president assigned responsibility for the elaboration of each new policy in law and set deadlines for action on each decree. This was itself an innovation. When implementation was delayed, the President did not hesitate to intervene, even with staffing changes when necessary.

The five-year development strategy that Mirziyoyev presented at the beginning of his term set the main policy direction for his administration. The priorities in

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<sup>7</sup> “Uzbekistan's Development Strategy for 2017-2021 has been adopted following public consultation”, Tashkent Times, February 8, 2017. (<http://tashkenttimes.uz/national/541-uzbekistan-s-development-strategy-for-2017-2021-has-been-adopted-following->)

this strategy affect all three branches of government, e.g. the judicial, executive and legislative:

- To improve the system of state and social construction. (In practice, this means transitioning from a vertical to a horizontal type of governing that would be open for a two-way communication between the government and citizens)
- To strengthen the rule of law and the judicial system.
- To develop and liberalize the economy.
- To develop the social sphere.
- To improve security, deepen religious tolerance and interethnic harmony, and to implement a balanced and mutually beneficial foreign policy.

Under Uzbekistan's constitution the President is the supreme authority of the executive branch. The executive branch includes the Cabinet of Ministers and the Council of Ministers of the Autonomous Republic of Karakalpakstan, as well as the Hokimiyats (governorships) of the twelve regions and of the capital Tashkent. The President is the Head of State and responsible for its proper functioning. The Constitution empowers him to issue decrees and orders that are binding throughout the country. At the present stage of the reform process, there is no doubt that the presidential administration is still the engine that is moving not only the executive and legislative branches, but the judicial branch as well, setting it up on an entirely new basis, one that is grounded on judicial standards.

The Oliy Majlis, or parliament, is the highest representative body in Uzbekistan, and since June 2004, has had two chambers: the lower Legislative Chamber and the Senate. Draft laws can be initiated by the President, by the Autonomous Republic of Karakalpakstan through its highest body of state authority, by members of Parliament and by the Cabinet of Ministers, the Constitutional Court, the Supreme Court, and the Prosecutor General's Office. Laws are passed by simple majority, while constitutional amendments require a two-thirds majority to be confirmed. The Senate approves or rejects draft legislation passed by the Legislative Chamber. The approved bills then go to the President for his

signature. The Legislative Chamber has the right to initiate a vote of no confidence in the Prime Minister or his cabinet. It also has the right and responsibility to review the work of ministries, the budget, and the implementation of legislation.

Within the executive branch, the main legislative role has now been assigned to the Ministry of Justice. It is tasked with implementing administrative reforms; assuring that ministries meet deadlines; reviewing draft legislation and internal regulations to bring them into line with the Constitution; and assuring that new laws comply with international standards and conventions ratified by the Uzbek government. The Ministry of Justice, which used to be the “hidden hand” manipulating Uzbek institutions, is now staffed by an entirely new set of young officials.

The Constitutional Court is being strengthened with a new group of experienced lawyers. It reviews all decrees and draft laws to assure that they are in compliance with the Constitution. The new appointments suggest that future changes might expand the Constitutional Court’s role in the implementation of legislation. In light of this, Uzbek leaders are reviewing the role played by constitutional courts in Europe, as well as in post-Soviet and Asian countries.

A crucial element of the overall reform process is the strong political support accorded to the younger generation. Many talented young officials have been promoted to responsible posts, including as ministers and deputy ministers. The heads of many divisions in the executive branch and powerful ministries are increasingly in their late thirties or early forties. Judges as young as thirty years old are now being appointed, while a position of State Adviser on Youth has been added to the President’s Cabinet. No sooner did the administration begin including members of the younger generation than it began to pulse with new ideas. Rigidly bureaucratic modes of official interaction were abandoned as communication began to catch up with worldwide practice. This has meant less ponderous inter-office documents and red tape, and greater use of electronic mail, social networks, and even the telephone.

This process is important because it reduces fear among the population and officials alike. The traditional need of administrators to control tightly all communication contributed directly to Uzbekistan's isolation. This now began gradually to disappear.

## **Rule of Law Reforms**

Courts in Uzbekistan had traditionally been subordinated to politics and were overwhelmingly infected by corruption, poor professional ethics, and inefficiency. The absence of a predictable and independent judiciary presented a serious obstacle to economic and social progress. The widespread lack of respect for constitutional rights also allowed repressive institutions to dictate the national agenda, which contributed to the prevailing international image of Uzbekistan as a state marred by widespread abuses of power and the denial of citizens' rights.

### **New Legal Reforms under Mirziyoyev**

The complex legal reforms that the interim President announced in October 2016, included several anticorruption elements. He assigned to the Ministry of Justice responsibility for coordinating reforms affecting the rule of law and judicial system. The new administration presented its goals in this area at the International Hotel in Tashkent on January 27, 2017:

- To ensure that the judiciary is truly independent, to increase the authority of the courts, and to democratize and improve the judicial system on the basis of the best national and international practices.
- To guarantee the protection of citizens' rights and freedoms.
- To improve administrative, criminal, civil and commercial law.
- To fight crime and advance crime prevention, including relevant anticorruption measures.
- To strengthen the rule of law and build public trust in the legal system through communication with the public and media.

The development of a strong and independent criminal defense bar is particularly important. It must be brought to the same level of competence as state prosecutors, so as to create a balance between the two sides in judicial processes.



Several additional decrees launched significant judicial reforms. The first, already mentioned, was "Measures on Further Reforming the Judicial System," issued on October 21, 2016. This called for a review of more than seven hundred legal acts spread over more than 90,000 pages — a strong indication of the new leadership's commitment to reform.<sup>8</sup> Second, a new Anticorruption Law was confirmed by both chambers of Parliament and entered into force on January 4, 2017. This was followed by the anticorruption program for 2017-2018, which this president approved on February 2, 2017.<sup>9</sup> A new 43-member interagency "Commission on Countering Corruption" included both government officials and civil society representatives. This body was empowered to issue decisions that all government institutions were required to implement.<sup>10</sup>

Third, on February 21, 2017, the President promulgated a decree, "On Measures to Improve Significantly the Structure and Efficiency of the Judicial System of the Republic of Uzbekistan."<sup>11</sup> This established the Supreme Court as the country's highest legal authority, superior to the economic, criminal, civil, and the newly founded administrative courts.

All these entities were physically moved to the premises of the Supreme Court. Only the military court, also under the jurisdiction of the Supreme Court, remained at its former home, in this case the Ministry of Defense. Since the Supreme Court's facilities were no longer adequate, it was announced that a new building, "The Palace of Justice," would be built. The decree also established a separate 17-member Higher Judicial Council that replaced the former Higher Commission. Its mission is to evaluate judges' performance and submit proposals for judges' appointments to the President, who then submits them to the Senate

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<sup>8</sup> This was reported by the Uzbek Minister of Justice Ruslan Davletov during his meeting with Regional Dialogue experts on September 27, 2017.

<sup>9</sup> "President Mirziyoyev signs National Anti-Corruption Program for 2017-2018" *Tashkent Times*, February 6, 2017. (<http://tashkenttimes.uz/national/529>)

<sup>10</sup> Maksim Yeniseyev, "Uzbekistan implements new anti-corruption strategy," *Central Asia News*, February 17, 2017. ([http://central.asia-news.com/en\\_GB/articles/cnmi\\_ca/features/2017/02/17/feature-01](http://central.asia-news.com/en_GB/articles/cnmi_ca/features/2017/02/17/feature-01))

<sup>11</sup> "President Mirziyoyev decrees to merge Supreme and Supreme Economic Courts," *Tashkent Times*, February 22, 2017. (<http://tashkenttimes.uz/national/599>)

for confirmation. The majority of the eleven-member staff of this new body are judges.

Reforms have also been implemented in other judicial areas, notably at the General Prosecutor's Office. At a January 7, 2017, meeting with prosecutors, President Mirziyoyev stated that the country needed to establish efficient public control over this body lest it again be perceived as a repressive and retaliatory institution,<sup>12</sup> as it was known in the past.<sup>13</sup> The sweeping changes imposed on the internal structures and personnel of the Procuracy were designed fundamentally to transform what had long been the country's most powerful institution, along with the Ministry of the Interior and the security services. The newly appointed senior staff is clearly devoted to reforms. Prosecutors will henceforth be trained at a two/three-year academy, while senior prosecutors will undergo six-months of specialized training. The academy will also provide one-month refresher courses that will be required every three years. This restructuring is presently being led by the young and very active national coordinator of the interagency anti-corruption group.

The Ministry of Interior underwent similar reforms, including the screening and restructuring of its staff, while the Police Academy is undergoing an internal review as well.

Another major area of imminent change is prison reform, which the President announced as a priority for 2018. For assistance in this important project, it is expected that the Uzbek government will solicit international assistance and start actively cooperating again with the International Committee of the Red Cross, which has remained on the ground in Uzbekistan continuously, albeit with a more low-keyed mandate. In 2017, the Uzbek government hosted the UN Special Rapporteur on Freedom of Religion or Belief, who spent 11 days in Uzbekistan

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<sup>12</sup> "Шавкат Мирзиёев назвал прокуроров 'самыми большими ворами'", Ozodlik, August 4, 2017. (<https://rus.ozodlik.org/a/28658153.html>)

<sup>13</sup> "President Mirziyoyev meets prosecutors on Saturday," Tashkent Times, January 8, 2017. (<http://tashkenttimes.uz/national/397>)

visiting prisons and meeting with officials, convicts and their families.<sup>14</sup> And in a notable departure from the past, Uzbekistan invited the UN Special Rapporteur against Torture to visit the country in 2018. These are all very substantial political achievements that have been accomplished in a remarkably short period of time. Yet another innovation is that the appellate courts were placed under the direct jurisdiction of the Supreme Court, as the regional appellate courts have been abolished. The Research Center, the main institution of judicial research, which earlier had been under the Supreme Court, was now placed under the Higher Judicial Council. The decree also launched a process of significant reform of the education of judges and court personnel, envisioning a two-year academy under the jurisdiction of the Supreme Court. Earlier this had been done at the Ministry of Justice Training Center for Lawyers.<sup>15</sup>

Finally, the Legislative Chamber and Senate ratified a law "On Introducing Amendments and Additions to the Constitution of the Republic of Uzbekistan," which the President signed on April 6, 2017. This called for amendments to the Constitution in accordance with the above-mentioned presidential decrees. These were then drafted and became effective on June 1, 2017.<sup>16</sup>

## Upgrading Judicial Education

Another important area of reform was the significant restructuring of legal education. A Presidential decree of April 28, 2017, updated the curriculum, modernized teaching methods, and introduced a credit system of the Tashkent State University of Law, the main academic institution for legal studies. The old

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<sup>14</sup> "Uzbekistan: A Year into New Presidency, Cautious Hope for Change", Human Rights Watch, October 25, 2017. (<https://www.hrw.org/news/2017/10/25/uzbekistan-year-new-presidency-cautious-hope-change>)

<sup>15</sup> "'Суды выносят только обвинительные приговоры' — Шавкат Мирзиёев", *Gazeta.uz*, October 22, 2016. (<https://www.gazeta.uz/ru/2016/10/22/courts/>); "О мерах по дальнейшему реформированию судебной системы, усилению гарантий надежной защиты прав и свобод граждан", Указ Президента Республики Узбекистан, October 21, 2016. (<http://uza.uz/ru/documents/o-merakh-po-dalneyshemu-reformirovaniyu-sudebno-pravovoy-sis-21-10-2016>);

<sup>16</sup> "О внесении изменений и дополнения в Конституцию Республики Узбекистан," *Narodnoye Slovo*, April 7, 2017. (<http://narodnoeslovo.uz/index.php/uzhzhatlar/item/9329-o-vnesenii-izmenenij-i-dopolneniya-v-konstitutsiyu-respubliki-uzbekistan>)

lecture-based approach was abandoned in favor of experiential learning. To prevent cheating, cameras were henceforth to be utilized during entrance exams and candidates' identities were to be masked by a coded system. The university proceeded to hire many young professionals, some of whom had studied abroad. Salaries were substantially raised and made proportional to teaching loads. The university also opened a legal clinic that enables students to have direct contact with clients under the mentorship of senior faculty members. The Rector of Tashkent State University of Law was appointed a Deputy Minister of Justice in order to enhance his powers over both the curriculum and budget. While such an approach may appear alien to Westerners, elsewhere in the region it has proven to be a useful way to effect change. For example, in Azerbaijan the Rector of the ADA University (previously the Azerbaijan Diplomatic Academy) is also a Deputy Foreign Minister.

The Tashkent State University of Law became the first Uzbek academic institution to sign a Memorandum of Cooperation with a prominent U.S. law school (Boston College Law School) and open its doors to foreign professors and students. Its ambition is to become the regional hub for legal studies in Central Asia. During the current 2017/2018 school year the university enrolled students from Kazakhstan, Russia, Turkmenistan, South Korea, and Azerbaijan and plans also to enroll students from Afghanistan. Fluency in English is now required of most faculty and a number of classes are already being conducted in English. This reflects the reality that up to 85 percent of the international legal literature is in English. This measure will enable Uzbekistan's future lawyers to acquaint themselves with legal practice, regulations, and research beyond what is available in the Russian language.

Changes have also been introduced in continuing education. The Supreme Court is preparing to establish an Academy to train judges, candidates for judgeships, assistants to judges (a newly introduced category), and other court personnel. The training of both new candidates and incumbent judges is currently carried out by the Training Center of the Ministry of Justice.

The government is also focusing on reforming the process of licensing lawyers. Candidates who have completed their legal training are still required to take

courses conducted by the Ministry of Justice, while the licensing exams are carried out by commissions staffed by representatives of the Chamber of Advocates and the Ministry of Justice. The government has begun to consider allowing foreign lawyers into the country, both to teach their Uzbek colleagues and to assist them in professionalizing their practice, especially in corporate law and international arbitration.

Since its Chairman resigned in late September 2017, the Chamber of Advocates has remained leaderless. That body plans to convene a conference to elect its new chair in 2018. It is expected that this process will help unify Uzbek lawyers and strengthen their voice during this important period of major judicial reforms. For this reason, it is a closely watched priority both for the domestic and international legal communities.

### **The Role of Defense Counsels: The Most Urgent Reform for 2018**

During the past year and a half, Uzbekistan has made what previously would have been unimaginable advances in legal reforms. What still remains to be done, is to devise a stronger role for defense counsels and the development of a road map on how to strengthen the independence and professional capabilities of those lawyers. Tight state controls over the licensing of defense counsels long ensured that these officers of the court would remain weak.<sup>17</sup> While the President mentioned them in his speech of December 22, 2017, and while on-going reforms correctly envision their role, little has been done to date to implement the changes that are urgently necessary.

All agree that an urgent priority is to raise the competence and role of defense counsels and to ensure their full independence and respect among the public at large. Only this will insure the needed balance of powers within an adversarial system of judges, prosecution and defense. Moreover, strong and independent defense counsels in the systems of civil and criminal justice are crucial for the entire reform process. Substantial foreign investment will not occur until there

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<sup>17</sup> U.S. Department of State, Bureau of Democracy, Human Rights and Labor, "Country Reports on Human Rights Practices for 2015 – Uzbekistan". (<https://uz.usembassy.gov/our-relationship/official-reports/2015-country-reports-on-human-rights-practices-uzbekistan/>)

exists an independent and credible judiciary that can efficiently resolve conflicts in a timely, fair and transparent manner. But even though the President has long since identified this as a priority for 2018, the pace of implementing change in the defense bar seems to lag behind other reforms in the legal sphere.

## The Local Level: Mahallas and the Government's Outreach to Grassroots

At the initiative of President Mirziyoyev, the Uzbek government introduced starkly new approaches to its citizen outreach efforts. Their aim is to deepen the government's relationship with local communities, to encourage public dialogue on all issues related to reform, and to explain how this affects people's everyday lives. This task has now been undertaken by newly established civil society groups led by forward thinking citizens.

The level of activity among the leadership of all three branches of government has notably increased. Dialogue with the people conducted through the mahallas, or self-governing neighborhood communities, has proven to be an efficient and helpful mechanism for two-way communication. The government frequently avails itself of this opportunity already. On February 3, 2017, President Mirziyoyev issued a decree on "Measures of Further Improvement of Mahallas."<sup>18</sup> It cannot be denied that mahallas can be misused in ways that violate individuals' right to privacy, liberty and freedom.<sup>19</sup> But on the other hand, they represent a well-organized grassroots mechanism with deep historic roots.<sup>20</sup> With wise leadership, these can become a strong and supportive force for raising the public's legal and political awareness.

Around 10,000 mahallas exist in Uzbekistan. They function as the main mechanism for protecting local communities and have a degree of self-government. Mahallas – when properly supported – can be ideal incubators of new leaders, in the economic, social, and political arenas. They are widely used

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<sup>18</sup> "О Мерах По Дальнейшему Совершенствованию Института Махалли," Указ Президента Республики Узбекистан, February 3, 2017. ([http://lex.uz/pages/getpage.aspx?lact\\_id=3106221](http://lex.uz/pages/getpage.aspx?lact_id=3106221))

<sup>19</sup> "Uzbekistan: Mahalla—why does the president and society need it?" Ferghana News, February 13, 2017. (<http://enews.ferghananews.com/articles/2991>)

<sup>20</sup> Elise Massicard and Tommaso Trevisani, "The Uzbek Mahalla: Between State and Society", in Tom Everett-Heath, *Central Asia: Aspects of Transition*, London: Routledge, 2003, p. 205-218.

now by different institutions, especially by legislators and even by the judicial branch, something that had not been the case before. Lawyers and judges now regularly meet with citizens gathered in the mahallas; they explain to them the new legislation and engage in direct dialogue with citizens. Communication is no longer a one-way street. Mahallas are a bridging institution that play a role not unlike that of a strong media in Western societies. Yet mahallas are much more than just grassroots information exchanges, or self-governing communities. They are also an important base of public support for government policies and watchdogs of neighborhood stability.

A further new initiative, and one that stirred up the domestic political arena, was the appearance of a new think tank, the Development Strategy Center.<sup>21</sup> It was set up as a non-governmental organization (NGO) soon after the five-year policy priorities were published. Led by Akmal Burkhanov, an impressive young parliamentarian, the NGO has gathered experienced academics and a group of highly motivated young people into a gender-balanced staff, a rarity in Uzbek institutions. They engage in research that itself fosters open dialogue between the government and citizenry.

These activities reach far beyond the boundaries that were typical for Uzbek institutions in the past. Their main focus is to promote public discussion of political events. In May 2017, the first-ever visit of the UN Human Rights Commissioner included a meeting at such a venue. In a Tashkent gathering, he met with human rights defenders, officials and local media.<sup>22</sup> Hopefully this harbinger of new times will be developed further and expanded to the regional and local levels.

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<sup>21</sup> "Uzbekistan creates 'Development Strategy' Center", *Uzdaily.com*, February 16, 2017. (<https://www.uzdaily.com/articles-id-38456.htm>)

<sup>22</sup> "Opening remarks by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein at a press conference during his mission to Uzbekistan," UN Office of the High Commissioner for Human Rights, May 11, 2017. (<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21607&LangID=E>)



## **Political Mechanisms to Control Performance of National and Local Administrations**

A key to President Mirziyoyev's success in the first stage of his ambitious reform agenda was his insistence on putting the people's voice on the record. Indeed, this appears to have shifted the political atmosphere in his favor overnight. It vastly increased the popularity of both his national and local policies, allowed for an evaluation of the results of his national and local policies, and it provided him with the support necessary to start introducing substantial reforms and changes.

The notion of inviting citizens and legal entities to approach directly the President through electronic mail, "snail mail," or in person, is a novel development in Uzbek political life. It offers citizens a new mechanism for influencing the administration's performance, and serves as kind of watchdog, while at the same time it allows officials direct contact with citizens in a way that makes them more susceptible to their problems and concerns.

While still only the interim President, Mirziyoyev opened himself to direct access through the Internet via his so-called "virtual office" or "virtual reception".<sup>23</sup> He appointed his most senior advisers to deal with issues brought forward by citizens through this channel. During a later address to Parliament, he advised parliamentarians to start doing the same. MPs then began taking regular trips to the countryside to meet with their constituents. The Governors, though still appointed by the President, were instructed to hold periodic receptions in all regions. These are now obligatory in every region, as with regular reporting back to the Presidential Administration on views expressed. Those governors who dragged their feet on this change were replaced.

On May 6, 2017, Uzbekistan established the Presidential Institute on the Protection of Rights and Legal Interests of Entrepreneurs.<sup>24</sup> The agency had been set up on December 26, 2016, but was reorganized after five months to enforce the protection of citizen's rights. The existing law "On Appeals of Individuals and

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<sup>23</sup> "Interim president Shavkat Mirziyoyev opens virtual reception for population", AKIPress, September 26, 2016. (<https://akipress.com/news:582815?authform>)

<sup>24</sup> "The Institute of Business Ombudsman Was Established in Uzbekistan", Uzbekistan Today, May 6, 2017. (<http://ut.uz/en/politics/the-institute-of-business-ombudsman-was-established-in-uzbekistan/>)

Legal Entities” was amended on September 12, 2017, to include the role of virtual offices in registering the public’s concerns with national and local administrators. According to governmental statistics, by October 15, 2017, the President’s “virtual office” had received 1,273,337 complaints, of which 1,222,761 (96%) were resolved, while the remaining 4% remained under consideration. The latest data on the number of complaints can be checked online on the government’s website, <https://pm.gov.uz/ru>, which is updated daily, at noon and at midnight. As of July 21, 2017, the greatest number of complaints were against the Ministry of Interior officials (100,770), the Tashkent City Administration (76,559), the Supreme Court (63,357), the General Prosecutor’s Office (57,286) and the Central Bank and its local branches (53,180). The five regions registering the most complaints were Tashkent City (16%), Fergana, the Kashkadarya and Tashkent regions (12% each) and Andijan (10%).

The President and his team followed up on all these matters and used insights thus developed as briefing material for his personal visits to rural areas and regional capitals. Many senior officials of the institutions that came under the strongest public criticism were replaced.

Here is a typical example of the kind of mid-level obstacles that arose in the course of political renewal and the liberalization of state institutions. During the first four months of the president’s “virtual office,” the task of addressing and resolving the incoming complaints was assigned to prosecutors. During that period a minimal number of complaints were levied against prosecutors. When oversight was switched directly to the President’s Office, the data showed a dramatic rise in complaints against prosecutors. During a video conference with prosecutors on August 2, 2017, the President was very critical of their work in a strong message that was widely covered in the Uzbek media.<sup>25</sup> As a result, all personnel were screened and many staffing changes ensued within this important institution.

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<sup>25</sup> Eg. “Шавкат Мирзиёев прокурорларни кескин танқид қилди”, [kun.uz](http://kun.uz), August 4, 2017. (<http://kun.uz/96153976>); “Шавкат Мирзияев назвал прокуроров ‘самыми большими ворами’”, *Ozodlik*, August 4, 2017. (<https://rus.ozodlik.org/a/28658153.html>)

As the commentary on the website of the “virtual office” says: “Indeed, we are facing a lot of problems and deficiencies waiting to be resolved. Some of the complaints have not been adequately resolved by local structures. The solutions to some other separate problems, especially those from the social and economic spheres and those relate, to local and municipal structures, depend on the depth and results of the reforms that are being carried out around the country, and this demands time.”<sup>26</sup>

### **Mass Media and Social Media**

The enlivened new leadership transformed Uzbekistan’s previously dull media environment almost overnight. News in Uzbekistan nowadays is meaningful, timely and critical. It is true that media still mask criticism behind quotes from political leaders, but they no longer speak with only one voice.

The media have become more timely and trustworthy, with more reporting on international affairs as well. The government claims that it wants the media to be stronger and has given public assurances in order to attract foreign media outlets to open bureaus in the country. Still missing in the present media coverage, however, are analytical articles and editorials that critically review the ongoing reform processes around the country. The country’s media is yet to incorporate and engage in investigative journalism and instead cloaks its criticism in statements by the President himself. The government continues to censor and block access to certain websites, including some produced in Uzbekistan, but less rigorously than previously. The efficacy of this practice is questionable, since more and more tech-savvy citizens are used to using proxy servers to circumvent such obstacles.

The government claims it wants to encourage the flow of information and is trying to encourage closer media cooperation with neighboring countries. The recent visit of the OSCE Representative on Freedom of the Media as well as other UN human rights representatives who came at the invitation of the government provide hope that Uzbekistan might soon lift all restrictions as to what can be

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<sup>26</sup> “O‘zbekistan Respublikasi Prezidenti Shavkat Miromonovich Mirziyoyevning Virtual Qabulxonasi”, <https://pm.gov.uz/oz>.

publicly discussed. Of course, it will take personal courage to test such an approach in practice. But it will also require a consensus within the government itself that it will not respond to criticism with reprisals against journalists. It remains unclear at this point if such a consensus exists in all the relevant government institutions.

Uzbeks have now become very active on social media. The most commonly used platforms are Telegram, Facebook and Instagram. Social media are used by officials and citizens alike. Many groups have now formed on diverse subjects and are constantly being updated with comments and news from every corner of the country. Texting has become commonplace with the most popular tools for local and international communication being Skype, Hangouts, Facebook Messenger, Viber and Telegram. But the quality of connections still varies widely, for Uzbekistan still lacks adequate Internet with broadband and fiber optic networks. However, there are plans to expand this in the near future, as the President also announced in his December 2017 address to Parliament.

The explosion of public expression in social media has the potential to generate pressures that will force the administration towards further action. One such case was a petition circulated via social media after the death of a secondary school student. Thanks to social media, some three hundred concerned parents gathered in downtown Tashkent in July 2016. The Tashkent police chief immediately engaged in dialogue with the concerned citizens without taking any reprisals, and the director of the secondary school was promptly fired.<sup>27</sup> This course of events was unprecedented. However, this happened in the capital, where state officials are under close scrutiny and tend to be more professional.

A final major difference between past and present is that officials are now considerably more willing to interact with foreign diplomats and NGO representatives than formerly. Officials now use their official mail addresses to communicate internationally, which was unheard of in the past.

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<sup>27</sup> "Uzbekistan: Unprecedented public outcry at murder of 18-years-old student", Fergana News, June 5, 2017. (<http://enews.fergananews.com/articles/3022>)

## Challenges Ahead

The population of Uzbekistan recently surpassed 32 million people and its median age is 26. This impels the government to take serious steps to modernize governance in order to keep young people engaged and to motivate them to stay in the country. Uzbekistan's main challenge is to create conditions for the proper education, employment, and civic life of these young people, who are comparatively free from the Soviet mentality that stifled previous generations. Accordingly, education will be key to the success of any reform program. In October 2017, Uzbekistan established a specialized agency for the education of preschool children, which is headed by a female minister. Young people already head the Ministry for Information, Technologies and Communications. This important but heretofore neglected ministry is now leading the transformation towards e-governance, which will provide citizens with easy access to officials and public services.

The main challenge for President Mirzyoyev's administration will be to deal with the country's pervasive culture of corruption, a legacy of the past that for decades has been consuming the country's resources like a dangerous cancer. New legislation is now in place that provides a solid basis for action. But the real test of the country's leadership will be to confront the bureaucratic legacy that makes corruption possible. Uzbekistan has criminal networks of its own and is surrounded by international criminal networks that collude with domestic partners. Consequently, any hesitation in implementing the proposed reforms could open space for such groups to continue operating, which would jeopardize the reform process and the country's entire future.

The first and most fundamental step to thwart corruption was to switch to a convertible currency. This measure passed without any significant opposition and effectively eliminated the black market. The next steps will depend on a more

efficient judicial system, as well as on strong popular support for reform. One can expect the next stages of this process to be more painful, especially if anticorruption legislation is consistently and credibly implemented by a reformed judiciary. Informal alliances of oppositionists are likely to emerge, and new political forces could put at risk not only power-brokers from the past but also current political elites, which could lead to heightened political tensions and strife. It is noteworthy that most of those dismissed from the administration remain on the ground, no doubt bearing grudges.

The leadership's latest moves to face down the law enforcement and security apparatuses of the past is positive and courageous. Only in this way can it erase the fear which for so long intimidated the population at large and government officials themselves. The new freedoms that began to emerge in the twenty-fifth year of Uzbekistan's independence bring along a strong responsibility to act according to the rule of law as outlined in the Constitution.

To get all three branches of the government to act in accordance with newly reformed laws is one of Uzbekistan's most urgent priorities. But it is also extremely important to provide political openings for civil society and the media to engage directly with the process of governing, for without this no political reforms can survive long. It would therefore, be wise for Uzbekistan to open itself up to international networking in both media and civil society so that the emerging triangular partnership between the government, civil society and the population at large can mature faster and play a stronger role in shaping the country's future.

## **Author's Bio**

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