



United Nations
Human Rights

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

EVALUATION OF OHCHR'S SUPPORT TO LEGISLATION IN CONFORMITY WITH INTERNATIONAL STANDARDS

Final Report

An external Consultant team has prepared this report. The views expressed herein are those of the Consultants and therefore do not necessarily reflect the official opinion of OHCHR

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Bjorn Pettersson (Team Member) has gained wide experience on the issues relating to legislation in compliance with human rights standards, anti-discrimination and rule of law, while working for OHCHR field presences in Colombia, Nepal and Sierra Leone. Bjorn also has broad human rights field experience from other UN agencies (UNHCR, UNDP, UNICEF and UN Women) and INGOs. His experience as an evaluator includes among others, the evaluation of an OHCHR project on anti-discrimination in Moldova. He regularly conducts consultancies for OHCHR and other UN agencies.

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3. Table of Acronyms

CSO	Civil Society Organization
EU	European Union
EA	Expected Accomplishments
ESCR	Economic, Social and Cultural Rights
FGD	Focus Group Discussion
FP	Field Presence
FBS	Finance and Budget Section
FOTCD	Field Operations and Technical Cooperation Division
HCT	Humanitarian Country Team
HLP	Housing, land and property
HQ	Headquarters
HRCSPD	Human Rights Council and Special Procedures Division
HRESIS	Human rights and Economic and Social Issues Section
HRO	Human Rights Officer
ICESCR	International Covenant on Economic, Social & Cultural Rights
ICRC	International Committee of the Red Cross
IPMS	Indigenous Peoples and Minorities Section
JLOS	Justice, Law and Order Section
LGBTI	Lesbian Gay Bisexual Transsexual Intersex
LogFrame	Logical Framework
LRA	Lord's Resistance Army
MENA	Middle East and North Africa
MINUSTAH	United Nations Stabilization Mission in Haiti
MoI	Ministry of Interior
MONUSCO	United Nations Organisation Stabilization Mission in the DR Congo
MoU	Memorandum of Understanding
NGO	Non-Governmental Organization
NHRI	National Human Rights Institute
NPM	National Preventive Mechanism
OECD-DAC	Development Assistance Committee of the Organization for Economic Cooperation and Development
OHCHR	UN Office of the High Commissioner for Human Rights
OIOS	UN Office for Internal Oversight Services
OMP	OHCHR Management Plan
OSCE	Organization for Security and Cooperation in Europe
OSI	Open Society Institute
POC	Protection of Civilians
PPMES	Policy, Planning, Monitoring and Evaluation Systems
RBM	Results based Management
RGA	Regional Gender Advisors
RLENB	Rule of Law, Equality and Non-Discrimination Branch
ROCA	OHCHR Regional Office for Central Asia
UHRC	Ugandan Human Rights Commission
UNAMA	United Nations Assistance Mission Afghanistan
UNEG	United Nations Evaluation Group
UNHRC	United Nations Human Rights Council
UNICEF	United Nations Children Fund
UNCAT	UN Convention against Torture
UNCTs	UN country teams
UPR	Universal Periodic Review

4. Executive Summary

Background and methodology

OHCHR seeks to ensure that duty-bearers uphold their human rights obligations by supporting efforts to ensure compliance of national legislation, policies, programmes and institutions with international human rights standards and their implementation. This often involves the drafting and adoption, or revision and reform, of laws in compliance with international standards, using tools such as: standard setting, monitoring and reporting, technical cooperation and advisory services, advocacy and awareness-raising and building partnerships. OHCHR has several different types of field presences: including stand-alone Country Offices, Regional Offices and Centres, Human Rights Advisers (HRAs) in UN Country Teams (UNCTs) and Human Rights Components of UN Field Missions. OHCHR has a total of 67 such Field Presences (FPs). In addition, both headquarter locations (HQ) provide legislative support directly to countries. OHCHR does not have a specific coordination structure aimed at supporting national legislative reform, so this evaluation involves analysing how the Organisation as a whole is pursuing this objective.¹

The evaluation concerned OHCHR's **global** achievements in supporting **national** legislation in conformity with international standards within the 2014-17 programme cycle. Its main **purpose** was to assess OHCHR's contribution to changes in legislation in the areas of discrimination and rule of law on the achievement of improvements on human rights issues in line with five evaluation criteria: Relevance, Effectiveness, Impact Orientation, Sustainability and Gender Mainstreaming. Its **objectives** were:

- To gather evidence on the results and impact of OHCHR's support to legislation in improving the enjoyment of rights at the national level;
- To produce useful lessons learned and good practices that illustrate successful and unsuccessful strategies in the achievement of results;
- To produce clear and actionable recommendations identifying concrete actions and responsibilities for OHCHR to undertake towards these ends.

The evaluation took place over a seven-month period from November 2017 – June 2018. It was conducted by two independent evaluators each contracted for 60 days, working under the supervision of an Evaluation Manager and the guidance of a Reference Group. A sample of OHCHR Field Presences (FPs) were visited during the fieldwork phase – Cambodia, Kyrgyzstan, Mexico, Tunisia and Uganda – which were chosen on the basis of regional balance for a global evaluation and were not intended to evaluate the FPs themselves.

¹ The evaluation is including some information on how OHCHR is effectively using and cooperating with the Human Rights Mechanisms (Special Procedures, Treaty Bodies and the Universal Periodic Review) on legislative support activities but its scope does not cover legislative efforts by the human rights mechanisms per se as they are independent experts or intergovernmental bodies OHCHR provides substantive-support to human rights mechanisms that may provide advice on legislative reform or express concerns about laws contrary to international human rights norms through the drafting of letters, press releases, reports and Concluding Observations. A review of the legislative activities and influence of the mentioned human rights mechanisms would be a useful complement to this evaluation.

Main Findings

Relevance

OHCHR has used a variety of techniques in both Headquarters (HQ) and the field to promote legislative change in countries of engagement. It does not, however, have a specific global strategy nor does it have a central unit in HQ dedicated to promoting and supporting this.² OHCHR FPs are focusing on the legislative issues of primary concern to human rights activists in the countries reviewed and relevant to OHCHR's mandate and strategy. They are basing their strategies on contextual analyses and some have developed theories of change (ToCs) for each legislative initiative. OHCHR is also spending an increasing amount of time blocking or modifying laws, which are likely to have a negative human rights impact. The widely different political and cultural contexts in which OHCHR FPs operate require customized strategies, and no 'one-size-fits-all' guidance from HQ could be imposed. OHCHR has, however, built up a level of experience and expertise that would be useful to gather together institutionally. Planning processes varied considerably between different OHCHR FPs. OHCHR's ToCs – in both HQ and the field – do not appear to give sufficient weight to external factors and risk analyses.

Effectiveness

OHCHR did not fully achieve the global targets in supporting national legislation in conformity with international standards within the 2014-17 programme cycle that it had initially set itself. This was not the only thematic area in which targets were missed and this may reflect more on the difficult challenges of target-setting than a lack of effective achievement. The evaluation team found extensive evidence that OHCHR is effectively supporting legislative reform at the national level and has also been effective in opposing or modifying regressive bills. The most significant contribution that OHCHR makes is that it is the acknowledged custodian of the universal human rights standards and mechanisms contained in international law. Its legal analysis is firmly based on their developing jurisprudence and so is considered authoritative and independent. OHCHR has made increasingly good use of special procedures, treaty bodies and the Universal Periodic Review (UPR) process to influence national legislative agendas. The two most obvious limitations facing OHCHR are lack of resources and some of the UN Secretariat's own internal administrative procedures. However, the main factor that will enable or prevent it from effectively contributing to legislative change is the objective situation in the country of engagement. OHCHR needs to consider whether it is worth investing in long-term pro-active and constructive engagement strategies, needed to advance legislative reform, if the government in the country of engagement is not seriously interested in this goal.

² In the last cycle, this was under the Strategy on Combating impunity and strengthening accountability and the rule of law.

Impact Orientation

It goes beyond the scope and capacity of this evaluation to collect comprehensive evidence of the human rights impact of specific legislative reforms in all of the countries of engagement with which OHCHR works. The monitoring and documentation of the effective enjoyment of rights resulting from legislative changes is, however, an issue that OHCHR does need to consider taking forward and explicitly factoring into its ToC. Working for legislative reform requires pro-active planning and strategizing that is time and resource-intensive. The necessity to cultivate constructive relations with governments may also make it more difficult for OHCHR to publicly condemn particular human rights violations if this jeopardizes relations with the government concerned. Given these opportunity-costs, OHCHR needs to try to measure both the extent to which developing this area of work can be shown to have impacted or is impacting on the broader and long-term enjoyment of rights and any unintended or indirect consequences.

Sustainability

A key part of OHCHR FPs *modus operandi* is to forge partnerships with other stakeholders on legislative change. This has helped to build key partners' capacity to monitor and support implementation of new legislation and address potential attempts at rolling it back. Such support includes awareness and capacity building of CSOs but also direct training of public officials. A crucial part of OHCHR's support to legislative change consists of presenting and explaining the international normative framework to national counterparts. The legal analysis that OHCHR produces and disseminates effectively becomes important reference material for many national partners working on the monitoring and implementation of new or reformed legislation. This needs to be fully integrated into the teaching and training provided by University Law Faculties, Police Schools and Judicial Training Centres.

Gender Mainstreaming

OHCHR FPs provide extensive, high-quality expert advice on gender-specific legislative bills, often in partnership with UN Women and UNFPA and are effectively supported in this by the Women's Rights and Gender Section (WRGS) at HQ. Staff members are concerned that this legislative support work is not sufficiently systematic and comprehensive and that the FPs are not involving the WRGS at a sufficiently early stage. OHCHR's support for the mainstreaming of gender aspects into other draft laws seems to be less systematic, mainly due to limited capacity. The evaluation team did however, document several successful experiences of mainstreaming gender into draft laws.

Recommendations

1. OHCHR should develop a model of legislative support adjusted to each national context where it operates, strengthened by enhanced thematic expertise from OHCHR Geneva and the human rights mechanisms (See Lesson Learned B). This model should include a Theory of Change to achieve the results and the minimum requirements for deciding on this type of support.
2. OHCHR should concentrate its effort on working for legislative reform according to three criteria: a) where the political climate is favourable, b) where it provides an added value and c) where it has a comparative advantage compared to other actors. Where the government in the country of engagement is not seriously interested in reform, OHCHR should work more closely instead with civil society groups.
3. OHCHR should consider strengthening its capacity to centrally support legislative activities in the field and at HQ, including by ensuring an increased information management/sharing capacity on legislative work. Measures could range from investing in the establishment of a ‘legislative change team’, within an existing HQ branch, to assigning this responsibility to one staff person, or the creation of more “communities of practice”.
4. OHCHR should produce a training manual and/or training courses for FP staff on how to support legislative reform in conformity with international law, based on good practices from the field. This could include issues such as working with legislators and governments, working with governments and civil society, sensitizing donors and where to go for technical support. It should also stress the need for a proactive strategy for legislative reform in each country of engagement, including other recommendations made in this report.
5. When planning activities, OHCHR FPs operating in politically closed and authoritarian contexts should be encouraged to analyze the potential to achieve legislative change and supported in a possible decision to defer extensive technical cooperation until a moment when such support is judged to be feasible and effective.
6. All programmes implemented by OHCHR FPs on supporting legislative change should develop ToCs which explicitly include external enabling factors and risk analyses. These should be included in relevant reporting documents.
7. OHCHR should develop a communications strategy to highlight its achievements in supporting national legislation in conformity with international law. This should include documenting how legislative change has led to greater improvement of rights and communicating this to donors and other stakeholders.
8. OHCHR FPs should more systematically establish on-going contacts with parliamentarians, particularly with their human rights relevant legislative committees. The specificities of this should be determined as tasks in the design of the legislative models that is proposed for each country.

9. OHCHR should make a more concerted effort to document rights holders' enjoyment of rights as a result of its legislative support activities and should consider designing a consultancy assignment to document enjoyment of rights in a number of countries.
10. The experience of OHCHR Cambodia in relation to follow up to implementation of legislation through the production and use of detailed 'implementation guides', often jointly produced with a relevant ministry, should be widely shared and replicated by other FPs where appropriate.
11. OHCHR should work closely with supportive donors to ensure they fully appreciate and back the necessary long-term efforts of partners and other stakeholders to ensure the effective implementation of new legislation in a sustainable manner, including through training and monitoring.
12. In the framework of the OMP Plan of Action on Gender and Diversity, OHCHR should implement the planned gender certification programme in the FPs, ensuring the inclusion of mainstreaming of gender into non-gender-specific legislation.
13. OHCHR should consider appointing a gender focal point in each FP, tasked with the review and support of gender mainstreaming into draft legislation and expand the Regional Gender Adviser Programme to include all its regional offices.

5. Introduction

5.1 Programme background

OHCHR's theory of change is grounded in the UN human rights-based approach and has been broken down into eleven Expected Accomplishments (EA), or results, for planning and programming purposes by the OHCHR Management Plan (OMP) 2014-2017. The programmatic assumption is that if these results were to be achieved one day, duty-bearers would uphold their human rights obligations and rights-holders would claim their rights, thereby contributing to the improved enjoyment of all rights by all people. The EAs have been defined in results-based management (RBM) terms, which describe the intended institutional, legislative or behavioural changes in relation to three distinct areas: national human rights protection systems, the international human rights protection system and the involvement of international actors in human rights work. For the planning cycle 2014 – 2017, the Performance Monitoring System (PMS) allowed the tracking of these indicators by OHCHR field presences, including planned results for the cycle and annually reported results at the country level.

OHCHR seeks to ensure that duty-bearers uphold their human rights obligations by supporting efforts to ensure compliance of national legislation, policies, programmes and institutions with international human rights standards³. This often involves drafting and adoption, or revision and reform, of laws in compliance with international standards, using tools such as: standard setting, monitoring and reporting, technical cooperation and advisory services, advocacy and awareness-raising and building partnerships. The thematic areas include: enhancing equality and countering discrimination (including on the basis of race, gender and sexual orientation as well as against indigenous people and other vulnerable groups) and combating impunity and strengthening accountability and the rule of law (particularly in relation to protecting the rights of people in detention and the prohibition of torture and ill-treatment).⁴ Human rights and gender equality is understood to be a central part of both thematic areas and this should be reflected in all programme activities.

According to information taken from the PMS, OHCHR has increasingly invested significant resources in supporting compliance of national legislation policies, programmes and institutions with international law. In 2014, OHCHR spent USD \$4,940,456 on 777 activities related to legislation, constitutions and government policies, while in 2017 that amount had increased to USD \$10,091,025 spent on 644 activities in six thematic areas (see Annex Five). For example, in 2014, thirty OHCHR entities carried out 124 activities to support legislative change relating to torture, ill-treatment and deprivation of liberty at a cost of USD \$894,461. By 2017, this investment had increased by 281 percent to USD \$2,514,601 for a total of 126 activities in this area. However, the total resources dedicated to legislative change is difficult

³ Expected Accomplishment One.

⁴ Others include: Strengthening international human rights mechanisms; Integrating human rights in development and the economic sphere; Widening the democratic space; and Early warning and protection of human rights in situations of conflict, violence and insecurity.

to capture in precise figures as much of the work consist of sharing OHCHR staff's legal and thematic expertise with local stakeholders, which by its nature can be difficult to plan and execute with measurable precision. It seems however that the Organization has not fully achieved most of its global targets in this area of work; with the exception of the institutionalization of human rights training. Possible explanations for this – ranging from the deteriorating human rights situation in many countries of engagement to the fact legislative reform is a slow process in many countries that may not show up in a single program cycle – will be explored further in this report. There is obviously no formula where 'success' or 'failure' can be determined by showing that X resources = Y results. Yet measuring progress in what is clearly a core area of work is necessary given the resources expended, the complexity of both the work itself, and the need for coordination and synergies among units in headquarters and at the field level.

OHCHR has several different types of field presences: including stand-alone Country Offices, Regional Offices and Centres, Human Rights Advisers (HRAs) in UN Country Teams (UNCTs) and Human Rights Components of UN Field Missions.⁵ It has a total of 67 such Field Presences (FPs). In addition, its headquarters provide legislative support directly to some countries where it has no FP.⁶ It should be noted that OHCHR does not have a specific programme or structure aimed at supporting national legislative reform so this evaluation involves analysing how the Organisation as a whole is pursuing this objective.

5.2 Evaluation background

The evaluation concerned OHCHR's **global** achievements in supporting **national** legislation in conformity with international standards within the 2014-17 programme cycle. The evaluation's main **purpose** was to assess the contribution of OHCHR's support to changes in legislation in the areas of discrimination and rule of law on the achievement of improvements on human rights issues in line with the five evaluation criteria: Relevance, Effectiveness, Impact Orientation, Sustainability and Gender Mainstreaming that will be discussed in more detail below.⁷ Its **objectives** were:

- To gather evidence on the results and impact of OHCHR's support to legislation in improving the enjoyment of rights at the national level;
- To produce useful lessons learned and good practices that illustrate successful and unsuccessful strategies in the achievement of results;
- To produce clear and actionable recommendations identifying concrete actions and responsibilities for OHCHR to undertake towards these ends.

⁵ The last of these presences is mainly – although not exclusively – concerned with OHCHR's thematic work on Early warning and protection of human rights in situations of conflict, violence and insecurity, which is not the focus of this evaluation.

⁶ The evaluation includes information on how OHCHR is effectively using and cooperating with the Human Rights Mechanisms (Special Procedures, Treaty Bodies and the Universal Periodic Review) on legislative support activities but its scope does not cover legislative efforts by the human rights mechanisms *per se* as they are not formally part of OHCHR. OHCHR staff members regularly support the human rights mechanisms through the drafting of letters, press releases, reports and Concluding Observations, but the official output from this work is owned by the respective mechanism, not OHCHR. A review of the legislative activities and influence of the mentioned human rights mechanisms would be a useful complement to this evaluation.

⁷ Efficiency was not included as a criterion in the Terms of Reference of this evaluation.

The evaluation assessed how OHCHR's results, and the methods used, contributed towards its overall long-term strategy of strengthening states' compliance with the obligations of international human rights standards. It aimed to gather and scrutinise evidence and generate sufficiently objective and analytical findings, to help OHCHR's management's decision-making processes. The evaluation paid particular attention to gender equality to ensure that this was both mainstreamed into the report's overall findings and addressed as a specific section within these findings as well.

The main target audience of the evaluation is OHCHR's expert staff working on legislative issues, as well as the Organisation's senior management, including Heads of Field Presences. OHCHR staff with thematic expertise as well as legislative change practitioners in OHCHR's field presences should also benefit from the good practices and recommendations generated by the evaluation. The final report will be published on OHCHR's website as a publicly available document for external stakeholders to enhance accountability.

The evaluation followed the OECD/DAC evaluation criteria,⁸ and the UNEG Norms and Standards for Evaluation in the UN System, as well as the UNEG Handbook for Conducting Evaluations of Normative Work. Evaluating normative work is a particular challenge because 'its tactics, outputs and outcomes are constantly shifting and not always well documented . . . [and] Much of this work is non-linear and constantly shifting'.⁹ Establishing causality is always difficult, due to unpredictable contextual variables and external political developments. OHCHR is seldom the only actor supporting legislative change in a given country, which makes it challenging to identify the specific OHCHR contribution and its influence on the outcome of a legislative process. The impact of normative work is particularly difficult to measure as results are 'normally achieved long after the project has finished'.¹⁰ This will be discussed further in the section of this report on Impact Orientation.

The evaluation took place over a seven-month period from November 2017 – June 2018. It was conducted by two independent evaluators who were each contracted for 60 days, working under the supervision of an Evaluation Manager and the guidance of a Reference Group (see Evaluation Team section). A sample of OHCHR FPs representing these different regions were visited during the fieldwork phase of the evaluation. The thematic issues chosen for the evaluation were selected both for their own importance and also because it was assumed that there was sufficient objective information that could be obtained to make the support that OHCHR provides in these areas 'evaluable'.¹¹ The visits during the fieldwork

⁸ <http://www.oecd.org/dac/evaluation/daccriteriaforevaluatingdevelopmentassistance.htm>

⁹ UNEG Handbook for Conducting Evaluations of Normative Work in the UN System, November 2013, para 14

¹⁰ For discussion see Greet Peersman, Irene Guijt and Tina Pasanen *Evaluability Assessment for Impact Assessment*, Overseas Development Institute, 2015; Simon Hearn and Anne Buffardi, *When and How to Develop Impact Orientated Monitoring and Evaluation Systems*, Overseas Development Institute, 2016; and *Research Evaluation*, J Guinea et al, 'Impact Orientated Monitoring: a new methodology for monitoring and evaluation of international public health projects', Vol. 24, Issue 2, 1 April 2015, pp.131-145

¹¹ OECD/DAC defines 'evaluability' as 'the extent to which an activity or Project can be evaluated in a reliable and credible fashion'.

phase were chosen on the basis of regional balance, for a global evaluation, and were not intended to evaluate the FPs themselves.

5.3. Methodology

Evaluation Questions

Relevance
Evaluation Question 1: How relevant has OHCHR's support been to changes on legislation to the national situation and the needs of the duty-bearers and right-holders, in terms of human rights issues, including gender equality?
Evaluation Question 2: Have the planning process and selection of the theory of change, strategies and tools (monitoring, advisory, advocacy, awareness-raising, etc.) used to achieve results in this area been adequate to the local context and needs, national policy frameworks and stakeholders?
Effectiveness
Evaluation Question 3: What evidence of contributions of OHCHR support to the Office's expected results on legislation compliance with international human rights standards (drafting and adoption of new legislation, revision and reform of existing laws) can be found, including those related to recommendations of human rights bodies (including the Universal Periodic Review, Special Procedures and Treaty Bodies) and gender equality?
Evaluation Question 4: Where legislative changes with contribution from OHCHR were found, what were the enabling factors and processes? What prevented OHCHR from achieving results in this area?
Evaluation Question 5: Has OHCHR used its comparative advantage in this area and relied in partners and stakeholder's (both internal and external) support to achieve the intended results?
Impact Orientation
Evaluation Question 6: What evidence is there that legislative changes supported by OHCHR have contributed to improvements in the enjoyment of rights (including women's rights) as established in the Office's expected accomplishments?
Evaluation Question 7: Are the results, achievements and benefits of OHCHR support in the area of legislation likely to be durable and is OHCHR strategy and management in this area steering towards a broader and longer-term impact in the enjoyment of rights?
Sustainability
Evaluation Question 8: Are the partners and stakeholders at the country level willing and committed to continue working on the legislative issues addressed by OHCHR, implementing and how effectively has OHCHR contributed to build necessary capacity, including knowledge, tools, guidance and availability of resources at the national level to sustain the results achieved?
Gender mainstreaming
Evaluation Question 9: Has the issue of gender and human rights been mainstreamed and aligned into OHCHR's activities in support of the enactment of national legislation in conformity with international standards?

Data sources and collection methods

The evaluation's overall approach was guided by the principle of credibility – that is, ensuring that the best evidence available was harnessed and analysed appropriately, so that OHCHR's management can feel confident acting upon its Findings, Conclusions and Recommendations. The evaluation team triangulated data, wherever possible, using a range of sources, both for analytical rigour and to support the principles of non-discrimination, participation and inclusion. The evaluation team used the following interconnected methods:

Desk Review and Secondary data analysis

The full list of documents reviewed for this report is contained in Annex Four. This included OHCHR's Annual Reports within the current programming cycle, the OHCHR Management Plan (OMP) for the cycle and reported results. It also included other recent evaluations of OHCHR's work as well as background documents such as OHCHR country, regional and thematic reports, plans, results and strategy documents. The evaluation team drew on reports of the human rights treaty monitoring bodies, Universal Periodic Review (UPR) reports and reports by the special procedures mechanisms. It also used other published reports on the relevant thematic issues in the case-study countries, including monitoring reports from regional organisations and credible non-governmental organisation (NGO) sources, national laws and official government reports.

Interviews Focus Group Discussions

The full list of interviews is contained in Annex Three of this report. Interviews were conducted face-to-face wherever possible, but some interviews were also conducted by Skype. Attempts were made, in liaison with OHCHR HQ and its FPs, to ensure gender balance was achieved in the selection of interviewees, although this also depended on the knowledge, willingness and availability of potential interviewees. The gender balance of the total number of people interviewed during this evaluation was 86 women and 69 men.

The evaluation team conducted the first interviews in HQ together and also visited the first FP - Kyrgyzstan – together as well, to field-test both the evaluation questions interviews and Focus Group Discussions (FGDs). The original intention had been to use these to promote interactive discussion with and between OHCHR's external stakeholders, but the FGDs proved difficult to organize in practice and so these were turned into NGO consultation meetings in subsequent field visits. The evaluation team used common data collection tools to ensure that all information obtained was gathered in a standard format. These are contained in Annex Two of this report.

Country visits

Five FPs were visited during the evaluation and these were selected both for regional balance and 'evaluability' of activity. The schedule is listed below:

- Pilot visit: Kyrgyzstan, Conor Foley and Bjorn Pettersson 5 – 9 February 2018

- Cambodia: Bjorn Pettersson, 19 – 23 February 2018
- Tunisia: Conor Foley, 5 – 9 March 2018
- Mexico: Bjorn Pettersson, 9 – 12 April 2018
- Uganda: Conor Foley, 9 – 13 April 2018

Skype interviews were also carried out with other OHCHR FPs in Paraguay, Bangkok, and with a limited number of Special Rapporteurs, in order to gain a wider understanding of OHCHR's global work on this issue. Skype interviews were also conducted with OHCHR staff in UN peacekeeping and political missions in Mali, Afghanistan, Democratic Republic of Congo, Haiti and South Sudan.

Observations

Each OHCHR FP visited was asked to facilitate observations of activities most relevant to this evaluation. This involved visits to the national legislatures, government ministries and courts depending on the countries visited.

On-line survey

A short on-line survey was designed and circulated to all 67 of OHCHR's FPs to get additional information from countries that it was not possible to visit. This asked them to list their most important achievements either in supporting legislative reform or in helping to block laws contrary to international human rights norms, give concrete examples of how legislative change has resulted in increased enjoyment of rights, provide examples of how gender aspects have been mainstreamed into work on legislative reform and suggest how they think OHCHR globally could be more effective at supporting its FPs in this area of work. Responses were received from seven FPs: Libya, Kenya, South Sudan, Malawi, Democratic People's Republic of Korea and Honduras.

Gender Equality and Human Rights

Conscious of the risk of limiting the gender analysis to Evaluation Question No 9, the evaluation team decided to try to collect and mainstream gender information into all sections of the report. For this purpose, the following priorities were agreed: 1) To make every effort to meet with the right sources, and 2) To actively solicit information about gender mainstreaming into legislation from all interlocutors. OHCHR FPs receiving the Evaluation Team were requested to schedule meetings with interlocutors in possession of relevant gender information, Skype interviewees were briefed about this thematic priority and the on-line survey also prioritized gender mainstreaming into legislation. As described below, the amount of information on mainstreaming into non-gender specific legislation was relatively disappointing but is referenced in the report.

Methodological Limitations

This evaluation is not of a specific OHCHR project activity, thematic issue or organisational structure, but of how the Organisation as a whole protects and promotes human rights in particular countries through supporting national legislation in conformity with international

standards. It was also particularly difficult to definitively prove that particular achievements in specific legislative reforms were directly attributable to the work of OHCHR, although the evaluation criteria and objective indicators were felt to be sufficiently rigorous to allow progress in this area to be measured reasonably well. It is, however, clearly beyond the scope of this evaluation to attempt to definitively measure the specific impact particular laws have had on the enjoyment of human rights in particular countries, as this would require far more data than could be reasonably obtained during an evaluation of the current type.

6. Main Findings

Relevance

Evaluation Question 1: How relevant has OHCHR's support been to changes on legislation to the national situation and the needs of the duty-bearers and right-holders, in terms of human rights issues, including gender equality?

A number of interviewees in OHCHR Headquarters (HQ) gave detailed descriptions of global thematic efforts, sometimes amounting to public campaigns, which had resulted in substantial contributions towards countries of engagement adopting new legislation in conformity with international law.¹² Interviews conducted in the field also included detailed accounts of how OHCHR's FPs had used a variety of strategies and tools to promote such legislative change at the national and regional level.¹³ OHCHR does not, however, have a global strategy specifically aimed at promoting legislative change in countries of engagement. With some exceptions, which will be discussed in more detail later in this report, OHCHR HQ staff saw their main role as either thematic experts, supporting the efforts of their FPs to conduct the lobbying work necessary to enact legislation, or providing broader support and guidance to the FPs themselves. Global advocacy work is primarily conducted on a thematic basis in accordance with the Organization's strategic priorities.¹⁴ OHCHR does not have a central unit in HQ dedicated to promoting and supporting legislative change at the national level.

This is not particularly surprising nor, necessarily, problematic. Legislative change is a means to an end and likely to be the outcome of a particular engagement strategy, in a particular country that will largely be determined by national conditions. This may be backed by thematic campaigns initiated at HQ, technical legislative advice by OHCHR Geneva thematic experts, as well as recommendations and decisions by the UN human rights mechanisms. Achieving specific legislative reform in a particular country requires a detailed technical understanding of its constitutional, legal and law-making system and these vary considerably country-by-country. It is also a time-consuming process. This means that it would be very difficult for OHCHR to have sufficient capacity at the global level to be able to work in sufficient detail with national legislators in all countries of engagement and nor would this seem to be a worthwhile investment of scarce time and resources.

All OHCHR HQ staff members have to relate to legislation relevant to their thematic or geographic area of work at some point. Some areas seem very actively engaged and prepared either to pursue legislative change globally or support colleagues in specific FPs. The evaluation team met with staff and management from some of these areas, including rule of law (for example, support to reform of counter-terrorism legislation and transitional justice),

¹² Interviews conducted Geneva, 11 – 15 December 2017.

¹³ Interviews conducted in Kyrgyzstan, 6 – 8 February 2018, Cambodia 20 – 23 February 2018, Tunisia 5 – 9 March 2018, Mexico 9 – 12 April 2018, Uganda 9 – 13 April 2018

¹⁴ Interviews conducted Geneva, 11 – 15 December 2017.

women's right and gender section (e.g. legislation on LGBTI as well as sexual and reproductive rights), anti-racial discrimination section and the human rights and economic and social issues section (for example, disability rights legislation and migrants' rights legislation). OHCHR is also making increasing use of Special Procedure mandate holders' public advocacy around particular pieces of legislation, which complements the local advocacy of the FPs and the public voice of the High Commissioner.

Staff in the FPs visited clearly valued the support that they received from HQ although some felt that the comments on draft legislation were sometimes quite broad and superficial.¹⁵ Some interviewees argued that OHCHR should find better ways of sharing experiences and good practices and that it could also establish a database of legislation, including draft off-the-shelf model laws, accessible by FPs, which could then be amended for particular national legislatures. The OHCHR Anti-Racial Discrimination Section already does maintain a database of model anti-discrimination legislation.¹⁶ The evaluation team believes that OHCHR should consider strengthening its capacity to centrally support legislative activities in the field and at HQ, including by ensuring an increased information management/sharing capacity on legislative work. Measures could range from investing in the establishment of a 'legislative change unit', within an existing HQ branch, to assigning this responsibility to one staff person, or the creation of more "communities of practice".¹⁷ Some FPs have developed *ad hoc* networks of legal and constitutional drafting experts who can be drawn on to provide expert advice, and this could presumably be developed on a global basis.¹⁸ OHCHR should also do more work with parliamentarians – rather than just executive branches of governments – and work directly with individual Members of Parliament (MPs) in countries of engagement.¹⁹

More fundamentally, an assessment of the strategic relevance of this area of work requires considering how OHCHR balances a number of competing and sometimes contradictory priorities. Promoting legislative change requires proactive, constructive long-term engagement with the governments and other stakeholders of particular countries and where quiet diplomacy, rather than public advocacy, may sometimes be more appropriate in response to specific human rights violations. At the same time OHCHR needs to retain its capacity to react to particular crises and its independence to speak out against violations. Senior management staff at OHCHR headquarters are clearly aware of these challenges – which one likened to 'moving multiple chess pieces on a global board',²⁰ but there obviously are trade-offs at the organizational level, which will be discussed further below under the section on Impact Orientation.

The evaluation found that OHCHR FPs are focusing on the legislative issues of primary concern to the broader human rights community in the countries reviewed. The work was

¹⁵ Interviews in Tunisia, 5 – 9 March 2018 as well as survey response from FP.

¹⁶ Interview, Geneva 15 December 2017, survey response from FP and interview with former Special Procedure Mandate Holder.

¹⁷ OHCHR discussion notes from evaluation debriefing workshop, OHCHR Geneva, 1 June 2018

¹⁸ Interviews in Tunisia and Kyrgyzstan March and February 2018.

¹⁹ Interview, Geneva 13 December 2017, Interview, Mexico 9-13 April 2018.

²⁰ Interview, Geneva 12 December 2017.

found to be relevant to the needs of particular countries, to other key stakeholders, such as national governments, civil society organizations (CSOs) and other UN agencies, and to OHCHR's mandate and strategy. FPs appear to be basing their strategies on contextual analyses and some have developed ToCs for each legislative initiative. Without it being a formulated institutional policy, the evaluation team found that most FPs tend to focus on those legislative issues which allow the national human rights protection actors to do their work freely and effectively, namely civil society and the media, National Human Rights Institutions (NHRIs) and the judiciary. This enabling-the-enablers strategy is a logical and results-oriented way to prioritize when selecting OHCHR's legislative support activities.

OHCHR is also spending an increasing amount of time and resources blocking or modifying laws, which are likely to have a negative human rights impact. These include anti-terrorism provisions, legislation aimed at restricting the effective functioning of human rights NGOs, laws aimed at shielding the security forces from scrutiny and criticism, and laws promoting homophobic discrimination and stigmatization of people with HIV/AIDS. In Haiti, for example, the Human Rights component of the UN mission (MINUSTAH) believed that its intervention proved decisive in blocking the adoption of a law discriminating against LGBTI people by the country's parliament in 2017.²¹ Every FP visited during the evaluation is devoting at least some time to blocking such laws and this workload has been increasing. Many interviewees, in both HQ and the field stated that given the time and effort involved in this work, it might be necessary to adapt the way in which the organization measures its EAs in its RBM.²² These are mainly conceived in positive terms but may also need to be thought of as preventing negative outcomes.

A number of FPs visited particularly praised the support that they had received from OHCHR's Women Rights and Gender Section in Geneva and there were a number of specific successes in both achieving gender specific legislation and mainstreaming gender into other legislation, which will be discussed further below. Most of the FPs visited had established very good relationships with UN Women and representatives of this agency consistently described OHCHR as a 'good and reliable ally' at the country level.²³ The evaluation team was provided with many examples of OHCHR providing support to the enactment of laws prohibiting violence and discrimination against women, but as the FPs pointed out, mainstreaming gender into non-gender explicit legislation, such as for example laws against torture, can be more challenging as it often requires the involvement of two OHCHR professionals: the legal/torture thematic expert and a gender-trained officer.

Some OHCHR staff interviewees expressed concern that FPs may downgrade the priority that they give to gender issues as UN Women expands its field presences, although this view was not expressed by any external interviewees.²⁴ The evaluation team believes that OHCHR

²¹ Skype interview, 21 June 2018.

²² Interviews with OHCHR field presence staff February – April 2018.

²³ Meetings were held with UN Women in every country visited apart from Uganda and the feedback was consistently positive.

²⁴ Interviews in Kyrgyzstan and Tunisia February and March 2018. Representatives of UN Women and external stakeholders from the Ministry of Women and CSOs in fact highly praised OHCHR's work on women's human rights.

should ensure each field presence has a gender focal point tasked with the review and support of gender mainstreaming into draft legislation, and work hand-in-hand with the regional gender advisors.

The evaluation team also believes that OHCHR has great potential to influence legislative change that addresses disability discrimination, but FP's technical capacity is very limited and HQ does not have the human resources to quickly build that capacity. Legislative progress could be more effectively supported by OHCHR with very limited investment. The evaluation team heard some excellent examples of work being undertaken in this area in both HQ and the field. In Kyrgyzstan, Mexico, Tunisia and Uganda, for example, the OHCHR FPs are working very closely with coalitions of persons with disability to promote legislative change or the effective implementation of anti-discrimination provisions.²⁵ This work could be significantly strengthened with a comparatively modest investment in staff resources in HQ.

Evaluation Question 2: Have the planning process and selection of the theory of change, strategies and tools (monitoring, advisory, advocacy, awareness-raising, etc.) used to achieve results in this area been adequate to the local context and needs, national policy frameworks and stakeholders?

The evaluation team received extensive information on OHCHR's use of a broad variety of relevant methods and tools to effectively support legislative change – from high profile public advocacy to quiet diplomacy combined with technical assistance. The widely different politically and culturally contexts in which OHCHR operates require customized strategies for each context, and these also sometimes change over time. Clearly no 'one-size-fits-all' guidance from HQ could be imposed on OHCHR's FPs when working on legislative reform. The evaluation team believes that the development of a specific country or regional strategy needs to be left as much as possible to the discretion of the relevant FP. As discussed above, however, OHCHR has built up a level of institutional experience and expertise that would be useful to gather together institutionally and share, particularly with new staff in its FPs. OHCHR Mexico for example, has developed models of strategic planning and analysis of legislative opportunities – including mapping of stakeholders, selection of entry points – which could be harnessed in a formalized guidance material for the benefit of other OHCHR offices. Some field staff commented that they had been forced to 'hit the ground running' when starting up operations and would have welcomed far more guidance and training from HQ on how to address some of the technical drafting issues.²⁶ The evaluation team believes that OHCHR should consider producing a training manual or training courses on how to engage with national legislators and legislative processes.

²⁵ For more information see: Amnesty International *Nothing about us without us: disability rights activists in Kyrgyzstan tell their stories*, 1 December 2017; Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Uganda, CRPD/C/UGA/CO/1, 12 May 2016; and 'Rights for the disabled in Tunisia, Inching towards inclusion', ; ifa|Institut für Auslandsbeziehungen 2018.. In Uganda, OHCHR has in line with the recommendations of the CRPD Committee supported the Equal Opportunities Commission to conduct an assessment of select national laws and their compliance with the CRPD.

²⁶ Interview with OHCHR staff in Tunisia, 5 March 2018. The OHCHR office was established in Tunisia shortly after the 2011 revolution and was soon involved in commenting on the new draft Constitution and a range of legislative reforms that will be discussed further below.

Several FPs identified highly relevant human rights issues that should be addressed through legislation but, due to their sensitive nature, they presented challenges and difficult trade-offs between: a) selecting less sensitive legislative issues and continued access to and collaboration with the authorities, and b) addressing the highly sensitive issues and consequently face deteriorated access and collaboration with the national authorities – including possibly non-renewal of the FP’s mandate. Decisions about what type of approach to pursue appear to depend on subjective as well as objective factors. The evaluation team was told of changed approaches as the Head of a given FP changed, while the political context remained the same.²⁷

Supporting legislative change will not necessarily be a priority for all of the Human Rights Components of UN Field Missions. In South Sudan, for example, the outbreak of civil war in December 2013 meant that Protection of Civilians (POC) and monitoring human rights violations became the immediate priority and one former human rights officer interviewed stated that working too closely with the government could have compromised the mission’s neutrality.²⁸ In Haiti it was noted that the national parliament had not passed any new laws – apart from those related to government expenditure – for five years between 2012 and 2017 and strong political factions actively frustrated attempts to modernize and strengthen justice sector reform.²⁹ As will be discussed below, however, most of OHCHR’s components in field missions have been extremely active in supporting legislative reform.

Planning processes varied considerably between different OHCHR FPs. Some OHCHR FPs have concluded that considerable time sometimes needs to be factored into their planning processes to allow for full consultation with communities that will be affected by new legislation. In Mexico, for example, OHCHR insisted that a law on the rights of indigenous people needed to be the subject of exhaustive consultations with these communities before its enactment.³⁰ Some FPs have developed separate ToCs for each of their programmes. In Tunisia, for example, the FP is receiving support from an external donor – although the funding is channelled via OHCHR HQ – where this is a requirement. In Kyrgyzstan the OHCHR regional office for Central Asia (ROCA), which has received significant support from external donors in the past, also produces ToCs for its main activities. OHCHR Mexico described how they draw up Action Plans for each legislative process they try to influence. These practices are far from universal, however, and some FPs appear to be struggling to comply with all the reporting and planning exercises requested by HQ.³¹ This is understandable given the different sizes and resources of different FPs and the different cultural contexts within

²⁷ Interview with stakeholders, Bishkek, 6-9 February 2018.

²⁸ Skype interview, 11 June 2018.

²⁹ Skype interview, 21 June 2018.

³⁰ End of Year Progress Report 2017, Section: B) Report against Thematic EAs/National EAs, OHCHR Mexico 2017 (OHCHR Performance Monitoring System). The OHCHR Mexico office argued that: ‘The start of a genuine dialogue about how this intercultural discussion should take place is more important than the legal instrument as such. The forced imposition of a law could create even more distance and distrust between the indigenous communities and state authorities’.

³¹ See, for example, OHCHR, *Uganda Country Programme Review 2010-2015*, May 2016. This states that ‘OHCHR staff in Uganda have ‘a clear understanding of the human rights issues and the programme’s strengths and weaknesses (including their rationale for selecting certain activities over others), the added value of the Country Programme vis-à-vis other partners, and the strengths and weaknesses of various partners, including Civil Society Organizations (CSOs) and State actors. However, this understanding is not clearly articulated in planning documents such as the Country Note (CN) 2014- 2017 or reporting documents such as the Mid-year (MYR) or the End-of-year report (EOY).

which they operate. OHCHR in Uganda, for example, has devoted considerable resources to supporting the development of strategic planning capacity of Ugandan state institutions, but this makes its own forward planning more difficult since many activities will depend on the effective functioning of these institutions.³²

In some cases, though, FPs seem to have been more enthusiastic about the development of such planning and reporting processes than OHCHR HQ. One FP, for example, commented that it had been told by HQ to shorten its project-based ToCs and make them more generic.³³ Another stated that it would be useful for OHCHR's PMS to provide cumulative totals of activities recorded (for example numbers of participants at training courses over a period of time), which would be helpful for its own reporting purposes to external donors.

The PMS has greatly increased OHCHR's capacity to monitor, evaluate and improve performance, including in the area of legislative change. However, as the system has to be global, general and universally applicable, it is not designed to capture the day-to-day level of activities in the FPs. Some FPs, with the assistance of PPMES in Geneva, have designed their own planning tools.³⁴ Most FP staff interviewed said that they find the RBM system useful for planning purposes although time consuming to fill in, and was particularly useful when seeking support from external donors. It was generally accepted that reporting on results was likely to become increasingly necessary as OHCHR expands its FPs with the support of external donors.

As discussed above, the evaluation team does not believe that a 'one-size-fits all' strategy for legislative reform can be imposed on OHCHR FPs and would also be wary of imposing greater reporting burdens on the field. The evaluation team does, however, believe that all programmes implemented by OHCHR FPs on supporting legislative change should develop ToCs that explicitly include external factors and risk analyses and that OHCHR's global ToC should also contain sections on external factors such as risks and opportunities, which should be more centrally integrated into its planning processes when considering working on legislative change.

³² Interviews with OHCHR staff in Kampala 9 – 13 April 2018.

³³ Interview with OHCHR staff in Bishkek, 6-9 February 2018.

³⁴ Interview with OHCHR staff in Bishkek, 6-9 February 2018. Interview with OHCHR staff in Tunisia 5 March 2018.

Effectiveness

Evaluation Question 3: What evidence of contributions of OHCHR support to the Office's expected results on legislation compliance with international human rights standards (drafting and adoption of new legislation, revision and reform of existing laws) can be found, including those related to recommendations of human rights bodies (the Universal Periodic Review, Special Procedures and Treaty Bodies) and gender equality?

OHCHR did not fully achieve its stated global targets in supporting national legislation in conformity with international standards within the 2014-17 programme cycle. In the area of compliance of legislation and policies, for example, 39 countries of engagement recorded a significant improvement in one or more areas, against a target of 54.³⁵ Thirty-four, out of a target of 40, countries of engagement recorded a significant improvement in levels of compliance with international human rights standards of legislation and policies to combat discrimination.³⁶ It was reported that in 18 countries of engagement, against a target of 29, did the level of compliance of selected State institutions and programmes with international human rights standards significantly improve.³⁷ Oversight, accountability or protection mechanisms had been established or improved in compliance with international human rights standards in 33 countries of engagement, against a target of 40.³⁸ There were 13 countries of engagement where the use of international human rights law in court proceedings and decisions had increased to a significant extent, against a target of 18, and 24 countries of engagement where human rights trainings had been institutionalized in one or more selected human rights areas against a target of 27.³⁹

This was OHCHR's first attempt at setting targets for a four-year programming cycle and the Office acknowledges that 'some targets may have been too ambitious and others may have been too modest'.⁴⁰ As will be discussed later in this evaluation report, other factors beyond OHCHR's control also impacted on the achievement of the targets. The evaluation team nevertheless found evidence, in the form of numerous statements from multiple governmental, parliamentary, non-governmental and international sources, indicating a clear OHCHR contribution to legislative change in conformity with international human rights law during the period reviewed.⁴¹ OHCHR has made increasingly good use of special procedures, treaty bodies and the UPR process to positively influence national legislative agendas in relation to human rights. The evaluation team was provided with numerous examples of the strategic and timely use of conclusions, comments and recommendations made by these bodies to enhance OHCHR's advocacy efforts at the national level. This included some

³⁵ UN Human Rights Report 2017, Annex II: Achievement of targets for global expected accomplishments and lessons learned over 2014-2017.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Interviews by phone and in-situ in Geneva, Kyrgyzstan, Cambodia, Tunisia, Uganda and Mexico, Jan.-April 2018.

occasions where the voice of the High Commissioner and/or Special Procedure mandate holders joined or substituted that of the FP.

As a relatively small UN agency, OHCHR staff stated they often depend on strategic partnerships with other UN agencies and particularly with the UN Resident Coordinator in countries of engagement. Such partnerships are often crucial in relation to public advocacy for legislative change on particularly sensitive issues.⁴² This makes it difficult to find definitive evidence of causality where OHCHR has lobbied for a particular legislative change that has subsequently been enacted. Nevertheless, the evaluation team endorse the finding of the UN Office of Internal Oversight Services (OIOS), which noted in an evaluation carried out in 2017 that:

Through its field presences, OHCHR has contributed to sustainable human rights outcomes in the countries and regions in which it has worked, including through the creation and strengthening of human rights institutions, the drafting and passing of laws that are consistent with international standards, the provision of direct assistance in the implementation of constitutional reform and the development of national human rights plans and policies.⁴³

In Tunisia, for example, the OHCHR country office was heavily involved in providing technical support to the drafting of the country's new Constitution, adopted in 2014, as well as on major laws on: the National Human Rights Institution; the Superior Judicial Council; the Constitutional Court; the Criminal Code and Criminal Procedure Code; new laws on combating violence against women and racial discrimination; media regulation; the law amending the framework law on the promotion and protection of persons with disabilities; and a Counter terrorism law.⁴⁴ It was also heavily involved in lobbying and providing technical advice on a number of draft laws – such as the draft framework law on independent institutions, draft law on repression of attacks on the armed forces and the draft law on the use of firearms – none of which have yet been enacted.

OHCHR Mexico has over a decade of sustained and comprehensive legislative experience. The Office's intervention was crucial in 14 legislative processes and influenced to some extent in another seven processes during the programmatic cycle of 2014-17.⁴⁵ Amongst the most significant of these were the 2017 approval of the Law against Torture⁴⁶ and the approval of the Law against Disappearances⁴⁷ where the Office played a decisive role. In relation to the

⁴² One Head of a FP described how they were more inclined to use public advocacy on sensitive legislative issues if they had a critical mass of other important international actors backing their position and could issue joint statements.

⁴³ Evaluation of the Office of the United Nations High Commissioner for Human Rights Report of the Office of Internal Oversight Services, E/AC.51/2017/9, 17 March 2017, para 16.

⁴⁴ For further discussions see: Committee against Torture, Concluding observations on the third periodic report of Tunisia, CAT/C/TUN/CO/3, 10 June 2016; and Report of the Special Rapporteur on the independence of judges and lawyers on her mission to Tunisia, A/HRC/29/26/Add.3, 26 May 2015.

⁴⁵ OHCHR Mexico list of legislative processes supported by the office from 2014-2017 (on file with the consultant). This impressive record was corroborated by everyone the evaluation team met with, including key legislators, government officials, UN agencies and the CSOs, and details were provided on the specific role of the office in many of the legislative processes.

⁴⁶ Full name: General Law to Prevent, Investigate and Punish Torture and other Cruel, Inhumane or Degrading Treatments or Punishments

⁴⁷ Full name: General Law in the area of Enforced Disappearances, Disappearances Committed by Private Individuals and the National System to Search for Disappeared Persons

former, the Office influenced the content in relation to exclusion of judicial proof obtained through torture, obligation to investigate all allegations of torture, exclusion of torture cases from the military justice system, strengthening of the national torture case registration system, and the design of the NPM. In relation to the Law against Disappearances, the Office managed to strengthen the mechanism to search for disappeared persons, the proper definition of the crime of disappearance, the rights of victims and prevention measures.

From 2014-2017, OHCHR Cambodia has contributed to a long list of legislative projects, leaving its mark on both the rights content and the degree of clarity of the laws.⁴⁸ These included: a Juvenile Justice Law (2016) – OHCHR supported and achieved inclusion of alternative sentencing concepts; a draft Environmental Code – OHCHR supported and achieved inclusion of the right of indigenous communities to free, prior and informed consent before the adoption and implementation of legislation; and a Prison Law and Prison Procedures – OHCHR supported and achieved inclusion of possibilities for sentence reduction and pardon on medical and humanitarian grounds.

In partnership with ILO, trade unions and rights organisations, OHCHR Cambodia has provided support to labour-related laws, mostly to avoid a weakening of the existing legal and normative framework. In 2016, the Cambodian Ministry of Environment launched a timely and open consultation on its new draft environmental code and included several of OHCHR's contributions on the rights of indigenous peoples and due diligence obligations of private actors. OHCHR considers the legislative drafting process of the Law on Access to Information, undertaken by the Cambodian Ministry of Information during the last three years, has offered full, open and meaningful consultations with CSOs and OHCHR/UNESCO. The draft law as it stands is overall in line with relevant international standards.

In Uganda, OHCHR has been involved in a number of legislative reforms. This included securing the Prevention and Prohibition of Torture Act in 2012, which incorporated the main provisions of UN Convention against Torture (UNCAT) into its domestic law; the Transfer of Convicted Offenders Act 2012, which allows foreign nationals to serve the final part of their sentences in their country of origin; and the Children Amendment Act 2016, which provides children with additional protection against all forms of violence.⁴⁹ The Office has also developed and lobbied for Bills on issues such as Witness Protection, Sexual Offences, Marriage and Divorce, Mental Health and Human Rights Enforcement.⁵⁰ OHCHR has also lobbied to modify or oppose legislation such as the Public Order Management Act 2013, HIV/AIDS Prevention and Control Act 2014, the Anti-Homosexuality Act 2013, the Regulation of NGOs Act 2016 and the Anti-Terrorism Act 2016, which all contained provisions conflicting with international human rights norms.⁵¹ As part of this work, it drew on international good practice and facilitated study visits and international seminars for MPs,

⁴⁸ Interview with OHCHR Cambodia staff, Phnom Penh, 21-23 February 2018.

⁴⁹ Interviews in Kampala 9 – 13 April 2018. See also Report of the Working Group on the Universal Periodic Review, Uganda: A/HRC/34/10, 27 December 2016.

⁵⁰ Ibid.

⁵¹ Ibid.

public officials and international experts. OHCHR has also supported the Government of Uganda's efforts to develop a National Human Rights Action Plan (NHRAP), which has a strong legislative component. It also engages with the Parliament of Uganda, particularly the Office of the Speaker, the Parliamentary Committee on Human Rights and the Parliamentary Studies Institute, which have contributed to increased capacity of parliamentarians to ensure that emerging bills are human rights compliant.⁵² The Parliamentary Committee on Human Rights, for example, has developed with assistance from OHCHR a checklist for compliance with human rights in policy, bills, budgets, government programmes and all business handled by parliament. The Office has also contributed to the development of regulations and policies such as the Prevention and Prohibition of Torture Regulations gazetted in October 2017 and the Draft National Transitional Justice Policy. In the absence of a national witness protection legal framework, OHCHR Uganda has also supported the Office of the Director Public Prosecutions to draft witness and victim protection guidelines.

In Kyrgyzstan, OHCHR supported legislation creating an NHRI and a National Preventive Mechanism (NPM). OHCHR also helped to defend the NPM's independence when amendments were introduced aimed at changing control over the composition of its members.⁵³ To facilitate a discussion of the amendments among key stakeholders, OHCHR invited four MPs, the Director of the NPM and the CSOs to its premises. In the end, the amendments were not approved. ROCA also inputted into the drafting of the Criminal Procedure Act in Kyrgyzstan, staff of the parliamentary drafting committee ensured the evaluation team that 'practically all of the recommendations made by OHCHR on the draft were accepted by MPs'.⁵⁴ The Office also supported the enactment of legislation on the Ombudsperson reasonably in line with the Paris Principles and legislation strengthening the judiciary.⁵⁵

In the Democratic Republic of Congo (DRC) the UN Joint Human Rights Office of the UN Mission (MONUSCO) supported the adoption in 2015 of the legislation for the implementation of the Rome Statute of the International Criminal Court (ICC), which notably incorporate a definition of international crimes in the Congolese Criminal Code, abolishes immunities and excludes amnesties for international crimes. The mission has also supported a number of other progressive legal reforms such as the 2006 law on sexual violence, the 2009 law on protection of children, the 2011 law on the criminalisation of torture, the 2013 law on the creation of a National Human Rights Commission, the 2015 law on the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol and the 2010 law on the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁵⁶

⁵² Country Programme for Uganda (2018-2021)

⁵³ Interviews with stakeholders in Bishkek, 6-9 February 2018.

⁵⁴ Interviews with parliamentary staff in Bishkek, 6-9 February 2018.

⁵⁵ Interviews with stakeholders in Bishkek, 6-9 February 2018. See also *Guardian*, 'Disputed 'foreign agent' law shot down by Kyrgyzstan's parliament', 12 May 2016.

⁵⁶ Skype interview 6 June 2018

In Haiti, the Human Rights component of MINUSTAH provided extensive comments to the 2015 Presidential Commission on the Reform of Justice, regarding the elaboration of a new Criminal Code, many of which were incorporated into the draft Code currently sitting in parliament for review. It also helped to facilitate the work of five Special Procedures who jointly criticised a draft law discriminating against LGBTI people that was passed in the Haitian Senate, in September 2017, but has subsequently not been brought before the National Congress⁵⁷

As a result of OHCHR's intervention into the drafting of a Community Land Bill in Kenya in 2015-16, a number of the inputs were incorporated including the issue of married women and their status as community members in the areas where they were born and/or areas they are married into.⁵⁸ Other inputs included the role of women in the community land board to enhance representation and participation. The Office held a strategy meeting with Parliamentarians who formed a Human Rights Caucus on the importance of inclusion on these principles. The Office ensured that organizations that deal with women's rights formed part of the stakeholders and conducted a review which emphasized the importance of women's representation in the community land management team created by the Act.⁵⁹

OHCHR Malawi also lobbied for improved rights and access to land for women during the passage of the Land Act 2016.⁶⁰ It successfully advocated that the death penalty not be included for new offences created under the Penal Code Amendment Act 2012, and highlighted the magnitude of the problem of unsafe abortions taking place in the country in meetings with religious and traditional leaders during the passage of the Termination of Pregnancy Bill, which expands the exceptions to the prohibition on abortion, in 2017.⁶¹ In Libya, OHCHR reviewed the countries' prison laws from a gender perspective.⁶²

In Afghanistan, the Human Rights component of the UN mission (UNAMA) was central to the government's decision to revise and develop legislation on the prohibition of torture. It did this through a combination of public advocacy and using treaty-body mechanism reports to extract this commitment in 2015 and then through technical assistance both directly to the government and through the Judicial Committee of Parliament, prior to the law's enactment through Presidential Decree in March 2017. UNAMA/OHCHR also significantly supported efforts which led to the enactment of the Elimination of Violence Against Women law of 2009, the Anti-Harassment Law 2017 and subsequent revisions of the Civil and Penal Codes.⁶³

As discussed above, OHCHR has also been effective in opposing or modifying bills that do not conform with international human rights law and would negatively influence the human rights situation in a given country. For example, in Kyrgyzstan, OHCHR helped to stall the

⁵⁷ Skype interview 21 June 2018

⁵⁸ Response from FP to questionnaire circulated by the evaluation team April 2018.

⁵⁹ Community Land Act 2016, section 15.

⁶⁰ Response from FP to questionnaire circulated by the evaluation team April 2018.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Skype Interview 14 June 2018.

adoption of the Foreign Agents Act and the Prohibition of Homosexual Propaganda Act. Similarly, in Tunisia, the office publicly criticized two draft laws – on ‘economic reconciliation’ and ‘the repression of attacks against the armed forces’ – as being in violation of international norms and was able to help persuade the government to withdraw them.⁶⁴ In Uganda, OHCHR and the Uganda Human Rights Commission have raised serious concerns from a human rights perspective regarding the passing of a law that would have made homosexuality a capital offence⁶⁵ OHCHR in Malawi briefed MPs on the HIV (Prevention and Management) Bill adopted by parliament in November 2017 as a result of which a number of provisions which violated human rights standards - such as compulsory testing and the criminalization of transmission – were removed from the Act prior to its adoption.⁶⁶ In the DRC, the Human Rights component of the UN mission lobbied against the adoption of a law restricting the activities of NGOs and three Special Procedures issued a combined statement against this proposed law.⁶⁷

Evaluation Question 4: Where legislative changes with contribution from OHCHR were found, what were the enabling factors and processes? What prevented OHCHR from achieving results in this area?

The evaluation team believes that a significant contribution that OHCHR makes in enabling legislative change is that it is the acknowledged custodian of the universal human rights standards and mechanisms contained in international law.⁶⁸ As part of the UN system, OHCHR is seen as both politically independent and neutral. Its legal analysis and amicus curiae briefs are firmly based on the developing jurisprudence of international law and so are considered authoritative and independent.

OHCHR does not have sufficient capacity at the global level to be able to work in the necessary detail with national legislators in all countries of engagement to effect legislative change. The evaluation team was, however, impressed with the solid knowledge of complex national legal frameworks and drafting processes shown by OHCHR’s national staff in the FPs visited. Hiring and retaining such high quality national staff is a crucial enabling factor and should be an absolute priority for sustaining this area of work. In some cases, OHCHR have seconded their own national staff members into state institutions or hired national or international experts to provide technical expertise to MPs or government structures while working on-site with the authorities for a limited time. As also discussed, some FPs have developed *ad hoc* networks of legal and constitutional drafting experts who can be drawn on to provide expert advice.

⁶⁴ Interviews with stakeholders in Tunisia 4-9 March 2018. See also *Human Rights Watch*, ‘New Reconciliation Law Threatens Tunisia’s Democracy’, 2 October 2017.

⁶⁵ *Guardian*, ‘No gay promotion can be allowed’: Uganda cancels pride events’, 21 August 2017. Homosexuality is illegal in Uganda under colonial-era laws, punishable by a jail sentence. In 2014 attempts to introduce a bill that would make some homosexual acts punishable by death was ruled unconstitutional.

⁶⁶ Response from FP to questionnaire circulated by the evaluation team April 2018.

⁶⁷ Skype interview 6 June 2018

⁶⁸ The jurisprudence of these mechanisms is generally consistent with those developed at the regional level.

The evaluation team also believe OHCHR's work in this area would benefit if more FPs had the resources to design and implement an awareness-raising communication strategy. All five of the FPs visited during this evaluation had their own webpages. OHCHR Cambodia's website was by far the most attractive, informative and dynamic and could be seen as a model for other FPs – resources permitting.⁶⁹ The evaluation team was told that the FPs mainly rely on OHCHR in Geneva to set up and maintain their websites. In Kyrgyzstan, ROCA was also allowed to use a sub-page of the UNCT webpage but was not given final editorial control over the content of this page and was not even notified when important – and politically sensitive – OHCHR statements were removed from it.⁷⁰

Obviously, the main factor that will enable or prevent OHCHR from effectively contributing to legislative change, however, is the objective situation in the country of engagement. Where a repressive government is determined to clamp down on political dissent or disregard legal norms in the fight against terrorism; or when populist political leaders are able to stir up deep-seated prejudice against minority ethnic, religious, or social groups, OHCHR FPs will always struggle to meet their Global EAs if these are defined wholly or mainly in terms of achieving progressive legislative reform. While this may be considered a truism, the evaluation team believe that it needs to be factored into OHCHR's internal planning processes. In particular, OHCHR needs to consider whether it is worth continuing to invest in the long-term, proactive and constructive engagement strategies needed to advance legislative reform, if the government in the country of engagement is not seriously interested in this goal. This is a particular concern where such governments are pressurising OHCHR to curtail their mandate to monitor and publicly speak out against human rights violations. This should be explicitly included as a risk factor in all country programme ToCs. OHCHR should also be prepared to change the focus of its work in a given FP where changing political climates mean that the assumptions which led to the decision of a particular FP to work on legislative change no longer hold good.

The evaluation team believes that OHCHR should concentrate its effort on working for legislative reform according to three criteria: a) the political climate is favourable, b) where it provides an added value and c) where it has a comparative advantage compared to other actors. As discussed, OHCHR often adds value through its technical knowledge but also as an actor/partner expected to speak out on rights issues, sometimes publicly. This is often also its comparative advantage, particularly in relation to other UN agencies. Other times, its comparative advantage consists of its detailed knowledge of the thematic issues or the legislative process. The latter competence explains why for example a specialized agency like UNHCR is keen to work closely with OHCHR Mexico even on refugee and migration related legislation.⁷¹

⁶⁹ <http://www.ohchr.org/EN/Countries/LACRegion/Pages/MXIndex.aspx>;
<http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/KGIndex.aspx>;
<http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/UGIndex.aspx>;
<http://www.ohchr.org/EN/Countries/MENARRegion/Pages/TNIndex.aspx>; <http://cambodia.ohchr.org/>; viewed 19 April 2018.

⁷⁰ Interview with OHCHR field presence staff. Bishkek 8 February 2018.

⁷¹ Interview with the Representatives of UN Women and UNHCR in Mexico, 9-12 april 2018

Evaluation Question 5: Has OHCHR used its comparative advantage in this area and relied in partners and stakeholder's (both internal and external) support to achieve the intended results?

As one of the UN's least resourced agencies with a mandate to address issues that are often challenging and politically sensitive OHCHR has systematically sought strategic partnerships on legislative activities. This has included with national state institutions and CSOs in countries of engagement and also working effectively with other UN agencies and UNCTs. In every country visit that the evaluation team conducted, it observed that OHCHR FPs had forged partnerships with other stakeholders on legislative change and this has clearly become part of their *modus operandi* in the field. These included well-established partners, such as UNDP, on legislation for NHRIs, and UN Women on laws to combat violence against women. It also included new and innovative thematic partnerships, such as: ROCA's collaboration with UN Aids on discriminatory CSO legislation; OHCHR Cambodia's partnership with UNESCO on an Access to Information bill; OHCHR Uganda's work with the National Council for Disability and the Equal Opportunities Commission, including with regard the protection of persons with albinism; and OHCHR Tunisia's support for NGOs campaigning to outlaw racial discrimination against Black African Tunisians.⁷²

OHCHR in Tunisia consciously works with the three main stakeholders involved in the legislative process: namely the Government, parliament and civil society. This support is often offered through a joint UN initiative with multiple UN agencies coordinated through the UNCT. The office works closely with the Tunisian Parliament in a joint project with UNDP. It has excellent bilateral relations with various government ministries, including: the Ministry for Human Rights, the Ministry for Justice and the Ministry of Women's Affairs, which allows for an upstream discussion of the text and even, in some cases, a direct involvement in drafting the legislative proposal. It has also been very successful at providing platforms to CSOs to facilitate their direct involvement on commenting on draft laws. The office has organised a number of public hearings to stimulate debates on draft laws such as the ones on the NHRI law, Transitional Justice law, violence against women and non-discrimination. It has also engaged with special rapporteurs in gathering substantive inputs for various draft laws. This has been the case for the Constitution drafting and the law on counter terrorism. The office also solicited the inputs of International Coordinating Committee of NHRIs (ICC) on the NHRI law to assess its conformity of Paris Principles and ensure its proper accreditation.

In Uganda, the OHCHR Country Office cooperates closely with the Ugandan Human Rights Commission (UHRC) with whom it has an agreed work-plan, the Uganda Law Reform Commission and the Uganda Equal Opportunities Commission. It also works closely with the Parliamentary Committee of Human Rights – which it helped to create – monitoring and

⁷² Interviews conducted in Kyrgyzstan, 6 – 8 February 2018, Cambodia 20 – 23 February 2018, Tunisia 5 – 9 March 2018, Mexico 9 – 12 April 2018, Uganda 9 – 13 April 2018.

lobbying the passage of particular Bills. The Ugandan government has indicated that it welcomes OHCHR's technical cooperation and support for legislative reform and development.⁷³

In Kyrgyzstan, OHCHR helped to block the Foreign Agent Act and the Anti-Homosexuality Propaganda Act by working in partnership with CSOs, parliamentarians and other UN agencies. UN Aids noted that when lobbying against the latter Bill, OHCHR's legal expertise had complemented its own programmatic experience in addressing the issue from a public health angle.⁷⁴ The FP also described how a close partnership with the RC for Uzbekistan led to a request by that government for OHCHR support for the development of an Ombudsperson Act in Uzbekistan.

OHCHR Geneva also pursues legislative work in close partnership with other actors. For example, the evaluation team has interviewed and learned from several OHCHR Geneva staff involved in the extensive efforts to reform the Counter Terrorism Act (CTA) in Sri Lanka. These efforts are an interesting example of multiple UN agencies and mechanisms working together and reinforcing each other's legislative work. Since 2015, this effort is carried out in the context of Human Rights Council resolution 30/1 (2015) on promoting reconciliation, accountability and human rights in Sri Lanka, co-sponsored by the very government of Sri Lanka. In that framework, efforts to reform the Counter Terrorism Act have been pursued by, among others, the UNCT in Colombo, OHCHR, UNODC, UNDP, several Special Procedures mandate holders, treaty bodies, and the UN's NY-based counter terrorism machinery (Security Council and the General Assembly mandated structures). In close coordination with these partners and with OHCHR's own Human Rights Adviser in Sri Lanka, OHCHR Geneva has combined the submission of on-going detailed technical human rights analysis of the draft act with consistent high-level advocacy, including country visits by both the High Commissioner and separately by the DHC.

In both Mali and the DRC, the Human Rights component of the UN missions proved instrumental in supporting legislation for the creation of national human rights commissions.⁷⁵ Together with the MONUSCO's Human Rights component, OHCHR Geneva has also pursued effective partnerships with parliamentarians to develop specific legislation on the rights of indigenous "Pygmies". OHCHR Geneva's work with the Parliamentary Committee on Indigenous People and the local CSOs contributed to the drafting of legislation in conformity with international standards on indigenous peoples' rights (2014-17). In Mali, persuaded the government to drop the death penalty from a Military Justice Bill that it was enacting.

OHCHR's ability to bring together and work through coalitions of different stakeholders has been discussed above as having limitations in the field due to lack of resources. The evaluation

⁷³ Interviews conducted with OHCHR staff, state institutions and parliamentarians in Uganda 9 – 13 April 2018.

⁷⁴ Interview with UN staff members in Bishkek, 6-9 February 2018.

⁷⁵ Skype interviews 6 and 18 June 2018

team received overwhelmingly positive feedback from other UN agencies about OHCHR's FPs who were seen as adding real value to the UNCTs due to its expertise described above. In Tunisia, for example, OHCHR has taken the co-lead – with UNODC – on Democratic Governance within the UNCT and works jointly with multiple UN Agencies to support legislative reforms, such as the joint program on Gender equality and the joint program on Justice Reform. In Uganda OHCHR regularly provides advice on legislative issues to the Resident Coordinator and the UNCT. It is the co-lead of UNDAF Outcome 1.2 on Human Rights, Governance, Rule of Law and Transitional Justice and also leads the UNCT Human Rights and Gender Advisory Group. In both Tunisia and Kyrgyzstan, OHCHR appeared to have achieved a very good and mutually supportive relationship with UNDP. OHCHR FPs also regularly help to draft UN Joint position papers that are used as a tool to build a common UN understanding and positioning towards draft national laws.

While in many countries the OHCHR FP needs the support and political backing of the UNCT to effectively pursue legislative activities, in Mexico, the roles seemed to be reversed. There, UN agencies were quick to recognize OHCHR's leadership on legislative monitoring and reform activities. The Representatives of UN Women and UNHCR described how they benefitted from OHCHR Mexico's on-going legislative monitoring and analysis and active partnership in the areas of women's rights and refugee/immigration legislation.

The evaluation team also received excellent feedback from the CSOs and state institutions interviewed during the country visits about the technical support they received from OHCHR.⁷⁶ These also particularly welcomed OHCHR's advice on how to submit reports and alternative reports to human rights monitoring mechanisms and how to follow up the conclusions and recommendations of these bodies. Given the brevity of the visits, the interviews may not have covered a representative sample of institutions in each country and, as stated above, the purpose of these visits was not to evaluate the effectiveness of the FPs themselves. The evaluation team, however, received more mixed feedback about OHCHR's outreach to MPs in national legislatures. In some places, the links are clearly very strong.

In Uganda, OHCHR contributed to the creation of the Parliamentary Committee on Human Rights. In Tunisia, OHCHR and UNDP have established a strong ongoing project of working with MPs. In Kyrgyzstan, however, staff of one parliamentary committee supported by OHCHR regretted not having any contact with OHCHR senior management. In OHCHR HQ, it was stated that the Organisation's reach out efforts to parliamentarians could be more systematic and appears to be given less of a priority than its work with the executive and the judiciary. Although both OHCHR HQ has produced a Human Rights Handbook for MPs, this seems to be an under-utilised resource.⁷⁷ OHCHR Uganda has produced an excellent Human Rights Checklist for MPs and is currently working on a revised second edition with the UHRC.⁷⁸ The evaluation team believe that a targeted effort to forge a closer partnership with

⁷⁶ Interviews conducted in Kyrgyzstan, 6 – 8 February 2018, Cambodia 20 – 23 February 2018, Tunisia 5 – 9 March 2018, Mexico 9 – 12 April 2018, Uganda 9 – 13 April 2018

⁷⁷ *Human Rights Handbook for Parliamentarians*, OHCHR and Interparliamentary Union, 2016.

⁷⁸ Interviews conducted in Uganda 9 – 13 April 2018.

parliamentarians could benefit from the assistance of the Inter-Parliamentary Union in Geneva, whose staff expressed in an interview with the evaluation team a willingness to facilitate the necessary contacts with human rights committees and individual MPs in countries relevant to OHCHR's legislative work.⁷⁹

Some interviewees argued that OHCHR's influence was restricted by the fact that it only offered normative advice and technical expertise, while other UN agencies could offer material support and funding of activities.⁸⁰ It was suggested that offering this type of assistance to governments, in particular, would help OHCHR build collaborative relationships that would make governments more receptive to its human rights messages. Others felt, however, that OHCHR was not an implementing agency and should not try to duplicate the work of others by seeking to become one. Apart from the obvious constraints on funding, it was argued that OHCHR should see itself as an enabling rather than an implementing agency, working together with partners in governments, CSOs and other UN agencies to provide advice on international laws, standards and jurisprudence, while facilitating dialogue and joint approaches and using mechanisms such as the Treaty-reporting bodies, the Special Procedures and the UPR process to facilitate change at the national level. While some FPs have provided material support and funding – often with the support of external donors – this brings with it separate challenges. The evaluation team believes that OHCHR's main comparative advantage is its technical legal knowledge and skills and its ability to empower and enable the partnerships and coalitions described above.

Impact Orientation

Evaluation Question 6: What evidence is there that legislative changes supported by OHCHR have contributed to improvements in the enjoyment of rights (including women's rights) as established in the Office's expected accomplishments?

Support to legislative change is a means to an end – rights-holders' increased enjoyment of rights – so legislative reform is just one step in OHCHR's ToC. It clearly goes beyond the scope and capacity of this evaluation to comprehensively collect evidence of the human rights impact of specific legislative reforms in all of the various countries of engagement with which OHCHR works. The evaluation team does, however, believe that the monitoring and documentation of the effective enjoyment of rights is an issue that OHCHR does need to consider taking forward and explicitly factoring it into its ToC as part of the organization's strategic, long-term and sustainable orientation.

While the evaluation team is in no doubt that securing legislation in conformity with international law is likely to make a significant contribution to broader, long-term, and

⁷⁹ Interview IPU staff, Geneva 12 January 2018.

⁸⁰ Interviews conducted in Kyrgyzstan, 6 – 8 February 2018, Cambodia 20 – 23 February 2018, Tunisia 5 – 9 March 2018, Mexico 9 – 12 April 2018, Uganda 9 – 13 April 2018.

sustainable enjoyment of rights in many countries, this relationship is neither linear nor automatic. In some countries, laws may be enacted, combating torture or impunity, for example, but the state authorities lack the political will to implement them. In others, NHRIs or Equality Commissions may be established by law but denied sufficient funding or independence to function effectively. In some cases, governments may even adopt new laws for entirely cosmetic reasons, to deflect criticisms of their human rights records during, for example, a UPR process. In others genuine reforms, such as tackling economic, social and cultural discrimination, will take time for their full impact to be felt and so may be difficult to measure within a particular programme cycle. States are also not monolithic, and the impact of a particular legislative reform is also likely to be contested over time by its supporters and opponents, within and between various state institutions which makes it difficult to evaluate its impact.

In some cases, the impact of a particular reform will be relatively easy to measure. In Tunisia, for example, NGOs monitoring complaints of torture, noted that these had dropped steadily from 2015 – 2017 following a series of important legislative reforms.⁸¹ Tunisia also strengthened the protections against torture in its 2014 Constitution and its Criminal Code and amended its Criminal Procedure Code in 2016 to reduce detention times and increase access to legal representation.⁸² Similarly, in Kyrgyzstan, OHCHR lobbied hard for the establishment of a new NPM in Kyrgyzstan. External stakeholders stated in interviews that while torture continues to be widespread and systematic in Kyrgyzstan, a slight improvement has been noticed since the establishment of the NPM.⁸³ Prosecutions of suspected torturers, however, are rare to non-existent in both countries despite the enactment of laws which provide for this.⁸⁴

Uganda also adopted a new law on torture in 2012, incorporating the provisions of UNCAT into domestic law, but there have been no subsequent prosecutions of state agents despite the continuing prevalence of the practice.⁸⁵ However, in a recent civil case before the High Court, a judge made reference to the Prevention and Prohibition of Torture Act 2012 and its importance as she awarded damages to applicants who alleged torture at the

⁸¹ See 2016: the annual statistical report of the legal assistance program for victims of torture in Tunisia, OCTT. The reforms include Organic Act No. 2013-53 of December 2013, a law on transitional justice and related organizational arrangements; Decree No. 2014-2887 of August 2014 establishing special criminal divisions for transitional justice; Organic Act No. 2013-43 of October 2013 and Act No. 2009-68 of 2009, which establishes the National Authority for the Prevention of Torture and provides for alternatives to prison sentences and protection of the rights of detainees

⁸² The reforms cut the maximum period that a detainee can be held without charge from six to four days for crimes, and from six to two for misdemeanours, and gave those detained the rights of immediate access to a lawyer and their family and to have their lawyer present at their interrogation by both police and the investigative judge. The new provisions also required that detentions be authorized by prosecutors and that prosecutors and judicial police must allow detainees access to medical care and doctors if they or their lawyers or families request it.

⁸³ Interviews with stakeholders in Bishkek 6-9 February 2018. It should be noted, however, that neither Amnesty International nor Human Rights Watch state that torture has decreased in Kyrgyzstan in their 2017 Annual Reports. See Amnesty International, *Annual Report, 2017 Kyrgyzstan* and Human Rights Watch *World Report 2017 Kyrgyzstan*.

⁸⁴ See Committee against Torture, Concluding observations on the second periodic report of Kyrgyzstan, CAT/C/KGZ/CO/2, 20 December 2013; and Committee against Torture, Concluding observations on the third periodic report of Tunisia, CAT/C/TUN/CO/3, 10 June 2016.

⁸⁵ *Daily Monitor*, 'Closing Nalufenya Will Not End Torture in Uganda', 12 April 2018.

hands of police officers and other security agents while in custody.⁸⁶ The government is also reluctant to ratify the Optional Protocol to the Convention Against Torture in line with UPR recommendations of 2011 and 2016 which would allow easy access to and monitoring of detention centres by human rights institutions and CSOs. It has also not extended any invitations nor accepted the request of any UN or African Union treaty body or special procedure mandate holders to visit the country in an official capacity.

In Afghanistan, there has been no tangible decrease in the numbers of torture perpetrators prosecuted since the Anti-Torture Law was promulgated, but since the beginning of 2018, there has been a noticeable decrease in the prevalence of torture and other forms of inhuman or degrading treatment observed through UNAMA/OHCHR's monitoring. Although the levels of credible reports of torture in Afghanistan remain unacceptably high, Afghanistan has now acceded to OPCAT and UNAMA/OHCHR's monitoring of – and advocacy for – implementation can now be based on a more comprehensive and internationally compliant legislative framework.⁸⁷

In Mexico, OHCHR supported a reform of the Mexican Military Justice Code in 2014, which reduced significantly the scope of military jurisdiction by making it non-applicable to human rights violations against civilians. As a result, several key cases have been passed from the military justice system to the ordinary justice system.⁸⁸ In Malawi, OHCHR believes that its successful advocacy of raising the age of marriage to 18 years in the Marriage, Divorce and Family Relations Act 2015 has contributed to a reduction in child marriages in Malawi.⁸⁹ In Cambodia, OHCHR has conducted efforts to reform the Collective Land Titling process that has helped register communally held land by indigenous communities.⁹⁰

The work of OHCHR's Indigenous Peoples and Minorities Section has also shown that the process of working on legislative reform, in and of itself, itself, requires extensive consultations with communities concerned, which can raise visibility on thematic issues and enhance better understanding of rights and concerns through dialogue and exchanges of views on a multitude of discrimination concerns among the different stakeholders involved.⁹¹

As discussed above, working for legislative reform requires pro-active planning and strategizing that is time and resource-intensive. This can divert resources that could potentially otherwise be used to react in particular human rights contexts. The necessity to cultivate long-term constructive relations in order to develop a positive legislative strategy may also make it more difficult for OHCHR at a global, regional or national level to publicly condemn particular human rights violations if this would risk damaging potential partnerships with particular governments or MPs. Given these opportunity-costs, the evaluation team

⁸⁶ *Abdu-Rashid Mbaziira and 19 Others Vs Attorney General*, HCT-00-CV-MC- 0210-2017, 12 October 2017

⁸⁷ Skype interview 14 June 2018

⁸⁸ End of Year Progress Report, OHCHR Performance Monitoring System, OHCHR Mexico, 2017.

⁸⁹ Response from FP to questionnaire circulated by the evaluation team April 2018.

⁹⁰ As a result, by November 2017, 130 indigenous communities had been recognized by the Ministry of Rural Development (up from 72 in 2013) and the Ministry of Interior had endorsed and registered 120 indigenous communities as legal entities (up from 49 in 2013).

⁹¹ OHCHR discussion notes from evaluation debriefing workshop, OHCHR Geneva, 1 June 2018

believe that OHCHR needs to do more to try to measure both the extent to which developing this area of work can be shown to have impacted or is impacting on the broader and long-term enjoyment of rights and any unintended or indirect consequences.

Evaluation Question 7: Are the results, achievements and benefits of OHCHR support in the area of legislation likely to be durable and is OHCHR strategy and management in this area steering towards a broader and longer-term impact in the enjoyment of rights?

OHCHR FPs operate in widely different political and cultural contexts and these also sometimes change over time. The evaluation team was nevertheless, repeatedly told that international human rights standards were coming increasingly under attack and that there was a real danger that many of the gains of recent decades could be ‘rolled-back’ by repressive governments and right-wing populist movements. OHCHR, both globally and in the field, is having to devote an increasing amount of time and resources to block or modify legislation in many countries, which is likely to have a negative human rights impact.

At the same time, as this evaluation report shows, there are numerous examples of OHCHR helping to support the enactment or amendment of national legislation in conformity with international standards. OHCHR has also developed effective strategies and tools – such as monitoring, advisory, advocacy and awareness-raising – to achieve these results. and these have taken account of the context and needs in which they have been developed and the views of external stakeholders, such as national governments, CSOs and other policy makers. In Mexico, for example, the sustainability of the Office’s legal achievements seems to depend on its capacity to follow up, including the actual implementation of for example the NPM in the recent law against torture that it helped to design. OHCHR FPs are often involved in the necessary steps following the passage of legislation: the development of implementing secondary legislation, decrees and administrative regulations. Some FPs have concentrated on the development of secondary legislation and regulations where it has been too challenging to achieve new laws in line with international standards. OHCHR Cambodia, for example, has effectively ensured sustainability of its legislative work by developing so called ‘implementation guides’ which support the impact of the law beyond its approval in Parliament. The evaluation team believes that these highly tailored strategies based on local conditions have by and large been successful and should be factored into OHCHR’s planning and reporting structures.

The impact of new laws will be largely determined by the way in which they are implemented by national justice sector institutions. The prohibition of torture, for example, requires a detailed understanding of the international jurisprudence of the rights and safeguards for people in detention and the positive obligations of the investigating authorities to prevent its occurrence and hold to account its perpetrators. Similarly, monitoring the implementation of anti-discrimination provisions, which often involve the realisation of economic, social and

cultural rights of previously marginalised groups, requires both specialist knowledge and potentially considerable resources.

In some cases, laws have been enacted so recently, that it is impossible to assess their full impact. OHCHR in Tunisia is planning to monitor the implementation of the recently enacted landmark laws on violence against women and racial discrimination, which were discussed above. Staff in the FP believe that this monitoring will be relatively straight forward to conduct since the laws create new legal categories (criminal offences and statutory rights) that the courts should start to enforce through their case-law. It would, however, be far more difficult to monitor the implementation of the mainstreaming anti-discrimination protection into other laws and the evaluation team did not encounter comprehensive strategies for monitoring the impact of new laws in countries of engagement, although it did encounter several examples of good practice which could be built upon.

The International Development Law Organisation (IDLO) is in the process of starting to monitor the emerging jurisprudence in which national judges refer to international standards in their decision-making in Kyrgyzstan and Tunisia. The Raul Wallenberg Institute is also monitoring the emerging national jurisprudence based on international standards throughout the Middle East and North Africa (MENA) region. OHCHR Tunisia has produced a report on the number of judicial decisions based on the Economic, Social and Cultural Rights (ESCR) contained in Tunisia's 2014 Constitution and a manual on the justiciability of ESCR in Tunisia. OHCHR Malawi was instrumental in inserting a legal right to food, as a component to the right to an adequate standard of living. It worked with the government's technical team during the drafting of the Food and Nutrition Bill to ensure that this right was adopted in line with international standards.⁹² In Mexico, OHCHR provided technical cooperation to public institutions to develop indicators for the evaluation of the impact of public policies on the human rights situation.

Given that OHCHR's Field Presences are sometimes carrying out such monitoring activities as well, the evaluation team believes that the Organisation should consider how to support such monitoring processes – possibly in cooperation with IDLO or an academic centre. International human rights jurisprudence is becoming increasingly integrated into the decisions, language and case-law of national justice systems and OHCHR needs to give more thought to how it can measure this impact. Monitoring clearly has resource implications, however, which need to be factored into program planning.

Sustainability

Evaluation Question 8: Are the partners and stakeholders at the country level willing and committed to continue working on the legislative issues addressed by OHCHR, implementing and enforcing the legislation in compliance with

⁹² Response from FP to questionnaire circulated by the evaluation team April 2018.

international standards and how effectively has OHCHR contributed to build necessary capacity, including knowledge, tools, guidance and availability of resources at the national level to sustain the results achieved?

OHCHR has systematically sought strategic partnerships on legislative activities, including with national state institutions and CSOs in countries of engagement. The Office has, therefore, effectively built key partners' capacity to monitor and support the implementation of new legislation and address potential attempts at rolling it back. The evaluation team found that the sustainability of OHCHR's legislative achievements is often linked to the degree of follow-up and dedicated support to implementation of legislation that OHCHR field presences carry out. Such support includes awareness and capacity building of CSOs but also direct training of government officials. A crucial part of OHCHR's support to legislative change consists of presenting and explaining the international normative framework to national counterparts. The legal analysis that OHCHR produces and disseminates effectively becomes important reference material for many national partners working on the monitoring and implementation of new or reformed legislation.

In Kyrgyzstan, for example, where OHCHR played a crucial role in the drafting and approval of the Criminal Procedure Code (CPC), OHCHR supported a 12-module ToT programme for representatives of different government training centres (Lawyers Training Centre, Ministry of Interior, Police, prosecutors, penitentiaries, Finance Police etc) to ensure the CPC will be properly understood and implemented. By working with different government training centres, OHCHR and other international contributors have managed to institutionalize the CPC training programme, which constitute an important follow-up to the actual passing of legislation and to the overall sustainability of this legislative support activity.⁹³ Similarly, OHCHR contributed to the legislative process creating the NPM in Kyrgyzstan and has since then supported important aspects of its independent functioning, including efforts to block legislative amendments introduced to reduce the independence of the institution, technical assistance through expert consultants and even provision of basic material equipment for the NPM.⁹⁴ In the DRC the Human Rights component of the UN mission has provided technical assistance for the adoption of regulations and for the implementation and respect of the new law. Sensitisation activities are also organized to broaden the knowledge of the new law, targeting both those who have to implement the law (practitioners) and the general population to make them aware of their rights.⁹⁵

At the end of 2016, OHCHR Cambodia organized a follow-up symposium on the 6-Month Review of the Trade Union Law, with support from the UPR Trust Fund, which brought together 129 cross-sector representatives from trade unions, the Cambodian Federation of Employers & Business Associations, Ministry of Labour and Vocational Training, ILO, US and German embassies. Trade unions discussed and took stock of challenges faced under the new law and made recommendations for amendments to the law, to improve its compliance with

⁹³ Interview with OHCHR staff in Bishkek, 6-9 February 2018.

⁹⁴ Ibid.

⁹⁵ Skype interview 6 June 2018

Cambodia's obligations under HR and ILO conventions.⁹⁶ OHCHR has also provided concrete support to indigenous communities trying to obtain titles for their communal lands, under the Land Titling Law, and at the same time worked with the government to simplify the complicated and extremely costly process of indigenous land titling. In the process of working closely together OHCHR has strengthened the indigenous organisations and built their capacity to implement the law and the policy.⁹⁷

The OHCHR Colombia office has used its annual report to publicly follow up on implementation and government commitments. For example, in 2016 it expressed concern that in relation to the implementation of the law on access to justice for victims of sexual violence, the institutional response system was not activated in 15 cases in the region of Putumayo, and that in several other regions the psycho-social support teams created by the law had not been established.⁹⁸ OHCHR Uganda supported the judiciary, through the Judicial Studies Institute, to develop a resource book and curriculum on the judicial enforcement of legislation on economic social and cultural rights (ESCR) and subsequently supported the capacity of judicial officers on ESCR adjudication. Several positive outcomes have arisen from this collaboration including the October 2015 judgment by the Supreme Court that paved the way for courts in Uganda to adjudicate on alleged violations of ESCR.⁹⁹

OHCHR lacks the resources to be a capacity-building implementing agency, particularly given that it is notoriously difficult to strengthen the institutional capacity of justice sector institutions through training individual members of these bodies.¹⁰⁰ Ideally, capacity-building of justice sector institutions should be carried out by those institutions themselves and OHCHR should prioritise working with University Law Faculties, Police Schools, Judicial Training Centres, etc. to ensure that international human rights law standards are fully integrated into the training that all justice sector professionals receive. OHCHR should work closely with supportive donors to ensure they fully appreciate and back the necessary implementation efforts of partners and other stakeholders

Over the years, OHCHR has supported the Uganda Human Rights Commission (UHRC) to implement its mandate according to the Paris Principles, including its important efforts to ensure prompt and sustainable implementation of legislation. As a result of this process, OHCHR has increasingly noted a marked improvement in the quality of work and human rights reporting by the UHRC, with a constant and progressive increase in the capacity of UHRC staff members to monitor, advocate for the implementation of human rights norms, reporting and handling cases of human rights violations.

⁹⁶ Interview with OHCHR Cambodia staff, Phnom Penh, 21-23 February 2018.

⁹⁷ Interview with indigenous CSOs in Cambodia, 21-23 February 2018.

⁹⁸ Human Rights Council report on Colombia 2016 par. 98 (A/HRC/34/3/Add.3).

⁹⁹ Country Programme for Uganda (2018-2021).

¹⁰⁰ For more details see Conor Foley and Orsolya Székely, Final Evaluation of the Afghanistan Justice Training Transition Program, March 2016 and Assessing Change in Behavior Produced by JTTP Training In Afghan Justice Professionals, (Level 3 Analysis) fact sheet of May 2015. The IDLO, which has considerable experience implementing such programmes, has developed a global institutional approach to evaluate its training based on four levels of results at which this is expected to produce changes in its beneficiaries (the Kirkpatrick model). The final stage of such change (Level 4) require training within a particular institution to have reached a 'critical mass' to produce institutional change, but this is extremely difficult to achieve without huge resources.

Gender Mainstreaming

Evaluation Question 9: Has the issue of gender and human rights been mainstreamed and aligned into OHCHR’s activities in support of the enactment of national legislation in conformity with international standards?

OHCHR provides extensive, high-quality expert support to gender-specific legislative bills, often in partnership with UN Women and UNFPA. This is one of several legislative areas where OHCHR Geneva and several of the Regional Offices are very active and have some, limited capacity to support the FPs with technical advice and training.¹⁰¹ This support is frequently needed on controversial and sensitive issues where the FPs are in need of solid technical knowledge as well as clarity on OHCHR Geneva, the appropriate Human Rights mechanism and the broader UN’s common position on for example abortions, sexual orientation and gender identity, sexual and reproductive rights and surrogacy. Staff however wishes that this legislative support work could be more systematic and comprehensive, and that the FPs would involve the Women’s Rights and Gender Section (WRGS) at an earlier stage to avoid last-minute fire-fighting when legislative bills are well advanced.¹⁰²

One good example of a very relevant, on-going and successful OHCHR intervention is the comprehensive efforts by the two OHCHR Regional Offices in Latin America to support legislative changes in relation to abortion laws, in very close collaboration with WRGS in Geneva.¹⁰³ In Chile, OHCHR effectively used the UN’s convening role to bring legislators, other policy makers and media representatives together for an ambitious regional seminar to share experiences with Chilean legislators on abortion law reform in other countries of the region (August 2015). Technical OHCHR publications on the topic were shared and the OHCHR Regional Representative published an op-ed on abortion legislation. Eventually, the Chilean abortion bill was approved by Congress and the Constitutional Court (August 2017).¹⁰⁴

Other effective OHCHR methods to contribute to legislative change in this area include visits and public statements by the High Commissioner, strategic use of different human rights mechanisms and submissions of technical amicus briefs. In El Salvador, the long-term work of the OHCHR Regional Office (ROCA) on abortion legislation was supported by the High Commissioner’s strong concern expressed in letters to the authorities and during his visit in November 2017. In relation to abortion legislation in the context of the Zika-outbreak in Brazil, WRSG coordinated the drafting of an amicus brief for the Brazilian Supreme Court,

¹⁰¹ The evaluation team also received some information from other units and areas providing substantial legislative support directly from OHCHR Geneva, including on racial discrimination, discrimination of vulnerable groups, transitional justice, counter terrorism, NHRIs and others.

¹⁰² Interviews with OHCHR Geneva staff, 11-15 December 2017

¹⁰³ Internal OHCHR Geneva (WRGS) untitled document on file with the evaluation team.

¹⁰⁴ Ibid.

which was issued by a strategic selection of Special Procedure mandate holders in October 2016.¹⁰⁵

Further, legislation combatting discrimination and violence against women are often supported by OHCHR Geneva and by FPs. In Tunisia, for example, OHCHR worked over a five-year period to provide technical support to the drafting of a new law on violence against women and girls, which was finally enacted in 2017. Efforts began in 2012 with the reactivation and updating of the 'National Strategy against Violence against Women through their life cycle' by the Secretary of State for Women and Family Affairs. OHCHR produced a Guide on the Convention on Elimination of Violence Against Women in Tunisia, highlighting the gaps between the Convention and the Tunisian legislative framework. The report included recommendations on ways to ensure appropriate protection of the rights of women victims of violence and their specific needs. A National Commission on Combating Violence Against Women was created, comprising of representatives of ministries, government institutions and civil society associations, tasked with developing a roadmap for action in this area. The Commission was supported by OHCHR, along with, UNFPA, UN Women and UNICEF, and its discussions culminated with the establishment in 2013 of a drafting committee of multidisciplinary experts, in charge of drafting a comprehensive law. A participatory and inclusive approach was adopted throughout the process with the organization of workshops bringing together the different actors involved and consultations, supported by OHCHR in all regions of the country, including those most marginalised. The Office also coordinated the advocacy efforts of the international community, including the UNCT, and facilitated an unofficial visit of the Special Rapporteur on Violence against Women, Ms. Rashida Manjoo. The Office was the leading actor in the compilation of a detailed commentary of the draft law and its compliance with CEDAW and Tunisia's other international human rights law obligations, and examples of best practices in other countries, which, upon authorisation of the President of Parliament, was distributed to all MPs during parliamentary debates on the draft law.

In Uganda, OHCHR has since 2013 supported the work of Justice Law and Order Sector in relation to passing the National Transitional Justice Policy (NTJP). Unfortunately, the Transitional Justice Policy which mainstreams gender aspects in relation to reparations, truth-telling and accountability has since 2014 been shelved. In order to re-ignite discussions on the National Transitional Justice Policy and in particular the concerns of women affected by the conflict, OHCHR in 2017 supported Civil Society Organisation to conduct strategic litigation for comprehensive reparations to female victims of conflict-related sexual violence in Northern Uganda.

An even bigger capacity challenge for OHCHR is the mainstreaming of gender aspects into bills that are not explicitly about gender. Here, OHCHR's work seems to be less systematic, due to limited capacity. Mainstreaming gender inclusion in every piece of legislation passed in a given country is an impossible task for OHCHR and clearly select priorities have to be set.

¹⁰⁵ Ibid.

From the Women's Right and Gender Section in OHCHR Geneva, clear messages have gone out to the FPs regarding their thematic expertise, support capacity and available guidance material.¹⁰⁶ The WRGS is also looking at various ways to implement the OMP Plan of Action on Gender and Diversity by further building the gender mainstreaming capacity of OHCHR colleagues. This includes a possible "gender certification programme" for FPs which would, through an on-the-job capacity building process, be a tool for FPs to ensure all members of staff are up to speed on these issues.¹⁰⁷

The evaluation team solicited information on both OHCHR efforts to support explicit gender relevant legislation, such as legislation against gender discrimination or violence against women, but also on efforts to mainstream gender concerns/provisions into other pieces of legislation. The FPs visited and the survey circulated provided limited and uneven information on the latter.¹⁰⁸ However, the evaluation team documented several successful experiences of mainstreaming gender into non-gender explicit legislation, including in relation to prohibition of torture legislation (Mexico), legislation against enforced disappearances (Mexico), prison laws and procedures (Cambodia, Libya), land reform acts (Kenya, Uganda) and gender discrimination in civil codes (Mexico). In Uganda the Equal Opportunities Commission – which works closely with OHCHR – audits every single ministry's workplan and budget on an annual basis to check whether or not they have included an adequate gender equity section.¹⁰⁹ Those that are not deemed to be adequate are sent back for re-drafting and will not otherwise be approved by Parliament.¹¹⁰

OHCHR Mexico's successful mainstreaming of gender into the 2017 *General Law to Prevent, Investigate and Punish Torture and other Cruel, Inhumane or Degrading Treatments or Punishments* (Law against Torture) should also be held up as an example. Here, the Office managed to mainstream gender considerations in four important areas¹¹¹: 1) Gender perspective and a differential approach became fundamental principles of the law (Art.6); 2) The National Institute for Women was tasked with the elaboration of a National Programme to Prevent and Punish Torture; 3) Gender was mainstreamed into the authorities' concrete obligations to investigate and punish torture. For example, sexual violence, violence against pregnant women or violence based on gender identity now constitutes aggravating factors in relation to the punishment (Art.27). Expert examination of female victims should be carried out by female experts (Art.40) and in cases of sexual violence, expert examinations should be carried out with a gender perspective (Art.41). 4) An equal number of men and women should make up the institutions and mechanisms created by the law. This applies to the Committee of the National Preventive Mechanism, as well as to the very NPM itself (Art.75-76).

¹⁰⁶ Interviews with OHCHR Geneva staff, 11-15 December 2017

¹⁰⁷ OHCHR discussion notes from evaluation debriefing workshop, OHCHR Geneva, 1 June 2018

¹⁰⁸ With the exception of the experience of OHCHR Mexico in relation to the Law on Enforced Disappearances.

¹⁰⁹ Interview with the Equal Opportunities Commission in Kampala 13 April 2018.

¹¹⁰ For details see *Gender and equity compliance guide for Parliament*, Equal Opportunities Commission, January 2018.

¹¹¹ "Papel de OHCHR Mexico en la creación de la Ley General sobre tortura y otros malos tratos", Note produced by the legislative team in OHCHR Mexico, 10 April 2018

Meanwhile, at headquarters, WRGS has been carrying out research on how the passing and application of criminal law can both protect but also violate women's human rights and gender equality. As mentioned, OHCHR systematically supports the development of criminal law that protects women from violence and discrimination, but the Office is also concerned by application of criminal law which violates human rights, including in relation to sexuality, sexual conduct and sexual health. WRGS hopes that further research and documentation of the application of criminal law can contribute to enhanced focus and specific advocacy messages on this topic. Civil society actors have even expressed interest in developing global principles on the use of criminal law.¹¹²

At the regional level, the Regional Gender Advisers (RGA) structure contributed to all the appropriate Office-wide thematic strategies in the Office Management Plan (2014-2017). It likely contributed, through strategic choice of programming, to removal of the structural causes of gender inequality and discrimination against women, promoted women's rights over the longer term, and fed into transformational change. The RGA structure has been highly relevant to both duty-bearers and rights-holders and has tailored its activities to the regional contexts to support appropriate counterparts. As is common with much of the UN system, use of tools for measuring impact was one of the weaker elements of the RGA structure.¹¹³

The evaluation team found that OHCHR's engagement with legislative processes on gender equality, particularly in relation to gender mainstreaming, can be strengthened in several ways. The mentioned gender capacity training of all FP staff is maybe the most important measure, while not excluding the possibility to also appoint gender focal points where they do not exist. Strengthened gender capacity could further enhance effective partnerships with the government's gender machinery, as well as with local and national woman's groups. OHCHR's legislative activities would also benefit from an expansion of the Regional Gender Adviser Programme to include all OHCHR regional offices.

¹¹² Evaluators' notes from evaluation debriefing workshop, OHCHR Geneva, 1 June 2018

¹¹³ Tony Beck and Inmaculada Barcia, *Evaluation of the OHCHR Regional Gender Advisors Structure*, August 2017

7. Lessons Learned

a) Legislative support activities are less effective in undemocratic and challenging political contexts

No OHCHR staff or partner interviewed by the evaluation team suggested a more selective or reduced OHCHR engagement in legislative processes, independently of its degree of success in a given country. Neither did staff talk about the hard choices they have had to make or describe the analysis leading to a decision to try to influence legislative change. This indicates that legislative work is seen by many OHCHR staff as a 'must do', core activity, that should be pursued in even the worst of political climates. The evaluation team, however, noted the significant gap between concrete achievements and the extensive amount of legal analysis and other legislative support activities carried out in field offices operating in politically very difficult countries. It believes that planning exercises should include a serious analysis of potential success rates and acceptable resource inputs. Consequently, in the face of very adverse political conditions, OHCHR field presences might decide to limit their legislative activities on the ground and only work through the human rights mechanisms.

b) Modalities of organizing OHCHR's legislative work in the field

OHCHR has developed a range of models for its legislative work in the field in an *ad hoc* fashion. These models need to be better defined and the criteria for applying one or another clearly identified.¹¹⁴ The investment of resources should be determined by the potential for legislative achievements. There seem to be relatively big variations between how individual OHCHR FPs approach legislative activities. The evaluation team therefore recommends that OHCHR further studies and develops these models in order to strengthen them and identify their suitability for different contexts. The most ambitious models could be accompanied by ToR for staff formally assigned to legislative work.

In the process of carrying out its assignment, the evaluation team has identified four models, representing different ambition levels, which OHCHR might want to further research, develop and discuss with Heads of FPs:

- I. A senior national human rights professional, expert on the international as well as the national legal framework and intimately familiar with the national legislative process and the political party system, leads a small team dedicated full-time to monitor legislative developments and influence legislation in conformity with international human rights, in close cooperation with the UNCT, CSOs, the Human Rights Mechanisms and relevant regional human rights system (e.g. OHCHR Mexico).

¹¹⁴ These criteria could include but are not limited to: degree of access to MPs/policy makers, technical capacity of national staff, linguistic and cultural barriers, political system, resources of the FP etc.

2. An international OHCHR legal adviser or rule of law focal point dedicates some of her or his time to support legislative activities in close cooperation with a senior local consultant with constitutional and legislative expertise and familiarity with the legislative process. The interaction with legislators is not permanent and comprehensive but limited to key processes and legislators identified by the Office. The national consultant can be hired on a full-time or part-time basis on a home-based service contract (e.g. OHCHR Colombia).
3. A senior OHCHR international and a national legal adviser work hand in hand to address all rule-of-law issues, including support to legislation in conformity with international norms. The senior national legal officer is familiar with the political party system, the legislative system and capable of drafting in the local language. The international legal officer ensures full use of international human rights law, including soft law, and makes sure the Human Rights mechanisms are optimally utilized in influencing legislative change. (e.g. former OHCHR Nepal).
4. A Human Rights Adviser leads the legislative work with the support of a national officer with legal skills and experience from the legislative process. Only key legislative processes are selected and prioritized. Technical support and thematic expertise is sought from other FPs (e.g. OHCHR Paraguay receiving support from Panama Regional Office on violence against women legislation) and from OHCHR Geneva (e.g. HRA in Philippines receiving support from HQ on death penalty legislation).

c) Strategically increased capacity in OHCHR Geneva can enable OHCHR Field Presences to have more impact on certain legislative issues

The evaluation team has generally documented very positive staff opinions on the legislative cooperation and coordination between Geneva and OHCHR Field Presences, including on for example women's rights and gender equality. However, in other areas, notably on disability rights issues, much less legislative change has been achieved as a result of Geneva-field cooperation. The lesson learned from this situation is that in 'specialized areas', where field staff lacks expertise, there is an even greater need to develop sufficient qualified HQ advisory and training capacity, which has not been done in the area of disability rights. This could be seen as a missed opportunity, as legislative reform on disability rights is lacking in most of the countries where OHCHR is present. At the same time, OHCHR expert staff argue that most governments are open to legislative reform on disability rights. This suggests there are some relatively easily achieved legislative results in an OHCHR priority area currently not being sufficiently pursued because of a capacity gap in both the field (technical capacity) and at headquarters (staff capacity).

d) Even apparent OHCHR legislative failures bring benefits for local partners

The evaluation team has not found a magical formula for OHCHR legislative success, which often depends on complex national conditions and political agendas. In a couple of cases, including for example, efforts to reform the Counter Terrorism Act in Sri Lanka and attempts

at safeguarding the Mexican National Police's ultimate responsibility for law enforcement, prolonged and extremely comprehensive efforts by OHCHR, other UN agencies and mechanisms have despite all efforts not been successful. Despite the defeat suffered, these advocacy efforts did help to strengthen local forces supporting international human rights norms. They are therefore in a better position to continue to support positive legal reform, but also to monitor and report on the application of unsatisfactory legislation.

8. Emerging Good Practices

a) Follow-up to legislation: implementation guides

When imperfect laws have been passed, FPs have tried to improve their impact by developing implementation guidelines. OHCHR Cambodia, for example, has worked with the government and CSOs on producing guides, which can interpret unclear provisions in a more human rights favorable way and avoid ambiguous formulations to be left to the authorities' interpretation. These materials and the general practice of contributing to the legislative implementation process through implementation guides is a good practice that can bridge the gap between normative legislation and rights-holders' actual enjoyment of rights.

b) Early planning for implementation of legislation

In anticipation of the approval of the bill on Access to Information in Cambodia, UNESCO (with OHCHR input and likely Swedish Cooperation funding) has prepared a 3-year project proposal/concept note for implementation of the law, which includes three main components:

1. Adoption of sub-decrees, drafting of guidelines, appointment and training of civil servants as Information Officers;
2. Training of journalists and CSOs and awareness-raising activities; and
3. Internal and external monitoring of the practical implementation of the law.

This sends an important message to lawmakers and the executive that the UN is not just there to remind them of their international human rights commitments but is also keen to support the implementation with resources and capacity building, if the legislation finally approved is in line with international norms.

c) Field Presence-to-Field Presence cooperation on legislation

Some field presences have developed very specialized knowledge in certain legislative areas. This has been recognized by OHCHR Geneva (desk officers and thematic experts) who are now quick to connect one field presence with another to match needs and expertise. For example, OHCHR Geneva put the Cambodia office in contact with the Colombia office on the topic of witness protection. More commonly, such FP-to-FP cooperation on legislation often takes place within the same region, the fruit of similarities in judicial systems, language and culture. The FPs in Latin America, particularly the two regional offices, have been facilitating intra-regional exchanges on legislation on e.g. abortion, femicide and protection programmes for human rights defenders. Also, OHCHR Mexico's successful development of human rights indicators have benefited several offices in the region, including OHCHR Paraguay.

d) OHCHR convening platforms of stakeholders working on legislative change

In several of the countries visited by the evaluation team, OHCHR FPs systematically establish and convenes multi-stakeholder platforms to advance draft legislation in conformity with international human rights law. This can entail facilitating the venue and possibly transport to

the venue (including occasional retreats). Sometimes it also includes training local organizations on international legal procedural mechanisms and how these can be used for reporting and advocacy purposes. This generally offers a safe space for sometimes very different stakeholders to meet and freely exchange views. It also empowers CSOs and helps to build national capacity. Through such platforms, CSOs often improve their access to government actors, even beyond the work of the platform. Such organized working groups or platforms are used to advance many issues, but have proven particularly important in relation to legislative work which tends to go on during long and drawn out processes.

e) Investment in national legal officers and regional legal specialists

The evaluation team was impressed with the solid knowledge of complex national legal frameworks and drafting processes shown by OHCHR's national staff in the FPs visited. Hiring and retaining such high quality national staff should be an absolute priority for sustaining this area of work. In some cases, OHCHR have seconded their own national staff members into state institutions, or hired national or international experts to provide technical expertise to MPs or government structures while working on-site with the authorities for a limited time. Some FPs have also developed *ad hoc* networks of legal and constitutional drafting experts who can be drawn on to provide expert advice.

9. Conclusions and Recommendations

EQ1: Relevant selection of legislative human rights issues supported by OHCHR

Conclusion

OHCHR does not have a global strategy on how to support legislative compliance with international human rights norms. On a number of thematic issues such as women's rights and gender equality, LGBTI discrimination, racial discrimination, discrimination of several vulnerable groups, human rights defenders, and transitional justice, OHCHR has carried out concerted legislative efforts, sometimes at the global level, and provided thematic expertise applied to legislative reform processes, but these are dispersed efforts and capacities, not harnessed into one strategy overseen by a dedicated centralized structure. There are big variations of how individual OHCHR FPs approach legislative activities. This clearly depends on the capacity of each office, but even more so, on the political context in which they operate. Some countries of engagement allow for an open and frank dialogue with the authorities, while in others, OHCHR – and often the entire international community – has a very limited possibility to substantially influence legislation. The diverse mandates and resources of OHCHR's several different modalities of FPs also make it difficult to design and implement one global strategy on legislative change. The evaluation team recommends that OHCHR further studies and develops these models in order to strengthen them, discuss them with Heads of FPs and identify their suitability for different contexts (see Lessons Learned b)).

The evaluation team received clear evidence of successful legislative work by OHCHR and believes that its FPs should continue to engage in legislative support activities based on their assessment of its potential impact in their given political context. Country-specific activities should be further informed and supported by thematic expertise available at HQ. Systematic use of the desk officers as a pro-active 'clearing houses' between the FPs and thematic units can help to overcome a situation where support to the field is often based on personal contacts or field staff's previous experience from working in headquarters. Some OHCHR colleagues in the field are unaware of available thematic expertise in OHCHR HQ.

Recommendation No 1

OHCHR should apply a model of legislative support adjusted to each national context where OHCHR operates, strengthened by enhanced thematic expertise from OHCHR HQ and the human rights mechanisms (See Lesson Learned B).

Recommendation No 2

The evaluation team believes that OHCHR should consider strengthening its capacity to centrally support legislative activities in the field and at HQ, including by ensuring an increased information management/sharing capacity on legislative work. Measures could range from investing in the establishment of a 'legislative change unit', within an existing HQ branch, to

assigning this responsibility to one staff person, or the creation of more “communities of practice”.

EQ2 Relevant use of strategies and tools

Conclusion

OHCHR’s strategies and tools to effectively support legislative change are largely seen as contextually relevant by partners and stakeholders interviewed. The widely different political and cultural contexts in which OHCHR FPs operate require customized strategies for each field presence, contexts which sometimes change over time. Therefore, no ‘one-fits-all guidance’ from headquarters can usefully be provided. Strategies used effectively in one field office could put colleagues in another office on an unproductive collision course with the authorities. Partnerships with politically influential actors can often broaden that contextually determined maneuvering space for OHCHR on legislation and other issues. Excellent use has been made of highly strategic and vocal support by the human rights mechanisms and the High Commissioner, either as a complement to FP action or as a substitute when more appropriate.

Recommendation No 3

OHCHR should produce a training manual and/or training courses for FP staff on how to support legislative reform in conformity with international law

EQ3: OHCHR effective contribution to legislative change

Conclusion

During the programmatic cycle 2014-17, OHCHR Geneva and FPs have successfully contributed to legislative change in accordance with international human rights norms in the majority of countries of direct OHCHR engagement. This has been achieved by both supporting legislative reforms in line with international human rights norms, but just as commonly, by opposing legislation or provisions likely to weaken the existing normative human rights framework. The scope and impact of legislative reform efforts by a given FP is often a result of the mandate’s strength and available resources, but is equally determined by the attitude of the host authorities. Close coordination and strategic cooperation between FPs, OHCHR HQ and human rights mechanisms has proven essential to successfully influence legislative change.

Recommendation No 4

When planning activities, OHCHR FPs operating in politically closed and authoritarian contexts should be encouraged to analyze the potential to achieve legislative change and supported in a possible decision to defer extensive technical cooperation until a moment when such support is judged to be feasible and effective.

EQ4: Enabling factors and blockages

Conclusion

OHCHR have contributed to legislative change through a combination of two enabling factors: 1) Outstanding teamwork between skilled national and international staff, with detailed knowledge of the legislative process as well as the national and international legal frameworks and, 2) Pro-active OHCHR partnering with key stakeholders, including other UN agencies and CSOs. The legal analysis and amicus curiae briefs produced by OHCHR to support legislative reform processes (or block harmful legislation) were highly praised by partners and stakeholders interviewed for this evaluation. Often, that analysis requires very solid knowledge of complex national legal frameworks and processes, which is why retaining or hiring OHCHR national legal staff is so crucial to success. Secondly, as one of the UN's least resourced agencies, with a mandate to address often delicate issues, OHCHR has systematically sought strategic partnerships on legislative activities. These partners sometimes have more specialized knowledge than OHCHR, but also provide access to law and policy makers. The evaluation team found that OHCHR's legislative achievements were often relatively unknown to important counterparts. Making those activities better known can constitute an 'enabling factor' and serve as an important awareness-raising tool.

Recommendation No 5

All programmes implemented by OHCHR on supporting legislative change should develop ToCs, which should explicitly include external enabling factors and risk analyses.

Recommendation No 6

OHCHR should develop a communications strategy to highlight its achievements in supporting national legislation in conformity with international law

EQ5: Effective use of partnerships

Conclusion

OHCHR is systematically making effective use of broad and strategic partnerships to pursue legislative change in line with international human rights norms.

Some of the OHCHR partnerships, particularly with UN agencies and other international actors, strengthen OHCHR's public voice on a given legislative issue and make strong advocacy politically possible and more effective. Frequent partnerships with direct beneficiaries, such as CSOs and victim's organisations, have contributed to OHCHR's credibility and full understanding of the issues and has effectively guided OHCHR's positions. However, one obvious stakeholder, members of parliament, did not appear to be consistently sought out as much as their key role would suggest.

Recommendation No 7

OHCHR should consider more systematically establish on-going contacts with parliaments, particularly with their human rights relevant legislative committees.

EQ6: Enjoyment of Rights

Conclusion

The evaluation team received few clear examples of increased enjoyment of rights on behalf of rights holders as a result of OHCHR's legislative support activities. This indicates that there might not be an immediate and automatic connection between OHCHR legislative support activities and right-holder's increased enjoyment of rights. Although accurately proving the causality between legislative change and effective increase in the enjoyment of rights is difficult, it can be done through documenting emerging jurisprudence, quantitative and qualitative surveys and other research techniques.

Recommendation No 8

OHCHR should make a more concerted effort to document rights holders' enjoyment of rights as a result of OHCHR legislative support activities.

EQ7: Durable results, broader and longer-term impact

Conclusion

OHCHR's legislative work is not limited to supporting the passage of legislative bills. FPs are also providing important support to durable implementation of legislation with a long-term impact. OHCHR FPs are often involved in the necessary steps following the passage of legislation: development of implementing secondary legislation, decrees and administrative regulations. They also provide support to government and state bodies established and charged with the implementation of the legislation, such as anti-discrimination bodies, NHRIs, NPMs and transitional justice structures. OHCHR is carrying out some monitoring of implementation and often provides advice to governments on necessary adjustments in the implementation process. Some FPs produce and make available elaborate implementation guides and manuals.

Recommendation No 9

The unique experience of OHCHR Cambodia in relation to follow up to implementation of legislation through the production and use of detailed 'implementation guides', often jointly produced with a relevant ministry, should be widely shared and replicated by other field presences. The next Head of Field Presences meeting would be one opportunity to share that experience.

EQ8: Partners and stakeholders will ensure implementation and sustainability, backed by OHCHR's capacity building

Conclusion

In the process of its legislative work, OHCHR has effectively built key partners' capacity to monitor and support implementation of new legislation and address potential attempts at

rolling it back. The evaluation team found that the sustainability of OHCHR's legislative achievements is often linked to the degree of follow-up and dedicated support to implementation of legislation that OHCHR carries out. Such support includes awareness and capacity building of CSOs, but also direct training of government officials. A crucial part of OHCHR's support to legislative change consists of presenting and explaining the international normative framework to national counterparts. The legal analysis that OHCHR produces and disseminates effectively becomes important reference material for many national partners working on the monitoring and implementation of new or reformed legislation. Efforts to implement legislation should be based on benchmarking and structured progress monitoring. CSOs and NHRIs are often in a good position to pursue such activities and can link the result to public reporting to the human rights mechanisms. In general, OHCHR is heavily involved in facilitating CSO and NHRI reporting to the human rights mechanisms. However, OHCHR should support specific schemes to monitor progress on implementation of legislation, and actual enjoyment of rights.

Recommendation No 10

OHCHR should work closely with donors supportive of its legislative efforts to ensure they fully appreciate and back the necessary implementation efforts of partners and other stakeholders.

EQ9: Mainstreaming of gender into OHCHR's legislative support activities

Conclusion

OHCHR provides important support to gender-specific legislative bills, often in partnership with UN Women and UNFPA, but is less systematically ensuring the necessary gender mainstreaming of other bills. The evaluation team solicited information on both OHCHR efforts to support explicit gender relevant legislation, such as legislation against gender discrimination or violence against women, but also at efforts to mainstream gender concerns/provisions into other pieces of legislation. Regarding the former, OHCHR is often involved in support to gender-specific legislation, commonly in partnership with UN Women, UNFPA or other key stakeholders. However, the FPs visited and the survey circulated provided very limited information on the latter.¹¹⁵ The evaluation team requested but did not receive information indicating that mainstreaming gender into every piece of legislation supported by OHCHR is a sufficiently systematic practice.

OHCHR and several other UN agencies are normally involved in providing support to explicit gender legislation on, for example, discrimination, violence or sexual and reproductive rights of women. However, ensuring the mainstreaming of gender considerations in relation to other pieces of legislation might fall on OHCHR as a frequent participant in a broad variety of legislative support processes. That mainstreaming might best be ensured by an overall strengthening of staff's women's right and gender equality capacity (see plans for a gender certification programme in FPs) but also through the formal or informal assignment of a

¹¹⁵ With the exception of the experience of OHCHR Mexico in relation to the Law against Torture.

gender focal point who can draw on further expertise from OHCHR Geneva or local partners.

Recommendation No 11

In the framework of the OMP Plan of Action on Gender and Diversity, implement the planned gender certification programme in the FPs, ensuring the inclusion of mainstreaming of gender into non gender-specific legislation.

Recommendation No 12

Consider appointing a gender focal point in each FP, tasked with the review and support of gender mainstreaming into draft legislation and expand the Regional Gender Adviser Programme to include all OHCHR regional offices.

II. Appendices

II.1 Annex One: Terms of Reference

I. BACKGROUND AND CONTEXT

OHCHR's theory of change is grounded in the United Nations human rights-based approach: it is based on the norms and standards as well as the work of the international human rights mechanisms, pursues changes related to both duty-bearers and rights-holders and includes specific results related to the human rights principles of non-discrimination, participation and accountability.

OHCHR has defined eleven results (expected accomplishments [EA]) to which it seeks to contribute on the basis of recurrent gaps that have been identified in the course of its work and by the international human rights mechanisms. The eleven expected accomplishments constitute the backbone of OHCHR's theory of change. The programmatic assumption is that if these results were to be achieved one day, duty-bearers would uphold their human rights obligations and rights-holders would claim their rights, thereby contributing to the improved enjoyment of all rights by all.

The eleven expected accomplishments (our outcome level office-wide results) have been defined in results based management (RBM) terms. They describe the intended institutional, legislative or behavioural changes in relation to three distinctive areas: national human rights protection systems, the international human rights protection system and the involvement of international actors in human rights work.

In relation to national protection systems, OHCHR seeks to ensure that duty-bearers uphold their human rights obligations by "supporting efforts to ensure compliance of national legislation, policies, programmes and institutions with international human rights standards" [EA1]. This EA involves the OHCHR expected contributions under almost all specific thematic priorities identified in OHCHR Management Plan 2014-2017:

- Enhancing equality and countering discrimination
 - Constitutions, laws and policies increasingly protect human rights, especially land and housing rights, and with particular attention to non-discrimination and gender equality, in the context of development and exploitation of natural resources
 - Legal frameworks, public policies and institutions are in place and functioning to combat sexual and gender-based violence, trafficking and related exploitation
- Combating impunity and strengthening accountability and the rule of law
 - Increased compliance of national legislation, policies, programmes and institutions with international human rights norms and standards relating to the deprivation of liberty and the prohibition and prevention of torture and ill-treatment

- Counter-terrorism legal frameworks, policies, strategies and institutions increasingly aligned with international human rights norms and standards
- Legal frameworks, public policies and institutions are in place and functioning to combat sexual and gender-based violence, trafficking and related exploitation
- Integrating human rights in development and in the economic sphere
 - Constitutions, laws and policies increasingly protect human rights, especially land and housing rights and with particular attention to non-discrimination and gender equality, in the context of development and exploitation of natural resources
- Widening the democratic space
 - Constitutions, laws, administrative measures and policies respect, protect and guarantee freedom of opinion and expression, including prohibition of incitement to hatred, peaceful assembly, association, conscience, religion and belief
- Early warning and protection of human rights in situations of conflict, violence and insecurity
 - Legal frameworks, public policies, State institutions, as well as non-State actors, regulating or engaged in situations of conflict, violence and insecurity increasingly comply with international human rights standards
 - Legal frameworks, public policies and institutions are in place and functioning to combat sexual and gender-based violence, trafficking and related exploitation
 - Constitutions, laws and policies increasingly protect human rights, especially land and housing rights and with particular attention to non-discrimination and gender equality, in the context of development and exploitation of natural resources

OHCHR expects to contribute to the achievement of the results outlined above. The drafting and adoption of new legislation or the revision and reform of existing laws in compliance with international standards are examples of results in Country Notes that OHCHR pursues in cooperation with relevant partners and using the different strategic tools at its disposal. These tools include: standard setting, monitoring and reporting, technical cooperation and advisory services, advocacy and awareness-raising and building partnerships. It is expected that if achieved, those results will contribute to improving the duty-bearers' compliance with their international human rights obligations and to the rights-holders' ability to claim their rights.

The global indicator 4.1 measures OHCHR contributions to legislation in compliance with international standards related to enhancing equality and countering discrimination: “number of countries of engagement where the level of compliance with international human rights standards of legislation and policies to combat discrimination has significantly improved.”

Indicator 1.2 is used to measure OHCHR contributions to legislation in the rest of thematic priorities, by counting the “number of countries of engagement where the level of compliance of legislation/policy with international human rights standards in selected human rights areas has significantly improved.”

These Terms of Reference outlines the parameters for the evaluation of OHCHR’s contributions to changes in legislation in order to improve its compliance with international human rights standards; particularly under the thematic priorities related to enhancing equality and countering discrimination, and combating impunity and strengthening accountability and the rule of law.

2. EVALUATION JUSTIFICATION, PURPOSE AND OBJECTIVES

During the preparation of the Evaluation Plan 2014-2015, the Evaluation Focal Points Network considered the support provided by OHCHR to the achievement of legislative changes in compliance with international human rights standards as an interesting issue to evaluate, but it was recommended to consider undertaking this evaluation at a later stage, due to its complexity.

Two years later, during the preparation of the plan for 2016-2017, the Evaluation Focal Points re-emphasized the importance of an evaluation of OHCHR’s support to the legislation process, considering that this support is at the core of OHCHR’s work and it encompasses both the field presences and units at Headquarters.

As derived from the high number of parts of the Office involved in this area of intervention, this evaluation will provide useful inputs for the future work not only in terms of the relevance and effectiveness of OHCHR’s interventions in support to legislation, but in terms of the coordination and synergies among units in headquarters and at the field level.

The main purpose of the evaluation is to assess the contribution of OHCHR’s support to changes in legislation in the areas of discrimination and rule of law on the achievement of improvements on human rights issues in terms of these five criteria:

- Relevance – the extent to which the support provided by OHCHR on legislation is relevant and consistent with the needs of the right-holders and duty-bearers, the mandate and thematic priorities of the Office, and its comparative advantage;
- Effectiveness – the degree to which the support provided by OHCHR has contributed to the achievement of the expected results and targets in the area of compliance of national legislation with international human rights standards at outcome and output levels;
- Impact orientation – the extent to which the strategic orientation of OHCHR’s support to legislation points toward making a significant contribution to broader, long-term, sustainable changes on human rights issues;

- Sustainability – the degree to which changes achieved in the area of compliance of national legislation with international human rights standards last in time and can be sustained;
- Gender equality mainstreaming (cross-cutting criterion) – the degree to which gender has been mainstreamed in all the activities of OHCHR in support to legislation, and the degree to which the results in this area have contributed to the goal of gender equality.

The objectives of the evaluation are:

- To gather evidence on the results and impact of OHCHR’s support to legislation in improving the enjoyment of rights at national level;
- To produce useful lessons learned and good practices that illustrate successful and unsuccessful strategies in the achievement of results;
- To produce clear and actionable recommendations identifying concrete actions and responsibilities for OHCHR to undertake towards these ends.

The evaluation will therefore take both a summative and a formative approach, in that it will look at results achieved or not achieved so far (summative) with a view to inform OHCHR’s work in support to legislation in the future (formative). The evaluation will increase OHCHR’s accountability and learning, as per OHCHR’s Evaluation Policy.

The evaluation will follow the UNEG Norms and Standards¹¹⁶ for Evaluation in the UN System, as well as the UNEG Handbook for Conducting Evaluations of Normative Work¹¹⁷.

3. SCOPE AND EVALUATION QUESTIONS

Based on OHCHR results-based framework, the evaluation temporal scope will cover the most recent OHCHR programming cycle: 2014-2017. Therefore, the evaluation will look at the achievement of expected accomplishments in the area of support to legislation in conformity with international standards during the last four years, between 2014 and 2017.

In programmatic terms, the evaluation will focus on the results related to these two thematic expected accomplishments identified in OHCHR Management Plan 2014-2017 that contribute to the global indicators 4.1 and 1.2:

- Enhancing equality and countering discrimination
 - Legislation, policies and practices increasingly comply with anti-discrimination and equality standards (especially in relation to those groups where OHCHR has an added value e.g. LGBT, cast-discrimination, older persons, disability...)
- Combating impunity and strengthening accountability and the rule of law

¹¹⁶ <http://www.uneval.org/document/detail/1914>

¹¹⁷ <http://www.uneval.org/document/detail/1484>

- Increased compliance of national legislation, policies, programmes and institutions with international human rights norms and standards relating to the deprivation of liberty and the prohibition and prevention of torture and ill-treatment

These are the thematic priorities with more results planned/reported across the Office. Together, the areas of non-discrimination and rule of law represent more than 55% of the results in the current programming cycle 2014-2017.

Geographically, the evaluation will examine the activities conducted by OHCHR in these areas of intervention in all the regions covered by the Office: Africa, Asia – Pacific, Middle East and Northern Africa, Europe and Central Asia, and Americas. A sample of countries supported by OHCHR representing these different regions will be visited during the fieldwork phase of the evaluation.

The following set of evaluation questions, framed along the OECD/DAC criteria, will guide the evaluation in pursuit of its stated objectives and purposes:¹¹⁸

RELEVANCE

- How relevant has been OHCHR's support to changes on legislation to the national situation and the needs of the duty-bearers and right-holders, in terms of human rights issues, including gender equality?
- Have the planning process and selection of the theory of change, strategies and tools (monitoring, advisory, advocacy, awareness-raising, etc.) used to achieve results in this area been adequate to the local context and needs, national policy frameworks and stakeholders?

EFFECTIVENESS

- What evidence of contributions of OHCHR support to the Office's expected results on legislation compliance with international human rights standards (drafting and adoption of new legislation, revision and reform of existing laws) can be found, including those related to recommendations of human rights bodies (including the Universal Periodic Review, Special Procedures and Treaty Bodies) and gender equality?
- Where legislative changes with contribution from OHCHR were found, what were the enabling factors and processes? What prevented OHCHR from achieving results in this area?
- Has OHCHR used its comparative advantage in this area and relied in partners and stakeholder's (both internal and external) support to achieve the intended results?

IMPACT ORIENTATION

- What evidence is there that legislative changes supported by OHCHR have contributed to improvements in the enjoyment of rights (including women's rights) as established in the Office's expected accomplishments?

¹¹⁸ It is expected that the questions will be reviewed by the evaluators in the course of their inception work and may therefore be modified to reach a final form after the inception report has been approved by the Evaluation Management.

- Is OHCHR strategy and management in this area steering towards a broader and longer term impact in the enjoyment of rights?

SUSTAINABILITY

- Are the results, achievements and benefits of OHCHR support in the area of legislation likely to be durable?
- Are the partners and stakeholders at the country level willing and committed to continue working on the issues addressed by OHCHR, implementing and enforcing the legislation in compliance with international standards?
- How effectively has OHCHR contributed to build necessary capacity, including knowledge, tools, guidance and availability of resources at the national level to sustain the results achieved?

Evaluability

Among the eleven Global Expected Accomplishments (EA) defined since the 2008-09 biennium in the OHCHR Management Plan, the EA 1 is targeted to support efforts to ensure compliance of national legislation, policies, programmes and institutions with international human rights standards. This EA is measured through their global indicators, and involves the work conducted by OHCHR across almost all thematic priorities.

Indicator 4.1 measures OHCHR contributions to legislation in compliance with international standards related to enhancing equality and countering discrimination: “number of countries of engagement where the level of compliance with international human rights standards of legislation and policies to combat discrimination has significantly improved.”

Indicator 1.2 is used to measure OHCHR contributions to legislation in the rest of thematic priorities, by counting the “number of countries of engagement where the level of compliance of legislation/policy with international human rights standards in selected human rights areas has significantly improved.”

For the planning cycle 2014 – 2017, the Performance Monitoring System (PMS) allows the tracking of the use and contribution to these indicators by OHCHR field presences, including planned results for the cycle and annually reported results, both at the country level.

The end of cycle results of the biennium 2012-2013 are available in order to establish a baseline and identify changes in the area of legislation occurred during the current programming cycle.

Stakeholder Involvement

The main stakeholders of the evaluation includes, at least:

- Internal stakeholders:

- Thematic Engagement, Special Procedures and Right to Development Division (TESPRDD)
 - Rule of Law, Equality and Non-Discrimination Branch
- Field Operations and Technical Cooperation Division (FOTCD)
 - Americas, Europe and Central Asia Branch (AECA)
 - Asia-Pacific and Middle East and North Africa Branch (APMENA)
 - Africa Branch (AB)
- Executive Direction and Management (EDM)
 - Policy, Planning, Monitoring and Evaluation Service (PPMES)
- External stakeholders:
 - Duty-bearers and rights holders, including state entities and civil society organizations
 - Local partners, including other UN agencies

4. APPROACH AND METHODOLOGY

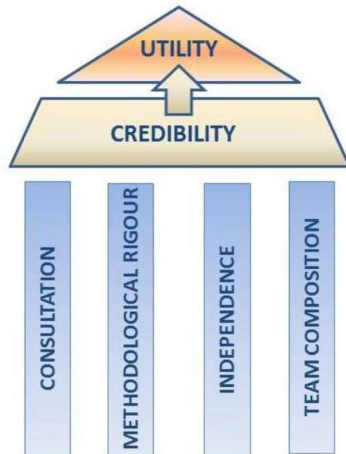
Overarching approach to conducting utilization-focused evaluations:¹¹⁹

The evaluation's overall approach will be guided by the principle of credibility – that is, ensuring that the best evidence available is harnessed, and that it is analysed appropriately, so as to generate findings, conclusions and recommendations that resonate and that management can therefore feel confident acting on. This approach presumes four main pillars, depicted in the figure below. These include:

- a. **Consultation** with and participation by key stakeholders, in the form of a Reference Group (see below) and other venues (e.g. on-going communications and updates), so as to ensure that the evaluation remains relevant, and that the evidence and analysis are sound and factually accurate;
- b. **Methodological rigour** to ensure that the most appropriate sources of evidence for answering the questions above are used in a technically appropriate manner;
- c. **Independence** to ensure that the analysis stands solely on an impartial and objective analysis of the evidence, without undue influence by any key stakeholder group;
- d. **Evaluation team composition** to ensure that the foregoing three pillars are adequately understood and followed, and that the appropriate evaluation skills and appropriate subject matter expertise to make the analysis of the evidence authoritative and believable.

¹¹⁹ This section has been liberally adapted from UNICEF Terms of Reference for evaluations, as best practices shared through the United Nations Evaluation Group.

These four pillars should consider the integration of human rights and gender equality in aspects such as: consultation with and participation by stakeholders, conformation of the Reference Group, selection of the methodology, and evaluation team composition.



Methodology:

The evaluation will be managed by the Policy, Planning, Monitoring and Evaluation Service (PPMES) and conducted by a team composed of two external consultants. They will use as far as possible, considering the specificities of OHCHR's work, a mixed-methods approach - quantitative and qualitative, with rigorous triangulation of information. It is expected that evaluators will be using the following methods (to be further defined by the evaluation team in the inception report):

- **Desk Reviews** (informal, for general background; and formal, on OHCHR's and external documents such as plans, reports, evaluations, products, etc.);
- **Focus group discussions** either in person or virtually, with stakeholders identified in the analysis;
- **Surveys, questionnaires and interviews** (conducted in person or by Skype) with stakeholders;
- **Direct observation**, through field trips to OHCHR Headquarters and field presences;
- **Secondary data analysis** of existing data sets, particularly monitoring information contained in OHCHR's systems and available in-country information, when relevant.

The evaluation methodology includes missions to Geneva and other cities where OHCHR field presences are located for desk reviews, direct observation and face-to-face interviews with stakeholders. If some of the stakeholders are not available during the missions or are

located in cities other than those visited and can't be interviewed in person, telephone or Skype will be used.

The evaluation team will look at the results planned/reported at the country level that contributes to the indicators 4.1 (non-discrimination) and 1.2 (rule of law), particularly in the thematic priorities related to:

- Compliance of legislation with anti-discrimination and equality standards (especially in relation to those groups where OHCHR has an added value e.g. LGBT, cast-discrimination, older persons, disability...)
- Compliance of legislation with international human rights norms and standards relating to the deprivation of liberty and the prohibition and prevention of torture and ill-treatment

Based on the countries where results related to these thematic priorities have been planned/reported during the programming cycle 2014-2017, and taking into consideration logistical constraints and geographical representation, these countries have been selected to be considered by the evaluation team during the field work phase of this evaluation:

- Americas: Paraguay (Human Rights Adviser)
- Europe and Central Asia: Ukraine (Human Rights Monitoring Mission)
- Middle East and North Africa: Mauritania (Country Office)
- Africa: Malawi (Human Rights Adviser)

This list could be revised during the inception phase with the participation of the Reference Group.

It is important to emphasize that the purpose of this sample is to assess OHCHR interventions in these countries in order to extrapolate general findings relevant to OHCHR work at the global level, and not to study individual cases or establish comparisons among the countries or regions visited.

Both consultants will participate in the scoping mission to Geneva, and they will also conduct jointly the first mission to one of the field presences selected in the sample. Then, they will split to conduct individually the rest of field missions based on their thematic or geographic expertise. PPMES staff will join some of the field missions as resources to provide support to the evaluators and participating in selected interviews for quality control purposes.

Integration of Human Rights and Gender Equality (HR & GE)

The evaluation should follow the UNEG Guidance “Integrating Human Rights and Gender Equality in Evaluations”¹²⁰:

¹²⁰ <http://www.uneval.org/document/detail/1616>

- Adequately answer Human Rights and Gender Equality issues by detecting meaningful changes and the contribution of the intervention to them in terms of enjoyment of rights, empowerment of rights holders and capacity of duty bearers;
- Be suitable for the populations and individuals that will be involved (in particular, if cultural and security issues are taken into account); and
- Be appropriate to involve all the key stakeholders, without discriminating against some groups or individuals, and allow for guaranteeing the meaningful participation of all stakeholders.

The methodology section of the inception, draft and final reports should clearly explain how the evaluation was specifically designed to integrate HR & GE issues, including data collection methods, data sources and processes, sampling frame, participatory tools, evaluation questions and validation processes.

The evaluation findings, conclusions and recommendations should describe the analysis and interpretation of data on HR & GE, specific findings on HR & GE-related criteria and questions, strengths and weaknesses of the intervention regarding HR & GE, and specific recommendations addressing HR & GE issues.

This integration of HR & GE could be assessed using the “UN SWAP Evaluation Performance Indicator Scorecard”¹²¹ which the evaluation team is invited to consult.

5. MANAGEMENT AND GOVERNANCE ARRANGEMENTS

The Policy, Planning, Monitoring and Evaluation Service (PPMES) is in charge of managing the evaluation through its Evaluation Officer who will act as the Evaluation Manager. This will include tasks such as: recruiting the evaluators; serving as the main port-of-call for evaluators, as well as for internal and external stakeholders; recording the feedback of the reference group and effectively integrating it into the evaluation exercise; monitoring the budget and the correct implementation of the work-plan; organizing missions; joining field missions to participate as observer in selected interviews for quality control purposes; etc.

A **Reference Group** (RG) will be constituted for this evaluation and it will serve in an advisory capacity to help strengthen the evaluation’s substantive grounding and its relevance to the Office. The Reference Group shall be chaired by PPMES, and include representatives of TESP RDD, FOTCD, field presences and other OHCHR units, as determined by the Chair.

The Reference Group is responsible for advising the Chair on the following:

- The Terms of Reference;

¹²¹ <http://www.uneval.org/document/detail/1452>

- Oversight of the consultants short-listing and selection processes;
- Approval of key aspects of Evaluation design and processes and any adjustments to TOR;
- Ensuring the Evaluation process (internal and external phases) involves key stakeholders adequately, to ensure ownership of analysis and recommendations;
- Approval of Evaluation products;

6. DELIVERABLES AND TIMEFRAME

The evaluation will produce the following major outputs, all of which will be grounded in UNEG Norms and Standards and good evaluation practice, to be disseminated to the appropriate audiences:

- An **Inception Report** (maximum 15 pages), that outlines the selected evaluation team's understanding of the evaluation and expectations, along with a concrete action plan for undertaking the evaluation. It will spell out the specific methods and data sources from which it will garner evidence to answer each evaluation question and to assess attribution/contribution of results to OHCHR's efforts (i.e., an analytical framework); a validated theory of change, logic model and performance indicators against which the interventions will be assessed; a more thorough internal and external stakeholder analysis and sampling strategies; any proposed modifications to the evaluation questions; and further thoughts on any other areas (e.g., risks, case study selection). The Inception Report should include a comprehensive **Data Collection Toolkit** that translates all of the methods agreed in the Inception report into specific data collection instruments to be used during the field trips (questionnaires for interviews, surveys, etc). The Inception Report will be reviewed by the Evaluation Manager and the Reference Group for feedback before finalization.
- A **Draft Report** (maximum 40 pages) generating key findings, useful lessons learned and good practices, and clear and actionable recommendations for concrete action, underpinned by clear evidence (for review by the Evaluation Manager and the Reference Group for factual comments), and an Executive Summary of no more than 4 pages that weaves together the evaluation findings and recommendations into a crisp, clear, compelling storyline.
- A **presentation during a workshop**, to be organized to discuss the conclusions and recommendations of the draft report with the main evaluation stakeholders.
- A **second Draft Report** that incorporates the first round comments and feedback from the Evaluation Manager and the Reference Group.
- A **Final Report** that incorporates final comments from the Evaluation Manager and the Reference Group on the second draft report.

The draft and final reports will follow the outline suggested in Annex I and the OHCHR Guidance for the Preparation of Evaluation Reports. The timeline proposed for the conduct of the evaluation is the following (the dates of the missions will be finalized during the inception phase taking into account the availability of the consultants and the field presences to be visited):

ACTION	TIMELINE
Constitute Reference Group	August 2017
Circulate for comments and finalize Terms of Reference	August 2017
Select consulting team	September 2017
Recruit consulting team	October 2017
Kick off evaluation	13 November 2017
Desk review and preparation of scoping mission	November 2017
Scoping mission to Geneva jointly conducted by Team leader and Team member	4 – 8 December 2017
Preparation of inception report	December 2017
Deliver inception report	8 January 2018
Circulate for comments and finalize inception report	January 2018
Preparation of pilot field mission	January - February 2018
Pilot field mission jointly conducted by Team leader and Team member	February 2018
Adjustments to methodology and preparation of missions	February - March 2018
Field missions individually conducted by Team leader and Team member	March – April 2018
Undertake data analysis and preparation of draft report	April - May 2018
Deliver first Draft Report	11 May 2018
Presentation and discussion of the first draft report during a workshop with stakeholders in Geneva	May 2018

Circulate for comments and finalize Draft Report	May - June 2018
Deliver second Draft Report	8 June 2018
Circulate for comments and finalize Draft Report	June 2018
Deliver Final Report	29 June 2018

7. EVALUATION TEAM PROFILE

A two-person team will be recruited to conduct the evaluation, including:

- One Team Leader (International Consultant Level C) with experience on evaluation, and a good understanding of human rights issues, responsible for undertaking the evaluation from start to finish in accordance with the timelines agreed upon and in a high-quality manner.
- One Team Member (International Consultant Level C) with experience on legislation in compliance with international human rights standards and responsible for supporting the Team Leader, particularly in the phases of data collection, review and report writing.

Specific profiles and Terms of Reference for the two positions are attached in Annex 2.

8. BUDGET

The budget for this evaluation (US \$88,606.00) comes from PPMES. A detailed budget is included as Annex 4.

11.2 Annex Two: List of Stakeholders Interviewed

List of interviewees at OHCHR Geneva

Kate Gilmore, Deputy High Commissioner
Gianni Magazzeni, Universal Periodic Review Branch
Sylta Georgiadis, Policy, Planning, Monitoring and Evaluation Section
Sabas Monroy, Policy, Planning, Monitoring and Evaluation Section
Teresa Albero, Policy, Planning, Monitoring and Evaluation Section
Karin Buhren, Policy, Planning, Monitoring and Evaluation Section
Jacob Schneider, Human Rights Treaties Branch
Lene Wendland, Development, Economic and Social Issues Branch
Facundo Chavez Penillas, Development, Economic and Social Issues Branch
Genevieve Sauberli, Development, Economic and Social Issues Branch
Juliette de Rivero, Africa Branch
Birthe Ankenbrand, Africa Branch
Henrik Stenman, Asia Pacific, Middle East and North Africa Branch
Jennifer Kraft, Asia Pacific, Middle East and North Africa Branch
Sarah Jacquier, Asia Pacific, Middle East and North Africa Branch
Hulan Tsedev, Americas, Europe and Central Asia Branch
Alexandre Girard, Americas, Europe and Central Asia Branch
Vrej Atabekian, Americas, Europe and Central Asia Branch
Santiago Martinez de Orense, Americas, Europe and Central Asia Branch
Paula Berrutti, Americas, Europe and Central Asia Branch
Karin Hechenleitner, Americas, Europe and Central Asia Branch
Mona Rishmawi, Rule of Law, Equality and Non Discrimination Branch
Nathalie Prouvez, Rule of Law, Equality and Non Discrimination Branch
Lisa Oldring, Rule of Law, Equality and Non Discrimination Branch
Adriana de la Espriella, Rule of Law, Equality and Non Discrimination Branch
Veronica Birga, Rule of Law, Equality and Non Discrimination Branch
Lucinda O'Hanlon, Rule of Law, Equality and Non Discrimination Branch
Michael van Gelderen, Rule of Law, Equality and Non Discrimination Branch
Yury Boychenko, Rule of Law, Equality and Non Discrimination Branch
Sandra Aragon, Rule of Law, Equality and Non Discrimination Branch
Mactar Ndoeye, Rule of Law, Equality and Non Discrimination Branch
Tania Neydenova, Rule of Law, Equality and Non Discrimination Branch
Niraj Dawadi, Rule of Law, Equality and Non Discrimination Branch
Christina Meinecke, Capacity Building Progr., Human Rights Council and Treaty Mechanisms Division
Beatriz Balbin-Chamorro, Special Procedures Branch
Alia El Khatib, Special Procedures Branch
Jamshid Gaziyeu, Special Procedures Branch
Cristina Michels, Special Procedures Branch
Ugo Cedrangolo, Special Procedures Branch
Dimitar Chalev, Country Representative, Tunisia (former)

Kyrgyzstan

Ryszard Komenda, OHCHR
Peter Naderer OHCHR

Bakai Albanov OHCHR
Bakyt Kachikeeva, independent expert, CSO leader
Kanatbek Smanaliev, head of the Working Group on drafting Criminal Procedure Code
Leila Sydykova, head of the WG on Criminal Code
Nuridin Sulaimanov, Director of the National Center on Prevention of Torture
Nazgul Turdubekova, Former head the of Coordination Council of the NCPT (NPM)
Meerim Sarybaeva, UNAIDS Country manager
Asyla Balybaeva, Former OHCHR-supported expert of the Coordination Council on Human Rights under Government
Nuriana Kartanbaeva, Executive Director, Soros Foundation
Lucio Valerio Sarandrea, UNDP RoL Adviser
Kunduz Amanjolova - Former focal point of the Secretariat of the Coordination Council, incumbent of the Ministry of Justice
Kulbaev Aslan - Expert of the Working Group on drafting Criminal Procedure Code
Manasbek Arabaev, Head of Department on Judicial Reform and Rule of Law of the Presidential Office

Tunisia

Mazen Shaqoura OHCHR
Wissam Benyettou, OHCHR
Issaaf Ben Khalifa, OHCHR
Seynabou Dia, OHCHR
Alice Lixi, OHCHR
Omar Fassatoui, OHCHR
Hajer Bouyahia, OHCHR
Hela Skhiri UN Women
Imen Zahounai Houimel, Ministry of Women
Rebecca Gibbons British Embassy
Natalie Doherty, British Embassy
Bryn James, British Embassy
Taoufik Bouderbala, Human Rights League of Tunisia (NHRI)
Fathi Jarray INPT
Nawfel Jammali Parliament
Rezami Melika, Supreme Judiciary Council
Melki Walid, Supreme Judiciary Council
Eduardo Lopez UNDP, Parliament Project
Hedi Abdelkefi UNDP
Oumaima Ennafer UNDP
Nahedh Sellami Disabilities NGOs
Sihem Bensedrine, National Commission for Truth and Reconciliation
Rouin Zied, M'nemety
Beya Ghrissi M'nemety
Mosbah Saadia M'nemety
Jamila Debbrech Ksiki Member of Parliament
Khaldi Mohamed Ali, Ministry of Human Rights,
Lila Peters UNICEF (acting UN Resident Coordinator)
Shirin Af, International Commission of Jurists
Valentina Cadelo, International Commission of Jurists
Nesrine Mbarka Hassan Amnesty International Tunisia

Cambodia

Simon Walker, OHCHR Cambodia
 Marie-Dominique Parent, OHCHR Cambodia
 Claudia de la Fuente, OHCHR Cambodia
 Cybele Hauptert, OHCHR Cambodia
 So Hoeun, OHCHR Cambodia
 Cecilia Sandqvist, OHCHR Cambodia
 Kim Sambath, OHCHR Cambodia
 Gallianne Palayret, OHCHR Cambodia
 Hun Seang Hak, Cambodian Centre for Human Rights (CCHR)
 Sao Vansey, Indigenous Community Support Organisation (ICSO)
 Vong Kosal, NGO Forum
 Phan Phorp Barmey, API
 Hean Bun Hieng, Cambodian Indigenous Peoples Organization (CIPO)
 Lorang Yun, Cambodia Indigenous Peoples Alliance (CIPA)
 Soeng Sen Karuna, Cambodia Human Rights and Development Association (ADHOC)
 Run Saray, Legal Aid of Cambodia (LAC)
 Mak Sambath, Permanent Vice-Chair of National Committee Against Torture (NCAT)
 Kong Chhan, Member of National Committee Against Torture (NCAT)
 Nouth Savna, Deputy General Director of the General Department of Prisons (GDP), and Chief of former NPM Secretariat, Ministry of Interior
 Huy Hoeun, Deputy General Director of GDP, Ministry of Interior
 Dr. Yim Chung, Director of Department of Indigenous Development, Ministry of Rural Development
 Chin Malin, Under Secretary of State, Ministry of Justice
 Meas Sophorn, Under Secretary of State, Ministry of Information
 Anne Lemaistre, Representative UNESCO
 Hubert Staberhofer, Director UNOPS
 Andreas Johansson, First Secretary Human Rights, Swedish Embassy

Uganda

Florence Nakazibwe OHCHR
 Charity Ahumuza, OHCHR
 Emanuel Momoh, OHCHR
 Mary Sentongo, OHCHR
 Florence Epodoi, OHCHR
 Grace Pelly OHCHR
 Uchenna Emelonye, OHCHR
 Med S K Kaggwa, Chair Uganda Human Rights Commission (UHRC)
 Mr. Patrick Nyakaana, Secretary to the UHRC
 Ms. Ruth Ssekindi, Director, Monitoring and Inspections, UHRC
 Ms. Idah Nakiganda, Director Complaints, Investigations and Legal Services, UHRC
 Ms. Priscilla Nyarugoye, Senior Human Rights Officer, UHRC
 Maureen Nalubega, Human Rights Officer, UHRC
 Erasmus Twaruhukwa, Assistant Inspector General and Director of Human Rights and Legal Services, Uganda Police Force
 Olive Namutebi, Albinism Umbrella
 Beatrice Guzu, National Council for Disability
 Wardah Tumusiime Magezi, OHCHR
 Zamina Malole, Equal Opportunities Commission

Margaret Ajok, Justice Law and Order Section (JLOS), Transitional Justice Project
Hon Justice Moses Mukibi, International Crimes Division of the Uganda High Court
Lady Justice Jane Kiggundu
Hon. Kamateeka Jovah MP, Chair of Parliamentary Human Rights Committee
Bernadette Nalule Mudde, Commissioner, Uganda Law Reform Commission
Patricia Arwako, Legal Officer, Uganda Law Reform Commission
Jackie Akuno, Principal Legal Officer, Uganda Law Reform Commission
Diana Doris Akiidii-M'Bingham, Principal Legal Officer, Uganda Law Reform Commission
Samuel Herbert Nsubuga, African Centre for Treatment and Rehabilitation of Torture Victims
Esther Nabwire Waswa, African Centre for Treatment and Rehabilitation of Torture Victims

Mexico

Jan Jarab, OHCHR Mexico
Jesús Peña, OHCHR Mexico
Alán García, OHCHR Mexico
Octavio Amezcua, OHCHR Mexico
Abigail Islas, OHCHR Mexico
Nira Cárdenas, OHCHR Mexico
Laura Rojas, Senator (National Action Party)
Alejandro Encinas, Senator (Independent)
Angélica de la Peña, Senator (President of the Senate HR Committee)
Manuel Bartlett Díaz, Senator
Armando Luna, Chamber of Deputies
Rafael Sifuentes, Chamber of Deputies
Erasmó Lara, Ministry of Foreign Affairs
Rubén Pérez, National Human rights Commission
José Juan Torres Tlahuizo, Attorney General's Office
Denise González, Ibero-American University
Michel Chamberlin, Centro Diocesano de DDHH Fray Juan de Larios
Sylvia Aguilera, Centro de Colaboración Cívica
Chasel Colorado, Amnesty International – Mexico
Jannet Carmona, Servicios y Asesoría para la Paz
Stephanie Brewer, Centro de DDHH Miguel Agustín Pro Juárez
Michelle Quevedo Orozco, Movimiento Nacional por Nuestros Desaparecidos en Mexico
Grace Fernández Morán, Movimiento Nacional por Nuestros Desaparecidos en Mexico
Daniel Cahen, ICRC
Rocio Maldonado, ICRC
Belen Sáenz, Representative UN Women Mexico
Mark Manly, Representative UNHCR Mexico

Thailand

Cynthia Veliko, Head of OHCHR Regional Office for Southeast Asia and former Human Rights Adviser in Pakistan, Sri Lanka and the Philippines

Paraguay

Iris Rojas, Human Rights Adviser, OHCHR Paraguay (OIC)

Other interviews carried out

Mihra Rittmann, Human Rights Watch Researcher for Kyrgyzstan, 23 Jan 2018

Roger Huizenga, Manager Human Rights Programme, Inter-Parliamentary Union, 12 Jan 2018

Juan Méndez, Former UN Special Rapporteur on Torture (phone interview)

Ariel Dulitzky, Former Member of the UN Working Group on Enforced Disappearances (phone interview)

Fiorella Mezzi, Inter-American Commission on Human Rights (phone interview)

Wan-hea Lee, Former Head of OHCHR Cambodia

Abdoul Aziz Thioye, Acting Head of the Joint Human Rights Office (UNJHRO)

MONUSCO (phone interview) 8 June 2018

Andrea Breslin, Former Human Rights Officer in UN Mission to South Sudan (phone interview) 11 June 2018

Rupert White, Human Rights Officer, UNAMA, (phone interview) 14 June 2018

Musa Yerro Gassama, Chief, Human Rights Division, MINUSCA, (phone interview) 18 June 2018

11.3 Annex Three: Data collection tools

Conduct of Focus Group Discussions Guide

Name of Evaluation Team Member:	
Date:	
Place (City and Country):	
Number of participants:	

Introduction:

Thank participants for agreeing to be part of the focus group. Explain that it will last about one to one and a half hours and any logistical arrangements. Ensure that everyone fills in the sign in sheet with their full name and job title as we need these for our records. Explain that OHCHR has hired a two-person consultancy team that are carrying out an *independent and external* evaluation of the Office's support to legislation in conformity with international standards. We are particularly interested in how successful it has been in promoting compliance of legislation with anti-discrimination and equality standards; and compliance of legislation with international human rights norms and standards relating to combating impunity and strengthening accountability and the rule of law. We are also particularly interested in how these new laws may have helped to support gender equality and combat discrimination against women.

Hand out the questionnaire to people. Explain that the questionnaires should be numbered, but are anonymous. We want everyone to hand the form back by the end of the session, because the evaluation team need all the forms returned for statistical reasons. People can fill these in during the discussion as we will be covering similar ground and the forms will help us capture everyone's thoughts and opinions.

Explain the following ground rules:

- *I would like everyone to participate. Every person's experiences and opinions are important. Speak up whether you agree or disagree. I want to hear a wide range of opinions.*
- *The information you give me is completely confidential, and I will not associate your name with anything you say in the focus group.*
- *I understand how important it is that this information is kept private and confidential. I will ask participants to respect each other's confidentiality.*
- *Please wait for your turn to speak.*

Ask the group if there are any questions before we get started, and address those questions. Ask the participants to briefly introduce themselves by going around table: name, job title, organization.

Discussion begins, make sure to give people time to think before answering the questions and don't move too quickly. Use the probes to make sure that all issues are addressed, but move on when you feel you are starting to hear repetitive information

Questions

How relevant do you feel OHCHR's legislative work has been, both in terms of the issues prioritized and the methods chosen?

Ask the whole room this question and then go around and ask each individual participant. If someone cannot think of something immediately, ask someone else and then go back to them so that everyone contributes. People can give as many examples as they want, but make sure these are as specific as possible. Allow other people to comment on people's contributions. Ensure that everyone gets to speak.

We are looking for evidence of that OHCHR's support made a difference and to find out more about its tangible contribution to the process and whether it demonstrated a comparative advantage in this area compared to the work of other organisations. Did its staff help in the drafting of legislation? What other activities did they undertake? How effective was the monitoring, advisory, advocacy, and awareness-raising carried out by the field presence? Did the recommendations of human rights mechanisms (including the Universal Periodic Review, Special Procedures and Treaty Bodies) help the process? What were the other enabling factors? Were there things that OHCHR could have done better? Are there any good practices or lessons learned that they can share with us?

Did OHCHR's legislative work make a difference? How do you know? Why was that?

Use the same rules to guide the discussion. If gender issues have not been raised in the first round of discussion, prompt them again on this point. We are looking for criticisms as well as praise so try to draw these out.

Do you think OHCHR's work in this area will have a longer-term impact on the human rights situation? Why and how?

We are looking for evidence here that OHCHR's strategy of supporting the adoption of national laws in conformity with international standards is an effective way of strengthening the broader enjoyment of rights in the long-term. We are probably not going to get much more than impressionistic anecdotes, but they may be able to point us towards further studies and research. Ensure that gender is covered where relevant.

How sustainable are the legislative achievements that OHCHR have contributed to? Why/why not?

This is a very open-ended question, which may draw out additional comments and provoke discussion on Impact Orientation and Sustainability.

Thank the participants for their contributions. Ask them if they have any questions for you before closing the meeting.

Focus Group Questionnaire

Country and City: _____

Professional institution _____

How relevant do you feel OHCHR's legislative work has been, both in terms of the issues prioritized and the methods chosen? Please give us specific examples of how their staff helped or hindered the process.

Did OHCHR's legislative work make a difference? How do you know? Why was that?

Do you think OHCHR's work in this area will have a longer-term impact on the human rights situation? Why and how?

How sustainable are the legislative achievements that OHCHR have contributed to?

Is there anything else that you would like to tell us about your experiences of working with OHCHR?

11.4 Annex Four Documents Reviewed

OHCHR Reports and Strategy Documents

OHCHR Annual Report 2017

OHCHR Annual Report 2016

OHCHR Annual Report 2015

OHCHR Annual Report 2014

Reports on Results for indicators 1.2 and 4.1 in OMP 2014-2017

Reports on Reported Results 2014 - 2017 for indicators 1.2 and 4.1

End of Cycle Reports 2012 -2013, 2017

Working for your rights, OHCHR Management Plan 2014-2017

Working with the United Nations Human Rights Programme: A Handbook for Civil Society, OHCHR, 2008

From Exclusion to Equality, Realizing the rights of persons with disabilities, Handbook for Parliamentarians on the Convention on the Rights of Persons with Disabilities and its Optional Protocol, IPU/OHCHR, Geneva 2007

Migration, Human Rights and Governance, Handbook for Parliamentarians, IPU/ILO/OHCHR, Geneva 2015

Human Rights Handbook for Parliamentarians, IPU/OHCHR, Geneva 2015

Kyrgyzstan

Committee on Economic, Social and Cultural Rights, Concluding observations on the combined second and third periodic reports of Kyrgyzstan, E/C.12/KGZ/CO/2-3, 7 July 2015

Committee on the Elimination of Discrimination, against Women, Concluding observations on the fourth periodic report of Kyrgyzstan, CEDAW/C/KGZ/4/CO/4,

Human Rights Committee, Concluding observations on the second periodic report of Kyrgyzstan, CCCP/C/KGZ/CO/2, 23 April 2014

Committee against Torture, Concluding observations on the second periodic report of Kyrgyzstan, CAT/C/KGZ/CO/2, 20 December 2013

Annual Work Plan - Central Asia (Bishkek) (2014)

End of Year Progress report - Central Asia (Bishkek) (2014)

Annual Work Plan - Central Asia (Bishkek) (2015)

End of Year Progress report - Central Asia (Bishkek) (2015)

Annual Work Plan - Central Asia (Bishkek) (2016)

End of Year Progress report - Central Asia (Bishkek) (2016)

Annual Work Plan - Central Asia (Bishkek) (2017)

End of Year Progress report - Central Asia (Bishkek) (2017)

Sub Regional Note for Central Asia (Bishkek) (revised) /a (2014-2017)

End of Cycle Report for Central Asia (Bishkek) /a (2012-2013)

Uganda

Report of the Working Group on the Universal Periodic Review, Uganda: A/HRC/34/10, 27 December 2016

Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Uganda, CRPD/C/UGA/CO/1, 12 May 2016

Committee on Economic, Social and Cultural Rights, Concluding observations on the initial report of Uganda, E/C.12/UGA/CO/1, 8 July 2015

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, Concluding observations on the initial report of Uganda, E/C.12/UGA/CO/1, 22 May 2015

Country Note for Uganda (revised) /a (2014-2017)

Country Programme for Uganda (2018-2021)

The Dust Has Not Yet Settled: Victims' Views on The Right to Remedy and Reparation A Report from the Greater North of Uganda, OHCHR and Uganda Human Rights Commission, 2011

Tunisia

Committee against Torture, Concluding observations on the third periodic report of Tunisia, CAT/C/TUN/CO/3, 10 June 2016

Report of the Special Rapporteur on the independence of judges and lawyers on her mission to Tunisia, A/HRC/29/26/Add.3, 26 May 2015

Cambodia

Fundamental Freedoms Monitoring Project, First Annual Report, Cambodian Center for Human Rights, April 2016-March 2017

A Human Rights Analysis of the Law on Associations and Non-Governmental Organizations, OHCHR Cambodia, 4 August 2015

OHCHR Human Rights Analysis of the Draft Law on Agricultural Land, OHCHR Cambodia, 20 July 2017

OHCHR Human Rights Analysis of the Amended Law on Political Parties, OHCHR Cambodia, 28 March 2017

OHCHR Human Rights Analysis of the Draft Law on Trade Unions, OHCHR Cambodia (undated)

OHCHR Human Rights Analysis of the Law on Associations and Non-Governmental Organizations, OHCHR Cambodia, 4 August 2015

OHCHR Comments on Certain Provisions of the Draft Law on the Organisation of the Courts in Relation to the International Human Rights Standards, OHCHR Cambodia, May 2014

OHCHR Comments on Certain Provisions of the Draft Law on the Status of Judges and Prosecutors in Relation to the International Human Rights Standards, OHCHR Cambodia, May 2014

Report of the Special Rapporteur on the situation of human rights in Cambodia, 27 July 2017, A/HRC/36/61

Report of the Special Rapporteur on the situation of human rights in Cambodia, 5 september 2016, A/HRC/33/62

Report of the Special Rapporteur on the situation of human rights in Cambodia, 20 August 2015, A/HRC/30/58

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 31 May 2016, A/HRC/32/36

Human Rights Committee, Concluding observations on the second periodic report of Cambodia, 27 April 2015, CCPR/C/KHM/CO/2

Mexico

Country Programme Review: Mexico, OHCHR, November 2015

OHCHR Mexico 2016, 2015, 2014 End of Year Report

OHCHR Mexico, 2012-13, 2014-17 End of Cycle Report

OHCHR Mexico, 2014-17 Country Note

Several internal notes and presentations on legislative activities, OHCHR Mexico, April 2018

Observaciones Preliminares de la ONU-DH al Proyecto de Decreto por el que se expide la Ley de Seguridad Interior, OHCHR Mexico, 4 de diciembre de 2017

Violencia, inseguridad y desapariciones en México, Situación de Derechos Humanos en México, Inter-American Commission on Human Rights, 2017

Press Releases on legislative issues in Mexico by Special Procedure Mandate Holders, 2014-17

Múltiples sectores se oponen a la ley que fortalece el papel de las fuerzas armadas en la lucha contra el crimen, Washington Office on Latin America, Washington DC, 26 January 2018

Technical working documents on the draft process of the Law against Torture, Attorney General's Office, Mexico 2017

Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Mission to Mexico, 29 December 2014, A/HRC/28/68/Add.3
Committee on Enforced Disappearances Concluding observations on the report submitted by Mexico, 5 March 2015, CED/C/MEX/CO/1

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to Mexico, 28 April 2014, A/HRC/26/36/Add.1

External Evaluations and Reviews

Tony Beck and Inmaculada Barcia, *Evaluation of the OHCHR Regional Gender Advisors Structure*, August 2017

OIOS, *Evaluation of the Office of the United Nations High Commissioner for Human Rights Report of the Office of Internal Oversight Services*, E/AC.51/2017/9, 17 March 2017

Fernando Jambrina y Silvina Ramirez, *Evaluación del Componente de Justicia del Programa Maya para el pleno ejercicio de los derechos de los pueblos indígenas en Guatemala*, December, 2016

OHCHR, *Uganda Country Programme Review 2010-2015*, May 2016

Monika Zabel and Elizabeth Gibbons, *Evaluation of the programme supported by human rights advisers (HRAs)*, February 2016

Bjorn Pettersson, *External Evaluation of OHCHR Project "Combating Discrimination in the Republic of Moldova, including in the Transnistrian Region" 2014-2015*, December 2015

OHCHR, *Country Programme Review: Mexico*, November 2015

Francesca Jessup and Koffi Kounte, *Evaluation of OHCHR's support to national human rights institutions (NHRIs)*, October 2015

Conor Foley and Katerina Stolyarenko, *Evaluation of the Regional Office for Central Asia*, October 2014

Other Reports

Amnesty International, *Annual Report, 2016/7*

Human Rights Watch, *World Report 2017*

Democracy Index 2016, The Economist Intelligence Unit, 2016.

Human Development Report 2016 *Human Development for Everyone*, UN Development Program, 2016.

Amnesty International, *Tunisia: Abuses in the name of security threatening reforms*, 10 February 2017

Amnesty International, *Tunisia: Indictments a step closer for justice in Faysal Baraket's case of death under torture*, 21 February 2017

- Amnesty International *Nothing about us without us: disability rights activists in Kyrgyzstan tell their stories*, 1 December 2017
- Amnesty International, *'Most of the people who died in Osh were Uzbeks but it is we who are being punished'*, 11 February 2014
- Amnesty International, *Former Soviet states entrenching homophobia and demoralizing LGBTI rights activists*, 22 December 2017
- Amnesty International, *Kyrgyzstan: Grave failure of justice in Azimjan Askarov's case*, 24 January 2017
- Amnesty International, *Kyrgyzstan: Supreme Court leaves 65-year-old Prisoner of Conscience languishing in jail*, 12 July 2016
- Human Rights Watch, *Central Asia: Window of Opportunity on Rights*, 18 January 2018
- Human Rights Watch, *In Kyrgyzstan, Human Rights on Trial?*, 8 July 2016
- Human Rights Watch, *'New Reconciliation Law Threatens Tunisia's Democracy'*, 2 October 2017
- Guardian, *'Disputed 'foreign agent' law shot down by Kyrgyzstan's parliament'*, 12 May 2016
- Guardian, *'No gay promotion can be allowed': Uganda cancels pride events'*, 21 August 2017
- 'Rights for the disabled in Tunisia, Inching towards inclusion'*, ifa|Institut für Auslandsbeziehungen 2018.
- Daily Monitor, *Closing Nalufenya Will Not End Torture in Uganda'*, 12 April 2018
- Daily Monitor, *'Dr Ismail Kalule: Story of a terrorist or man being persecuted?'*, 15 April 2018.
- Human Rights Watch, *'Uganda: Human Rights Group Targeted in Violent Break-In'*, 9 February 2018
- Human Rights Watch, *'Uganda: Police Raid Queer Kampala Film Festival'*, 15 December 2017
- Gender and equity compliance guide for Parliament*, Equal Opportunities Commission, January 2018

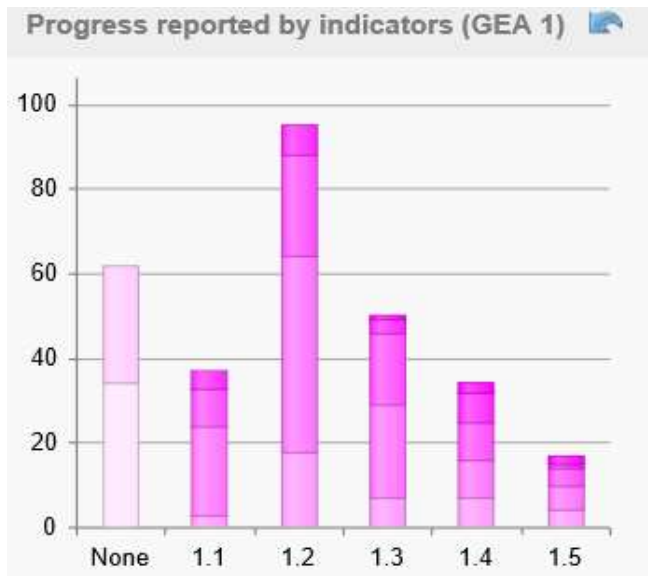
Other documents

- Norms and Standards for Evaluation*, UN Evaluation Group, June 2016
- UNEG Handbook for Conducting Evaluations of Normative Work in the UN System*, UN Evaluation Group, November 2013
- Greet Peersman, Irene Guijt and Tina Pasanen, *Evaluability Assessment for Impact Assessment*, Overseas Development Institute, 2015
- Research Evaluation*, J Guinea et al, *'Impact Orientated Monitoring: a new methodology for monitoring and evaluation of international public health projects'*, Vol. 24, Issue 2, 1 April 2015, pp.131-145
- Simon Hearn and Anne Buffardi, *When and How to Develop Impact Orientated Monitoring and Evaluation Systems*, Overseas Development Institute, 2016

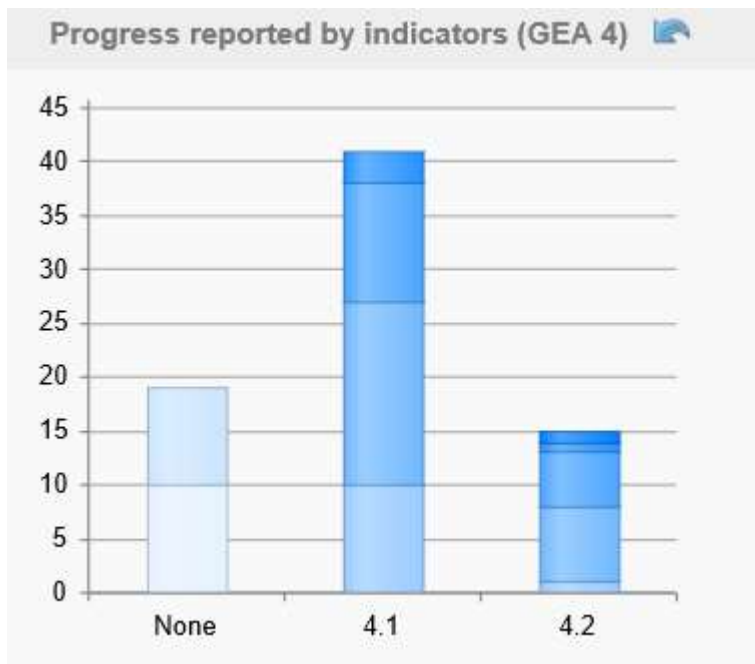
Annex Five: Progress on outputs and activity costs for thematic results

I. Progress reported by indicators (2014)

Indicator 1.2 - progress reported



Indicator 4.1 – progress reported



II. Planned outputs and activity costs for thematic results

a. In 2014

Under Discrimination

EA: [4] Legislation, policies and practices increasingly comply with anti-discrimination and equality standards (especially in relation to those groups where OHCHR has an added value e.g LGBT, cast-discrimination, older persons, disability...)

42 entities	134 outputs	246 activities	1,621,777 USD
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Under Rule of Law

EA: [1] Increased compliance of national legislation, policies, programmes and institutions with international human rights norms and standards relating to torture and ill-treatment, and to the deprivation of liberty

30 entities	64 outputs	124 activities	894,461 USD
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Under Development

EA: [1] Constitutions, laws and policies relevant to development, including in the context of exploitation of natural resources, increasingly promote and protect human rights, especially land and housing rights and with particular attention to non-discrimination and gender equality

25	52	124	843,292
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Under Democratic Space

EA: [1] Constitutions, laws, administrative measures and policies respect, protect and guarantee freedom of opinion and expression, including prohibition of incitement to hatred, peaceful assembly, association, conscience, religion and belief.

27	49	96	411,357
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Under Early Warning

EA: [1] Legal Frameworks, public policies and institutions are in place and functioning to combat all forms of human exploitation, including trafficking, and sexual and gender-based violence

19 entities	43 outputs	76 activities	459,675 USD (activity costs)
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EA: [1] Legal Frameworks, public policies, state institutions, as well as non-state actors, increasingly comply with international human rights standards in the area of prevention and response to human rights violations in situations of conflict, violence and insecurity

17 entities	37 outputs	111 activities	709,894 USD
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b. In 2017

Under Discrimination

EA: [4] Increased representation of marginalised and discriminated groups in law enforcement and security forces, the judiciary State institutions and decision-making bodies

1 entity (activity costs)	1 output	1 activity	40,942 USD
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Under Rule of Law

EA: [1] Increased compliance of national legislation, policies, programmes and institutions with international human rights norms and standards relating to torture and ill-treatment, and to the deprivation of liberty

23 entities	51 outputs	126 activities
2,514,601		

Under Development

EA: [1] Constitutions, laws and policies relevant to development, including in the context of exploitation of natural resources, increasingly promote and protect human rights, especially land and housing rights and with particular attention to non-discrimination and gender equality

21 entities	68 outputs	159 activities
2,050,206 USD		

Under Democratic Space

EA: [1] Constitutions, laws, administrative measures and policies respect, protect and guarantee freedom of opinion and expression, including prohibition of incitement to hatred, peaceful assembly, association, conscience, religion and belief.

23 entities	56 outputs	151 activities
2,081,026		

Under Early Warning

EA: [1] Legal Frameworks, public policies and institutions are in place and functioning to combat all forms of human exploitation, including trafficking, and sexual and gender-based violence

17 entities	34 outputs	79 activities	1,029,614 USD (activity costs)
EA: [1] Legal Frameworks, public policies, state institutions, as well as non-state actors, increasingly comply with international human rights standards in the area of prevention and response to human rights violations in situations of conflict, violence and insecurity			
20 entities	43 outputs	128 activities	2,374,636 USD (activity costs)