Evaluation Report

***Sawasya II - Promoting the Rule of Law in Palestine***

**December 2020**

# Executive Summary

This evaluation report presents the findings of the mid-term formative evaluation conducted on the Sawasya II programme “Promoting the Rule of Raw in Palestine”, the second phase of a joint programme that now integrates UNDP, UN Women and UNICEF. The programme is designed for a 3 + 2 year implementation, and this evaluation is being conducted in the 3rd year to guide decisions around continuation of the programme, and to inform adaptation of programme approaches on the basis of the evidence from the first 3 years of implementation.

The overarching finding of the evaluation is that the programme is a critical element of support to improving the access and delivery of justice to the Palestinian community. The programme is one of the largest providers of rule of law support to Palestinian justice system actors, both governmental and civil society. Through its scale and the strengths of its staff and approaches it has developed a strong reputation for technical excellence and effective support.

Sawasya II has supported positive changes in line with all of its major goals. Programme efforts have resulted greater coordination and cooperation between Palestinian justice system organisations, notably underpinned by the Mizan II court management system that continues to support improvements in the efficiency and effectiveness of the Palestinian formal justice system. Facing increased resistance to some of the proposed legal reforms, most notably those improving the rights of women and girls, the programme has consistently mobilised civil society and donor advocacy in efforts to support reforms and maintain improvements in justice provision. The programmes central role in the donor community, and its consistent strength in developing an evidence base for justice needs and performance, has positioned it well to influence the overall direction of justice reform in Palestine.

The programme has supported a number of important improvements in the functioning of the courts, prosecutors and police to provide adequate services to women and girls, with the specialized units developed in each seemingly well embedded into normal functioning and service provision. This has been matched with strong efforts to provide better access to justice by strengthening civil society’s provision of legal aid and advice.

Likewise, the specific needs of children in contact with the law have remained a consistent area of development, turning the adoption of the 2016 Juvenile Protection Law into implementation of the less punitive measures proposed. Continued efforts to encourage child friendly approaches to children accused of offences have started to show some signs of being adopted by state actors, and the underlying mechanisms and information required for this system have been further developed.

With the frequent disruptions that have occurred during programme implementation, notably the Coronavirus crisis that required a dramatic reassessment of approaches in 2020, programme efforts to support the direct provision of legal access have remained a strong element of the overall effort, and one that has resulted in better access to justice for vulnerable Palestinian communities.

However, these gains are limited by several fundamental contextual issues. Political will to reform has been variable, and financial hardship has left the state unable to adequately fund the justice system. The continued occupation of Palestinian territory, along with the related lack of coordination between Palestinian and Israeli justice systems, mean that Sawasya II efforts to support reform have occurred against a backdrop of constant crisis. The Palestinian state capacity to provide adequate justice to all Palestinian people remains clearly limited, cannot be improved rapidly, and requires ongoing support. The evaluation team conclude that much remains to be done, and that the programme efforts should continue.

### Recommendations

Recommendation 1

*The programme is a critical element of national and international efforts supporting necessary reforms to justice provision in Palestine. As such given the current state of reforms, the need for the programme remains clear and immediate, and it should be extended for a further 2 years as was an option under the current programme document.*

#### Recommendation 2

*UN and donor management of the programme, while adapting to crisis as required, should maintain a focus and priority of effort on the underlying system level reforms.*

#### Recommendation 3

*Formalise the currently informal UN Head of Agency coordination meetings, and make it an explicit remit that prioritisation occur. Continue the highly positive engagement and involvement of donors to support the consistent necessary pressure for reform.*

#### Recommendation 4

*The Sawasya II programme should remain engaged in its informal central coordination role, and continue its practice of providing significant enabling support (both information and expertise) to the next Deputy Head of the Justice Sector Working Group.*

#### Recommendation 5

*The programme should explore options to integrate one or both of UNODC and UNFPA into the programme, in order to holistically reflect UN work in the sector and include the remaining major UN system actors with extant justice sector programmes.*

#### Recommendation 6

*Sawasya II should increase efforts to support the social and political alliances required to get the Family Protection Bill passed. This will require a more explicit programme strategy and monitoring of its impact on societal and institutional resistance to change.*

#### Recommendation 7

*Building from the strength of current Civil society advocacy, the programme should deliberately focus on advocacy efforts targeting known reform blockages, and attempt to broaden the components of civil society involved in advocacy.*

#### Recommendation 8

*Maintain and develop current processes for internal project learning. While the programme overall seems to adapt well and programme teams have a well-developed level of engagement, equally Sawaysa II is a complex programme and further investment in linking the data collected to the learning systems is warranted.*

#### Recommendation 9

*Sawasya II has successfully implemented its monitoring framework, and is collecting data suitable for demonstrating outcomes, and guiding programme implementation. As such UNDP’s Global Programme should look at which aspects of its approach, resourcing, and management can influence other country programmes.*

#### Recommendation 10

*Sawasya II should analyse its current civil society partnerships, in consultation with its key donors, in an effort to identify partners who hold lower risk management profiles and have greater potential influence over positive and sustainable community roles in improved justice delivery. Provision of standardized guidance, for example on communication, in addition to a tiered approach depending on levels of capacity and trust, might free some space for building CSO capacity while maintaining the necessary level of controls.*

#### Recommendation 11

*Sawasya II should have a clear and documented process to assess the sustainability requirements of new capabilities it is investing in developing. This is easiest and most critical for support aimed at developing technological enhancements to justice delivery, such as IT infrastructure and online service provision.*

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# Acronyms

|  |  |
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|  |  |
| AGO | Attorney General’s Office |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CSO | Civil Society Organization |
| DCAF | Geneva Centre for Security Sector Governance |
| EU | European Union |
| EUPOL COPPS | European Union Police and Rule of Law Mission for the Palestinian Territory |
| GBV | Gender-based violence  |
| HACT | Harmonized Approach to Cash Transfers  |
| HJC | High Judicial Council |
| HQ | Headquarters  |
| ISSAT | International Security Sector Advisory Team |
| JSWG | Justice Sector Working Group |
| M&E | Monitoring and evaluation |
| MoJ | Ministry of Justice  |
| MoSD | Ministry of Social Development |
| OECD DAC | Organisation for Economic Cooperation and Development, Development Assistance Commitee |
| PBA | Palestinian Bar Association |
| PCBS | Palestinian Central Bureau for Statistics  |
| PCP | Palestinian Civil Police |
| PJI | Palestinian Judicial Institute |
| RoL | Rule of Law |
| SDGs | Sustainable Development Goals |
| SJD | Supreme Judge Department |
| SOPs | Standing Operating Procedures |
| ToC | Theory of Change |
| UN | United Nations |
| UN OHCHR | United Nations Office of the High Commissioner for Human Rights |
| UN Women | United Nations Entity for Gender Equality and the Empowerment of Women |
| UNDAF | United Nations Development Assistance Framework |
| UNDP | United Nations Development Programme |
| UNFPA | United Nations Populations Fund  |
| UNODC | United Nations Office on Drugs and Crime  |

# Introduction

Sawasya II: Promoting the Rule of Law in Palestine is a joint programme comprised of UNDP, UN Women and UNICEF. The government signatories to the programme document are the Ministry of Justice (MoJ), Ministry of Social Development (MoSD), the High Judicial Council (HJC), the Attorney General’s Office (AGO), and the Supreme Judge Department (SJD). Non-signatory partners include, inter alia the Palestinian Civil Police (PCP), the Palestinian Bar Association (PBA), the National School of Administration, and the Palestinian Judicial Institute (PJI). The programme is supported by the Netherlands, the Swedish International Development Agency and the Spanish Agency for International Development Cooperation.

The programme is designed as a “3+2” in which the first three years of the programme are guaranteed by the development partners with the possibility of a two-year extension. The programme is budgeted at $10 million per year and has currently received funds and commitments of around $17 million. This evaluation is occurring during the third year, in order to inform decision making on the two-year extension.

Strategically, Sawasya II serves the primary vehicle of the United Nations for advancing the rule of law, gender justice and human rights in Palestine for the period 2018-2023. Bringing together three of the main UN entities mandated and invested in these areas in an integrated programme framework, Sawasya II seeks to support the Government of Palestine to have a functioning and increasingly inclusive and independent rule of law system that respects, protects and fulfils human rights and gender equality and promote peace and security. It is deliberately focused on women and children as two key vulnerable groups who come into contact with the law in multiple ways, are often underserved by the current system, and who have overlapping but distinct needs and experiences. The programme builds on established partnerships with government and civil society at all levels and capitalises on the extensive reach of the involved UN entities across the West Bank, including East Jerusalem, and the Gaza Strip.

Acknowledging that the ability to access justice is a human right itself and is key to the realization of all other human rights, Sawasya II is designed to address gender justice gaps and discrimination against the most vulnerable groups, particularly women and children, which are deeply entrenched in the justice and security systems in Palestine. In terms of gendered experiences when it comes to the realization of rights, the Sawasya II approach is built on analysis of the underlying causes of gender inequality and discrimination against women as well as the adverse impact of the identified underlying causes on women’s access to justice.

Progress has been made on children’s rights and experience of the justice system, especially for children in conflict with the law, with the amendment of the Palestinian Child law in 2014 and the endorsement of the Juvenile Protection Law by a presidential decree in 2016. The justice and protection institutions have made efforts to implement these laws, but an assessment of children’s access to justice conducted by UNICEF in 2018 highlighted continued gaps and challenges. Sawasya II is informed by the recommendations made in the assessment and addresses a number of them. The interventions are focused on strengthening the capacity of specialised child justice professionals and establishing a referral, diversion and alternatives to detention systems.

The international community has long recognised that developing functioning and successful public institutions and putting in place the conditions for sustainable rule of law development are long- term processes, particularly in fragile settings. The specific circumstances and unpredictability of the Palestinian context render this arguably even more so the case than in many other fragile settings. It has also reached a general consensus that in the post – 2015 agenda, gender equality and the empowerment of women are pivotal as intrinsic human rights principles, and as catalysts for achieving all human development goals and good governance.

The overarching objective of Sawasya II has UN Sustainable Development Goals (SDGs) 16 and 5 at its core: focussed on the promotion of peaceful and inclusive societies for sustainable development, provision of access to justice for all, and the realisation of effective, accountable and inclusive institutions at all levels (SDG 16), and on achieving gender equality and empowerment for women and girls (SDG 5). Sawasya II contributes to key priorities in the five-year United Nations Development Assistance Framework (UNDAF) for Palestine.

Sawasya II builds on the experience and expertise of the involved UN entities, at both global and local levels, including that of the Sawasya I joint programme of UNDP and UN Women, as well as the experience of UNICEF, and aims to leverage partnerships with other key bilateral and multilateral development partners, including the Office of the United Nations Special Coordinator for the Middle East Peace Process, the Office of the Middle East Quartet, the European Union (via both the Office of the EU Representative and the EUPOL COPPS), and lead bilateral donors in the justice and security sectors.

# Objective of the evaluation

Sawasya II represents the primary programmatic vehicle of the United Nations for advancing the rule of law, integrity, gender justice, access to justice for children, and human rights in Palestine for the period 2018-2023. In light of the challenges facing rule of law development in Palestine, recognition of the causes underpinning these challenges, and reflection on lessons learned from previous programming, Sawasya II is structured around four mutually reinforcing ‘outcomes’, designed to address the key problems and bottlenecks identified in the situation analysis.

The main purpose of this mid-term formative evaluation is to provide evidence and recommendations on how the efforts of the Sawasya II programme have supported outcomes for the lives of beneficiaries. This evaluation will inform assessments of the progress achieved by the components of the current programme, determine the need for any continuation of the programme, and provide recommendations to adapt programme activities and approaches to improve outcomes for the remaining period of implementation.

The secondary purpose of the evaluation is to provide the Global Programme with evidence of monitoring good practices at the country level that could inform strategic monitoring guidance for UNDP RoL programmes.

In terms of specific subobjectives, the evaluation has focused on:

* Assessing the relevance of project activities, procedures and structures to the program’s context and overall goal including strategic decision-making and prioritization of limited resources.
* Assessing the efficiency, effectiveness, impact, institutional capacity, sustainability, coherence, coverage, and risk management of the programme including the role of the programme’s steering committee, UN agencies organizational, financial, administrative and fundraising systems and actions for the implementation of the program.
* Developing conclusions and suggest actions to inform the programme’s overall learning about what works and what does not so the programme can adjust/improve/refine if needed in the final phase of implementation.
* Assessing different stakeholders’ satisfaction from the programme and its interventions.
* Assessing how cross cutting issues such as a human rights-based approach to programming, gender equality and equity has been addressed and make recommendations for increased mainstreaming of these cross-cutting issues as required.

# Methodology

The evaluation adopted a participatory and iterative evaluation approach, in an attempt to develop ownership over the process by programme staff and partners. This participatory approach was undermined by the ongoing coronavirus crisis, which resulted in the evaluation team conducting the entire process remotely. The evaluation was based on the ISSAT project evaluation methodology and OECD DAC Criteria for evaluations. The overall evaluation was framed around 6 key criteria: relevance, coherence, effectiveness, sustainability, efficiency, impact. Across these criteria are two cross cutting frames of assessment, the programme’s success in supporting human rights and gender equality.

The basis for the development of evaluation questions was drawn from the UNDP Evaluation Guidelines. Working within this broad set of questions, the evaluation team have focused this report on areas where the process has resulted in information relevant to guiding decisions about programme learning, allocation of resources or decision making.

***Sawasya II programme evaluation questions***

**Relevance:**

* To what extent was the programme in line with the national development priorities, the country programme’s outputs and outcomes, and the SDGs?
* To what extent were perspectives of those who could affect the outcomes, and those who could contribute information or other resources to the attainment of stated results, taken into account during the project design processes?
* To what extent does the original programme concept and objectives address the justice needs of targeted beneficiaries
* To what extent does the programme contribute to gender justice and equality, the empowerment of women and the human rights-based approach?
* To what extent does the programme contribute to child rights?
* To what extent the programme is flexible, adaptive and context-specific to adjust strategies over time, as circumstances evolve (eg. conflict in Gaza, the Covid-19 pandemic) and the changing external environment?
* To what extent the original programme design addresses not only justice needs but also the contextual constraints, i.e., the different legal systems and jurisdictions?

**Coherence**

* To what extent is this intervention coherent with other actors’ intervention in the same context (This includes complementarity, harmonisation and co-ordination with others, and the extent to which the intervention is adding value while avoiding duplication of effort.)
* To what extent is the intervention coherent with national authorities’ priorities?
* To what extent the intervention coherent is with international obligations on fair trial and access to justice?
* To what extent is the intervention coherent with international obligations on gender justice and justice for children?

**Effectiveness**

* To what extent did the programme contribute to the country programme outcomes and outputs, the SDGs, the UNDP/UN Women/UNICEF Strategic Plans and national development priorities?
* To what extent are the programme outputs and outcomes on track or achieved?
* In which areas does the programme have the greatest/fewest achievements? Why and what have been the contributing factors? How can the programme build on or expand these achievements or how can they be overcome?
* What have been the key results so far and to what extent those results to date are likely to lead to achievement of the programme’s objectives in the remaining time?
* What, if any, alternative strategies would have been more effective in achieving the programme’s objectives?
* Are the programme’s objectives and outputs clear, practical and feasible within its time frame?
* To what extent is the programme management and implementation participatory and is this participation contributing towards achievement of the programme objectives?
* How effective have the programme partnerships with civil society organizations been in contributing to achieving results in Gaza?

**Efficiency**

To what extent:

* Has the programme delivered its expected results to date, including in terms of budget allocation and cost-efficiency of activities?
* To what extent has the UN programme’s partnership strategy been appropriate and effective?
* Was the intervention implemented in a timely way?
* Was the intervention implemented in the most efficient way compared to alternatives?
* Did the targeting of the intervention mean that resources were allocated efficiently?
* To what extent do the M&E systems utilized by the programme ensure effective and efficient project management?

**Impact**

* What were the effects of the intervention on recipients’ lives?
* To what extent is the programme on track to support, or likely to support/contribute to capacity change of partners, influence on broader policy/systems and impacts at beneficiary level?
* Did a specific part of the intervention achieve greater impact than another?
* Were there unintended (positive or negative) effects for recipients and non-recipients of assistance?
* What were the gender-specific impacts? Did the intervention influence the gender context?
* What is the contribution of an intervention to long-term intended results?

**Sustainability**

* To what extent did the programme intervention implementation arrangements include considerations for sustainability, such as capacity building of national and local government institutions, communities, exit strategies and other partners?

### Note on Coronavirus related restrictions

Sawasya II is a large and complex programme, operating across the multiple administrative regions of Palestine, and engaging with the full range of justice sector actors. As a result, it was always going to be a difficult programme to evaluate holistically. Unfortunately, timeframes for the evaluation required it to occur during late 2020, while the world was experiencing the coronavirus pandemic. International travel into Palestine became impossible at the time available for primary data collection, and Palestine went through several phases of lockdown. Throughout the whole evaluation process the majority of UN staff were working from home, and contact with programme partners and beneficiaries was very constrained. The majority of the evaluation team was trapped in their home locations, and thus unable to travel to Palestine to visit programme sites, view the evidence of change, and directly interview beneficiaries and programme partners.

Due to the pandemic all data had to be collected remotely, usually using Zoom or WhatsApp for interviews. The evaluation team included a national consultant in an attempt to compensate for some of the problems of remote data collection, however the national lockdowns and overall prevalence of coronavirus throughout the evaluation resulted in him also being unable to visit the locations of programme activities or projects, conduct face-to-face meetings, or run focus groups with beneficiaries. This has consequently had a massive impact on the data collected, and the triangulation of information that is typically a fundamental element of an evaluation has been complicated and difficult.

### Interviews

The primary source of data collection has been semi-structured interviews. As such, the team has developed key guiding questions and interview guides for each key actor that is interviewed. This includes semi-structured interview guides for the UNDP/UN Women/UNICEF programme team, central Government institutions (eg. Ministry of Justice), beneficiaries, development partners, and non-Government institutions relevant or involved in the field of justice delivery, human rights, and gender equality.

In terms of sequencing, the following approach was applied: To get a first impression of the workings of the programme, a first round of interviews focussed on UNDP/UN Women/UNICEF programme staff, management and supervision bodies. This was followed by efforts to conduct interviews with national authorities leading on implementation, including specifically the Ministry of Justice (MoJ), Ministry of Social Development (MoSD), the High Judicial Council (HJC), the Attorney General’s Office (AGO), the Palestinian Central Bureau of Statistics (PCBS), and the Palestinian Civil Police (PCP), as well as other relevant programme partners including the Palestinian Bar Association (PBA)[[1]](#footnote-2). In parallel, the key civil society implementing partner organisations of the Sawasya II programme were included in the interview process. Finally, also donors engaged in support to the UN programme (the Netherlands, the Swedish International Development Agency and the Spanish Agency for International Development Cooperation) and the EU as another significant donors involved in supporting justice reforms in Palestine were interviewed. Unfortunately, the coronavirus lockdown and the remote nature of the evaluation has negatively impacted on the extent of access to justice system users, with much of the evidence of their experiences coming from programme reporting and the reports of the civil society partners.

The evaluation team also remained in close contact with the programme management team throughout the process, delivering a series of continuing exchanges and briefings on initial findings.

### Survey

To make up to the extent possible for the lack of direct physical access to national implementing partners, a survey of Sawasya II’s partner organisations was conducted, inquiring about their perceptions of the programme in terms of its relevance to the local needs and context as well as the outcomes achieved by the activities. The survey was circulated to 37 CSO partners, and received 21 responses.

### Background documents

There has also been an extensive review of documents which included:

* Programme documents: documents outlining contractual obligations, programme budgets, workplans, progress reports, previous evaluations and evaluations of particular activities/ components, reporting templates etc.
* Background documents: reports from the PCBS indicating baseline information of justice system performance at the time of the programme inception and meeting notes from the steering group meetings.

# Programme Context

Efforts to advance the rule of law in Palestine continue to contend with three essential problems: the democratic deficit that profoundly affects the capacity, accountability and perceived independence and legitimacy of the state’s justice and security apparatus; the obstacles to full realisation by the Palestinian people of their basic human rights and fundamental freedoms; and gender inequality and stereotypes that are deeply entrenched in legal, social and political norms. Stagnation of the peace process, the state-building process, and national reconciliation efforts have all hindered recent efforts to strengthen the rule of law, and while technocratic solutions have made positive inroads towards improving institutional capacities, strengthening services and advancing access to justice and security, many of the fundamental preconditions for sustainable rule of law development have yet to be realised.

While there are a number of key external and internal factors that affect sustainable development in the rule of law and the realisation of human rights in Palestine, the most significant external factor is the ongoing occupation by Israel. The key internal factors are the deep national division between the Gaza Strip and the West Bank authorities since 2006, a dysfunctional legislative environment, fractured legal jurisdictions, weak institutional capacities, corruption, discriminatory social norms, and a lack of clarity around institutional roles and mandates. These are magnified and exacerbated by the prolonged financial crisis that has been afflicting the State of Palestine, itself in no small amount contributed to by the Israeli occupation. This situation has been further exacerbated in 2020 by the impact of the global coronavirus pandemic on Palestine, which has brought the economy to a halt and increased rates of gender-based violence.

As a conflict-affected population, women and children experience multi- layers of insecurity and discrimination due to the ongoing Israeli occupation and the entrenched patriarchal norms and practices within the Palestinian society. Women and girls are disproportionately impacted by the discriminatory practices of the occupation, such as houses demolitions, prevention of family unification, freedom of movement and others, which put them at higher risks of violence in the public and private spheres. Gender myths and stereotypes on the other hand, have structurally influenced women’s access to rights, power, resources and knowledge, and resulted in the development of discriminatory legislations, policies and practices, that undermine women’s experience, voices and rights, and reinforce males’ domination and supremacy over women. This is reflected in lenient legal provisions, which are inherited, such as the 1960 Jordanian Penal Code which is still applicable in the West Bank, with lenient legal provisions regard family violence. In addition to the shortcomings in the Family Status Law, which is not in harmony with international conventions regarding early marriage, women right to child custody and others. With this in mind, and due to the predominant cultural norms, women are often stigmatized when reporting GBV to the authorities particularly sexual assault crimes. In addition to the lack of proper specialized services for these cases in the justice system, which discourage them to pursue justice, and result in low number of prosecutions and convictions of VAW cases. Likewise, lack of serious official data regarding crimes against women and girls is another aspect that is seriously affecting the realization of rights.

Children experience of the conflict brings them into diferent forms of contact with the justice system, with male teenage children disproportionately involved in and subjected to conflict related violence. Between 500 to 800 children from West Bank (including East Jerusalem) are detained by Palestinian authorities on an annual basis. Juvenile offenders are facing very high rates of pre-trial detention for mostly minor offenses, a result of the overall high levels of pre-trail detention found in the justice system, which could be more appropriately dealt with outside the justice system with its lack of specialized juvenile courts. Children in contact with the informal justice system, based on customary codes and tribal law for dispute resolutions, encounter potentially harmful practices and a lack of equality before the law.

Notwithstanding the challenges noted above, important progress has also been made. On the legislative front, Sawasya I played a pivotal role in drafting and promoting a Family Protection Bill aligned with international human rights standards. With regard to justice for children, the Juvenile Protection Law passed into law in March 2016, and has been widely welcomed as providing greater protection for children in contact with the law. It has galvanized justice sector actors to ensure child-friendly procedures and modalities are in place to implement the law. The law unifies domestic and international law, and updates the Palestinian juvenile justice system. It recognises minors – those under the age of 18 – as victims in need of protection, rehabilitation, and reintegration into society, rather than as criminals deserving punishment. Further, a National Strategy on Juvenile Protection and accompanying Road Map for Implementation has been developed.

In addition, the provision of specialised services by law enforcement and prosecution has afforded greater state protection for victims of gender-based violence, the Palestinian Bar Association has initiated an office for pro bono legal assistance, and systems improvements have enhanced the case disposal rates in the courts. Recently, the National Policy Agenda (2017-2022) has also incorporated a strong justice and rule of law agenda for the coming six years, with specific plans to promote the rights of, and access to justice for, women and children.

Rule of law remains a cornerstone of state-building in Palestine and continues to be an important focus for international assistance. The international community has long recognised that developing functioning and successful public institutions is a long-term challenge for governments, particularly in fragile settings, but also that both short-term and long-term results can be achieved through well-designed and committed development assistance programming. Within the United Nations system, there is a general consensus that in the post-2015 agenda, gender equality and the empowerment of women are pivotal as intrinsic human rights principles, and as catalysts for achieving all human development goals and good governance. Realizing women’s human rights implies recognizing and addressing the underlying foundations of gender-based inequality, and the root causes of women’s human rights violations; challenging structural constraints to equal rights and putting in place appropriate policy and programmatic responses in line with human rights principles enshrined in the major UN Conventions.

At the level of institutional regulatory and policy frameworks, rule of law, integrity, human rights and gender justice in Palestine are all seriously affected by the democratic deficit, including the lack of regular elections and a functioning legislature, the bifurcated and fragmented legal and policy settings and weak enforcement of laws. Laws promulgated after 2007 are subject to questions of legality and legitimacy and although Palestine ratified the core set of international human rights treaties in 2014, they have yet to be published in the official gazette and formally incorporated into law, policy and practice in a systematic way. Budget allocations are not yet fully aligned to the national and sector priorities, and the availability of data and statistics is insufficient to form a sufficient evidence base for law, policy and service provision.

At the level of effective, accountable and inclusive service provision, the influence of personal relationships over institutional frameworks and formal processes prevails. Corruption, whether actual or perceived, erodes public confidence in the public administration. The lack of monitoring and oversight of the public service, the inward focus of the public service, and the lack of a stable and professional public service culture all impede an outward facing, service delivery-focussed state apparatus. Transparency and accountability mechanisms are also limited, both in the public sector and in non-government service providers who fill the gaps in service provision in Palestine where service delivery by the State is weak, limited, or unavailable. The efficiency of the justice chain in Palestine has been significantly improved by the UNDP-supported Mizan II case management system, but the referral links between the justice chain and related service providers (police, health, housing, education, social services) remain weak.

Finally, access to justice, security and protection remains impeded by resource constraints (for example in the provision of legal aid and specialised services for vulnerable groups) and centralisation of services. Information about services is limited and poorly coordinated, meaning people are often unaware of services or where and how to locate them. At the societal and normative level, access to justice, in particular for women, is often impeded by discriminatory social norms that do not recognise gender-based violence as a crime; that do not recognise women’s human rights claims; and promote harmful practices and behaviours in communities and families. Moreover, social norms of preserving family honour translate into the resolution of violations by informal actors, often not in the best interests of women or children. Access to justice for children is largely user-unfriendly, and traumatising for children as victims as well as offenders. Long delays in judicial proceedings, poor investigative techniques with specialist and non-specialist police and social services, almost non-existent diversion and mediation services, as well as limited alternatives to detention, and limited rehabilitation and reintegration support services result in families and communities reliant on unregulated informal justice actors. Working with informal justice actors to ensure the rights and best interests of children is critical.

# Findings

## Relevance

The evaluation team considers the Sawasya II programme to be highly relevant to the justice needs of Palestine. Structuring the programme around the needs of children and of gender focused justice correctly positions it to address beneficiaries who are fundamentally vulnerable under the constraints of the current justice system. It represents a sensible programme focus of effort given the great needs of the justice sector and the resulting wide range of potential areas of effort. Overall, it is well aligned with stated goals and priorities of the Palestinian national plans, and with the international frameworks that govern access to justice and human rights.

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### National development priorities.

Sawasya II is focused upon a core set of justice priorities that represent sensible and important international goals. The core of the programme remains correctly on justice delivery to the most vulnerable Palestinian’s, with both this focus and the realities of programme implementation being highly aligned with supporting Palestinian achievement of SDG 5 (Achieving gender equality and empowerment for women and girls) and SDG 16 (The promotion of peaceful and inclusive societies for sustainable development, provision of access to justice for all, and the realization of effective, accountable and inclusive institutions at all levels).

Likewise, the Sawasya II programme is fundamentally aimed at contributing to improvements in human rights in the State of Palestine, with the analysis and implementation of the programme being clearly oriented towards and consistent with the Human Rights Up Front agenda, and with supporting improvements in the implementation of human rights compliant approaches to justice. The State of Palestine is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2014, and the Convention on the Rights of the Child in the same year.

The programme is also clearly well aligned and integrated into the Palestinian State’s strategies and plans for reform. The Palestinian National Policy Agenda 2017-2022 sets out a number of policy priorities under its sustainable development pillar, including ensuring community security, public safety and rule of law; improving access to justice; and gender equality and women’s empowerment. The UN has worked closely in partnership with the Palestinian institutions and community to turn these high-level priorities into specific strategies, notably The State of Palestine National Legal Aid Cross-sector Strategy 2019-2022.

However, while the Sawasya II programme is clearly aligned with the stated national development priorities, in practice it is evident that political interest is focused on other priorities in the overall development agenda[[2]](#footnote-3), primarily those associated with boosting the legal status of Palestine and addressing the ongoing occupation. The Palestinian Authority continues to face a number of significant challenges, most notably financial and in relationship to Israel. As a result, and despite the clear alignment of programme and national development priorities, Sawasya II has been conducted against a backdrop of often confused and variable political priorities[[3]](#footnote-4) devoted to pushing through key reforms that would enable the justice and gender priorities to result in real improvements relevant to the lives of justice needs and users.

Despite the limitations on political attention to justice reform, it is the evaluation team’s assessment that Sawasya II remains highly relevant to the current development needs of the Palestinian people. Justice issues remain a direct and regular problem for a great number of Palestinians, especially the key vulnerable groups of women and children. An important aspect of the relevance of this programme is that it should be understood within the context of overall support to the justice sector in Palestine.

There has been a significant reduction in international support to the justice sector since the first phase of Sawasya, with several donors reducing or completely ending their support to this thematic area. This reduction of international support has occurred for a number of reasons, and while one of the issues is the pace of progress in justice reform, in most cases the reduction of support has been strongly influenced by factors other than dissatisfaction with justice outcomes. As a result, the role that the Sawasya II programme plays in supporting Palestine is even more fundamental to progress against these goals.

Recommendation 1

*The programme is a critical element of national and international efforts supporting necessary reforms to justice provision in Palestine. As such given the current state of reforms, the need for the programme remains clear and immediate, and it should be extended for a further 2 years as was an option under the current programme document.*

###

### Programme adaptation during implementation.

The programme can rightly be considered a clear continuation of the first phase, with the major change being the integration of UNICEF into the programme. This represents an entirely sensible approach to the support, given the very positive assessment made of the support at the end of the first phase[[4]](#footnote-5). The integration of UNICEF appears to have strengthened the programme’s capacity to support effective reform, and is well aligned with the original intent of the programme, which included children as an important vulnerable group in need of improved access to justice[[5]](#footnote-6).

The three years that encompass the current phase of Sawasya II have been eventful ones, which both programme staff and partners describe as involving a series of crisis that have impacted on Palestine. Under this context the programme has demonstrated great ability to adapt, both in terms of adjusting to lessons developed through reform efforts (such as adapting programme activities to address reform blockages and issues), and from the events that have occurred in Palestine (most recently the impact of the Coronavirus pandemic).

As the evaluation occurred during the coronavirus pandemic, there was direct evidence that the adaptability of the programme in response to crisis events has been good. This was in part because the programme document supports flexible responses, and in part because the donor group relationships and orientation enabled a proactive programme response. The UN received positive feedback from their partners (primarily CSOs but also Government)[[6]](#footnote-7) on how they have adapted programme implementation during the current pandemic impact. The programme moved rapidly to address the operational changes required by the phases of lockdown (involving stringent movement and gathering restrictions, and the closure of many state services and private work), working with CSOs and government partners to adjust implementation approaches to suit the context and to fast-track relevant workstreams, such as on e-justice and the provision of legal aid services via phone. This rapid adjustment provided CSO partners with a degree of plannability during the pandemic while also supporting continued delivery under difficult conditions. It also provided some direct support to address public health issues, such as working on emergency plans for the Justice, security and social sectors; distributing some hygiene and protection supplies to the women and juvenile protection centres, providing trainings on tele-counselling as well as electronic equipment for conducting remote work of counsellors, and engaging advocacy efforts on releasing juveniles from overcrowded detention facilities. This practical and specific resource response that was much appreciated. It seems likely that the rapid programme response contributed to a reduction in the impact the pandemic had on programme outcomes, albeit this cannot be proven.

On a systems level, the programme also demonstrated excellent adaption to developing Palestinian issues with vulnerable groups due to the closure of courts, and was able to influence key authorities by ensuring that information was made available demonstrating the scale of the problem. Such a response demonstrated the capability to develop knowledge and credible information of specific issues in justice delivery, close relationships with a wide range of state and community level justice system actors, and the capacity to be a trusted partner in engaging with the formal justice system to have them addressed.

There is some question as to whether the full potential of programming options has been maximized in terms of adapting programming to the evolving needs under the coronavirus crisis. In many contexts, coronavirus’s direct consequences on the justice sector was the need to focus on issues such as sanitary conditions in overcrowded detention facilities, the developing of Standard Operating Procedures (SOPs) for the police ensuring their self-protection (e. g. provision of hygiene kits, thermometers), providing electronic equipment to facilitate virtual implementation, and dealing with rapid increases of domestic and gender-based violence. To tackle this, the programme supported the Family and Juvenile Protection Units of the PCP with the establishment of a helpline, the SOPs for which currently being developed. The evaluation team did not collect evidence of strategic level adaptations in terms of shifting priorities to take into account such changes in the most immediate needs of the justice sector.

In general, the programme has shown adaption through learning during implementation. Support has been redirected on the basis of evidence of resistance to reforms, such as has occurred in response to the Family Protection Bill and the implementation expectations around legal aid. These adaptations and redirection of effort have enabled programme activities to plan in response to reform blocking, look for alternative partners or options (such as investing more in civil society advocacy), and redirect resources towards partners who consistently support reform.

Two caveats should be noted in terms of programme adaption. Firstly, there remains a consistent risk that Sawasya II will become too invested in direct support to justice users, at the cost of the difficult and slow work that remains to be done in building strong political coalitions for reform of state systems. The evaluation team considers the continued significant resources devoted to supporting direct provision of various forms of legal aid as a reasonable element of programme focus, given the continued large gaps in the provision of those services through state or formal systems. However, the Sawasya II programme is a significant actor in supporting justice reform in Palestine, and as such has more capability than most actors to influence reform and address resistance.

Secondly the evaluation team note that the good adaptability of the programme seems primarily in terms of practical adaptions by programme staff[[7]](#footnote-8). This is a result of a highly competent staff group working well together with manageable staff rotation. It is less clearly a result of the adoption of a Theory of Change based approach to programme management (recommendation 9 from the final evaluation of phase 1[[8]](#footnote-9)) as it was unclear how much the ToC[[9]](#footnote-10) was used by staff. It is unfortunate that the current theory does not lend itself towards use, perhaps because its logic is not how programme staff articulate their efforts. While it is positive to see that the Programme document does include a formal theory of change, the intended advantage to ToC is that it is used and changes during implementation, a learning loop that does not seem to be functioning at this time.

#### Recommendation 2

*UN and donor management of the programme, while adapting to crisis as required, should maintain a focus and priority of effort on the underlying system level reforms.*

###

### Access to Justice for women and children.

The evaluation considers the core intent of the programme to address women and children as highly relevant to the reform of justice. National surveys have shown high levels of gender-based violence in the West Bank and Gaza Strip[[10]](#footnote-11). Child marriage rates remain high despite the adoption of the Convention on the Rights of the Child[[11]](#footnote-12). Since the Common Country Analysis and UNDAF, which identify women and children’s rights as key development priorities for Palestine, the economic crisis and the Coronavirus pandemic have further aggravated risks factors for both groups and their situation has in several ways further deteriorated. According to a survey conducted by UN Women, 95% of women micro, small and medium-sized entrepreneurs indicated that their work has already been affected by the COVID-19 pandemic. The closure of the workplaces and the movement restrictions imposed on Palestinians have led to an increase in the rates of violence against women in Palestine[[12]](#footnote-13).

Children in Palestine face the additional burden of most often coming into contact with the law as offenders. The adoption of the new law in 2016 represented a significant change for how justice for children was to be approached in Palestine. Not only did it formalise a process using specialised police, prosecutors and courts, and supported by child protection councillors throughout, it also moved the focus of justice from retribution to diversion and rehabilitation[[13]](#footnote-14). This law serves as a strong basis for Sawasya II to support the implementation of these approaches effectively and consistently, but this will require ongoing effort given the continued limited capacity of the specialised courts, and the slow uptake of non-punitive approaches.

This makes the justice needs of these groups an ongoing concern, and the continued efforts of the programme to improve them of high relevance to the Palestinian community and authorities. This has also been confirmed by the surveys conducted for this evaluation of CSO implementing partners, with 62% of respondents indicating women’s rights as the top priority for justice sector reform, and 90% of respondents agreeing or strongly agreeing that Sawaysa II is highly relevant[[14]](#footnote-15).

###

### Prioritization of political reform efforts

The evaluation considers all the top-level reform priorities of the programme, as articulated in the ToC preconditions, remain highly relevant to improving the justice and security for the people of Palestine. Noting this however, the evaluation team considers the breadth of the preconditions (which start with strengthened and reunified rule of law institutions) is such that the programme will need to have a clear internal prioritisation of where reform attention is focused.

Engaging on justice reform remains crucial, yet requires an approach that goes beyond technical advice on policy and legal frameworks. The current reform context is one where resistance is developing to support improved gender responsive service delivery as proposed in the draft Family Protection Bill and the implementation of the CEDAW responsibilities. This is a fundamental aspect of the reform Sawasya II is attempting to support, and it makes sense for the programme to focus on reinforcing the national reform. The adoption of the law, while important, is clearly a small component of the change required.

The broader concerns around Legal Aid provision, while frustrating, directly impact on access to justice for vulnerable Palestinian communities and individuals. While the programme has done much to supplement the current inadequate system by supporting direct provision of legal aid, systematic reform to ensure greater State capability to provide this under a sustainable format is required. As a result, this should remain an area of considerable programme investment.

Making progress in terms of legal harmonization and reconciliation has been even more challenging and it appears that the political pre-conditions to foster such an endeavour are not present[[15]](#footnote-16). Therefore, such a prioritization process might also consider carefully managing the attention given to this component, with an emphasis on monitoring for evidence of the development of entry points that could generate momentum for change.

The evaluation team found evidence that the UN agencies involved held discussion that covered issues of reform and resistance, but it appeared that these meetings were not formalised nor held a specific remit to focus on prioritisation efforts that could benefit from senior level UN coordination. While the evaluation team consider strong informal relationships between senior staff to be a clearly positive form of coordination, there is value to the UN system actors considering and addressing prioritisation more formally. This would acknowledge the differences in priorities between agencies, and indeed donors, and thus potentially enable the programme to better coordinate efforts that are primarily influence based. The programme has shown a strong engagement with key donors on priority issues, an approach much appreciated and supported in interviews with those donors. This support, while already successful and valued, could benefit further if the programme improves its internal prioritisation and focus.

#### Recommendation 3

*Formalise the currently informal UN Head of Agency coordination meetings, and make it an explicit remit that prioritisation occur. Continue the highly positive engagement and involvement of donors to support the consistent necessary pressure for reform.*

## Coherence

The role of the Sawasya II programme in supporting coherence in rule of law development in Palestine is unambiguously positive. The Sawasya II programme is clearly a vital and well-integrated part of international efforts to support justice reform in Palestine. Despite notable contextual difficulties in the overall complexity of international support, it is clear that the programme staff and approach are cognisant of international norms and obligations on fair trials, access to justice, and the justice needs of women and children. While much remains to be done, the programme efforts consistently support the coherence and effectiveness of improvements in the Palestinian system’s capability to deliver justice consistent with international norms and its international agreements.

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### Coherence of International Actors

One of the key areas in which the Sawasya II programme has played a positive coherence role has been the management and coordination of international actors focused on the justice sector. To a certain extent the programme has a number of fundamental positional advantages in doing so, as it is one of the largest programmes in the international donor group, and that major donor group is primarily composed of donors to the Sawasya II programme who are well aligned with the intent of the programme.

The programme’s success in fostering coordination is grounded in attention towards, and prioritisation of, the coordination group as a mechanism for coherent approaches. It was made clear by both partner donors and programme staff that Sawasya II has leveraged its effective programme monitoring system to the advantage of the whole donor community, through a highly valued proactive approach to information sharing[[16]](#footnote-17). This has contributed to a consistent perception that Sawasya II is an expert partner who can be trusted to provide high quality information and advice to guide donor decision making. Several donors have mentioned the need to ensure close cooperation between the development cooperation and political work streams, and the role that Sawasya II plays in strengthening these links by this information function. This was particularly appreciated by those on the diplomatic side[[17]](#footnote-18), and actively used to inform their political dialogue.

Sawasya II also plays a critical role in bringing together various donors’ national priorities for bilateral development cooperation with the PA into one coherent structure. For example, Sweden is mainly interested in supporting the Rule of Law and the justice sector, while others link the justice sector to security and include working on police reform; still others such as Spain have a national focus on the promotion of women’s rights. Therefore, Sawasya II serves as a joint platform that allows tackling security and justice challenges from a common systems perspective. Moreover, the integration of these various priorities enables donors to define a common position and create the resulting leverage for dialogue with the Palestinian Authority. It is notable that Sawasya II has been able to do this successfully and flexibly without deviating from its core programme priorities.

As a result, Sawasya II is playing a critical part in coordination in the sector, often through supporting the Justice Sector Working Group[[18]](#footnote-19). The Justice Sector Working Group is the primary space for collective dialogue with the Palestinian Authority, and as such is central to the coherence of justice reform. By providing trusted expert information when needed Sawasya II enables the effective functioning and direction of the donor group, and of the relationships with the Palestinian Authority. In practice this is even more important due to an overall reduction in the international support being provided to the sector in Palestine, as mentioned above. The reduction in sector donors does reduce some of the difficulty in coordination, especially as the remaining group are reasonably well aligned in terms of intent. On the other hand the reduction in international support endangers the capability of external actors to resource reform efforts at the systemic level required.

There will be a change in the Deputy Head leadership of the Justice Sector Working Group in 2021, with the Canadian’s stepping down from the role. With leadership of the group (on the donor side) changing it is worth the Programme engaging strongly and clearly with this opportunity, both to maintain its influence but also to ensure that the next deputy head receives the same level of information and support.

#### Recommendation 4

*The Sawasya II programme should remain engaged in its informal central coordination role, and continue its practice of providing significant enabling support (both information and expertise) to the next Deputy Head of the Justice Sector Working Group.*

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### UN Coherence

The most important positive coherence aspect is the integration of multiple UN agencies into a highly functioning joint programme. It is clear that both the scale of the intervention and the greater coordination between agencies afforded by a joint programme approach have had a multitude of direct observable positive effects on outcomes. Competition between agencies for relationships with partners is much better managed, as is assignment of projects to the appropriately qualified partner. The programme’s strong monitoring system means that all partners benefit from better information awareness, supporting more sophisticated analysis. For relationships with civil society this has clearly improved the sense of partners of a single UN entity, with a clear intent[[19]](#footnote-20). The programme is also able to show several examples of internal efficiencies being achieved by assigning thematic responsibilities between the 3 agencies appropriately, reducing overlaps in capacity to the benefit of the overall programme. This included simple and fundamental aspects of programme structure and staffing.

The addition of UNICEF under the current phase, while clearly sensible from a theoretical perspective, has also been a strongly positive impact on the programme. The key aspects of this success have been the successful integration of UNICEF staff into the programme structure, and the positive relationships developed at a strategic level to support joint effects. The result is that the agencies demonstrably work together to contribute their specialties to the reform efforts. Given the fundamental relationship between the rights of women and children in relation to justice and the courts, this integration is highly relevant and makes the programme coherent.

It also deserves mentioning that the current Results Framework and planning formats push the three agencies to go beyond re-creating componential siloes, but instead work towards a truly integrated approach where all agencies’ activities contribute collectively to all outcomes. In this regard, the programme has been a reference in terms of successfully applying an integrated approach.

The centrality of Sawasya II to justice reform in Palestine indicates that further consolidation of UN agencies could result in further coordination and outcome benefits. For instance, the Ministry of Social Development has a set of separate programmes with UN agencies, some of which are relevant to improving justice provision to women and children. Careful analysis of the role of remaining UN system actors (notably UNODC, UNFPA, and UN Habitat who partner on the Haya programme to eliminate violence against women and girls) who are strengthening the justice system with parallel programmes, and assessment of their potential integration into Sawasya merits consideration. Especially with regards to UN OHCHR’s mandate on advancing human rights and its role with regards to the harmonization of legal treaties, there seems to remain significant potential. Despite this overall positive appreciation of the UN coherence, the evaluation team does note the impact of some UN system inefficiencies, which will be addressed under the Efficiency section later.

#### Recommendation 5

*The programme should explore options to integrate one or both of UNODC and UNFPA into the programme, in order to holistically reflect UN work in the sector and include the remaining major UN system actors with extant justice sector programmes.*

### Coherence of effort with the European Union

The programme’s relationship development with European Union development efforts is also strongly positive. The EU is the other major justice reform actor currently operating in Palestine, with major development efforts focused on the justice sector and the police (through the EUPOL COPPS). Close coordination between the programmes has been a feature of Sawasya II, with senior EU development staff involved in the design of the programme, and with a stated intent to be one of the programme donors. Such a level of working together is to be commended and should be maintained.

The coordinated approach between the two multilateral institutions is highly desirable, not the least as the two programmes ultimately share a mutual set of Member State donors and interest. It remains true that there will be differences between EU and UN strategic intent and approaches in Palestine in some contexts. As the two main justice development partners to the Palestinian Authority, the risk of misalignment undermining reform efforts is greatest. Close programmatic relationships, along with the more strategic relationship that has been developed, serves to mitigate these issues when they occur, and enables a more coherent international reform presence[[20]](#footnote-21). It is the evaluation team’s assessment that the current relationship is of strong benefit to both parties.

Unfortunately, a range of technical issues has resulted in the EU being unable to realise it’s intended status as a programme donor through the transfer of project funds. UN and EU system processes and rules have proven difficult to resolve, despite significant evidence of good will on both sides, and what has clearly been a large investment of effort to the process of getting the donor relationship confirmed.

## Effectiveness and Impact

This evaluation team concludes that the Sawasya II programme has been broadly effective in supporting improvements in the delivery of justice through formal sector institutions in Palestine, and that this support has consistently prioritised the set of beneficiaries intended under the stated focus on women and children. The core of the programme remains clearly on improving access to justice, which remains a sensible goal and a continued need. The scale and the span of the programme is such that while it prioritises the needs of women and children, it is addressing the systemic issues of the justice sector by strengthening the formal system, and developing the capabilities of civil society to support justice accountability and access.

The effectiveness of programme support has not clearly translated into significant impacts, due to an increasingly difficult Palestinian context characterised by limited financial capabilities, competing political priorities, and regular but unpredictable viral, inter-state or social crises that have impacted on the whole Palestinian community as much as they have on the programme’s work. Implementation by the programme in this phase has attempted to balance support to long term system change with the necessary shorter-term direct support to vulnerable communities and groups, but has been strongly impacted by the nature of the crisis that have occurred over the three years of implementation.

### Specific justice needs of women and children

The successful integration of UNICEF, UN Women and UNDP under a single programme management approach has resulting in the delivery of support consistent with the strategic intent described in the programme document. While the programme is built around a core element of strengthening the overall justice system, it is clearly in overall service of the main aim of supporting better outcomes for the key vulnerable groups.

##### Legal frameworks

A central part of this effort has been the support to updating and strengthening legal and policy frameworks that govern how justice is delivered to women and children. Progress here has been achieved in terms of some policy pieces, less so when it comes to modernisation of laws.

In terms of policy support, several important guidance documents have been completed and implemented. An example of the policy work is the SOP’s for the prosecution of violence against women, which has enabled more coherence in both prosecutor’s approaches and in court behaviour. In conjunction with other programme efforts and the efforts of other actors, this has contributed to a 31% increase in convictions for violence against women cases, and represents progress in implementing processes to translate law reform into better performance by the justice system when dealing with vulnerable groups.

With the Juvenile Protection Law ratified in 2016, Sawasya II has been able to build on the new law to promote better implementation of its recommended or allowed approaches. Perhaps the most significant of these is the mediation guidelines for juveniles in conflict with the law, which turn the requirement that juveniles start with mediation into actionable approaches for police, judges and child protection councillors. While the implementation of mediation as the main pathway for juveniles in conflict with the law is an ongoing effort, it has already shown signs of progress. When juveniles are referred to the correct specialised police units or can access child protection councillors, they tend to receive mediation focused approaches. Unfortunately, the numbers of child protection councillors working for the Ministry of Social Development are small, resulting in an impossible case load[[21]](#footnote-22). While specialised juvenile Palestinian Civilian Police resources are more developed, there will remain significant resource constraints on full implementation of mediation approaches as proposed under the new law[[22]](#footnote-23). Yet overall, this is a successful example of translating policy/ legal frameworks into concrete improvements for service delivery.

Efforts on improved treatment of women in the legal system have also seen some progress. The programme has supported the development of guidance on service addressing cyber violence against women, and the creation of a gender checklist to guide methodology for revising legislation. However, these successes sit within a context of significant resistance to change, much of it focused on the adoption of new gender appropriate laws.

This current phase of the programme has occurred during a wave of increased resistance to the Family Protection Bill[[23]](#footnote-24), resulting in delays to acceptance. In many ways the resistance to the law is predictable, and reflects common concerns experienced when modernising gender focused laws. It is consistent with the related resistance following the adoption of the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). The programme has adjusted efforts in light of the resistance, working with engaged partners and making some effort to mobilise civil society support. The evaluation team considers the continued support to law and policy (most notably the Family Protection Bill) to be an important element of the programme, despite the often-difficult progress so far. However more could to be done in adapting to address specific blocking actors and issues. Sawasya II has a large diversity and reach in key partnerships, along with a strong central coordination capability with the key international donors, which provide it with multiple platforms to influence the reform agenda.

#### Recommendation 6

*Sawasya II should increase efforts to support the social and political alliances required to get the Family Protection Bill passed. This will require a more explicit programme strategy and monitoring of its impact on societal and institutional resistance to change.*

##### Better service delivery

The majority of projects under Sawasya II have supported improvements in the delivery of justice services to women and children. These strengthening of state systems, including enhancing institutional capacity for delivering e-justice and M&E systems, by providing capacity building for relevant parts of the system, such as training family judges, prosecutors and police officers, and the efforts to develop the One Stop Centre in Ramallah. It also includes developing systems to divert children in conflict with the law from imprisonment into more developmental pathways, and the many small projects that implement legal aid or awareness through civil society organisation.

As a joint effort between the multiple Palestinian organisations and UN agencies the One Stop Centre approach reflects the good practices demonstrated by the integrated programme. Bringing together legal service provision for women and children, including a range of services available and suitable for both groups in one place (such as legal aid, counselling, medical services), makes sense given the often-interlinked nature of justice issues for these groups. This is a good model, and the evidence of usage from the pilot has so far been positive. The key issues for the programme will be in scaling up from this pilot to wider coverage of Palestinian communities, as this is the key test of the ability of the model to work across contexts and in a sustainable way.

The workstream devoted to developing a functional system of diversion and alternatives to detention for children as offenders represents another positive line of effort, as it addresses the most common way that children come into contact with the law. A strong focus on diversion from punitive measures is important not only because it is consistent with the new law, it also makes fundamental sense given the limits of formal system. Palestinian detentions centres are crowded currently, and struggle to consistently comply with human rights standards. Likewise, once in the formal system the use of alternative to detention can reduce the burden on the Palestinian detention system, and avoid putting children into environments that struggle to meet human rights minimum standards.

The programme’s work with the High Judicial Council and the Ministry of Social Development has created a list of validated organisations, such as vocational centres, capable of being legitimate and acceptable alternatives to the detention of juveniles[[24]](#footnote-25). The evaluation team considers this to be a very positive approach to the complex problem of creating a viable state system to manage juvenile offenders. At this point the use of this pathway is not yet very active, with the number of juveniles being diverted to this system low[[25]](#footnote-26), and mainly as demonstrating the advantages of the pathway. Given the initial successes reported by the programme, it will be important for the reform partners to understand the internal incentives of the system, such that detention alternatives are used and not ignored. Just pointing to case backlog does not automatically encourage the use of alternative to detention.

Despite large differences in system context between the West Bank and Gaza, the programme has done much in both contexts to ensure improvements in delivery of services to the vulnerable. Several programme streams, including alternatives to detention and CSO provision of Legal Aid, are found in both regions. Work on the reunification of the legal systems has continued, however progress in this area has been limited, and most of the fundamental political issues causing a lack of coordination remain. The programmes low level technical work, such as working to promote a Mizan II compatible system in the Gaza courts, are highly sensible approaches that support consistency of court management systems, and at very least reduce the number of technical factors that stand in the way of any reunification of the systems.

### Palestinian community capacity and empowerment

Sawasya II’s relationships with civil society groups is, in terms of aims, largely a continuation of the work done under phase 1. There are three major themes to the support, the first focusing on the direct delivery of justice services. This involves raising community awareness of rights and options within the formal legal system, and specific legal consultation and/or representation where individuals consider action under the formal system. This element is focused on the core aspect of improving access to justice within the current situation and resource limitations of Palestine. The second theme of work involves mobilising and empowering civil society voices in advocacy roles. This element works to address reform blockages that result from the variability of political will within the government to prioritise justice reform, along with the resistance to some of the changes in justice proposed to address gender bias and promote human rights. The final major aspect of community work is supporting a greater role for civil society in holding the justice system accountable, one of the most difficult but fundamental elements of the community’s relationship with justice institutions.

##### Provision of Legal Aid

The largest outcome under the legal aid work has been the delivery of consultation and/or representation services to 27,326 beneficiaries (until the end of Q1 2020). Sawasya II has built and maintained relationships with a range of CSO’s capable of delivering these services, across the full range of regions in Palestine and covering a wide range of justice interactions. Given the current state of Palestinian capability to provide justice services to their population, the provision of these services through Sawasya II support is resulting in women and children having access to justice in ways they would not have otherwise. This is a significant positive result, albeit one that demonstrates the major limitations of current capabilities without Sawasya II support. The evaluation team was only able to follow up on specific examples for a few cases, but it was clear from these that the legal support provided through programme resources was addressing real and significant legal issues for Palestinian women and children, and in some cases enabling them to successfully navigate formal justice systems (both Palestinian and Israeli) to get their legal issue addressed.

The onset of the Coronavirus pandemic in early 2020 has disrupted this provision of legal advice in the same way that it has disrupted legal processes and courts, however the programme adapted rapidly and is well positioned to continue to support the delivery of this much needed service once the situation settled.

The programme has also conducted significant amounts of legal awareness raising, a logical component of this system strengthening. Large parts of the Palestinian community continue to prefer to use alternative resolution systems when they have legitimate justice concerns, and especially when the issue revolves around gender. While much of the cause of this preference is history and cultural comfortability of more traditionally used systems, it is also true that a lack of awareness of the options available through the formal legal system contributes to lack of use of it amongst vulnerable groups[[26]](#footnote-27). This is exacerbated by a lack of awareness of how changes to the formal system, through the adoption of new laws or better processes, mean that the probability of a positive outcome has improved for these traditionally marginalised groups. As is typically true in monitoring awareness raising, the programme can demonstrate the reach of its awareness raising sessions, but does not seem to have provided clear data showing what impact they have had on community behaviour, most specifically in the key target groups. Despite the limited evidence of impact, the evaluation team consider this work to be a logical and necessary part of the programme.

##### Advocacy role

The advocacy line of effort is currently vital to Sawasya II and the realisation of human rights complaints and sustainable improvements in the delivery of justice to women and children in Palestine. The complicated picture of support and resistance to reforms means that strengthening civil societies’ advocacy capability remains a priority and worthy of support. Palestinian community groups hold the best chance of representing legitimate local attitudes and providing pressure for change.

The programme has invested in supporting civil society’s role in a number of important ways. Programme supported campaigns have raised the visibility of issues, such as through the national awareness campaign on the rights of the child. The programme has also supported efforts linking civil society actors to the relevant government agencies, such as through roundtables on implementation of CEDAW responsibilities in Palestine. While it is always hard to measure the impact of such advocacy efforts, the evaluation team considers them important parts of strengthening civil society capability and important in building a sense of accountability amongst government actors.

The two main advocacy issues currently for the programme are the contested nature of legal aid provision[[27]](#footnote-28), and the debate over the wording and adoption of the Family Protection Bill. Here the programme has demonstrably responded to the emergence of resistance and worked to support its network of civil society partners to advocate for the act and the need to improve how the formal justice system treats vulnerable Palestinians.

While the evaluation team consider the advocacy work of Sawasya II so far to be good, they do consider that the importance of it is such that more emphasis would be merited. It is notable that several respondents, both internal and external, believe that while civil society perceptions are diverse, large elements of the community have the potential to support improvements in the treatment of both gender and children by the justice system. This should not just be in groups dedicated to the issue, for example using women’s groups to promote justice. While the strength of Sawasya II’s relationship with such groups is of credit to the programme, moving beyond these groups to involve more segments of the community in the issue is key to building a reform coalition. In the face of the currently mixed picture of internal government will to make difficult reforms, the potential for influence through a more civil society led activism is a promising line of effort.

#### Recommendation 7

*Building from the strength of current civil society advocacy, the programme should deliberately focus on advocacy efforts targeting known reform blockages, and attempt to broaden the components of civil society involved in advocacy.*

##### Accountability role

The most obvious success of the programme support to strengthening civil society accountability role has been the development and implementation of the court monitoring project, delivered through 9 CSO’s. This has monitored 10,600 court hearings (in 2019), covering both Gaza and the West Bank. This demonstrates the role of civil society in and to the courts, while also supporting the further development of an evidence base to enable CSO’s to push for specific reforms. This is a highly positive outcome, but while the principle itself is of use in developing healthy judicial – community relationships, it is not yet clear how CSO’s have been able to use the information to advocate for reform priorities, or identify consistent issues with court adherence to official process and laws.

Other projects worth mentioning are the CSO effort to revise court files related to violence against women cases, and the accountability sessions held on the topic of the Family Protection Bill. The plan to revise how violence against women is recorded in court files, while at an early stage, hold the potential to provide information needed to push for policy reform, while also showing that civil society can contribute directly to how courts function. The accountability sessions involved meetings between CSO’s and key senior ministry personnel, including the Ministers for Justice, Social Development, and Women’s Affairs, and with the Prime Minister. While it is not clear that these have resulted in significant changes in political commitment to support the Family Protection Bill, the intent of establishing civil societies ability to access and speak of their priorities to senior government decision makers is a good one, and should be continued.

During the lockdown, the programme also supported “accountability sessions” with justice sector decision makers in Gaza on the radio, providing them with an opportunity to discuss justice issues and problems. As an adaption from previously planned work, these interviews reached a far greater audience than planned and were listened to by thousands of people.

### Palestinian State capacity

The programme’s significant efforts in support of the full range of State justice institutions is the third pillar of work, and has supported some clear successes in developing and strengthening formal systems capability to provide justice to vulnerable groups in Palestine. Sawasaya II has been notably strong in its programmatic focus on technical systems, in developing effective monitoring systems across the justice institutions, and in playing a useful role in encouraging better coordination of justice sector organisations. Underlying this work has been a focus on updating the relevant laws, professionalisation of justice sector actors, matched with a relevant focus on encouraging internal accountability systems. This holistic approach to the sector is highly useful, given the interlinked nature of the problems that afflict the justice sector actors of the State of Palestine.

##### Management systems

Perhaps the most obvious technical success of the programme has been the expanding reach and resulting effectiveness of the Mizan II case management system. There is solid evidence that it has contributed to improvements in the efficiency of court processes, resulting in courts being able to address more cases. This is a significant impact in itself, given that the Palestinian courts have a large backlog of cases to be addressed, with a resulting large number of pre-sentencing detainees. This backlog decreased by 14% in 2019, at least in part due to more efficient case management in Mizan II using courts. The Mizan II system also serves the greater purpose of building justice system information sharing, which promotes communication and better justice outcomes.

Over the period of Sawasya II the Mizan II system has been expanded to be used by all specialised prosecution units (creating coherence of approach and information storage across the AGs). Mizan II was also implemented in family courts enforcement departments in Hebron, Bethlehem, and Nablus. Linkages between Mizan II users have continued to develop, including between the High Judicial Council and the police, or the regular courts and the judicial police. These connections enable rapid information flows to support court processes, such as the issuing of warrants, or to ensure that police are aware of court outcomes and can enforce them.

These developments align with recent efforts to support Palestinian capacity to deliver E-Justice. Twelve justice institutions endorsed the e-Justice matrix that sets out a roadmap for the operationalization of 19 e-Services and defines the roles of each institution. Sawasya II has encouraged the committee meetings to progress e-justice, and provided the needed technical training using a train-the-trainers modality. This represents a long-term effort to develop a shared justice portal that provides ease of access to Palestinian’s seeking legal information and services, and while the progress on coordination between agencies is a useful outcome in itself, it is currently unclear how rapidly this process will have an impact on access to justice in Palestine.

Much of the above comment focuses on the continued expansion of the Mizan II system to encompass more of the justice system, which is a critical aspect of progress given the benefits of a holistic court management system for the effective and efficient management of justice processes. However, the success in building interlinkages and developing Palestinian capability to manage and maintain the system, while sounding less impressive, is in many ways more important. Major information management systems support better outcomes only when the partner can manage and maintain the capability with limited or no support. In this context the evidence is positive. While Sawasya II continues to pay for some aspects of the system, others are covered under Palestinian organisational budgets. Palestinian institutions have developed a strong IT team, albeit with funding support from the programme.

The good work on implementing better data collection and sharing in the courts is complemented by a sensible programme investment into the Palestinian country level justice monitoring systems, an approach that is well aligned with the focus on achieving the SDG’s and with improving the use of information by the State of Palestine. The evaluation team support the worth of the positive relationship with the National Statistics Department, as the success of the surveying processes positions the State of Palestine to track its progress against SDGs. Breadth of engagement on developing an institutional attention to data and understanding of monitoring is also seen in the standardised training for M&E developed by the National School of Administration with programme support. The evaluation team would like to see this data used more widely by the programme, and the importance of data further stressed, given the excellent work that has occurred in developing this capability. There are some reservations over the sustainability of the capability as it is currently being developed, which will be addressed in a later section of this report.

##### Justice sector coordination

The programme has performed well in supporting the development of better coordination between justice sector organisations as a cross cutting element of its work. While the technical capabilities of the Mizan II system obviously contribute to more coordinated justice sector institutions, Sawasya II has also conducted a range of support activities focused on the creation, conduct and effectiveness of coordination groups. Often these have revolved around specific technical or thematic issues, but they have contributed to noticeable improvements in how Palestinian institutions share information and coordinate efforts to improve delivery of justice to the population. A good example of this work is the development of several coordination platforms, such as between the police and prosecutors, and between judges and prosecutors, as well as including security and protection institutions, to address system issues in responding to cases involving violence against women. This platform has looked at addressing specific issues, such as revictimization of women by the judicial process, and reinforcing coordination at the district levels as well as reaching to CSO representatives providing services to women survivors of violence or in conflict with the law. It is unclear how much of an impact the coordination has had so far, but it is a sensible pathway to better institutional interactions.

##### Professionalisation

The programme has had a long-term relationship with the Palestinian Judicial Institute, as the sector’s judicial education institution. This has resulted in the creation of a number of key educational courses, including the development of a standardised training programme for family judges, and specialised training for violence against women cases for judges. These efforts build on work with police and prosecutor specialised teams, and contribute to more consistent and coherent approaches to justice system treatment of women and children.

However, several Palestinian human resource systems continue to undermine progress on this theme. The most obvious example is the High Judicial Council’s policy regarding the rotation of judges. The current approach used in rotation takes no account of any specialised training, resulting in judges who have been trained in juvenile or gender specialisations being rotated out of those courts and into general roles. This is a significant issue for maintaining consistent expertise in the specialised courts and ensuring that programme supported training has the intended effect. While programme staff were aware of the issue, it was not clear what had been attempted to address this staff management issue.

Overall, there has been progress in the professionalisation of Palestinian justice systems management of gender and juvenile issues. In the case of juvenile cases this is quite noticeable, with police, prosecutors and judges often aligned in approach. While far from perfect it is clear that justice system treatment of juveniles is regularly consistent with the modern principles in the new law. Progress on gender issues is more complicated, given the resistance to the Family Protection Bill and the implementation of CEDAW.

A related aspect of the programme that is relevant to this outcome is its support to improved teaching to law school students, with a specific focus on strong human rights teaching, encouraging female lawyers and lecturers. The relationships with Al-Quds, Al-Najah, Islamic and Al-Azhar universities is a good investment in developing the next generation of Palestinian lawyers, and thus influencing the overall system.

##### Internal accountability systems

Matching the work on external community led Court monitoring, Sawasya II has supported several elements of internal accountability systems. The endorsement of unified template for prison monitoring, with some corresponding use of it, represents a positive step in addressing some of the issues being experienced with human rights compliance in Palestinian jails. That prison monitoring by prosecutors is occurring is a positive first step, even noting that moving from monitoring to addressing Human Rights issues in the prisons remains a problem. The evaluation team also note the very positive steps made on inspections of Family courts, especially as they seem to have resulted in positive engagement from Judges. While under-resourced at this time, further development of this activity seems warranted given that perhaps the majority of judicial processes that fundamental impact on women’s rights sit under the Family courts remit.

The programme has supported an assessment of the effectiveness of the complaint mechanism of the PCP in collaboration with senior command. This effort is still in progress, and the report and findings are going to be discussed in an internal workshop, so at this point it is too early to say what impact such accountability efforts will have. The programme has also supported the development of a Risks Assessment Template to support the police and prosecutors in providing responsive protection services for VAW survivors. In general, the evaluation team consider the programmes investment in supporting internal accountability structures as a valid and useful part of the programme that should be maintained.

##### Reforming Laws and Systems

Efforts to develop system level professionalisation also includes the extensive work done by the programme in supporting planning units at ministry and institutional levels. This line of effort has reduced since the first phase of Sawasya, with the units becoming well established and integrated in the relevant organisations.

One of the headline efforts of the programme has been in supporting the National Legal Aid Committee, in an effort to progress reform of the legal aid system. Unfortunately, this line of effort has encountered significant resistance. While the national legal aid council has drafted and endorsed the National Legal Strategy, subsequently there have been disagreements with one of the council’s board members, which to date the MoJ has not been able to fully resolve, effectively blocking the the work that went into the creation of a National Legal Aid Strategy to support strategic direction of reform. This line of work is central to overall success of the programme, given that within the formal justice system easily available adequate legal assistance is a prerequisite in improved access to justice for disadvantaged communities.

The programme has also sensibly leveraged their access to provide some support the family courts, although this has been limited so far. While CSO efforts to sensitize Family courts directly on child rights have found limited success, this indirect approach has seen some promising first responses. The initial assessment of the Family courts has been conducted, with strong engagement from the courts themselves, and this will provide guidance for the implementation of future support. The scale of women and children’s issues that are addressed in the Family Courts as existing entry points with the Courts could be further developed and expanded.

There remain two questions regarding the relative division of effort of the programme as regards how Palestinian communities and vulnerable groups access justice. The first regards the investment in addressing resistance to improvements in the formal system, in light of the far greater use of traditional or informal justice providers for many of the key issues that impact on women and children. The current programme is strongly focused on formal system, but staff and management are clearly aware of the scale and influence of the informal system. While there are clear risks associated with engaging with the informal justice sector, and noting that the programme is explicitly designed to support strengthening of the State of Palestine’s justice sector, it is difficult to avoid the issue that much of the justice provision that needs to be addressed to improve the lives of women and children sits outside of the state sector.

The second area for the programme to consider is the extent to which it attempts to influence and engage with Israel as a justice system provider impacting on Palestinian communities. Significant amounts of the people interact with Israel courts and justice system agencies, often with poor outcomes. This is an area of programme work, primarily in helping Palestinians navigate the Israeli justice system. The evaluation team support the positive approach of the programme in getting Palestinian lawyers qualified for the Israeli system in east Jerusalem. However, it is less clear to what extent the programme looks to build coordination between Palestinian and Israeli justice institutions, something which is currently rarely done. The current focus is often on the extreme cases, for instance involving prisoners or housing, where Palestinian people struggle to get fair treatment. These are valid and important elements of improving justice to the Palestinian people. In the case of developing coordination links between justice systems, it may involve a focus on areas of less fraught justice cases (for example, cases involving cross border drug selling)

## Efficiency

Overall, the evaluation considers the programme to be managed efficiently. Sawasya II has a solid level of programme staffing, and indeed is better resourced than many comparable UN Global Programme efforts. This capability is clearly reflected in programme involvement in partner delivery, the investment in relationship development with key government partners, the robustness of the programme planning and the adaptability of said planning in response to events. Finally, and critically, the Sawasya II programme has consistently implemented the most developed and effective monitoring system that the evaluators have encountered across all UNDP Global Programmes in Rule of Law, and in doing so has addressed a fundamental data issue that has constrained most of these programmes. While some of this advantage results from the relative strength of Palestinian systems, much of the credit should accrue to the programme management and staff.

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### Internal learning systems

The programmes’ staffing and structure support a strong level of staff engagement and enable reflective processes. The evaluation team found robust systems in place for monitoring and reporting, but critically these are in support of good internal team communication and good use of joint teams. The programme has developed well-integrated joint teams, both in the West Bank and Gaza, with UN Women, UNICEF and UNDP colleagues work in close proximity and consultation. The regular sharing of information and ideas facilitates a learning environment.

Within the programme teams and thematic areas seem to have semi regular reflective process meetings to assess and consider progress. The evaluation team also specifically note the strength of the monitoring capability in support of learning, using a series of project level evaluation/case studies. While it is not clear how these small-scale evaluations are integrated into programme learning, they are potentially an excellent way of developing an understanding of how reform happens in specific areas. The evaluations reviewed could have been improved in some cases by providing clearer guidance on the extent to which UN programme support was connected to outcomes, but they typically provided a very nuanced and useful understanding of what the needs were, and how reform was (or was not) occurring.

At the operational level, in addition to the regular monitoring reports required by implementing partners using a standardized template, activities are followed by questionnaires for beneficiaries as to their experience and level of satisfaction with the intervention; depending on the type of service (training, legal aid etc.), these surveys are administered directly after the activity or with some time to allow for the potential impact to unfold. Moreover, focus group meetings are organized on a regular basis wherever access allows it (e. g. in West Bank this has proven more difficult). The evaluation team found evidence that the information from the internal monitoring is also translated into adapting activities[[28]](#footnote-29), e. g. the importance of raising awareness among people about their rights has come up consistently, and consequently the programme has started to increase these types of outreach activities.

The one question the evaluation team had was the extent to which programme monitoring data was consistently disseminated and integrated in internal learning processes. The programme is collecting data from various sources, and even serves as a reference for justice sector institutions who look to Sawasya II as a good source of data because of this holistic approach to data collection. In terms of using the data to inform strategic and operational priorities, as well as to demonstrate outcome level impacts, further strengthening of the learning systems could make the programme even more effective.

#### Recommendation 8

*Maintain and develop current processes for internal project learning. While the programme overall seems to adapt well and programme teams have a well-developed level of engagement, equally Sawaysa II is a complex programme and further investment in linking the data collected to the learning systems is warranted.*

### Information for Decision Making

The overall quality of execution of the monitoring framework is very good. The strengths of the three UN agencies been integrated in support of monitoring at least some of the right outcomes indicators, but the key aspect is that monitoring has been resourced and built into the roles of all staff, and reflected in programme activities (such as the dedicated support to the Palestinian Central Bureau for Statistics (PCBS) on national level justice surveys, and the implementation of the Mizan II case management). As a result, the framework is executed in practice, and not just a plan on a page. The programme annual reports can refer to significant outcomes that have real impacts on how justice is experienced by Palestinian women and children, such as the 31% increase in the convictions in violence against women cases reported in 2019. In turn the ability of the programme to have high quality relevant data enables the learning systems as described above, albeit in most interviews programme adaption and learning did not seem to be primarily described in relation to the monitoring system or data.

For strategic level outcome monitoring, Sawasya II has partnered with the PCBS to deliver a range of large scale surveys. The key ones are for households on public perceptions of the justice sector, with legal system professionals on questions regarding the performance of specific parts of the justice system, and an administrative records survey collecting specific data from justice institutions, such as number of judges, cases, cases enforces etc. Sawaysa II is developing the survey questions in collaboration with CSO implementing partners to give them the opportunity to collect the data they need. Results of these surveys which are conducted every two years, then are meant to inform priorities in terms of defining and adjusting activities. Because the survey has only been delivered once, the evaluation team did not find evidence on how this feedback loop works in practice.

Despite this very positive overall assessment, it is the assessment of the evaluation team that the programme still focuses on the measurement of output level indicators. This is unfortunate given the relatively sophisticated capability of the monitoring framework, and seems to result from a number of linked issues. Firstly, Donors play a role in this focus. Several donors admitted that their national reporting requirements drove an output level focus, forcing the programme to respond with substantial data at this level of analysis. It is unfortunate that donors cannot do more to coordinate their reporting needs.

The second issue seems to arrive from the high-level requirement for risk management, given the sensitivity of operating a development programme in Palestine. Programme monitoring of CSO’s seems to be dominated by an oversight focus, with a focus on accountability of funds usage and the required outputs. The evaluation team did not detect any significant interest in donors or senior staff for greater risk tolerances, and so merely note that such focus has a significant impact on the ability of staff to focus on outcomes data collection.

Overall, it is difficult to see what can be done to improve the monitoring situation, given that the aspects that are less useful are primarily driven by external factors, and despite these the programme has been successful in consistently collecting some high-quality outcomes data. The resourcing aspects around monitoring and the integration of monitoring focused activities into project work are both worthy of greater analysis by the Global Programme, as they suggest potential pathways to improve equivalent monitoring execution in other country contexts.

### Partnerships with civil society

#### Recommendation 9

*Sawasya II has successfully implemented its monitoring framework, and is collecting data suitable for demonstrating outcomes, and guiding programme implementation. As such UNDP’s Global Programme should look at which aspects of its approach, resourcing, and management can influence other country programmes.*

Overall perceptions of the programme by civil society partners and State of Palestine institutions is highly positive. As one of the major donors, it was clear that the programme had engaged with partners is a consultative one, with several partners noting the close engagement they had with programme staff. The majority of the partners could articulate their work in ways that were consistent with the Sawasya II mandate, which showed a level of good communication in maintaining intent and alignment.

However, perhaps the strongest negative feedback received on programme approaches came from the civil society partners, who indicated that the current phase has erred on the side of more instrumental relationships, and was constraining organisational behaviour through closely monitored implementation plans. Civil society partners described a change in relationship from ones characterized as organizational partnership and strengthening to ones of being used as implementation staff for specific projects[[29]](#footnote-30). This represented a significant shift from phase 1 of the programme, and was noted negatively by many CSO partners who preferred the previous relationship that enabled more creative engagement with the UN programme.

The decision to approach partnerships with CSO’s seems to be another impact of the need for rigorous strategic risk mitigation, due to the political complexity of operating in the Palestinian context. It is not a change due to the outcomes of the previous phase, and indeed is poorly aligned with the recommendations of the end of programme evaluation[[30]](#footnote-31). Recommendation 4 (under Change Area 2, strengthen CSO capacity) encouraged moving up the level of partnership from consultation/engagement towards a co-design modality that could be more strategic. It did so on the basis that such a shift in engagement would support the sustainability of outcomes by transitioning ownership of projects and approaches to civil society.

Consistent with the findings of the evaluation of phase 1 of the programme, this evaluation team consider tightly constrained partnerships with civil society to be having negative impacts on the level of ownership and organisational strengthening occurring with civil society partners. The evaluation team understands the political constraints that have influenced the adoption of this approach; however, this logic does not change the negative impact of the decisions on capacity development of the sector. While the flexibility of the programme in the face of the coronavirus crisis demonstrated an awareness and engagement with CSO’s immediate needs, crisis response is not a substitute for stronger strategic partnerships. It is not clear that the programmes current approach is supporting the development of empowered and sustainable CSO capacity, which would have more of an impact on the long-term community role in ensuring justice for vulnerable Palestinians.

While it is beyond the capability of the current evaluation process to conduct a rigorous assessment of the variability in risks associated with the range of CSO partners, the evaluation team suggest that it seems logically possible that some partners do represent less of a set of strategic risks to the UN[[31]](#footnote-32). The programme could consider and assess the range of its CSO partners as individual organisations, in terms of their specific risks of politically difficult outcomes, and determine if there are some who warrant a different level of engagement that would enable greater ownership of delivery.

#### Recommendation 10

*Sawasya II should analyse its current civil society partnerships, in consultation with its key donors, in an effort to identify partners who hold lower risk management profiles and have greater potential influence over positive and sustainable community roles in improved justice delivery. Provision of standardized guidance, for example on communication, adapted to a tiered approach depending on levels of capacity and trust, might free some space for building CSO capacity while maintaining the necessary level of controls.*

### UN Systems and Processes

As noted in the Coherence section, the integration of the three UN agencies in the programme has been extremely positive overall, but not without some inefficiencies. At a simple level, poor alignment of budget and reporting timeframes (with some agencies using January to December, others July to June) causes unnecessary duplication of work and disrupts staff focus. The development programme monitoring systems used are not shared between agencies, with each UN agency having its own system despite shared goals and approaches to development. While the standardisation of some UN processes has progressed (for example with the Harmonised Approach to Cash Transfers - HACT approach being shared by UNDP and UNICEF), this harmonisation has a long way to go yet (UN Women do not use HACT). These differences add up to reduce the efficiency of the programme, and reduce the ease of cooperation and coordination.

This is not a programme or country level issue, this is primarily a failure of UN HQ management to adequately support and enable joint programme efforts. Not only does the lack of alignment directly result in inefficient use of programme staff, it also reduces the incentives to work in truly joint ways. This is not a new or unknown problem, but still bears comment. Some improvements in UN organisational coordination, such as alignment of reporting timeframes, along with further work to agree upon shared systems, would provide benefits to the efficiency (and effectiveness) of the Sawasya II projects.

## Sustainability

The sustainability of justice improvements is a difficult topic in the Palestinian context, as both state and community have experienced a never-ending series of crisis that disrupt planning and the development of forward-looking financial management. The occupation of Palestine by Israel represents a fundamental limitation on the ability of the State to plan for and deliver a sustainable and appropriate justice service to the entire community. This obviously has massive implications for programmes which aim to support the strengthening of state systems to deliver justice to the whole community. Sawasya II has mostly maintained a focus on solutions that hold the potential of sustainable outcomes, in the face of extreme limitations to state capacity, budget and reach. There has been some tension over aspects of the programme aims, which seem to be promoting solutions designed to meet international norms and standards, and which are resulting in processes that seem difficult to maintain under any current reasonable assessment of affordability.

### Difficult financial context

Programme implementation under this phase of Sawasya II has occurred within a context of constant financial difficulty for the State of Palestine. Recent UNCTAD reports have highlighted the bad and worsening financial conditions in Palestine, and the disproportionate impact these have on women[[32]](#footnote-33). Realistically at this time no elements of justice system improvements are sustainable without external support. For example, UNICEF with other funding needed to provide some funding for Child protection councillor positions in order for that capability to provide minimally adequate coverage, due to the extreme limitations of the Ministry of Social Development budget. The existence of these roles is vital to the functioning of the legal approach for children described in the new law, but adequately staffing the capability is unaffordable under current Palestinian Authority budgets. This sort of limitation with Palestinian institutions is common across all institutional relationships, and results in the programme often taking on a role in funding aspects of capability in order for services to be delivered. The evaluation team consider this a sensible approach to adopt under the current context.

While the declining finances of the State of Palestine have an overall impact on sustainable solutions[[33]](#footnote-34), it is also true that there is often a fundamental tension in the programmes efforts to update laws and systems to be fully compliant with international legal frameworks and good practices. Several interviews referred to systems being developed in terms of extremely high comparison points[[34]](#footnote-35). Such systems invariably have significant resource requirements, which make them expensive to sustain. It is not fully clear how the programme assesses the likely financial capacity of any future Palestinian justice system and adjusts reformed processes to match the delivery capabilities of that system. While this process is obviously difficult at this time, it is still worth investing in.

A relevant example of this has been the adoption of best practices approaches to surveys in the Palestinian Central Bureau of Statistics survey of national justice perceptions. Their efforts to ensure the survey was suitable representative of the Palestinian population resulted in a significant expansion in survey size, from 8000 in 2015 to 12000 households in 2018, to address sampling issues in some regions. The support to the PCBS is highly regarded by the evaluation team, as a sensible approach to developing the State of Palestine’s data collection and use, and is well aligned with the SDG needs. However, the way that it has been done creates the risk that no data collection will occur due to affordability issues, when some data collection would have been better than none.

#### Recommendation 11

Sawasya II should have a clear and documented process to assess the sustainability requirements of new capabilities it is investing in developing. This is easiest and most critical for support aimed at developing technological enhancements to justice delivery, such as IT infrastructure and online service provision.

### Evidence of sustainable options

However, the above critique is not to suggest that the programme has not engaged with the problem of sustainability in a range of ways. Many features of the new system promote potentially more affordable pathways.

Most notably in the work on juveniles in conflict with the law, where the vulnerable group is the accused party, Sawasya II implementation is focused on justice provision that avoids courts where possible, and looks for non-detention solutions. Both these approaches are consistent with the intent of the changes to the law, and the move from the more punitive approach to justice, however both also represent moves to the provision of justice that involve a lighter touch interaction with formal systems. Diversion from court processes through mediation is good for the juveniles involved, but also far quicker on average and less costly to the state. Use of alternative to detention may or may not be less costly directly, but can have very positive longer-term impacts on juvenile crime and rates of reoffence[[35]](#footnote-36). The current Palestinian approach being supported by the programme is well ahead of other countries in the region, and holds promise for an effective and efficient provision of improved justice to juveniles.

Within the projects supporting state justice institutions, there are several positive signs of enduring capability. Sawasya II support to the planning units of institutions seems to have resulted in sustained capacity for central planning and management of international support, in line with the original intent. The specialised gender and juvenile units in prosecutors (established in phase 1) continue to function with a reduction in direct programme support, and typically do so to a strong degree. These teams seem to be developing into sustainable institutional capabilities, well integrated into justice processes and systems. While support is maintained in some ways, it has also transitioned from initial support (establishment of the capability and training/mentoring) into a reduced set of mentoring and situational support when needed. Likewise, the Palestinian Civilian Police’s Family and Juvenile Protection Units (which were developed in phase 1) continue to function and deliver police services to the juvenile population in more appropriate ways.

In addition to the financial side of sustainability, the programme is also aiming at achieving sustainable attitudinal and behavioural changes through its sensitization, advocacy and training efforts with regards to human, women’s and children’s rights. As with all interventions aiming at attitudinal and behavioural change at societal level, impact is very challenging to track. Nevertheless, continuing these efforts can play a significant role to ensure sustainable local ownership of strengthening especially women’s and children’s rights beyond the international partners’ agenda.

While much of the above paragraph reflects on business as usual, it should be understood as a sign of the significant successes of the programme in supporting the integration of justice system reforms into Palestinian systems. Sawasya II is not the only actor supporting these outcomes, however it is a significant one, and the positive changes have now been retained through several changes in leadership in partner agencies. While much remains to be done, these signs of progress are positive outcomes of sustainable improvements for women and children users of the justice system.

The main technical issue that the programme has only limited engagement with is the use of informal justice providers. These systems are invariably less costly and more sustainable than are the formal justice system. The programme has articulated significant difficulty in engaging with informal systems, due to the known issues of human rights compliance and an overall reluctance to engage with international support. However, the ongoing lack of progress in improvements to the financial capability of the State of Palestine, and their linked impacts on the sustainability of state structures to deliver justice to vulnerable groups in Palestine, make sustainability of state systems a strategic risk to the programmes efforts and achievements so far. While not questioning the primary role of the programme in strengthening state systems, some further efforts and engagement with improving the human rights approaches of the traditional system may serve as a useful mitigation of sustainability issues.

# Conclusion

The evaluation team find that the Sawasya II programme is a critical element of international support to the Palestinian justice sector. The UN has a unique position as a trusted partner to the State of Palestine, and is validating this trust with a high performing programme of support. This phase has clearly built on the successes of the previous phase, and has improved the reach and relevance of the programme work by successfully integrating UNICEF into the programme structure. The programme has continued to deliver effective support that, while correctly prioritising the needs of women and children, in practice encompasses all of the major justice sector institutions in Palestine, and seeks to support overall strengthening of the sector.

It has functioned consistently to encourage and support the coordination of international efforts in the sector, and national level coordination between Palestinian agencies and organisations involved in justice delivery. It can point to several improvements in the way in which the chain of justice functions as a result of improved links between agencies.

Building on the work of phase 1, the Sawasya II programme has supported a notable increase in the demonstrated ability of the formal justice system to address violence against women. The programme has seen progress in the implementation of the new Juvenile Protection Law, with evidence of the use of mediation and alternatives to detention being used as pathways. The whole of system improvements in the use of information have had a wide range of impacts on the capability of the formal system to manage and address the case load it is experiencing, with demonstrate improvements being seen in the reduction in case backlog. These changes are all significant, and summarise a very real impact on access to justice for vulnerable Palestinian’s.

Underpinning these successful outcomes is the high-quality management of the programme, which has demonstrably successfully integrated three UN agencies into a coherent programme, adapted to changes in the context and deal with crisis as they occurred, and developed an impressive evidence base on the evidence for change in the justice sector. The experience of the evaluation team in conducting internal interviews was that that all of the staff were engaged and thoughtful, which is always a good sign of a healthy programme.

These positive outcomes should be understood within a context of an increase in the constraints on reform. The situation in Palestine can be characterised by endemic financial weakness limiting government capacity, lack of progress in addressing the Israeli occupation of Palestinian territories, lack of progress in reconciliation between the West Bank and Gaza, a very limited level of political investment in justice reform and the specific justice needs of women and children, and finally a reduction in the international support to the sector. That context makes the successes of the programme so far more laudable, but also places clear limits on what can be achieved by the programme. The stated outcomes of the programme include strengthened and reunified legal and policy frameworks in line with international standards; effective, accountable and inclusive service provision; and access to justice for all Palestinians including women and children. That these high-level outcomes are not holistically and comprehensively achievable at this time is no judgement on the programme’s success in improving access to justice and strengthening the rule of law in a large number of ways.

As a result, the recommendations of this evaluation focus on small modifications rather than significant change in remit or approach. They support the continued need for the programme, and encourage it to prioritise supporting some of the more politically difficult reforms that are at the heart of its reform focus and work. They encourage some reflection and strengthening of the programme’s approaches to continue to guide effective management and implementation. And they reaffirm the finding of the evaluation of the first phase, that the UN has a unique position in Palestine, with the legitimacy and independence to support and promote the development of a strong rule of law compliant State of Palestine.

# Annex 1: List of organizations consulted

AECID - Oficina Técnica de Cooperación / Spanish Cooperation

AISHA Association for Woman and Child Protection (AISHA)

Al Quds university/Al Quds Human Rights Clinic (AQHRC)

Al-Azhar University

Al-Istiqlal Universithy

Al-Mezan Center for Human Rights

Amal Faqih Human Rights and Democracy Media Centre ‘SHAMS’

An-Najah National University

Attorney General Office

Birzeit University

Birzeit University / Center for Continuing Education

Center for Women's Legal Research, Counseling and Protection (CWLRC)

Community Media Center (CMC)

Consulate General of Sweden

Culture and Free Thought Association (CFTA)

Defence for Children International- PS

Government of Netherlands

High Judicial Council

Independent Commission for Human Rights (ICHR)

Islamic University of Gaza (IUG)

Islamic Sharia Courts

JERUSALEM COMMUNITY ADVOCACY NETWORK (JCAN)

Jerusalem Legal Aid & Human Rights Centre –JLAC

Legal Center for Freedom of Movement –Gisha

Legal Center for Freedom of Movement –Gisha

Ma’an – The Forum of Arab Women Organizations in the Negev - UN Women

Mada Creative Center

Ministry of Labor-MOL

Musawa- the Palestinian Center for the Independence of the Judiciary and the Legal Profession

National Society for Democracy and Law (NSDL)

Office of the European Union Representative

Office of the Quartet

Palestinian Bar Association (PBA) - Gaza

Palestinian Bar Association/WB

Palestinian Ministry of Social Development

Palestinian Center for Human Rights (PCHR)

Palestinian Central Bureau of Statistics

Palestinian Civil Police

Palestinian counseling center

Palestinian Judicial Institute

Representative Office of Canada | Bureau de représentation du Canada

Terre Des Homme

The Center for Defense of Liberties and Civil Rights “Hurryyat”

The Workers Advice Center WAC-MAAN

Treatment and Rehabilitation Center for Victims of Torture (TRC)

UN Women

UNDP

UNDP Global Programme

UNICEF

Union of Civic Coalition for Palestinian Rights in Jerusalem

Women Affair's Center (WAC)

Women’s Center for Legal Aid & Counselling- WCLAC

Yesh Din - Volunteers for Human Rights

Young Women's Christian Association / AL- Muntada

# Annex 2: Programme Theory of Change



1. A full list of consultations can be found in Annex 1. [↑](#footnote-ref-2)
2. Interviews with programme staff and development partners [↑](#footnote-ref-3)
3. Lack of political will has also been identified by 71% of respondents of the CSO survey as the main obstacle to justice sector reform. CSO survey, September 2020. [↑](#footnote-ref-4)
4. Final Evaluation of SAWASYA Programme “Strengthening the Rule of Law: Justice and Security for the Palestinian People”, 2017. [↑](#footnote-ref-5)
5. Interviews with programme staff and development partners. [↑](#footnote-ref-6)
6. Interviews with CSOs and government partners. [↑](#footnote-ref-7)
7. *Sawasya II* Programme: A Forecast on the Effect of COVID-19 on the Justice Sector: Prospects and Possibilities, April 2020. [↑](#footnote-ref-8)
8. Final Evaluation of SAWASYA Programme “Strengthening the Rule of Law: Justice and Security for the Palestinian People”, 2017. [↑](#footnote-ref-9)
9. Found in Annex 2 [↑](#footnote-ref-10)
10. Palestinian Central Bureau of Statistics, 2005. [↑](#footnote-ref-11)
11. Palestinian Central Bureau of Statistics, Registered Marriages Cases in Palestine by Age of Groom and Bride, 2018. While a further Presidential decree was adopted in 2019, raising the age of marriage to 18, the enabling of exception granting has undermined its impact. [↑](#footnote-ref-12)
12. Ministry of Women’s Affairs media reporting. [↑](#footnote-ref-13)
13. “Access to Child Justice in Palestine”, UNICEF, 2018. [↑](#footnote-ref-14)
14. CSO survey, September 2020 [↑](#footnote-ref-15)
15. Interviews with development partners. [↑](#footnote-ref-16)
16. The use of the programme monitoring to support this is a result of the strength of the monitoring system in providing information relevant to justice needs and outcomes in Palestine, along with the investment in analysis of this information to inform decision making. [↑](#footnote-ref-17)
17. Interviews with development partners. [↑](#footnote-ref-18)
18. Sawasya II is also active in the security sector working group. [↑](#footnote-ref-19)
19. Interviews with CSOs. [↑](#footnote-ref-20)
20. Interviews with development partners. [↑](#footnote-ref-21)
21. The 30 councillors in the West Bank are responsible for supporting approximately 3000 children in contact with the law as offenders, and 1000 children who are the victims of violence and abuse. Given the complexity of each case this is an unmanageable workload. [↑](#footnote-ref-22)
22. Interviews with programme staff. [↑](#footnote-ref-23)
23. Including both resistance to adoption of the bill, attempts to portray it as a foreign cause, and as linked to the 2019 protests against CEDAW. [↑](#footnote-ref-24)
24. Interviews with government partners. [↑](#footnote-ref-25)
25. For instance, the Gaza pilot of vocational training had 20 participants in 2019, with another 20 in 2020. [↑](#footnote-ref-26)
26. Interviews with CSOs. [↑](#footnote-ref-27)
27. Which will be discussed further below in the section on Palestinian state capacity. [↑](#footnote-ref-28)
28. Interviews with programme staff. [↑](#footnote-ref-29)
29. Interviews with CSOs. [↑](#footnote-ref-30)
30. Final Evaluation of SAWASYA Programme “Strengthening the Rule of Law: Justice and Security for the Palestinian People”, 2017. [↑](#footnote-ref-31)
31. The primary risk being managed is the appearance or actuality of funds being diverted towards supporting violence, and it would seem likely that the risk of this varies between organisations on the basis of their internal organisational controls and the remit of the organisation itself. [↑](#footnote-ref-32)
32. “Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory”, TD/B/67/5, August 2020; “The Economic Costs of the Israeli Occupation

for the Palestinian People: Cumulative Fiscal Costs”, UNCTAD 2019. [↑](#footnote-ref-33)
33. As has the continued political conflict with Israel over the occupation, including extended periods of suspension of intergovernmental coordination. [↑](#footnote-ref-34)
34. One interview referred to Scandinavian approaches to gender. [↑](#footnote-ref-35)
35. The evaluation team is not aware of any studies of this in the region that have demonstrated this, but international studies have found this effect in other contexts. For example: https://www.aecf.org/work/juvenile-justice/jdai/ [↑](#footnote-ref-36)