

Joint Rule of Law Programme Evaluation

UNDP Somalia, November 2017

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The views set out in this evaluation are those of the independent evaluator and do not necessarily reflect the views of UNDP, UNSOM or the JROLP

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Acronyms

AA	Administrative Agent
BPPS	Bureau for Policy and Programme Support
CAS	Comprehensive Approach to Security
DDR	Disarmament, Demobilisation and Reintegration
DFID	Department for International Development
DSRSG	Deputy Special Representative of the Secretary General
EU	European Union
FGS	Federal Government of Somalia
FMS	Federal Member States
HRs	Human Rights
IOM	International Organisation for Migration
JPLG	Joint Programme on Local Governance
JROLP	Joint Rule of Law Programme
LoA	Letter of Agreement
MPCC	Mogadishu Prison and Court Complex
MPTF	Multi Partner Trust Fund
MoWHRD	Ministry of Women and Human Rights Development
NDP	National Development Plan
NHRC	National Human Rights Institution
PUNO	Participating United Nations Organisation
PS	Programme Secretariat
PSC	Programme Steering Committee
PSG	Peace and State-building Goals
RoL	Rule of Law
RoLSIG	Rule of Law and Security Institutions Group
SDRF	Somalia Development and Reconstruction Facility
SGBV	Sexual and Gender Based Violence
SIDA	Swedish International Development Cooperation Agency
SOPs	Standard Operating Procedures
SSR	Security Sector Reform
SPF	Somali Police Force
ToR	Terms of Reference
UK	United Kingdom
UN	United Nations
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office of Drugs and Crime
UNOHCHR	United Nations Office of the High Commissioner for Human Rights
UNOPS	United Nations Office for Project Services
UNSOM	United Nations Assistance Mission in Somalia

Executive Summary

This is a rapid evaluation focusing on the outcomes, not outputs, of the Joint Rule of Law Programme (JROLP) in Somalia, the current phase of which ran from 2015 until the present. A mission took place for the purposes of this evaluation from 17th October to the 7th November 2017, and included visits to Mogadishu, Hargeisa (Somaliland) and Garowe (Puntland). The Terms of Reference for this evaluation require that the **approach**, **achievements** and **challenges** of the JROLP are assessed. The evaluation makes 17 findings and recommendations under these three headings, most of which are overlapping in remit given the interdependency of many of the relevant issues.

The Programme is founded on the Somalia Rule of Law Programme Priorities which were developed by the Peace and State-building Goals (PSGs) 2 Security, and 3 Justice Working Groups; the latter emanating from the Somali Compact. These were endorsed by the Somali Development and Reconstruction Facility (SDRF) Steering Committee on 31 August 2014 as a thematic priority for part of the initial funding pipeline for the UN Multi Partner Trust Fund (MPTF). Given the rapid rate of change in Somalia and the evolving and on-going evolution of the JROLP and accompanying administrative structures relating to the MPTF, **this evaluation focuses on high-level strategic issues** as opposed to the Programme's 28 outputs.

There is no programme in Somalia that does not touch upon RoL in some way. The Programme involves nine UN partner organisations (PUNOs). Some of these receive funds directly: UNDP, UNICEF, UNODC, and UNOPS, UN Women. The latter entity will in future be acting in an advisory capacity. Other PUNOs include IOM, UNFPA, and UNHCR, with increasing links with UN Habitat. UNSOM is involved in joint implementation for specific activities, through the Rule of Law and Security Institutions Group (RoLSIG).

Significant progress has been made in several areas, including capacity-building key institutions and future leaders of the RoL sector. One significant characteristic of the Programme is its broad reach and convening power, which is unparalleled by other entities or bi-laterals. In addition, work with Federal Member States (FMS) is on-going, with relationships being built that will help inform and feed into the Constitutional review process.

The approach and challenges to the Programme are unsurprisingly multiple in such a complex environment. These include the lack of coherence across the Programme regarding modalities of joint working, and how that can be operationalized within the Somali context. Lack of clarity regarding 'jointness' has led to thinking across the Programme that is not streamlined and not conducive to coordination. The lack of primacy of RoLSIG is a challenge to inter-PUNO collaboration and means decision-making is not clear-cut, as there is no command and control model in operation. The JROLP needs to have some back-to-basics

conversations regarding what is meant by joint working, and to reach a consensus on primacy and decision-making. This needs to be set out so donors and national stakeholders are well versed in the policy and architecture of the JROLP. In addition, mechanisms need to be strengthened and / or created that facilitate collaboration, e.g. joint data-bases, joint follow-up mechanisms, joint evaluation methods and proper sequencing of activities.

The Programme has been too broad and over-ambitious, without capturing the essence of what it wanted to achieve. It was commonly stated by donors and some national stakeholders that it would be more beneficial to focus on fewer activities that have a greater impact, so that limited resources can be more keenly felt by beneficiaries. The new Work-plan is more streamlined than the previous Programme Document, although there were disagreements amongst PUNOs regarding how it should be set out, and its appearance lends itself more to a financial distribution / apportionment list as opposed to illustrating how participating entities will function jointly. Joint mechanisms that can be explored include, *inter alia*, joint information and research databases, joint follow-up mechanisms for training and other activities, and joint monitoring and evaluation processes.

There has been an over-emphasis on capacity building the criminal justice system, at the expense of strengthening the civil law legal system. The next phase of the Programme needs to have a drastically reduced scope with an accompanying reduced number of metrics / indicators. Priorities need to be articulated. These can be set out in vision statements, reflecting the kind of rationales that were explained by respondents but not set out in any documentation. The Programme would benefit from investing more in the judiciary and the Attorney Generals Offices. The JROLP governance structure was seen as being too bureaucratic and unwieldy. Consideration should be given to making the governance structure more streamlined and efficient, including reviving the Global Focal Point mechanism which has been under utilised, and using that as a basis to create a broader and more inclusive platform to facilitate better linkages and inclusion across entities and regarding other relevant issues (e.g. UNDP's Constitutional and Parliamentary Affairs, UNDP State Building and Federalism Programme and UNSOM Political sections).

Short, medium and long-term planning for sustainability, as well as exit strategies from particular projects appear to be largely absent. Although it is recognised that it may require some years to think about exits, it is still crucial to have robust considerations concerning sustainability. Very little was said to be taking place in the JROLP regarding government revenue enhancement schemes and its link to RoL services, although this is a topic of concern amongst donors. The giving of police stipends by the international community without a phased-out approach is not sustainable. Several stakeholders thought that the police stipend scheme meant that some Somalis had limited incentive or ambition to change. Similarly, although the mobile court scheme was sometimes seen positively, it also raised questions regarding sustainability and fitness for purpose, especially given its varied levels of success and public negative perceptions towards police and the judiciary. Legal aid was largely considered by national stakeholders to be a *pro bono* activity funded by international donors,

as opposed to a State responsibility. It is recommended that consideration is given to whether an holistic orchestrated phased approach may be relevant across the MPTF structure, i.e. to gradually widen the 'Somali window' so that Somalis are increasingly in control of the tendering and procurement processes.

There are inconsistencies regarding the degree to which cross-cutting issues such as gender, human rights, corruption and Prevention of Violent Extremism have been mainstreamed. Any gender and human rights coherence was said to take place by chance and not design, with siloed and inconsistent activities being undertaken. Given that Somalia has been ranked as the most corrupt country in the world for ten consecutive years by Transparency International, there is insufficient emphasis in the JROLP on combating anti-corruption across RoL entities. There is a lack of clarity (e.g. a Road Map) setting out an agreed basis for how the informal and formal justice systems will develop and what the interface between the two will look like.

On-going challenges to the Programme are multiple. Unrealistic expectations placed on PUNOs are often due to circumstances outside its control; better Somali coordination is needed and more fluent and consistent funding from donors. UNODC has undertaken some work in corrections, including supporting seconded international corrections specialists. It has also developed a standardised basic recruit curriculum for police. Criticisms of UNODC relate to the perception from national stakeholders of over-reaching, over-promising and under-delivering, partly because of the lack of personnel in-country. Another challenge to the Programme as a whole is that donors are choosing increasingly to work bi-laterally with UN entities due to the expensive additional costs of the MPTF and administration that is involved. The JROLP needs to demonstrate and reiterate the viability and relevance of the in-country MPTF programme structure to donors and national stakeholders, as well as work on a cohesive aid delivery platform that will ensure the aims of the MPTF structure remain intact, and enable both MPTF and bi-laterally funded initiatives to synergise and be coordinated. This will largely depend upon the willingness of entities to be transparent and disclose projects in order that they fit within higher strategic national priorities. The JROLP needs to also impress upon donors the assets, knowledge and capacity available to it in order that donors utilise these in the first instance, instead of commissioning research and projects externally.

The rapid pace of change regarding federalisation and sector developments can have negative impacts regarding JROLP consultation and activities. The JROLP needs to adopt a conflict-sensitive approach and consider whether it is contributing to an unhealthy balance of FGS – FMS relations through its work. The Justice and Corrections Model is yet to be discussed and agreed, and is behind the progress of the development of the Policing Model. Whilst the Justice and Corrections Model needs to be flexible, it also needs to imbue a conflict-sensitive approach when exploring various modalities that will be suggested.

Introduction

History and funding of the Joint Rule of Law Programme (JRoLP)

The Somalia Joint Rule of Law Programme (JRoLP) is a joint initiative by the United Nations Assistance Mission in Somalia (UNSOM) and the UN Country Team to strengthen collaboration, focus and coherence in the implementation of the Somalia Rule of Law (RoL) Programme Priorities.

The Joint Programme was launched in May 2015, in accordance with the United Nations Somalia Integrated Strategic Framework 2014 – 2016, signed on 29 October 2014. The Programme is founded on the Somalia Rule of Law Programme Priorities which were developed by the Peace and State-building Goals (PSGs) 2 Security and 3 Justice Working Groups (the latter emanating from the Somali Compact). These were endorsed by the Somali Development and Reconstruction Facility (SDRF) Steering Committee on 31 August 2014 as a thematic priority for part of the initial funding pipeline for the UN Multi Partner Trust Fund (MPTF).

The Programme had a stated budget of Somalia USD 39,751,700, administered through the MPTF. Contributions were initially secured from the Government of the Netherlands, SIDA/Sweden, the UK/DFID, and the European Union, as well as corporate investment by UNDP/BPPS and UNDP Somalia.

Summary of the Programme

There is no programme in Somalia that does not touch upon RoL in some way. This makes the Programme critical in underpinning the continued development and future stability of Somalia. The JRoLP has supported Somalis in creating an enabling environment for stability and RoL. This includes the strengthening of RoL institutions in order to increase competency, efficiency and accountability. The Programme has focused on improving the functioning of the police, judiciary, fostering judicial reform and empowering Somali communities to secure their rights. In this regard, technical, advisory and operational support is provided to the Somali Police Force (SPF) and also to the emerging State police services, corrections, Judiciary, the Attorney General's Office and Ministry of Justice with the aim of helping them to deliver on their mandates and provide fair and equitable justice services. Scholarship and internship programmes are important components of the JRoLP and contribute to improving the legal profession, and other programmes such as SGBV units, accountability and alternative and traditional justice projects have been initiated.

The overall strategic objective of the Programme responds to PSGs 2 and 3; to enhance capacity of Somalia's RoL system to cater to the specific needs of all, and especially vulnerable groups. To achieve this strategic objective, the Programme is structured around two interrelated outcomes:-

- 1. Establish independent and accountable justice institutions capable of addressing the justice needs of the people of Somalia by delivering justice for all; and**
- 2. Establish unified, capable, accountable and rights-based Somali Police Force providing safety and order for all the people in Somalia.**

The Programme adopts the thematic approach of RoL support to police, justice and corrections and builds on previous support provided, including the on-going support to the payment of police stipends.

Participating UN Organisations (PUNOs)

The Programme involves nine UN partner organisations (PUNOs). Some of these receive funds directly: UNDP, UNICEF, UNODC, and UNOPS. UN Women was previously receiving funds, although will in future be acting in an advisory capacity and receiving funds via other entities. Other PUNOs include IOM, UNFPA, and UNHCR, with increasing links with UN Habitat. UNSOM is involved in joint implementation and management for specific activities, through the Rule of Law and Security Institutions Group (RoLSIG).

In accordance with the Compact's Special Arrangement for Somaliland, separate work-plans for Police and Justice & Corrections were undertaken during programme implementation.

Recent political developments

In February 2017 a new President was elected and a new federal government has been formed. Federal Member States (FMS) are in the process of consolidating their identities and defining their relationship with the Federal Government of Somalia (FGS). Both the FGS and FMS will need to agree on a common and comprehensive plan that will determine the architecture, finance and devolution of powers regarding police and justice institutions.

The Somali Compact, from which the PSGs emanated and around which the JROLP was constructed has now been replaced by the National Development Plan 2017 – 2019 (NDP).

Disasters and terrorist attacks continue to plague the country. Severe drought has resulted in a dire humanitarian situation that is on-going, and for which the UN has been mobilising support. This inevitably shifted focus and funds away from RoL activities. Despite this, security and justice challenges remain a severe challenge. At the time of writing, South Central Somalia is recovering from the biggest terrorist attack it has experienced which left more than 350 people dead on 14th October 2017. A separate major attack occurred just two weeks later on 28th October 2017 in a Mogadishu hotel that left at least 23 dead.

Proposed next phase of the Programme

The proposed next phase of the Programme will further support the Government in extending the RoL to FMS and implementation of the Security Pact. The UN is prioritising its work to assist in the provision of basic RoL services to Somalis through political agreements and strengthened links between the FGS and the FMS, including through a federated police

system and justice system, through the Police Model and development of a Justice and Corrections Model. A revised Work Plan has been agreed, and new administrative structures relating to the MPTF have taken effect which are in line with the SDRF. Two proposed outcomes are as follows:

1. Rule of law institutions exist across Somalia and are increasingly providing equal access to basic police, justice and corrections services to the Somali people;

Outcome 1 focuses on institution building and support to the formal sector. The UN has a large role to play in supporting the emergence of RoL institutions across the country. Support will continue at the national level to build a federal architecture, policy and legislation but increased resources will be allocated to developing new institutions and basic delivery in the FMS.

2. Men, women and children feel safer in their communities and increasingly enjoy human rights through community empowerment and bottom-up as well as top down approaches.

This outcome focuses on the informal sector and communities. The UN will focus on bottom-up and top down approaches and protecting people, empowering communities and building sustainable peace.

Evaluation objectives and scope

1. Objectives

The objective of this evaluation as set out in the ToR is to assess the JROLP's:

- **Approach,**
- **Achievements,** and
- **Challenges.**

The ToR states that the evaluation should incorporate lessons learned over the course of the Programme and provide recommendations as to how to improve and strengthen the next phase. The ToR for the evaluation also states that overall, the evaluation will determine the relevance and fulfilment of objectives of the JROLP, with an emphasis on results and on the Programme process.

It was stated that particular attention should be paid to:

- Risks of the Programme and any related mitigating strategies;
- Gender, conflict sensitivity and Human Rights-based Approaches;
- Relevance: to evaluate the logics and unity of the process;
- Efficiency: to evaluate the efficiency of the Programme implementation, the quality of the results achieved and the time / political constraints during implementation periods;
- Effectiveness: to conduct an assessment of how assumptions have affected programme achievements and the subsequent management decisions vis-à-vis the cost effectiveness;
- Impact: to evaluate the impact of the Programme on its wider environment and its contribution towards the wider objectives outlined in the Programme's document;
- Sustainability: to assess the sustainability of results with specific focus on national capacity and ownership over the process;

(NB the above list has been annotated from the ToR).

2. Scope of the evaluation

Focus on outcomes not outputs

The original ToR states that the evaluation should focus on assessing the outputs of the JROLP, analysing levels of achievements and impact chains at project level. The Programme Document, however, is very comprehensive as it sets out two main outcomes, nine sub-outcomes and 28 outputs. These are reflected in LoAs with 22 RoL institutions for UNDP alone.¹

¹ This number does not include LoA extensions and amendments.

The two main Programme outcomes are as follows:

Joint Rule of Law Programme outcomes

1. Establish independent and accountable justice institutions capable of addressing the justice needs of the people of Somalia by delivering justice for all;<sup>[L]
[SEP]</sup>
2. Establish unified, capable, accountable and rights-based Somali Police Force providing safety and order for all the people in Somalia.

Below these high-level outcomes are the nine sub-outcomes and accompanying indicators (**Annex 1**):

In discussion with UNDP, UNSOM-ROLSIG and some other key stakeholders, it was decided that rather than focus on the Programme's many sub-outcomes and outputs, the evaluation should instead focus on the Programme's two main outcomes at the high strategic level. This was for three reasons. *Firstly*, the time-scale of the evaluation did not allow for a robust assessment of the numerous Programme sub-outcomes and outputs at granular level. *Secondly*, the geographical breadth of the Programme was too great to accommodate a thorough examination at the output level within the logistical limitations of the evaluation and accompanying security challenges. *Thirdly*, the Programme is currently in a highly dynamic state of flux with multiple changes already having taken place and on-going (i.e. the NDP and SDRF replacing the PSG structure, and bi-lateral funding streams being pursued by Programme PUNOs in addition to the MPTF funding source). This means that many lessons learned have already been considered and are continuing to be taken into account as changes are being made. Consequently, it was considered that focusing on assessing outputs that will no longer be pursued using the PSG Programme structure would be largely redundant; instead an evaluation that focuses at the high strategic level would be of more benefit as it will help inform the new phase as changes are already underway.

It was also recognised by key stakeholders (including PUNO representatives) that some of the sub-outcome indicators would not be helpful to assess as they were not entirely appropriate or helpful. For example, the indicator for sub-outcome 2.3 measures success by the number of Steering Committee meetings that have taken place. This indicator does not,

however, reference assessing the consistency of attendees, whether the right attendees were present, or the rate of outputs that were actioned as a result of those same meetings.

With the above in mind, this evaluation therefore assesses the Programme's **approach**, **achievement** and **challenges** in line with the original ToR, but only relating to the two main outcomes and not outputs. Given the tight time-frame, it was also agreed that it will be a **rapid review evaluation**, i.e. in-depth analysis and research is not possible within the confines of the research.

Geographical scope

The geographical scope of the evaluation covers Somalia and Somaliland, albeit some stakeholders are based in Nairobi. It is recognised that Somaliland is an autonomous region. Whilst also recognising that the situation and needs of Somaliland are different to those of Somalia, for the sake of this evaluation findings and recommendations relating to Somaliland are incorporated into this report. This is largely because the heart of the JROLP administration is based in Mogadishu, and lessons learned are generic and apply to the structure of the Programme as a whole. It is, however, recognised that at output level the findings may necessitate separate documentation, and a further evaluation may need to take place.

Temporal scope

The temporal scope of the evaluation starts from the commencement of the current phase of the Programme, i.e. May 2015 and continues until the present.

Thematic scope

The evaluation only covers the JROLP and does not include DDR or SSR as these components do not form part of the former, albeit they are highly relevant. However, given this is an outcomes based evaluation, relevant thematic issues that are not currently highlighted in the Programme are commented on where relevant.

JROLP evaluation vs. capacity assessment

The scope of this report does not include an assessment of the capacity and needs of RoL institutions in Somalia and Somaliland, the subjects of which formed a comprehensive study funded by UNDP in 2015/16. Whilst this evaluation notes where the capacity of institutions is hampered, the emphasis of this evaluation is on the *approach*, *achievements* and *challenges* of the JROLP in assisting these institutions to fulfil their mandates, as opposed to the core capacity of those same entities.

Independence

This evaluation was undertaken by an independent assessor who is not an employee of any UN agency.

Reflecting the joint nature of the Programme, the evaluator reported to UNDP's Programme Manager, Governance and RoL, whilst also coordinating closely with UNSOM-RoLSIG. Although the evaluation is funded by UNDP, every effort has been made to ensure the integrity and independence of the research. This means that no joint meetings with respondents were held together with other consultants, including meetings relating to the formulation of the next phase of the Programme. Neither were UN staff present when beneficiaries were met with, in order to lend credibility to findings and recommendations, and also to engender confidence that the evaluation stands independent of any plans, perceived or otherwise, of UNDP or any other PUNO.

The evaluator is grateful for UNDP for facilitating this independence, especially given the highly problematic logistical challenges surrounding travel within Somalia, and time-scales. The evaluator is also grateful to UNSOM and UNDP for continued assistance and logistical support regarding the organisation of meetings and travel plans.

Terminology

For the purposes of this report the terms 'respondents' and 'participants' are used interchangeably and are taken to mean individuals or groups who were interviewed as part of this research. 'Stakeholders' can also have the same meaning, or according to context can mean a broader range of individuals or groups who are relevant to RoL but who were not necessarily interviewed as part of this research.

When the 'Government' is referred to, this is taken to mean the Federal Government of Somalia (FGS), unless otherwise stated.

Methodology and limitations

Methodology

Analysis and criteria

The evaluation followed the guidelines set out in UNDP's *Handbook on Planning, Monitoring and Evaluating for Development Results*. However, as mentioned in the previous chapter, the ToR specifies that the evaluation should assess three main themes: **approach**, **achievements** and **challenges**. Examples of issues that were explored under each of these themes are summarised below.



These issues were further assessed by asking questions that applied the following criteria:

CRITERIA	EXPLANATION
Relevance	Concerns the extent to which a development initiative and its intended outputs or outcomes are consistent with national or local policies and priorities and the needs of intended beneficiaries.
Effectiveness	A measure of the extent to which the initiative's intended results have been achieved or the extent to which progress toward outputs or outcomes has been achieved.
Efficiency	Measures how economically resources or inputs such as funds, expertise and time are converted into results. An initiative is efficient when it uses resources appropriately and economically to produce the desired outputs, leading to outcomes.
Impact	Measures changes in human development and people's wellbeing that are brought about by development initiatives, directly or indirectly, intended or unintended.
Sustainability	Measures the extent to which benefits of initiatives continue after external development assistance has come to an end.

Given the high-level focus of the evaluation, there is considerable overlap between the evidence and findings categorised under the three main themes. It should also be noted that evidence relating to effectiveness, efficiency and input were not able to be explored in great detail as these are better illuminated at output level utilising quantitative data.

Special attention was given to ensuring that questions posed to respondents were tailored to the Somali context, for example, asking how effective the Programme's reach was into FMS.

Scoring

It was decided that scoring would not be an appropriate way to evaluate the JROLP, for the same reasons set out in the previous section (relating to why the evaluation only focuses on high-level outcomes and not outputs). In addition, the complex nature of the political context, multiple number of PUNOs and rapid pace of change would likely mean a score is quickly out-dated; new programme and accountability structures have already been adopted and there is considerable evolution of the Programme and its direction going forward.

Evaluation work phases

A three stage process was undertaken to carry out the evaluation:

- 1. Desk review.** This phase consisted in collecting and analysing existing documentation relating to the JROLP. These documents included (but were not limited to):
 - The Programme Document with Results Framework;
 - The draft Justice Model and Police Model;
 - MPTF reports: those submitted to the MPTF by UNDP and by ROLSIG, and reports generated by the MPTF itself;
 - LoAs;
 - Somalia Strategic Assessment Report;
 - Somali Compact and National Development Plan;
 - UNDP reports including perception surveys, capacity assessments;
 - Third Party Monitor summary;
 - Reports from Somali beneficiary institutions.
- 2. Field visits.** This phase consisted of a field mission that was divided into four parts:
 - Mogadishu visit (17th - 24th September 2017), Puntland (24th – 28th September), Somaliland (28th September – 2nd October 2017) and Mogadishu (2nd – 7th October 2017).
 - The purpose of the field visits was to conduct site and observational visits, and to interview three main category of stakeholders:
 - i. UN personnel (both national and international),
 - ii. Donors; and
 - iii. Beneficiary and potential beneficiary national entities.Interviews were either bi-lateral or focus group discussions, and were semi-structured in nature, but leaving the opportunity open to pursue other relevant lines of enquiry if they arose.
- 3. Analysis and report writing.** The final phase of the evaluation consisted of the analysis of all quantitative and qualitative data collected (document review and field visits) and determining findings as well as the formulation of recommendations.

Quantitative and qualitative evidence

Given that the evaluation focuses on high-level strategic outcomes, the level of qualitative analysis is greater than quantitative evidence collected.

Human rights based approach The approach to the evaluation is human rights-based. In other words, the purpose of the interviews was made transparent to participants, and full disclosure was given to respondents as well as encouraged.

Anonymity Given the sensitive nature of some of the topics covered, as well as to engender a space in which participants could give answers freely, no views or comments in this evaluation are ascribed to any individual. It was made clear to those interviewed that any comments that would identify an individual would only be made if it was relevant to the evaluation and also if the individual wished to be identified.

Limitations

There are several challenges the evaluation faced:

- Inability to meet freely with national stakeholders because of the **prohibitive security environment** meant that the opportunity to collect comprehensive evidence was hampered. Even when excursions outside the UN compound in Mogadishu were possible, they sometimes did not align with the availability of key stakeholders. There were further implications caused by security restrictions. It was consequently not possible to see beneficiaries or respondents in their **normal working environments**, nor see their **working processes**. This largely meant having to rely on verbal explanations regarding how entities function, and also meant that it was not possible to gauge easily the achievements or otherwise resulting from JROLP interventions.
- The **tight time-scale** was a contributing factor in deciding to adjust the ToR (although the fluctuating political context was also contributed to this, see above). The field mission to Somaliland in particular was hampered by the fact that arrival in Hargeisa was at the start of the weekend with departure on Monday.
- Both of the above limitations contributed to difficulties in **triangulating and corroborating both quantitative and qualitative evidence**. For evaluative purposes this can result in one of two situations: either misstating a 'fact', or avoiding stating anything at all for fear of perpetuating misinformation. This evaluation takes a pragmatic approach and weighs documentary and other evidence to determine findings that are as robust and defensible as they can be given the volatile context and rapid nature of the evaluation. Findings are therefore based on consistent evidence and logical assumptions. Any evidence that is incongruent with other data collected has either been discarded or, if highly relevant, is stated as such but with the requisite caveat.
- **Lack of response of key stakeholders**. Whilst every effort was made to contact and speak with relevant stakeholders, not all responded. Only one representative from the UK Government was interviewed, for example, despite repeated requests to meet with

others, in particular DFID. Both the Head and Deputy Head of DFID were contacted but failed to respond, despite being a major donor to the Programme. In addition, UNICEF was interviewed, although after the evidence gathering time frame. UNICEF's contribution to the evaluation is therefore set out in a separate Addendum that should be read alongside this report.

Findings and recommendations: **Approach** of the JROLP

There is considerable overlap between findings across the three axis of **Approach**, **Achievements** and **Challenges**. The reader should therefore cross-reference findings from each section in order to better understand the holistic picture.

Finding 1: There is no consensus across PUNOs and stakeholders on what it means to be 'joint' as this has not been clearly articulated or agreed in the Somali context.

Lack of clarity about 'jointness' and meaning of 'RoL'.

Whilst the JROLP follows the principles set out in the UNDG Guidelines on UN Joint Programming (2014), the operational environment in Somalia is unique, and therefore the way in which PUNOs work jointly needs to be explored and articulated clearly. Joint working is not automatic and cannot be assumed. Divergent views amongst PUNOs about what it means to work jointly has resulted in some inter-PUNO misunderstandings that have affected the focus and efficacy of the Programme. It was said that posturing by PUNOs has replaced mechanisms that have never been in place.

The added value in joint working under a common umbrella is that PUNOs are able to work with the Government to agree a common set of priorities, with properly sequenced and coordinated activities. Instead they are presenting to donors as a fractious group of entities that are vying for funds.

In addition, there was a lack of clarity across stakeholders concerning what is meant by 'RoL', especially given that several asserted that an SSR approach was being utilised, and yet the SSR department is not part of the JROLP.

Duplication of activities

Poor communication and coordination, with consequent duplication of activities has resulted from this, e.g. projects on case management which have been carried out by multiple agencies. Training on trafficking was also said to have been duplicated by IOM and UNODC. In this respect it was asserted that PUNOs were carrying out stand-alone or multiple activities that were not linked with higher level strategic objectives.

UNDP's position within the JROLP.

There was misunderstanding amongst some PUNOs regarding the role of UNDP, which has the greatest presence and broadest mandate across Somalia, and could therefore be seen to be the natural lead for a RoL Programme. About 80% of UNDP's programming goes into joint work. UNDP has communicated great willingness to work collaboratively, saying that being defined by collaboration makes the work better. However, the larger PUNOs such as UNDP

may decide that they are losing more than they are gaining through operating an integrated model in a fragmented terrain with duplicative initiatives. In fact it was stated by one donor that UNDP could carry out all activities without any need for other agencies, and that the Programme is 'too complicated an animal' as it currently operates.

Opposing views regarding UNDP were expressed across PUNOs. Several UN respondents referred to UNDP as a banking facility regardless of its own in-house technical expertise. Conversely, another PUNO referred to UNDP as 'eating everyone else's mandate', as UNDP's work is so broad.

In terms of the approach to the design of the Programme, it was said by some PUNOs that it was not suited to all of them, and some felt alienated from the design process. This was asserted by PUNOs that do not have the reach, funding or presence in Somalia that UNDP has. It also demonstrates a misunderstanding regarding benefits of complementarity and collaboration, taking into account the size of each entity. Joint working does not necessarily mean that all entities will have equal funding, equal reach or convening power within the Somali context. However, some PUNOs do not appear to acquiesce to this model of working, and appear to have positioned themselves in a way that can be perceived to be in competition with, and not collaborating with, UNDP. Consequently, the Programme has suffered from a failure to be focused and streamlined across agencies. It has also resulted in a degree of competitiveness and posturing from agencies as they vie for resources (see section on Challenges). The Programme, and individual PUNOs, run the risk of suffering reputationally in the light of this if these issues are not resolved in the next phase.

Inter-PUNO coordination

One donor described being asked on several occasions by a UN entity about how the latter should collaborate with another UN entity. This was described as being very off-putting to donors. The UN was said to have to 'get its own house in order' before being able to demonstrate that the JROLP vehicle is a worthy vehicle for continued large-scale funding and support.

Primacy and the ROLSIG function

ROLSIG was said by a donor to be 'perfectly positioned' as it straddles the axis between both security and RoL. ROLSIG was further said to have the 'most important contacts and the best information', and a non-JROLP UN entity described cooperation with ROLSIG as 'critical'. However, the fact that ROLSIG does not have a decision-making remit was consistently said to cause problems, and that it is difficult for anyone within the UN system 'to tell anyone else what to do', leading to what someone else described as a 'decision-making paralysis'. Lack of ROLSIG primacy has consequently contributed towards a loss of confidence in the Programme by donors.

ROLSIG senior personnel have therefore had to leverage influence by way of persuasion as opposed to operating a 'command and control' model. Whilst the current system is less likely

to disrupt vertical lines of accountability for each UN entity (as there is no devolved primacy function), this 'persuasion model' is also likely to be less effective when there is a need to make decisions in the wake of inter-JROLP disagreements. Whilst senior staff have made great gains in mediating and facilitating the work of the Programme, structural restrictions mean that ROLSIG is unable to streamline and focus the Programme by prioritising issues in the face of disagreement. They also have to ensure they are seen favourably by all entities, which is virtually impossible and requires acute diplomatic skills to broker on-going agreements.

Recommendations:

- There is a need to go **back to basics to discuss and build consensus around what it means to be joint**, and which modality will best match beneficiary needs and donor requirements.
- **The definition of 'Rule of Law' in the Somali context needs to be clarified.** Consideration also needs to be given as to why SSR and DDR components are not included in the JROLP, especially given that an SSR approach was said to be utilised, and DDR efforts will increasingly constitute a non-traditional pillar in the justice delivery chain.
- There needs to be a subsequent **agreed modality or modalities regarding joint working that are adhered to by all PUNOs** and understood by national stakeholders and donors. This needs to be articulated, agreed and set out in a common document. In addition, **this should include both MPTF activities as well as bilaterally funded projects** (see later recommendations). The true added value of being joint needs to be explored internally amongst PUNOs and broader UN departments (e.g. Constitutional and Parliamentary Affairs in UNDP and the Political section in UNSOM).

In order to arrive at an agreed modality, questions need to be discussed in a joint PUNO meeting including:

- What tools already exist that can facilitate PUNO joint working?
- What joint working mechanisms can be created to facilitate the JROLP? For example:
 - Joint database of research and / or information relevant to facilitate cross-entity collaboration;
 - Joint, integrated and largely harmonised modalities, processes and procedures for delivery, communication and interaction with donors and beneficiaries;
 - Joint follow-up mechanisms for training and other activities;
 - Joint evaluation methods for training and initiatives as opposed to compiling different methodologies into one report for the MPTF.
- How can PUNOs communicate better? Working jointly does not mean ensuring the participation of all PUNOs for every project as this is operationally impossible and some issues are not within the mandate of every PUNO.
- What are agreed short, medium and long term strategic aims?

- How can collaborative working be successful across PUNOs who are working at different paces?
- How can the JROLP ensure there is no duplication of activities?
- How can the JROLP properly sequence activities?
- What are the agreed joint priorities?
- What are agreed joint principles and commitments?
- How can PUNOs effectively communicate and collaborate regarding communication with donors and national stakeholders?
- The role of the MPTF office in NY needs to be clarified, and to what level any authority needs to be devolved to country level.
- It should be reiterated that **joint working can only be successful if there is a high degree of commitment to the principles of one UN**, transparency and willingness across entities for any collaboration to be real and not nominal in nature. Strengthening / creating joint mechanisms and removing working silos will contribute towards a more streamlined approach and trust among PUNOs.
- **The perception of the status of PUNOs, their respective strengths and weaknesses needs to be recalibrated by all agencies.** Misperceptions detract from the technical aspects that larger PUNOs such as UNDP contribute to the JROLP, especially given its broad mandate and reach across the country. Similarly, UNDP can offer support and an advisory function to the work of other PUNOs that have valued and specific expertise, by leveraging its convening power and contacts and providing an umbrella for other agencies as they implement projects.
- **Inter-PUNO decision-making and primacy.** ROLSIG and PUNOs need to conduct a frank assessment regarding the implementation of a primacy function, which is urgently needed for the JROLP. Questions should be asked regarding whether there will be a decision-maker that has supremacy over entity priorities (moving away from the persuasion model), or an arbiter only.
- It should be noted by all PUNOS that **it is not desirable that the Steering Committee acts as the forum at which inter-UN debates about primacy should be held;** donors strongly reiterated that the UN should 'clear up' its disputes in-house before external discussions take place.

Finding 2: The Programme has been too broad and over-ambitious; not able to capture the essence of what it wanted to achieve and without clear priorities.

The original Work Plan: The original Work Plan was said by one donor to be 'horrendous', with a multiplicity of activities that did not translate into a cohesive whole, and was too broad reaching. Donors stated that they keep receiving documents that everyone knows will

not be funded, and requests from the JROLP that were seen as a wish-list, with no strategy behind them.

The way the Programme was set up was seen to be good in transparency terms as it focused on accountability regarding numbers, but it was not possible to understand from this the essence of what the Programme was and wanted to achieve in a tangible way. Conversely, there was a general perception from UN stakeholders that evaluating activities was very challenging as there was a high priority on reporting of numbers at output level, without requisite emphasis on outcomes. This divergence of opinion illustrates a lack of consensus regarding what the donors want to see.

Achieving expected results against the stated indicators was bound to fail, given that only approximately one-fifth of the anticipated funding was made available to the Programme. Some of the indicators were also not appropriate (e.g. number of meetings held).

It was commonly stated by donors and some national stakeholders that it would be more beneficial to focus on fewer activities that have a greater impact, so that limited resources can be more keenly felt by beneficiaries.

It was asserted that discussions with donors and national stakeholders can sometimes be over-complicated, and high-level discussions are often degraded to project level conversations. Again, this is partly because the Programme Document had too many metrics and indicators. Impassioned rationales were articulated by various UN stakeholders which are not reflected in any documentation, e.g. developing the role of women in the criminal justice system (incrementally increasing recruitment of registrars with the aim of recruiting judges in future).

There has been an over-emphasis on capacity-building the criminal justice system, at the expense of strengthening the civil and administrative law legal system. The JROLP is the ideal vehicle through which to develop constitutional/administrative and civil law capacity. Without this, the ability of state and civil institutions to resolve disputes or establish necessary regulatory environments for economic development will be undermined. Overall, an omission to develop civil and constitutional/administrative justice capacity will also undermine stabilisation objectives.

As yet, Somalia has not passed any legislative Acts that relate to the Constitution on land laws that address peace-building and reconciliation. UNDP is currently building links with UN Habitat, as the former has land expertise and is already working in Somalia. UN Habitat has prepared a training manual for land disputes, and is guiding the urban planning team and review of key legislation.

The new Work-plan: The new Work Plan is more streamlined than the previous Programme Document, although there were disagreements amongst PUNOs regarding how it

should be set out, and its appearance lends itself more to a financial apportionment / distribution list as opposed to illustrating how entities will function jointly.

Recommendations:

- The next phase of the Programme needs to have a **drastically reduced scope** with an accompanying **reduced number of metrics / indicators**. A more streamlined consensus across the JROLP regarding joint working will help distil a **common vision and approach**.
- The proposed outcomes for the next phase are still very ambitious given the current national context and security challenges. For example, it was stated by a UN respondent that between now and 2021 all that can be expected regarding policing services is a basic police presence in major centres, providing simple policing services. Therefore, outcomes for the next phase need to be broken down by sector into realistic **short, medium and long term aims**, that also take into consideration the reality regarding access to districts. Reducing the scope of activity can focus on agreed **pilot projects** that focus on a thematic and geographical area, match national priorities and maximise the added value of PUNOs. These need to be clearly defined so that all stakeholders are aware of the limitations on aspirations, and expectations are managed.
- **Priorities need to be articulated**. These can be set out in **vision statements**, reflecting the kind of phased rationales that were set out by respondents but not set out in any documentation (see above example regarding women registrars and judges).
- JROLP should continue to develop a **partnership with UN-Habitat**, as combining the reach and skills of both agencies will be beneficial in helping communities that have disputes involving land (UNDP mobile clinics in rural areas and UN Habitat's work on reviewing key land dispute legislation).

Finding 3: The Programme needs to increase investment in the judiciary and Attorney Generals' Offices

PSG 3 priority 1 is that *'key priority laws in the legal framework, including on the reorganisation of the judiciary, are aligned with the Constitution and international standards'*. Reflecting this, the JROLP states that it works closely with the Judiciary to improve the quality of rulings and judgments and establish professional standards as well as oversight mechanisms. It is accepted that political stagnation has resulted in key judicial oversight mechanisms not being functional. However, more emphasis needs to be given to capacity-building the judiciary and Attorney Generals' Offices, which lack continued and relevant support with little progress over the life-time of the Programme. For example, in 2015 UNDP provided bookshelves to the Chief Justice's office in Hargeisa, but no books. A visit as part of

this evaluation observed that the bookshelves remain empty despite a request from the Chief Justice for basic legal texts. It is noted that there are on-going efforts to strengthen the judiciary. UNDP has already trained more than 150 judges, prosecutors and registrars, and aims to train 350, implementing a national traditional training programme with various courses and ten different manuals. In addition, UNDP has made considerable efforts in developing Codes of Conduct, case management and inspection systems.

There have been some focused areas of input for AGOs regarding thematic issues, e.g. SGBV, but the reality is that the AGOs are dealing with serious criminality that goes beyond SGBV cases, including murders and crimes resulting from land dispute issues. Initiatives can therefore result in pockets of specialist expertise that is unable to be very effective in an overall system that is largely inundated with severe challenges. Judges were often said to be largely impotent in terms of authority, or well behind other justice sector stakeholders in knowing how to handle cases in line with international standards. For example, it was said in Puntland where the SGBV unit has been established, that even if a rape survivor is willing to proceed to court with a case, the judge will often dismiss the case if there are no eye witnesses, in line with Sharia law. The judge will also allow the perpetrator to go free through swearing on the Quran to testify that they did not commit the rape.

UN stakeholders outside the JROLP emphasised the importance of investing in the judicial system in terms of federalisation; i.e. in how the Constitutional Court and Judicial Services Commission will function effectively.

Recommendations:

- **Funding for the next phase needs to be earmarked for continued support to the judiciary and all AGOs**, matching current capacity against previous needs assessments to ascertain levels of development and on-going requirements.
- Consideration of a **judicial / AGO training Academy** needs to be given, including looking at different delivery options (remote training, online training etc).
- **Bench Books and sentencing manuals** for the judiciary need to be developed, taking into account the role also of traditional justice mechanisms. UNODC stated they already have these manuals, although they did not appear to have been circulated or used.
- See later recommendations regarding the **interface between the traditional and formal justice mechanisms**.

Finding 4: The Programme's mechanisms are too bureaucratic and unwieldy

The Programme aligned its governance and coordination arrangements with the Compact Somalia Development and Reconstruction Facility (SDRF) Governance Structure and also

with the UNDG Guidelines on UN Joint Programming (2014). The governance structure consists of:

- Programme Steering Committee (PSC) – providing oversight and strategic direction.
- Programme Secretariat (PS) – providing operational and programmatic coordination and reporting to the PSC
- Administrative Agent (AA) – funds administration of the Programme
- PUNOs.

It was evident that there was inconsistency amongst PUNOs, national stakeholders and donors in understanding who has responsibility for actually leading and managing the RoL Programme, with some asserting it was ROLSIG, and others the Steering Committee.

Every additional layer to the governance structure creates the risk that information-sharing is not carried out in a timely or effective manner, and delivery is delayed. There is also a danger that new Boards or Committees are created with the aim of facilitating the process, although this would augment the structure and not make it more efficient.

Programme Steering Committee: The PSC was said to not always be attended by the ‘right’ people, and was sometimes used for the wrong purpose.

Programme Secretariat: The PS is represented by GFP Chairs, although it was commonly said by UN personnel, especially in regional offices, that the GFP mechanism is under utilised, with personnel saying there were no regular GFP meetings. Alternatively, staff were not aware what the purpose of the GFP is.

PSG Working Groups: The PSG groups report to the SDRF and addresses the Somali Compact to ensure that the milestones in the strategic framework are addressed. Therefore the coordination brought the FMS closer to the FGS and addressed the need for the justice and corrections model as part of the federalism process. This has been a success for the programme of building up ownership and coordination when many institutions are so fragmented. However some stakeholders called into question the effectiveness of the PSG Working Groups. There is a risk that the additional layer of these Working Groups to the Secretariat and Steering Committee mechanisms may be too unwieldy and add to delays in decision-making if not kept focused in nature.

Recommendations:

It is recognised that changes and proposals are on-going concerning the next phase and decision-making mechanisms. However, consideration should be given to making the governance structure more streamlined and efficient, for example:

- **Clarifying and / or reiterating the roles and purpose of each mechanism** within the overall governance structure, as well as ensuring that a wider net is cast in terms of inclusion (e.g. Constitutional Affairs, Federalism and Political).
- **Setting out clear ToRs for the Steering Committee**, which needs to remain well-informed and seized of all appropriate information. This will also minimise the risk that the SC becomes a forum for potential inter-PUNO differences, and so that it can remain focused on high-level decision-making after well-prepared and comprehensive UN consultations have already taken place. Documentation for consideration should be provided to attendees at least three days prior to meetings.
- **A ToR for the Secretariat should be set out.** Consideration needs to be given regarding representation by UNDP, as the entity with the incontrovertibly broadest reach in-country. Consideration also needs to be given to the **inclusion of Constitutional and Parliamentary Affairs and Political UN staff**, and also **national stakeholders** as appropriate. Leadership from ROLSIG will continue to provide helpful parameters and structure.

Finding 5: Short, medium and long-term planning for sustainability, as well as exit strategies appear to be largely absent.

Lack of planning capability is partly caused by the UN funding structure; the Mission receives core funding whereas the UN Country Team (i.e. PUNOs) relies on donor funds. This puts considerable pressure on the latter to demonstrate deliverables and outputs in a context that is not amenable to quick wins, partly due to political stagnation and the complex security environment. Some donor discussions around value for money and delivery have added additional pressure to PUNOs, who are not necessarily able to continually deliver in a highly complex environment, but whose strength instead lies in their convening power. Stakeholders also asserted that the government has had *ad hoc* urgent needs on specific issues, with requests to the JROLP being received in a disjointed manner.

Very little was said to be taking place regarding government revenue enhancement schemes and its link to RoL services. It was more keenly recognised by stakeholders outside the JROLP structure that there is an urgency to look outside the framework of traditional donor-giving to raise and sustain revenue and ways in which Somalis can fund their own services.

Several JROLP activities are unsustainable:

- The giving of police stipends by the international community without a phased-out approach is not sustainable. Several stakeholders thought that the police stipend scheme meant that some Somalis had limited incentive or ambition to change. Whilst judges, lawyers and the custodial corps are not receiving stipends, it was not seen to be desirable to initiate such schemes because they are very difficult to exit from.

- Similarly, it was apparent through interviews that many Somalis do not consider that legal aid should be the responsibility of the State, but rather a *pro bono* activity that is delivered by legal service providers and supported by the international community. This is not sustainable, and there needs to be a significant shift in national institutional thinking to ensure development of the legal sector and access to justice for all, and support the National Legal Aid Policy.
- There were varying views amongst stakeholders regarding the mobile court scheme. Whilst it has facilitated access to justice for those in rural communities (taking justice to communities as opposed to the other way around), questions commonly arose regarding its sustainability and fitness for purpose. It has had different levels of success, bringing into question the viability of the approach of simply replicating mobile courts in new areas on the basis that it worked well in others. Another issue surrounds the public perception of police and the judiciary, both of whom were said to be seen largely in negative terms by the population. Several respondents questioned why sending judges and police out in cars as part of the mobile court scheme would be constructive given the negative reputation those stakeholders have, as well as the fact that providing assets creates more opportunities for corruption.
- In addition, even if new courts are set up it was said they would not be sustainable because the courts could not be properly staffed.

Recommendations:

- There is a need to have **agreements with Somalis** about how to build upon JROLP initiatives in a systematic manner to ensure their respective **sustainability**. Questions need to be discussed regarding where does Somalia want to be in the short, medium and long terms, as opposed to having overly ambitious generic outcomes. The JROLP needs to coordinate and spear-head conversations with national stakeholders regarding **raising revenues**, the possibility of entering into **cost-sharing agreements** for RoL activities (taking consideration of the inherent risks), and ensuring national budget allocations are earmarked for RoL institutions. These discussions should culminate in exit strategies, especially regarding the above-mentioned activities that are currently not sustainable. These issues do not only concern budgetary elements, but phased planning regarding reach of services and increased Somalia ownership. It is recommended that consideration is given to whether an holistic orchestrated phased approach may be relevant across the MPTF structure, i.e. to gradually widen the '**Somali window**' so that Somalis are increasingly in control of the tendering and procurement processes, which will not only mean cheaper delivery costs but at the same time provide an exit strategy and sustainability of projects. When the Somali window is widened, a certain percentage of the programme funds should be earmarked for national implementation modality.

This would entail the UN's role will move toward the monitoring and some fiduciary and technical knowledge transfer would remain within the responsibilities.

- There needs to be a shift to **national legal aid structures** which will be able to reach out to the FMS and districts through the CSO's. The government can ensure formulation of policies and M&E. Handing over of legal aid services and developing a nationalised system is required. This should be part of the **justice model**.
- There is a need to **reinforce anti-corruption work** in tandem with revenue enhancement schemes that are being worked on by other entities (World Bank). See also later recommendations regarding anti-corruption work.

Finding 6: Cross-cutting issues such as gender, human rights, corruption and PVE have not been properly mainstreamed or considered.

Gender: Under PSG 3 it is stated that *'processes should uphold principles of gender equality and equity, and should advance the prevention of sexual and gender-based violence'*. It identifies the objective of increasing *'the capacity of justice providers to better address the most prevalent post-conflict grievances'*.

Donors expressed that there is no coherence regarding human rights and gender across the JROLP. It was said that if there is coherence it appears to be 'by chance and not design', as the activities are small-scale and inconsistent. It was said that a human rights-based approach has been taken up although in a limited manner, e.g. a participatory approach in planning through the PSG, and transparency and accountability through the inspection scheme established in Puntland and Somaliland. Also legal aid cases post drought and re-programming with the drought meant that human rights issues were addressed at the IDP camps. However, where assistance was being given, it was siloed. For example, by providing training to AGOs on SGBV, it did not link in with training to lawyers on other critical issues such as murder cases and issues relating to land disputes. As previously mentioned, this runs the risk of creating pockets of expertise that remain largely ineffective due to the impotence of the broader justice system.

There have been some successful initiatives regarding gender in the JROLP. For example, the SGBV Unit in Puntland, and support to the AGO in Somaliland and to the NGO Bahikoob, although as previously mentioned, the judiciary in Puntland is not well equipped to hear SGBV cases in line with international standards. It was also noted during an observational visit to the court complex in Garowe that the partial screen installed in one of the offices provided scant privacy for survivors of SGBV share experiences. There also did not appear to be adequate confidential intake processes for survivors.

UN Women acting as an advisory PUNO will assist in quality assurance of gender issues.

Human rights: UNDP has made efforts to include HRs considerations into programming, and it was said by UNSOM that on-going efforts to set up the National Human Rights Commission (NHRC) were largely possible because of UNDP's input.

The recent Comprehensive Approach to Security (CAS) structure has set out human rights as a pillar in its own right. The CAS executive group is working with the Ministry of Women and Human Rights Development (MoWHRD) to ensure that women's representation in public service and human rights issues are well integrated in the National Security Architecture framework. Despite this, however, it was said that the HRs pillar undermines the perception that HRs needs to be mainstreamed across all programmes. The expertise and quality assurance of UNSOM Human Rights department needs to be better utilised by all PUNOs when planning, authorising and executing projects.

Corruption: Anti-corruption initiatives are not normally seen as a priority to be mainstreamed. However, corruption is mentioned here alongside gender and HRs because Somalia was rated as the most corrupt country in the world by Transparency International, for the tenth year in a row. Despite this, there is insufficient emphasis in the Programme on reducing corruption across RoL entities. Corruption facilitates and incubates the planning and commission of serious organised crime, and thereby limits growth and development. The HACT assessments introduced by UNDP address fiduciary risk regarding the giving of funds to beneficiaries, although the Programme does not address or mainstream anti-corruption considerations regarding institutions themselves and how they operate and interact with one another and with the public. Whilst there are inspection schemes in Puntland and Somaliland where accountability frameworks are being introduced, these are specific projects that could be better galvanised by being linked into broader thematic anti-corruption work across the justice delivery chain.

PVE: UNSOM's PVE representative reports to the DSRSG, which does not lend itself to a natural synergy or integration with the JROLP. However, there are plans to introduce PVE functions into the Programme, especially in the light of the new National Action Plan on PVE. In addition, Peace Building activities need to be harmonised into the JROLP.

Recommendations:

- **Thematic cross-cutting issues of priority** need to be clearly identified and raised to Steering Committee level. If, for example, SGBV is considered a priority, it needs to benefit from the proposed broader RoL Coordination Group that fortifies links with Constitutional Affairs (UNDP) and other departments so that appropriate messaging can be harmonised and targeted, as well as technical assistance given from across the Programme.

- Given the new CAS structure has arguably siloed human rights by setting it out as a separate strand, it is imperative that **HRs functions within the JROLP are strengthened** through increased use of both national and international experts.
- There should be a **new mechanism in the next phase of the JROLP that allows experts to quality assure and comment upon human rights considerations** of all projects and check whether they are in alignment with international standards and national action plans. Experts should also comment on possible implications of activities using a conflict sensitive approach. This should be an essential part of the escalation process prior to projects achieving Steering Committee approval, and should be a necessary pre-requisite prior to programmes being presented to the Committee.
- Emphasis needs to be given to **mainstreaming and fortifying anti-corruption initiatives**, including at both outcome and output levels in the next phase. Consideration needs to be given, for example, to the creation of effective whistle-blowing mechanisms. Momentum also needs to be generated by finding national actors that will champion anti-corruption. A lessons learned approach can take into account the path of the Policing Model, and the need to involve FMS from the outset, have comprehensive consultations and then involve the National Leadership Forum specifically on the issue of corruption.

Finding 7: Linkages with other key programmes, e.g. with Constitutional and Parliamentary Affairs, UNDP State Building and Federalism Programme and Political need to be strengthened.

Outside of UNDP internal synergies, linkages between the JROLP, Constitutional and Parliamentary Division (UNDP), and Political UNSOM section did not appear to be well functioning, being said to exist ‘only on paper’. Some sharing of ideas has taken place, although these were isolated incidents with no on-going strategy. Whilst these linkages work well within UNDP, the Mission itself lacks coherence in this respect. This is critical when considering that each State / region has its own Constitution. In addition, there is no Constitutional Court currently in existence, although this will play an important future role regarding impeachments (and will also therefore act as a deterrent to corruption). Given the current political discussions regarding federalisation, there was said to be a door of opportunity to act on these synergies now, but this door will close soon; the three branches of Government are still being conceptualised because of the Constitutional Review process. Once this process is finalised it will be more difficult to revert and create linkages.

SSR section has to bridge police and justice, as it was said an SSR approach is being adopted to ROL work, although the SSR component is not part of the JROLP.

Recommendation:

- As recommended above, there is a need to **broaden the GFP mechanism by involving Constitutional and Parliamentary Affairs, Political** as a core component, including other relevant actors as appropriate. SSR and DDR components form pillars or constitute key stakeholders in the justice delivery chain that wouldn't be relevant in a context that is not post-conflict. Issues surrounding legality of detention, ethics and policies surrounding the sharing of information from rehabilitation centres to other security and justice entities, the status of children in DDR programmes are all critical to explore and better understand within the Somali context. This will be a continued challenge in newly liberated areas.
- Political and constitutional issues need to be a **standing agenda item** for the broader GFP mechanism that is being proposed.
- The JROLP should **work closely with the Constitutional and Parliamentary Affairs Division on the Justice model**. In addition, the strengthening links between the Policing Model and Constitutional Affairs would be highly beneficial, as some related provisions will need to be enshrined in the Constitution

Finding 8: There is a lack of clarity (e.g. a Road Map) setting out an agreed basis for how the informal and formal justice systems will develop and what the interface between the two will look like.

There are on-going initiatives that bolster the work of the informal and formal justice mechanisms, and the proposed two outcomes for the next phase acknowledge the pluralistic legal system in Somalia. This work includes UNDP's work on alternative dispute resolution and traditional dispute resolution. However, there has been little progress or clarity about how the two systems can work together, and what the interface between the two will be. In addition, when visiting the project in Puntland there was some confusion regarding whether the alternative dispute mechanism hears cases of rape.

Recommendations:

- There is a need to **further invest in researching and proposing examples of integrated pluralistic systems as part of discussions relating to the Justice Model**. For example, assessing the viability of introducing the system that is in place in Somaliland in other regions, where clan leaders are registered with the MoI. This means that there is some accountability and also recognition of the leaders. There is also a need to focus on multi-sector engagement across the justice delivery chain, e.g. custody time limits, referral pathway of SGBV survivors, the HRs implications of these, and different models involving pluralistic systems.

Findings: Achievements of the JROLP

The findings in this section do not have any accompanying recommendations.

Finding 9: Significant efforts have been made to reach and work with FMS

Significant progress has been made due to the efforts of JROLP staff to work on capacity-building FMS. UN personnel have been living and working outside of Mogadishu, including in Baidoa, Kismayo, and Belet Wayne. This has been welcomed by national stakeholders and donors, especially in the light of the extremely prohibitive security considerations. It should also be noted that the Ministries of Justice in all the South Central States were established through the JROLP.

Finding 10: Programmes are highly relevant and have a broad reach, having contributed to development of future justice stakeholders and entities.

The JROLP has a broad reach, despite on-going critical security challenges. The Programme works in places where the Government has no offices. Some important achievements that have contributed to the development of future justice stakeholders and entities include:

- Swedish officers in the prisons who are seconded through UNODC.
- Scholarships involving Mogadishu University, Puntland University, Hargeisa and Hormud University which have helped train legal professionals who would not be in the system now were it not for the JROLP.
- The political buy-in to the Policing Model is a considerable achievement, as each State is now developing its own State police organisations (e.g. Jubaland, Galmudug, South Central), whereas in Somaliland and Puntland the focus is more on reform.
- The MPCC project, started in late 2015, designed to be implemented in 4 phases.
- Alternative dispute resolution work in Puntland (although see previous comments).

Whilst this evaluation is only mandated to give recommendations to the JROLP, continued patience and support from donors is needed as discussions are on-going regarding the Policing Model and Justice and Corrections Model. This includes ensuring that they develop in tandem, and discussions concerning, for example, when a crime becomes a federal offence, and how federal and regional police will function and cooperate.

Finding 11: Convening power of the UN is unparalleled

The UN has great reach across Somalia, with the ability to convene political and security issues in a way that no NGO or bi-lateral can. It was said by several donors that although parts of RoL work can be implemented by private sector companies, there are certain normative and core functions that are better suited to the UN to implement, and therefore the UN should focus on what other agencies and entities cannot do.

The UN also has the capacity to lift bi-laterals from focusing too much on priorities that may be perceived to marginalise other considerations, e.g. the current CAS structure is seen to be too security focused by several key respondents.

The JROLP has the capacity to frame thinking on RoL, ensuring it is positioned strategically in development terms, not seen merely as an afterthought to security considerations. The JROLP also acts as a natural leveller to donors that have different priorities and ways of working. Some donor discussions around value for money and delivery have added additional pressure to PUNOs, who are not necessarily able to continually deliver in a highly complex environment, but whose strength instead lies in their convening power. The UN is a key partner to the government; demonstrating international norms and values. The value of this is not easy to quantify or demonstrate through metrics-based evaluations, but the continued presence of the JROLP is nonetheless critical in guiding national entities towards achieving sustainable development in line with international standards.

Finding 12: UNDP has ensured transparency and self-reflection throughout the life of the Programme

Consultations and the system of Third Party Monitoring have helped engender an atmosphere of self-reflection and adaptation of current methodologies and ways of working. However, please also see comments on page 24 regarding the divergence of opinion of donors and the JROLP regarding reporting and evaluating the projects.

Findings and recommendations: **Challenges to the JROLP**

Finding 13: Unrealistic expectations on the Programme are sometimes due to circumstances outside its control; better Somali coordination is needed and more fluent and consistent funding from donors.

Political and societal challenges

Multiple factors such as clan dynamics and political allegiances permeate all aspects of RoL development in Somalia. This makes progress extremely challenging and slow, the fault of which cannot always be laid at the door of the UN.

There was also an additional focus on outputs that was destined to fail in the light of political challenges. For example, technical assistance was provided by UNSOM HRs (with the facilitation of UNDP) to provide assistance that would enable the creation of the National Human Rights Institution (known as the National Human Rights Commission), and legislation was signed in August 2016. It stated that Commissioners had to be appointed within 30 days, although unfortunately this did not happen. This is not the fault of UNSOM or UNDP, although against the Programme outcomes this may be deemed as a 'failure' of the JROLP if wider political circumstances are not taken into consideration.

Further, some issues cannot be resolved until the constitutional review process is over, e.g. land dispute policy architecture.

Funding challenges

Funding that was originally envisaged through the MPTF was circa \$160million but what was released was only about one quarter of that, so the Programme has constantly suffered by struggling to live up to the expectations of its original parameters.

Funding continues to be released late, so there are gaps when no activities can take place, and then need to be completed before the next Quarter for evaluation and reporting purposes. This means that activities are squeezed into a six month period, which places considerable strain on project staff and beneficiaries, with accompanying political conversations needing to take place too quickly.

A lack of funding has impacted upon the presence of international staff in regional offices. Risks surrounding this do not appear to have been adequately addressed or mitigated. Whilst Head of Offices are secondary reporting lines for UNDP, greater clarity would be beneficial to inform Heads of Office to what extent they may be able to get involved and make decisions regarding RoL issues, especially given the reduction of staff in field offices. National capacity and lack of legal professionals are huge challenges; there are few law officers and no legislative drafters in the FMS.

National partners reaction to the JROLP

Somalis themselves need to be accountable for the development of their own country, which means imposing a level of conditionality upon stakeholder actions and the need to see an increase in institutional changes.

Many national stakeholders voiced three main concerns about the Programme: i) speed of delivery of activities and release of funds, ii) limited national ownership and sustainability, and iii) lack of consultation about Programme priorities.

This evaluation was not able to ascertain the veracity of all these claims, and it may be the case that some are borne out of misunderstanding, poor communication or mismanaged expectations. However, it is the case that there are no effective national coordinating mechanisms that can feed into the JROLP mechanisms regarding priorities and other related issues.

Recommendations:

- **National expectations** and accountability of national stakeholders needs to be closely monitored and managed.
- There is a need to **invest in national coordinating functions**, devolved to regional levels, that can prioritise both bi-lateral and MPTF activities and feed into the JROLP. This needs to go beyond the current MoJ oversight for JROLP funds, as this raises conflict of interest issues; a disproportionate amount of funding went to the MOJ itself (circa 1.3 million USD) compared with, for example, the AGO in Mogadishu (a total of 100k USD), which lacks continued JROLP support.
- There need to be clear discussions prior to the next iteration of the Programme to ensure that **PUNOs know how much money they are receiving and when**, and can consequently be held to account, matched by adjusted expectations from donors about what is realistically achievable, especially if funds are not released on time.

Finding 14: The criminal justice component of UNODC has suffered severe reputational issues which undermine the credibility of the Programme

UNODC has a comparative advantage in hands-on mentoring and support to the RoL sector. Much of its work is in discrete geographical and thematic areas where other PUNOs might not have access or a mandate. This work includes construction and maintenance of correctional facilities, mentoring on corrections and maritime in all main Somali harbours, as well as leading in the construction of the Mogadishu Court Complex. As also mentioned previously, UNODC has also taken the lead on the development of basic recruit curricula for police officers.

Despite this, UNODC's perception that it is the custodian of the criminal justice standards and norms may unfortunately be overly ambitious in Somalia given its limited presence in-

country. Almost all national stakeholders pro-actively voiced criticism towards UNODC's regional programme (not including the seconded prison personnel), reflecting that UNODC suffers from distinct reputational issues in comparison with other PUNOs. Criticism from national stakeholders can be categorised as over-reaching (very few international UNODC staff are based in Somalia), over-promising and under-delivering. This evaluation was not able to investigate these assertions, but the views of beneficiaries reflects the relational and perception issues that have affected the JROLP. Whilst some shortcomings may be explained by UNODC as being caused by poor funding, reputational issues run the risk of hampering the Programme unless significant efforts are made to remedy this.

Conversely, UNODC stated it has developed various materials that have not been taken into account or utilised by other agencies, e.g. sentencing manuals and Bench Books. These were said to be available in the Somali language and developed in Somaliland, with the potential to be adapted and utilised in South Central. This would have saved both time and resources. Various priorities were seen by UNODC as not fitting in with activities set out in the Programme Document (especially regarding prisons), which raises questions regarding the extent of UNODC's proper inclusion in the initial drafting process of the Programme Document, or the consideration of the operability of priorities by UNODC and the other PUNOs. More positively, however, the new Work Plan was seen to be much improved in terms of activities, and there will be a slight increase in presence in Mogadishu from UNODC Maritime Programme.

Recommendations:

- UNODC should either scale down its scope and ambitions in Somalia, or significantly increase its presence, **with concerted efforts to correct reputational issues**, re-calibrate expectations from stakeholders, and be more realistic regarding what it can deliver and in what time-scales.
- To have a **follow-up high-level evaluation in 8 – 12 months** time to ascertain to what extent the issues outlined in this report have been ameliorated (see same recommendation for finding 16).

Finding 15: Donors want to have the option of working bi-laterally with UN entities due to the cumbersome governance structure of the JROLP and additional expense of the MPTF.

The donor and funding context is changing considerably in Somalia. Bi-laterally funded initiatives are impending and likely to continue, as it was asserted by donors that it is not possible to locate all initiatives under one umbrella. Donors reiterated that if there was a revived MPTF structure that was more nimble, it would facilitate a greater amount of funds being channelled through it. This is because the MPTF is currently perceived generally as an additional bureaucratic layer as opposed to an efficient coordinating mechanism.

The MPTF has suffered significant drawbacks in terms of the somewhat negative perception it holds amongst donors regarding its cumbersome bureaucracy and associated additional

costs. It was said there is a trend amongst partners of having ‘fallen out of love’ with the MPTF. Some donors prefer not to route their funds through the MPTF, partly because of the additional management costs involved. However, donors themselves pointed out that allowances must be made by the donor community in this regard, otherwise there will be a proliferation of *ad hoc* bi-lateral activities that are not part of an holistic strategic plan. In addition, the risk of pursuing bi-lateral funding mechanisms is that the results of those initiatives are lost and fall out of the general evaluation and strategic matrix. Peer and cross-UN entity accountability is also lost.

The trend towards increased bi-lateral funding to PUNOs has called into question the purpose, as well as the efficiency, of the MPTF and JROLP as a whole. It was said by some PUNOs that bi-lateral funding goes against the spirit of the joint Programme and that it has caused considerable confusion. On the other hand, donors stated that the MPTF may not be the most suitable vehicle for all activities, so the issue is more a matter of *coordination* rather than a question of whether or not both avenues should be made available.

It is apparent that donors have particular focuses and sub-sets of interests which can cause tensions when the JROLP is trying to synergise activities and priorities. One major donor was said by several key stakeholders to be particularly set on its own trajectory, and this outlook can lead to a situation where, as one stakeholder said, each donor ‘sits on their own island’.

At the time of writing, DFID had recently commissioned a report on justice, carried out by a private contracting entity. The reasons for, and scope of that research fall outside of this evaluation. However, the JROLP could have carried out, or assisted in this research as it has broad and unparalleled access across Somalia. The fact that it did not highlights the fragmented terrain and lack of cohesion within which the JROLP operates.

The MPTF funding mechanism needs to be robust, relevant and efficient. Whilst the bi-lateral model can provide quick wins, easier administration and lower costs than a multi-lateral process, it detracts from the overall coherency of initiatives, unless properly coordinated *along with* MPTF projects.

Recommendations:

- **The JROLP needs to demonstrate, quickly and articulately, why the MPTF is an effective funding route** for donors and how it can operate to deliver objectives in line with the National Development Plan of Somalia. Consideration needs to be given to basic questions such as whether it is still needed, or indeed relevant in the Somali context, and how it can maximise its efficacy.
- Conversations need to take place about **how to operate aid coordination – of all types – from one platform**. Having an inclusive, cohesive coordination mechanism that incorporates *both* multi-lateral and bi-lateral initiatives will facilitate in keeping the principles behind joint working intact. However, in order to do this, PUNOs need

to decide whether they are willing to share information regarding bi-lateral arrangements, and if so, ensure that they fall in line with overall agreed priorities. This will mean adopting a cohesive, integrated joint working model with strengthened synergies (e.g. ensuring proper sequencing and agreed follow-up, see recommendations for finding 1), regardless of whether the activity is MPTF funded or bi-laterally funded.

- It is recommended that the JROLP impresses upon donors that the latter have to be **more clear with PUNOs** regarding what programmes they are going to fund and through which mechanism, i.e. whether they will continue through the MPTF route or bi-lateral, or both, and why. This will ensure a reciprocal ‘top down-bottom up’ approach that will facilitate increased coordination, relevance and value for money. The JROLP needs to also impress upon donors the assets, knowledge and capacity available to it in order that donors utilise these in the first instance, instead of commissioning research and projects externally.

Finding 16: Evaluating the Programme and consequent accountability of the Programme to donors and national stakeholders has been very challenging.

Donors and national stakeholders have had difficulties in properly assessing the measure and impact of the Programme beyond pure numbers. Reports to the MPTF may give, for example, numbers of those accessing mobile courts or legal aid services, but it was commonly stated that what happened to those cases or individuals was opaque, and the actual quality of service beneficiaries received was not being measured.

Recommendations:

- To develop a **joint evaluation mechanism** that focuses on the issues that both national stakeholder and donors want to see; going beyond numbers to **increase qualitative reporting** and not just focus on quantitative data.
- To have a **follow-up high-level evaluation in 8 – 12 months** time to ascertain to what extent the issues outlined in this report have been ameliorated (see same recommendation for finding 14).

Finding 17: The rapid pace of change regarding federalisation can have negative impacts regarding JROLP consultation and activities:

The JROLP needs to adopt a conflict-sensitive approach and consider whether it is contributing to an unhealthy balance of FGS – FMS relations through its work. Several respondents stated that the more engagement takes place at federal level, the more FMS are alienated. Several different stakeholders also commented on the viability of the robustness of any conflict sensitivity considerations that the Programme was utilising. For example, creating independent or quasi-independent court systems in FMS will inevitably have future repercussions on jurisdiction and cross-border issues.

It was commonly asserted outside Mogadishu that a disproportionate amount of funding was being allotted to South Central at the expense of monies going to FMS. The reason given for this was that both Benadir and South Central have been set out in the Work Plans, but they are both in the Mogadishu area. However, great efforts have been made to support new emerging States; and the fact that South West, Jubaland, Hirshabelle and Galmudug are part of South Central means that support is inevitably focused on this area.

Recommendations.

- The Justice Model is yet to be discussed and agreed. Whilst it needs to be flexible, it needs a **conflict-sensitive approach** to fully discuss (economic, social and political aspects), with expert input, various modalities that are being suggested.
- JROLP stakeholders need to **clearly explain to national stakeholders the rationale behind the apportionment of funds** to Benadir and in South Central compared with funding to the regions. This may be best explained in a joint meeting with FMS when discussing the Justice Model, or national coordination.

Annex 1: Programme outcomes, sub-outcomes and indicators

OUTCOME 1: Establish independent and accountable justice institutions capable of addressing the justice needs of the people of Somalia by delivering justice for all

- **INDICATOR:** %age of Somalis who feel justice and corrections services have improved (sex and district). Capacity of justice institutions and custodial corps to deliver gender-responsive services respectful of human rights.
- **SUB-OUTCOME 1.1:** Key justice institutions and departments that are capable of taking on their responsibilities established
 - **INDICATORS:** %age of justice actors, number of strategies /SOPs / Codes etc, Number of people reached by awareness campaigns.
- **SUB-OUTCOME 1.2:** Enhanced capacity of the justice system stakeholders to operate effectively, through further professionalization of laws, policies and procedures, improved facilities and enhanced knowledge management
 - **INDICATOR:** Number of cases fully adjudicate in the formal permanent courts (disaggregated by crime and civil cases).
- **SUB-OUTCOME 1.3:** Increased capacity of the corrections system to safeguard the rights of detainees and operate effectively and in accordance with national and international standards through targeted activities to enhance facilities, rehabilitation possibilities, management systems and staff training.
 - **INDICATOR:** Number of districts that are provided with corrections services or structures
- **SUB-OUTCOME 1.4:** Oversight and accountability mechanisms for justice stakeholders developed and strengthened.
 - **INDICATOR:** Strategy and systems developed for oversight and accountability mechanisms
- **SUB-OUTCOME 1.5:** Overall functioning of the justice sector enhanced through increased access to justice, improved legal education and awareness as well as the establishment of a functioning youth justice system.
 - **INDICATOR:** Number of districts that are provided with justice services.
- **SUB-OUTCOME 1.6:** Effective programme management (justice and corrections component).
 - **INDICATOR:** Number of Programme Steering Committee Meetings

OUTCOME 2: Establish unified, capable, accountable and rights-based Somali Police Force providing safety and order for all the people in Somalia.

- **INDICATOR:** %age of Somalis who feel police services have improved (sex and district), capacity of SPF (to deliver gender responsive services respectful of human rights)

- **SUB-OUTCOME 2.1:** A baseline Somali Police Force is built to preserve stability and order in Somalia through custom and institutional rule of law through **police capability** – the human and physical capabilities of police are shaped to support the needs of the Somali people.
 - **INDICATOR:** Number of districts that are provided with police services.
- **SUB-OUTCOME 2.2:** A base-line Somali Police Force is built to preserve stability and order in Somalia through custom and institutional rule of law through **Police reform** – the conduct, behaviour and values of police are shaped to support the needs of the Somalia people.
 - **INDICATOR:** %age of police force undertaken training (initial or refresher) with UN support
- **SUB-OUTCOME 2.3:** Effective programme management (police component)
 - **INDICATOR:** Number of Programme Steering Committee meetings

Annex 2: List of stakeholder participant entities

National stakeholders

South Central:

Attorney General's Office, Mogadishu
Chief Justice, Mogadishu
Somali Women's Development Centre
Safe Somali Women and Children
Mogadishu University
Ministry of Justice

Puntland:

Attorney General's Office
Bar Association
CDR project
Ministry of Security
Puntland Legal Aid Clinic
Deputy Commissioner of Prisons
Puntland State University
Ministry of Justice
Judiciary
SGBV Unit, Garowe
Supreme Court
UNODC prison secondees
UNPOL
UNSOM Human Rights

Somaliland:

Attorney General's Office
Bahikoob
Chief Justice
Hargeisa University Legal Aid Clinic
Ministry of Justice
Police Reform Unit
Prisons
SOLLA

Donors

EU
UK
Sweden
Holland

UN

UNSOM Human Rights
UNDP, including Constitutional and Parliamentary Affairs
UNODC
IOM
UN Women
ROLSIG
UN Habitat
UNPOL
UNSOM Political
UNOPS

Other

AMISOM police