

CORRUPTION REPORT

2009

Palestine

Combating Corruption in Public Institutions

MEASURES AND PROCEDURES

First Edition

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TABLE OF CONTENTS

• Preface	4
• A unified concept as basis for joint efforts in combating corruption	6
• Struggle over power and the division... a negative factor	7
• The Status of Corruption in Palestine in 2009	9
• Absence of an official independent anti-corruption institution: a negative factor	10
1. The political Will to combat corruption is still weak	9
2. Absence of an official independent anti-corruption institution: a negative factor	10
3. Improvement in the area of recruitment systems but!	10
4. Measures and procedures of enhancing transparency and avoiding conflict of interests	12
5. The Code of Conduct for civil servants is still merely ink on paper	13
6. Fear, hesitation and lack of credibility in follow-up procedures impeded the corruption whistle blowing	14
7. Public procurement and management of public funds	16
8. Ratification of the code of governance rules in the private sector	19
9. Measures to prevent money laundering	20
• The Most Prevalent Forms of Corruption in Palestine in 2009	22
• Anti-Corruption System: 2009	24
1. Role of occupation in weakening the Rule of Law	24
2. Promising start: Civil Public Prosecution was able to follow up with cases of corruption despite continued interference in its affairs.	25
3. Pursuance, investigation and holding corrupt senior officials accountable is still a weak process	28
4. The Executive Authority	29
5. The Palestinian Legislative Council: need to renew and restore legitimacy of its oversight role	31
6. Media: between the Hammer of Control and the anvil of professionalism	32
7. NGOs: A source for combating corruption or a fertile environment for its circulation	34
8. State Audit and Administrative Control Bureau (SAACB)role: between weakness and enhancement	34
9. Palestine: vulnerability to external intervention	35
• Issues under spotlight	37
• Conclusion	42
• Recommendations	44
• Appendix	47

PREFACE

In recognition of the significant role and continued efforts of all the popular and official parties especially civil society organizations- CSOs in combating corruption and enhancing values of integrity, principles of transparency, and systems of accountability, the annual report for 2009 was prepared to monitor the positive and negative changes on the status of corruption in the various Palestinian sectors. The circumstances, the socioeconomic and political variables, as well as the need for the PNA to develop policies and legislation, and adopt measures and procedures to combat corruption in various respects and in all the sectors of the Palestinian society - especially the public sector- will be taken into consideration. The entire set of measures and procedures adopted by PNA in combating corruption will be approached within the framework of the requirements needed for the implementation of the United Nations Convention against Corruption (UNCAC), which constitutes an effective tool in terms of its quest to strengthen the preventive dimensions and to prevent the occurrence of such crimes^{1*}. The index of measuring integrity, transparency and accountability in the management of public affairs, which had been developed by AMAN, forms the basis for the methodology of detailed description of the real nature of corruption, its most significant forms as well as the causes of its existence so as to compare the changes that occurred in comparison to the previous year.

Tools adopted for data collection include:

1. Objective data: exemplified by concrete pragmatic facts verified by various documents, evidence and actual practical experiences including :
 - ▶ Experiences of persons in positions of responsibility: To ensure that accurate data was collected from direct sources of officials in the various positions.
 - ▶ Records of public and private institutions: including laws, decisions, public policies, as well as the records of administrative, functional and financial performance of targeted institutions in the corruption index.
2. Opinion polls in the West Bank, Gaza Strip and Jerusalem: to disclose the perceptions of the Palestinian public on the subject including:
 - ▶ Perceptions that reflect their opinions on the circulation of corruption, its forms, causes, domains, implications as well as the degree of its pervasion.

1 * UNCAC stipulates that member states must adopt a set of preventive measures and procedures to combat corruption and reduce its circulation. Although PNA has not signed the UNCAC for legal considerations, it is committed to respect its implementation and incorporate its terms into Palestinian legislation.

- ▶ Perceptions of the elite probed through workshops, forums or meetings planned by AMAN to reveal opinions of experts acquainted with the various aspects of public life including politics, economy, the media as well as others.

In preparing the report, AMAN depended on the results of its study **“National Integrity System-Palestine 2009”** in which a team of researchers and experts in the field of anti-corruption and good governance participated in the analysis and data provided. This study, which will be updated annually, aimed to depict and analyze the extent of immunity of the Palestinian institutions for public works, as well as the extent of transparency, accountability and integrity of the targeted institutions and their employees for the purpose of providing the relevant authorities with clear and specific recommendations.

The report aims to help decision-makers and civil society organizations to be acquainted with the overall performance in order to take the necessary measures and steps to combat corruption and restrict its manifestation. AMAN also seeks to enhance the national political will of the leaders of political factions and civil society organizations as well as officials of the legislative, executive and judicial authorities on the fight against corruption for the purpose of developing effective methods, measures and procedures and enact legislation, laws and regulations. Citizens’ awareness of the risks of corruption and its various forms such as Wasta, favoritism and the misappropriation of public funds; the enhancement of the role of independent media in monitoring the management of public affairs, as well as the promotion of transparency among private sector organizations are also highlighted.

A UNIFIED CONCEPT AS BASIS FOR JOINT EFFORTS IN COMBATING CORRUPTION

Corruption is neither a new phenomenon nor a product of one or several years of circulation, but a deep-rooted problem whose size and forms rather than the extent of its prevalence preoccupy people's minds nowadays. It is a phenomenon predominant in all societies and states, whether they are rich or poor, and has a devastating impact that affects the political, social and economic circumstances of all people, especially the poor and marginalized sectors of society.

Despite the differences in definitions, there is a unanimous agreement that corruption is incompatible with the values prevailing in the society and includes the misuse of public office for the purpose of attaining personal benefits in contravention of the law and order. **It is a self-misbehavior of social negative impact that satisfies personal interests at the expense of the public interest of the surrounding community. However, for the purposes of this report, the following definition will be adopted: "The misuse of public office to attain personal goals"²

Corruption takes many unlimited forms and images in accordance with the party that practices it or the goals to be attained including financial returns and political or social gains among others. It may be an individual endeavor or a collective regulated and coordinated action, which, if prevailed would devastate the whole social structure. Therefore, each state develops its own effective methods following a thorough investigation of the most predominant forms.

As forms of corruption vary among various places and communities, so are the reasons for its manifestation. However, the latter are often ascribed to the feeble transparency and integrity of officials; a situation that is created and aggravated as a result of the absence of rule of law as well as the unavailability of control and accountability systems that are based on distinct and binding laws and regulations. In addition, totalitarianism, the absence of democratic processes such as the weakness of the electoral process, spread of poverty, ignorance and poor awareness of the dangers and manifestations of corruption contribute to this state of confusion.

2 Musleh, A. et al. 2007. Integrity, Transparency and Accountability in Combating Corruption, AMAN Coalition, Ramallah

STRUGGLE OVER POWER AND THE DIVISION.... A NEGATIVE FACTOR

As it is well known, the Palestinian Territories have been subjected to a strict military occupation since 1967, which has seriously affected both the social and economic life as well as the political and legal environments. Within such a system, Palestinian territories have been under military rule and all walks of life were administered through military orders; a state that debilitated the ability of the PNA to build its institutions later on.

The first Palestinian government was established in accordance with the Oslo agreement in 1994 without a legislative authority. In the context of transition from revolution to the civil authority, the legacy of the Palestinian Liberation Organization (PLO), as a secret resistance movement, dominated the methods adopted by PNA which were dedicated for management and governance affairs. The revolutionary and confidential traditions and methods associated with lack of principles of transparency and systems of accountability predominated over the actions and circulation of information. The work of PNA, accordingly, was characterized by the control of the Executive Authority over other agencies. In addition, refusal of the opposition parties in power-sharing during the establishment phase, and their weak role in the democratization process contribute to a more deteriorated situation in which all Palestinian factions contributed to the consolidation of Wasta and partiality in the staffing process and distribution of aids and grants.

The Palestinian Legislative Council- PLC sanctioned several laws on regulating and controlling public office. The most prominent of which were: the Basic Law which was regarded as the Constitution of Reference that regulates public life and the Civil Service Act that regulates public office. Other significant laws included the State Audit and Administrative Control Bureau (SAACB), Law of Works and Public Tenders, General Procurement and Supplies Law, anti-Graft Law, the Consumer Protection Law, the Law of Rights and Duties of PLC members, in addition to the General Budget Law, the Election Law, and the Local Governance Act.

The PLC was faced with much controversy represented by the influence and control of the Executive Authority over the Judiciary and the Legislature; thereby weakening accountability in many areas including the prosecution of corruption and the corrupt, in particular those under political and security protection. Accordingly, The Executive Authority which hosts these elements became unwilling to enforce law or act in

accordance with transparent measures³.

The death of the late Palestinian President, Yasser Arafat in 2004, dictated the amendment of the election law and the need for holding new elections. The existence of a neutral and impartial election commission had contributed to the success of the presidential elections of 2005, and the second legislative elections of 2006 which were characterized with transparency and integrity. However, the democratic process created a new different political and legislative system, in which Abbas held the post of President whereas Hamas represented by “The Change and Reform Bloc”, captured the majority of the Legislative Council’s seats. However, the situation became more complicated when the conflict between the two main blocs in the PLC turned into a struggle over the Authority and its institutions. And when Israel arrested a large number of PLC members particularly from among the members of Hamas, the increase in struggle over power has not only disrupted parliamentary life, the main tool of control over the government acts, but has eventually led to armed conflict between the two great powers. It has also culminated in a real geographical division between the West Bank and Gaza Strip along with the emergence of a Caretaker Government in the West Bank, and a Government in Gaza Strip.

Casting its shadows on the political life, this conflict created an atmosphere where there is little use of accountability and transparency in public works, and debilitated the ability of oversight institutions, the Judiciary as well as the rule of law. However, amidst this deteriorating situation, none of the Palestinian factions has taken a decisive critical stand in considering corruption as a social evil to be fought, neither was its combating given a priority on the agenda of their everyday activities despite the fact that all of them demanded its termination. To tell the truth, these very factions have engaged in acts of Wasta, favoritism and quotas in the area of recruitment in public office.

³ The National Integrity System, Ramallah, Coalition for Integrity and Accountability, AMAN, 2008

THE STATUS OF CORRUPTION IN PALESTINE IN 2009

The political will to combat corruption is still weak:

Similar to the status quo prevailing in 2008, the competent authorities are still hesitant to take serious steps to bring senior officials before court for their embroilment in corruption cases. Although the government has taken serious steps by adopting the national plan developed by AMAN and the official decree issued by the government to form a national team for the purpose of combating corruption, no serious pragmatic steps were taken to follow up the desired goals or to reflect the zeal to implement the decree. The state of powerlessness, procrastination and unjustifiable temporization in the accountability and serious pursuit of senior officials under suspicion is an indicator of the weak political will of competent authorities and a stimulus for junior officials to follow the lead of their predecessors.

In addition, despite the successes achieved by some ministries in combating the manifestations of corruption, no national awareness campaigns or official measures were adopted to enhance community awareness on the importance of maintaining public funds and combating the most common indications of corruption such as Wasta, favoritism and career profiteering.

Promotion of community participation through holding periodic municipal and legislative elections was greatly neglected. The previously elected councils are still on duty despite the fact that their statutory period has come to an end. However, the Palestinian Council of Ministers has adopted a decision on 9/2/2010 to hold new elections for all the local authorities in the West Bank and Gaza Strip on 17/7/2010. On the other hand, a part of the private national organizations have conducted their own elections while others, including some of the public and labor organizations as well as chambers of commerce, industry and agriculture, are still waiting.

The PLC still undergoes a state of paralysis which curtails its ability in exercising any significant role in legislation and oversight. The SAACB was also preoccupied with granting certificates of excellence for most of the official institutions, thus neglecting its duties in controlling the violations committed by directors of many institutions; particularly those related to the misuse of public office and the waste of public funds except in some specific cases which have been referred to the civil public prosecution for formal investigation. The same can be said about Palestinian parties being preoccupied with the political divide, thus leaving the issue of corruption which represents a prerequisite for enhancing the national political will unhandled.

Absence of an official independent anti-corruption institution: a negative factor:

The establishment of an official institution for combating corruption and restraining its circulation is one of the preliminary measures that must be adopted by member states who have signed the UNCAC⁴. However although four years have passed since the issuance of the Anti-Graft Law no. (1) of 2005 in which Article (3) stipulates the establishment of an Anti-Graft Commission, the negligence on the side of PNA in this respect, left the Commission, its functions and terms of reference within the framework of legal provisions. Noteworthy here is that the annual Corruption Report of 2008 included in one of its recommendations the need of PNA to work on the establishment of an independent national anti-corruption commission that is authorized to develop all the required policies and plans by taking advantage of the international experiences in this respect. However, the endeavor found no echo albeit Prime Minister Salam Fayyad has declared during the march organized by AMAN to mark the International Day against Corruption, that the government is committed to establish an institution for combating illicit gains within the shortest possible period of time pursuant to the provisions of law since it regards this issue as one of the pillars of good governance.

Improvement in the area of recruitment systems but!:

The Palestinian Service Act no. (1) of 1998 along with its amendments and executive regulation represent the basic legislation on civil service in Palestine. In its entirety, the legislation deals with some of the principles that promote integrity and transparency in recruitment, appointment, promotion and training. However, civil services have faced several obstacles since its establishment, the most notable of which is inflation that results from the unjustified appointment based on political, personal or familial relations, which, in turn, contributed to the continuation of the misappropriation of public funds⁵. Although some procedures, including the announcement of vacant posts, as well as the written examinations and oral interviews with the applicants have been adopted in most of the assignments for minor jobs in the public sector, discrimination in recruitment is still a distinguishable mark particularly with the introduction of the security measures following the political divide between the West Bank and Gaza Strip. In sum, the civil service sector is still in need of a standard mechanism for the assessment and promotion of staff, as well as an independent commission in charge of appointing senior staff or controlling such affairs.

4 See Article (6) of the UNCAC

5 The bill of salaries and wages in 2009 reached \$1410 million, or about 50% of the total current expenditure of \$2779 million.

The public service sector still experiences certain difficulties, of which the most prominent included:

- ▶ The existence of some unlawful interference in appointments and promotions in the public sector, exemplified by the interference of some of the influential personnel and political organizations regardless of the need for new jobs, qualifications and practical experience, consolidated the phenomenon of the high salaries and wages as well as the waste of public funds despite the many resolutions adopted in 2008 and 2009 to control this unjustified inflation.
- ▶ In Gaza Strip, for instance, an announcement was made for jobs in the security services and certain undeclared appointments in the civil service sector took place. In addition, in response to the strike performed by some staff to protest the actions of the Government in Gaza, all former officials affiliated to Fatah Movement were replaced by officials affiliated with Hamas.
- ▶ The political affiliations and security are still representing a main source for discrimination in the assignments in the public sector. This included discharge, the denial of promotion and allowances as well as the refusal of applicants who represent a danger for the security of the government. In fact, all these procedures are in violation of the Civil Service Act and its executive regulation since neither the legal texts nor the procedures relating to assignment or disciplinary sanctions included the security clearance as a prerequisite for discharge or refusal. It should be noted here that the Supreme Court of Justice has scheduled a subsequent meeting on 7-4-2010 to follow up its decision dated 15-2-2010 on obligating the Council of Ministers to demonstrate the reasons for their decision of the year 2007 regarding obtaining a security clearance as prerequisite for assignment in response to a lawsuit filed by the Independent Commission for Human Rights- ICHR in this respect.
- ▶ The inflation in the bill of salaries which amounted to NIS (5,640) million in the General Budget of 2009 does not reflect the real number of public office holders in Palestine. An unlimited number of individuals inside or outside Palestine receive monthly salaries while sitting in their homes or engaging in jobs in the private sector. These are fraudulently assigned to illusory jobs outside the civil service sector by political organizations, NGOs or the Palestinian embassies abroad; a phenomenon which in addition to its contribution to the misappropriation of public funds, constitute a burden on the Civil and Security Administrative System that already undergoes inflation and flabbiness.
- ▶ The competent regulatory authorities exemplified by the chief of SAACB, head of the General Personnel Council- GPC, the chief of military administration & organization,

as well as directors of other official ministries and institutions are deemed to have a moral and official responsibility for the rise in the numbers of unneeded and illusory employees. The absence of oversight and accountability on their side has contributed to increased inflation in the bill of salaries at the expense of the budgets dedicated for projects in service of public interest.

- ▶ There is no specific system to be applied in terms of promotions, especially in senior positions such as a minister's position, a deputy, brigadier and the like. The hypocrisy seen in the congratulation adverts published in local newspapers for the holders of such positions is an indicator of the desire of the congratulators to have close relations with them. Additionally, the assignment of staff by contracts, or the appointment of consultants of various designations is a distinguishable way of escaping measures implied in the Civil Service Act since this is usually done in accordance with political and sectarian considerations rather than efficiency and equality of opportunities.
- ▶ The absence of standards and mechanisms required for counting the years of service in the public sector for pension purposes, as well as the delay in paying such contributions for the calculated years will throw the pension fund into immediate financial crisis and force the government to cover these contributions from the treasury so as to preserve the pension fund from bankruptcy. However what concerns us here is that not all the designated are treated equally, particularly as it became possible to acquire years of service through Wasta.
- ▶ The GPC is still subjected to the influence of the powerful. The fact that periodic reports on the status of public office are neither presented to the PLC and the Council of Ministers, nor published debilitates transparency.
- ▶ The Anti-Graft Law is still in need of enforcement since its implementation, particularly in terms of submitting a statement of financial disclosure is still restricted to some civil senior officials.

Measures and procedures of enhancing principles of transparency and avoiding conflict of interests:

UNCAC stipulated that all member states are obliged to adopt, consolidate and support transparency and prevent conflict of interests. However, despite the measures and procedures included in the Palestinian legislation, the Palestinian legislature is still in dire need for a uniform statute that includes all the necessary provisions to prevent

conflict of interests in all sectors. Such a statute must include a precise definition of conflict, the targeted categories, the situations in which conflict occurs, as well as the administrative and penal sanctions⁶.

The year 2009 has witnessed the implementation of certain measures to enhance principles of transparency and minimize conflict of interests. On 17/8/2009, The Cabinet has issued Resolution no. 3/13/13 on policies and criteria for the distribution of university grants to be implemented from the beginning of the scholastic year 2010-2011. According to this resolution, all measures related to scholarships for undergraduate and postgraduate studies are arranged by the Ministry of Higher Education while the Ministry of Foreign Affairs is entrusted with the responsibility for directing Palestinian embassies to work in close cooperation with the Ministry of Higher Education on the coordination of activities.

Moreover, some disciplinary measures have been adopted in a number of job positions to rationalize public spending and avoid conflict of interests. The Minister of Transport and Communications, for instance, has issued in 2009 instructions to promote integrity and transparency in the public sector, as well as to prevent conflict of interests in the work of the ministry's officials. Officials, in accordance with these instructions, would be subjected to the most severe administrative and penal sanctions⁷ unless they disclose all the privileges, services or licenses granted to them by the ministry in writing, including the privileges recorded on behalf of a first-degree relative, or in which the officials are partners. These privileges include granting licenses for the rental or purchase of taxi plate numbers and the running of buses for public transport; as well as licenses for the possession of a car shop, a company for vehicle imports, a car showroom, a station for vehicles checkup (i.e., a dynamometer), a taxi office, a company for the rental of tourist vehicles, and a foundation for the import and sale of auto spare parts.

Code of conduct for civil servants is still merely ink on paper:

The code of conduct for public sector employees is a preventive method designed to hamper the circulation of corruption⁸. A resolution was issued by the Cabinet on 30/3/2009 under no. (2/101/12) on the immediate ratification and enforcement of a code of conduct to regulate the behaviors and morals of the public sector employees. This code, although signed by the Union of public employees in 2008, has never been translated into practice. Delays in printing and distributing the code among employees,

6 See the recommendation included in the annual Corruption Report of 2008, p.28

7 The resolution of the Minister of Transport and Communication of 2009

8 Article no. (8/1/2/3/) of the UNCAC

and in assigning the authority responsible for follow up, training and accountability were among the reasons for this lingering.

Fear, hesitation and lack of credibility in follow-up procedures impeded the corruption whistle-blowing:

The adoption of measures and systems of facilitating corruption whistle blowing during working hours is one of the obligations that the states have to comply with⁹. The scattered text included in the Palestinian legislation on the duty of public sector employees to report acts of corruption within their organizations are substandard.

The prevailing procedural legislation neither addresses nor includes any texts on the methods and measures for the protection of witnesses from reprisals and intimidation in case of reporting criminal acts of corruption even in good faith. Some officials even intimidate whistle-blowers on the grounds that any defect in the provided information, or the inability to prove its validity, would expose them to accountability which may include trial, imprisonment and discharge.

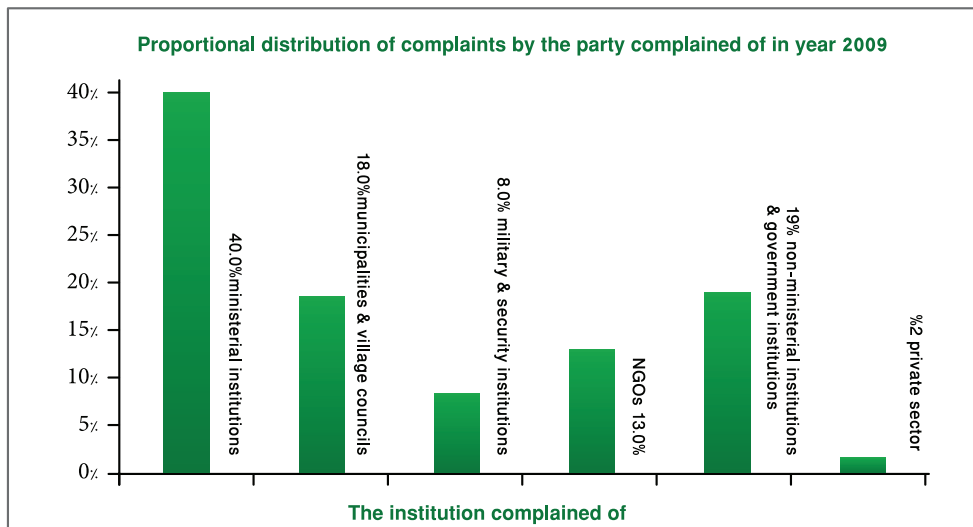
This situation is similar to the status quo existing in 2008. The year 2009 witnessed no progress in terms of the adoption of new measures and procedures whether in the form of laws enacted by the PLC or in relation to instruction and systems enforced by the Executive Authority and its various institutions. In addition, the Advocacy and Legal Advice Center –ALAC established by AMAN in 2009 to offer consultation to corruption whistle blowers on various issues confirmed the low rate of corruption whistle blowing among citizens.

ALAC was able to detect 62 suspected cases of corruption within the concerned institutions in 2009. The following is a representation of the offered complaints in terms of:

A. Types of Institutions of relevance:

Figure 1- shows the percentage distribution of complaints among the concerned institutions with the government public ones at the forefront with a rate of 77% of the total complaints distributed between the civil ministries (40%), municipalities and village councils (18%), and official non-ministerial institutions (19%). The second rank was occupied by the security and military institutions with a rate of (8%), whereas the private sector and public shareholding companies accounted for only 2% of the total complaints.

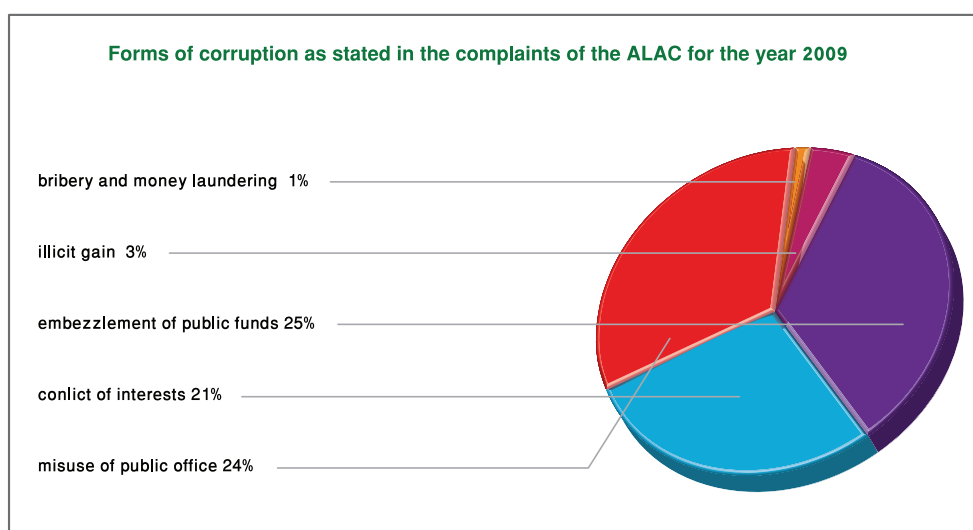
⁹ Article no. (8/4) of the UNCAC



B. Forms of Corruption:

Despite the overlap between Wasta, favoritism, nepotism and other forms of corruption, six main forms were highlighted: embezzlement and misappropriation of public funds, conflict of interests that pave the way for discrimination, misuse of public office, bribery, money-laundering along with nepotism and favoritism.

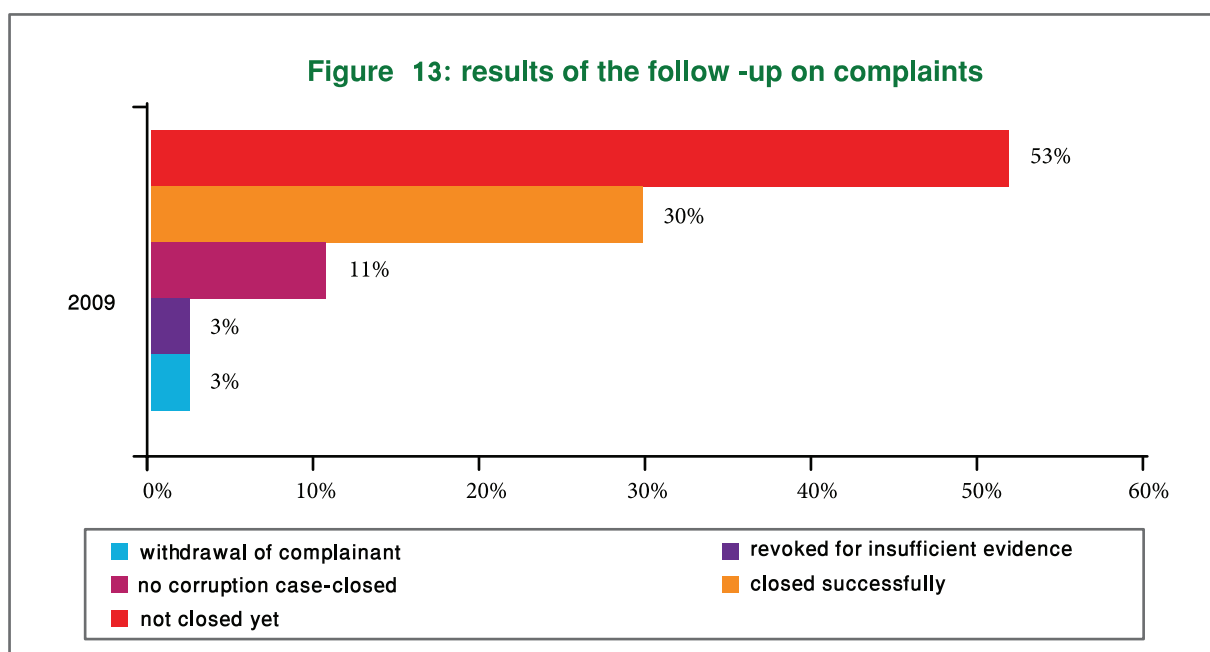
On reviewing the most prominent forms shown in figure 2- we find that Wasta, nepotism and favoritism ranked first by 26%, followed by embezzlement and misappropriation of public funds by 25%. The sequence of the other forms came as follows: misuse of public office and public resources for personal purposes (24%), conflict of interests (21%), and illicit gain (3%) while bribery which appeared at the last quarter of 2009 captured a rate of 1% only.



C. Results of the follow-up on complaints

After six months of its establishment, the ALAC in cooperation with the concerned institutions was able to follow-up and treat 30% of the received complaints successfully. However, 53% of the suspected corruption cases are under thorough investigation while a total of 17% of them were either closed or totally rejected whether because of their invalidity, lack of evidence or the withdrawal of the complainant.

Worth mentioning here is that most of the concerned institutions which were addressed with regards to corruption-related cases showed cooperation with AMAN in terms of following up and sharing results, while the cases that were addressed to the Ministry of Interior, as the official authority responsible for follow up, have not been closed yet since the investigation is still going on.



Public procurement and management of public funds successfully:

The General Budget constitutes the spine which rules the transparency and integrity of the measures of managing public funds. However, the disruption of the works of the PLC rendered it unable to perform its obligations including the ratification and control of the General Budget. The same is true for Gaza Strip where the Government in Gaza has neither submitted the 2009 budget nor published financial reports on revenues and expenses.

The conversion of all revenues to the Treasury Account in the Ministry of Finance, including revenues allocated to the security establishment is an indication of the

improvement on the issue of revenues. Other issues in this respect, however, are still in need for transparent thorough and comprehensive supervision. International aid, in particular in-kind aid such as food, medicines and devices which mostly go to Gaza Strip undergo bad management and supervision. Additionally, the absence of legislation to deal with the ownership of assets and revenues of the Palestine Investment Fund rendered transparency particularly in terms of the government share in these revenues and the utilization of state-owned lands a dilemma in need for urgent solution. On the other hand, although the Ministry of Finance publishes financial reports on its website, which shows the revenues, the expenses and sources of funding, the problem lies in the absence of accountability and a control system responsible for examining the validity of these reports, in particular in the absence of the PLC, and the weak capacity of the SAACB to execute full and regular inspection of their content. In contrast, no financial reports on revenues and expenses were published in Gaza in 2009.

From the above mentioned presentation, we can conclude that:

- ▶ The government's non submission of the 2009 General Budget to the PLC, noting that the Ministry of Finance has published it on its website page, and has presented the final statement of account to SAACB. In addition, two panel discussions were scheduled by AMAN to raise awareness in financial affairs: the first included members of the civil society whereas the second was held in Ramallah between the Ministry of Finance and some PLC members.
- ▶ Lack of clarity of the financial realities of Hamas in Gaza Strip restrained the ability to follow up the status quo or to subjugate it to oversight. The Government in Gaza has apologized for its inability to submit a financial report on revenues and expenses to the civil society in response to a formal request made by AMAN^{10*}.
- ▶ The absence of a mechanism to determine and publish the detailed amounts withheld by Israel has hampered the ability of the concerned authorities to be acquainted with the real situation in due time. In addition, large amounts of revenues were withheld by Israel for its health services and the unpaid water and electricity bills, or even for compensation denied by the PNA.
- ▶ Despite the attempts made to rationalize certain types of government spending, some manifestations of misappropriation of public funds are still in effect. The most prominent of which include: the high spending bill of the government vehicles resulting from the lack of control over fuel costs and the acquisition of more than a vehicle by some officials, the uncontrolled expenses of mobiles used by public

10 *The Government in Gaza addressed AMAN Coalition through an official letter stating their inability of providing the documents due to their loss during the Israeli war on the Gaza Strip

officials, as well as the rental and furnishing of buildings to be utilized as headquarters for ministries and institutions in a manner that does not commensurate with the PNA's weak capabilities.

- ▶ The legal framework that regulates procurement, exemplified by the Law of Public Tenders for Government Works and the Procurement Law, has fallen short of bridging the gaps that affect transparency and integrity. The unavailability of regulations and codes of conduct to prevent conflict of interests among tender commissions, or deterrent penalties to deter those who manipulate administrative contracts or misuse their position or who don't report corruption crimes are merely examples of these gaps. The improvement acquired in the field of the military financial management, exemplified by the subjugation of tenders, procurement; the reconstruction of headquarters as well as the expenditures under the direct supervision of the Ministry of Finance does not abolish the need for the establishment of a specialized financial management department.

The Cabinet has issued a number of effective resolutions in 2009 to preserve public funds, which include:

- ▶ Resolution no. (2/1/13) issued on 20/5/2009 that requires ministers to submit a statement of financial disclosure for them, their spouses as well as their minors as quickly as possible. This resolution conforms with the law and with the recommendations included in Corruption Report of 2005.
- ▶ Resolution no. (5/2/13) issued on 1/6/2009 which permits previous ministers to purchase the vehicles that were in their possession through submitting a formal request to the general directorate of customs and taxes in the Ministry of Finance, which in return coordinates the execution of procedures with the general directorate of transport in the Ministry of Transport and the general directorate of procurement as well as the general directorate of salaries in the Ministry of Finance. The price of the vehicle is estimated in accordance with a specific equation attached to the resolution, and paid in (36) installments guaranteed by the minister's salary. However, several measures are taken in case the minister doesn't cover the payments including handing over the vehicle to the public transport department, and the inability to renew the licensing and insurance of the vehicle. In addition, if the vehicle isn't handed over in due time, part of the minister's salary will be deducted in behalf of the treasury. However, despite the importance of such a resolution, it paved the way for some ministers who either retain the best and most expensive vehicle or ask the donors to provide their ministries with one and keep it new until they leave the ministry in order to bluff their way.

Similarly, on 21/10/2009 the Ministry of Transport has activated the system adopted for using government vehicles through assigning patrols to cooperate with the traffic police in order to control the use of government vehicles in all districts. In case of monitoring any government vehicle driven by an unauthorized individual or used in an illegal way, the vehicle is immediately retained. The Ministry is deprived of retrieving vehicles unless it provides the required guarantees that reflect its adherence to the resolution, which conforms to the recommendations stipulated in the Corruption Report of 2008, albeit government vehicles are still uncontrolled while surveillance takes the form of seasonal waves.

In Gaza Strip, in contrast, the Ministry of Interior in Khan Younis revealed two cases of financial and administrative corruption including embezzlement in two national societies, and the suspects were brought to trial¹¹. In addition, a resolution issued in 2009 by the Cabinet of the Government in Gaza dictated the combating of Wasta and favoritism and the maintenance of public funds through dealing with ministers and PLC members as ordinary citizens without privileges^{12*}, and obligating them to pay all fees owed by them to a pilgrimage. However, the semi-official tunnel trade does not provide a sufficient degree of transparency for the import control measures, or for the implementation of tax and customs procedures, which provides the opportunity and appropriate environment for corruption.

Ratification of the code of governance rules in the private sector:

The private sector is the sector most vulnerable to corruption for being a partner in paying bribes and commissions to public officials. Additionally, the relationship arising from the presence of some officials between public and private sectors opens space for the outbreak of conflict of interests. In addition, Laws that prevent the involvement of the private sector in corruption and strengthen the accountability standards and audit procedures are some of the measures that each state should adopt in its domestic law. An example of this is the development of codes of conduct that assist all businesses and all relevant professions to perform their activities correctly and avoid conflict of interests¹³. In this regard, we can say that several serious steps were taken in 2009 in this direction.

A Code of Governance, adopted by the National Committee for Governance in November,

11 See al-Ray Government Newspaper issued by the Government in Gaza and published on June 28, 2009 , p. 18

12 *Advocacy & Legal Advice Center – ALAC

13 See Article (12) of UNCAC

2009 was ratified to regulate the activities of all the Palestinian companies, and to be applied to all companies that fall under the supervision of the Palestinian Capital Market Authority. The Code has taken into account many of the principles including justice and integrity in the treatment of shareholders. Transparency and disclosure of financial and non-financial affairs and cases of conflict of interests, as well as accountability in the relationships between executive management and the Board of Directors, and between the latter and stakeholders in terms of the clear separation of responsibilities and delegation of powers¹⁴

Measures to prevent money laundering:

Money laundering as a form of corruption requires the ratification of internal systems of control and supervision of the expenditures as well as the financial and non-banking institutions. It also dictates the need for taking measures to monitor the movement of cash and negotiable instruments¹⁵. For this purpose, law no. (9) for the year 2007 was issued on Anti-Money Laundering, which resulted in the formation of the National Committee for Anti-Money Laundering under Presidential Decree no. (174), and the Financial Follow-up Unit under the Monetary Authority to follow up the measures and procedures which limit the money laundering operations. In addition, the Unit has issued circulars to the banking system to clarify the role of banks in reporting cases of money laundering and suspicious transactions. Similarly, the Capital Market Authority adopted several measures to deal with agencies under its control, the most prominent of which is the application of the principle of “Know Your Customer”. Its goal was to prohibit brokerage firms to accept cash payments and to ensure that all financial transactions are performed through bank accounts so that banks would be able to know their customers better.

Further, all agencies under auspices of the Capital Market Authority, particularly high-ranking officials have to disclose all financial transactions pertaining to them and their first-class relatives to ensure that all these transactions are subject to oversight and scrutiny to avoid money laundering operations.

On the other hand, the Palestinian Monetary Authority issued a manual on rules and best practices of the governance of banks in Palestine, which included numerous principles that promote values of integrity, principles of transparency and systems of accountability. The most conspicuous of which is the integrity of bank managers in

14 Since the Code was put into effect on 18/11/2009, it is early to judge whether it is being implemented or not.

15 See e Article (14/1/2) of UNCAC

terms of good reputation, or the commission of felonies or immoral misdemeanors in contrariety with honor and trust worthiness. Besides, controls must be established to prevent conflict of interests between the Bank's Board of Directors and its executive managers as well as their activities. Bank managers should also keep independent and impartial audit and compliance, receive and address complaints and find appropriate solutions. They have to adhere to the laws and measures for combating money laundering, and disclose sufficient, accurate and easily accessible information and data to all concerned parties in due time and at low cost to ensure transparency. Additionally, a committee for governance shall be designated by the Board of Directors to establish a transparent and impartial system of compensation and rewards, and to determine the emoluments of the members of the Board in order to prevent conflict of interests. Finally, Bank managers must adopt behavioral and moral standards printed in a guidebook and distributed among employees so as to train them on implementation and enable them to be acquainted with the penalty of breaching its provisions.

THE MOST PREVALENT FORMS OF CORRUPTION IN PALESTINE IN 2009

Forms and manifestations of corruption differ among various societies and countries. In some communities, bribery may constitute the main form of corruption, while in others wasting of public funds, Wasta, and favoritism may be the prevalent forms in public appointments. Moreover, forms of corruption may vary in accordance with the level of its circulation within the community, since corruption may include all sectors from top to bottom of the social structure or be restricted to members of the upper class. Some forms of corruption such as Wasta, nepotism and favoritism, squandering of public funds and conflict of interests are still predominant in the Palestinian society, while other forms including looting of public funds, Wasta and nepotism in appointments and profiting from public office started to decline although at varying degrees.

Wasta, Nepotism and Favoritism are still prevalent in rendering public services

Wasta, nepotism and favoritism are still the most prevalent forms of corruption among the various sectors of the Palestinian Society. The culture predominant in the Palestinian Society plays significant role in the development of such phenomena, since it doesn't distinguish between assistance and Wasta and nepotism. In light of the social and political structure in Palestine, in which family, the clan or the political faction is regarded the most crucial reference in the lives of citizens who- in many cases- give priority to these references over their affiliation to their homeland or state as a whole, which leaves the official in a situation that dictates to him to prove his affiliation with his clan or political faction through rendering service to its members at the expense of public interest or on account of laws and regulations.

With reference to the poll conducted by AMAN in 2009¹⁶, it becomes evident that 63% of respondents believe that Wasta, nepotism and favoritism are the most common forms of corruption in the public sector during 2009. However, in contrast, 73.1% of respondents consider Wasta a means that assist them to access to public service and 25% of them had requested a designated authority during the year to help them get on the public service.

So, it is easy to infer that although the aggrieved consider Wasta a form of corruption, a considerable number of people are still utilizing such a phenomenon to obtain personal

¹⁶ -in return, the percentage of the dissemination of Wasta and favoritism was 54.8% of the 2008 poll

interests; which confirms that Palestinians have confidence in the possibility of access to public services through Wasta.

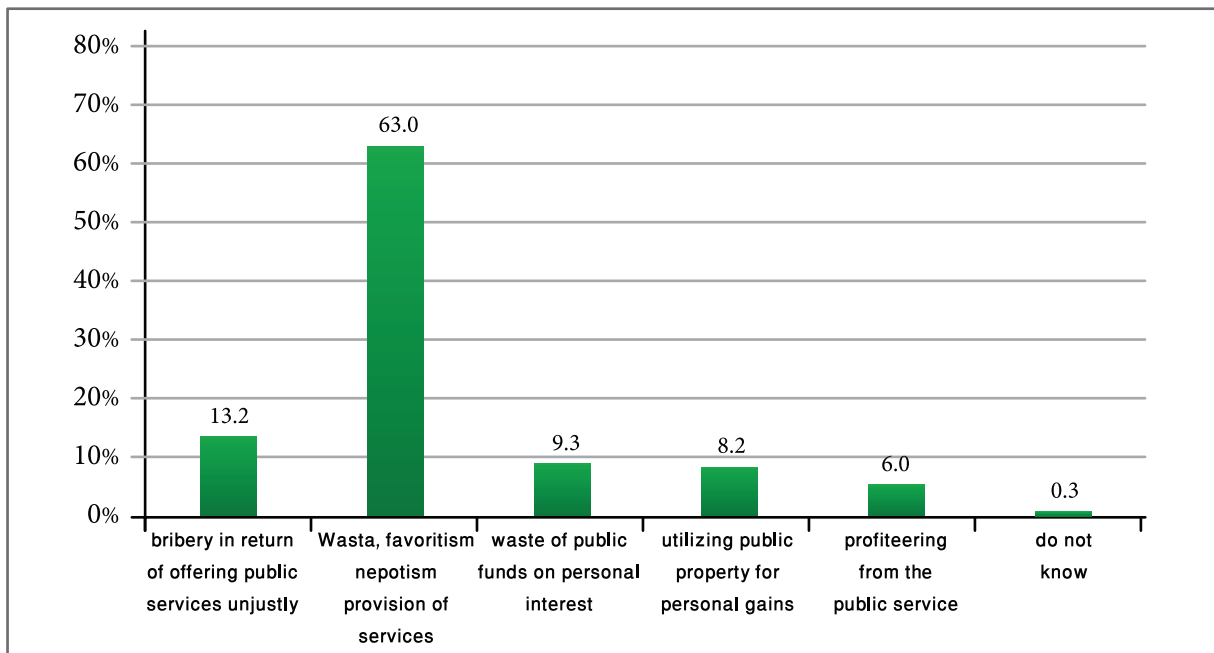
Decline in bribes in return for rendering public services or obtaining a benefit unjustly

Bribery means to obtain money or any other benefits for the implementation of actions contrary to customary principles and rules. Although bribery is regarded one of the most prevalent forms of corruption in various countries of the world, the ratio of its spread in comparison to other forms that are common in the Palestinian Society is low. The sector most affected by bribery is the private sector through which bribery transmits to the public sector, particularly through public tenders.

With reference to the 2009 opinion poll, the percentage of respondents who believe in the existence of bribery has declined compared to the previous year, when the rate was 19.9% and then decreased to 13.2% in 2009.

Utilization of public resources and property for personal interests

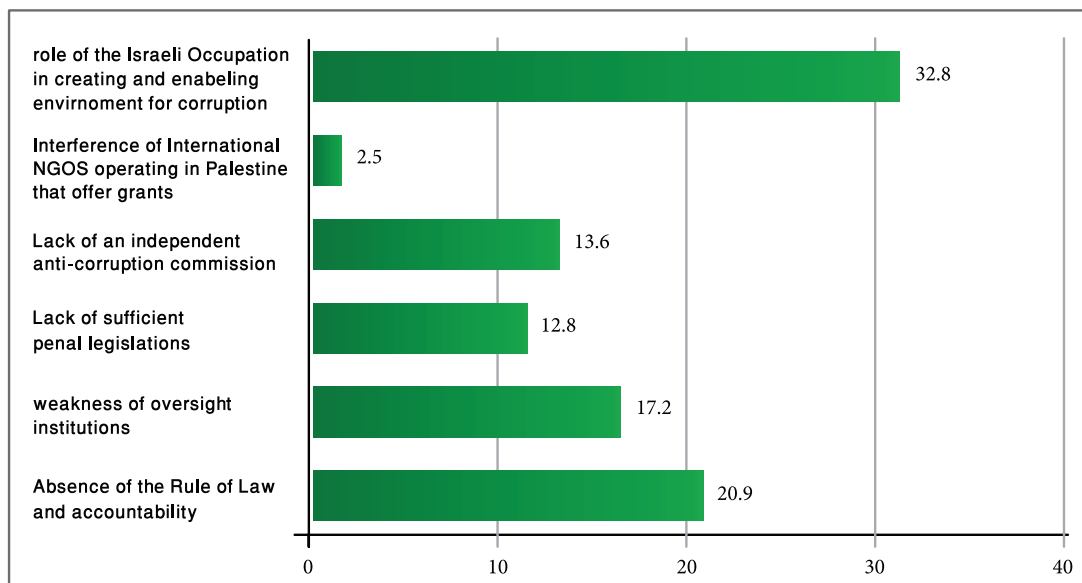
This refers to using the possessions of a public, private or national financial institution such as its vehicles, equipment and machines to achieve personal purpose or to cover travel and subsistence expenses outside the country without the right, in other words, to exploit the capabilities of the financial institution for a purpose other than serving its interests or program.



ANTI-CORRUPTION SYSTEM: 2009

Role of occupation in weakening the Rule of Law:

The existence of the Israeli occupation, as was mentioned in the Corruption Report in 2008, is directly related to the support of an appropriate environment for the continuation of corruption in the Palestinian territories. Enhancing corruption is one of the methods of the occupation to debilitate the Palestinian side. Despite the great improvement in the area of controlling vigilantism in the West Bank and Gaza Strip, the Israeli occupation has really enhanced the state of vigilantism and provided the corrupt with the opportunity to escape from accountability and punishment. The lack of Palestinian Control over the “C” area which constitutes 60% of the Palestinian occupied territories, the Israeli control over the crossings as well as over the movement of people from the Palestinian controlled territories to the State of Occupation have hampered the work of the Palestinian security services which are in charge of law enforcement, and prevented them from pursuing and exposing criminals. In addition, the facilitation of smuggling decayed goods from Israel and some settlements and the sharing of profits between the Israeli mafia and some weak-willed Palestinian traders have represented a factor that enhanced the spread of the phenomenon. Moreover, as the Israeli extremist right wing under the leadership of Netanyahu has lately inaugurated the official government, Israel started to employ its expertise in the area of corruption to blackmail and exert pressures on the Palestinian leadership. The number of people who believe that the occupation has a crucial role in the circulation of corruption in the Palestinian controlled territories has risen from 29.3% in 2008 to 32.8% in 2009.



Promising start: Civil Public Prosecution was able to follow up with cases of corruption despite continued interference in its affairs:

It can be said that the Palestinian Penal Procedural Code in its procedural and objective parts has not designated which prosecution would be responsible for combating corruption and addressing the issues of authoritarian nature, which are relating to public funds and the misuse of public positions. However, the policy of reform, the principle that all are subject to the rule of law, as well as the seriousness of the phenomenon of corruption on the various aspects of life in the Palestinian society dictated the need for adopting declared political measures and procedures to combat this phenomenon and hold the involved accountable. In this respect, the Palestinian public prosecutor issued resolution no.(2) of 2006 which stipulated the establishment of an anti-corruption prosecution whose jurisdiction includes undertaking, pursuing and prosecuting criminal cases, particularly illicit gain, bribery, embezzlement of public funds, torture, infringement on the freedom and privacy of the home, money laundering, as well as obstruction of justice.

This prosecution has followed up since its all establishment with cases within its jurisdiction. It started investigation and prosecutions in cases referred to it by the official institution of the PNA, such as the office of the President of the PNA, the PLC, and SAACB. It also worked on pursuing a number of the suspects who fled outside the Palestinian controlled territories and carried out numerous attempts to retrieve them through the international police and diplomatic correspondence for the purpose of bringing them to a fair trial. However, most attempts were not successful because of the government's lingering in adopting and implementing the necessary measures to overcome this defect. Since the year 2009, a total of (139) cases have been registered in the records of anti-corruption public prosecution, of which (63) cases in the record of "cases under scrutiny", (74) in the "Criminal announcements record"¹⁷ while another (53) cases had been transferred from previous years. With regard to the status of these cases, the following was revealed:

- ▶ (28) cases were transferred from the record of "cases under scrutiny" to the "Criminal announcement record" following the fulfillment of conditions for transfer.
- ▶ (42) cases were referred to the competent courts.
- ▶ Following investigation, (29) proved to be within the jurisdiction of other public prosecutions.

¹⁷ "Cases under scrutiny" is a record that records all cases referred to the public prosecution in a preliminary phase where they are being investigated and verified. If these cases turned out to be serious and official then they are referred the criminal announcement record or the cases being investigated

- ▶ Judgments were pronounced in (14) cases,
- ▶ Memoranda supplemented with advice were submitted to preserve (10) cases for legal reasons
- ▶ (69) cases are still under investigation.

In investigating the pending cases, it was also revealed that the most prominent manifestations of corruption included bribery, money laundering, misuse of public office and squandering of public funds.

The year 2009 witnessed the delivery of judgments in various corruption cases, of which the most conspicuous were:

- **A Verdict in a case of embezzlement 2/6/2009.**

Being the criminal court authorized to conduct the trial, and based upon a complaint from the chief prosecutor in Nablus, the Court of First Instance sentenced the financial manager at the Palestine Standards Institutions- PSI to penal servitude for a term of four years and a fine of one hundred JD for embezzling public funds of 56,612 Shekels (NIS) in 1998 from the revenues of the PSI. The amount was deposited in his account in the Bank of Jordan and Cairo Amman Bank /Nablus branch by checks originally edited for the benefit of the PSI. In addition, he also counterfeited and manipulated the receipts and figures of the tax invoices which he edited for the shareholders. It's worth mentioning to say that this verdict had been issued pursuant to the provisions of Article (174/1/2) of the Jordanian Penal Code of 1960, which is still in force.

- **A Verdict in a case of embezzlement 20/10/2009**

The Court of First Instance of Nablus sentenced a head of a municipality for two years imprisonment and a fine of one hundred JD for embezzling 70 thousand Shekels from the revenues of the municipality during chairing it. A bill of indictment was pronounced against him five years ago, so he has been isolated from the municipality and had to return back the embezzled sum before he was sentenced guilty.

- **Verdict in a case of misuse of public office**

On 18/3/2009, the Magistrates Court in Ramallah sentenced the former president of the Palestinian Petroleum Agency for two years imprisonment and a fine of one hundred thousand JD as he was convicted on charges of misuse of public office to obtain personal benefit, illicit trafficking, impeding the implementation of the provisions of laws or judicial decisions, as well as the collection of fees and taxes as provided in the text of the verdict.

Noted in this regard that there is progress in following-up the cases of corruption by

the anti-corruption public prosecution in comparison to previous years. The evidence here is that convictions were pronounced in most of the cases referred to the courts due to the obvious efforts made by public prosecution in the preparation of case files after the completion of all the evidence and proof. On the other hand, the high volume of cases that are still in the investigative stage is due to the fact that many of the crimes of corruption are committed by staff that is always careful to take all precautionary measures to conceal the evidence of their crimes. In addition, many of the corruption files are forwarded to competent experts for careful examination and technical advice, which in turn consumes a lot of time.

However, many obstacles still hamper the performance of the anti-corruption public prosecution in the tasks entrusted to it. These constraints are exemplified by the following:

- ▶ The legal immunity granted to certain public figures, which constitute a major impediment to investigate the suspicions and allegations of corruption. This can be inferred by the fact that investigation was suspended in five cases because of immunity.
- ▶ The very limited coordination between the anti-corruption public prosecution and the anti-corruption departments, the various security services, since the latter are under the control of their own senior officials.
- ▶ Along with the lack of physical protection and health and social insurance whether for the staff or their families, the anti-corruption public prosecution suffers from an acute shortage of staff, poor professional training, as well as inadequate salaries and privileges commensurate with the workload and the social restrictions imposed on them.
- ▶ The public institutions that refer the cases to the anti-corruption public prosecution are unable to distinguish between corruption and other crimes.
- ▶ Some cases are still suspended for the lack of evidence resulted from the weak capabilities of the official authorities that prepare the files before they are referred to the public prosecution.
- ▶ The civil public prosecution is still unable to investigate with the members of the security services participating in corruption actions since their files are referred to the military prosecution and courts.
- ▶ The acute shortage in the facilities available for good performance including buildings, vehicles, equipment and laboratories.
- ▶ The weak infrastructure of computing and the inability to connect it directly to

the Palestinian Justice Register led to the absence of statistical information Bank-Specialized in keeping information on crimes, criminals and the arrested.

- ▶ The poor relationship with law enforcement officers, particularly the police, the administration of prisons, as well as the experts as these officials are not within the jurisdiction of civil public prosecution.
- ▶ The continued disagreement and conflict over the subordination, jurisdiction and structure of the Civil Public Prosecution in Palestine along with the absence of a unified reference have negatively impacted the anti-corruption public prosecution which is an integral part of the Civil Public Prosecution. For instance, the Public Prosecutor regards himself accountable to the President while deemed by the Minister of Justice as being under his control. Moreover, although the Public Prosecutor is a member of the High Judicial Council, he is not part of the judiciary and therefore his efforts are dispersed between the three parties.
- ▶ The weak penal system related to crimes of corruption in terms of the definite description of the criminal acts of corruption as well as the feeble sanctions set for them.
- ▶ The inability to pursue and prosecute criminals in areas beyond the PNA's control as well as the inability to prohibit the accused of acts of corruption from travelling outside the Palestinian controlled-territories as a result of lack of control over the crossings and the assistance of the Israeli authority for criminals to cross them easily¹⁸.

Pursuance, investigation and holding corrupt senior officials accountable is still a weak process:

The weakness of the legislative system developed to punish the corrupt along with the weakness of the investigation department, and the absence of an independent efficient institution have all contributed to encouraging the symbols of corrupt to evade just punishment. This is of course ascribed to many paradoxes including:

- ▶ The existence of multiple agencies to combat corruption such as the Preventive Security Services (PSS), the Palestinian General Intelligence (PGI) and the Civil Public Prosecution.
- ▶ The prolonged disposition of cases led to the backlog of cases in courts and the aggravated complexities contained therein, as a result of the large number of witnesses and the small number of competent judges on the one hand, and the

¹⁸ An interview with Mr. Salem Jarrar, head of the anti-corruption public persecution on 25/11/2009

interference of the executives.

- ▶ The problematic legal texts that prevent the arrest of the accused in some cases.
- ▶ The slowdown in the implementation of procedures, particularly due to their incompatibility with the interests of some powerful actors.
- ▶ Many of the accused fled to areas under the Israeli control or outside the Palestinian controlled-territories through border crossings under Israeli control and the inability to bring them to trial before the Palestinian courts.
- ▶ The intervention of some of the military figures in cases of corruption and the transfer of the jurisdiction of accountability to military tribunals, which resulted in disrupting the ability to access to a final resolution of acquittal or conviction, thus leaving a number of cases suspended, either for lack of evidence, or the escape of the witness or even for a political decision.

However, despite the above mentioned complexities, the judicial system has seen significant development during the year 2009, particularly in the field of advertising for judicial vacancies and convening written and oral competitions to fill them. In addition, the Judicial Inspection Authority continued its work through the inspection of courts and the communication with their public to listen to their complaints about the Judiciary Authority

The Executive Authority:

In accordance with the Amended Basic Law of 2003, the Executive Authority is made up of the presidential institution, the Council of Ministers along with their subordinate public institutions, the security institution as a law enforcement arm as well as the local government bodies.

It should be noted that the most conspicuous problems affect the integrity and transparency in public work within most of the public institution include:

- ▶ Absence of previously known binding systems to ensure transparency in work procedures in most of the PNA institutions including the government and the Presidency, along with the unclear and ineffective accountability measures on the presidential office and institutions or the non-ministerial institutions.
- ▶ Fragility of the vertical and horizontal hierarchies of most of the non-ministerial public institutions such as the Water Authority, the Electricity Authority, the Telecommunication Authority, and the Palestine Standards Institution, in addition to the weakness of accountability in the security services, where prosecutors have no authority to prosecute its corrupt members.

- ▶ Lack of clarity in the concept of financial and administrative independence of the non-ministerial public institutions as a result of the absence of evident regulations, which led some senior officials to believe that independence implies absolute uncontrolled management, or that financial and administrative independence and control are two contradictory concepts. This, in turn, has weakened the transparency of their work and the subjugation of their employees to accountability. Note worthy here is that the Basic Law designates the reference of part of these institutions to the Council of Ministers whereas others such as the Palestinian Broadcasting Corporation which is under the control of the President of the PNA. The absence of marked mechanisms for accountability was clearly evident in the non-serious and ineffective investigation with some senior officials of these institutions.
- ▶ The government has not issued regulations or instructions to define the concept and nature of the public records and the mechanisms to obtain information despite the existence of a draft law on the right of access to information submitted to the PLC for several years and has not been ratified so far.
- ▶ Despite the establishment of a public administration for complaints in the Council of Ministers, and units for complaints in most ministries and public institutions, their role remained confined to receiving complaint letters or requests for services without elaborating a new concept that regard these units as mechanisms to hold the senior officials accountable for the nature, interpretation and justification of their decisions.
- ▶ Being preoccupied with the ratification of their administrative hierarchies, the ministries neither established explicit and transparent procedures, nor developed their website pages, particularly with regard to publishing their reports, and announcements on the evidence of their performance or on how to make use of the information they provide their data. Indeed, the notion of e-government didn't find a position on the agenda of most ministries.
- ▶ Ministries do not provide reports on their activities and work to the relevant CSOs although some organizations such as AMAN, and the Independent Commission for Human Rights (ICHR) have achieved success in inviting a number of officials and ministers to attend public hearings during which they would explain the policy and activities of the PNA.
- ▶ Absence of adequate regulations and instructions that explain the basis of recruitment for military services, to ensure transparency has formed a fertile environment in the past for multiple unjustifiable appointments and paved the way for Wasta, nepotism, and favoritism.

- ▶ Absence of codes of conduct to regulate the activities of the members of the security services with the exception of some orders and instructions which the members don't comply with due to the absence of regular daily control.
- ▶ Military services neither publish reports on their programs, budget and resolutions nor do their senior officers implement the provisions related to financial disclosure.
- ▶ Citizens still believe that the declared and evident mechanisms and standards concerning the facilities provided by some local councils and the appointments that are still based on personal, familial and political consideration are still in need for further development and control.
- ▶ The complaints filed at AMAN, as well as some of the cases submitted to the judiciary reveal some violations pertinent to tenders.
- ▶ Although a considerable number of local authorities have signed codes of conduct that regulate the behaviors of their members and their heads, the General Union of Local Authorities neither follow the signing of additional numbers during the year 2009, nor developed mechanisms and controls pertaining to implementation.
- ▶ Despite the commitment of most local authorities to submit financial and administrative reports to the Ministry of Local Government, most of them do not act as accountable to the citizenry as they rarely provide programs to the public and limit access to these reports to members of the council. In addition, a limited number of these local authorities allows for civil society participation in the ratification of developmental projects and plans.

The Palestinian Legislative Council: needs to renew and restore legitimacy of its oversight role:

The political conflict over power since July of 2007, has led to a political divide between the West Bank and Gaza Strip, thus resulting in disrupting the work of the PLC and paralyzing its ability to exercise its legislative role and its oversight over the Executive Authority. Accordingly, the PLC was unable to exercise its role in the monitoring of public funds and the General Budget and in accountability in the subject of appointments to important positions, or even in the questioning of officials about certain violations mentioned in the reports of the control authorities. Needless to say that the ability of the PLC to use parliamentary oversight tools available to it by law, including accountability, interrogations and the formation of commissions of inquiry has totally diminished, thus leaving the enactment of legislation in various areas, including amendments to the anti-corruption legislation in a state of paralysis.

Noteworthy here to mention that the group of social services in the PLC was able to form a special Fact-finding Commission on suspicion of embezzling funds from the account of the Ministry of Detainee's Affairs, which held eight hearing sessions for a number of officials in the PNA institutions. As a result, the Commission prepared a report that charged a number of officials of embezzling an amount of (959) thousand Shekels from the account of the Ministry. In its report, the Commission asked the Public Prosecutor to speed up the investigation process and to take necessary legal and judicial action against all those involved in the embezzlement, and hold the Minister responsible for the financial and administrative neglect and default. The ministry was also asked to take administrative and disciplinary procedures against officials in charge of the negligence and lingering, as well as to introduce financial and administrative reform to consolidate the principles of integrity and transparency. Finally, the Commission called the Council of Ministers to finalize the system of financial procedures and accounting in the disbursement of money, as well as to set up the necessary financial and administrative systems for ministries to prevent the repetition of the incident¹⁹.

With regard to the General Budget, neither the PNA government nor the Government in Gaza has handed over a general budget for the fiscal year of 2009 in due time as assigned by the constitution.

On the other hand, the Secretariat-general of the PLC has not set up policies and measures on the use of vehicles and mobile phones in possession of the PLC, as well as on controlling the use of public funds to avoid misuse. The Complaint Department indeed received no complaints during the year on corruption within the PLC.

Regardless of the legitimacy of the sessions held through parliamentary procreations^{20*}, Investigation revealed the absence of laws or draft laws in Gaza Strip on corruption or on enhancing integrity, transparency and accountability in the activities of the public sector institutions. Moreover, Instead of exercising its role in benefiting from the available oversight tools specified to combat corruption, the PLC of the Government in Gaza held a session on 1/10/2009 to ratify the Law of the Exceptional General Budget for the fiscal year of 2009^{21*}

Media: between the hammer of control and the anvil of professionalism

Due to its significance in delivering information to the public in a professional manner, Media in its forms are expected to play a crucial role in enhancing integrity, transparency

19 The special group for social issues and the affairs of prisoners, the report of the fact-finding commission on embezzlement of money from the account of the Ministry of prisoners in the limited Bank of Palestine

20 * See Abu Hnud, H. The Legality of the Parliamentary procreations of the Change and Reform Block, The Palestinian Initiative for deepening dialogue and Democracy, 2008, pp. 4-31

21 * see the website of the Legislative Council in Gaza www.plc.gov.ps/DecisionSearch.aspx

and combating corruption. This field has recently witnessed development in various respects particularly in terms of signing a code of conduct to regulate the deeds of those working in the media sector, which represents an incentive for journalists to adhere to the ethics of the profession. In addition a media network was established to enhance integrity, transparency and the independence of the media sector as well as to promote the role of journalists in adopting the values and notions of transparency. The network also seeks to support the control of public opinion over the overall performance in the various sectors and among the various categories of the Palestinian society, and to create an anti-corruption media environment capable of confronting and limiting the circulation of corruption in the society in general and the institutions of the public sector in particular.

However, with regard to combating corruption, Media still encounters some obstacles similar to those of 2008, of which the most prominent are:

The inadequate legislation related to the independence of the media sector limited its ability to raise issues on corruption, and provide the opportunity for the executive authorities to control its activities in this respect.

The difficulty that journalists encounter in obtaining significant information, data and documents including the files of corruption from the official institutions and the civil public prosecution since the freedom to access information is semi-absent.

The weak professional capabilities and the lack of experience of journalists contributed to a great extent to aggravate their inability to follow up corruption cases in a professional and investigative method. In addition, the newspapers are still hesitant to prepare investigative reports on corruption deeds because of the lack of protection available to journalists and the whistle blowers.

Journalists mistrust their general syndicate and challenge its legitimacy due to the delay in elections and its inability to provide protection to journalists in 2009.

In the light of political divide in the Palestinian arena, politicization and factional polarity supported by factional fanaticism, collusion and forgiveness with allied parties as well as impartiality against opposition parties debilitated the objectivity and credibility of the published reports.

Albeit, some mass media have published numerous reports and data on corruption on their websites while others have produced sarcastic and critical TV shows that address issues related to public affairs, or that invite a PNA official or a minister to discuss a specific issue in a method that focuses on accountability and disclosure. On the other hand, the absence of official announcements that specify precise conditions and criteria for the licensing of satellite channels and television stations provided

the opportunity for some to obtain licenses so easily while leaving others contact the competent departments in vain.

NGOs: A source for combating corruption or a fertile environment for its circulation:

Similar manifestations of corruption are predominant among the circles of civil society organizations and the public sector. The majority of NGOs doesn't adopt apparent and transparent criteria in the appointment of staff and managers, and in many times assignment is done through Wasta, nepotism and favoritism or for factional considerations. In addition, although some NGOs publish financial and administrative reports and maintain audited reports, others in particular those obsequious to conflicting religious and political rivals try to be more discreet and less transparent to ensure self-protection in the midst of political conflict. In addition, many NGOs still suffer from the absence of control mechanisms to monitor the compliance of their staff with the code of conduct for civil institutions which was signed in 2007, as well as the poor accountability and oversight on the performance of civil institutions whether by the Ministry of Interior, the ministries of competence as well as oversight bodies, or by the local community of the beneficiaries of its programs and activities. What shows that the situations were similar to those prevailed in 2008, is the opinions of the respondents who participated in the public poll of 2009. The results show that 36.5% as compared to 33.8% in 2008 of the total respondents that favoritism and Wasta in the provision of services are the most prevalent forms of corruption in the private sector. In addition, Wasta and favoritism in appointments ranked second by 35.1% compared to 33% during the year 2008. In contrast, the use of resources and property of the institution for personal or electoral purposes had a rate of 16.3% lower than it was in 2008 by 1.5%. Bribery, on the other hand, amounted to 9.2% in comparison to 14.8% in 2008.

State Audit and Administrative Control Bureau (SAACB) role: between weakness and enhancement:

In 2009, SAACB has faced multiple technical, financial and administrative impediments which limited its ability in combating corruption. The most conspicuous of which are the weakness in the transformation of SAACB recommendations into resolutions binding to the concerned authorities as well as the closure of the headquarters of SAACB in Gaza along with the suspension of all its activities.

On the other hand, it is noted that there is lack of commitment by the entities subject

to SAACB's oversight to the obligations stipulated in articles (32-39) of SAACB law, of which the most prominent include: providing SAACB with reports on the violation of rules of expenditure, the data and information on cases of embezzlement, a copy of the concluded contracts and agreements, all the laws, regulations and resolutions issued by these institutions, as well as with the reports of the internal oversight units.

During the year 2009, SAACB has issued two quarterly and numerous monthly reports. The first quarterly report of 2009 indicated the positive aspects of the internal oversight system of the police. This was exemplified by the establishment of a department of internal oversight, the use of a computerized accounting system, the preparation of standard manuals and procedures, as well as the weaknesses that plague the system represented by the absence of justifiable bail bonds for the amounts of money and expenditures above the legally permitted. The second quarterly report on the other hand concluded many results on pilgrimage exemplified by: the exit of pilgrims under private labels in the absence of specific criteria and conditions that guarantee equal opportunities for all, the absence of specific criteria and conditions for the selection of the members of the missions, the existence of violations of the Law of Public Supplies, as well as discrimination and favoritism in the distribution of pilgrims on the buildings.

During the first and second quarters of 2009, SAACB carried out many oversight activities on institutions under its control including ministries, public and local institutions and charities. In addition, SAACB issued (61) oversight reports which concluded many results including the violation of the provisions of the financial system for ministries and public institutions, and the Law of Public Supplies, the continuity in paying transportation allowance for staff who use government vehicles after office hours, as well as the disbursement of grants, assistance and rewards not included in the General Budget.

Palestine: vulnerability to external intervention:

The establishment of the PNA was accompanied by the flow of foreign and international organizations to the Palestinian controlled-territories, whether to participate in providing relief field services or to contribute to building the PNA institutions, taking advantage of the financial support given to various areas of development and growth. Today, hundreds of foreign societies, governmental organizations and NGOs initiate their business in various sectors of the PNA such as health, education, and the judiciary, as well as public works and security up to the Presidency institution and the Council of Ministers. These organizations and institutions have actually played a significant role in building and training their staff, establishing their management departments and organizational

structures, and organizing their facilities.

Despite the importance of the role played by the institutions of different types in various areas, there are still many variables that affect the transparency and integrity of their works of which the following are the most prominent:

- ▶ A large number of these organizations are operating without being registered in the records of the Official Palestinian Authorities, which in turn neglect their role and authorities in following up the activities of these organizations to ensure their commitment in respecting and observing the Palestinian Laws.
- ▶ As the competent authorities in the recording and following up the work of foreign NGOs, neither the Ministry of Interior nor SAACB has exercised effective control in this respect, nor do they hold these organizations accountable for their financial and administrative reports.

ISSUES UNDER SPOTLIGHT

To curtail the circulation of corruption and enhance the principles of integrity, transparency and accountability within the Palestinian Society and its institutions, AMAN prepared in 2009 a set of reports on various topics and held several workshops with the participation of various stakeholders from all institutions. These reports addressed the issue of integrity or any other topic that deserves attention in a number of the public authority institutions in an attempt to overcome the obstacles and defects that impede their works, including the weakness of their structures, policies or the conduct of their employees so as to restrain the circulation of the various manifestations of corruption. The most highlighted topics are:

1. Encroachment on state-owned lands:

The Encroachment on state-owned lands exacerbated both at the individual and collective levels due to several variables including:

- ▶ Large parts of the aggressors had no land to live on.
- ▶ The Occupation Authorities did not hand over many of maps, schemes, files and records of the State property, which hindered the PNA's ability to exercise effective oversight of those lands. In addition, vigilantism that prevailed every now and then contributed to the weakness of the rule of law as well as the official competent authorities of the PNA responsible for oversight and inspection in the protection of these lands. Moreover, the instability of the competent referential institutions aggravated the situation.

On the other hand, many of the state-owned lands have been subjugated to allocations without having an apparent legal basis or declared and definite mechanisms or criteria that are applied to everyone without discrimination or favoritism. Accordingly, many people were able to obtain large areas of these lands through defraud, in particular in Gaza Strip and in some locations in the West Bank.

Recently, and specifically following the political divide between the West Bank and Gaza Strip, many procedures related to allocations of the state-owned lands have been adopted to address the encroachments.

In the West Bank, the Council of Ministers issued resolution no. (09/01/13/M/W/S/F) of 2009 on the allocations of the state-owned lands according to which a Ministerial Commission for allocation of the State-owned lands was formed to perform certain tasks including:

- ▶ the establishment of a Palestinian Law and a manual for allocation and the procedures

to be followed,

- ▶ the development of mechanisms and criteria, the determination of the priorities and requirements of allocations,
- ▶ the examination of all the applications in accordance with the conditions and criteria approved by the Commission, and
- ▶ the advanced planning for the allocation of lands, which includes a study of the basic needs in accordance with the size of the lands available for allocation in each district.

However, not all these goals were attained in 2009.

With regard to the Government in Gaza, in contrast, it was noted that some efforts have been made to allocate state-owned lands during the year 2009, a resolution, for instance, was issued to form a commission to address the encroachments, identify the states of encroachments and bring offenders to justice.

The Land Authority has also published a booklet, in which the conditions and requirements for allocation were determined. In addition, an attempt was made to retrieve some pieces of the land seized by fraud but none of the offenders was referred to the court with a charge of corruption or misuse of public office.

2. Lack of transparency and accountability in the work of the Palestinian Broadcasting Corporation- PBC:

PBC has suffered since its inception from many dilemmas, which hampered integrity and transparency. The following are some of the most conspicuous obstacles which deemed PBC inefficient:

- ▶ Lack of clarity in the legal environment governing the works.
- ▶ The multiplicity of the referential authorities that administered and supervised the works.
- ▶ Lack of an administrative structure and internal systems.
- ▶ The absence of oversight and accountability.
- ▶ Lack of clarity in the jurisdiction and the interference between various jobs in most times.
- ▶ The high role of Wasta, nepotism and favoritism in appointment and promotion, which were based on political and factional considerations due to the absence of the simplest criteria required for integrity and transparency.
- ▶ The absence of accountability for corruption deeds, either through misuse of public

office for attaining personal interests, or by misappropriation of public funds resulting from the absence of a definite and declared mechanism for PBC's procurement.

- ▶ The improvisation in procurement processes, which paved the way for bribery and conflict of interests.

Due to the above mentioned variables, so many corruption deeds were committed especially by senior officials, which were raised by public opinion as shown by the reports prepared by SAACB. However, these cases were suspended and the involved were not held accountable for their crimes in accordance with the provisions of the Civil Service Act since the political will, responsible for such a task, is still hesitant and in decisive.

3. Charities and foreign NGOs operating in Palestine

Featured in the report prepared on the status of charitable societies and foreign NGOs operating in Palestine, the existence of gaps and shortcomings in terms of the status quo of these organizations, of which, the following were the most prevalent:

- ▶ most of these organizations run their activities without being registered in the records of the official Palestinian authorities, which in turn have failed to exercise their roles in following up the activities of these organizations and obligating them to comply with the Palestinian Laws governing their works.
- ▶ The absence of active control over the activities of NGOs by the Ministry of Interior and SAACB, as the competent authorities responsible for registering these organizations and following up their activities, were deemed unable to exercise their roles due to the lack of coordination and obvious precise documentation between the Palestinian Institutions, particularly between the Ministry of Economy and the Ministry of Interior to hold these organizations accountable for their non-compliance to the local legislation and their working without any legal documents.

Accordingly, the Ministry of Interior is recommended to publish a legal notice in local newspapers, which warn all foreign NGOs operating in Palestine, to correct their status and register all its subsidiaries during a specific period of time, which stipulates civil and criminal prosecution against all the organizations that ignore this warning. In addition, all the PNA institutions, and local Palestinian Societies as well as the institutions of both the public and private sectors should be warned to avoid dealing with any non-registered NGO.

Moreover, a joint committee from among members of the Ministry of Interior and SAACB, as well as members of the civil society organizations to investigate the status quo of NGOs and to develop mechanisms in order to find solutions to correct the situation.

On the other hand, SAACB has to exercise its role in monitoring these organizations to obligate them to respect their legal obligations. All Official Palestinian Authorities must respect all rules of jurisdiction through retraining from dealing with any NGOs or ceasing all facilities provided to them before the depletion of the requirements of legal registration.

4. Hajj (pilgrimage) and Umra performance:

According to the report prepared by AMAN, some of the problems that envelop the issue of Hajj and minor pilgrimage to Mecca (i.e., Umra) are:

- ▶ The absence of precise legal legislation, including laws, regulations or certain specific instructions to be formally invoked to provide the opportunity to change the mechanisms and procedures year after year and overcome the excesses and exceptions.
- ▶ The Reference in charge of managing the process of Hajj isn't stable, but it was rather subject to many fluctuations during the last years, that revealed the existence of a conflict over authority among various ministries, leaving its negative impact on the overall process including the official authorities as well as citizens.
- ▶ The lack of clarity of separation between the jurisdiction of the executive and the referential authority in charge of managing the process; the Commission on Hajj is the Executive Authority which oversees the implementation of the steps and procedures from the beginning until the end of the pilgrimage season, and simultaneously the reference for the entire process including decision making on the identification of conditions, standards and instructions. In addition, this commission is formed and headed by the minister of the Religious Endowments himself, which undermines the possibility of actual control and accountability. Moreover, the choice of pilgrims is performed by quota rather than through an explicit and transport methods, which paves the way for establishing personal relationship, and for Wasta and favoritism as well as bribery and conflict of interests to appear on surface, particularly as some of the pilgrims are sometimes selected through the so-called emergency cases that may bear various nominations such as social and humanitarian.

It should be emphasized here that the above mentioned section of pilgrims is not done by lot or in an explicit manner, which may in turn contradict with the criteria of integrity. Further, the fact that Presidential noble deed can play a role in the selection of pilgrims and that Referential Authority, the conditions for use and the undeclared exact numbers of pilgrims may cast their shadows on transparency. In sum, the nonexistence of a specific mechanism to monitor the whole process according to specific legal legislation even when contracting with transport companies and providers of pilgrims, which may

be done either through public tenders or direct hire, opened the door all through the past years to multiple violations.

The following recommendations were found useful to overcome the above mentioned dilemmas:

- ▶ Legal legislation must be enacted to manage the whole process in a transparent manner and the policy of “quotas” allocated to some personnel such as the ministers, various agencies, legal persons or those included in the Presidential noble deed must be replaced by specific criteria to identify the percentage specified for humanitarian cases.
- ▶ The so-called “exceptional cases” policy should be abolished as it may lead to the establishment of a utilitarian relationship between the officials of al-Hajj Department and members of the private sector, which in turn enhances conflict of interest. This, however, can be avoided by prohibiting anyone who has direct or indirect relations with the Ministry of Religious Endowments from being related to the private sector in any form, including relations with the transport company.
- ▶ Contracts with the transport companies, providers of housing as well as contractors seeking bids shall be implemented through the laws in effect or through special competent commissions without exception. Penalties shall also be inflicted on companies for any violation of the conditions, including the participation in tenders in the following years, or binding them to pay fees or to return part of the fees to pilgrims.
- ▶ There must be explicit separation between the implementation and oversight since both are up till today under the control of al-Hajj Commission, which dictates the formation of a national commission, headed by the Minister of Religious Endowments and simultaneously receive reports from the Council of Ministers, to whom they must be accountable.

CONCLUSION

A review of measures and procedures adopted to combat corruption in public institutions in 2009 reveals the weakness in the system for combating corruption in general. However, despite the many achievements that have been realized in this respect, as seen in this paper, certain weaknesses still cast their shadows on the overall performance, of which the most evident are:

- ▶ The weakness and hesitation of the political will exemplified by the competent authorities in combating corruption and bringing the accused to justice, particularly from among senior officials has aggravated the state of frustration among citizens, thus leading them to mistrust the PNA in its quest to hold the corrupt accountable for their misdeeds or crimes.
- ▶ The absence of an independent authority to investigate cases of corruption or an Anti-Graft Commission which plays a crucial role in following up the activities of public officials whose lives reflect manifestations of illicit enrichment. Laws pertaining to such affairs can be amended to transform the commission into an independent competent commission for combating all forms of corruption.
- ▶ Despite the ratification of certain legislation on the combating of corruption (i.e., money laundering), some manifestations of corruptions such as Wasta and favoritism are still not classified as crimes whereas the penalties for charges designated as crimes are still inadequate and non-deterrent.
- ▶ The absence of the PLC and the negligence in renewing its legitimacy have contributed to the loss of one of the tools of accountability and oversight, which motivated public officials to perpetrate so many legal, financial and administrative violations. Accordingly, excessive efforts should be made to hold general elections as soon as possible.
- ▶ There is an urgent need to promote the efficiency of SAACB, and to abandon courtesies between its officials and the officials of other public authorities since the lack of experience and the insufficient materialistic and human capabilities as well as the noncompliance to its requests have hampered it from implementing the duties entrusted to it by law.
- ▶ The persistence of discrimination in public office whether in recruitment, fixation, promotion or even in terms of counting the years of service particularly for senior posts has resulted from the absence of an independent commission in charge of supervising the entire process.

- ▶ Despite the improvement achieved by the anti-corruption Public Prosecution, there is still a pressing need for materialistic and human potentials and for the removal of all obstacles that impeded efficient performance through the conversion of all departments working in the investigation of corruption cases from the security services to the competent public prosecution.
- ▶ Conflict of interests in the management of public affairs is still a predominant phenomenon.

RECOMMENDATIONS

A. At the legal level :

1. To transmit the legal description of acts of corruption from the category of misdemeanors to the category of crimes due to the seriousness of these crimes on the one hand, and the magnitude of the harm caused by them on the other.
2. To criminalize certain forms of corruption such as Wasta and favoritism under penal legislation in force and to impose more severe penalties for their commission.
3. To ratify legislation to prevent conflict of interests in order to overcome all the dilemma that envelop the legal provisions dispersed in various legal texts, in a manner that clarifies the notion of conflict of interests, the addressed sectors or categories, and the mechanisms and means required to avoid it, as well as the criminal, administrative and financial sanctions imposed on committing crimes.
4. To mend the operative legislation pertaining to procurement, and public tenders by adding provisions relating to the prevention of interests, and by connecting the bidding process to explicit procedures rather than leaving the responsibility for its implementation under the control of the tenders commission. Moreover, an oversight commission should be formed to monitor the exceptions issued by the Council of Ministers in certain cases of tenders. In addition, whistle blowers should receive considerable protection, and deterrent penalties should be imposed on all officials who manipulate administrative contracts or misuse of public office.
5. To enact a law or develop certain measures to govern al-Hajj procedures in order to bridge the gaps that permeate the existing procedures.
6. To update legislation pertaining to state-owned lands and impose more severe and deterrent penalties for infringements, as well as to amend the provisions relating to land allocation in order to prevent the loss of these lands or squander them under different denominations. In addition, all the lands that were seized by fraud must be restored and all those who reject the resolution must be held accountable.
7. To enact legislation to protect whistleblowers and witnesses from the intimidation and threat exercised against them.
8. To enact a law that regulates the occupation of senior posts as well the posts of the special category, that includes transparent, explicit and certified criteria, and that limits the authorities of the President of the PNA as well as the Council of Ministers in recruitment. In addition, codes of conduct should be established to regulate the activities of ministers, senior officials and train them on how to abide and comply

with its provisions.

9. To introduce amendments on the Basic Law in order to ensure the establishment of mechanisms which hold the President of the PNA as well as the organizations and commissions under his control accountable for their misdeeds. However, these mechanisms must be overseen by the PLC rather than being within the jurisdiction of the Council of Ministers.
10. To ratify legislation on the independence of Media that ensures holding elections for the various media organizations, and enhances the right of journalists to access information as a tool to cease corruption and provide legal protection for the Mass Media and for journalists who hold journalistic investigations in corruption cases so as to publish it for the public opinion.

B. At the Institutional Level:

1. To consolidate the political will of the Executive Authority exemplified by the Presidency and the government to enable them to adopt anti-corruption pragmatic measures, as well as to settle the suspended cases, and inflict legal penalties on the condemned.
2. To establish a competent anti-graft commission and an official competent anti-corruption commission that are entitled to practice their activities within a regulating legal framework represented by a law enacted specifically for this purpose.
3. To remove the obstacles that impede SAACB from performing its duties in order to enhance its independence and legal jurisdiction so as to refer corruption files to public prosecution.
4. To enhance the role of the anti-corruption public prosecution by subjugating all anti-corruption departments of the security agencies under its control, increasing the number of its staff and providing it with the required materialistic and human capabilities.
5. To terminate the state of political divide through immediate reconciliation between the conflicting parties, and to hold free and impartial legislative elections to assist the PLC to regain its legitimacy and role in legislation as well as in exercising oversight over all the institutions under its control.
6. To hold instant elections for the Municipal and villages councils, and to develop oversight mechanisms to control their activities in order to ensure integrity and transparency in managing public funds.
7. To terminate discrimination based on political affiliation in recruitment, and to abolish the security exploration dictated as a perquisite for appointments in public office.

8. To establish a special system that clarifies the concept, limits as well as controls of administrative and financial independence in order to activate oversight over non-ministerial government institutions.

APPENDIX

A PUBLIC OPINION SURVEY ON CORRUPTION IN THE PALESTINIAN TERRITORIES IN THE YEAR 2009

A Public Opinion Survey On Corruption In The Palestinian Territories In The Year 2009

Introduction:

This report includes the main results of a public opinion survey conducted on “Corruption in the Palestinian Territories in the year 2009”. The results include essential and vital indicators pertaining to the views and attitudes of respondents towards the different forms of corruption and their prevalence in three sectors, namely the public, non-governmental, and private sectors. The survey also includes corresponding essential indicators as to the public’s attitudes towards services and the organizations that suffer from corruption, as well as indicators towards Wasta and the way it is taken advantage of. These indicators comprise a cornerstone in monitoring, measuring and interpreting future transformations in the public’s opinion vis-à-vis the same indicators via conducting a series of periodic polls. This study was carried out during the period of November 5-10, 2009 on a sample of 1538 people from the Gaza Strip and the West Bank including East Jerusalem, and in accordance with international criteria and the scientific methodology that are usually adopted for such surveys.

Status of corruption in Palestine:

Since its arrival and taking over in 1994, the Palestinian National Authority (PNA) has been encountering several obstacles that hampered laying the foundation for good governance. The PNA also suffers from the policies of the Israeli occupation and their continuous aggression on Palestinian land and people as well as from the destroying of public institutions like what happened during al-Aqsa Intifada 2000-2003 and in the last war on Gaza 2008-2009. In addition, the PNA suffers from difficulties pertaining to the nature of the political structure that is related to its function, to the historical circumstances that brought it into being, and to its modest governing experience. In addition, the PNA has encountered several problems especially while trying to transfer from the form of a revolution and exile to that of a state and homeland. Undoubtedly, corruption will be more widespread in interim governments than in stable and permanent ones. The state of instability that is intrinsic to a newly-born government, vacuum in legislation, absence of a clear vision because of external pressures, fragile rule of law, and international interventions because of the influx of external funds before completing the institutional building have all combined helped in the wide spreading of corruption in the PNA. The political division that led to the paralyzing of the Palestine Legislative Council (PLC) has contributed to the suspension of ratifying several legislations and the monitoring on the public sector and on the government’s performance, in addition to

overseeing problems over the Government in Gaza due to restrictions on basic freedoms and right of assembly that resulted from the political division and siege.

The several reports and studies that were issued by the Coalition for Integrity and Accountability (AMAN) and the public opinion surveys that were conducted on its behalf in both the West Bank and Gaza Strip proved a wide spreading of corruption in the different Palestinian working sectors that include the public sector, private sector, the non-governmental organizations, media, political parties.....etc. These studies and surveys sustain that corruption is most prevalent in the public sector especially in high ranking civil and security leading positions. However, Wasta, nepotism and favoritism is the form of corruption that is most widespread in the PNA and particularly in hiring people for a public office or in the field of public services, followed by the embezzlement of public funds and misuse of public office in addition to the bribery and lack of integrity and openness in tenders and government procurements.

There are various causes of the wide spreading of corruption. Yet, it is believed that lack of a genuine political volition in combating corruption on the part of the PNA is the main cause of the wide spreading of corruption in the Palestinian society besides the lack of taking strict preventive or disciplinary measures against corrupt individuals. The feeble institutional structure of the PNA represented by its truncated structure and monitoring institutions, the weak role of the PLC and its short experience in this regard, weakness of the judiciary and the absence of rule of law that entailed a state of indecisiveness on the part of the Executive Authority to execute verdicts all combined encouraged corrupt people to evade accountability.

It was also necessary to work in parallel on raising the awareness of the Palestinian public towards curbing the wide spreading of corruption in the Palestinian society. This can be achieved by getting the public acquainted with the causes of corruption, its features, outcomes and ways of combating it via circumventing its political, social and economic repercussions. Combating corruption can also be achieved by promoting integrity and transparency values and accountability regulations via the building of the capacity of the various Palestinian sectors, publishing related literature and diagnostic studies of the public institutions, dissemination of the accountability culture, drafting bills and regulations that will contribute to the combating of corruption and promoting integrity values, transparency and accountability. This can be achieved via the public's participation in the said activities and giving supportive opinion to AMAN, and to complement this trend in promoting awareness on the corruption system. AMAN has conducted public opinion surveys to guarantee a broader participation of the public and a more thorough understanding of their attitudes and the personnel of the different organizations towards corruption in the Palestinian society while keeping in mind the

fact that public opinion surveys comprise a tool that provides indicators rather than a definite fact. However, they represent a mirror that reflects a reality that can not be ignored. In this regard, AMAN has conducted a public opinion survey in the Gaza Strip and the West Bank including East Jerusalem, to probe the public's tendencies vis-à-vis corruption cases during the year 2009.

This opinion poll (as a complementary work to previous polls that revealed corruption in the Palestinian society to varying degrees and in different forms) is meant to get exposed to the forms of corruption most widespread in order to explore in which sectors corruption is most prevalent in the year 2009, and which domains were affected most by corruptions.

The poll also concentrates on the issue of reporting about corruption, and ways to protect those who report about it. In addition, it focuses on other indicators that highlight the public's opinion on corruption issues in the Palestinian society so that it helps governmental organizations, civil society organizations, and parties concerned in combating corruption, the most conspicuous form of which is nepotism and favoritism, in receiving public services. The poll also aims at detecting the degree and extent of change that took place regarding corruption in the year 2009 be it a positive or negative change. The poll also concentrates on probing to what degree citizens get the opportunity to have access to vital services that include the medical, educational, and al-Hajj and Umra services.

Executive Summary of the Poll Results:

- ▶ When the respondents were asked to put forms of corruption in order starting from the most widespread to the least widespread form of corruption in the public sector, 63.0% of them state that Wasta and favoritism in rendering services in the public sector were the forms of corruption most widespread in the year 2009, followed by 13.2% of the respondents who believe that bribery in return of a public service or an end purpose is the form of corruption most widespread, whereas 9.3% say it is misappropriation of public funds on private interests, 8.2% say it is the use of public resources and possessions for personal interests like using a government car, 6.0% believe that the most widespread form of corruption is the illicit gain from a public office, and 0.3% say "I do not know".
- ▶ When asked the same question in the non-governmental sector, the poll reveals that 36.5% of the respondents believe that Wasta, nepotism and favoritism in rendering services was the most prevalent form of corruption in the non-governmental sector in the year 2009, whereas 35.1% believe that Wasta, nepotism and favoritism in

hiring people is the most prevalent form of corruption, followed by 16.3% who believe it is the use of an institution's resources and possessions for personal or electoral purposes, 9.2% say it is bribery, 2.7% say "I do not know", and 0.1% believe that corruption does not exist.

- ▶ When asked again to put forms of corruption in order starting from the most widespread to the least widespread form of corruption in the private sector, the poll reveals that 47.1% of the respondents believe that Wasta, nepotism and favoritism in managing a company was the most widespread form of corruption in the private sector in the year 2009, whereas 19.1% of the respondents believe that paying bribery to influential people in the private sector, followed by 17.6% who believe it is the allocation of big rewards to members of the Board, 14.6% say it is the use of the company's possessions for personal services, and 1.6% say "I do not know".
- ▶ When asked about the organizations in which corruption was most widespread in the year 2009, the poll reveals that 34.9% of the respondents believe that Palestinian political parties and factions ranked the highest in the year 2009, whereas 16.4% of the respondents believe that corruption is found most in security and military institutions, followed by 12.1% civil ministerial institutions, 8.3% the presidential institution, 6.0% the judiciary, 5.9% the legislative institutions, 5.0% local councils, 4.6% the private sector, 3.8% the non-governmental sector, 1.8% international organizations working in the Palestinian territories, 0.3% civil public prosecution, and 0.8% say "I do not know".
- ▶ However, 49.2% of the respondents believe that the way people hired is the service that had the most widespread form of corruption in the year 2009, whereas 19.1% believe that distributing in-kind and financial social contributions is the service that ranked highest in terms of corruption, followed by 8.8% who believe that corruption is most prevalent in health services, 6.6% in police and security apparatuses, 6.1% in educational services, 2.3% in public services (water, electricity, telecommunicationsetc), 1.9% in business and practicing vocations, 1.9% civil services (passports, identification cards, applications for a family reunificationetc) 1.6% in custom and tax services, 0.7% in property deeds registration, 0.6% in public tenders, 0.3% in services of Palestinian courts, and 1.0% say "I do not know".
- ▶ When asked about the reasons that led to the wide spreading of corruption, 32.8% of the respondents believe that the Israeli occupation that helped create a fertile ground for corruption is the cause that inspired the wide spreading of corruption most, whereas 20.9% of the respondents say that the cause that inspires corruption most is the absence of the rule of law and lack of accountability systems, followed by 17.2% who believe it is the weak monitoring institutions, 12.8% the lack of sufficient

and disciplinary legislations, 13.6% absence of an independent commission for combating corruption, 2.5% the intervention of international organizations working in Palestine in giving grants and support, and less than 1.0% say “I do not know”.

- ▶ Almost half of the respondents 50.5% believe that corruption has increased in the year 2009, as opposed to 26.0% who believe the opposite, whereas 19.4% state that it has shown no change, and 4.0% say “I do not know”.
- ▶ A plurality, 46.4%, of the respondents believe that corruption will increase in the year of 2010, as opposed to 28.2% who believe that it will decrease, 24.8% believe it will remain as is, and 0.7% say “I do not know”.
- ▶ However, 19.8% of the respondents believe that citizens in general and stakeholders in particular have access to information regarding work tenders and procurement as opposed to a majority (69.7%) that believes the opposite, whereas 10.5% say “I do not know”.
- ▶ More than half (56.9%) of the respondents express willingness to report about corruption cases in case they happened to be eyewitnesses as opposed to 43.1% who state the opposite.
- ▶ Approximately one-quarter, 25.2%, of the respondents tried to use Wasta through a certain party in order to get a public service in the year 2009 as opposed to 74.6% who did not.
- ▶ A great majority (73.1%) of the respondents believe that nepotism provides them with access to public services, as opposed 26.9% believe the opposite.

AMAN's Analysis of the Poll Result:

According to the Palestinian citizen, Wasta and favoritism are still the most widespread forms of corruption in each of the public, private and non-governmental sectors with a percentage of 36.5% (which is close to results of the poll carried out in 2008). Despite the fact that 63% of the respondents see in Wasta and favoritism in rendering services as the most widespread form of corruption in the public sector in 2009, yet 73.1% of them still believe that Wasta provides them with access to public services, and that 25.2% of them tried to use Wasta through a certain party in order to get a public service in the year 2009. This proves that although Wasta is considered as a form of corruption, yet is used by a considerable number of people for a certain end purpose. However, results of the wide spreading of Wasta in 2009 in the Palestinian public, non-governmental and private sectors are 63.0%, 35.1% and 47.1% respectively.

Based on these data, one can conclude that Palestinian citizens are confident of the possibility of receiving more prompt and better services by using Wasta. Bribery rank the second widespread form of corruption in both the public and private sectors with a percentages of 13.2% and 19.1% respectively followed by 9.2% for the non-governmental sector.

It is noteworthy to mention that the public's conviction of the existence of corruption in the political parties has increased where they rank the highest of other institutions where corruption exists (this result is close to that of the 2008 poll where political parties ranked second highest in this regard). Results of the 2009 poll reveal that 34.9% of the citizens believe that the political parties are the most corrupt as compared to 16.4% who believe that military and security institutions are so, and 12.1% who state that civil ministerial institutions are the most corrupt.

and it seems that the internal political division between the West Bank and the Gaza Strip has contributed to the enhancement of this conviction on the part of citizens who hold the political parties responsible for the wide spreading of corruption; and that ruling institutions in both the West Bank and Gaza Strip are labeled as being partisan ones and stigmatized with factionalism and corruption. Regardless of the accuracy of such impressions, this attitude towards the political parties should sound the alarm so that they have to reconsider their policies and try to rectify their image via changing conduct and working with transparency whether in the parties themselves or institutions affiliated to them.

They should also work on subjecting their tribunes and representatives to accountability. Regarding the respondents' impression as to the services and official activities that were seen by citizens as characterized most by corruption, there has been no change in this regard as compared to results revealed in the poll of 2008. Indeed, corruption is concentrated most in hiring people and promoting them as well as in rendering public and social services.

When asked about mechanisms of managing those services and criteria of rendering them 67.0% state that they do not get exposed to the management of those services. Regarding promotion in public offices, 78.1% of the respondents state that they do not know how promotion services take place and on what criteria, whereas 76.9% state that they do not get exposed to the promotion process. In addition, 76.5% say they do not have access to the way hiring people takes place, a percentage that ranks the third highest, followed by a percentage of 69.7% on the part of respondents (which ranks the fourth highest one) who sustain that they have no access to the way the tender and procurement service is managed. Scholarships rank the fifth highest percentage (65.7%) in that people have no access to know how they are managed, then the sixth

highest percentage (59.2%) is related to health services, and the seventh highest and least percentage (53.0%) is for al-Hajj and Umra services.

Therefore AMAN emphasizes the importance of building and promoting the culture and right of acquiring information, adopting transparency and accountability in public institutions and promoting openness to the public according to a draft law (that should be ratified soon) that stipulates a citizen's right of access to information.

Regarding the impression about the causes for the wide spreading of corruption, 32.8% of the respondents believe that the Israeli occupation and its role in creating fertile ground for corruption is the cause that inspired the wide spreading of corruption most, followed by 20.9% who ascribe it to the absence of the rule of law and accountability, 17.2% weakness of monitoring institutions 12.8% lack of sufficient and disciplinary legislations, 13.6% absence of independent commission for combating corruption, 2.5% the intervention of international organizations working in Palestine in giving grants and support, and less than 1.0% say "I do not know". These results are close to those of the 2008 poll where the occupation and the absence of the rule of law and accountability are the most important factors behind the wide spreading of corruption.

This shows the Palestinians' eagerness to end the occupation and promote the rule of law and the accountability as essential elements to combating corruption. This dictates on the decision makers to activate accountability mechanisms like bringing corruption issues and perpetrators before units of relevance at the civil public prosecution so that the latter in turn convey them to the judiciary in order to reach a quick verdict. This measure will deter others and place them under constant societal oversight, for 75.4% of the respondents believe that penalties imposed on corruption perpetrators are not deterrent and that the penal code pertaining to corruption should be reconsidered especially the article that considers corruption as a misdemeanor and not a crime, and make a related penalty harsher.

Holding symbols of corruption accountable especially the high ranking officials who embezzle public funds will restore credibility to the efforts of combating corruption in the eyes of citizens.

In addition, 62.5% of the citizens believe that those who report about corruption are not fully protected as opposed to 26.3% who believe the opposite. This necessitates raising the awareness of people on the importance of their reporting on corruption and that they should be protected by different means. The most important of which, is developing related legislations that will protect those who report about corruption to compensate for the victims, punish officials who may take retaliatory measures against those who report about corruption, and not to punish those who report corruption with

good intention for libel charges.

The poll also reveals that 58.5% of the citizens say they do not receive efficient and time-bound response to complaints they may submit about misconduct on the part of an employee of an institution that renders public services.

Finally, the poll reveals to what degree corruption is widespread in the year 2009 where almost half of the respondents (50.5%) believe that corruption has increased in the year 2009 as opposed to 55% who believe that corruption has increased in the year 2008. Whereas 19.4% believe that corruption has neither increased nor decreased in 2008 (where 55.8% of the respondents thought that corruption was widespread in 2008). Yet, 26.0% of the respondents for the year 2009 say that corruption has decreased as compared to 19.4% who say that it has decreased for the year 2008. However, 46.4% of the respondents believe that corruption will increase for the year 2010.

Figure 1: percentage distribution of respondents on the factors underlying the spread of corruption in West Bank and Gaza Strip, 2009.

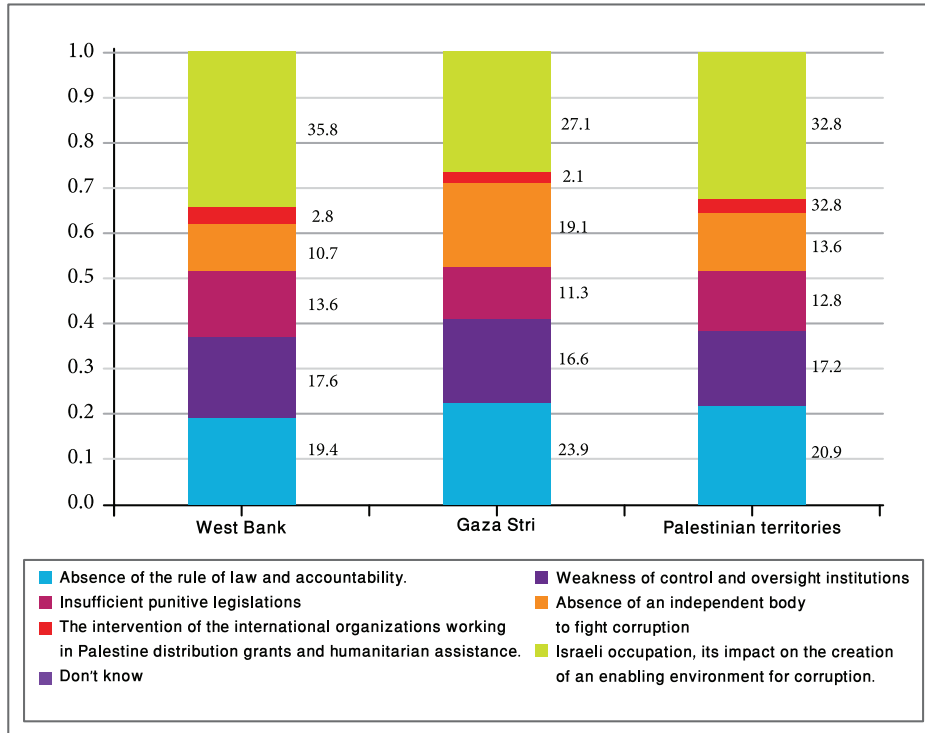


Figure 2: Percentage distribution of respondents according to their expectations on the corruption level in West Bank & Gaza Strip, 2010.

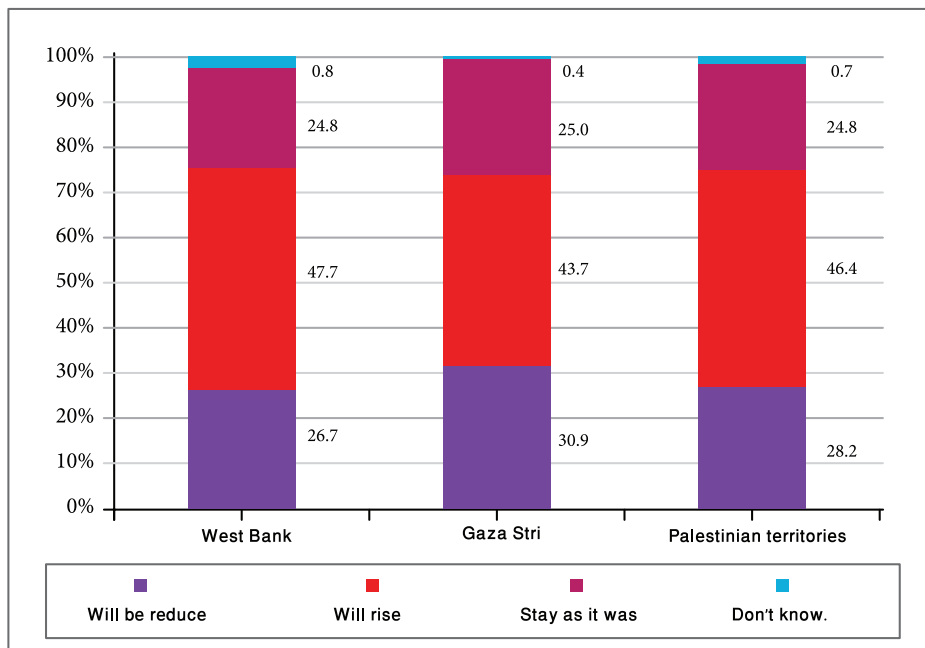


Figure 3: percentage distribution of the respondents according to their opinion on the most prevalent forms of corruption in the public sector in 2009.

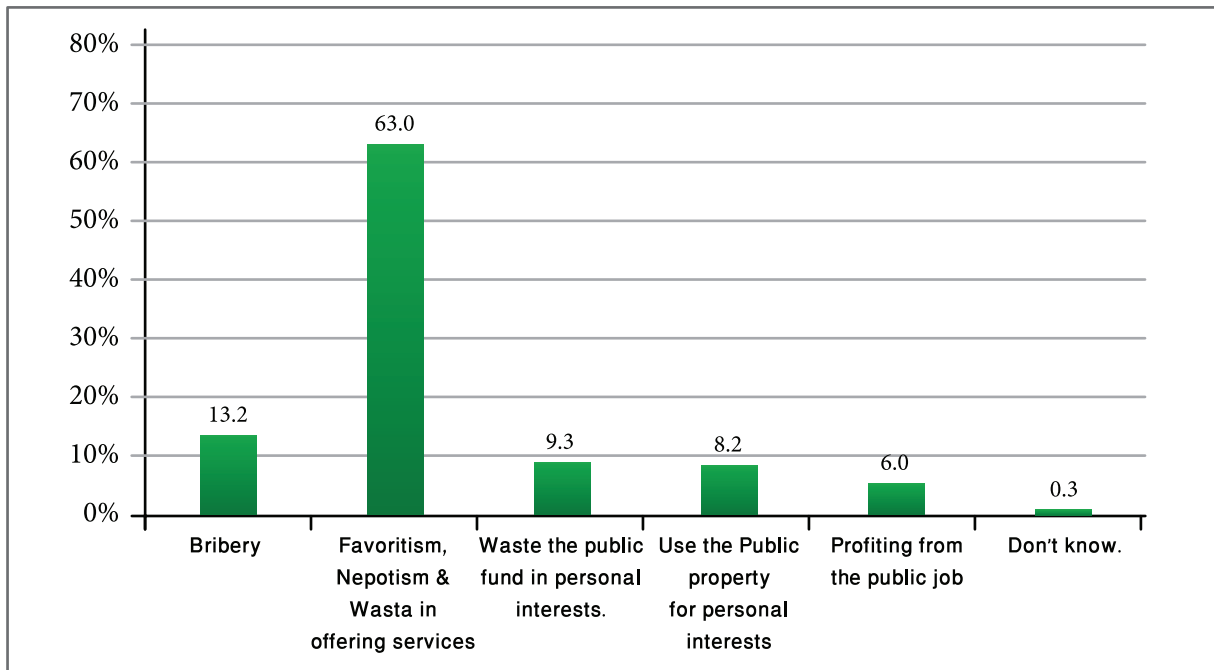


Figure 4: percentage distribution of respondents according to their opinion on the top 5 types of institutions with widespread corruption in 2009.

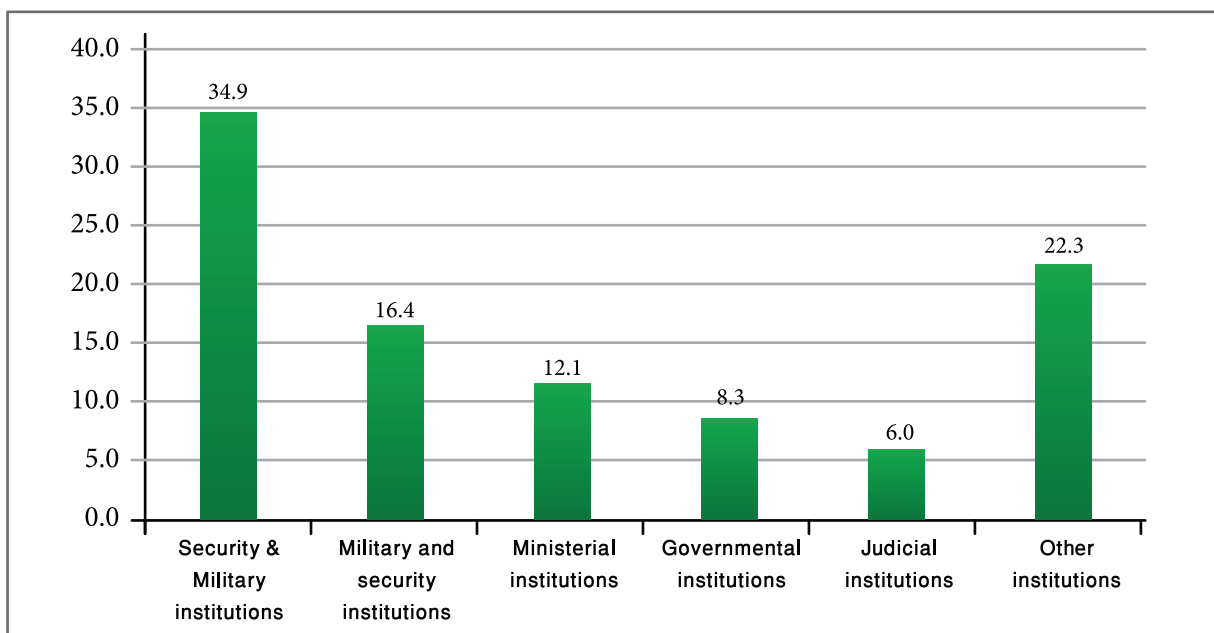


Figure 5: percentage distribution of respondents according to their opinion of informing of any corruption case if they are victims of corruption in West Bank & Gaza Strip.

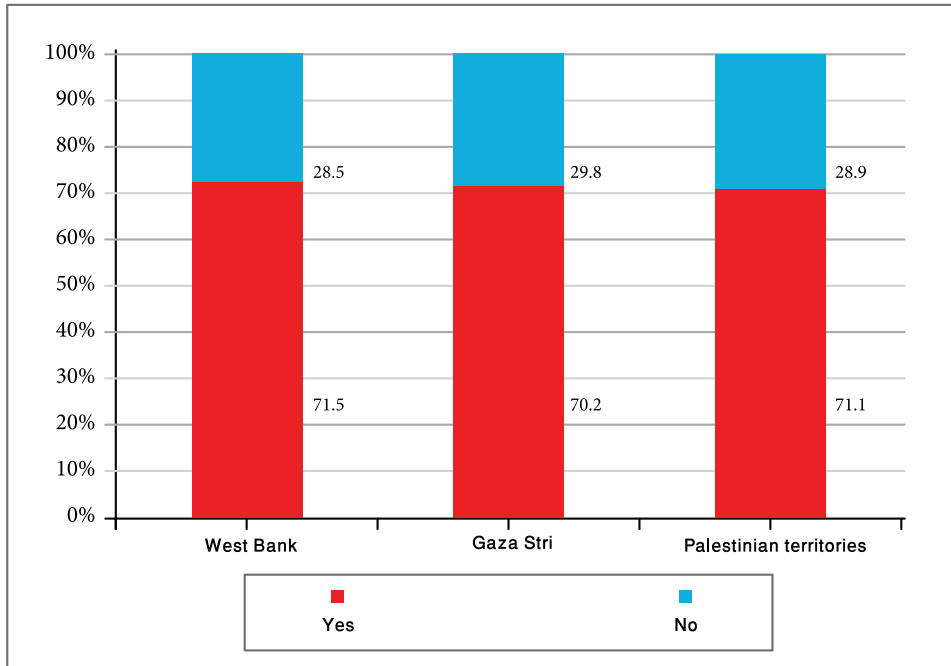


Figure 6: Percentage distribution of respondents according to their knowledge of organizations authorized to receive complaints on corruption in West Bank & Gaza Strip.

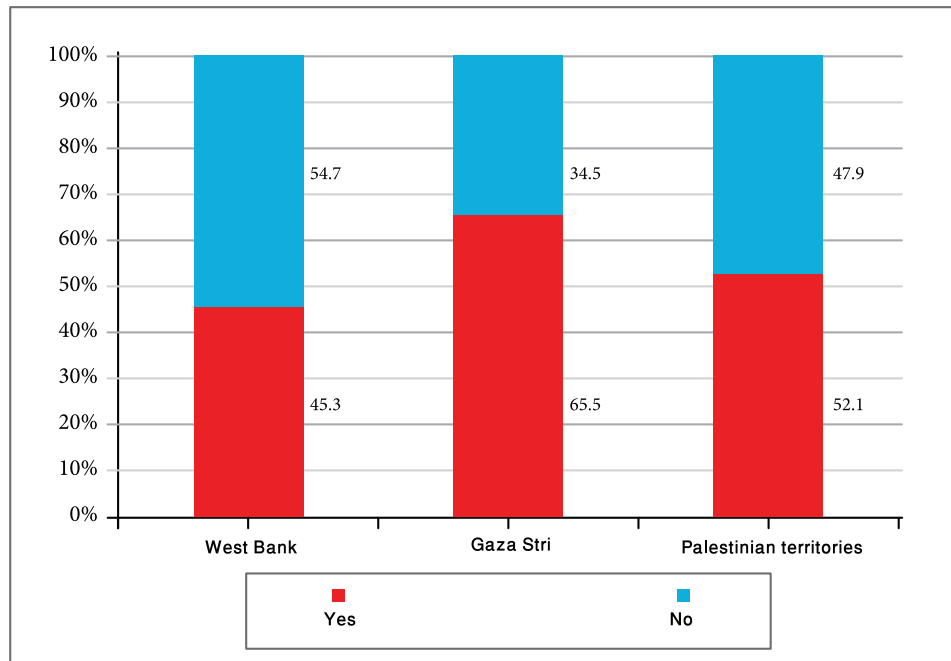


Figure 7: percentage distribution of respondents according to their opinion towards the effective of penal applied to perpetrators of crimes of corruption in West Bank & Gaza Strip.

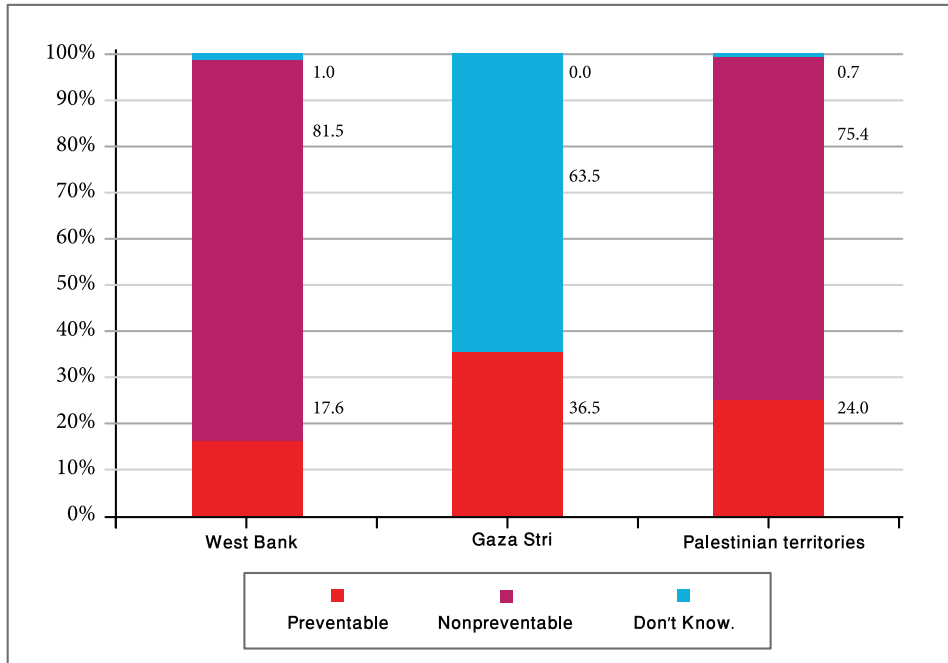


Figure 8: percentage distribution of respondents who asked for Wasta to get a public service, in 2009.

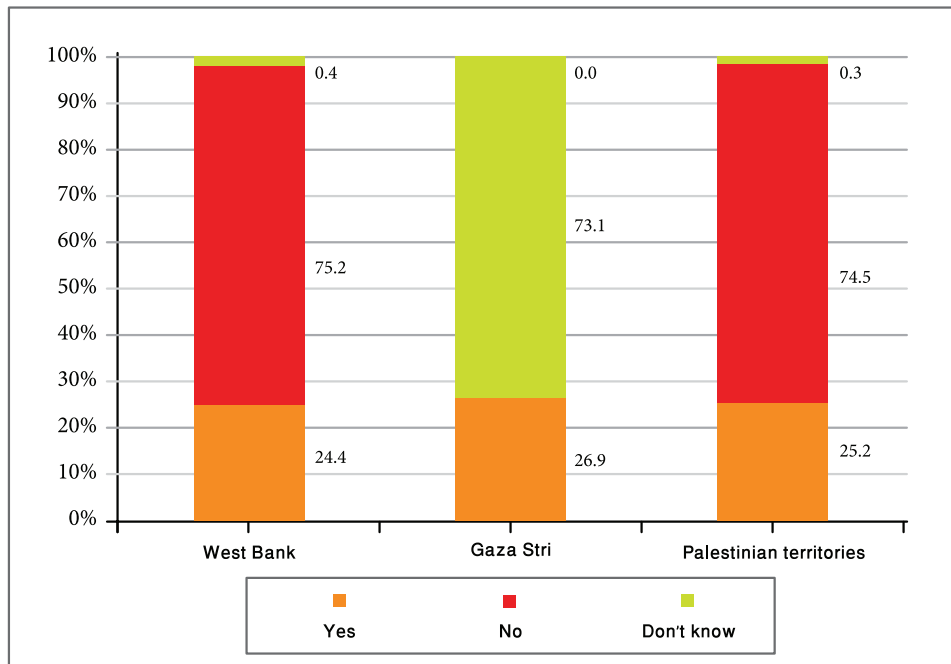
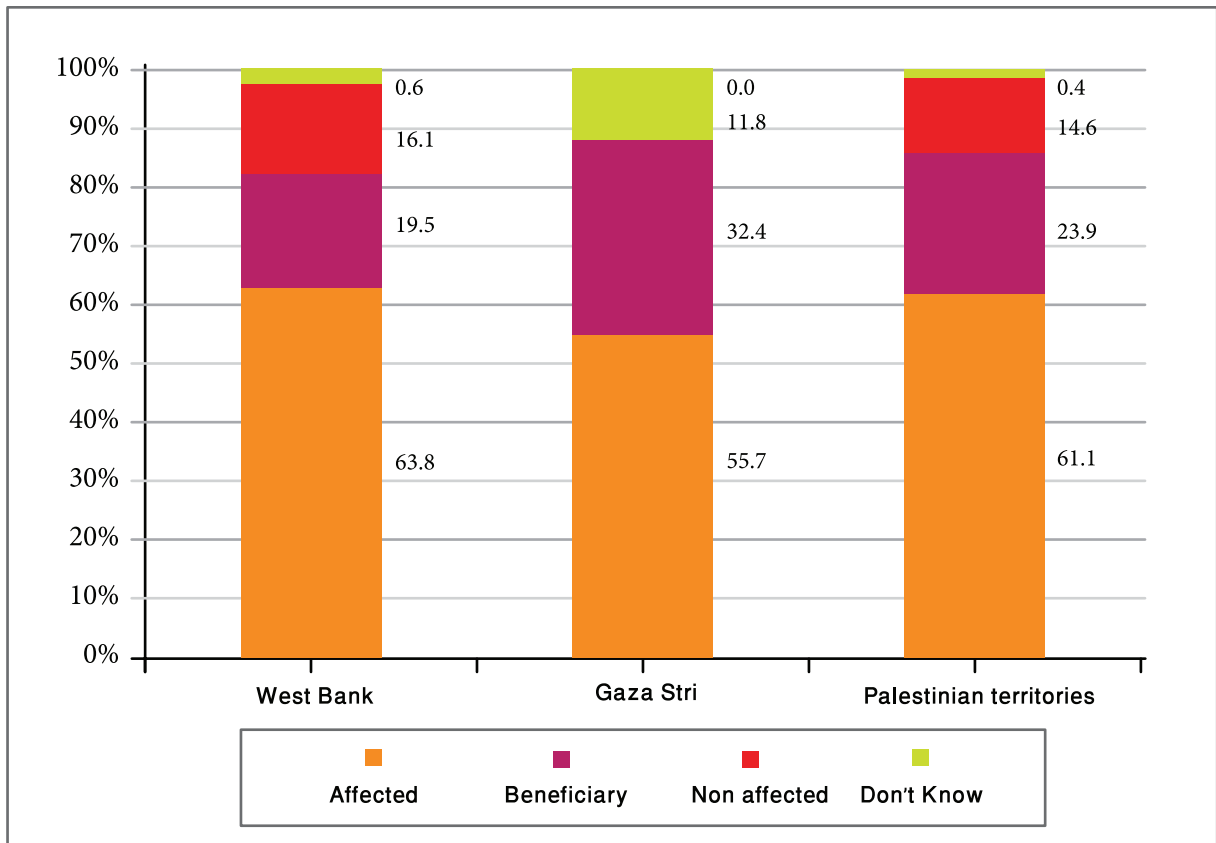


Figure 9: percentage distribution of respondents according to their opinion about the effectiveness of Wasta in society in West Bank & Gaza Strip.



Coalition for Integrity and Accountability- AMAN

“Transparency Palestine”

AMAN-Coalition for Integrity and Accountability was established in the year 2000 upon the initiative by a number of Palestinian civil society organizations working in the fields of democracy, human rights, and good governance. AMAN’s programs and projects were designed to promote the values of integrity, principles of transparency and systems of accountability in the various Palestinian sectors with the aim of participating in the building of a national integrity system.

Vision

A Palestinian society free of corruption.

Mission

Participate in the building of a national integrity system.

Strategic Objectives

1. Promoting a popular culture that supports anti-corruption initiatives in public institutions.
2. Promote anti-corruption among leaders and public service employees and institutions.
3. Contributing to the building of effective institutions, initiatives, and legislations capable of combating corruption at the local level.
4. Improve AMAN’s performance to insure achievement of mission and vision.

Coalition members:

1. Palestinian Initiative for the Promotion of Global Dialogue and Democracy – Miftah
2. The Arab Thought Forum- ATF.
3. Palestinian Institute for the Study of Democracy – Muwatin.
4. Al- Mezan- Center for Human Rights.
5. Palestinian Trade Center – Pal-Trade.