



Report on:

Independence and Effectiveness of the Palestinian Public Prosecution: And Its Impact on the Integrity of Governance

Report No. 313



AMAN
Transparency Palestine



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1. Executive Summary

This study examines the position of the Public Prosecution (Prosecution) in the Palestinian political system, its relationship with the governance system, and the impact of its legal and functional structure on standards of political integrity. The study begins with assessing the effectiveness of the Prosecution's role in relation to its level of independence, given that it is the official prosecuting body, separate from executive authority. The study also assesses the effects of this relationship on its performance as a protector of public interest, a guardian of the rule of law, and also in fighting corruption.

To prepare this study, we relied on a critical analytical approach, review of the legal framework governing the work of the Prosecution, a comparative analysis of regional and international experiences, in addition to monitoring a number of complaints and field statements, and conducting in-depth interviews with legal experts and former officials. The study is divided into five chapters covering legal framework of the Prosecution, its place within the Palestinian political system, work independence, impact on political integrity, and the effectiveness of its role as a protector of public interest, a guardian of the rule of law, and in fighting corruption.

The results revealed a gap between the legal stipulations portraying the prosecution as an independent body and practices on the ground revealing a structural and functional dependence on the executive authority (EA). This is attributed to the absence of a specific regulating law and its reliance on the Judiciary Law as a regulating law despite the particular nature of its role. Also noted, weaknesses in the: internal and external accountability mechanisms; absence of civil society organizations' (CSO) role in monitoring its performance; ineffectiveness in investigating corruption crimes; influence of the political and security forces on its decisions.

The study recommends implementing legal reforms that protect the Prosecution's officials from external interferences, and guarantee sovereignty for the institution; set regulations for holding members of the prosecution accountable without compromising their independence; create an effective complaints system, and enhance transparency at work. All reform measures must aim to strengthen public trust in the justice system, protect freedoms, and combat corruption effectively.

2. Introduction:

The Public Prosecution is considered the cornerstone of the criminal justice system, as it is entrusted with the following responsibilities: initiating and prosecuting public lawsuits on behalf of society; protect public interest; ensure respect for the rule of law; protect the fundamental rights and freedoms of citizens. And by virtue of its institutional status, it serves as a safety valve to achieve a balance between public safety and fair trials. Therefore, it is a vital player in reinforcing the principle of equality before the law and in preventing the abuse of power.

In Palestine, the importance of studying the reality of the Prosecution emerges in light of: the complex political and constitutional environment, the absence of institutional stability, the overlap of powers between authorities, and the disruption of the Palestinian Legislative Council (PLC) that has cast a shadow over its independence and effectiveness. And although the Palestinian Basic Law and the Judiciary Law provided general rules to ensure the independence and impartiality of the prosecution, actions on the ground reveal deep gaps between legal stipulations and practice, which calls for a precise and objective analysis of this reality.

This report will attempt to provide a comprehensive critical analysis of the reality of the Palestinian Public Prosecution based on the legal frameworks governing its work, and by comparing its practices with international and regional experiences. The report covers four main areas:

1. **Legislative framework governing the work of the prosecution:** i.e., laws and legislations that define the powers of the Prosecution and its constitutional status, with emphasis on the absence of a specific law regulating its work as an independent institution.
2. **Role of the Prosecution within the Palestinian political system in a comparative Context:** the analysis will illustrate the position of the Prosecution within the structure of Palestinian Authority (PA), compared to several international models such as Morocco, Tunisia, France, the United States (US), and the United Kingdom (UK), in order to identify similarities and differences.
3. **Integrity, transparency, and impartiality in appointments at the Prosecution's Office "Integrity of access to power":** highlighting the appointment and promotion mechanisms in the Prosecution's office, in terms of aligning with relevant international standards, and adherence to the principles of transparency and competitiveness.
4. **Reality of independence, effectiveness, and impartiality within the Prosecution:** this section addresses practice on the ground, and the extent of its impartiality and effectiveness in confronting issues with a political dimension and or cases of corruption. It will also examine the extent of its respect for defendants' safety, while highlighting the structural and environmental challenges it faces.

The report concludes with scientific findings highlighting the structural and functional shortcomings in the Prosecution's performance, along with practical recommendations that aim to reform its structure and enhance independence, transparency, and effectiveness, all in line with the constitutional and international standards.

3. Status of the Public Prosecution and its position in the Palestinian political system

The Public Prosecution in Palestine is a specialized judicial procedural institution that represents society by properly applying provisions of the criminal law. It also represents the government in lawsuits and claims filed by or against it¹.

First: The constitutional framework regulating the Prosecution, both, in its surrounding environment and in the Basic Law.

The amended Palestinian Basic Law of 2005 serves as the temporary constitution of the State of Palestine, as it regulates the relationship between the three authorities and defines the powers of each. The law, in Chapter Six, articles (107) and (108); provisions on the judicial authority, specifically mention the Public Prosecution.

Article (107):

1. "The Attorney General shall be appointed pursuant to a decision issued by the President of the National Authority, based upon a nomination submitted by the High Judicial Council".
2. "The Attorney General shall handle and assume public cases, in the name of the Palestinian Arab people. The jurisdiction, functions and duties of the Attorney General shall be specified by law".

Article (108) stipulates that:

1. "The law shall specify the manner of forming the Public Prosecution service, and its jurisdiction".
2. "The law shall determine the conditions for appointing, transferring and dismissing members of the Public Prosecution service and the rules of their accountability".

It is evident from these two articles that the legislator deferred the regulation of the procedural and administrative details regarding the Prosecution to a subsequent law, without specifying whether the reference is to the Judiciary Law No. (1) of 2002, or a specific Public Prosecution law as is the case of some countries (such as Qatar, which issued Public Prosecution Law No. 10 of 2002). Accordingly, the fundamental question is: Does the Basic Law consider the Prosecution part of the judiciary, or as an independent body with a hybrid nature between the executive and judicial authorities?

This approved vision contradicts the original vision of the Basic Law when it was first adopted, which was divided into 'chapters' representing the three powers: legislative, executive and judicial, with a chapter for the "President" separate from the "executive authority's". This reflects an early conception that maintains the balance and independence of powers.

However, the constitutional amendments that were later introduced during President Mahmoud Abbas's control, led to the integration of the President's chapter within the executive authority's, hence changing the original constitutional structure and causing a fundamental shift in the distribution of powers. It also affected the constitutional status of the Prosecution, as it weakened its position as part of the judiciary and made it closer to the sphere of influence of the executive authority (the presidency)².

1 Judge, Dr. Abd-Alqader Saber Jaradeh, *Time of Extermination: The Palestinian Judiciary in the Face of Displacement and the Dialectic of Survival and Building*. Samir Mansour Library, 2025, p. 334.

2 Interview with Dr. Azmi Shuaibi, a former member of the PLC, and the advisor of AMAN's Board of on Corruption Issues. On October 9, 2025.

Therefore, the initial conception of the legislator was clear in considering the Prosecution as a branch of the judiciary. This was evident in the membership of the Attorney General in the High Judicial Council (HJC), as the procedures for his appointment were issued by a decision of the Council itself before being submitted to the president for approval. Hence illustrating a clear will to ensure the Prosecution's independence from the executive authority.

Moreover, it also highlighted a major point of contention that later arose between the President and the HJC that was related to the mechanism for appointing the Attorney General. As the first draft of the law required the appointment to be made by a decision of the HJC and approval of the PLC. However, the text was amended so that the appointment is made by a presidential decision based on the recommendation of the HJC, rather than "by his decision" (i.e., transferring the center of decision-making from the judicial institution to the presidential institution).

This amendment, made by the late President Yasser Arafat, was not merely a formal one, but rather an expression of a political will to make the Attorney General subordinate to the executive authority. And although the text kept the condition of "approval" by HJC, in practice it was completely ignored. In addition, none of the attorney generals' appointments were presented to the PLC, which undermined the principle of legislative oversight and weakened the independence of the position. This is considered a deviation from the spirit of the Basic Law, which intended the Prosecution to operate on behalf of the Palestinian people within the judiciary, rather than being part of the executive authority's fabric under the president's control³.

The prevailing understanding which links 'presidential appointment' with 'institutional loyalty to the president' is a misguided concept. In other words, not all presidential appointments in comparative systems result in political dependence. However, the problem in the Palestinian case does not lie in the provisions of laws alone, but in the absence of oversight mechanisms within the presidency itself. As it was not built to handle the actual supervision of multiple institutions brought under its jurisdiction, one of which is the Prosecution. Therefore, the absence of a specialized legal or oversight body in the President's office placed the Attorney General outside the scope of accountability, because it is neither subject to parliamentary oversight nor to executive accountability, therefore creating an institutional vacuum within the system of separation of powers.

Another negative action affecting the independence of the Prosecution is the Attorney General having multiple assistants. In fact, the presence of four assistants at certain times does not have legal basis, rather it is due to political tensions and multiple centers of influence that exerted pressure on the President's office to ensure their representation within the Public Prosecution. It is said that this reality was imposed on the president – at a moment of internal balancing – to appoint four assistants at once to appease the different parties. This led to the dismantling of the hierarchy within the Prosecution, as well as to power struggle, and a decline in the institutional effectiveness; all due to the absence of a unified reference framework⁴.

It is evident from the foregoing that the Palestinian legal framework has been shaped by a dual influence from the Jordanian school (prevailing in the WB) and the Egyptian school (applied in the GS). The late President Arafat was inclined towards the Egyptian school in both the political and legal organization, due to its flexibility in exerting political control over the judiciary; unlike the Jordanian model, which grants the judiciary a greater degree of independence.

3. Interview with Dr. Azmi Shuaibi; previous source.

4 Previous source.

This option was not merely technical, but also embeds within it a political identity; as Arafat sought to establish a legal model that preserves the 'Palestinian national identity' away from Jordanian influence. Thus, characteristics of the Egyptian school were replicated in a number of positions. Where figures from the "Gazan School" were chosen for key positions such as the Minister of Justice, the Head of HJC, the Attorney General, and even the Speaker of the PLC. This made the Palestinian judicial system closer to the Egyptian model in terms of structure and mindset⁵.

This approach generated political fear of an independent judiciary, where the ruling authority's goal was to control the judicial system rather than to empower it, which later laid the ground for dominance of the executive authority over both the judicial and prosecutorial systems.

2. The Judiciary Law No. (1) of 2002, amended by the Decree-Law No. (40) of 2020.

This law constitutes the primary reference for regulating the Prosecution. Under the previous laws, there was no judicial immunity for prosecution members until the Judicial Authority Law No. (1) of 2002 was enacted. However, articles of this law included major contradictions, where some affirmed the subordination of the Administrative Prosecution members to the Minister of Justice⁶, and some referred their subordination to the HJC⁷.

To unravel all of this, first we will discuss the legal texts contained in the Judiciary Law and those examining the work of the Prosecution members, starting from the Attorney General to the Assistant Public Prosecutor. After which, provisions that deal with the relationship of the Prosecution with the Minister of Justice will also be examined, in order to understand its nature and impact on the legal position of the Prosecution in its judicial work, so to speak, starting with Article 37 on the formation of the HJC.

Article 37 of the Judicial Authority Law stipulates that: "Pursuant to the provisions of this law, a judicial council shall be established which shall be called the 'High Judicial Council'; consisting of: The President of the High Court as President; the most senior Vice-President of the High Court as Vice-President; the two (2) most senior judges of the High Court, selected by the High Court Assembly; the Presidents of the Courts of Appeal in Jerusalem, Gaza and Ramallah; the Attorney-General; the Deputy-Minister of Justice".

Noting here that the Judiciary Law made the Public Prosecutor a member of the HJC, which emphasizes the importance of the Prosecution and its position within the judiciary.

In regard to the status of the other members of the Prosecution in the Judicial Authority Law, Article 61 of the Judicial Authority Law stipulates that "To be appointed a member of the Public Prosecution, one must satisfy the conditions and requirements set forth in Article 16 of this law"; Article 71 states: "Provisions of PART III, CHAPTER III, of this law, entitled 'Duties of Judges,' shall apply to members of the Public Prosecution". Article 72 states: "Provisions of PART IV, CHAPTER IV, of this law, entitled 'Disciplinary Inquiry of Judges,' shall apply to members of the Public Prosecution. Disciplinary action shall be instituted against them by the Attorney-General either sua sponte or upon the request of the Minister of Justice". Finally, Article 74 of the Judiciary Authority Law stipulates that: "The seniority of the members of the Public Prosecution shall be determined in accordance with the rules determining the seniority of judges as set forth under paragraph 3 of Article 18 of this law".

⁶ The Judicial Authority Law No. (1) of 2002, Article (66)

⁷ Interview with Judge Abd-Alqader Jaradeh, on 22/9/2025.

Clearly, judging from these texts, the legislator considered all members of the Prosecution, as members of the judiciary, first and foremost the Attorney General. The legislator also specified methods of appointment for all: the assistant prosecutor, deputy prosecutor, head of the prosecution, assistant general prosecutors, up to the attorney general, in addition to regulating their discipline, dismissal, and details of their work. Therefore, it is safe to say that the prevailing trend in the Judicial Authority Law regarding the identity of the Public Prosecution leans towards being a branch of the judicial authority rather than the executive⁸.

However, we criticized the legislator for adopting the appointment mechanism which states that the Attorney General is appointed by a decision of the PA President based on a recommendation from the HJC. This mechanism raises controversy regarding the independence of the Prosecution, as it remains administratively subordinate to the executive authority through the President's Office⁹.

Moreover, the Palestinian legislator did not set special conditions for appointing an Attorney General and only adhered to the conditions stipulated in Article (16) of the Judiciary Law¹⁰.

This action reveals a legislative flaw, due to the importance and sensitivity of this judicial position, hence it was necessary for the legislator to explicitly stipulate certain conditions that must be met by anyone who is appointed as Attorney General. For example, one must be at least a judge of the Court of Appeal or an assistant to the public prosecutor, or have practiced judicial work in the courts or the public prosecution for a period of not less than 15 years, or have practiced law for no less than 20 years¹¹.

It is also important to discuss the legal texts that address the jurisdiction of the Minister of Justice over the Prosecution to see the extent of their impact on the work, nature, and legal identity of the Public Prosecution. In this regard, the Judicial Authority Law limited the administrative powers of the Minister of Justice over the Prosecution to the following competencies:

- Promotion of assistant prosecutors to public prosecutors. Article (64).
- The Attorney-General shall swear the oath before the President of the National Authority and in the presence of the Minister of Justice. Article (64.)
- Public prosecutors take the legal oath before the Minister of Justice. Article (65).
- Determining the workplaces of the Public Prosecution members after the nomination proposed by the Attorney General to the Minister of Justice. Article (65).
- Directing the Attorney General to file disciplinary action against members of the Public Prosecution and judges. (4, 72).

If we concede that administrative supervision by the Minister of Justice makes the public prosecution subordinate to him, can we then say that the judiciary is also not independent? In this case, what happens to the universal legal principle that judges are independent and answerable to no one but the law?

8 Dr. Ayman Thdaher, the Criminal Procedure Law, Part One, Previous Reference, p. 21 and onwards.

9 Judiciary Law No. (1) of 2002, Articles (60–68).

10 Article (63) of the Palestinian Judicial Authority Law No. (1) of 2002

11 "If the position of the Attorney-General becomes vacant, or during the absence of the Attorney-General, or due to an impediment preventing the exercise of his responsibilities, the position shall be filled by the Deputy Attorney-General, with all of the powers that it entails, for a period not to exceed three (3) months".

Article (68/2) of the Palestinian Judicial Authority Law No. (1) of 2002.

The Minister of Justice, as he has administrative supervisory authority in certain aspects, as explained above, over the Prosecution, also supervises the judiciary administratively in certain areas; Article 47 of the Judicial Authority Law states that "the Minister of Justice has the tasks of administrative supervision over the work of the courts," also according to Article 49 of the Judiciary Law. the Minister of Justice exercises the duties of disciplining judges, and despite that the judiciary is independent.

However, we find that provisions in the Judiciary Law that allow the Minister of Justice to initiate disciplinary proceedings against members of Prosecution and the powers granted to him in approving the judicial composition of the workplaces of the members are nothing less than restrictions on the work of the Prosecution members and limit their judicial independence, as well. For example, how can a public prosecutor file a criminal lawsuit against the Minister of Justice or one of his family members knowing that the final decision to approve his workplace is in the hands of that minister? Therefore, it is vital to repeal the legal provisions in the Judiciary Law that grant the Minister of Justice these powers, which will inevitably affect the work of public prosecutors in terms of independence and impartiality, as intended by the law¹². This situation created a long-standing conflict between the President of the HJC and the Minister of Justice at the time. Also, it is worth noting that one of the reasons for the overlap was that previously, there were two judicial systems in the WB and in the GS, affected by the Jordanian and Egyptian legislation respectively.

3. The Criminal Procedure Law No. (3) of 2001, amended by Decree-Law No. (7) of 2022.

This law defines the procedures through which criminal proceedings are conducted. It also grants the public prosecution the authority to directly conduct preliminary investigations, issue arrest warrants, refer cases to the courts, and dismiss cases when a condition stipulated by law is met, and dismiss the case if one of the conditions stipulated in the law allows¹³.

The Prosecution, under this law, is considered the sole entity that represents society before the judiciary in criminal cases unless the law provides otherwise, which reinforces its significance in the criminal justice system¹⁴.

Here we will discuss the legal provisions of the Criminal Procedure Law which define the work of the Prosecution, and hence give it its legal importance. Similarly, we will examine provisions that grant powers to the Minister of Justice, and the impact of these powers on the judicial work of the Prosecution.

In this regard: article 19 of the Criminal Procedure Law states that ((Members of the Public Prosecution are responsible for judicial oversight, and supervision of the enforcement officers, each within their respective jurisdiction)).

Article 20 of the same law stipulates: ((The Attorney General supervises the judicial officers and they are subject to his oversight concerning their work performance.

1- The Attorney General may request the competent authorities to take disciplinary actions against anyone who violates their duties or neglect their work, without prejudice to holding them criminally accountable)).

12 Dr. Ayman Thdahir, the Criminal Procedure Law, Part One, Previous Reference, p. 22 and onwards

13 Article (149) of the Criminal Procedure Law No. (3) of 2001, as amended by Decree-Law No. (7) of 2022

14 the Criminal Procedure Law No. (3) of 2001. Articles (1-140).

Therefore, Prosecution has the right to supervise and follow up on judicial officers only with regard to public lawsuits, which was originally granted to it by the legislator. This means, that given the authority it holds over judicial police officers, does not provide for being involved in their investigative and deductive work, in the administrative sense regulated in their specific Police Law. Its work is limited solely within what serves the criminal case in the strict legal meaning of their judicial decision.

Article (55) of the Law stated: "1- The Prosecution alone is specialized in investigating and handling crimes. 2- The Prosecutor or the competent Prosecution agent may authorize one of the relevant judicial officers to carry out any investigative work in a specific case, aside from questioning the defendant in criminal matters. 3- The authorization cannot be general. 4- The authorized officer, within the limits of his mandate, enjoys all the powers granted to the public prosecutor"¹⁵.

Accordingly, we find that the Palestinian legislator has followed the Egyptian legislator's approach in combining the functions of accusation and investigation in the hands of the Prosecution, on grounds that it is not an adversary per-se, since it assumes the authority to investigate criminal offenses, misdemeanors, and violations. Exceptionally, it may be carried out by one of the competent judicial officers; based on authorization in a specific case in which he's appointed for the case, and hence his jurisdiction is limited to it, except for interrogating the accused in criminal matters¹⁶.

The three legal powers granted to the Minister of Justice by the Palestinian Criminal Procedure Law:

- Cassation by written order. (Article 375 of the Procedures' Law).
- Request for retrial. (Articles 378, 379 of the Code of Procedure).
- Forwarding the case file to the president once the death sentence becomes final. (Article 408 of the Code of Procedures).

The question that comes to mind: is there a single legislation that grants the Ministry of Justice (MoJ) the authority to intervene in a criminal case from the moment it is initiated by the public prosecutor, through the investigation, until it is referred to the court and after the judgment is issued?

The fact is: These investigative actions, containing the powers of accusation and investigation, are complex judicial activities that require members of the public prosecution who are independent at work and are organized in a hierarchical order that allows them to interact with all state institutions¹⁷.

4. Law of Reform and Rehabilitation Centers No. (6) of 1998, as amended by Decree-Law No. (3) of 2005

This law regulates the operational mechanism of reform and rehabilitation centers (prisons). It also grants the public prosecution the authority to oversee and supervise these centers to ensure the rights of inmates are respected and that they are not subjected to abuse or arbitrary detention.

¹⁵ Past work experiences have proven that dual authorities followed by judicial officers often, not only led to conflicting decisions regarding investigations, rather not implementing it in many cases. We recommend that the legislator transfer the administrative subordination of judicial police officers with general jurisdiction to the Prosecution. In this regard, Article No. (5) of the recommendations of the pre-trial stage, issued by the Conference on the Protection of Human Rights in Criminal Procedure Laws in the Arab World, held in Cairo in 1989, stated that: "The conference recommends that the judicial police with general jurisdiction be under the authority of the Ministry of Justice, and subject to judicial supervision, allowing the supervising judicial authority to hold its officers accountable disciplinarily and administratively, in addition to criminal accountability".

¹⁶ Judge, Dr. Abd-Alqader Saber Jaradeh, *Time of Extermination: The Palestinian Judiciary in the Face of Displacement and the Dialectic of Survival and Building*. Samir Mansour Library, 2025, p. 334

¹⁷ Dr. Ayman Thdaher, *the Criminal Procedure Law, Part One*, Previous Reference, p. 23 and onwards.

Article (11) of the Law emphasized that the Prosecutor or his deputy are obliged to enter all sections of any given facility at any time to inspect them periodically.

Modern criminal policy has also moved towards granting judges supervision over it through what is called the “Judge of Freedoms”¹⁸.

In conclusion, this supervisory role of the Prosecution constitutes a vital dimension in ensuring respect for international human rights standards within detention facilities, especially in the absence of an independent authority for reform and rehabilitation centers (prisons).

5. Judicial Instructions for the Attorney General

The legislator granted the Prosecution the authority to represent the ministries and other PA institutions before all courts in lawsuits filed by or against them in accordance with the provisions of the law¹⁹.

6. Laws and Regulations Related to Specialized Prosecutions

To promote the principle of specialization and develop institutional performance, 13 specialized public prosecutor offices were established²⁰.

Each with its specific scope of powers linked to newly emerged crimes or those of a technical or social nature. This came as a response to the need to deal with complex crime patterns that require special expertise, such as cybercrimes, economic crimes, and crimes involving juveniles.

The Specialized Prosecutions include:

• The Anti-Corruption Prosecution:

Specializes in issues of an authoritative nature that relate to the abuse of power, public funds, and exploitation of position influence. This requires the Public Prosecution to take the necessary steps to hold accountable and prosecute those responsible for committing financial corruption crimes. This is to correct the status of the PA institutions and departments, preserve their achievements, and protect property and interests of the people²¹.

Therefore, it is concerned with initiating and handling criminal cases of specific jurisdiction that address these situations, namely corruption crimes defined in Article (1) of the amended Anti-Corruption Law No. (1) of 2005.

Economic Crimes Prosecution Office:

Under the Decision No. (28) of 2006, the Palestinian Attorney General established a specialized prosecution for combating economic crimes. It is concerned with initiating and pursuing criminal cases in offenses related to: taxes, customs, supply, commercial fraud, smuggling of currency and precious metals through crossings, ports, and airports, banking crimes, and money laundering.

18 Judge Dr. Abd-Alqader Jaradeh. Previous source.

19 Article (4/A) of the Judicial Instructions of the Attorney General No. (1) of 2006

20 13 specialized prosecutions are listed on the official website of the Public Prosecution in Palestine. <https://www.pgp.ps/#> . According to the official website of the Public Prosecution and reliable sources, the specialized Prosecutions are; Prosecution of the: Supreme Court; Constitutional Court; Cassation (Court of Cassation); Appellate Prosecution; State Claims Prosecution; Family Protection from Violence Prosecution; Youth Protection; Combating economic and environmental crimes; Cybercrime Prevention; Traffic Crime Control; Local Government Units; Major Crimes, and the Anti-Corruption Prosecution.

21 The Public Prosecution Annual Report, State of Palestine, 2007, P.30-31.

- Cybercrimes and Information Technology Prosecutor's Office
- Family Protection from Violence Prosecution
- The Supreme Court (Constitutional, Cassation, Appellate) Prosecution
- Office of International Judicial Cooperation.
- Traffic Crime Control
- Environmental Prosecution
- Local Government Units Prosecution

Despite the importance of this diversity, the absence of a unified legal framework regulating the powers of all specialized public prosecutions leads to disparities in performance and administrative reference. Therefore, it is essential to develop a comprehensive legislation that ensures coordination and defines the powers of specialized prosecution members according to this diversity of specialized prosecutions. It is worth noting that the majority of these public prosecutions were established by a decision of the Attorney General and not under the law, except for two prosecutions; those are the Anti-Corruption and Juvenile, where the law explicitly defined their work and jurisdictions. This requires the designation of specific public prosecutors to work in these bodies, and any violation of this would result in nullification. As for other prosecution offices, they were established for organizational purposes, hence actions of their members, according to the establishing decision, do not entail any nullity. And since it seems that most legal systems are going towards specialization of public prosecutions work, it would be more appropriate to establish these prosecutions under specific laws that regulate the work and authorities of their members, in order to avoid overlapping of powers among them.

Second: The Palestinian Public Prosecution in a Comparative Context

Public Prosecutions in political systems represent a crucial indicator of the state's commitment to the principles of the rule of law and the independence of the judiciary. When comparing the Palestinian Prosecution with various international models, there are clear differences in the subservience of the prosecution, the mechanisms for appointing its leaders, and the extent of its independence or subjection to the executive authority. In democratic systems, however, there is no influence on the independence of the public prosecutor, as provided for by law.

Comparative models:

In presidential systems (USA): The Public Prosecution (Ministry of Justice) is considered part of the executive branch. In such systems, the Attorney General is appointed by the president with the approval of congress, which creates a relative balance between the powers through the mechanism of appointment and legislative oversight. And therefore, despite the organizational subordination, institutional traditions and parliamentary oversight ensure a high degree of functional independence in prosecution.

In parliamentary and mixed systems (the United Kingdom (UK) and France): In the UK, the Director of the Prosecution is appointed by the Lord Chancellor following a competitive process supervised by an independent committee. While in France, prosecutors are appointed by a decision of the President based on the recommendation of the HJC. And despite the existence of formal guarantees for independence, the European Court of Human Rights issued rulings criticizing these models for their shortcomings in providing adequate assurances for the independence of the prosecution, as in the *Medvedyev V. France* case.

In constitutional monarchies (Morocco and Jordan): Some monarchies have made relative progress toward independence. For example, in Morocco, according to Law No. 33.17 of 2017, the Head of the Public Prosecution was transferred to the Attorney General at the Court of Cassation. After which, it created an independent office for the prosecution that reports to the HJC. In its establishment, it adopted professional standards for appointments, a strategic plan for financial independence, and review of performance by publishing five annual reports²².

As for Jordan, Public Prosecution is subordinate to the HJC; the Attorney General is appointed by a royal decree based on the recommendation of the Council, as part of an update plan to enhance the independence of the Prosecution²³.

Article (11) in the Criminal Procedure Law stipulates that: 1-The public prosecution functions shall be performed by judges who perform the duties and functions given to them by the law. The members of the public prosecution are governed by the rules of the hierarchical authority and shall report in administrative matters to the Minister of Justice. 2. The administrative staff members of the public prosecution are obliged in all their functions and requests to follow the written orders issued by their superiors or by the Minister of Justice."

22 (Moroccan Public Prosecution, Annual Report 2022, pp. 4-7)

23 (Jordanian Judicial Sector Modernization Plan 2021-2023).

This stipulation is explicit and does not require interpretation; it states that the members of the Public Prosecution in Jordan are judges, and therefore enjoy all the privileges, rights, and duties of judges and are subject to the same procedures regarding their accountability and promotions.

As for the subordination of the Prosecution members to the Minister of Justice, it is only from an administrative perspective and has no relation to judicial work. In other words, the Minister of Justice has no authority over the Public Prosecutor concerning criminal cases. (i.e., he does not have the right to direct the public prosecutor to file or not file a criminal case against a certain person, and if such an intervention occurs and the public prosecutor opposes it, this opposition does not result in any invalidity). On the contrary, the public prosecutor in this case is not subject to any disciplinary action unless it violates the law. Disciplinary responsibility cannot be imposed for actions taken by a public prosecutor that were in accordance with the law, as disciplinary responsibility is a penalty for violating the law, not for applying and adhering to it²⁴.

In transitional models (Tunisia and Ukraine): In Tunisia, the HJC regulates appointments based on the Basic Law No. 34 of 2016. It includes elected judges, and members of the prosecution are subject to periodic accountability along with publication of detailed reports on appointments, discipline, and oversight, and the adoption of principles for impartiality and disclosure of any conflicts of interest²⁵.

As for Ukraine, it established Office of the Prosecutor General for Combating Corruption, with an independent structure and separate budget; its members are appointed through an independent committee, with periodic public reports published²⁶.

Appointments in Palestine in light of comparative models

Although the Palestinian Public Prosecution is officially considered part of the judiciary under the Judiciary Law No. (1) of 2002, amended by Decree Law No. (40) of 2020, appointment mechanisms for its leadership reveal a reality closer to executive dependence²⁷. The Attorney General is appointed by a Presidential decision based on recommendation of the HJC, without effective parliamentary oversight or an independent body to oversee the appointment mechanisms, in addition to the absence of accountability for the public prosecutor and deputy prosecutors²⁸.

Furthermore, the absence of a specific regulating law for the Prosecution exacerbates this problem, as it weakens its individuality and hinders the development of a clear and independent criminal policy that aligns with constitutional obligations and international standards. Contrary to the comparative experiences mentioned such as Morocco and Tunisia, where legislative frameworks were established to regulate financial and administrative independence as well as control and accountability mechanisms.

24 Dr. Ayman Thdayer, the Criminal Procedure Law, Part One, Previous Reference, p. 26 and onwards.

25 (High Judicial Council – Tunisia, Annual Report 2021, pp. 12–16)

26 (Office of the Prosecutor General for Combating Corruption – Ukraine, Annual Report 2022).

27 Interview with Mr. Ammar Jamous, Researcher; Independent Commission for Human Rights.14/6/2025.

28 Interview with Mr. Ammar Jamous, Researcher; Independent Commission for Human Rights.14/6/2025.

Third: Integrity, transparency, and impartiality of appointments in the Public Prosecution

Appointment mechanisms are important indicators of the institution's independence and degree to which it is subject to oversight. They also constitute a fundamental condition for establishing the principles of good governance, especially in the Palestinian case, where legislative accountability is lacking, and executive powers intersect with judicial authorities.

1. Legal Framework governing appointments.

Article (63) of the Judicial Authority Law No. (1) of 2002 stipulates: "The Attorney-General shall be appointed by the President of the National Authority, based upon the nomination of the High Judicial Council. The duties and jurisdiction of the Attorney-General shall be determined by the law²⁹."

Despite the legal stipulation above, neither this law nor any subsequent regulation has stipulated transparent and or competitive procedures for appointing the Attorney General or required any announcement, testing, or interview. Moreover, promotions and appointments in the positions of prosecutors and assistants to the attorney general also lack a clear regulatory framework. Hence, leaving it subject to the discretion of the executive power (i.e., without an independent oversight from the executive authority)³⁰.

In 2006, the HJC approved general rules for appointing Prosecutors and deputy Prosecutors, specifying: age requirements, academic qualifications, and legal experiences. However, these were not translated into publicized competitions or a competitive system³¹.

Lack of transparency in appointments creates an environment full of favoritism and nepotism suspicions, which weakens the integrity of the Prosecution especially in regard to sensitive files. The current appointment mechanisms makes the Prosecution part of the executive authority; tools in the absence of legislative accountability³².

29 Article (63) of the Judicial Authority Law No. (1) of 2002.

30 Interview with Mr. Ammar Jamous, on June 14, 2025.

31 The HJC. Regulations on Expertise and Appointment, 2006. This is akin to the HJC's Decision No. (2) of 2006 regarding 'Rules for the Higher Judicial Council's Exercise of Its Competences, who also ruled on the issuance of the regulation concerning the expertise and appointment of public prosecution agents and deputies; not published on any website. It includes the list of rules for expertise and appointment to the position of Deputy and Assistant Prosecutor presented by the Attorney General. Issued on 7/2/2006; Article (1): Anyone appointed to the Public Prosecution must meet the conditions stipulated in Article (16) of the Judiciary Authority Law No. (1) of 2002, in addition to "list of rules for expertise and appointment" issued by the HJC during its session on 7/2/2006. It is:

1. The following conditions are required for anyone appointed as a deputy public prosecutor: -
 - a. Must not be less than 27 years of age and no more than 35.
 - b. Must be licensed to practice law, or has obtained a master's or doctoral degree in law or Sharia and law from a recognized university.
2. The following conditions are required for anyone appointed as Assistant Prosecutor: -
 - a. Must not be less than 24 years of age and no more than 30.
 - b. He must hold a bachelor's, master's, or doctoral degree in law or Sharia and law from a recognized university.

Article (2) Legal professionals working in ministries and institutions of the PA may apply for appointment in the public prosecution. This is conditional that for the position of Deputy Prosecutor, an applicant must have worked in the legal departments for no less than six (6) years, and (4) years for appointment as assistant prosecutor; subject to the conditions regarding age of the applicant stated in Article (1) of this decision.

Article (3) The Attorney General shall determine the arrangements, procedures, and rules established for appointment and the procedures related to the competition, and shall issue the necessary regulations, instructions, and decisions in this regard.

32 Interview with Mr. Ammar Jamous. June 14, 2025.

3. Transparency and Competition in appointments

Oversight reports, including AMAN's 2022 report, reveal that appointments in the Public Prosecution are carried out without announcements and without a clear selection criterion. Hence opening the door to political recommendations or quota-based appointments, not to mention that this affects the independence of the Prosecution in dealing with political and human rights related case³³. Also, the 2024 Public Prosecution report indicated that appointments and promotions were made by presidential decrees³⁴, where an electronic search indicated that more than one announcement was issued by the Prosecution and the General Personnel Council (GPC) that competed for jobs at the Prosecution Office, especially during the past four years. However, no reports were published by any human rights organization on monitoring the integrity of the hiring procedures³⁵.

One of those interviewed said that security interference in the selection of prosecution members prevents fairness. He mentioned the case of a person from Qalqilya who passed all the required exams, but was not able to obtain the 'security clearance certificate' from the security agencies, was prevented from being appointed. This shows that appointments being subject to the approval of the security agencies is illegal³⁶.

Accountability and appeal mechanisms

The Palestinian legal framework does not allow for an independent body to appeal or review decisions regarding appointments or promotions of the public prosecution members. However, it is possible to appeal to the Supreme Court. In practice, it is very rare to see appointments annulled or reviewed judicially, given that the appointing authority is basically in the hands of President with little or no power granted to the HJC to cancel or amend these decisions³⁷.

Similarly, to this day, the Prosecution, unlike the HJC, lacks a dedicated electronic platform for receiving complaints from citizens or lawyers against its members. This weakens the chances for fair and effective access to the internal inspection mechanism. Also, the digital absence is an indicator of the public prosecution's delay in updating its monitoring tools in line with the principles of transparency and modern management³⁸. In addition, the Prosecution has not until now³⁹ set clear and published standards for classifying complaints against its members, whether in terms of seriousness, priority, or the nature of disciplinary follow-up. This ambiguity contributes to widening the trust gap with the public and undermines the credibility of internal accountability.

33 AMAN, The Status of Integrity and Anti-Corruption Report, 2022. P.18. published on the following link: https://www.aman-palestine.org/cached_uploads/download/2023/06/13/%D8%A7%D9%84%D8%AA%D9%82%D8%B1%D9%8A%D8%B1-%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A-%D8%A7%D9%86%D8%AC%D9%84%D9%8A%D8%B2%D9%8A-final-1686645041.pdf

34 The Public prosecution of the State of Palestine, Annual Report 2024, P.4-17.

35 Template for an announcement by the Public Prosecution. <https://alray.ps/ar/post/275953>

36 Interview with Mr. Muhannad Karajeh, Head of Lawyers for Justice Group. July 31, 2025.

37 The Palestinian Supreme Court, Rulings records 2015-2024. The blog about judicial rulings can be visited on the 'Maqam' website (An-Najah University Database) on the homepage. <https://maqam.najah.edu/judgments/>. However, one needs to create an account and log in to access the full records, including cases appealing the appointment of the Attorney General or members of the prosecution. Also, legal newspapers and websites such as 'Al-Araby Al-Jadeed' report the issuance of prominent judicial rulings, such as the decision to suspend the appointment of Attorney General Ahmad Barak, issued on January 15, 2019. Also, the decision of the Supreme Court to cancel the appointment of Ali Mhana as President of the HJC in 2015.

38 Report on the Complaints System in the Palestinian Judicial Authority: A Structural and Comparative Analysis of the Role of the High Judicial Council. The National Commission for Judicial Independence and the Rule of Law – Istiqlal, June 2025, p. 19.

39 Report on the Complaints System in the Palestinian Judicial Authority. Previous source. P. 18.

Also noted, according to the same report, the absence of regular publication of statistics related to complaints against members of the prosecution such as (number of complaints, type of violations, and degree of addressing complaints). This undermines the ability of public opinion and oversight bodies to assess the performance of the Prosecution. In contrast, the HJC exerts some efforts in this regard through its annual reports, which highlights the need for integration and balance in transparency between the two judicial institutions⁴⁰. Decisions to dismiss cases issued by the Prosecution also constitute one of the most prominent areas of lack of transparency, since decisions are rarely published or justified, hence leading to a loss of public trust in the seriousness of combating corruption⁴¹.

Other human rights organizations pointed to shortcomings in the oversight of detention decisions and also a lack of seriousness in enforcing court rulings. Also pointed out, is that since 2011 until today, Prosecution's cooperation in handling complaints submitted to it has not exceeded 5%. Moreover, it's been noted that the Prosecution did not initiate serious investigations into the cases related to the violations, specifically into files related to political background or human rights issues, which made its role semi-absent in this regard⁴².

4. Violation of international standards

The UN Principles on the Independence of Prosecutors (Havana Principles 1990) confirm that appointments must be conducted through announced, transparent procedures based on merit and professionalism, and subject to independent oversight. On the other hand, disregarding these practices will undermine confidence in the Prosecution and limit its effectiveness as a guarantor of rights and freedoms⁴³.

40 Report on the Complaints System in the Palestinian Judicial Authority. Previous source. P. 17-18.

41 Status of Integrity and Anti-Corruption in Palestine Report, 2024. AMAN. June 2025. P. 42.

42 Interview with Mr. Muhannad Karajeh. Previous source.

43 The UN, Havana Principles on the Role of Prosecutors, 1990

Fourth: Reality of independence, effectiveness, and neutrality in the Prosecution's work

The role of the Public Prosecution requires it to act as an independent prosecuting authority representing public interest, and to pursue public rights objectively and impartially. However, reality on the ground reveals a gap between legal stipulations and practice, and reveals challenges that affect the independence, effectiveness, and impartiality of the Prosecution, whether due factors that are political, environmental, institutional structure, or resources.

Moreover, the Prosecution lacks a clear distinction between procedural violations and behavioral conduct as stated in the current inspection regulations (i.e., is not aligned with international standards). As the repeated poor procedural management by a member of the prosecution may indicate a professional behavior that warrants accountability. Also, limiting complaints to behavioral only creates an 'inspection gap,' which eliminates a large part of the institutional shortcomings from the oversight scope⁴⁴.

Despite the institutional acknowledgment of the inspection system regarding work of the Prosecution members (Regulation No. 12 of 2022), AMAN's experience shows a lack of concern on behalf of the Prosecution to civil advocacy requests. In this regard, in 2020, 2024, five documented complaints were sent to the Prosecution by AMAN on allegations of interventions by Prosecution members with no response, despite repeated correspondence. This refusal reflects a flaw in the institutional commitment to reply and undermines the principle of transparency⁴⁵.

1. Legal and administrative autonomy: Legal stipulations vs. reality

The Prosecution's sovereignty is considered the cornerstone of any effective criminal justice system. It constitutes the primary sponsor of respecting the rule of law and protecting the rights and freedoms from any political or executive overreach. However, the Palestinian experience revealed a gap between legal texts and reality on the ground, especially at the level of appointments, resources and distribution of power.

Opinion: "Public Prosecution is considered an honorable adversary in theory, as it represents public interest; however, in reality, often, this is not the case." The fact is that the Prosecution, in some cases, is used as a tool by the security services and the executive authority.

Furthermore, there has been many cases in which arrests are carried out by the security agencies without permission from the Prosecution, yet the Prosecution accepts these cases and completes procedures as usual. This reflects the executive authority's overstepping its boundaries (i.e., ignoring the Prosecution's role) and the Prosecution's submission to its directives, at times⁴⁶.

Although there is specific inspection regulations for the Prosecution members (No.12 of 2022), the Judiciary Complaints System Report: "A Structural and Comparative Analysis of the Role of the HJC" issued the Civil Commission for Independence of the Judiciary and Rule of Law-Istiqlal, June 2025, confirms that complaint system still lacks the minimum level of transparency. For example, no annual reports have been published until today regarding the number, type and methods of addressing received complaints, which restricts community accountability on the Prosecution's performance⁴⁷.

44 Intervention by Belal Barghouthi, AMAN, "Partners Together for Justice" Conference, July 14, 2025.

45 Intervention by Belal Barghouthi, AMAN, "Partners Together for Justice" Conference, July 2025.

46 Interview with Mr. Muhannad Karajeh, Head of Lawyers for Justice Group. July 31, 2025.

47 The Palestinian Judiciary Complains Report: "A Structural and Comparative Analysis of the Role of the HJC" the Civil Commission for the Independence of the Judiciary and the Rule of Law – Istiqlal (June 2025)

Relationship between the executive authority and the Prosecution

The relationship between the Prosecution and the executive authority is linked in two ways: first, its supervision of the enforcement officers, which is a supporting factor of its role. Second, the Minister of Justice's jurisdiction administratively over its members⁴⁸. This leads to weakening the Prosecution's functional freedom, since it places the power to appoint, promote, and allocate resources in the hands of the executive authority, without independent oversight⁴⁹. Also, the 2024 Prosecution report indicated the absence of an independent budget, hence restricting development possibilities⁵⁰.

2. Neutrality in addressing political or sensitive issues

Neutrality is the feature that grants the Prosecution its credibility among the public in terms of trusting its decisions, since it is viewed as the protector of public interest. And despite that, some of its practices reveal differences in its adherence to this principle, especially in cases with political or security issues⁵¹.

Theoretically, the relationship between the Prosecution and judiciary is based on the principles of judicial independence and rule of law, in practice, however, there is structural overlap that affects the independence of the Prosecution. One speaker attending a session of the conference "Partners Together for Justice" stated that the Prosecution continues to be pressured by the executive authority, especially cases of apolitical nature or those related to freedom of opinion and expression⁵².

Observers also believe that the Prosecution often plays a role that contributes to the detention of students or activists defending human rights; where it often resorts to issuing detention decisions for long periods (15 days) in order to provide a legal cover for the arrest. This shows how it is employed to serve the current political system⁵³.

Several oversight reports issued by the nonprofit organization for Judicial Independence and Rule of Law-Istiqlal, and interviews with individuals under prosecution testify that the Prosecution:

- Pursues activists and opponents based on their opinion.
- Applies double standards when dealing with issues of a political or security nature.
- Does not conduct serious investigations concerning complaints on torture during detention⁵⁴.

Statement by Al-Haq institution says, regarding complaints against the Public Prosecution, that the institution conducted more than 200 follow-ups during 2021-2024, including 90 written and 120 oral, showing a high response rate of 90%. The follow-ups covered topics such as repeated arrests, non-implementation of court decisions, and cooperation in documenting martyrs' files⁵⁵.

48 The Judiciary Authority Law No. (1) of 2002, Article 42.

49 Interview with Mr. Ammar Jamous, 14/6/2025.

50 The Public Prosecution 2024 Annual Report. P. 5-18.

51 Intervention by Belal Barghouthi, AMAN, "Partners Together for Justice" Conference, July 2025.

52 Belal Barghouthi. Previous source.

53 Muhannad Karajeh. Previous source.

54 The National Commission for Judicial Independence and the Rule of Law 'Independence', Final Suspension Report, June 6, 2023, pp. 5-12

55 Statement by Mr. Ashraf AbuHayya, "Partners Together for Justice" Conference, July 2025.

Effectiveness in task performance and achieving criminal justice

Effectiveness of the prosecution is measured by its ability to initiate cases in a timely manner, conduct transparent investigations, and ensure the enforcement of rulings. However, in Palestine, there are structural and administrative challenges that limit this effectiveness, despite the announced efforts; main challenges include:

- Slow investigations, especially in economic cases⁵⁶.
- Weak oversight of detention decisions, and often a lack of explanation for the arrests.
- Weak enforcement of rulings, especially in cases of influence and corruption.
- Shortage of specialized personnel in specific areas such as cyber and international crimes⁵⁷.

A human rights activist says: “two years after torture was criminalized in the Palestinian Penal Law, the Prosecution’s role remains worryingly limited in regard to pursuing perpetrators of this crime. This body, whose role is to represent and initiate criminal proceedings, is satisfied with merely hearing victims’ statements without oath, and then refers files to the military prosecution without specifying a timeline for the referral; an action that leads to obstructing justice and loss of evidence⁵⁸.”

Fifth: The Role of the Prosecution in corruption cases according to national procedures

The Public and the Anti-Corruption Prosecutions, both, constitute one of the main pillars of the National Integrity System (NIS) as the authority responsible for initiating public prosecution and follow-up on corruption cases referred by the Anti-Corruption Commission (ACC).

Palestinian experience, in this regard, shows the difference between theory and practice of the Prosecution actions symbolized by the results on the ground. This raises fundamental questions in terms of its effectiveness of this role and the assurances necessary to activate it in confronting political, administrative, and financial corruption.

1. Legal and Institutional Frameworks

Governing Laws:

Several laws govern the work of the Prosecution in regard to corruption cases:

- The Criminal Procedure Law No. (3) of 2001, which defines procedures to be followed during investigations, collecting evidence, and referral stages.
- The Anti-Corruption Law No. (1) of 2005 and amendments, which stipulates in its Article (18) that “investigations related to corruption shall be carried out by a specialized prosecutor, based on a referral from the Anti-Corruption Commission.”
- Law of the Court Specialized in Corruption Crimes No. (7) of 2010, which was established to examine cases referred by the competent public prosecution.

⁵⁶ Status of Integrity and Anti-Corruption in Palestine, AMAN. 2022. P. 18-21.

⁵⁷ The 2024 Public Prosecution Annual Report. P. 5-18.

⁵⁸ Interview with Ala' Badarneh. July 31, 2025.

2. The Anti-Corruption Prosecution and its place in the institutional structure

The Anti-Corruption Prosecution is considered a specialized public prosecution within the main Prosecution structure. It has neither an independent budget nor a separate legal framework. Administratively, it is under the jurisdiction of the Public Prosecutor; but is managed by the Head of the Anti-Corruption Prosecution and a limited number of public prosecutors who handle investigations of referred cases by the ACC⁵⁹.

3. Analysis of the Prosecution performance:

Over the past three years, AMAN and the ACC have observed a set of indicators that warrant attention⁶⁰. In this regard, data from the ACC indicated that it referred 132 corruption cases to the Anti-Corruption Prosecution during the period 2020-2023. However, only 32 cases (24%) were referred to the Corruption Crimes Court (CCC); 60 cases (45%) were dismissed by the Public Prosecution, and 40 cases remained under investigation until the end of the period.

Based on the above, it is concluded that the decline in the number of cases referred to the CCC is attributed to the ACC's role being limited to collecting preliminary data without full investigative powers. It is also due to the Prosecution re-evaluating the legal assessment of the evidence before referral, which leads to the dismissal of a large percentage of files. As mentioned above, the ACC does not have full investigative powers...but the Prosecution, on the other hand, has the authority to

investigate, interrogate and confront..., and hence may reach different results from those established by the ACC. Therefore, it is not necessary for every file received from the ACC to be referred to the Court, since the Prosecution has the power to dismiss cases if insignificant or for lack of sufficient evidence⁶¹. The ACC legal framework grants it broad powers, though they are not accompanied by the necessary implementation authority. For example, lifting banking privacy is subject to current legislations, which compels the ACC to resort the prosecution and courts, hence hindering performance. What is needed is effective implementation tools alongside adequate budgets that enable the Commission to perform its role.

The current legal framework regulating the work of the Prosecution ensures the independence of the Anti-Corruption Prosecution, and the ACC sees no difference in independence whether its public or specialized prosecution. In both cases, the subordination is to the Public Prosecution and was not part of the ACC. However, the difference is in the cumulative value of the specialization. Unlike the delegated prosecution, the specialized one is characterized by continuity and accumulated experiences, which enhances the quality of performance. However, the relationship between the Prosecution and the ACC is complementary (i.e., the closer the cooperation and coordination, the better the joint performance⁶²). However, according to the ACC, there are no significant differences in outcomes between the two models; the whole idea is in cooperation and integration. Experience has shown that a strong and flexible relationship between the ACC and the Prosecution reflects on performance. In recent years, a significant increase in the number of cases referred to the court was witnessed⁶³. The ACC refers files suspected of corruption to the public prosecution, but the Criminal Procedure Law and the decision issued by the Constitutional Court did not limit the role of the Prosecution to the files referred to it. Rather, it gave the Prosecution the right to investigate any

59 AMAN, Position Paper on Development of the Hierarchy of the Anti-Corruption Prosecution, Ramallah, 2023. P. 6.

60 The Anti-Corruption Commission Annual Report, 2023. Ramallah, p.27-29.

61 Interview with Mr. Jamal Qash, ACC Vice president, June 12, 2025.

62 The previous source.

63 The previous source.

case suspected of corruption, even if it were not referred by the ACC. This reduced the effectiveness of the ACC's specialized role, even though the Commission has specialized judicial officers with high cumulative experiences.

4. Structural and procedural challenges:

The Anti-Corruption Prosecution is managed within the Public Prosecution and has no functional independence nor its own budget, which limits its ability to appoint experts or develop its tools. Also, there is no clear and organized protocol for the relationship with the ACC, which leads to conflicts in referral timing, duplication of investigations, and inconsistencies in crime classifications⁶⁴.

5. Political and administrative pressures

"The Status of Integrity and Anti-Corruption in Palestine 2024" report, issued by AMAN in June 2024, indicated that the Public Prosecution, through the Anti-Corruption Prosecution, plays a pivotal role in pursuing crimes referred by the ACC.

And despite that, the report noted significant gaps in performance, most notably the high percentage of dismissed cases compared to those referred to the Anti-Corruption Court; the slow investigations into sensitive files with a political dimension or those involving influential officials; weak technical and human resources at the Prosecution. This negatively impacts the effectiveness of investigations and the ability to refer cases to the competent courts⁶⁵.

Also, AMAN indicated that the accumulation of corruption cases at the Prosecution reached 287 files by the end of 2023. Meanwhile, the Prosecution referred only 39 cases to the CCC, which is only 14% of the total cases, reflecting a gap in performance and weakness in the pace of investigation of sensitive cases with political dimensions or those involving influential officials⁶⁶. The report also pointed to the increase in the percentage of dismissed cases, in addition to the limited human and technical resources of the Prosecution, which limits its follow-up capacity of corruption cases. The report also confirmed that this pattern of work raises suspicions of political influence when it comes to handling certain cases, particularly those related to high-ranking officials., especially since this category accounted for 16.5% of all corruption reports in 2024⁶⁷. Moreover, the report recommended that the Prosecution be required to publish periodic data related to cases handled, in order to enhance transparency and public trust in the justice system.

64 AMAN, Analysis of the Relationship between the Authority and the Public Prosecution, Ramallah, 2023, p. 14.

65 "The Status of Integrity and Anti-Corruption in Palestine, 2024", AMAN. June 2024. P 72.

66 The previous source. P. 96.

67 The previous source. P. 97.

4. Conclusion

In conclusion, this report highlights the reality of the Palestinian Public Prosecution as a central institution in the criminal justice system facing cumulative and complicated challenges that threaten its ability to perform its constitutional and functional roles in an effective and independent manner. Moreover, it is worth noting that despite the legal texts which guarantee the independence and impartiality of the Prosecution (mentioned in this report), practice on the ground proved otherwise (i.e., the existence of a huge gap between theory and practice).

This gap is evident in the continued institutional dependence on the executive authority; weakness of legislative oversight due to the dysfunction of the PLC; and the absence of a governing law to regulate the work of the Prosecution as a financially and administratively independent body.

Furthermore, the report revealed that the Prosecution lacks transparency and accountability at work, whether in appointments and promotion mechanisms; and in handling politically sensitive cases and those related to corruption. In addition, it also lacks an independent budget and specialized staff capable of keeping up with emerging and complex crimes, such as economic and cybercrimes. These shortcomings are further exacerbated by the ambiguity in the relationship between the Prosecution and the security agencies, which negatively affect the enforcement of fair rulings and trials and distorts the principle of “innocent until proven guilty”.

In light of this, the report emphasizes that genuine reform of the Prosecution can only be achieved by adopting an inclusive vision to rebuild the legal and administrative structure based on a specific law to regulate its work, ensure its independence from the executive authority, and subjects it to legislative oversight. Reform also requires the consolidation of good governance, by adopting transparent and competitive mechanisms in appointments, developing human capacities, and establishing an integrated system of internal and external oversight.

In the end, the success of any reform process for the Prosecution depends first and foremost, on a sincere political and legislative will. It also needs a responsible institutional response that takes-into-account: constitutional standards, international obligations, other successful experiences, enhancing the rule of law and strengthening the confidence and trust of citizens in the justice system.

5. Results and Recommendations:

Based on the report, international comparisons and supporting sources, the reality of the Palestinian Public Prosecution shows that it faces structural and practical challenges which hinder its role in promoting justice and the rule of law. Also concluded, is the existence of a gap between the legal texts and practice on the ground. The following recommendations, however, suggest practical ways to reform the Prosecution's structure and enhance its independence and effectiveness in line with international standards and best comparative experiences.

A. Results:

1. The Palestinian Public Prosecution is still governed by an incomplete legal framework due to the absence of a specific law regulating its work in terms of being financially and administratively independent. This makes it vulnerable to interventions by the executive authority and weakens its ability to perform its role properly as an independent prosecutorial body.
2. Mechanisms for appointing the attorney general, heads, deputies, and assistants of prosecutors are subject to the will of the executive authority with no effective participation from a legislative council or an independent body. This weakens the institutional safeguards for sovereignty and allows for quota distribution or political recommendations in some cases.
3. Specialized public prosecutions suffer from the absence of a unified regulatory framework, which leads to lack of coordination and weak performance in cases as economic, cybercrimes or anti-corruption.
4. The Prosecution's role in pursuing corruption cases is limited and suffers from slow handling of files that are politically sensitive or relate to influential officials.
5. Absence of an effective internal oversight system for prosecutorial decisions, including decisions to dismiss or refer cases. In addition, appeals before the Regular Judiciary against these decisions remain limited in terms of achieving accountability.
6. Compared to international experiences, the Palestinian prosecution remains closer to the model linked to the executive authority. It lacks the guarantees of independence, neutrality, and effectiveness that experiences like Morocco, Tunisia, or even Ukraine achieved in matters related to corruption.
7. The Prosecution does not issue detailed reports to the public on regular basis; its reports are submitted to the President and not to the HJC. In addition, it does not publish clear data concerning percentages on dismissed cases, reasons for referrals, or enforcement rates of rulings, which weakens transparency and social accountability.

B. Recommendations

First: Legislative Framework

It is essential to:

1. Expedite the issuance of a specific law that regulates the work of the Public Prosecution; guarantees its financial and administrative independence; defines its powers, while organizing the relationship with the executive, judicial, and legislative authorities.
2. Amend texts related to appointments in a way that obliges implementing transparent and publicized procedures, based on competition and merit and under supervision of an independent judicial party; along with a clear supervisory role for the PLC when it reconvenes.
3. Issue a unified law for the specialized public prosecutions that defines powers and jurisdictions, and enhances institutional coordination.

Second: Governance and Management

1. Adopt an independent financial budget for the Prosecution, within the judiciary budget, approved by an independent legislative body.
2. Establish an internal control and inspection unit within the Prosecution to be obliged to issue and publish periodic reports on performance and decisions of dismissal and referral.
3. Strengthen specialized staff in priority areas such as combating economic crimes, cybercrimes, and corruption, through merit-based recruitment, continuous training and referrals.

Third: Transparency and Accountability

1. Publish all recruitment announcements, job vacancies, and competitions on an official website and an electronic portal for the Prosecution.
2. Oblige the Prosecution to issue detailed annual reports, including performance statistics, rates of dismissal and referral cases, and reasons for the decisions.

Draw inspiration from the Havana Guidelines principles and incorporate them into national legislation and practices to ensure the independence, impartiality, and effectiveness of the Prosecution.

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2. Jamal Al-Qash- Academic and Legal Expert.
3. Mr. Ammar Jamous-ICHR
4. Dr. Abd-Alqader jaradeh- former Judge and Legal Researcher.
5. Mr. Muhannad Karajeh- Lawyers for Justice Group.
6. Mr. Alaa Badarneh – Center for Defense of Liberties & Civil Rights - Hurriyyat.

AMAN
Transparency Palestine



AMAN was established in 2000 as a civil society organization that seeks to combat corruption and promote integrity, transparency and accountability in the Palestinian society. The Coalition was first formed by an initiative from a number of civil society organizations working in the field of democracy, human rights and good governance. In 2006, the Coalition was accredited as a national chapter for Transparency International.

AMAN is a Palestinian think tank and a specialized body providing knowledge on corruption at the local and regional level through producing specialized reports and studies. The periodic publications include: The annual Integrity and Anti-Corruption Report, the annual Palestinian Integrity Index and the National Integrity System studies and reports, in addition to the Coalition's continued contributions to produce reports and studies on the status of corruption in the Arab region.

As part of the global anti-corruption movement - and of international alliances and partnerships with relevant specialized coalitions and organizations - AMAN plays a key role in the transfer and contextualization of necessary international knowledge and tools to combat corruption in all sectors.

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