

## Goal 16: Peace, justice and institutions



### **Parallel Report on Palestine's implementation of Sustainable Development Goal 16 (SDG16)**

**June 2018**

**Shadow Report on  
Palestine's Implementation of Goal 16 of Sustainable  
Development Goals**

AMAN would like to extend its deepest gratitude to researcher Dr. Ahmad Abu Dayyeh for preparing this report, to Dr. Azmi Al-Shua'ibi, Advisor to AMAN's Board of Directors on Anti-Corruption matters, and to AMAN's team who reviewed and edited the report.

In the case of citation, please refer to the document as follows: The Coalition for Accountability and Integrity (AMAN). 2018. Shadow Report concerning Palestine's Implementation of Sustainable Development Goal (SDG) Number 16, Ramallah, Palestine.

© All rights are reserved by the Coalition for Accountability and Integrity (AMAN).



### **AMAN- Coalition for Accountability and Integrity**

Ramallah, Irsal St, Remawi Building , 1st floor

Tel: +970 2 2974949 /+970 2 2989506

Fax: +970 2 2974948

Gaza, Southern Rimal - Habboush St. Dream Building - 3rd floor

Tel: +970 8 2884767

Fax: +970 8 2884766

The Coalition for Accountability and Integrity (AMAN) made all effort possible to verify the information contained in the report, and bears no responsibility resulting from the use of this information beyond the context of this report after its publication.

The preparation of this report was funded by the governments of Norway, Netherlands and Luxembourg

## Table of Contents

Subject	Page
<b>Executive Summary and Major Findings</b>	6
The 2030 Agenda for Sustainable Development	10
Rationale for this Shadow Report	10
Introduction	12
Methodology	12
<b>The National Progress Report concerning achievement of Goal 16.</b>	13
<b>AMAN (TI Palestine) findings on national progress towards SDG 16.4, 16.5, 16.6 and 16.10.</b>	14
Latest developments	14
<b>Goal 16.4: by 2030, to drastically reduce illegal cash flows and enhance the recovery of stolen assets:</b>	16
First: Combating Money Laundering	16
Second: Beneficiary Ownership Transparency	18
Third: Recovery of stolen assets	20
<b>Target 16.5 Elimination of all forms of corruption and bribery</b>	23
First: Experience and perceptions regarding corruption	23
Second: Framework and Anti-Corruption Establishments	23
Third: Private sector corruption	27
Fourth: Transparency of Parties and Elections Campaigns	28
<b>Goal 16.6: Development of effective and responsible establishments at all levels</b>	31
First: Transparency and integrity in public administration	31
Second: Financial transparency	34
Third: Public Procurement	35
Fourth: Violations reporting mechanisms	37
<b>Target 16.10: Protection of fundamental rights and liberties and the right to access information</b>	39
First: Protection of fundamental rights and liberties	39
Second: Access to Information	41
<b>Recommendations</b>	44
International coordination	48
Sources and references	49



## Executive Summary and Major Findings

Over the past few years, the Palestinian Government has employed extensive efforts to combat corruption, including the promulgation of the Anti-Corruption Law in 2010 and its amendments in 2017, and the establishment of the Anti-Corruption Commission in 2010 as stipulated by the Law. The Anti-Corruption Commission drafted several plans and strategies to combat corruption, last of which was the National Anti-Corruption Strategy 2015-2018.

Many reforms were introduced to the Civil Service System by the government, including the use of a computerized placement system in 2016 which enhanced transparency in the hiring process of public jobs. The Public Procurement Law was promulgated and implemented in 2016. Numerous amendments were made to the Money Laundering Law of 2007, where the Law was amended in 2015 and 2016.

The Anti-Corruption Commission receives hundreds of complaints annually<sup>1</sup> about possible corruption cases. Investigations are carried out and many cases are referred to the Anti-Corruption Prosecutor and thereafter to the Anti-Corruption Court which has decided on 153 corruption cases since 2010 and up until the end of 2017,<sup>2</sup>

AMAN sees that this issue is not measured by the number of the cases that is being closed. It is measured by the nature of the cases received by the court from ACC and the rank of people involved in corruption cases. since most of the 153 cases are related to junior employee with simple corruption crimes, which reflects the lack of real political will to prevent impunity.

Progress was made in the area of international coordination for the recovery of stolen assets and the enforcement of sentences and extradition of criminals, especially after Palestine joined

---

<sup>1</sup> Palestinian Anti-corruption Commission annual report 2017, [www.pacc.pna.ps](http://www.pacc.pna.ps)

<sup>2</sup> Palestinian Anti-corruption Commission annual report 2017, [www.pacc.pna.ps](http://www.pacc.pna.ps)

Interpol in 2017. The Palestinian Anti-Corruption Commission was able to recover 70 Million Dollar within the last five years.

The Palestinian Government approved the National Policies' Agenda 2017-2022 "Putting Citizens First"<sup>3</sup>, which included a number of SDGs and targets, of those are a number of targets from Goal 16, such as enhancing accountability and transparency in public institutions, and the efficiency and effectiveness of the administration of public funds, and the ways to achieve justice.

Despite all the above-mentioned efforts, many challenges remain persistent regarding the anti-corruption efforts. The Justice Sector, especially the Judiciary and Prosecution suffer from a lack of independence due to the Executive authority's interference in their affairs, which compromises the public's trust in them.

The plans and strategies pertaining to Anti-Corruption efforts are flawed in many aspects: the preparation, adoption, implementation and follow-up processes have not been inclusive and ineffective. These flaws manifest themselves in the absence of a Comprehensive National Plan for combatting corruption. This absence results into scattered anti-corruption efforts and individual and incomplete initiatives, the plan focuses primarily on criminalization, not on prevention, limiting the focus of the Anti-Corruption Plan to incriminating corrupt individuals, while not giving enough attention to empowering the community to prevent and reduce the occurrence of corruption in public, civil, and private sectors, or to handle cases and establish a public opinion to stand up against this phenomenon.

In addition to this, and to date, much important legislation necessary for a comprehensive anti-corruption framework has yet to be passed, such as a witness and whistle-blower protection law, the criminalizing of all corruption crimes in accordance with the United Nations Convention Against Corruption (UNCAC), and regulation concerning matters of conflict of interest and the revolving door, when officials transfer between the Public Sector and the Private Sector. In addition, the financial disclosure statement system is ineffective and is in need of important amendments to increase its effectiveness, the same goes for the control measures regulating party finances and elections campaigns.

---

<sup>3</sup> [https://palaestina.org/uploads/media/NPA\\_Arabic\\_Final\\_Approved\\_20\\_2\\_2017\\_Printed.pdf](https://palaestina.org/uploads/media/NPA_Arabic_Final_Approved_20_2_2017_Printed.pdf)

There is a general set-back in Palestine regarding the status of transparency of information and withholding information from the public by the government, especially information pertaining to contracts regulating essential services. The government has stopped publishing its decisions on its website in 2017, has not included representatives of the civic society in the discussing the Public Budget and has not published most of the documents pertaining to the budget discussions. It has also failed to promulgate the Right to Access Information Law or the National Archives Law.

Furthermore, the government has increased restrictions on rights and public liberties, especially the right to freedom of expression and the freedom of peaceful assembly. Arbitrary arrests have increased against political activists, journalists, and bloggers on the grounds of alleged violations of publishing rules. The arrests increased after the promulgation of the Cyber Crimes Law, which includes stringent punishments in this regard, has bolstered self-censorship related to reporting on

corruption cases, and expanded state censorship of mass media outlets and social media.<sup>4</sup> Opinion polls in the past few years showed a steady increase in the public opinion's belief that corruption is increasing year after year.<sup>5</sup>

---

<sup>4</sup> [https://rsf.org/en/barometer?year=2018&type\\_id=235#list-barometre](https://rsf.org/en/barometer?year=2018&type_id=235#list-barometre)

<sup>5</sup> <https://www.aman-palestine.org/ar/reports-and-studies/sec-15-24>

## Main recommendations:

- The need for competent authorities and in cooperation with the Palestinian Ministry of Foreign affairs and Palestinian Representative Offices to reach bilateral agreements with the various countries to exchange information and the extradition of criminals, and to facilitate the investigation and litigation process in accordance with the law.
- Formation of a special unit that enjoys independence and with the necessary resources to coordinate efforts and follow up on matters of recovery of stolen assets.
- Criminalization of the act of bribing a foreign public servant or employees of international public organizations.
- Criminalization of the promise, offering, request, or acceptance of a bribe in the private sector.
- Criminalization of the abuse of functions in accordance with the provisions of the United Nations Convention against Corruption (UNCAC).
- Including all actions criminalized according to the Convention as predicate offence of money-laundering, including trading in influence and abuse of functions.
- Criminalization of the use of physical strength or threat or intimidation, or the promise of undue benefits, or offering/granting them to instigate perjury or to interfere in a testimony, or to provide evidence in proceedings pertaining to committing offences established in the convention, whether the offender achieved his/her intent or not, or interference in in the practice of the official duties of any judicial or law enforcement official in accordance with the provisions of the convention.
- To consider the disqualification of persons convicted of corruption crimes in assuming any position in an establishment owned partially or fully by the state.
- Putting measures in place that deal with consequences of corruption, measures may include considering corruption as a factor for cancelation or termination of a contract, or the withdrawal of privileges, or take any other remedial action.

- Adoption of a national plan for reform of the judicial system including the Public Prosecutor through the legal and organizational revision of the judiciary and the Public Prosecution.
- Adoption by the government of a National Plan for integrity and combating corruption in participation with all official, civic, public, and private sectors to define priorities and necessary executive steps and the responsibilities of each party or organization in the implementation of the National Plan in accordance with a clear and specified timeframe where the Anti-Corruption Commission (being the relevant body) coordinates efforts, and the appropriation of the funds necessary for its implementation.
- Development of a special system for monitoring campaigns funding, by which each candidate is required to open up a bank account in which funds for the campaign shall be deposited. All campaign expenditures are conducted through this account and the elections commission shall have the right to access and examine this account at any time, and has the right to set a ceiling for campaign donations per candidate or list, and each list or candidate shall be obliged to provide a comprehensive account including all transactions that transpired throughout the election campaign and to disclose it to the public.
- The importance of putting in place a system to regulate procedures of the transfer of public sector officials (ministers, members of legislative council, officials of the tax department etc.) to work in the private sector.
- It is important that a specialized or judicial department examine and scrutinize information and data included in the financial disclosure statements, and to break free of the principle of absolute secrecy in dealing with financial disclosure statements , and to adopt a more open and transparent approach and public disclosure at least when dealing with top positions, and to activate and enhance penalties on violators be it for abstaining from presenting or delaying presentation of financial disclosure statements, or those who provide false or erroneous in their disclosures, and to broaden the scope of penalties to include duty bearers.
- Disclosure of detailed financial statements in accordance to the Law for Regulation of the Public Budget and Financial Affairs number (7) 1998.
- Completion of the organizational requirements pertaining to the implementation of the Public Procurement Law, and in specific the requirements of activating the Higher Council for Public Procurement for it to perform its duties in accordance with the law, and defining the necessary procedures for the use of electronic means in public procurement processes.

- The government must the regulation pertaining to protection of whistleblowers of corruption cases as stipulated in the Anti-Corruption Law and develop a clear definition of whistleblowers.
- Cancellation of detention and imprisonment related to publishing and freedom of expression crimes imposed on journalists and substituting those with a financial fine, and to stop blocking media websites without a court order.
- Expedite the adoption of the Freedom of Access to Information Law and National Archives Law.

## **The 2030 Agenda for Sustainable Development**

### **Rationale for this Shadow Report**

While governments are expected to take the lead in reviewing progress towards the Sustainable Development Goals (SDGs), national-level monitoring needs to go beyond the remit of governments to include civil society and other stakeholders.

As a contribution by AMAN, and as part of its natural role as a civil society organization interested in building an effective national system of integrity in Palestine, based on the right to volunteer in auditing and evaluating progress made in this regard, this shadow report documents the extent of progress made in achieving SDGs by focusing on specific targets of goal 16. The report drew upon data compiled by AMAN in response to three key issues concerning the process of monitoring of the SDG's, taking into consideration local reality determinants:

1. The multi-dimensional nature of SDG targets;
2. Availability of data and information;
3. The perceived credibility of data generated by government agencies.

Collectively, these limitations provide a strong rationale for an independent appraisal of the government's anti-corruption efforts in the context of the Sustainable Development Goals.

## Multidimensionality of Sustainable Development

### Second: Availability of Data:

Even where the official indicators are themselves capable of capturing progress towards SDG 16 targets, there is an absence of data to speak to these indicators. Many of the global SDG 16 indicators rely on data that is not regularly produced or currently have no established methodology or standards for data collection. Therefore, shadow reporting exercise is partly an effort to compensate for insufficient data coverage by presenting alternative and supplementary indicators, data sources and proxies.

### Third: Credibility of prepared data:

Finally, the official assessment of progress made towards the SDG targets will rely on data generated by government agencies, particularly national statistics offices. The reliability and credibility of official data may be open to question for two reasons. First, in some settings, national statistics offices may simply be overwhelmed by the task of producing data for 169 targets. Second, politically sensitive targets, such as those related to corruption and governance, require that governments assess their own efficacy; illicit financial flows (16.4) may involve government officials, corruption (16.5) may involve government elites, while governments may be restricting information, or even targeting journalists, trade unionists or civil society activists (16.10).

Given the challenges described above, independent analysis is vital to complement and scrutinise official government progress reports related to SDGs 16.4, 16.5 and 16.10. This shadow report is an attempt to do just that.

The information gleaned from the shadow reporting exercise and presented here in this report can be used as an input into two key processes. At the global level, this information can be used to complement National Voluntary Reviews at the High Level Political Forum in July 2018. Nationally, this information generated can feed into the governmental SDG review processes taking place on a rolling basis in each country.

## Introduction:

On December 2016, the Palestinian Government adopted the National Policies Agenda 2017-2022: “Putting Citizens First”. The government drafted this plan and was issued through the office of the Prime Minister. It was followed by the adoption of sectorial plans and the cross-sectorial plans stemming therefrom in cooperation with Governmental Establishments and Local Authorities and some representation from Civil Society Organizations, the Private Sector, and international partners in the field of development<sup>6</sup>. 18 sectorial plans and 3 cross-sectorial plans were also drafted, which included the sectors of Education, Agriculture, International Relations, Justice, Culture and Heritage, Employment, Energy, Local Government, Housing, Water and Wastewater, Social Protection, Communications and Information Technology, Security, Public Money Administration, National Economy, Tourism and Antiquities, and Transport, while the Cross-Sectorial plans included all Gender issues, youth, and environment<sup>7</sup>.

Although the National Policies Agenda 2017-2022 indicates a number of targets of goal 16, such as enhancing accountability and transparency in public institutions, the efficiency and effectiveness of administering Public Money, and the enhancing of access to justice, “conspicuously corruption has not been included as cross sectoral subject despite its risks across the National Policies Agenda 2017-2022

## Methodology:

The report focuses on reaching an independent evaluation for national progress in achieving 4 targets linked to goal 16 of the SDGs. These targets pertain to the area of enhancing governance and increasing governments’ efficiency, and in particular enhancing transparency and combatting corruption, these targets are: 16.4, 16.5, 16.6, 16.10, where each one of these targets included a number of policies that may provide a comprehensive overview and a process that transcends the narrow concept of corruption. Each policy was evaluated using 3 elements: the first relates to the legal and organizational framework. The second is based on data and evaluations prepared by civil society organizations and international organizations. The third is based on the qualitative evaluation provide by the researchers regarding corruption challenges and ways to combat it.

---

<sup>6</sup> National Policies Agenda 2017-2022: “Putting Citizens First”, Office of the Prime Minister, Ramallah, 2017, page 9.

<sup>7</sup> Ministry of Women’s Affairs, the Cross-Sectorial National Strategy for Enhancing Gender Equality and Equity and Women Empowerment 2022-2017, page 4.

Information and data included in this report were collected during April 2018 based on a desk review of relevant Palestinian policies, legislation, organizational structures, research references information, government and media websites, and a host of reports issued by the Coalition for Accountability and Integrity AMAN regarding the reality of corruption in Palestine and efforts to fight it.

## **The National Progress Report concerning achievement of Goal 16.**

In 2018, the Palestinian Council of Ministers formed a committee headed by the Ministry of Justice in order to prepare the voluntary review report regarding achievements and challenges of Goal 16 of the SDGs and targets. The committee included in its membership representatives of government institutions and civil society organizations.

The report prepared by the Ministry of Justice focused on the special circumstances related to the Reality of Palestine such as the Israeli Occupation, the internal political split, and their impact on Palestinian developmental efforts<sup>8</sup>. The report also reviewed the reality of progress made in achieving corruption combatting targets (16.4, 16.5, 16.6, and 16.10) and the challenges facing them. However, most challenges and achievements that were indicated in the report were related to the Justice Sector, specifically the improvement in some services provided to the public, though the report alludes to the great decline that has affected the judicial system due to the executive branch's meddling in its affairs<sup>9</sup>. The report, however, did not present any specific recommendations to deal with the challenges at hand. The report did not address the problems related to the lacking independence of the oversight bodies, or the effectiveness of the anti-corruption plans and strategies. Furthermore, it provided no convincing justification why no legislation to guarantee the public's right to access information has been introduced, and why information is withheld from the public. The report also failed to refer to the laws restricting rights and liberties, nor has it explained why the government has not yet taken any action to stop violations of citizens' basic rights and liberties through arbitrary arrests, in particular targeting journalists.<sup>10</sup>

---

<sup>8</sup> <https://khbrpress.ps/post/1228354>

<sup>9</sup> <http://www.aljazeera.net/news/reportsandinterviews/2017/4/4>

<sup>10</sup> AMAN as a member of the national committee for implementing SDG-16 received a hard copy of the report from Ministry of Justice

**Latest developments:**

	0.5 Has the country adopted an Anti-Corruption Action Plan
--	--

The Palestinian Anti-Corruption Commission has prepared the National Anti-Corruption Strategy 2015-2018 –the second such plan prepared by the Anti-Corruption Commission after the National Anti-Corruption Strategy 2012-2014<sup>11</sup>. The preparation mechanisms, however, were not without shortcomings. The strategy does not constitute a comprehensive national plan to enhance integrity and fight corruption. In terms of participation in the drafting process, many relevant official, civil, and private sector representatives have not been invited to partake in planning and preparation. The government’s comprehensive commitment to combat corruption, no specific governmental budget was allocated in the public budget, nor was the plan adopted and promulgated as law by the pertinent authorities, nor is there an authorized body with mandatory powers to monitor and supervise its implementation and report regularly on achievement levels on the basis of which underperformers can be held accountable.

In 2016, the Council of Ministers adopted the introduction of an electronic complaints mechanism, a computerized organizational structure system, as well as digital exams and application mechanisms for public sector jobs. The Public Procurement Law (number 8) was adopted in 2014 and came into force in June 2016, which will contribute in improving transparency in public procurement in future. The introduction of a unified portal for social assistance in order to achieve the largest possible coverage of poor families, will prevent duplicity in providing services and enhance transparency in service provision<sup>12</sup>.

---

<sup>11</sup> The National Anti-Corruption Strategy, The Anti-Corruption Commission, <http://www.pacc.pna.ps/ar/index.php?p=->

<sup>12</sup> Coalition for Integrity and Accountability-Aman, Report on the Reality of Integrity and Anti-Corruption Efforts 2017, Ramallah, March 2018, page 16.

On the other hand, there are still many challenges facing the National Integrity System in Palestine, such as:

- The failure to successfully implement the Justice Sector reform t and a lack of independence of the Judicial System and the Public Prosecution – despite the formation of a National Committee (by presidential decree) for this <sup>13</sup> purpose;
- the promulgation of the Cybercrimes Law, which is considered restrictive of the freedom of expression and media;
- the lack of an Access to Information Law;
- a decline in budget and decision-making transparency due to the fact that key Public Budget documents and decisions of the Council of Ministers have not been published on the Council's website since April 2017;
- the refusal by the Council of Ministers to sign a transparency pledge document prepared by the coalition of local and international organizations regarding the government's need to demonstrate transparency during the periodic review of the United Nations Convention against Corruption, and to include the civil society in the review process; and
- weak oversight over public services that are administered by the private sector after being awarded concessions for the provision of communications services, electricity, and water, because these concessions have not been disclosed to the public <sup>14</sup>.

A poll conducted by the Palestinian Centre for Development and Media Freedom (MADA),, among journalists in the West Bank and Gaza indicated that 85% of respondents view the Cybercrimes Law as non-conducive to freedom of the press, 90% of journalists indicated that they practice self-censorship for fear of being prosecuted by security apparatuses, and 91% confirmed they are subject to harassment in connection to their work <sup>15</sup>.

---

<sup>13</sup> <http://www.pbc.ps/Newsmain&id=450>

<sup>14</sup> Ibid, page 28

<sup>15</sup> "MADA" Centre's website <http://www.madacenter.org/news.php?lang=1&id=381>

In addition, a poll carried out by the Palestinian Centre for Policy and Survey Research indicated that 78.9% of those polled believe there is corruption in government institutions. The public sector came in 1st place in this respect.<sup>16</sup>

As for issues of corruption, the corruption court heard 153 corruption cases between 2010 and 2017.<sup>17</sup> The court ruled on 21 cases in 2016 and on nearly 20 cases in 2017, the cases included charges of embezzlement, abuse of office, forgery and misuse of trust. The highest percentage of corruption cases offenders were public sector employees.<sup>18</sup> And although social media did allude to the implication of top officials in corruption cases, a matter which was not been denied by the Anti-Corruption Commission, these cases however were handled with extreme secrecy, and financial settlements were made with some of these officials in exchange for closure of the investigation cases against them. No clarification was issued regarding the nature of these settlements, although some of the officials included in these settlements have left office.<sup>19</sup>

#### **Goal 16.4: by 2030, to drastically reduce illegal cash flows and enhance the recovery of stolen assets:**

##### **First: Combating Money Laundering:**

	(0.5) Existence of a Money Laundering Law conforming to international standards
--	---

The first Palestinian Law (Law number 9) to deal with Money Laundering was adopted in 2007. A newer law was adopted in 2015 (Law number 20), regarding Money Laundering and Terror Prevention,<sup>20</sup> in addition, to the law number 13 of 2016 regarding the amendment of the Money Laundering and Terror Prevention Law and a host of directives of the law.<sup>21</sup>

Early July 2018, Prime Minister Dr. Rami Al-Hamdallah, launched the national assessment report on the risks of money laundering and terrorism financing which was prepared by a national team.<sup>22</sup>

According to the Prime Minister statement, the report's recommendations -which have not yet been published - will be adopted and implemented in the coming future, and the government will allocate the necessary budget for this.<sup>23</sup>

<sup>16</sup> The Palestinian Centre for Policy and Survey Research, public opinion poll results number 64, Ramallah, 15/July/2017, page 5.

<sup>17</sup> Palestinian Anti-corruption Commission annual report 2016, Page 17

<sup>18</sup> Anti-Corruption Commission, 2016 Annual Report, Ramallah, 2017, page 17.

<sup>19</sup> Coalition for Integrity and Accountability- Aman, annual Report 2017, previous source.

<sup>20</sup> Money Laundering and Terror Prevention Law number 20 for 2015, The Official Palestinian Gazette, volume 10 Extraordinary, 30/December/2015.

<sup>21</sup> Law number 13 for 2016 regarding the amendment of the Money Laundering and Terror Prevention Law number 20 for 2015, The Official Palestinian Gazette, volume 122.

<sup>22</sup> <http://www.pma.ps/Default.aspx?tabid=343&ArtMID=957&ArticleID=1275&language=ar-EG>

<sup>23</sup> <https://www.alwatanvoice.com/arabic/news/2018/07/04/1156217.html#ixzz5KUYCI8j4>

	1	Are financial institutions (banks) prohibited by law from keeping anonymous accounts and are they required to undertake due diligence on their customers?
--	---	---

Article 6 in the Law number 13 of 2016 prohibits financial institutions and non-financial businesses and professions from dealing with anonymous persons, or persons using pseudonym, and requires of these establishments to identify their clients whether natural persons or legal persons, and to know the true beneficiary and verify their identity through official documents and papers.

	1	Are financial institutions required by law to inform relevant authorities when they suspect (or have reasonable grounds to suspect) that funds are the proceeds of criminal activity?
--	---	---

In addition to, article 5 of this Law states that the specialized unit and the bodies tasked with enforcing the law must be informed of any suspicious information, and to promptly investigate it.

While article 9 of this law states that all the financial institutions required to present a report including all the financial operations and transactions.

	1	Are designated non-financial businesses and professions (DNFBPs) – casinos, real estate agents, jewellers, lawyers, notaries, other legal professionals, accountants, and trust and company service providers – required to carry out customer due diligence, to keep records, and to report suspicious transactions to the financial intelligence unit?
--	---	--

The Money Laundering and Terror Prevention Law includes an attached table (table 2) that defines non-financial businesses and professions to which these provisions apply, those include real estate brokers /agents, traders of precious metals and stones dealing at a large scale, antiquities traders, lawyers, accountants, credit related service providers, and companies that provide services to other parties on a commercial basis. The Law also gave the authority to add any other activities carried out by normal persons or legal persons that exhibit the risk of money laundering. The Law asserted the right of the National Committee for Anti-Money Laundering to determine the extent of commitment by these parties to the Anti-Money laundering procedures, whether full or partial commitment.

Article 10 of the Anti-Money Laundering and Terrorism Prevention Law requires institutions to keep records of documents for internal and external financial and commercial transactions for at least 10 years and to enable judicial authorities to access them.

Article 14 of the same law states that reports on suspicious transactions must be submitted to the competent unit.

	Non- applicable	Does the law require financial institutions to conduct enhanced due diligence in cases where the customer or the beneficial owner is a PEP (politically exposed person) or a family member or close associate of a PEP?
--	-----------------	---

Article 5/6 of the Law number 13 of 2016 emphasizes the importance of providing suitable risk management systems to determine whether the client/real beneficiary is a politically exposed person, where the article stipulates the imposition of additional and constant monitoring on client’s relation and to obtain the authorization of upper management in the establishment before establishing a relationship. This, however, does not include persons working abroad or foreigners and their families and associates.

## Second: Beneficiary Ownership Transparency

	1	To what extent does the law in your country clearly define beneficial ownership?
--	---	--

The Anti-Money Laundering and Counter Terrorism Law defines in article 1 the real beneficiary as a natural person that owns or controls definitively a client or the account of the person that he on his behalf made all procedures, or the person that exercises definitive control or administers over a legal person.

	0.5	Does the law require that financial institutions have procedures for identifying the beneficial owner(s) when establishing a business relationship with a client?
--	-----	---

Articles 1/6, 3/6, 5/6, and 7/6 of the Anti-Money Laundering and Counter Terrorism Law specify the conditions and procedures to determine Beneficiary Owners when establishing a relationship with a client in the cases that are viewed as high risk.

	0.5	Does the law specify which competent authorities (e.g. financial intelligence unit, tax authorities, public prosecutors, anti-corruption agencies, etc.) are allowed to have access to beneficial ownership information?
--	-----	--

Article 23 of the Law number 13 of 2016 determines the competent authorities allowed to access beneficiary ownership information: The Financial Monitoring Unit only. Access to this information is not available to all law enforcement agencies and tax departments, and the competent body is only allowed to forward results of the information analysis pertaining to proven crime proceeds to the competent authorities, and in submitting reports in this regard to the public prosecutor to take the necessary precautionary measures in accordance to article 31 of the law.

No information available on which information sources competent authorities are allowed to access for beneficial ownership information and what information on beneficial ownership is recorded in the central company registry.

	0	What information on beneficial ownership is made available to the public?
--	---	---

The Law does not allow the public access to information pertaining to beneficiary ownership, and such information full or any parts of it are not published.

	0.50	Updating information
--	------	----------------------

Instructions number 2 and 4 issued under the Anti-Money Laundering and Counter Terrorism Law require the update of information related to beneficiary ownership of legal entities on a yearly basis. They also require the immediate update of information in the case of suspicion in the authenticity of information obtained.<sup>24</sup>

In this context, and after examining the Ministry of National Economy's website as the competent authority tasked with registering companies in Palestine, it became evident that there is no companies' record available to the public. The Palestine Exchange makes available basic information on companies listed on the market which number 48 companies out of 400 registered companies at the Ministry of National Economy and being publicly traded on the stock exchange, there is no registry to collect information on trusts.<sup>25</sup>

<sup>24</sup> [muqtafi.birzeit.edu/pg/getleg.asp?id=16876](http://muqtafi.birzeit.edu/pg/getleg.asp?id=16876)

<sup>25</sup> Website of the Palestine Exchange

## Latest developments

Law number 20 for the year 2015 pertaining to Anti-Money Laundering and Counter Terrorism was amended in 2016, and a Decree Law was promulgated (number 13) in 2016. Instructions 1, 5, 4, 3, and 2 pertaining to Anti-Money Laundering were issued in the years 2016 and 2017; these are instructions pertaining to Anti-Money Laundering in banks and non-financial establishments, and transactions of importing used cars from abroad, special instructions for reporting swift remittances, which include several provisions pertaining to disclosure of information related to companies and other legal entities.

There is no available information or evidence relating to the practice and implementation of these laws and instructions or if they are properly implemented.

## Third: Recovery of stolen assets

	0.50	Does the country have a specific asset recovery policy?
--	------	---

The Palestinian Anti-Corruption Law number 7 for the year 2010<sup>26</sup> defines in article 9 section 5 as within the purview of the Anti-Corruption Commission to coordinate with competent bodies to track and seize moneys and revenues accrued through corruption crimes. The National Anti-Corruption Strategy 2015-2018 also included an article pertaining to international cooperation which includes the conclusion of bi-lateral and multi-lateral agreements in the area of extradition of criminals and cooperation in the field of law enforcement and the exchange of information and asset recovery.<sup>27</sup> There remain, however, several issues that face the Palestinian side in the legislative and practical areas, impeding the conclusion of bi-lateral agreements and joining international treaties in the field of international judicial cooperation, whether in recovering stolen assets or implementing sentences or in the area of criminals extradition.

<sup>26</sup> Decree Law number 7 for the year 2010 regarding the amendment of the Illicit Gains Law number 1 for year 2005, The official Gazette, volume 87, 26/6/2010

<sup>27</sup> the National Anti-Corruption Strategy, previous source.

	0.25	Has the country established a wide range of asset recovery mechanisms, including a. measures that allow for the seizure and confiscation of proceeds from money laundering without requiring a criminal conviction (non-conviction based confiscation) and/or a policy that requires an offender to demonstrate that the assets were acquired lawfully. b. the recognition/enforceability of foreign non-conviction based confiscation/forfeiture orders?
--	------	---

The Anti-Money Laundering and Counter Terrorism Law stipulates in article 40 that a court has the right to confiscate funds accrued through crime or subject of a crime if these assets belong directly or indirectly to a person convicted in a crime of money laundering. If funds were acquired in a period no longer than 10 years prior to the crime, and if the perpetrator fails to prove that these funds were gained legally, the court has the right to confiscate the funds if it concludes that there is sufficient evidence indicating they are proceeds of a crime.

Article 45 of the Anti-Money Laundering Law asserted that the Palestinian judicial authorities may implement sentences issued by competent non-Palestinian judicial bodies which mandate the confiscation of criminal proceeds of a money laundering crime or funding of terrorism in accordance with bi-lateral or multi-lateral agreements that Palestine is a part to. Article 9 section 5 of the Anti-Corruption Law granted the Anti-Corruption Commission authority to coordinate with the competent bodies to track, seize, and recover stolen funds and assets gained through corruption crimes, provided that the confiscation order be issued by the competent court examining the case. Article 9 section 2 addressed the issue of recovery of stolen assets at the domestic level, where the Anti-Corruption Commission is granted authority to issue a seizure warrant for movable and immovable properties (as well as a travel ban, the dismissal of the accused from his position, and a halt of his/her salary, bonuses, and benefits). This means there are several legal rules drafted by the Palestinian legislator to recover funds gained through crimes of corruption whether domestic or abroad, provided a conviction is issued to the accused by the corruption crimes court, and in these cases the burden of proof lies with the prosecution and not the accused.

	0.50	Has the country created a specialized asset recovery team or unit?
--	------	--

The International Cooperation Unit at the Ministry of Justice was established as a specialized unit to recover assets. The unit was tasked with all issues related to international mutual legal assistance and international judicial cooperation, including following up on extradition and asset recovery requests (on incoming (foreign) and outgoing), and the enforcement of judicial rulings.

The procedures are as follows: the Anti-Corruption Commission refers the case to the Anti-Corruption Prosecutor for investigation procedures, the prosecutor then prepares the recovery memorandum or a request for a precautionary seizure of funds of the accused, the memorandum is referred to the International Cooperation Unit, which in turn conducts the coordination at the international level through the Ministry of Foreign Affairs.<sup>28</sup> Therefore, the Assets Recovery Unit is a unit which does not enjoy independence as it is one of the specialized departments of the Ministry of Justice and its budget is part of the Ministry's budget.

### Latest developments

The competent authorities succeeded in recovering 70 million Dollars over the course of the past few years. The sums of which have won judicial ruling in favor of returning them to Palestine in 2016 amounted to 23 million Dollars. 2 requests were submitted to international bodies for stolen assets recovery following Palestinian court rulings in 2017, in addition to 28 requests for prosecution of corruption crimes offenders.<sup>29</sup> In addition, the International Criminal Police Organization Interpol<sup>30</sup>

<sup>28</sup> Nermeen Marmash, Mazen Laham and Ismat Sawalha,

The regulatory framework for recovery of assets at the local and international level, Institute of Law: Bir Zeit University 2015, pages 60-63.

<sup>29</sup> Anti-Corruption Commission, A letter regarding accomplishments of the Commission addressed to AMAN dated 10/Dec/2017.

<sup>30</sup> <http://www.aljazeera.net/news/arabic/2017/9/27/>

## Target 16.5 Elimination of all forms of corruption and bribery

### First: Experience and perceptions regarding corruption

Results of a poll conducted by (AMAN) showed that 34.2% of respondents stated that they resorted to nepotism or bribery to receive a public service such as education, health, water, electricity and municipal services in 2017. 70.6% of those surveyed in the same survey believe that nepotism helps them to receive services; 26.3% stated that corruption comes in second place in terms of problems faced by the state (after the economic crisis), while 82% indicated that the government's anti-corruption efforts are inadequate. Opinion polls conducted by -AMAN during the periods from 2015 to 2017 show that the majority of those polled believe that the level of corruption is increasing, as the percentage of those who subscribed to this view in 2015 was 51%, rose to 54.9% in 2016 and remained around the same range (54.6%) in 2017.<sup>31</sup>

### Second: Framework and Anti-Corruption Establishments

	0.50	Legal frame criminalizing all corruption crimes
--	------	---

For purposes of implementing the provisions of the Law, Article 1 of the Anti-Corruption Law number 1 for the year 2005 defined corruption as follows:

1. Crimes in breach of public service jobs duties and crimes breaching the public trust as stipulated in the penal code in-place.
2. Crimes resulting from money laundering stipulated in the Money Laundering Law.
3. Any action that may compromise public funds.
4. Abuse of authority in violation of the law.
5. Acceptance of nepotism and favouritism that annuls a right or rights a wrong.
6. Illicit gains.
7. All criminalized actions established in Arab and International agreements regarding anti-corruption which were endorsed or joined by the Palestinian Authority.

The Penal Code of 1960 in force in the West Bank, and the Penal Code number 69 and Law number 74 in force in the Gaza Strip criminalize both the crimes of bribery and trading in influence, however, the Palestinian Legislations did not criminalize the bribery of foreign public officials or officials of public international organizations, and the bribery of a public functionary or any person using his/her influence against a public authority or administration, or giving or taking a bribe in the private sector.

<sup>31</sup> The Coalition for Integrity and Transparency-AMAN, Opinion Poll regarding the reality of corruption and anti-corruption efforts in Palestine, Ramallah, 2017

Article 2 of The Anti-Money Laundering and Counter Terrorism Law criminalized laundering criminal proceeds and all facets of criminal participation, in addition to committing these crimes. Additionally, the penal code of 1960 in force in the West Bank and penal codes number 69 and 74 in force in the Gaza Strip criminalized the embezzlement by public officials of what was entrusted to them by virtue of their office, without it explicitly covering the embezzlement in favor of a person or another entity, or the acts of misappropriation and diversion. Criminalized is also the breach of trust and the misuse of position by specific categories of public officials.

Article 1 of the Anti-Corruption Law criminalized illicit gains, the penal code in force in the West Bank and the two penal codes in force in the Gaza Strip criminalized the embezzlement of properties in the public sector, the Palestinian legislation however, did not criminalize the incitement to obstruction of justice through the use of physical force, promise, or offering undue advantages. Palestinian legislation also does not criminalize the preoperational acts for committing a crime.<sup>32</sup> Additionally, article 9 of the Anti-Corruption Law and article 39 of the Money Laundering Law provided for civil and criminal liability of legal persons in money laundering crimes.

### **Latest developments**

The Anti-Corruption Law was last amended in early 2017, when President Mahmoud Abbas issued a Decree to extend the term of the chairmanship of the president of the Anti-Corruption Commission for two more years by decision of the Head of State, whereas the Law stipulates that the term shall be 7 years non-renewable.

Civil Society organizations demanded the President to repeal the said Decree Law and the decision to extend the term of the President of the Anti-Corruption Commission, as legislation involves general abstract legal rules that are built on public interest and not on a specific individual case, and is not directed at a specific person or event in particular. The amended law was not repealed which indicates a lack of political independence of the commission.

---

<sup>32</sup> Annual Report of the Anti-Corruption Commission for 2016, Ramallah 2017, letter addressed by the Commission to AMAN, previous source.

The Anti-Corruption Commission's statistics indicated that the number of corruption cases submitted to the corruption court during the period from 2010 to 2017 reached 152 cases, 82 of which received convictions, and 3 cases were referred to other courts, while 9 cases received acquittals. The number of those accused of corruption crimes reached 331 individuals, 170 of which have received sentences. The Corruption Court decided on 22 cases in 2016, 9 of which received convictions and 3 were acquitted. In 2017 the corruption court decided on 20 corruption cases, while there are still 42 cases pending from previous years. The corruption crimes ranged from embezzlement and job abuse to forgery, bribery, and misuse of trust.<sup>33</sup>

### **As for the extent of independence enjoyed by the Anti-Corruption Commission, State Audit and Administrative Control Bureau, and the judicial System and the General Prosecution can be summed up as follows:**

Article 3 of the Anti-Corruption Law stipulates that the Anti-Corruption Commission shall be a dedicated legal entity with financial and administrative independence. Article 7 of the Law stipulates that the head and employees of the Commission shall enjoy immunity for any works they carry out related to discharging their duties; the Law stated that the Anti-Corruption Commission's head is appointed by the President, however does not include a text regarding the Legislative Council's approval of the appointment of the Commission's head which weaken the independence of the head, there also some indicators of external interventions in the work of the Commission.<sup>34</sup>

Indicators of external interventions in the work of the Anti-Corruption Commission could being seen when some cases related to influential personalities are frozen or agreed on settlements without trials, while other cases of corruption were opened to settle political accounts with opponents.

On the other hand, a poll conducted by -AMAN in 2017 indicated that 69.2% of the surveyed believe that the Anti-Corruption Commission enjoys no independency in its work.<sup>35</sup>

<sup>33</sup> For more analysis, please visit The Coalition for Accountability and Integrity -AMAN website: Opinion Poll regarding the reality of corruption and anti-corruption efforts in Palestine 2016, Ramallah 2018, page 37.

<sup>34</sup> The Coalition for Accountability and Integrity -AMAN, Report on the Reality of Integrity and Anti-Corruption Efforts 2016, Ramallah, 2018, page 37.

<sup>35</sup> The Coalition for Accountability and Integrity -AMAN, Opinion Poll regarding the reality of corruption and anti-corruption efforts in Palestine 2017, previous source.

The Justice Sector in Palestine suffers from a number of issues – most notably is its weak independence. The same applies to the office of the Public Prosecutor, and as result of a failure of the High Judicial Council to nominate a candidate for the position of Public Prosecutor, the President stepped in and directly appointed a person to fill the post.<sup>36</sup>

Despite the explicit texts in the Basic Law and in the Judicial Authority's Law stipulating the Judiciary's independence, that independence has been called into question in the past few years after the struggle over filling the post of Head of the High Judicial Council, and which previously was filled through direct appointment by the President without placement by the High Judicial Council, and which was annulled by the High Court. The dispute arose once more over the appointment of a new Head for the Bureau, and position sharing bargaining started taking place, which enabled the Executive Branch to introduce more restrictions on persons to occupy this post, where the candidate to the post was asked to sign an advance and undated letter of resignation as a condition to fill the post. This has happened to more than one candidate which constituted a flagrant interference in the independency of the Judicial Authority especially in regard to its administrative oversight over government's decisions and weakened the public's trust in the Judiciary<sup>37</sup>, as indicated by 71% of those surveyed by a poll carried out by –(AMAN) believe there is corruption within the Judicial System.<sup>38</sup>

As for the Audit and Administrative Control Bureau in Palestine, it does enjoy independence under the Basic Law and under the Audit and Administrative Control Bureau's Law number 15 of 2004 and its amendments.<sup>39</sup> The Law stipulates in article 4 that the appointment of the Bureau Head shall be made by the President, based on a nomination by the Council of Ministers and upon ratification by the absolute majority of the Legislative Council on the appointment. Article 11 of the law also stipulates that the Bureau Head and his staff shall enjoy immunity for any works they carry out related to discharging their duties. Additionally, article 12 of the Law asserted the impermissibility of intervention in any of the Bureaus works, and the commitment of all parties' subject to its oversight to their full and total cooperation in all that the Bureau demands of them.

---

<sup>36</sup> Ibid, page 40.

<sup>37</sup> Report by MADA Centre, Al-Quds News Paper, 13/10/2016, also, letter from Mr. Sami Sarsour former Head of the Higher Justice Council to the President pertaining to his dismissal from his post on 13/10/2016.

<sup>38</sup> The Coalition for Accountability and Integrity - AMAN, Opinion Poll regarding the reality of corruption and anti-corruption efforts in Palestine, previous

<sup>39</sup> The Audit and Administrative Control Bureau Law number 15 for year 2004, Official Gazette, issue 53, 28/2/2005. Also, Decree Law number 18 for the year 2017 concerning amendment of the Audit and Administrative Control Bureau Law number 15 for year 2004, the Official Gazette, issue 136, 25/9/2017.

Despite the texts pertaining to the independency of the Audit Bureau, the internal Palestinian division however, and the prolonged interruption of the Legislative Council's work (to which the Bureau's reports are submitted) does undermine the effectiveness and independence of the Bureau and prevents any real accountability of government bodies in accordance with the deviations indicated by the Bureau. Additionally, appointment and ouster of Head of the Bureau has become solely in the hands of the Executive Branch, which infringed upon the independence of the bureau, especially after the government ousted the former Head of Bureau and appointed a new one before the end of the legal term which is 7 years, and without any consideration to legal texts that require

that the decision to dismiss the Bureau Head to be by absolute majority of the Palestinian Legislative Council.<sup>40</sup>

### Third: Private sector corruption (Non-applicable)

	0	Is it a criminal offence to bribe a foreign public official?
--	---	--

Palestinian legislations do not criminalize bribery of a foreign public official.<sup>41</sup>

	0	Does the country's legal framework prohibit collusion?
--	---	--

To date, no law has been issued to deal with competition and monopoly control despite many draft laws at the Legislative Council and at the Government since 2003. Companies listed in the Palestine Exchange are required to disclose their financial statements on the legally defined dates. The percentage of compliance reached 83% in 2016, and the percentage of compliance to present annual financial statements reached 96% in 2016.<sup>42</sup>

There are a number of legal provisions in the Companies' Law and the Money Laundering Law and the Monetary Authority Law and the Palestine Capital Market Authority Law that regulate information transparency of companies, and mandate the keeping of accurate records available for inspection. Oversight and audit of companies is carried out by several bodies according to each's mandated financial sector, the Monetary Authority exercises oversight over financial institutions, banks and exchange offices, the Capital Market Authority assumes oversight over non-banking financial establishments, the Companies Controller at the Ministry of National Economy as a general mandate for companies' oversight. Notable is the Code of Corporate Governance in Palestine which most publicly listed companies adhere to.<sup>43</sup>

<sup>40</sup> Council of Ministers' decision in session number (31) held on 13/5/2014 concerning the pensioning off of Head of the Audit and Administrative Control Bureau Dr. Sameer Abu-Zaid, also, the report by Maan News Agency regarding the pensioning off of the Head of the Audit and Administrative Control Bureau, <http://maannews.net/Content.aspx?id=697459>

<sup>41</sup> Anti-Corruption Commission, Review Report of the State of Palestine regarding the implementation of the United Nations Convention against Corruption: review cycle 2010-2015, previous source.

<sup>42</sup> Letter from the Director General of the Palestine Capital Market Authority addressed to AMAN on 19/11/2017.

<sup>43</sup> Public Companies, Ministry of National Economy <http://www.pex.ps/PSEWebsite/aboutPSE.aspx-?tabIndex=0>

#### Fourth: Transparency of Parties and Elections Campaigns:

The issue of legal regulation of elections campaigns financing in Palestine is in practice a thorny issue for several reasons:

The existence of occupation, the lack of real Palestinian sovereignty on Palestinian lands, and the thereof resulting huge reservations by political forces to approve the Political Parties Law, given that all these forces are still national liberation movements and not political parties, especially that the Israeli occupation still bans the work of most of these movements and considers them outlawed.

Therefore, these movements operate within a quasi-clandestine framework when it comes to memberships and sources of funding, and the existence of extensions abroad for most of these Palestinian movements in the form of individuals or establishments can contribute towards funding these movements. And despite the particular nature of the Palestinian situation, there has been an internal dialogue about adhering to a group of principles that are to be considered as a charter with minimum requirements of transparency and equal opportunities in using funding in elections, so as to deal with this particular situation, but at the same time establishing for a democratic system. Therefore, and for the purposes of holding elections, these movements and forces were registered on the basis that they are electoral lists.

	0.50	Is there a legal framework regulating the financing of political parties and the finances of candidates running for elected office?
--	------	---

There have been several legislative texts addressing elections campaigns financing, some of which addressed this issue directly as in the Public Elections Law number 9 for year 2005 which's provisions came no different than in the Public Elections Decree Law number 1 for year 2007, and the Local Authority Councils' Election Law number 10 for the year 2005. For article 100 of the Public Elections Law<sup>44</sup> defined elections campaigns funding sources as follows:

It is prohibited for any electoral list or candidate participating in the elections to receive campaign funds directly or indirectly from any foreign or external non-Palestinian source.

---

<sup>44</sup> Law number 9 for the year 2005 regarding elections.

	0.0	Are political parties and individual candidates running for elected office required to disclose financial statements for their campaigns detailing itemized income and expenditure, as well as individual donors to their campaign finances?
--	-----	--

The same article 100 stipulates that every electoral list that participated in elections and every candidate of the list must submit to the Elections Commission a detailed statement of all financing sources that were obtained and the sums spent during the election campaign within a period maximum of one month from the date of the announcement of the elections final result, the law however did not stipulate specific ceilings for donations to candidates, and did not require the candidate to publish details on revenues and general expenditures, which would make elections campaigns accessible to public's oversight.

Political parties and individual candidates running for elected office required to disclose financial statements for their campaigns income and expenditure without full details, and are not required to disclose annual accounts with itemized income and expenditure and individual donors.

	0.50	Are parties' (and, if applicable, candidates') electoral campaign expenditures subject to independent scrutiny
--	------	--

Article 101 set the limits of elections campaigns expenditure for the candidate for the position of President at 1 million US Dollars or the equivalent in currency circulated legally, and 60 thousand US Dollars or the equivalent in currency circulated legally for the candidate for membership of the Legislative Council in the electoral district. The Central Elections Commission is being responsible for overseeing compliance with the expenditure ceilings and campaign finance rules.

The Commission was also granted the authority to request an audit of the financial statements related to expenditure on elections campaigns by a legal auditor of accounts. There is also a legal reference for oversight's bodies involved in this area such as the Anti-Corruption Law number 1 of 2004, however, the Palestinian Law did not oblige candidates to disclose their financial assets upon registering for elections, nor did it oblige them to disclose them to the public.<sup>45</sup>

The Central Elections Commission verifies the annual financial statements of candidates for elected office, while there is no oversight body to verify the annual financial statements of parties.

The Palestinian Elections Law in article 105 criminalized the violation of the provisions regulating the election campaign, and in particular the provisions pertaining to sources of election campaign expenditure, or the violation of specified expenditure ceilings by imprisonment for a period no longer than 6 months or a fine not less than 6 thousand US Dollars or by both penalties together. The law also authorized the court the exclusion of the name of any offender from the list of candidates and the confiscation of their funds. The Local Authorities Election Law number 10 for the year 2005 also stipulated similar penalties similar to those stipulated in the General Elections Law. However, these penalties do not constitute a sufficient deterrent against elections campaigns expenditure manipulation, nor do they constitute guarantees to transparency and integrity in elections, for the law does not specifically stipulate the exclusion of the candidate or electoral list in violation from the candidates' registry, but gives the court Validity of candidature, it also did not stipulate the subjugation of candidate and electoral list's expenditures that precede the elections advertisement period to oversight or to the specified ceilings of expenditure.<sup>46</sup>

No manuals or detailed procedures regarding campaigns expenditure audit mechanisms or report forms or the financial statements that must be submitted by candidates or electoral list have been issued, additionally, the law did not oblige election campaigns candidates to open up special campaign bank accounts, nor did the Palestinian legislation include a text obliging the candidate to submit a financial disclosure statement.

## Goal 16.6: Development of effective and responsible establishments at all levels

### First: Transparency and integrity in public administration:

	1	Existence of a code of conduct including transparency and integrity requirements for Public Sector employees
--	---	--

The Council of Ministers promulgated a public sector code of conduct and ethics in 2012.<sup>47</sup>

The General Personnel Council, in coordination with government and civic societies that participated in preparing and discussing the code, took the initiative to form a High National Committee for its supervision and implementation. A series of public staff training workshops were held on compliance and implementation of the Code. The Code addresses the values of integrity, transparency, and objectivity and dealing with gifts and conflict of interest.

	0	Existence of legal provisions governing the transfers from public to private sector
--	---	---

Generally, there are no legal provisions regulating the transfer of top officials between public sector and private sector, neither for ministers and members of Legislative Council, nor for top public officials and tax and customs officials. There is no specified transitional period that would address potential conflicts of interest, and no entity is mandating to supervise and monitor this area, and so there is no policy related to revolving door that's cover all decision makers, and there is no mandatory period before moving from public sector to private or vice versa. In addition to the lack of public body responsible for advising and supervising the regulations of "revolving door.

In Palestine, the revolving door is implemented and no progress has been made to put an end to this phenomenon to date.

	0.25	Existence regulatory legislations for disclosure of income and assets declarations periodically
--	------	---

<sup>45</sup> Anan Jab'ity and Lutfy Bilal, Integrity and Transparency in Funding Expenditure on Elections Campaigns, Coalition for Accountability and Integrity -AMAN, Ramallah, 2016, pages 17-18.

<sup>46</sup> Anan Jab'ity and Lutfy Bilal, previous source, pages 23-24.

<sup>47</sup> Council of Minister's decision number (04/23/14/ ) for the year 2012 concerning the public Job's Code of Conduct and Ethics.

The Palestinian Basic Law includes provisions related to presenting financial declarations of those it is required from in various different laws., namely articles 11, 52 paragraph 2, and 80 paragraph 1; Articles 28 paragraph 2 and 72 of the Judicial Authority Law; Article 12 of the Law on the Rights and Responsibilities of Members of the Legislative Council<sup>48</sup>, and Article 2 of the Anti-Corruption Law.

Previous Palestinian legislations do not stipulate the necessity of providing periodic financial declarations by the President, Prime Minister, Ministers, members of the Legislative Council, judges and public prosecutors, as the declaration is filed only once by these officials when they first occupy the position. The requirement for public officials in other positions to disclose their income and assets is regulated by the Anti-Corruption Law, they are required, in accordance with article 13, to present the declarations within two months of occupying the post and periodically every three years, and one month after leaving the post.

The legal framework does not require high-level public officials and senior civil servants to regularly declare their interests, including any paid or unpaid positions and financial interests in companies and other entities.

	1	Inclusiveness of presenting declarations of all branches of authority
--	---	---

Legal provisions specify the public positions for which office holders are required to submit financial disclosure statements (cover interests, assets and income) to the Palestinian Anti-Corruption Commission, those are: President of the Palestinian Authority, his advisors and heads of bodies reporting to the Presidency, the Prime Minister, Cabinet Ministers and persons of similar status, the Speaker and members of the Legislative Council, members of the Judicial Authority, the Public Prosecutor and its staff, heads of authorities and Palestinian National Authorities bodies, Governors, Public Service Employees, heads and members of Local Authority Councils and staff, heads and board members and staff of publicly listed companies which the Authority or any of its establishments hold shares in, tax collectors and their deputies and trustees over deposits in banks, arbitrators and experts and receivers and agents of creditors and liquidators and heads and board members of public institutions and charitable organizations and community organizations, political parties and unions and their staff, public servants or any non-Palestinian person that holds a position at any of the Palestinian National Authority's establishments or any person exercising a public function in favor of any public body or facility or a non-governmental organization belonging to a foreign country or an international public organization or any other person or entity that the Council of Ministers decides to subjugate to provisions of the law.

<sup>48</sup> The amended Basic Law for the year 2003, and the Judicial Authority Law number 1 for the year 2002, The Rights and Responsibilities of Members of the Legislative Council's Law number 10 for the year 2004.

There is a high compliance by the above-mentioned parties in submitting their financial disclosures, keeping in mind that the value of such step is not high as all the declarations are kept in closed files and are opened only if there is a suspension of corruption case relates to any of them.

	0	Publishing of declarations for public's information
--	---	---

In accordance with article 22 of the Anti-Corruption Law, disclosure declarations and procedures taken to verify and examine complaints submitted concerning a corruption crime are to be classified as secrets which can't be divulged without a decision by a competent court. This includes all disclosure declarations with no exceptions. According to the Palestinian Anti-Corruption Commission, only 10 declarations were used to prove suspicions of corruption.

	0.25	Existence of a department that examines and audits declarations
--	------	---

Access to the financial disclosure declarations is limited to the Anti-Corruption Commission in cases of suspicion in a functionary, and only after approval and obtaining permission by the competent court.<sup>49</sup>

	0.25	Existence of a department that examines and audits declarations
--	------	---

Although providing financial disclosure declarations is a requirement for the of judges and the Public Prosecution, the Palestinian Law does not impose penalties for not filing financial disclosure declarations on time, or for not presenting them at all, or for incorrect data included in the declaration in regard to the positions of President, Prime Minister, Cabinet Ministers, members of Legislative Council, judges and Public Prosecution. On the other hand, law did include penalties for the other categories of appointees according to article 28 of the Anti-Corruption Law, the penalty is not less than 100 Jordanian Dinars (approx. 140 USD) and cannot to exceed 1,000 Jordanian Dinars (approx. 1,400 USD) or the equivalent in legally circulated currency for every month's delay in submitting the disclosure from the date of appointment. The same penalty is applied for those providing false information in their disclosures. These penalties however have not been applied to offenders to date though 8 years have passed since law took force.

The mechanism for assets disclosure in Palestine can be described as ineffective and plays no significant role in combatting corruption for the lack of penalties that guarantee the submission of these disclosures in most cases, and for not submitting these disclosures for audit, and for keeping them classified as secrets from pertinent authorities and the public alike, except in very rare cases and with prior permission by the competent court.

<sup>49</sup> Anti-Corruption Law, article 22

## Second: Financial transparency

	0	Is there legislation or policy in place requiring a high degree of fiscal transparency?
--	---	---

The General Budget Law number 7 of 1998 regulates the General Budget and financial affairs in Palestine. And in accordance to article 38 of the law, the government is required to publish the Palestinian National Authority's General Budget Law in the official gazette for the public's information after ratification by the Legislative Council. Article 58 of the law also requires the publication of any borrowing terms or transactions guarantees in the official gazette. Other than that, the law did not include a text requiring the government to publish any other documents such as the Final Balance Sheet or periodical reports regarding implementation of the budget.

In practical terms, the Ministry of Finance does publish some documents related to the General Budget on its website, such as the General Budget Law, and some reports pertaining to implementation of the General Budget and the Citizen's Budget. There are, however, pressing issues in the area of budget transparency as the government has not published details of the General Budget in many of the previous years including this fiscal year's 2018 Budget, and sufficed itself to publish aggregate figures. Neither has the implemented budget for the fiscal years 2012-2017 been published. Furthermore, there is a lack of transparency related to borrowings from local banks and their value, the incurred interest, and details related to Public Debt.<sup>50</sup>

Palestine has not been assessed in the Open Budget Survey but according to the indicator examination and its implementation by the Coalition for Integrity and Accountability-AMAN, only 3 out of 8 documents related to budget transparency were made available in 2016.<sup>51</sup>

---

<sup>50</sup> The CS team for Enhancing Public Budget Transparency: Position paper on general budget 2018. See also the team analysis paper on public budget 2016.

<sup>51</sup> <https://www.aman-palestine.org/ar/reports-and-studies/sec-14-91>

### Third: Public Procurement

	1	Law specifies direct procurement thresholds
--	---	---

The Public Procurement Law and its executive regulations<sup>52</sup> specify ceilings or thresholds for Public Procurement by way of direct procurement. Annex (1) of the special regulation for Public Procurement<sup>53</sup> sets the ceiling at 3.000 US Dollars for purchasing supplies, and 5.000 US Dollars for Public Works, and 100.000 US Dollars for the procurement of consultancy services.

	0.50	Stipulating exceptions can make way for misuse
--	------	--

The Public Procurement Law specified exceptions for Public Procurement where it is permitted to direct contract above the specified ceilings, article 3 has excluded implementation of the provisions of the law on procuring supplies of a high security nature, however it must be specified by decision of the Council of Ministers, excluded too is issuing currencies, remittances, mutual purchasing between buyers. Article 28 stipulated another group of exceptions when making direct procurement, these are: if the supplies or necessary service was only available at one supplier, if the purchases were spare parts or complimentary services, in the case of standardization, in cases of extreme urgency and natural disasters, if the estimated cost for the supplies or services is too small, or in the case of purchasing scientific or cultural materials such as films and manuscripts or similar items. Article 105 of the executive regulations imposed more restrictions and conditions on direct purchasing included in article 28 of the law. The exceptions may present a point of entry for misuse when some establishments resort to obtain such exceptions decisions from the Council of Ministers though the exceptions indicated in the law do not apply to these purchases.<sup>54</sup>

<sup>52</sup> Procurement law No. 8, 2014, Palestine magazine, 107, 28/5/2014. See also cabinet decision No. 5 for the year 2014 regarding this law.

<sup>53</sup> Cabinet decision No. 3 for the year 2016 for amending the procurement law No. 5, 2014

<sup>54</sup> Ahmad Abu Dayyeh, the exceptions in direct procurement, AMAN Coalition, 2018

	0.50	Does the legal framework require that information on public procurement above certain thresholds be published?
--	------	--

Article 33 of the Public Procurement Law and article 62 of the executive regulations of the law stipulate that the procuring party or the General Supplies Department or Central Tenders' Committee advertise tenders or the pre-qualification of tenderers in two widely spread local newspapers for at least 2 consecutive days, and on the unified general procurement website, and tenderers must be given 30 days from the date of publishing the add to give them sufficient time to prepare and submit their tenders, and a period not less than 10 days in urgent situations. Article 66 of the regulation stipulates that the advertisement should include the minimum of qualifications required to partake in tenders, with providing all tender documents by the procuring party to the tenderers responding to tender invitations.<sup>55</sup>

The law does not require disclosure of beneficial owners by tenderers. While Appendix A of the amended system of the Cabinet Decision No. 3 of 2016 specifies the financial procurement methods and specifies the possibility of using direct purchase method in supplies and services if the estimated price of the purchase does not exceed three thousand dollars and in the purchase of consulting services without announcing a request of expression of interest is one hundred thousand dollars.

In addition to, many government bodies still refrain from publishing through this portal, additionally, many government contracts pertaining to exploitation of public resources such as communications and water and electricity have not been subjugated to tendering and signed contracts with the private sector have not been published.

---

<sup>55</sup> <http://www.gs.pmf.gov.ps>

<sup>55</sup> Cabinet decision No. 3 for the year 2016 for amending the procurement law No. 5, 2014

	0	Disclosure of beneficial owners
--	---	---------------------------------

Public Procurement Law in chapter 6 thereof (articles 56-58) specifies complaints mechanisms, whereby the law guarantees tenderers the right to submit written complaints to the procuring body or the General Supplies Department or Central Tenders Committee in the case of losses sustained or damages incurred as result of their non-fulfilment of commitments or regarding pre-qualification requirements or preparation of short lists of tenderers or regarding decisions and procedures of the procuring body provided the complaint specify the reason or the breach of law and regulations by the procurer, the defendant shall look into the complaint and inform the complainant the result within 7 work days from the date of complaint submission. Then, the procuring body has to take no steps regarding the tender during this period. The complainant has the right of recourse to the conflicts revision unit at the Higher Council for Public Procurement in case he rejects the decision issued by the body he lodged his complaint with or if the said body did not take complaint into consideration and issuing its decision in the by law specified timeframe.

Article 58 of the law stipulates that decisions by the procuring bodies and Public Procurement Council and conflict revision unit to be subject to challenge before the judiciary. Chapter 8 of the executive regulations of the law included in articles (138-152) details relating to complaint submission and dates of submission and decision-making mechanisms whether at the procuring body or at the conflicts revision unit at the Higher Council for Public Procurement.

**Fourth: Violations reporting mechanisms:**

	0	Is there a legal framework to protect whistleblowers from the public and the private sector who report reasonable belief of wrongdoing?
--	---	---

Article 18 of the Anti-Corruption Law number 1 of 2005 stipulates the provision by the Anti-Corruption Commission of legal, occupational, and personal protection for witnesses, experts, and whistleblowers in corruption crimes, and procedures and measure for their protection to be determined by a system prepared by the Anti-Corruption Commission and promulgated by the Council of Ministers. This system, however, has not been issued to date, additionally, the text pertaining to the whistleblower’s protection is related only to workers in the Public Sector, and there is no law enacted for protection of whistleblowers.

	0	Definition of whistleblowers
--	---	------------------------------

Article 19 of the Anti-Corruption Law emphasized that every public servant to have knowledge of a corruption crime should inform the Anti-Corruption Commission of it, and the report submitted by the employee should be no reason for taking any disciplinary action against him/her, or take any procedures that will infringe upon his/her job stature. Article 22 of the law also stipulates the secrecy of submitted complaints which also constitutes a form of protection for whistle-blowers. The responsibility of receiving and investigating reports pertaining to corruption crimes shall fall upon the Anti-Corruption Commission, and the Commission has the necessary resources to carry out this role. This law does not contain a definition of whistleblower.

Article 24 of the Criminal Procedure Law number 3 for year 2001 permitted anyone who learns of the commission of an offence (including corruption crimes) to report it, and article 25 of the law required that public servants or those commissioned to carry out public services to inform authorities in the case an offence is commissioned during their work. The Anti-Corruption Law did not include a specific definition of a whistle-blower, and did not differentiate between a whistle-blower and a witness or expert or victim, it includes however a general provision to provide protection to all the above mentioned without differentiating between them.

	0	Does the law provide sufficient protection for whistleblowers?
--	---	--

No technological means are used in depositions, and no witness relocation mechanisms are applied. As such, Palestine has not taken sufficient measures to provide effective protection for witnesses, experts, and whistle-blowers, therefore Palestine's commitment in this regard according to the United Nations Convention against Corruption is considered as partial commitment.<sup>56</sup>

---

<sup>56</sup> The Review Report

Anti-Corruption Commission statistics regarding corruption reports and complaints indicate that the Commission has received 732 reports and complaints, of those, 452 complaints and reports were received in 2016 and 280 complaints and reports that were carried forward from 2015. 187 of those were remanded for lack of jurisdiction and 164 were dismissed due to lack of proof of the existence of suspicions of commission of a corruption offence and were not been forwarded to other competent bodies. 31 reports and complaints were referred to the corruption crimes court after investigation and validation. The Commission received 430 complaints and reports in 2017, of those 38 complaints and reports were looked into by the anti-corruption prosecutor and referred 21 cases to the corruption crimes court.<sup>57</sup>

## **Target 16.10: Protection of fundamental rights and liberties and the right to access information**

### **First: Protection of fundamental rights and liberties**

The World Press Freedom Index ranks Palestine at 135th place in 2017 with 42.90 points, and in 11th place among 22 Arab countries.<sup>58</sup>

The Press and Publication Law for 1995 carried within it a clear philosophy which emphasizes the right to free expression and the right to issue publications and distribute them according to article 2 and 4 of the law. However, the law includes some general and broad-based provisions that may be interpreted to justify a restriction of these liberties, where the law restricts what may be published such as banning the publishing of what contradicts the principles of freedom and national responsibility, or what breaches Palestinian traditions and values and morals, or what may shake confidence in Palestinian monetary currency, or the release of classified information pertaining to security forces or the National Council or the Council of Ministers. Additionally, the law requires providing 4 copies of the published matter to the Ministry of Information before publishing (articles 37, 8, 7), and the law imposes strict penalties on violations committed to its provisions that reach imprisonment (articles 45, 44).<sup>59</sup>

---

<sup>57</sup> Anti-corruption Commission Report 2016 and Anti-Corruption Commission information, Jihad.

<sup>58</sup> Reporters Without Borders, <https://rsf.org/en/barometre>

<sup>59</sup> Ammar Dwaik (editor) Press and Publication Law: Critical Studies and Observations, the Independent Commission for Human Rights, Ramallah, 1999.

In addition, the Cybercrimes Law includes provisions that would violate and restrict several citizens' rights and basic liberties, especially the right to free expression. Article 16 of those provisions penalizes all who produce anything that may be prejudicial to public decency, or those who prepared, created, sent, or stored with the intent to abuse or present to others on the internet or through electronic means. The law also punishes all those who create a website or application or electronic account or publish information on the internet that call to facilitate dissemination of programs or ideas that promote what may harm public decency.

Article 20 of the law also penalizes all those who publish news that may endanger the safety of the state or its regime or its internal or external security, and also all those who promoted or transmitted or published such news. Additionally, article 51 of the law considers a breach of public order, endangering of community safety and security, endangering the life of citizens, prevention or obstruction of public authorities from discharging their duties, and harming national unity or community peace as crimes punishable by law. Article 40 of the law grants the competent investigation and interdiction authorities the power to block websites should they publish propaganda or other material that may pose risk to national security or domestic peace or public order or public decency.<sup>60</sup>

All previous articles include broad-based and general phrases that give authorities ample room to restrict liberties, especially the freedoms of expression and press and publishing, especially with opposition entities, they also permit the authorities to impose harsh penalties that are in many cases are not proportionate to the size of the violation.<sup>61</sup>

Security apparatuses have arrested and assaulted numerous journalists while performing their duties in the past two years. Security apparatuses have detained no less than 20 journalists and media professionals in the West Bank and Gaza Strip over cases related to freedom of expression and peaceful assembly, in addition to the confiscation of press equipment. In 2016, the Independent Commission for Human Rights (ICHR) received 25 complaints related to violations of the freedoms of workers in the media and publishing fields, 22 complaints of claims of social media misuse, and 9 complaints related to freedom restrictions on media and journalism. The ICHR also observed the apprehensions or detentions of freedom of 12 journalists in the West Bank and Gaza Strip in the context of infringements on press freedoms.<sup>62</sup>

On the other hand, there were no infringements on civil society organizations working in the area of anti-corruption, and none were shut down.<sup>63</sup>

---

<sup>60</sup> Cyber-crimes Law number 16 for year 2017.

<sup>61</sup> Correspondence by the Independent Commission for Human Rights to the President concerning Decree Law number 16 for year 2017 regarding cybercrimes.

<sup>62</sup> The Independent Commission for Human Rights' Annual Report 2016, page 81.

<sup>63</sup> Interview with Mr. Abdel-Nasser Al-Sairafy, Director General of Civil Society Organizations at the Ministry of Interior on 21/11/2017.

Local media and social media outlets covered news of the security apparatuses wiretapping communications and phone calls that included political forces, members of the Legislative Council and Palestine Liberation Organization establishments, journalists, and members of the Palestinian Bar association. Al-Haq Human Rights Organization lodged a report at the Prosecutor General’s office to investigate into these suspicions in February 2018.<sup>64</sup>

Social media pages were also subject to security apparatuses scrutiny. The same pages posted leaks of security reports showing how such apparatuses track the pages of political activists and journalists prior to summoning them to security centres to discuss their posts on their web pages and sites.<sup>65</sup>

A public opinion poll conducted by AMAN in 2017 showed that 61% of respondents described the media’s performance in unveiling corruption cases as semi-effective to. 43% of respondents believed that managers of media outlets exercised self-censorship, while 57% thought self-censorship applied to the disclosure of cases of corruption.<sup>66</sup>

## Second: Access to Information

	0	Constitutional legislation reiterating the right to access to information
--	---	---

The Palestinian Basic Law does not include any provisions that compel officials to allow access to information by citizens. To date, no law on the right to access to information was enacted although there has been a draft law since 2005, which was edited several times. Still, there are some legal provisions that relate to access to information in sporadic laws including: Article 4 of the Law on Publications and Printed Material which stipulates for the right to journalists to seek information from different sources, handle, publish and comment on such information. Article 4 of the Law on General Statistics provides for the right of all citizens to access, gather, prepare and publish official statistics produced by the Palestinian Central Bureau of Statistics as per applicable regulations and instructions which guarantee confidentiality of data and anonymity of persons.

<sup>64</sup> Al-Haq Institute, [www.alhaq.org](http://www.alhaq.org)

<sup>65</sup> Al-Hadath Newspaper [www.alhadath.ps/article/usas6](http://www.alhadath.ps/article/usas6)

<sup>66</sup> Opinion Poll of a sample of members of Correspondents for Integrity and Transparency, conducted by AMAN on 28-11 to 4/12 2017.

	0	Does the right of access to information apply to all materials held by or on behalf of public authorities in any format, regardless of who produced it?
--	---	---

In the absence of a law regulating the right to access to information, this right has not been comprehensively covered. Laws lack any clear and comprehensive provisions that identify the accessible information, as compared to the classified files. Existing laws do not refer to government entities whose files are open and accessible and the agencies whose files remain classified and confidential. Laws do not regulate the agency in charge of the application of this law or the time delay for responding to citizens' request to access information. Moreover, laws do not cover the cost and burden borne by citizens or the procedures that official authorities should apply to publish such information upon their own initiative.

	0	To which branches and bodies does the right of access apply?
	0	Are there clear and reasonable maximum timelines for responding to a request, regardless of the manner of satisfying the
	0	Are exceptions to the right of access consistent with international standards?
	0	Is a harm test applied to all exceptions, so that disclosure may only be refused when it poses a risk of actual harm to a protected interest?
	0	Is there a mandatory public interest override so that information must be disclosed where this is in the overall public interest, even if this may harm a protected interest? Are there 'hard' overrides (which apply absolutely), for example for information about human rights, corruption or crimes against
	0	Is there an independent Information Commission, or a similar oversight body, with whom requestors have the right to lodge an external appeal?
	0	Does the law/policy on access to information contain minimum standards on mandatory proactive (automatic, without having to be requested) publication of information?
	Non-applicable	What is the country's score in the Right-To-Information Rating? ( <a href="http://www.rti-rating.org/country-data/">http://www.rti-rating.org/country-data/</a> )
	Non-applicable	What are shortcomings of the access to information regime?
	Non-applicable	Are there any factors that, in practice, make it unnecessarily burdensome and difficult to request or gain access to information?
	Non-applicable	How many requests for information were made to public authorities each year in the previous two years?
	Non-applicable	Have there been any developments in the past two years that suggest an improvement or deterioration in the framework for public access to information and/or its implementation?

## Recommendations:

### I. Combatting Money Laundering

- Competent authorities need to cooperate with the Palestinian Foreign Ministry and representative offices to conclude bilateral agreements with different countries on the exchange of information and the extradition of criminals as well as facilitation of investigations and litigations according to the law.
- Intensify training and capacity building of government departments' staff and private companies and institutions, which are at risk of facing money laundering activities or whose activities may be used to disguise money laundering. Devise public awareness and education programs on the dangers of money laundering and how to combat it.
- Governmental and nongovernmental institutions need to cooperate with competent agencies to combat money laundering and ensure easy and expedite flow of accurate information when needed.

### II. Recovery of Stolen Assets

- Institute the possibility to seize criminal yields in application of the Anti-Corruption Agreement in the Gaza Strip; or seizing assets whose value is equivalent to the value of such yields and the items used or set to be used to commit such acts; seizure also affects the property to which criminal yields, or benefits and revenues incurred by such yields were transferred (which goes beyond the crimes of money laundering, bribery and embezzlement).
- Conclude bilateral agreements and cooperation protocols with regional and international bodies to promote cooperation between such states and Palestine in the area of internal jurisdiction whether to recover stolen assets or to enforce judgments or extradite criminals.
- Establish a special unit, which enjoys full independence and access to all resources needed to coordinate efforts and follow up on recovery of stolen assets.
- Prepare a procedural manual with all controls and terms prescribed in Arab and international agreements to regulate extradition of criminals and investigations and enforcement of court judgments.

### III. Anti-corruption Framework and Institutions

- Incriminate bribery of foreign public employees or employees in foreign public institutions.
- Amend Article (174) of the effective Penal Code in the Gaza Strip to cover explicitly embezzlement for the benefit of another person or entity and diversion and misappropriation of funds.
- Incriminate bribing and acceptance of bribes by public servants or any other person abusing of his/her authority toward a public administration or authority.
- Incriminate the abuse of positions as per the United Nations Convention on Anti-Corruption.
- Incriminate use of physical force, threat or intimidation or promises, offering or granting of undue benefits to incite to perjury or intervene in testimonies or submission of evident in the procedures relevant to the commitment of the acts incriminated in the agreement, whether the perpetrator realized his/her goals or not.
- Incriminate recourse to physical power, threat or intimidation to intervene in the exercise of the functions of any judicial or law-enforcement staff.
- Consider measures to disqualify individuals convicted with corruption crimes from holding any position in state-owned or semi-state-owned institutions.
- Take necessary measures to punish corruption, which may include deeming corruption as a reason to annul or terminate a contract or stop a franchise or any other similar documents or take any other act of justice.
- Adoption by the government of a National Integrity and Anti-Corruption Plan, which engages different official, civil and private sectors to define priorities and executive steps as well as the responsibilities of every party or institution to implement the national plan according to a specific and clear timeframe. The Anti-Corruption Commission shall coordinate efforts as the competent agency and the necessary budgets need to be allocated for the implementation of the plan.
- Adoption by the government of a national plan to reform the judiciary including the public prosecution via a review of the legal and institutional situation of the judiciary and the public prosecution.

#### **IV. Corruption in the Private Sector**

- Incriminate promises, offering, granting, asking for or accepting bribes in the private sector.
- Expand the mandate of the Anti-Corruption Commission, court and prosecution office to cover corruption cases in the private sector.

#### **V. Transparency of Parties and Electoral Campaigns**

- Compel candidates or lists to open a bank account for the sums allocated to the electoral campaign to cover all expenses while the Elections Commissions should have the right to examine such account at any time.
- Prepare a unified template on the areas of financing of electoral campaign, which the Election Commission shall submit to candidates to fill and return to the Commission.
- Set a maximum donation ceiling from a donor to the same candidate.
- Compel the Elections Commission to publish audited statements of accounts submitted thereto by candidates showing the rubrics of expenditure of their propaganda and make them accessible to electors.
- Harshen penalties prescribed in the law to deter individuals who breach the electoral campaigns funding provisions.

#### **VI. Transparency and Integrity in Public Administration**

- Devise a regulation to govern the transfer of officials in the public sector (ministers, MP's, tax and customs officials...) to work in the private sector.
- Adopt a code of ethics for ministers, members of the Legislative Council to specify conflict of interest and how to handle gifts.
- A competent or judicial agency needs to examine and audit data in financial declaration statements and be released of the principle of absolute confidentiality/ secrecy in dealing with financial declaration statements and opt for publication of such statements for senior administration at least. Render effective penalties against those abstaining from submitting such statements or who don't submit them according to the scheduled calendar and to those who submit erroneous or misleading information in such statements. Penalties should cover all segments required to submit the statements.

## VII. Financial Transparency

- Disclosure of detailed financial statements in accordance with the Public Budget and Financial Affairs Law No 7 of 1998.
- The Ministry of Finance and Planning should abide by the publication of final accounts on the dates set by the law.
- State Audit and Administrative Control Bureau needs to submit its reports on pre-set timing to achieve transparency.

## VIII. Public Procurement

- Finalize the necessary institutional requirements to enforce the Public Procurement Law, mainly as regards the launching of the Higher Public Procurement Council to perform the tasks vested therein in the law.
- Prescribe the necessary procedures for e-procurement.
- Apply the law relating to exceptions in direct public procurements.
- The government needs to issue a new regulation specifying the items with high security nature, which are excluded from the Public Procurement Law and to regulate their contracting procedures.
- The government should publish all the awarded contracts pertaining to the exploitation of public resources such as communications and water and electricity which have not been subjugated to tendering and signed contracts with the private sector.

## IX. Reporting on Violations

- Amend Article 18 of the Palestinian Anti-Corruption Law to replace it with more detailed articles with clear definition of whistleblowers.
- The government should pass a special regulation to protect individuals reporting on corruption cases prescribed in the Anti-Corruption Law to ensure an effective witness protection regime, including victims if they are also witnesses, and experts who testify on criminal acts. Protection must be extended to their relatives and close kin.
- Prescribing for the punishment of any employee who fails to report corruption in crimes that come to his/her knowledge and that he/she witnesses in reason of this/her post.

## **X.Safeguarding Basic Freedoms**

- Revisit the Publication and Printed Material Law and the Cyber Crimes Law to amend provisions restricting the exercise of public rights and freedoms.
- Specify the loose notions included in the Publication and Printed Material Law and the Cyber Crimes Law including public order, public morale, national security, etc., which may be abused to restrict journalistic freedoms.
- Delete detention and imprisonment for crimes of publication and expression of opinion inflicted upon journalists and replace them with financial fines.
- Halt blocking of websites of media outlets without judicial order.

## **XI.Access to Information**

- Amend the Palestinian Basic Law to include provisions on the right to access information and explicitly prescribe citizens' right to access information from public agencies.
- Accelerate the enactment of the Access to Information Law and the National Archives Law.
- Establish a public entity with financial and administrative independence to regulate access to information provided that it is managed by a General Commissioner of Information.
- Raise citizens' and officials' awareness of the close relation between access to information and promotion of transparency, disclosure and accountability.

## **International Coordination**

The Palestinian Anti-Corruption Commission needs to coordinate with other anti-corruption commissions, especially foreign agencies since ACC is a member in the Arab Network of Anti-Corruption Commissions but does not have any MoUs with other anti-corruption commissions. Furthermore, the Palestinian financial intelligence unit is not member of the Egmont Group of Financial Intelligence Units and needs to establish communication channels with foreign authorities to enforce the law and promote the work of competent agencies and apparatuses. Palestine also needs international legal assistance to draft an international cooperation law and mutual legal aid requests in general, mainly as regards recovery of assets.

## Sources and references

- National Policy Agenda 2017 – 2022: Citizen Frist, Prime Minister’s Office, Ramallah, 2017.
- Abu Dayyah, Ahmed, Effect of Financial Disclosure Statements in the Palestinian Context on Corruption, Anti-Corruption Efforts and Prevention of Impunity, Coalition for Integrity and Accountability – AMAN, 2017.
- Abu Dayyah, Ahmed, Exceptions in Public Procurements in the light of the Public Procurement Law, Coalition for Integrity and Accountability – AMAN, 2018.
- Opinion poll for a sample of Network of Correspondents for Integrity and Transparency, AMAN, 28/11 – 4/12/2017.
- National Anti-Corruption Strategy, Anti-Corruption Commission, <http://www.pacc.pna.ps/ar/index.php?p=main&id=450> .
- AMAN, Citizens’ Opinion Poll on Corruption and its Combating in Palestine, Ramallah, 2017.
- AMAN, Report on the Reality of Integrity and Anti-Corruption Efforts 2017, Ramallah, March 2018
- AMAN, report on the Reality of Integrity and Anti-Corruption Efforts 2016, Ramallah 2018
- Statement by human rights organizations and civil society organizations for the promotion of the independence of the judiciary.
- [http://www.alhaq.org/arabic/index.php?option=com\\_content&view=article&id=907:2018-02-26-12-51-53&catid=91:2012-07-14-11-00-24&Itemid=231](http://www.alhaq.org/arabic/index.php?option=com_content&view=article&id=907:2018-02-26-12-51-53&catid=91:2012-07-14-11-00-24&Itemid=231)
- Instructions No. 2 for the year 2016 on combatting money laundering and terror, especially in the banking system, and instruction No 4 for the year 2016 on entities subject to oversight and supervision of the Stock Exchange Commission, published in the Palestinian Gazette, issue 124 on 25 August 2016
- Instruction No 5 for the year 2016 to report on fast transfers, Palestinian Gazette, issue 128, 14/1/2017
- MADA Center Report, Al-Quds Newspaper, 25/8/2016

- Ministry of National Economy: Public Companies: <http://www.pex.ps/PSEWebsite/aboutPSE.aspx-?tabIndex=0>
- Civil Society Team for Public Budget Transparency, Analytical work paper, Public Budget 2016: Reality and planning, July 2016
- Civil Society Team for Public Budget Transparency, position paper, Draft Public Budget 2018
- Basic Law, as amended, 2003
- Judicial Authority Law No 1 for the year 2002
- Law on Duties and Rights of Legislative Council Members No 10 for the year 2004
- Law No 13 for the year 2016 amending the Law on Combatting Money Laundering and Terror No 20 for the year 2015, Palestinian Official Gazette, Issue 122, 30/6/2016
- Law Decree No 7 for the year 2010 amending the Illicit Gain Law No 1 for the year 2005, Palestinian Official Gazette, Issue 87, 26/6/2010
- General Statistics Law No 4 for the year 2000
- Cyber Crimes Law No 16 for the year 2017
- Public Procurement Law No 8 for the year 2014, Palestinian Official Gazette, Issue 107, 28/5/2014
- Law on Publications and Printed Material No 9 for the year 1995.
- SAACB Law No 15 for the year 2004, Palestinian Official Gazette, Issue 53, 28.2/2005
- Law No 9 for the year 2005 on General Elections
- Law on Combatting Money Laundering and Terror No 20 for the year 2015, Palestinian Official Gazette, Extraordinary Issue 10, 30/12/2015
- Law Decree No 18 for the year 2017 amending the SAACB Law No 15 for the year 2004, Palestinian Official Gazette, Issue 136, 25/9/2017.
- Ministerial Council Decision No (14/23/04/mc/pa) for the year 2012 on Public Service Code of Ethics, Official Gazette.
- Ministerial Council Decision No 5 for the year 2004 on public procurement
- Ministerial Council Decision (31) on 13/4/204 on referring Sameer Abu Zneid, Chairman of State Audit and Administrative Control Bureau to retirement, and MAAN Agency Report on retirement of chairman of SAACB, <http://maannews.net/Content.aspx?id=697459>
- Palestinian Center Policy and Survey Research, Results of Public Opinion Polls 64, Ramallah, 15/7/2017
- ICHR, Annual Report 2016
- Address of Prime Minister in Conference on launching Women's Anti-Corruption Strategic Directions, 5/4/2018 <https://ar-ar.facebook.com/Rami.Hamdalla/posts/1791896427539568>
- Letter from Stock Exchange Authority's Director General to AMAN, 19/11/2017

- Letter from Mr. Sami Sarsour, Former President of the Higher Judicial Council to the President on his dismissal from office, 13/10/2016
- Sarhad, Zakaria, Administration of Public Records and Public Access thereto, AMAN, 2013
- Al-Hadath Newspaper [www.alhadath.ps/article/usas6](http://www.alhadath.ps/article/usas6)
- Palestine Stock Exchange Market webpage: <http://www.pex.ps/PSEWebSite/ListedCompanies.aspx?Tabindex=0>
- MADA center webpage: <http://www.madacenter.org/news.php?lang=2&id=380>
- Dweek Amar (edited) Law on Publications and Printed Material: critical Review and Remarks, ICHR, Ramallah 1999
- Jiiti, Anan, and Bilal, Lutfi, Integrity and Transparency in Funding Electoral Campaigns, AMAN, Ramallah 2016
- Address of Independent Commission for Human Rights to the President on Law Decree No 16 for the year 2017 on Cyber Crimes. <http://ichr.ps/ar/1/17/2172>
- Interview with AbdelNasser Al-Seyrafi, Director General of Civil Society Organizations – Palestinian Ministry of Interior, 21/11/2017
- Correspondents Without Borders [https://rsf.org/en/barometer?year=2018&type\\_id=235#list-barometre](https://rsf.org/en/barometer?year=2018&type_id=235#list-barometre)
- Al-Haq Institute [www.alhaq.org](http://www.alhaq.org)
- Marmash, Niremeen, Lahham Mazen, and Sawalha, Esman, Regulatory Framework for Recovery of Assets at National and International levels, Institute of Law, Birzeit University, 2015
- ACC, Annual Report 2016, Ramallah 2017
- ACC, Annual Report 2016, Ramallah 2017, letter addressed by ACC to AMAN
- ACC, Palestine Review Report on the Implementation of UNCAC: Review Cycle 2010-2015 [http://www.pacc.pna.ps/ar/files/reports/2015\\_10\\_14\\_Palestine\\_Final\\_Country\\_Report\\_Arabic.pdf](http://www.pacc.pna.ps/ar/files/reports/2015_10_14_Palestine_Final_Country_Report_Arabic.pdf).
- Anti-Corruption Commission, letter addressed to AMAN on ACC achievements, 10/12/2017
- Ministry of Women's Affairs, Cross-sectoral National Strategy to Promote Gender Equity and Justice and Empower Women



The Coalition for Accountability and Integrity (AMAN) is the Palestinian Chapter of Transparency International Organization since 2006. It was established in 2000 by a number of civil organizations active in the area of democracy, good governance and human rights. It aims to achieve a ‘corruption-free Palestinian Society’. AMAN endeavours to create and lead cross-sectoral community mobilization to combat corruption and produce, transfer and localize knowledge of corruption and its fighting at national, regional and international levels.

AMAN is keen of its watchdog role to oversee the national integrity system and focus on community participation and activation of the role of civil society organizations and the media in overseeing, accountability and in the creation of an immune environment in addition to detecting the crimes of corruption and minimize their spread.

The Coalition for Accountability and Integrity (AMAN)

Ramallah

Rimawi building - First Floor - Irsal Street

P.O. Box Ramallah 339 Jerusalem 69647

Tel.: 022989506 – 022974949

Fax: 022974948

Gaza

Dream Building, Haboosh street, branch of Al\_shohada st., Gaza

Telfax: 082884767 – 08288476680

Email: [info@aman-palestine.org](mailto:info@aman-palestine.org)

Website: <http://www.aman-palestine.org>

Facebook: <https://www.facebook.com/AmanCoalition/>

Twitter: <https://twitter.com/AMANCoalition>

AMAN programme is funded by  
the Governments of Norway, Netherlands, and Luxemburg.