



Sixth Annual Corruption Report
Integrity and Combating Corruption
in Palestine 2013

April 2014

Publications of the Coalition for Integrity and Accountability- AMAN 2013

© All Right reserved
P.O. BOX: 69647 Jerusalem 95980



COALITION FOR INTEGRITY AND ACCOUNTABILITY- AMAN
Headquarters: Ramallah, Al-Irsal St. Al-Masa'ef
(Resorts) St. Al-Rimawi Building – First Floor
Tel: + 972 2 2989506 / +972 2 2974949
Fax: +972 2 2974948

GAZA OFFICE: AL-HALABI ST. AL-HASHAM BUILDING
Tel: +972 8 2884767
Fax: +972 8 2884766

e-mail: info@aman-palestine.org
Web page: www.aman-palestine.org

Design by: Collage Productions



TABLE OF CONTENTS

Executive Summary	1
Introduction	1
Methodology	1
Acknowledgements	10
Political, social and economic developments and their impact on integrity and anticorruption ...	1
>> PART ONE: INTEGRITY AND COMBATING CORRUPTION IN PALESTINE	1
1.1 Integrity and Anti-corruption Efforts in the West Bank: progress in 2013	1
1.2 Integrity and transparency in public institutions.....	1
1.2.1 Ministry of Education	1
1.2.2 Ministry of Transportation	1
1.2.3 Ministry of Finance.....	1
1.2.4 Ministry of Health	1
1.2.5 Ministry of Social Affairs.....	1
1.2.6 Water Authority	1
1.2.6 Industrial Cities Committee	1
1.2.7 The Capital Market Authority Committee.....	1
1.3 Accountability systems illustrate continued deterioration	1
1.3.1 The Legislative Council	1
1.3.2 State Audit and Administrative Control Bureau	1
1.3.3 The Anticorruption Commission	1
1.3.4 Judicial Authority.....	1
1.3.5 Public Prosecution.....	1

1.3.6 Police	1
1.4.7 Media	1
1.4 Issues in the Spotlight.....	1
1.4.1 Integrity and Transparency in the Ministry of Jerusalem Affairs and the Jerusalem Governorate	1
1.4.2 Integrity, transparency and accountability in the management of Awqaf Properties Fund ...	1
1.4.3 Accountability of high-ranking employees in Palestine.....	1
1.4.4 The experiment of electronic complaints as a tool for accountability	1
1.4.5 Accountability of Palestinian Non-Governmental Organizations (NGOs)	1
1.5 Recommendations	1
»» PART TWO: INTEGRITY AND COMBATING CORRUPTION IN THE GAZA STRIP 2013....	1
2.1 Integrity and combating corruption in the Gaza Strip	1
2.2 Integrity in the management of public affairs	1
2.2.1 Ministry of Public Works and Housing	1
2.2.2 Ministry of Health	1
2.2.3 Ministry of Education	1
2.2.4 General Administration of Borders and Crossings.....	1
2.2.5 Gaza General Petroleum Association	1
2.2.6 Management and Administration Committee	1
2.2.7 Electric Power Distribution Company	1
2.2.8 General budget and governmental financial reports.....	1
2.2.9 Universities.....	1
2.2.10 Municipalities and Local Governance Councils.....	1
2.2.11 Private Sector.....	1

2.3 System of Accountability	1
2.3.1 The Legislative Council	1
2.3.2 Financial and Administrative Control Bureau.....	1
2.3.3 Gaza Judicial Authority.....	1
2.3.4 Public Prosecution.....	1
2.3.5 Media	1
2.3.6 Civil Society Organizations.....	1
2.4 Issues in the Spotlight.....	1
2.4.1 Role of the underground tunnels in contributing to corruption	1
2.4.2 The absence of integrity and transparency in procedures of medical referrals abroad	1
2.4.3 The Absence of Effective Supervision over the use of chemical pesticides and fertilizers ...	1
2.4.4 Jadara Capacity Building Program for Graduates	1
2.5 Recommendations	1



Executive Summary

Some visible progress was accomplished in the areas of integrity and anti-corruption work during 2013 in spite of the political and financial instability of the Palestinian Authority (PA). General progress was made in advancing the principles of integrity and transparency and the systems of accountability. There was also tangible improvement in some sectors, in official institutions and some private sector institutions. However, the conditions within many governmental institutions, as well as some local governance bodies, and some official non-ministerial organization remained stagnant or became worse. For example, regression continued in the role of the Legislative Council and the mounting unilateral authority of the President in administering both the Executive and Judicial branches of government. This was due to the pressures of the occupation and the impact of the internal division on Palestinians' democratic life.

All throughout 2013, these conditions corresponded with the ongoing suffocating financial crisis and the conflict between Presidential institutions and influential individuals within FATAH on one side and Prime Minister Dr. Salam Fayyad on the other. During that period, various public sector employees often went on extended strikes, resulting in the resignation of the Prime Minister and the appointment of Dr. Rami Al-Hamdallah, former President of Al-Najah University, in his place.

In the meantime, the Hamas Movement, under the leadership of Ismail Haniyyeh, was in a state of disorder and erosion in its fiscal and administrative abilities. This was attributed to its support for the Islamic Brotherhood against local authorities in neighboring countries. Conditions became even more complicated follow-

ing the ejection of the Muslim Brotherhood out of the Egyptian government.

The abovementioned political and economic developments hindered progress aimed at cutting back on expenditures of the public budget that were double. For example, limiting waste of public funds through various channels, particularly in the inflated number of public positions and the government's resumption of paying large amounts out of its treasury for debts owed to several parties such as: the water and electric bills to Israel; the highly inflated hospital bills from Israel (referred Palestinian cases to Israeli hospitals; and debts that should be collected from individuals who have refrained from paying their bills. The government has also failed at combating tax evasion, which is a corruption crime, resulting in a serious drop in local revenue and a rise in debts and overdue bills. This hindered the government's ability to prepare and publish its 2014 fiscal budget, which in turn resulted in lack of public trust in the government's credibility and the data it publishes. Moreover, the government has not submitted financial statements since 2011, making it very difficult for the public to hold it accountable.

Furthermore, the continuing Israeli occupation has become a refuge for the corrupt, hence escaping justice.

In conclusion, the Israeli occupation, the internal division, lack of commitment to solve existing problems relating to debts, salaries, and tax evasion, and punishing the corrupt, not to mention the inefficiency of the Judiciary and the absence of the Legislative Authority, provided a fertile environment that is obtrusive to the enhancement of accountability, transparency, and integrity, hence to the anti-corruption

tion process as a whole.

Accomplishments of 2013

In spite of the fact that there is a national anti-corruption plan, the government continued to address the issues of integrity and combating corruption with scattered efforts. These efforts were most noted within some official institutions such as: the General Personnel Council, the State Audit and Administrative Control Bureau (SAACB), the Anti-corruption Commission (ACC), and among some officials as well. There were also efforts made by civil society organizations, like the Coalition for Integrity and Accountability –AMAN, and the government's committee within the public sector. However, all these efforts need a ratified national plan in order to bolster the anti-corruption process in which all parties would participate.

The General Personnel Council

- The General Personnel Council continued to work on endorsing and disseminating its professional code of conduct, and proceeded to empower and encourage employees and officials within the Council to operate in accordance with the code's principles.
- It completed the guidelines for holding public positions and began implementation in accordance with those guidelines. It is also currently working on a job description document and developing an official directory for work contracts in the public sector; an area that has been susceptible to corruption. Furthermore, it continues to limit the number of employees in public positions.
- State Audit and Administrative Control Bureau (SAACB) The Bureau issued more than one audit report regarding financial and administrative issues of the various sectors. The reports indicated progress in the Bureau's work in terms of publishing reports.

It also expanded its operation to include all levels of government and society as the absence of the Legislative Council seems to have given the opportunity for some officials to escape accountability.

Citizens' Right to Access Information

- The draft Law regarding this matter was submitted to and revised by the Cabinet in preparation for its endorsement. The draft law was prepared few years ago by civil society organizations (SCOs) with participation of AMAN, MADA, Journalists' Guild, and others. However, there are indications that some of the provisions of the draft need to be revisited.
- A national committee was formed, by a presidential decree, to conduct a self-assessment check of the level of adherence of the Palestinian Authority to the United Nations Covenant against Corruption (UNCAC). This was a positive step towards identifying weak areas in the official sector in terms of prevention and special anti-corruption measures. A technical committee headed by the (ACC) was formed for that purpose. The committee conducted the self evaluation and prepared and submitted a report including recommendations to the President. Unfortunately, this report was never reviewed or published, which indicates a lack of political will to address areas of deficiency or hold those in charge accountable for their actions.

The Water Authority

- The President responded to AMAN's recommendations of the past two years by appointing the Prime Minister as supervisor over the Water Authority, i.e., shifting that supervisory position from the President to the Prime Minister.



- The Cabinet passed the water law to the President for endorsement, which is a crucial step towards organizing and reforming the water sector.
- AMAN submitted a request to the Cabinet to endorse a plan to reform the water sector and to ratify a uniform tariff for water in Palestine.

On another note, this year, AMAN implemented an "integrity index scale" to gauge the national integrity system. It used all indicators adopted in the guidelines, as detailed last year. The results showed a large degree of congruence with AMAN's conclusions in its reports. The overall findings indicate a slight improvement in the conditions of integrity within the Palestinian governmental institutions; 55% versus 50% in last year's findings. The positive results came about with improvements in some key areas.

Positive developments:

- Continued improvement in the effectiveness of the ACC.
- Noticeable increase in the submission of financial disclosures, particularly by high level officials, and the commission's seriousness in dealing with these disclosures.
- Holding local community elections.
- Improvement in performance and procedural administration within the General Tenders Committee (Procurement Directorate).
- Issuing a Code of Conduct for public office and implementation of the code in the public sector.

Negative indicators (areas of decline):

- The ongoing paralysis of the Legislative Council and the inability to hold general elections or local community elections in

Gaza are particularly tender points in the system, reflecting negatively on the ratification of the general budget and the supervision over its disbursement. It also caused a decline in the implementation of accountability within the government as well as a decline in the significance of the reports and role of the (SAACB).

- At the institutional level in the various sectors and centers, the Central Election Committee (CEC) scored best in the evaluation, while the conditions in the official media institution as well as factions, political parties, and the Legislative Council show decline on the integrity scale. The index also indicates the frailty of the justice system, particularly in the Judiciary and Public Prosecution Office.
- In the various domains, the governmental domain remains most fragile of all, hence the effectiveness of the integrity system as a whole is affected negatively. This effect was revealed in the misinterpretation of the concept of financial and administrative independence; in the discovery that codes of conduct were not being used or implemented; and in the fact that cases of conflict of interest continue unabated; all of which create and maintain negative conditions.
- In security institutions, the structure for salaries and employees working in this sector was never reformed, which has given rise to new opportunities for exploitation of resources.

Most Prominent Cases of Corruption in 2013

- The reports published by the (SAACB) in 2013 and the data contained regarding cases of suspected corruption crimes in public institutions, local government bodies, and civil society organizations, are consistent

with the cases that had been presented to the ACC for review, and consistent with the findings of the special study conducted by AMAN.

- The 15 cases of corruption charges presented to the Corruption Court in 2013 indicated the persistence of the following crimes: embezzlement of public funds, exploitation of positions for personal gain, abuse of credit, and illicit gain.
- Looking back at the survey on corruption conducted by AMAN in 2013, it indicated that 68% of citizens believe that the most widespread types of corruption in Palestine are nepotism, favoritism and cronyism, particularly in offering public services and appointments in all three sectors, public, private and local community sectors. This ratio is nearly identical to the results in the survey AMAN conducted in 2012. The study also showed that 89.7% of those surveyed have used Wasta, nepotism and favoritism to expedite services they needed in any of the three sectors; they also admitted exploiting public resources for personal gain in those sectors.
- In the meantime, a survey conducted by the Palestinian Central Bureau of Statistics showed similar results in the extent to which nepotism and favoritism are prevalent, wherein the percentage of people who believe these crimes are widespread reached 93.3% for the public sector, 86.4% for the private sector, 86.1% for civil society, and 63.3% for local government bodies. This indicates that citizens are still willing to use Wasta or nepotism whenever necessary in spite of their awareness that it is deplorable. One main reason forms of corruption have become so entrenched in people's minds is lack of trust in their government, thus believing any official business they need cannot be expedited without utilizing Wasta and or nepotism.

- The (ACC) believes that mostly higher level employees, officials in municipalities, and heads of departments are implicated in cases of exploitation of position for personal gain. Other employees at various levels are also implicated but at a lesser degree. In fact, the ACC handed down verdicts against six cases in 2013 and 12 verdicts in 2012, noting that 40 cases were recorded in 2013. However, deliberation in cases presented to the court remained rather lengthy because the law in criminal proceedings allows defendants to motion to re-appeal many rulings taken against them in the Appellate Court and the Supreme Court.
- The afore-mentioned data AMAN collected from various sources during the year indicates signs of political corruption in different areas relating to the practices and conduct of many officials in the West Bank as well as officials in the Hamas government in Gaza. For instance, decisions for some cases might have been made in the Administration of Public Affairs based on the interest of one political party or with the intention of eliminating another for political reasons. This was particularly apparent in the area of job appointments within the public sector.
- The ACC registry shows two major types of corruption crimes were investigated; one is related to abuse of power and breach of trust in public positions, and the other is related to money laundering. To a lesser degree, the court also investigated cases of exploitation of authority, nepotism, cronyism, and favoritism, all of which are illegal and unethical practices.
- 44 briefings (files) on corruption cases were presented to the ACC.
- Since its establishment, the ACC dismissed 36 out of 79 submitted; 17 received convictions, two were acquitted, three dismissed for being outside its jurisdiction, and the rest of the cases are still being deliberated.



- In 2013, the ACC received 15 briefings from the Prosecutor. It dismissed 4 of these, ruled for conviction on two, acquitted case file number one, and convicted the accused in case file number four, but with sentence suspended for reporting the crime.

Conclusion

- Little progress was recorded regarding the implementation of integrity and Anti-corruption efforts specified in the national plan mentioned above, in which several parties from all sectors were to participate including CSOs and the ACC.
- The ACC is the coordinator of partners in the plan. It is responsible for reviewing and defining the work and roles of all parties, who also take part in promoting and implementing the plan.
- The ACC needs to take measures to expedite the process of reviewing submitted corruption complaints, and find a way to communicate with whistle blowers to keep them informed of progress regarding their cases in a way that does not jeopardize the investigation. It also needs to implement court principles and procedures as stipulated in the Anti-corruption Law in regard to the various courts, while guaranteeing fair trials.
- Studies conducted by AMAN indicate that the political division resulting in politicization of public positions, particularly in high-ranking posts, has provided opportunities for corruption among influential politicians. In certain cases, officials are recruiting and appointing supporters and eliminating those who oppose them. Appointing supporters based on political and a factional consideration is a form of political corruption i.e., "nepotism", and is against public interest.
- The right to information: many officials are disregarding people's right to access public

records and non-confidential information. They also do not publish conditions and criteria for job appointments and provisions for services, giving unacceptable justifications and excuses when asked. This has also promoted job exploitation, illicit gain, and abuse of power for exchange of mutual personal benefits with others.

- Inactive codes of conduct: the code of conduct is hardly being used or implemented in public positions even though it was ratified by the Cabinet, hence providing fertile grounds for conflict of interest practices. It is also not being used or implemented in the civil and private sectors.
- Lack of commitment to the provisions of the various codes of conduct, particularly those dealing with preventing conflict of interest has given some individuals opportunities to accumulate illicit gains. The most vulnerable area of conflict of interest lies in the trend when individuals change jobs from public positions into the private sector. Or when individuals work in the public sector on projects that are individually funded by donor countries while at the same time receiving his/her regular salary.
- Factionalism undermines the national integrity system: The National Integrity System Study (NIS), conducted by AMAN, in which assessing integrity within political parties and factions is part, revealed reluctance of their leaderships in combating corruption and promoting integrity. Opinion polls on the issue of corruption conducted by AMAN and other organizations also indicated that political parties give priority to factional interests over public interest. And that they do not seriously attempt to prevent misappropriation or waste of public funds.
- The Judiciary undermined the system of accountability: many recommendations to reform the Judiciary sector were submitted

by local groups and supportive international organizations. These recommendations were made to promote good governance and accomplish security and justice. The latest recommendations came from AMAN during its conference of 2012. AMAN urged the President and Prime Minister to focus their attention on repairing the flaws riddling this sector, including the widespread corruption at all levels including lower-level employees. However, these conditions persisted throughout 2013 because there were no real initiatives to alter that situation.. Allowing these unfavorable conditions to persist within the Judiciary with all its branches including Regular, Shari'a, and Military courts – as well as in the Prosecution Office, will only amplify people's perception of the absence of justice and security, especially for those who are powerless. It will also allow for impunity of the corrupt.

- Israel looting Palestinian public funds: impartial data collected by AMAN indicates that Israel continues to loot Palestinian public funds amounting to hundreds of millions of Shekels due to lack of transparency in clarifying/itemizing bills the PA pays. Moreover, Palestinian officials are not taking any serious measures to eliminate this problem even though it has been pointed out to them in many previous reports.
- Local governments need intervention: reports issued by the (SAACB) as well as reports from the ACC state that Postponing holding elections in local communities, the absence of social monitoring and accountability, and the absence of a clear and defined mechanism for holding local officials accountable, the absence of transparency and codes of conduct in different areas of their administrations, have all given rise to corruption in some local bodies hence a special plan to promote transparency is crucial.

- Non-ministerial institutions: accountability for job performance of administrators in most formal and governmental non-ministerial institutions remains unsatisfactory. The process of job appointments remains un-established. There is no clear structure or criteria for selection.
- Furthermore, there is no fair competition for those jobs. Institutions that have financial and administrative independence are still operating without defined regulations or guidelines to address management concerns. These conditions allow administrators to exercise complete control over the institution hence making them susceptible to corruption. In its previously published reports, AMAN listed a number of "Independent" institutions that need attention. The list included, but not limited to, the Civil Aviation Authority, Palestinian Airlines, PEC DAR, the Water Authority, Petroleum Authority and more. This year, AMAN conducted a special study on conditions in industrial zones.
- The fiscal budget of the Security sector needs direction: the budget for the security expenditures, most of which are for salaries, is still being discussed. The concerns are over the justification for the excessive expenses, political affiliation, and transparency in the disbursement of these funds. The official security sector financial statement of 2014 did not present enough details to allow accurate assessment which will allow for recommendations for cuts in wage expenses, for example. In 2013, these expenses amounted to one third of the overall general expenditures. This is expected to rise even higher as the issue of promotions is being re-discussed.
- Exceptions: some officials are granted the power to make unilateral decisions in various areas of public affairs. This constitutes a fundamental breach of the principals of



equity and equal opportunity. These exceptions were exploited in granting promotions for certain people, allowing illegal and unjustifiable insurance coverage for medical treatment outside the country for others. They also allowed granting tenders to favored organizations in breach of the law for general tenders. These exceptions are generally given and used by the President, the Prime Minister, and some ministers.

- Jerusalem first: the PA does not have a clear work plan for Jerusalem and its citizens. It seems to be improvising and making random decisions. This method of operation is at the root of the turmoil over the PA's policies on the issue of Jerusalem and what it requires of the Ministry to do for that matter. In the meantime, many organizations working in the name of the PLO are making scattered efforts without the guidance of a national strategic plan for Jerusalem.
- The Ministry of Awqaf (Islamic endowments) and Religious Affairs is outside the realm of accountability: the Ministry does not submit any periodical reports to the Cabinet regarding the "waqf" estate, or reports on the revenues, profits or investments related to these properties. Furthermore, its bank statements showing revenue from these properties are not audited by the Ministry of Finance.

General Recommendations

- Call on the Prime Minister, Mr. Rami Al-Hamdallah, to officially and publically form a committee to prepare a national Anti-corruption plan composed of representatives of the following: government officials, members of the ACC, the (SAACB) the General Personnel Council, the Ministry of Planning, the Local governments, private Sector, the Coalition for Integrity and Accountability – AMAN, as well as any other individuals from relevant government and

private sector institutions.,

- Call on the Prime Minister to urge the Cabinet's legal department to expedite passing the law governing public procurements. Also for the Cabinet to implement the provisions of article 64 for the same law, which grants the Procurements Council the authority to issue a "black list" that prevents encroachment by corrupt individuals in any official procurement deals.
- The Ministry of Economy should also be asked to suspend trade permits and licenses of any merchant that distributes or stores medicines and medical supplies or consumer products with elapsed expiry dates. In addition, the names of these merchants should be posted on a "black list" to prevent them and any of their family members from obtaining other licenses.
- Call on the Minister of Finance to continue working on reforming the accountability mechanism for clearing bills which Israel has imposed on the PA until an agreement is reached with the PA
- Call on the Cabinet to form a special technical team of people from the Ministry of Health, the Energy Authority, and the Civil Affairs Committee. The team's responsibility would be reviewing all Israeli demands and Palestinian rights, which are the foundation of the clearing bills understanding.
- Call on the Cabinet to prepare a document that specifies conditions and criteria for granting monetary rewards for employees based on the provisions of the Civil Service Law.
- Call on the President of the General Personnel Council to prepare a document specifying regulations governing appointments in high-level positions. The document should include detailed job requirements, job descriptions and responsibilities, as well as rules that allow competition for those positions guaranteeing equal opportunity.

The regulations should also include objection and appeal procedures, and should indicate which parties are required to submit reports to the Council, particularly for district attorneys, governors and heads of non-ministerial governmental institutions.

- Call on the President and Prime Minister to cease making unlawful decisions in all areas of services, appointments and promotions.
- Call on the Prime Minister to issue internal instructions to central administrations, including ministries and governmental non-ministerial institutions regarding submitting detailed reports illustrating the means and methods used to establish internal bureaus of complaints and the implementation of the code of conduct for public positions.
- Call on the Minister of Interior to implement the endorsed code of conduct in all security agencies.
- Call on the President to publish the report and recommendations indicated in the self-evaluation of the state of affairs for integrity and anti-corruption efforts, which was prepared and submitted to the President by the ministerial committee formed in 2012 with presidential decree number 5.
- Call on the Cabinet to prepare a special procedure document for job transfers between the public and private sectors to prevent exploitation of positions for personal interest.
- Call on the Gaza Authority to allow the CEC to oversee local community elections, which have not been held for the past 10 years.
- Call on the President to issue a decree to form a special committee composed of mostly judges and other individuals with integrity, experience, and courage to reform the Judiciary sector.
- Call on the union for Local governments and the Ministry of Local Governments to

begin preparing a plan that would promote integrity and anti-corruption activities among their leaders and their financial and administrative officials.

- Call on the Prime Minister and the Minister of Transportation to close the civil aviation file since it is unreasonable to keep disbursing funds to out-of-work employees.
- Call on the Cabinet to adjust the treasury's budget of "net lending", which last year amounted to 210 million American dollars. This money could instead be paid out to social security and health insurance to benefit the public, and pay fees on behalf of the needy.
- Call on the President to formulate a coherent plan for the roles of the PLO and the PA in Jerusalem. The plan should take into consideration the exceptional political and legal realities deliberated in the Basic Palestinian Law when it designated the City as the capital of the State of Palestine. He also needs to develop an endorsed national plan for Jerusalem that is workable. An exclusive budget for that purpose should be allocated for that purpose. The tasks and roles for all related parties should be well defined. This should include ministries, ministerial and non-ministerial institutions, the Governor of Jerusalem, and the Ministry of Jerusalem Affairs.

Call on the President to develop a unified institutional national reference plan to consolidate and coordinate all efforts, including grassroots efforts, to face the challenges confronting the Holy City and its residents.

Call on the Ministry of Awqaf to submit to the Cabinet comprehensive financial reports detailing all the files it manages; and to include a representative of the (SAACB) as an observing non-voting member in the Tenders Committee for investments of waqf properties.

Call on the President to move financial aid files currently administered by the Minister of Awqaf to the Ministry of Social Welfare.





Introduction

The annual corruption report of 2013 is an extension of the ongoing commitment of the Coalition for Integrity and Accountability – AMAN in perusing corruption and the corrupt. AMAN is fully aware of the aspirations and roles of all concerned, official and non-official groups, with civil society organizations in the forefront, in building a society free of corruption where equality and justice will prevail. It also believes in the imperative need to persist working towards reinforcing the principles of integrity, transparency and accountability in the Palestinian society so that it forms a sturdy shield against corruption.

The report is intended to be a mirror for officials and other concerned parties with the purpose of reform. It tracks the positive and negative changes regarding reform efforts of combating corruption, recording the state of affairs for the various Palestinian sectors regard. The report documents AMAN's perspective of the most prominent procedures and measures to enhance integrity and combat corruption taken by some public administrations and departments managing public funds and affairs or offering services to the public in all sectors.

It is worthy to note that AMAN Coalition (TI-Palestine) is the national chapter for Transparency International. As such, it has taken upon itself the task of preparing the annual corruption report in Palestine for the purpose mentioned above.

This report aims to inform decision-makers, politician, and civil society organizations of the reality of corruption and the battle against it during 2013. the main purpose of the report and its recommendations is to help all parties involved for reform to be more effective hence influencing and changing the national Will to combat corruption among leaders and officials

in the three branches of government – the Legislative, Executive, and Judiciary. AMAN seeks to eventually have these efforts result in legislation, rules, regulations, procedures and measures that would combat and prevent corruption.

Moreover, AMAN targets the public in all its anti-corruption efforts and finds that the report can help in raising public awareness of the negative effects of corruption on the Palestinian society as a whole in all its forms. This includes nepotism, favoritism, illicit gain, and waste of public funds. The report might also promote cooperation among educational media outlets and various religious organizations in spreading the culture of the principles of transparency, values of integrity and the protection of public funds. And finally, the report and its findings is intended to encourage reporting of corruption (whistle blowing) in both the public and private sectors.

Methodology

The methodology adopted in this report is a descriptive and analytical one. It is designed to depict and analyze changes that have occurred on the ground regarding corruption in all its forms throughout the year. AMAN relies on gathered data and facts when preparing the report. One of the main sources used is a special (evidentiary) index developed by AMAN to measure the levels and actual application of integrity, transparency, and accountability in managing public affairs in all branches of government and its institutions.

Related information was gathered through:

Data: this information includes the following methods:

Interviews with individuals in positions of re-

sponsibility: accurate data and information was gathered directly from the source by conducting interviews with tens of individuals in various positions of responsibility, noting that many of them were reluctant to cooperate.

Documented information from public and private institutions: this included review of changes made to legislations, decisions, and public policies; as well as data and records of job performance. Review of financial managements of relevant institutions, noting that some remain markedly unorganized in archiving their records and disseminating information, which delayed the data-gathering process.

Analyzing data and information gathered by opinion polls: analysis of the results of opinion polls conducted in the West Bank, Jerusalem, and the Gaza Strip, which reflected the Palestinian public opinion and perception in that regard, including:

Perceptions of the general public: people surveyed expressed their general belief in the presence and nature of corruption in the various sectors, and its impact on society.

Perceptions of the activists and experts: opinions of experts, insiders in the political, economic, and informational realms, most of whom were participants in last year's work-

shops and panel discussions held by AMAN for the purpose of preparing this report.

Advisory committee: this year, and for the purpose of preparing this report, an advisory committee was formed. The committee consists of eighteen members representing the following fields and sectors: academia, the public and private sectors, civil society, technical legal experts, survey analysts, and anti-corruption activists from the West Bank and Gaza. The committee assisted in the development of the report's methodology and the exchange concerning the personal interviews forms and opinion poll questions. The team also later analyzed the results of the opinion polls and collected data. They also prepared a summary of the chief conclusions and recommendations.

AMAN presented the draft report to the Board of Directors, for feedback. Comments and feedback from the board, and the advisory committee were integrated before the final copy was approved by the board.

Note: AMAN regrets the absence of additional data that could have given an even clearer understanding of some of the challenges that face the fight against corruption in Palestine. This was due to the fact that some data was not officially published, and to some officials who refused to disclose any information.

Acknowledgements

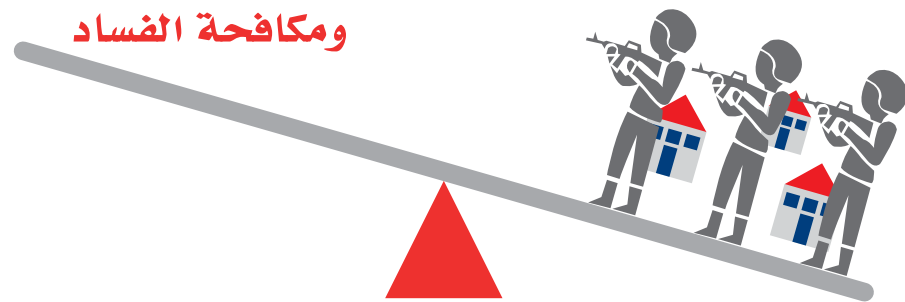
AMAN extends its thanks and gratitude to everyone who contributed to the preparation of this report, including individuals in public and ministerial organizations, supervisory bodies, the judicial and legislative authorities, non-governmental organizations and private sector representatives. Thanks are also due to many experts and specialists who provided valuable advice and information. Much gratitude goes to the Palestinian citizens of the West Bank and the Gaza strip who provided crucial information through interviews or by responding to questionnaires.

Special thanks go to researchers Dr. Ammar Dueik, Dr. Anwar Tawil, and to members of the Advisory Committee, Mr. Tayseer Mohaysan, Dr. Ahmad Abu-Dayyeh, Dr. Abdel-Rahim Taha, Mr. Mustafa Khawaja, Dr. Abdel-Qader Jaradeh, Dr. Firas Milhem, Dr. Mohammad Abbas Abdel-Haq, Dr. Walid Hammami, Mr. Azzam Abul-Saoud, Mr. Samir Hlayleh, Mr. Abdel-Rahman Abu-Arafeh, As well as AMAN's team who worked very diligently to accomplish this report: Dr. Azmi Shuabi, Ms. Ghada Zghayyar, Ms. Abeer Mishleh, Ms. Somoud Barghouthi, Mr. Bilal Barghouthi, Mr. Baker Turkumani, and Mr. Wa'el Balousheh.



Political, social and economic developments and their impact on integrity and anti-corruption efforts

الإحتلال يعيق الإصلاح
ومكافحة الفساد



Israeli Occupation hinders reform, development, and the fight against corruption:

The 47 year old Israeli occupation continues to besiege the Palestinian people, preventing their movement and denying official, private and civil organization the freedom to work. It has also denied Palestinians the right to control their natural and financial resources, obstructed the development of their infrastructure, undermined their work plans and priorities, and exhausted their struggle to battle Israel's racist policies of blockades and hostilities. Israel is also continuing its total siege over the Gaza Strip and enforcing the coercive separation between the West Bank and the Strip, persisting in its judaization of Jerusalem (i.e., making it a State for Jews only), and undermining or closing its institutions. In addition, it has so far confiscated over 60% of Palestinian lands, and continues to equivocate and quibble in the process of negotiations.

The Palestinian internal division allows political corruption and jeopardizes public funds:

The political division between the West Bank and the Gaza Strip is ongoing, and the need for each party to eliminate the other in this struggle for power has undermined the protection of public funds. It also has been an obstacle in the collection of revenue for the public treasury. Moreover, the political events in Egypt, in 2013, have negatively affected internal conditions in Gaza as Hamas was accused of supporting the Islamic Brotherhood in Egypt (President Mursi's party) and inciting against the new leadership. This resulted in the closure of many tunnels, previously used for transporting food and other needs for the citizens of Gaza. The restriction of movement at the Rafah Crossing also compounded the situation. These measures caused serious adversity to the people of Gaza. In the meantime, polarization and restriction on freedom of speech and expression persisted in both the West Bank and the Gaza Strip.



Furthermore, with no presidential elections and the paralysis of the Legislative Council since the division began in June 2007, the foundation for integrity has been undermined, leaving a void in the role of the legislative council of supervision and monitoring of the executive authority. This has also disrupted coordination among the three branches of government, the Legislative, the Executive, and the Judiciary, and suspended the public's participation in legislation and policy-making, which used to be facilitated by the Legislative Council.

Due to the dysfunction the Legislative Council during 2013, the President proceeded to employ article 60 of the Basic Law, which states "The President of the National Authority shall have the right issue a presidential decisions and decrees that have the power of law, only in cases that cannot be postponed and while the Legislative Council is not in session." Some of these decisions were made without public referendum or the opinion of concerned parties, which is serving the interest of a select few over public interest.

In addition, no elections were held for local governments in the Gaza Strip; the election process for a large number of popular factions, unions and guilds, particularly for labor unions, was obstructed; noting that the general Labor Union remains divided. Also, when elections for the Lawyer's Guild in Gaza were postponed,

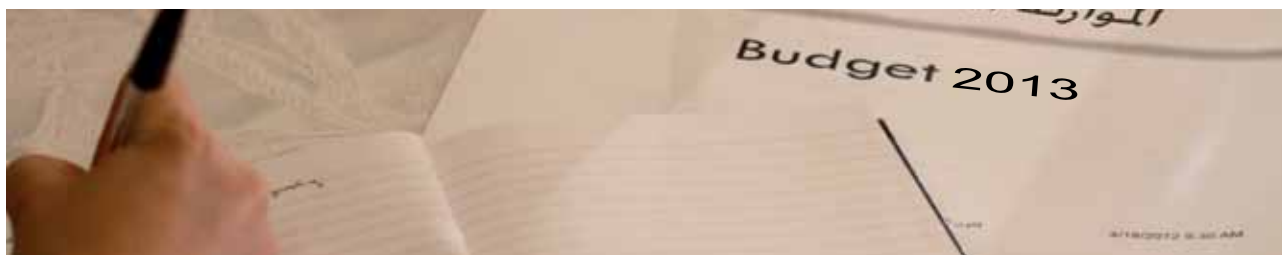
journalists were prevented from entering the Strip, and many individuals were pursued for being activists on social media and websites.

In the meantime, the influence of opposition groups remained ineffective, which has given the President free reign in making unilateral decisions and given him nearly complete control over many aspects of the public administration. In mid 2013, for instance, the President appointed Dr. Rami Al-Hamdallah as Prime Minister following the resignation of Dr. Salam Fayyad. This was due to conflicts between the two over certain policies and reforms. The last conflict was when the Prime Minister accepted the resignation of the Minister of Finance without permission from the President. Add to that the continuous squabbling with different high-ranking officials, which resulted in many labor strikes called by the various unions.

Prime Minister Rami Al-Hamdallah is maintaining the tenor and policies of his predecessors, with few exceptions. Most notable was the appointment of Dr. Shukri Bishara as Minister of Finance, who then announced his intention to revise the tax law and reduce taxes for the high-income segment of society. This intention was raised by Dr. Salam Fayyad when Prime Minister, and which, at the time, angered many in the private sector.

In general, the fiscal deficit remained mostly





constant throughout 2013 because financial grants and aid were not sufficient to cover the shortage. This increased public debt and added to the other financial obligations. The general budget also remained deficient due to the large disparity between expenditures and revenues. In other words, expenses rose at a higher rate than revenues. This was mainly caused by the largest expenditure is on salaries, which cannot be reduced. Moreover, most revenues come from two unreliable sources, the Israeli transfer of Palestinian tax funds and international aid. These central problems have added to the budget deficit, making the budgetary crisis in 2013 the worst for the State of Palestine since 1994.

Some of the consequences of the budget crisis have been: recurring labor strikes in the public sector, including the education and health sectors, and the PA's unpaid debts to the private sector and banks hence slowing down economic growth. At the same time, the Gaza authority headed by Hamas submitted a financial statement to the Legislative Council, that meets as the Hamas party in Gaza (i.e., separate from the Council in the West Bank). The report suggests an unstable and incomplete fiscal budget that does not meet even the lowest and most basic standards for a general budget. For example, it did not delineate revenues and expenditures or the amounts and sources of international financial aid and grants.

There are also indicators of economic slow-down last year, which corresponded with the increase in cost of living; the year 2013 showed

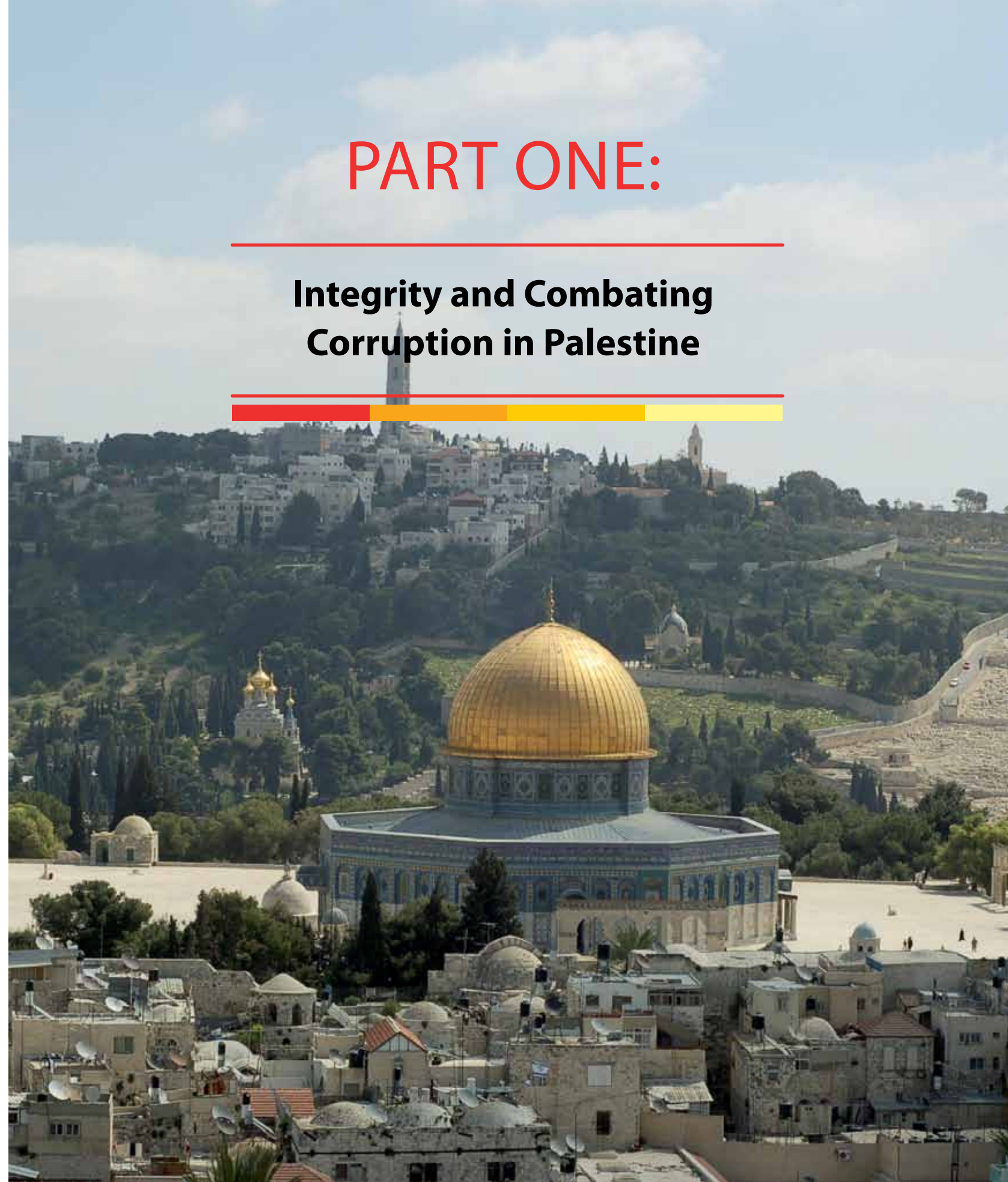
a 5% economic growth, compared to 5.5% in 2012, and 11% between 2010 and 2011¹. Unemployment rates remained rather high at 25% for 2013 and higher among youth; more so for graduates from the Gaza Strip than the West Bank. The rise in unemployment rates and poverty resulted in a rise in requests for social welfare assistance from PA welfare agencies, and hence, a higher disbursement of funds. In fact, the number of families receiving direct transfers of monetary assistance from the Ministry of Social Welfare has risen from 95 thousand families at the end of 2012, to approximately 106 thousand families at the end of 2013.

The ongoing Israeli occupation and its control over the Palestinian economy, life, and movement continue to negatively affect the political and economic conditions in the West Bank and the Gaza Strip. Israel still dominates 60% of West Bank lands labeled by the Israelis as area "C", in addition to having complete control over all aspects of security in the West Bank, including borders, land and sea. These conditions imposed by the Israeli occupation have had adverse effects on the Palestinian economy and undermined internal security and the rule of law, which made it extremely difficult to pursue wanted criminals, especially those accused of corruption and especially those that hold a Jerusalem or Israeli identification card.

¹ See the 2012 report of the Palestinian Monetary Authority <http://www.pma.ps/Portals/1/Users/002/02/2/Publications/English/Annual%20Reports/PMA%20Annual%20Reports/> Also see <http://www.pma.ps/Default.aspx?tabid=344&ArticleID=391&ArtMID=1098&language=ar-EG>

PART ONE:

Integrity and Combating Corruption in Palestine



>> Integrity and Combating Corruption in Palestine

Integrity and Anti-corruption Efforts in the West Bank: progress in 2013

2013 saw some positive changes in the fight against corruption and improvement in the levels of integrity. The ACC continued receiving and keeping financial disclosures of officials as dictated by the Anti-corruption Law. Of those received, some members of the General Prosecution's office were referred for investigation. Also the Civil Service Bureau along with public and civil officials issued a code of conduct for their employees, with approval of the Cabinet. Other developments in 2013 were drafting the law for the right to access information, and initiating reform of the anti-corruption law and the law governing the (SAACB) to make these two laws more compatible with the best international standards and practices.

Additionally, a draft law was also prepared for the General Revenue Commission in order to control tax revenues, limit tax evasion, and end the conflict between administrations of the various public revenues. In addition, the Cabinet made decisions towards completing local community elections, and took several steps to cut back on expenses for ambassadors and ministers, and also to decrease new appointments.

However, even though a procurement council was formed to implement the public procurement law. However, the executive regulations document for the law that would bring about its implementation was not complete, thus delaying its enforcement. This was in spite of AMAN's many recommendations in previous reports to put the law into effect to ensure transparency in public tenders and purchases.

During 2013, AMAN continued to examine and collect data and information regarding the reality of corruption and the battle against it, which are detailed in its 2013 special report. It gathered further data about corruption using the Palestinian integrity index and the public opinion polls. In addition, AMAN examined reports from the ACC and data from the General Prosecution Office to determine the content and nature of cases deliberated in 2013. It also reviewed the (SAACB) reports, reports by AMAN's Advocacy and Legal Advice Center (ALAC), and other reports issued by the Palestinian Central Bureau of Statistics (PCBS), in addition to results and conclusions about Palestine contained in international studies and reports, like the international integrity index issued by the Global Integrity. All this helped AMAN in pin-pointing the challenges confronting the fight against corruption in Palestine.

Preserving public funds, reporting corruption, condemning Wasta, nepotism and favoritism, are values not yet ingrained in the minds of majority of people.

Most prominent corruption cases in 2013

The (SAACB) report of 2013 containing information related to suspected corruption crimes in the public sector, local community councils and civil organizations corresponded with the cases reviewed by the ACC as well as the special studies published by AMAN.

Fifteen cases were presented to the court in 2013, where it was clear that crimes of embezzlement of public funds, abuse of position, illicit gain, and breach of trust persisted throughout the year. The opinion poll on corruption con-

ducted by AMAN that same year revealed that most people believe the most common types of corruption in Palestine are Wasta, nepotism, cronyism, and favoritism in areas of public service and job appointments in all three sectors – public, private, and civil sectors – with %68 of those polled believing this to be the case. That same poll also revealed that 89% of those surveyed have made use of Wasta to get a certain service. These results are similar to the findings in the poll conducted by the (PCBS) in which 93.2% of those polled believed Wasta and favoritism is rampant in the public sector, 86.4% in the private sector, 86.1% in civil society, and 63.3% in local communities. However, even though people are aware that Wasta is deplorable, they are still willing to make use of it whenever necessary. What has made Wasta so rooted in public perception is the loss of trust between citizens and governmental officials, reinforcing their belief that one cannot obtain whatever service one needs without employing nepotism or Wasta.

The (ACC) believes that individuals who are involved in misuse of public position and illicit gain are those in high-ranking positions, municipal officials, and some low-ranking employees. The Corruption Court ruled on 6 cases out of a total of 40 in 2013 compared to 12 in 2012. It is worth noting that deliberation of cases is still a prolonged process, which could be because criminal proceedings law allows defendants in many cases to re-appeal court rulings in the Court of Appeals and the Court Cassation.

The Commission never submitted any annual report until 2013. Prior to that, it only published executive summaries of its reports. However, it submitted full reports to the President of the PA, the Cabinet and the Legislative Council, as stipulated in article 6 of the anti-corruption law. According to the Commission, the report was to be published on its website in 2013, which was never done even though the report does not contain names of those who were suspected, accused, or indicted for corruption crimes.

The ACC also brought attention to the most important developments of 2013, some of which were:

- The ACC received many complaints about suspected corruption from different sources throughout 2013. It reviewed 177 case files carried over from 2012 and 78 case files for 2013, thus completing review of 264 files in 2013. It then referred 10 files to the General Prosecutor, responded to 83 case files, and retained 23, with 148 cases still under deliberation or follow up.
- In 2013, a chief prosecutor and a district attorney were investigated as suspects of committing corruption acts after authorization from the Supreme Judicial Council. This marks the first case where members of the Attorney General's office were investigated for corruption.
- A ministerial committee was formed on 15/5/2012 with a presidential decree for the purpose of self-evaluating the extent to which the UNCAC is being implemented. The committee completed its work and prepared a report in which it specified areas of accomplishments and areas still lacking and need intervention. The report was submitted to the President of the Pal-



estonian Authority in May 2013. However, neither the report nor its executive summary was ever published.

- In the last quarter of 2013, ACC began to work on raising awareness of the various forms of corruption and its underlying dangers to society and informing people on ways to combat it. For that purpose, the committee signed 21 documents of understanding with different governmental and civil organizations².

This is in regards to crimes committed by individuals, but the data and information AMAN gathered in 2012 from different sources reveals several indications of political corruption among many government officials in the West Bank and the government of Hamas in the Gaza Strip. The most common behavior was most apparent in decisions relating to job appointments in public office. The decisions were made in various areas based on the political interest of one party or another, or in order to eliminate a person or another for political reasons.

Some complaints presented to AMAN's ALAC in 2013 were about the lengthy process of investigation and litigation of suspected corruption cases they reported to the ACC. AMAN sees that if these delays persist, the public will lose trust in the ACC and the court. Therefore, the ACC needs to take measures to expedite its review of submitted complaints, and find a way to communicate with and update the people who submitted the complaints. AMAN also recommends that to the ACC enforce rules and legal procedures as stipulated in the Corruption Law in the various courts, while guaranteeing fair trials for all.

² Interview with Prof. Rasha Amarnah, Director of Legal Affairs in the Anti-corruption Committee, October 2012

The phenomenon of impunity

1. Records and reports of the ACC indicate two main types of corruption crimes in public positions were investigated, negligence of duty and breach of public trust. both of these crimes are refer to in the current enforced penal law. It also investigated money laundering, and to a lesser degree, misuse of position and using or accepting Wasta nepotism and favoritism.
2. Suspects in crimes of corruption are able to flee due to the political status of Palestine (under occupation) which renders international agreements inapplicable and the Interpol cannot be utilized to capture these suspects and recover the money they embezzled.
3. There is also difficulty in pursuing (Palestinian) suspects of corruption holding Israeli identification cards because of what the Oslo agreement imposes on the PA in terms of jurisdiction over those who have an Israeli ID.
4. Even though the Anti-corruption Law requires a speedy trial in corruption court, stipulated in article 9, item 1, par.4, and applies to all levels of litigation, in practice, however, Palestinian courts, including corruption court, regard the time frames stipulated in the law as simple guidelines and do not abide by it. In addition, both the Appeal and Cassation courts apply only the broad regulations stipulated in the law for criminal proceedings. This causes even more delays, with cases lasting several months before a ruling is handed down.
5. In 2013, the Supreme Judicial Council ordered the arrest and incarceration of a general prosecutor for 14 days while being investigated for suspected crimes³. This is a

³ <http://www.wafa.ps/arabic/index.php?action=detail&id=161607>

positive development in response time for the Supreme Council. Many censures were directed at the Council in cases where it was slow to lift immunity off some prosecutors suspected of corruption crimes. In that respect, the ACC holds the Judicial Council responsible for the delays in deliberating corruption cases, which has also caused tension among judicial branches. This has contributed to lack of cooperation, as well as obstructing implementation of the rule of law. Moreover, it serves to undermine public trust in the Council's will to pursue the corrupt, allowing them to escape justice.

AMAN calls on the Palestinian government to publish the special self-evaluation report illustrating the extent of implementation of the UNCAC, and asks that it officially join other international agreements.

Corruption Court 2013

The Palestinian Corruption Court was restructured at the beginning of the judicial year in September, 2013. An appropriate location for the court was found within the premises of the Supreme Judicial Council's headquarters in Ramallah. It is worth noting that AMAN had suggested in last year's annual report that a suitable location be provided for the Court.

Many special training workshops were held for judges of the Corruption Court and prosecutors specialized in fighting corruption.

Local government Councils were the most implicated institutions in corruption crimes in 2013: reports from the (SAACB), data from the ACC, and AMAN special report on corrupt public institutions, all indicate that the local government councils were most implicated in corruption in 2013; while civil organizations and embassy employees abroad were less prone to

be implicated in corruption crimes. The most common cases referred to the Prosecutor had to do with suspected employees of local government councils, most of which were cases of embezzlement.

Reporting corruption crimes and the protection of whistle blowers are the corner stone of the fight against corruption.

Information obtained from The AMAN's Advocacy and Legal Advice Center (ALAC) shows that there were some special cases related to misuse of position in the local government councils. Whistle blowers from that sector attribute that to the inability of the members of the councils to oversee the mayor's work therefore, they do not report corruption to the council.

The most common corruption crimes within local councils seem to be Wasta, nepotism, and favoritism, particularly in job appointments, tenders, or lease of councils' property. Other areas of corruption seem to be embezzlement, squandering public funds, and abuse of position.

Protection of public funds and property is a manifestation of patriotism
Public funds, property, financial and natural resources, and public facilities are shared capital for all citizens. They are owned by all members of society, and are there for their benefit. Any assault on public funds and property, whether wasting it, vandalizing it, or using it for personal interest, is a form of corruption.





Integrity and transparency in public institutions:

The Ministry of Education

Student Loan Fund in higher education: who is responsible?

The Student Loan Fund was established in 2001 with a decision issued by the Minister of Higher Education. Until today, the Fund has no legal framework to regulate its operations. Nor does it have a system by which to manage the large amounts of loans it handles. This is evident in the small amounts of loan funds being collected recorded as follows. From 2001 and until 2008, only 365 dollars were recovered of an original 100 million dollars in loans. However, in 2009, the Fund recovered 13 million dollars of 110 million dollars in loan dues⁴.

One positive development in 2013 is the decree issued for a new law (No. 5) concerning the Student Loan Fund, which was endorsed by the President at the end of April, 2013. This law declared the Fund a legal entity and granted it independence in managing its financial affairs. It also contained a provision that the Fund is subject to the supervision and monitoring of the (SAACB)

In 2013 as well, the Fund was assigned the necessary cadre, and was allowed to lease its own headquarters. The Fund also ratified its bylaws which regulates meetings and decision-making processes. It also set its financial and administrative structure and submitted it to the Cabinet for ratification⁵.

The Fund now has a clear and detailed policies and procedures for receiving student grand

applications. It is worthy to note that he application forms do not reveal names and are referred to selection committees, upon receipt, charged with reviewing all applicants' information. Furthermore, social status information of applicants is confirmed electronically by linking with databases at universities. In addition and for further monitoring of the process, there is an audit department was formed in 2011, and an internal auditor was hired who answers to the Fund's Board of Directors.

The Fund approved new loans of 11.30 million dollars in 2013. More than 40% of that went to students in Gaza; the rest was distributed among 43,500 borrowers. This comes to an average of \$300 per loan, of which 3 million dollars were paid back. It is estimated that the Fund will be able to recover \$40 million in 2014 and 2015. This expectation is based on the Cabinet approval of the new regulations which will allow the Fund to use direct deductions from the salaries of 46 thousand employees who had previously borrowed a total of 30 million dollars that are now overdue⁶.

- Although there is a ratified Palestinian law which dictates that the general budget will be the source of revenue for the Fund, the 2013 and 2014 fiscal budget did not provide the Fund with any funds. It is worthy to note that the Cabinet pledged to Allocate 4% of \$40 million, from its annual budget for the Fund.
- The Fund has an estimated 78 million dollars in loans going back to 2007. Approximately, \$38 million of that is undocumented. The Fund is now attempting to document old

4 Interview with Mr. Murad Oubaid, Executive Director of the Student Loan Fund; February 2014

5 Ibid

6 See reference 4

loans, and was able to verify \$18 of the \$38 million undocumented loans.

The Fund issued quarterly and semi-annual reports that were sent to donors. Copies of the reports were also sent to the Cabinet, but were not published publically. It also issued an end-of-year report containing data and statistical information of its revenues and expenditures; the number of approved loans, and financial statement, which was reviewed by an external auditor. However, the Fund's website shows the last annual report published was the one for 2010 and no other since.

Ministry of Transport and Transportation—still not empowered to stop waste of public funds

Some Ministers and their deputies collude against the Cabinet decision to cut back on use of government vehicles



The government decided to ban private use of government vehicles, without firm punitive action against violators.

The Cabinet issued the decision number 1/36/13 on the 23rd of August, 2010 to regulate use of government vehicles aiming to end misuse of these vehicles. The decision was also a money-saving measure for the treasury since it aimed at cutting back on fuel consumption

by putting an end to the practice of giving fuel coupons to government employees who also are reimbursed for transportation..

A plan is needed to collect payments for loans previously borrowed by 46 thousand Fund employees in easy installments.

The above-mentioned decision forbids the use of government vehicles after work hours except for official business, with exceptions for ministers and few high-ranking employees. It also stipulates that all mileage has to be recorded on a special registry/log.. Usage of the car requires obtaining a written permit issued by the supervisor of the applicant/driver. It would indicate the driver's name, his/her place of work, the start and end dates and times the permit would be used (article 4/2).

The decision also ended all lease contracts of vehicles assigned to different governmental departments taking into consideration contract conditions (article 3/2). It also granted the police the right to impound any government vehicle that is in violation of the provisions. The police, on the other hand, are obliged to inform the relevant department of the violation in order that the necessary disciplinary actions would be taken against the violators.

To promote the rationing system, the decision allows employees to purchase the car they are allotted with monthly payments deducted from their salaries. 600 vehicles were sold based on that provision.

Following that decision, the administration in charge of government transportation at the Ministry of Transport, in cooperation with the police, set in motion a number of police patrols to monitor use of governmental vehicles, As a result, many vehicles were impounded; reimbursement for transportation to employees who violated the decision was stopped⁷.

7 Interview with Mr. Mohammad Hallaq, General



However, three years after the decision was issued, specifically in 2013, implementation of the decision's provisions regressed markedly; some main areas of failure are:

- Few ministries and public institutions – like the Ministry of Finance and Ministry of Local Governance – continue to lease official vehicles in breach of article 2/3 of the Cabinet's decision. The Ministry of Transportation states that it has no records or registries of the number of leased vehicles. It claims that the ministries and institutions are not informing it or providing it with copies of leased contracts, Therefore, it cannot estimate the number of these vehicles, but it is certain that some ministries are indeed leasing vehicles for extended periods of time (a year or longer – renewable)⁸.
- In 2013 many employees who had purchased governmental vehicles continued to use ministries and government institutions cars for personal use. .

Defrauding the Cabinet's decision: who is responsible?

- Many employees continued to use government vehicles for personal purposes hence defrauding the Cabinet's decision in various ways. For example, using forged car orders and permits, It appears that the blank permits were given to employees by their supervisors with understanding be filled out when needed.
- Department heads are still allowing their employees to use government vehicles after work hours.
- Some employees are back to receiving reimbursements for transportation expenses and using a government vehicle to commute to work at the same time.

Director of Governmental Transportation, Minister of Transportation; 18/11/2013

8 Ibid

- Remarkably, most violators are heads of departments and high-ranking employees. These violations perpetrated by the civil sector are preventing the enforcement of the decision in the security sector, in which the same kind of violations is rampant among employees and families alike. In both cases it is a major source of waste of public funds.

Failure to enforce the Cabinet's decision: reasons and analysis:

- Many ministers and heads of departments are unwilling to enforce the decision. They and their higher-level personnel are still disbursing government vehicles to directors in these ministries feigning use for field work.
- Loopholes in the 2010 decision allow for misuse in regard to providing clear mechanisms to control the use of government vehicles. Nor did it specify the punitive measures be taken against violators.
- Shortage of finances and personnel at the Ministry in charge to monitor enforcement of the decision.

In conclusion, the Cabinet needs to issue a new decision to form an investigative committee to review and analyze with the aim of identifying those responsible for the failure in order to be held accountable.

The Ministry of Finance and service ministries: no connection-allowing the corrupt to encroach upon public funds

AMAN had written a report in 2011 regarding integrity, transparency, and accountability in the import and licensing of government vehicles. The report reached several conclusions and offered many recommendations to the Ministry of Transportation and the Ministry of

Finance. Conclusions related to the Ministry of Transportation were as follows: transparency is lacking in regard to the accreditation criteria for importers of vehicles (i.e., are not made public); Shortage in human resources in licensing departments hence providing opportunities for corruption due to the inability of vigilant supervision over these employees;. no binding regulations and written procedures; no binding rules to regulate the operation between the two ministries or with the Ministry of Economy. These conditions remained the same throughout 2013.

In its 2012 report, AMAN emphasized the need to electronically link the Ministry of Transportation with the Ministry of Finance, and with the police and the judiciary, but these recommendations were not taken seriously enough.

Furthermore, until the end of 2013, the process of linking traffic violations to obtaining car registration and driving licenses was not completed. Not linking traffic violations with these systems has resulted in waste of public revenue that was supposed to be collected from traffic fines.

It could be said that in 2013 the state of affairs remained the same as it was in previous years, noting, however, that some judges who deliberate traffic cases are becoming more stringent in imposing fines as determined by the traffic police.

Forging documents of imported cars is a corruption crime; wastes public funds and infringes upon consumer rights

In 2013, one major corruption crime was exposed. Hundreds of millions of shekels in customs dues were discovered to be unpaid. Investigations revealed that forging customs documents for imported vehicles was the method used. The ACC has investigated all licensed cars in registration and customs depart-



ments, and is still investigating individuals in the private sector and some employees in the public sector in this case. The (SAACB) issued a preliminary report about forged customs documents for some registered vehicles. The report indicated a serious flaw in the administrative regulations and procedures followed. The first flaw was the absence of an authority to control the operations, in general, of the various departments. The second flaw was the lack of coordination and communication between the Ministry of Transportation and the Customs Department.

The Ministry of Finance regresses: transparency of the general budget; implementation of the law for government procurement and general tenders. Who is responsible?

An old popular proverb: "Unattended money provides an opportunity for the thief to steal"

The cost of procurements for the Palestinian



Authority stands at 10% of the gross national product⁹. Law no. 15 concerning public procurements issued in 2011 was not enacted due to two main reasons: no executive regulations document was drafted, and the procurement committee formed for the purpose was never activated.

It is worthy to note that the law was intended for legislative reform that would promote transparency and equity in granting tenders, particularly for the purchase of supplies, service tenders, and government public works. It also intended to bring all procurement procedures more in line with international measures and best practices.

Developments since law no. 15 was passed:

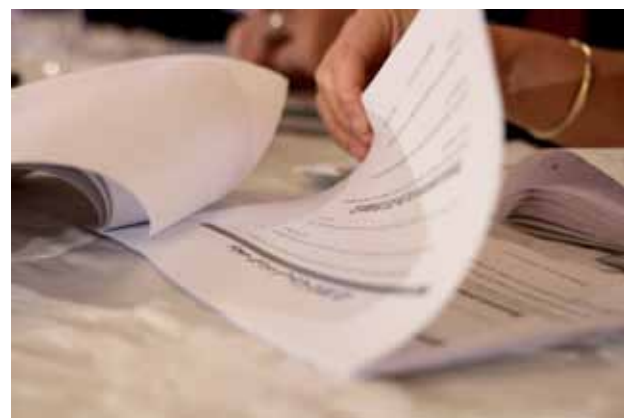
- The General Procurement Bureau contracted an international consultancy firm to prepare standards binding documents (SDB) for all types of tenders. These documents contain various exemplars for all stages of procurement, and are expected to be completed mid-year 2014.
- Preparation of a national procedural guide for procurements is being drafted.
- Structure for the Public Procurement Committee has been prepared and submitted to the Cabinet for ratification.
- No efforts or activities were taken to activate the Committee other than leasing a space for its headquarters and furnishing it, hence the committee has not functioned.
- The Procurement Bureau completed its deliberation of the executive regulations and reached an agreement on the appropriate final phraseology then submitted it to the

⁹ As estimated by the World Bank; see: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/EXTMNAREGTOPGOVERNANCE/0,,contentMDK:22879815~menuPK:497040~pagePK:2865114~piPK:2865167~theSitePK:497024,00.html>

Cabinet for approval¹⁰.

- While preparing the executive regulations, some remarks were made regarding problematic issues in the law related to purchases made in 2011. The Bureau prepared a memorandum addressed to the Cabinet detailing amendments it recommends incorporating in the regulations. Some of these amendments are easing the restrictions placed on submission of complaints and regulating alliances among distributors, in addition to other issues that would improve the law.

Regression in transparency of the general budget



One of the important tools of accountability for government and public representatives managing public funds is submitting the general budget to the Cabinet for approval in due time as required by law. However, due to the dysfunction of the Legislative Council as a result of the political division in 2007, there has been no political supervision over the general budget in the West Bank. Instead, the President has been ratifying it

- In 2013, the budget plan was presented for approval only a few days before the dead-

¹⁰ Interview with Engineer Fa'eq Al-Deek, President of the Supreme Council for Public Procurements; January 2014.

line; the President published it; parliamentary blocs reviewed it and noted their comments.

- To date, the Ministry of Finance has not provided data to the Civil Society Team for transparency of the public budget. The team also noted that the published budget, in many cases, indicated altered figures after a copy of it was presented to the parliamentary blocs for review. The recurring non-disclosure of the budget data has caused the team to stagger in their duties, especially after it has tried time and again to obtain and analyze the data.
- By the end of 2013, the financial statements for the past two fiscal years were still not published, but the one for fiscal year 2010 was published in April, 2013.

Using customs exemptions for personal interest is the most hideous form of corruption

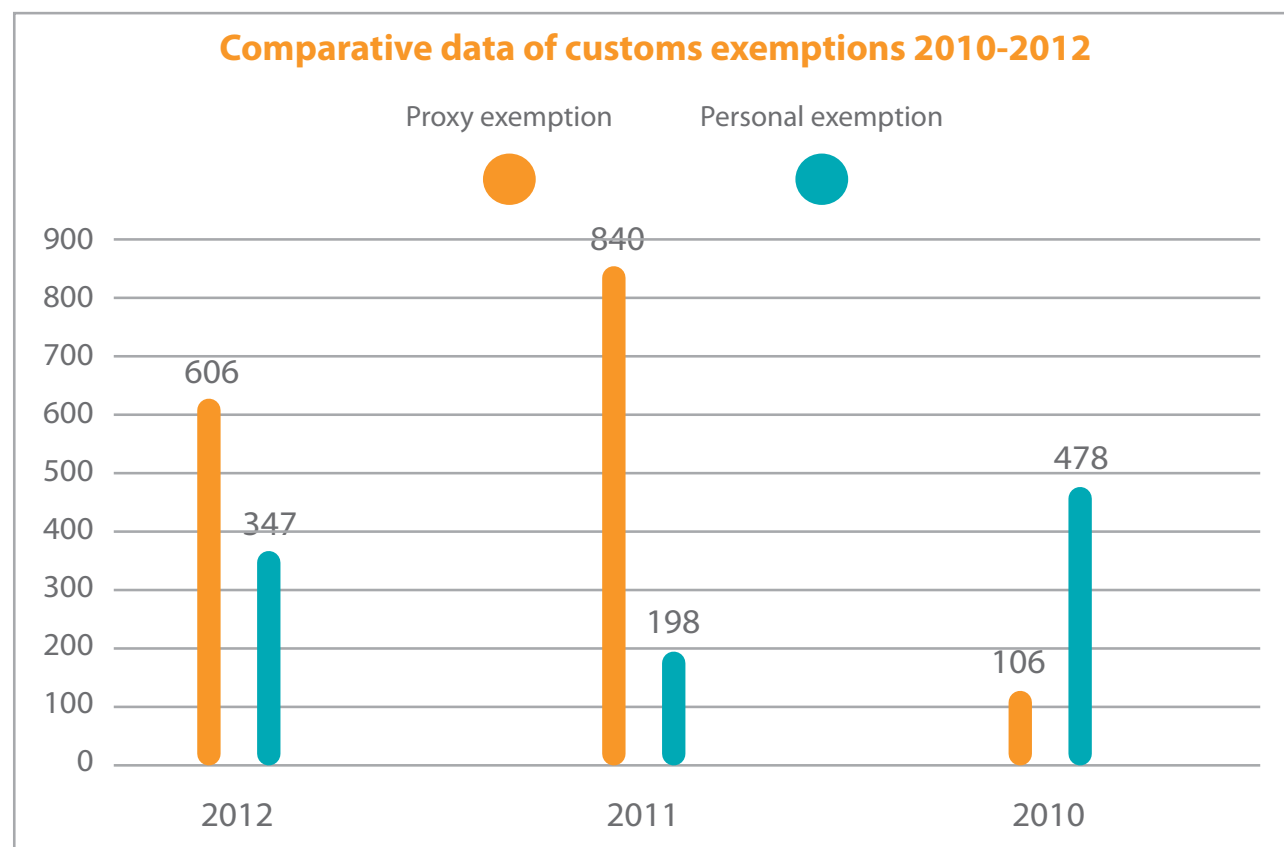


The government sometimes grants customs exceptions for special reasons based on a known public policy aimed at serving the public good, or for humanitarian purposes. For example, it is granted to people with special needs, or to non-profit or charitable institutions.

In view of the importance of this issue and its impact on public funds, AMAN prepared a report based on a special survey to gauge integrity, transparency, and accountability in the area of customs exemptions for those with special needs and charitable organizations. The purpose of this survey was also to verify that the objectives of this policy have been accomplished, and to prevent abuse. The report revealed a wave of exploitation of this noble policy by some car importers and by some family members of disabled persons, as well as few officials in NGOs. AMAN analyzed the reasons for this abuse; some of which were:

- Flawed policies for exemptions provide opportunities for corruption: there are two basic flaws in the Ministry of Finance's policy of exemptions: one is allowing illegal customs exemption to vehicles with engine capacity exceeding 2000cc, and not collecting customs fees on the capacity difference. And the other is that the Ministry of Transportation agrees to register these vehicles based on the Ministry of Finance exceptions. In both cases, privileges are granted to undeserving individuals.
- Lack of supervision and follow up allows for exploitation of this privilege: a problem was discovered in the follow up of cases where customs exemption was granted. The case was of a deceased person where





the exemption remained in effect. Another problem is that the Ministry of Transportation does not adhere to the letter of the law when renewing registrations. Clearly, there is a need for electronic linking between the different ministries for better coordination and control of abuse regarding customs exemption, as in the case of death of the disabled beneficiary. The Ministry should also stop automatically issuing license plates to duty-free cars for the disabled, since they are exempt from inspection by police while on the road.

- Customs Exemptions Committee for the Disabled: administrative, professional, and technical problems for the responsibility of assessing and diagnosing medical conditions of individuals with special needs falls on the district and medical committees.

These committees are not allowed to decide on grant exemptions. However, they in fact overstep their authority by actually giving exemption recommendations. Moreover, It was discovered that these district medical committees often succumb to social pressure. hence employ nepotism and favoritism in their decisions.

- Absence of coordination between ministries has led to abuse of privileges: it was also discovered that the PA's ministries, health, social affairs, transport and transportation, and finance do not have a unified computerized data system that houses the all information on recipients of customs exemptions; individuals with special needs and charitable organizations. Additionally, whatever information available was not published on any of the ministries' web-

sites, which confirms absence of transparency.

A report by AMAN uncovers misuse of customs exemptions for cars designated for use of charitable organizations and individuals with special needs.

This graph shows the wide-spread proxy exemptions, which are granted most often to companies in the private sector that purchase these cars under the name of a person with special needs in return for a small bribe and then used by a non-handicapped person.

Israel loots millions of shekels for medical referrals by way of withholding tax clearing funds it collects on behalf of the PA

The General Director of Procurements of services discovered financial discrepancies after examining the Israeli statement of dues to for the month of March 2013. The discrepancy amounted to 13 million 800 thousand shekels, and an additional 4 million shekels in over- charges.

Israel deducts the PA's debts for medical referrals to Israeli hospitals from tax funds it collects on behalf of the PA, which exceed one billion dollars per year.

The Ministry of Health: referrals of medical treatment are draining the Ministry's budget:

Referrals abroad:

The cost of referrals for medical treatment abroad has become a rather heavy financial burden on the Ministry's budget over the twenty years of the PA's rule in Palestine. Justifications for the referrals vary from needed medical service that is not available in niether governmental medical centers and hospitals or in private hospitals. And at times, it is to pro-

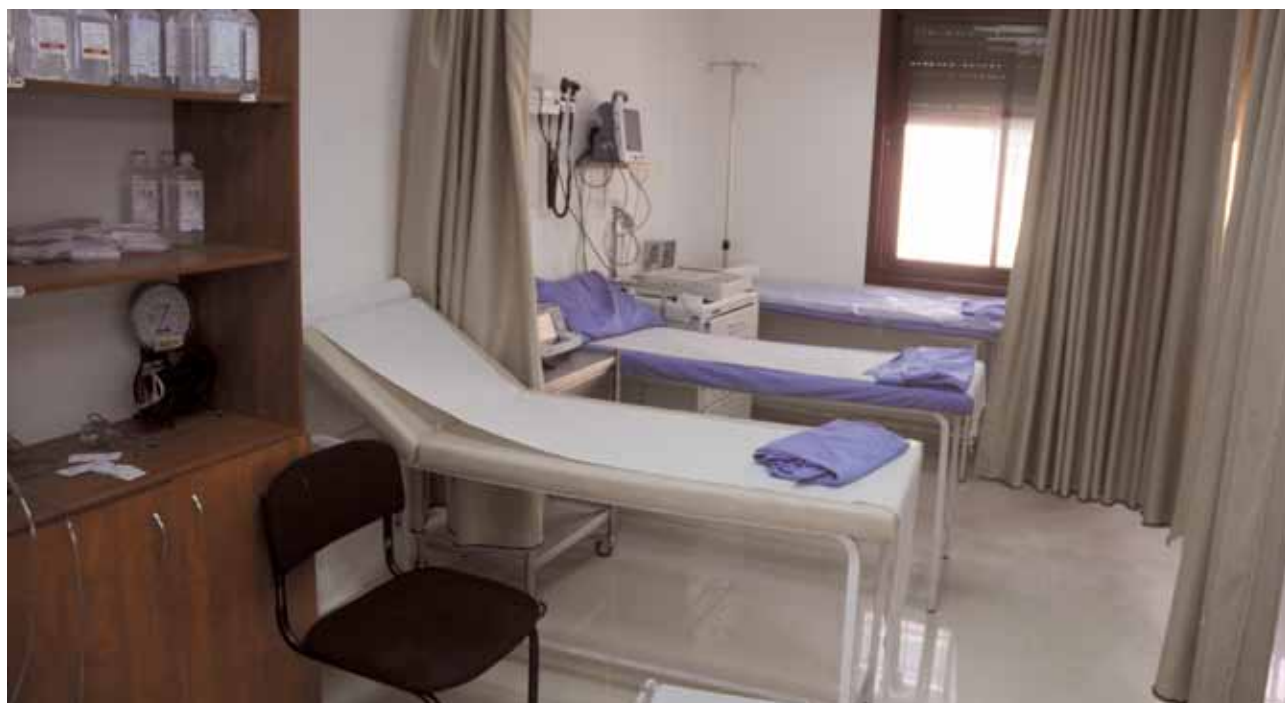
vide citizens with higher quality medical care than available. In spite of the efforts of successive ministers of health to set regulations and instructions for medical services outside the governmental centers, these efforts have failed at controlling the abuse/misuse. Efforts also failed in enforcing transparency of criteria and process of these referrals. As a result, administrators were placed under constant social and other pressure, which led to the increase of Wasta, nepotism and favoritism in referrals. There is also criticism of the administration of medical referrals in and outside the country in the reports of both the Legislative Council and AMAN related to the ongoing nepotism and the squandering of funds, particularly in referrals to Israeli hospitals.

As a result of the absence of proper medical services for insured citizens and the inability of governmental medical institutions to absorb all medical cases, the Ministry of Health transfers people to non-governmental centers in and out of the West Bank and Gaza. Two departments in the Ministry of Health are responsible for referring patients to non-governmental centers. These are: the committees for medical referrals, and the department of medical treatment – department of service procurements.

The Ministry of Health's reports of the past years indicate that over the last three years, including 2013, it has reformed many procedures of medical referrals abroad with the intention of limiting Wasta, nepotism and favoritism prevalent in that area of health services. The reforms were also intended to cut back on expenses and waste of money and to support local medical institutions.

- At the end of 2013, the Ministry of Health established three new referral centers in Nablus, Hebron, and Ramallah. These centers are responsible for examining patients medical reports and recommending the





appropriate place for treatment. The Ministry now also requires that all referrals be based on medical examinations conducted at governmental hospitals; it also put an end to what was known as “intermediaries” that were under the Ministry and Security agencies, who were to a large degree responsible for authorizing undeserving referrals, and some were even implicated in receiving so-called commissions to such extent that all the cases handled by intermediaries were eventually referred to the Anti-corruption Committee.

- The Ministry has also been able to control and cut back on referrals to Israeli hospitals. Instead, it is now referring cases to hospitals in East Jerusalem, or to the civil or private medical sectors in Palestine.

Main concerns in medical referrals

- **First:** The continued absence of a new comprehensive medical system that is backed by a decision to end all exceptions regard-

ing medical referrals has caused great damage to the budget and the health care system and cannot be mended with partial solutions. This is crucial since the number of referred patients is now in the hundreds of thousands and insurance fees for all these cases are not being paid by anyone. This issue has caused a drop in health care standards and hindered the Ministry’s ability to develop effective plans to improve conditions in local hospitals. In addition, huge debts have piled up and are nearly impossible to clear with funds allocated to the Ministry of Health.

- **Second:** Exceptions for very costly referrals are still being decided by the President and the Prime Minister. In fact, there are cases and treatments not covered by government insurance that still get sent outside the country with decisions made by the President of the PA¹¹.

¹¹ Undated report by “Wafa” news agency, <http://www.wafa.info.ps/aprint.aspx?id=3015>

- **Third:** Israel continues to loot Palestinian funds, taking advantage of the absence of transparency in coordination and procedures between the two sides

According to the General Director for Health Service Procurements (DHSP) at the Ministry of Health, the former and current ministers of health have demanded of Israel to return large amounts of money taken unjustly. The current minister also pointed out that “the Ministry has contracted Hebrew-speaking accountants, and is using a reliable financial audit program to revise and verify all the amounts Israel has deducted from clearing bills going back to when the Medical Services Procurement Department was established.”

- **Fourth:** Absence of transparency in medical services referrals in the military: the DHSP in the Ministry of Health is the coordinator between the Palestinian military medical services and the Israeli hospitals; its job is coordination only. It does not have the authority to scrutinize and review the need for those referrals, or if there is an alternative treatment in Palestinian medical centers. Military medical services are bound by an agreement with local and Jordanian hospitals. Hence needed cases are referred to these hospitals directly without the review and or approval of the Medical Committee or the DHSP. Data indicates that the cost of these military referrals to Israeli hospitals is deducted from the Palestinian health budget, which is part of the security agencies’ general budget. It is worthy to note that the security agencies revenues come from insurance fees of subscribers in the Palestinian security institution.



Using intermediaries to obtain medical referrals opens up opportunities for bribes and unlawful commissions.

The Ministry transferred the intermediary’s files to the Anti-corruption Committee.

It is worth noting that all residents of the Gaza Strip, including those who are well-off, receive 100% health insurance coverage from the Ministry of Health. This is based on a Presidential decree issued on 6/6/2007. This, of course, adds to the tremendous financial burden of the medical referrals program.

Then Ministry of Social Affairs (MOSA) – many “shops” handing material aid outside the jurisdiction of the Ministry (the Presidential Committee to Oversee Material Aid)

The (MOSA) is the official party responsible for all welfare assistance for the Palestinian people, and hence is subject to accountability by the government and the Legislative Council.

However, there are several other official institutions that are also providing the same or similar type of assistance hence infringing upon the jurisdiction of (MOSA). These are: the Governor’s



offices, Presidential Office (presidential committee for material aid), and the Zakat Islamic Fund of the Ministry of Awqaf.

It is worthy to note that Mr. Mahmoud Habbash is the head of the latter two committees since he is the Minister of Awqaf, and the former Minister at the (MOSA).

Central developments in 2013

- The Ministry has seen a steady rise in the number of families benefitting from cash transfers. The number of beneficiaries has risen to 106 families who received direct cash deposits in early December 2013, compared to 96 families in the third quarter of that same year¹².
- The Ministry grants different kinds of social assistance through several programs that aim at eradicating poverty. Most important of these programs are the direct cash transfers, crisis assistance programs, and the economic empowerment programs for marginalized disabled persons.
- Cash assistance is an important component of the national program for social security. It provides financial allowances to poor families regularly through cash deposits. This program is supported by the European Union (EU), the World Bank (WB), and funds from the national treasury. Forty million dollars come from the EU, ten million dollars from the WB, and the rest comes from the treasury. This amounts to 55% of the program's budget. Both the EU and the WB have contracted with their own auditing companies that take random samples of families receiving assistance and review their files to verify their qualification for financial assistance.

¹² Interview with Mr. Mohammad Abu-Hmayd, Deputy Minister, Ministry of Social Welfare; 1/12/2013

The WB report of 2012 indicates there were flaws in some reviewed cases¹³.

- There is a fundamental weakness in this program, namely that it relies heavily on field social workers in governorates. There are 12 governorates in the West Bank and 5 in the Gaza Strip. However, there are objective standards and criteria for determining the appropriate amounts of cash assistance. Also social workers have a central role in gathering data and recording information which determines the qualifications of applicants. Therefore, the decision of whether a family qualifies for assistance and the amount received depends on the information provided by the social worker. Although the Ministry does supervise these social workers, there is still a need for improving their efficiency by developing a code of conduct exclusively for them.

50% of total loans granted for small business projects to empower the disabled have not been paid.

- The economic empowerment program for marginalized individuals with special needs: the program is funded by grants and small and medium loans (5 – 10 million dollars) from the Arab Emirates. The grants are exclusively for individuals with special needs that are capable of operating small business projects to support themselves. The number of beneficiaries of this program in the West Bank is 556 families. Around 2 million dollars in loans were dispensed for this program since its establishment in 2010. But records at the (MOSA) indicate that 50% of these loans are delinquent hence affecting the program's ability to grant loans to new beneficiaries. They

¹³ See footnote 12



also are undermining the basic purpose of the program, which is recirculation of the loans. to assist more people. This problem could be rectified with a thorough revision of the mechanisms and procedures for selecting beneficiaries and reforming the lending process to guarantee re-payment of the loans.

The Ministry of Social Affairs has the experience and the administrative capabilities as well as the necessary procedures and mechanisms to efficiently run its social welfare programs.

The Presidential Committee for In-kind-assistance Material Aid.

Ministry of Social Affairs: Absence of transparency; overlap of functions with no accountability

This committee was formed by the presidential decision no. 283 of 2007. The committee is headed by Dr. Mohammad Habbash in his capacity as the Minister of Social Affairs at the time. Following his appointment as Minister of Awqaf, the committee was restructured based on decision no. 100 of 2009. Dr. Habbash remained its chairman with no official capacity. Also no other representative was appointed from the President's Office, the Ministry of Social Welfare, the Ministry of Health, or any other group and institutions that should be represented in the committee.

The committee facilitates the entry of material



supplies into the Palestinian territory and oversees their distribution to the needy in the West Bank and the Gaza Strip. However, the reasons for forming this committee are not clear considering that the Ministry of Social Affairs is responsible for overseeing and administering social assistance.

Main problematic issues observed in 2013

- The committee does not:
- hold periodic meetings
- have operational procedures to regulate the decision-making process
- have rules or instructions to control the distribution of aid.
- publish reports about its operation, but instead, publishes occasional news reports when material aid is received or when it distributes sacrificial offerings or school bags.
- have defined criteria and mechanism for its distribution of aid. Nor does the committee know the quantities of aid received.
- Some committee members indicated that no meetings were convened in 2013. The Director of the committee maintained that it does not meet periodically, but meets only whenever necessary. He added that members of the committee are all volunteers, and that the committee does not have an administrative team, but instead, relies on volunteers from the President's Office¹⁴.

The Palestinian Water Authority: – who would ring the bell for reform?



- The Palestinian Water Council was formed by law no. 3 in 2002. It is headed by the President of the PA, and includes member representatives from the Ministry of Agriculture, Ministry of Finance, Ministry of Local Communities, Ministry of Health, Ministry of Planning and International Cooperation, the Director of Environmental Authority, the Director of the Water Authority, a representative of the President of the Union of Local Governments, and a representative of organizations and water unions. The council is in charge of overseeing the work of the Water Authority, including ratifying general policies, approving tariffs, endorsing its fiscal budget, and reviewing its periodic reports regarding its activities and workflow. However, the council is not convening meetings as required by its regulating law mentioned above, hence, administration of the Water Authority is operating without supervision. In view of that, it is unclear as to how the Authority's administrators are held accountable.
- No serious steps were taken towards implementing the reform plan for the Water Authority other than what was already accomplished in the preparation of the new draft water law, which, until the end of 2013, had not been ratified¹⁵. It is also worth not-

ing that the Water sector reform plan has not been ratified by the Palestinian Water Council or the Cabinet.

- There was no transparency or clarity in the decision regarding the participation of the Water Authority in regional water projects. Also names of officials who approved the memorandum of understanding for the Bahrain Canal project, which was signed by Jordan, Palestine and Israel in December 2013, were not declared.
- Pointed out in AMAN's 2012 report, conflict of interest still exists in the Water Authority..
- The Water Authority designs, implements, and oversees through its Project Management Unit (PMU). This creates an environment rife with conflict of interest, undermines transparency, and gives opportunities for corruption. The reform plan for the water sector points out the issue of conflict of interest, particularly in the operation the PMU, and recommends substantial reform, but this was never implemented.
- The memorandum of understanding signed by the President on behalf of the PA with Jordan and Israel in December 2013 was never published. This memorandum is a preliminary agreement for a project to build a water desalination plant in Aqaba, Jordan. According to media reports, this would be the initial phase of the Bahrain Canal project that will connect the Red Sea with the Dead Sea¹⁶. In spite of the legal and strategic impor-

Director of the Palestinian Hydrology Group for the development of water resources and the environment, and member of the Water Council; 26/12/2013

¹⁶ See for example the press release published on the World Bank website <http://www.albankaldawli.org/ar/news/press-release/2013/12/09/senior-israel-jordanian-palestinian-representatives-water-sharing-agreement>

tance of this agreement, outside its environmental and political impact, it still was not published on the Water Authority's website or any official PA website. And it was not submitted for review and approval to either the Water Council or the Legislative Council.

- An official water tariff has yet to be put into practice. Rather, it is being estimated by some local officials, which means the discrepancies and inequity in water prices in Palestine will persist.
- Constructing regional waterworks centers has also not been initiated for two reasons. Such systems have not been ratified, and resistance of some local community councils to the idea.
- A customer complaints department for this sector has not been established. In the meantime, the President's Office is taking in consumer complaints, which are then turned over to whatever department they see fit. This is in contravention of related law no. 6 of 2009, which impels every ministry or government institution to establish a unit to handle public complaints.

The Water Authority is operating without transparency or accountability, in spite of the important and sensitive nature of the files that it manages.

- The first phase of the reform program for the water sector has been frozen without justification¹⁷. It included several procedures to reform internal governance.
- To date, the amended water law of 2002 has not been ratified even though its final draft has been completed and submitted for approval.

¹⁴ Interview with Dr. Mohammad Al-Habbash, Director of the Presidential Committee for Material Aid; February, 2014

¹⁵ Interview with Dr. Abdel-Rahman Tamimi, General

¹⁷ Ibid



Conditions have remained the same since 2012, with no substantial progress in 2013. The Water Council is not holding meetings; no new steps towards implementing the reform program are being taken; conflict of interest continues unabated in some departments of the Water Authority; and a complaints unit/ department was never established.

Although a significant joint regional agreement was signed by Jordan, Israel, and the PA for a plan to build a water desalination plant in Aqaba, the details and content of were never published or submitted to the Palestinian Cabinet for ratification.

The state of affairs in public non-ministerial institutions – weak transparency and ineffective accountability (the Industrial Cities Committee – free industrial zones)

For the last few years, AMAN repeatedly pointed out the absence of transparency and accountability in public non-ministerial institutions in many of its reports. Each year, it selects a number of those institutions as samples for its annual report. In order to clarify the misinterpretation of the concept of financial and administrative independence, and to point out the apparent mismanagement in some of their administrations, aiming at reform. In many of these institutions, the reports indicated, all decisions are made by one person, the head of the institution, and are not accountable to anyone. This provided a fertile environment for corruption.

For the 2013 report, AMAN has selected the Industrial Cities Committee.

The purpose of building industrial cities and free zones is to raise the gross national product

and individual income and to encourage exports and build an integral industrial infrastructure that could be developed as needed. These zones would also help control and manage environmental pollution, reduce production cost, encourage competition, and draw external investments, particularly from Palestinian capital in the Diaspora, in addition to employing large numbers of Palestinian laborers¹⁸.

Because the industrial sector is crucial to the economy and has powerful effects on the Palestinian society, AMAN prepared a special report the Committee in 2013. The report aimed to diagnose the conditions of integrity and transparency in its operation, and to identify the challenges that might undermine its immunity to corruption.

Governance of the Committee for Industrial Cities: Analysis of the environment of integrity, transparency and accountability:

- The Committee has no financial and administrative regulations that take into consideration its authorized financial and administrative independence. It is therefore impossible to implement the provisions of the civil service law or its bylaws; or to effectively employ the financial system of the Ministry of Finance.
- The law for regulating the Committee has been issued 20 years ago. Yet, to this day, the Committee is still operating without regulations or bylaws. This has given room for a wide range of interpretations of the law's provisions and implementation, which confirms AMAN's remarks in the 2012 report. It seems some officials are oblivious to the necessity of enacting the law, or are ignoring it, or they simply refuse to confine themselves and their decisions to the letter

¹⁸ Center for Development of the Private Sector; report: "The Committee for Industrial Cities, interim evaluation", 2010; p2



- of the law.
- There are no written criteria for selecting the Committee's general director, which left the position open for corruption practices such as Wasta and nepotism.
- There is no code of conduct for the Committee's employees or any rules and procedures to control receiving gifts or avoid conflict of interest.
- There is no transparency in the Committee's information exchange..It has no website, for instance, where it would post its mission and duties and other essential information for those who are interested in dealing with it.
- The Committee does not have a complaint unit to receive people's complaints.
- It did not publish reports concerning decisions made by the board of directors or information about contract agreements it

made for developing the industrial zones, which should have been ratified as required by law.

The PA does not have set conditions and standards for selection in high-level positions. It also does not adhere to the rules of equity, equal job opportunity and fair competition. It is also not held accountable by any official or non official body that would ensure it respects these principles and standards.



The Private Sector Governance Committee—still emerging (Capital Market Authority)



Central developments and challenges in 2013

- The Capital Market Committee continued to raise awareness of the provisions of the code of corporate governance in the private sector. The code was developed by the National Committee for Corporate Governance¹⁹ with participation of the Palestinian Monetary Fund, which had previously developed the corporate governance code for Palestinian banks.
- Of the 113 corporations in Palestine, 49 are listed in the local stock exchange. Although it is mandatory for corporations to register in the stock exchange, many of them remain unregistered. The reasons being either they have not fulfilled the conditions for qualification, or it is for financial reasons²⁰.
- In 2013, the Capital Market Committee completed development of a system to

¹⁹ Composed of: the Capital Market Committee, the Palestinian Monetary Fund, the Corporate Controller, the Palestinian Securities Exchange, the President of the Private Sector Coordinating Council and the secretaries of the Council, the Association of Banks, the Federation of Insurance Companies, the Association of Certified Auditors, the Lawyers Guild, the Coalition for Integrity and Accountability – AMAN, and two academics selected by the President of the Committee.

²⁰ The Capital Market Committee, “Main Features of Public Share-holding Companies Listed in the Palestinian Stock Exchange”; link: http://www.hawkama.ps/Researches_And_Pubs/Main_features_of_corporate_governance.pdf

measure compliance with the Code of Corporate governance, assisted by AMAN and the International Finance Corporation (IFC). The system is based on quantitative objective criteria in accordance with international rules and best practices. The system is expected to be implemented during 2014.

- Some corporations went too far in disclosing names of shareholders and the sum of their shares as well as what shares their spouses and children hold in these companies. Others disclosed the amount of bonuses received from their Board of Directors. There were also few corporations that published information about activities related to social responsibility; and some who are registered in the stock exchange have begun to reveal in their reports about their internal governance.
- There are many corporations that do not publish their bylaws on their web sites, and do not publish details of their franchise agreements with the PA.
- Some corporations continue to combine the position of general director of the company with the president’s position or a member of its board (i.e., the same person would occupy more than one position at the same time).
- Some corporations that are registered in the stock exchange either do not have an electronic website or have an inactive one.
- Boards of directors in many corporations operating public facilities have still not adopted a binding system that prevents conflict of interest.
- Some members of boards of directors in public share-holding companies are also board members in more than three companies, whereas three is the maximum allowed by corporate law of 1964. A report issued by the Capital Market Committee in-



dicates that some board members are also members in four or five other public share-holding corporations²¹.

- In general, most public share-holding companies are not adhering to the Code of Corporate Governance, or are slow in implementing it, which calls for greater efforts to impel them to do so²².

²¹ See previous reference

²² Interview with Mr. Mohammad Khalifeh, Palestinian Governance Institute, January 2013.





Accountability systems illustrate continued deterioration

The role of the Legislative Council is non-existent; government takes unilateral decisions; and the President expands his powers.

Due to the dysfunction of the Legislative Council since the political split in mid 2006, the parliamentary blocs (factions) in the West Bank agreed in 2008, on an alternative method for work. It was basically a mechanism that requires forming one committee composed of all factions and parliamentary blocs, except the Reform and Change Bloc (Hamas) which refused to participate. Out of that committee other subsidiary committees, representing various sectors and or issues, emerged. These are: Social Affairs and Services, Finance and Economy, Prisoners of war, Jerusalem and Land, and Internal Security.

The Legislative Council has been working in that way during 2013, but to a lesser extent now than the earlier years. In particular, it was more so concerning the legislations issued by the President in 2013 and his accountability for these decisions, as required by article 43 of the Palestinian Basic Law. In the Gaza Strip, the Reform and Change Bloc (Hamas) continues meeting because it has lawful quorum with proxies from absent members.

The dissolution of the Legislative Council in 2013 gave the President more power over the three branches of government.

The work of the Council in Gaza has been limited to political support of the government in Gaza approving legislations that consecrates and promotes the authority of the Hamas gov-



ernment. It seldom convened meetings dealing with transparency that brought about accountability for ministers, and or reverted to ratifying decisions with a majority vote, especially legislations, and the fiscal budget submitted by the present Gaza government.

In the West Bank, following the formation of a new government headed by Dr. Rami Al-Hamdallah, the President assumed the power to give it the vote of confidence. Such vote is usually granted by the Legislative Council. He also ratified the fiscal budget of 2013 in place of the Council. Clearly, 2013 has witnessed collusion among political powers and factions in order to carry on with political business noticeably without political accountability for the government, ordinarily the duty of the Legislative Council. It is worth noting that the President

is the head of the Executive Authority and has taking over the powers of the Legislative Council, in addition to being the reference for the Judiciary Authority.

Presidential Decrees Issued in 2013

The Minister of Finance, Shukri Bishara, promises to re-disburse monetary allocations for offices of MPs!!

This method of issuing decrees without accountability, with the exception of few, undermines societal participation in formulating laws, especially that the Palestinian President does not use a firm and clear mechanism in ratifying decisions and laws. Some decrees issued by the President came after extensive consultations and discussions, but some were made unilaterally and without even the basic minimum of political or societal referendums.

Members of the Legislative Council of the Reform and Change Bloc met separately in Gaza without participation of other blocs or members of parliament (MPs) from the West Bank. The party's justification is that these sessions are lawful and meet constitutional conditions. Therefore, this Council can exercise all powers and authorities granted to the Legislative Council, including ratifying bills and accountability for the deposed government in Gaza. Based on these justifications, the Reform and Change Bloc issued several law decisions in 2013. These laws are being implemented by the Judiciary Authority and executed by the Executive Authority in Gaza. The laws represent the ideologies of one single party and do not take into consideration other views and political or societal directions, which will in entrench the division and deepen the legislative differences between the West Bank and Gaza.

Furthermore, bonuses and monetary rewards are still being disbursed to MPs (members of parliament). The Minister of Finance, Mr. Shukri

Bishara, promised the MPs to pay them retroactively the allocations for office expenses beginning date when the Council seized operating. This amounts to 8 thousand shekels per month for each office. In addition, special bonuses amounting to \$3000 per MP would also be paid, including MPs who have left the country. Mr. Bishara also promised to reactivate the structure for new appointments and to move authority over the General Personnel Council to the Legislative Council!

The absence of the role the Legislative Council in accountability undermines the effectiveness of the (SAACB) reports.

State Audit and Administrative Control Bureau (SAACB): no bite

The (SAACB) prepared 103 audit reports in 2013 compared to 123 reports in 2012. The 2013 reports are sorted by sector as shown below:

Sector	Number of reports - 2013
Civil and Security governance	17
Local government	23
Services	27
Infrastructure	11
Non-governmental organizations	14
Economics	11
Total	103

18 of these reports were sent to the ACC, as opposed to 43 sent in 2012. It is not known how many of these referred reports were actually reviewed to verify issues of corruption. In 2013, the Bureau also audited some security agencies and prepared two audit reports of their



findings²³.

(SAACB): positive developments in 2013

- The Bureau showed more interest in building capacity of its employees. It also showed signs of improving its management system (policies and procedures). In AMAN's reports of the past two years recommended capacity building for employees and raising their professional capabilities in order to enhance their skills in detecting waste of public funds behaviors in other institutions. Several training workshops were held for that purpose, with support from various funders.
- The Bureau adopted an updated method for financial auditing procedures, and is using the standards of the International Organization of Supreme Audit Institutions (INTOSAI) for its reports. The Bureau is also currently working on a draft amendment law for financial and administrative audit more in line with international standards.

In 2013, the Bureau increased the number of reports it issued as well as supplements for the reports about various reviews and audits it had conducted. The most important of which were the reports about local government bodies and civil organizations.

Major Challenges

The (SAACB) continued to face many problems and challenges during 2013, most of which were named in AMAN's reports of the past three years, and can be summarized as follows:

- The continued paralysis of the PLC has deprived the Bureau of its crucial power for political supervision and accountability over many official institutions and reporting and making recommendations on their

23 Interview with Mr. Jaffal Jaffal, General Director of Legal Affairs in the Bureau of Financial and Administrative Audit; 19/11/2013

state of affairs.

- Some officials in ministerial and non-ministerial institutions as well as local government bodies remain uncooperative with the Bureau. Neither do they respond to its recommendations for reform. They also do not report suspected cases of administrative and or financial misuse; a contravention of the provisions of article 35 of the Bureau's law²⁴. Furthermore, in 2013, the Supreme Judicial Council referred some civil service employees to the prosecutor's office for investigation of financial violations and suspected corruption. However, the Supreme Council did not inform the ACC of the nature of the suspicions or violations, which would have helped all concerned parties in their anti-corruption endeavors. The ACC has previously complained about several cases it received from various officials with little information on the nature of these violations.

A few official ministerial and non-ministerial institutions do not cooperate with the Bureau or heed its recommendations.

Palestinian Anti-corruption Commission

Financial disclosure statements of officials: Meeting the objective of preventing corruption?

The ACC continued to receive financial disclosures from administrators of institutions as required by the anti-corruption law. Due to the large number of employees and administrators in each sector, the ACC collected the disclosures in several stages and for different ranks in each sector. In 2013, for instance, it received

24 Interview with Mr. Jaffal Jaffal, General Director of Legal Affairs in the Bureau of Financial and Administrative Audit; 19/11/2013

and recorded 7250 financial disclosures from officers in the various security agencies, and 3600 disclosures from members of the local government bodies elected in 2012²⁵. It also completed collecting financial disclosure from ambassadors and employees of different embassies. It is worth noting that in 2013, the ACC was compelled to review and report on three financial disclosures in its possession. and five cases in possession of the Supreme Court.

The Palestinian Prime Minister receives draft law for the right to access information During his visit to the ACC on 23/12/2013, Prime Minister Rami Al-Hamdallah was handed the draft law for the right to access information for his ratification and adoption, which will help facilitate the work of the ACC. The Cabinet then publicized the draft law to allow related parties to provide feedback.

In addition, the ACC, in cooperation with the Ministry of Interior, began registering names of members of boards of directors of NGOs in preparation for requesting financial disclosures.

25 Interview with Counselor Rasha Amareh, Director of Legal Affairs in the Anti-corruption Committee; October 2013

Corruption Court fines and sentences Rashid Abu-Shubbak to prison

Corruption Court convicted Rashid Ali Abu-Shubbak, who was General Director of Internal Security in Gaza. He held the position of director until his dismissal in 2007. He was also the head of Preventative Security in Gaza until his 2002. Mr.Abu-Shubbak was sentenced to 15 years in prison with provisional hard labor, and fined 930,496 US dollars, which is the sum of the embezzled funds, after he was found guilty of corruption crimes of embezzlement and unlawful gain.

The Court's decision was issued in absentia as Shabbak is currently residing in New Cairo, Egypt.

The ACC reviewed and examined financial disclosures for 8 officials suspected of corruption.

Recovering stolen public funds: the ACC was able to recover 60 million dollars in 2013, 40 million of which were seized abroad (in Egypt) as PA funds and managed by an individual convicted for corruption. The funds were recovered with help from the Egyptian Court which decided the funds had to be returned²⁶. Twenty million dollars were also recovered with the cooperation of the government of Iraq²⁷ from an individual investing the funds for the Palestine Liberation Organization. Thus, the total sum of money recovered by the ACC, from individuals outside Palestine who were convicted or accused of corruption, was 70 million dollars 10 million of which was recovered by the ACC last year.

Revision of legislations

26 See the news report published by the official news agency Wafa: <http://www.wafa.ps/arabic/index.php?action=detail&id=160509>

27 <http://www.alhayat-j.com/newsite/details.php?opt=2&id=215136&cid=3063>



The ACC along with the General Secretariat of the Cabinet, and in cooperation with civil society organizations (SCOs), jointly prepared the draft the "Access to Information Law". This constituted part of the legislative package regarding fighting corruption. It also comes as a reinforcement of preventative measures against corruption bringing Palestinian legislations more in compliance with standards of the UN-CAC.

The Judicial Authority: relapse in monitoring role and weakness in accountability system



The Judicial Authority law of 2002 and the Regular Court law of 2001 give power to the Judicial Higher Council in management of the Regular Court. The Council is the primary reference for regular courts and has full and unilateral sovereignty over the the judicial apparatus on all levels and over all judges and employees. It also is responsible for overseeing the imple-

mentation of the judiciary budget.

The Council can also transfer judges internally or remove them from judicial posts or appoint them to administrative positions within the judicial institutions. Moreover, it has the authority to recommend to the President the appointment of new judges or promoting others.

The judicial Apparatus: In spite of extensive powers, in 2013, the following flaws were observed:

- the Judicial Higher Council lacks clear and detailed mechanisms for insuring transparency and accountability at all levels of its work (policy and decision making and implementation),.
- There are no regulations to impel the Council to publish all its decisions or a summary of decisions taken at meetings. Although some decisions are posted on its website, those are particularly related to promotions or transfer of judges or restructuring of certain courts.
- There are no clear standards for the process of selecting and appointing the Chief Justice.
- The Supreme Court judges are not subject to judicial inspection. Their work is overseen by the Chief Justice, but there are no rules that control the mechanism of their supervision.
- The Judicial law grants the President of the PA the authority to make judicial appointments and promote judges with recommendation from the Supreme Council. However, the law does not have specified criteria that would control these appointments, which gives the Executive Authority the ability to interfere with judiciary affairs by either approving or denying (vetoing) its appointments or hindering it without justification.

Judicial Inspection – positive developments; fragile independence and powers

The Judicial Inspection Department is responsible for periodic impromptu inspections of the work of departments and judges at all levels of Regular Courts, except judges of the Supreme Court.

Eighty eight complaints were submitted to the Judicial Inspection Department by the end of November 2012. The Department looked into 80 of them. Many complaints were about the slow judicial processes and delays. And a large number of complaints were related to court decisions and rulings, which were directed to the Appeals Court as required by the law of appeal²⁸.

Based on complaints received, the Judicial Inspection Department recommended measures to be taken against some employees. It also expanded the range of judicial inspection to include investigations regarding visits of judges' delegations sent abroad, as well as criteria for selecting those granted participation privileges in training sessions or courses inside and outside the country.

The Department sent a formal memo to the Judicial Higher Council asking it to amend its own bylaw of 2006 to include: the right to inspect affiliates of the Public Prosecution's office; allow the summoning of judges directly to appear before it without permission of the Chief Justice; to include an assistant prosecutor as member in the Judicial Inspections Department; demanded that any decisions or measures it recommends become binding and subject to immediate implementation.

28 Interview with Judge Bassam Hijjawi, the Department of Judicial Inspection; November 2013.

The Judicial Inspection Department: Major Challenges faced in 2103

- The Judicial Higher Council is not bound by recommendations made by the Judicial Inspection Department. The Council may or may not agree with these recommendations.
- The Department has four inspection judges plus a director. This number of officials is not enough to cover inspection of all courts and carry out the necessary number of visits. Furthermore if the Prosecution Offices are added to its duties, it will not be able to properly fulfill its task given the current number of inspectors.
- The Department is short on staff and material support needed for its operation. For instance, the Department is not allocated a vehicle.
- The Judicial Higher Council has previously issued law no. 3 of 2006 regarding the code of conduct for judges, which at the time was considered a positive step towards enhancing integrity in the judicial system. The code of conduct contains provisions that allow more independence for the judiciary and prevents conflict of interest. It also guarantees proper litigation, efficiency, capacity and ability of judges. The Judicial Inspection Department is responsible for following up on the judges' implementation of the code. However, training was conducted regularly. for the judges. on the implementation of its provisions.

Infractions by the Judicial Council in nominating judges: waste of public funds

Article 35 of the Regular Court formation law states that the Judicial Higher Council can occasionally nominate a judge in a higher or lower court for a period that does not exceed six months, which can be extended for one more



term only. The Council, however, is overstepping its authority by appointing some judges for more than a year. The Court of Cassation ruled the appointment of judges for more than one year unlawful, as specified in Cassation law no.839 of 2011, which prohibits such long-term nominations. The Cassation Court decided to rescind many rulings and decisions made by judges who have exceeded the legal limit of service.

However, rescinding rulings and decisions caused much chaos in the courts and problems for citizens who had to go through a new trial. It also caused great damage to litigants and the waste of thousands of work hours for lawyers and judges. This resulted in negative effects on the stability of the judicial system, undermined the people's trust in the Judiciary, and exhausted the national treasury.

The Military Justice: in need of revising its statutes

The Military Justice is responsible for prosecuting military recruits who break the law. It is headed by the Military Justice Commission and subject to the Military Prosecutor. The Military Prosecutor and courts employ the revolutionary code of criminal of the PLO of 1979 for litigation procedures. However, the practice of this law is constitutionally questionable due to the fact that it was issued in the context of the Palestinian revolution.

Following the political division, the President issued law no. 28 in 2007 dealing with the military Justice in crisis situations. This law extended its powers and authorities to include the arrest and prosecution of any citizen, military or civilian, who commits a crime against the security agencies and their recruits. Moreover it included crimes committed against the PA or any that would threaten public safety and internal security.

Most significant developments

Endorsement of the code of conduct for the Military Justice and Prosecutors

The Chairman of the Military Justice Commission released the code of conduct for the Military Justice and Military Prosecutors²⁹. It includes broad binding provisions for military judges and prosecutors, including penal measures for violators. However, although the code indicates a positive step forward, it is too general and needs further development and provisions.

- The Military Justice proceeded to revise its law package: draft laws were prepared and submitted to the relevant official parties for ratification.
- Training sessions were held for military judges and prosecutors coordinated by the Judicial Training Institute of the Ministry of Justice and the Judicial Higher Council, in which specialized legal topics were presented by civil judges.
- Military courts opened to the public: Military courts have become open to the public as civil courts have been; more seats are needed to allow a larger numbers of people to attend³⁰.
- Establishing registers and linking them with the judicial register (criminal records): record-keeping methods were institutionalized wherein there now is separate registers for the different kinds of cases.
- A technical and judicial inspection office was established within the Military Justice, as is the case in the Regular Judiciary, for the purpose of developing the Military Justice system.

²⁹ Published in issue no. 97 of the Palestinian Realities official newspaper, dated 7/10/2012, p 93

³⁰ Interview with Major General Abdel-Latif Al-Aydi, Chairman of the Military Justice Committee, November 2013

- Adoption of the legal aid system and elimination of the defense team: the Military Justice decided to eliminate its defense team which was composed of military attorneys who were assigned to defendants who could not afford their own lawyers. It replaced that with a legal aid system where it calls on the Lawyers' Guild to assign a pro bono defense lawyer for the accused³¹.

Major challenges facing the Military Justice

- Lack of cooperation on the part of some Security agencies.
- Complete revision of the legislative system which the Military Justice relies on. It is worthy to note that this system is obsolete and some of its provisions blatantly conflict with the provisions of the Basic Law and international standards for human rights.

The provisions of the Military Justice's draft laws are incompatible with existing legislation

In reviewing some draft laws for the Military Justice that are currently being deliberated, AMAN found that they contain some provisions that clearly contravene the judicial and institutional laws of 2010 for combating corruption in Palestine. In particular, they conflict with the powers and authorities of the ACC and Corruption Court in pursuing and prosecuting the corrupt, and whose jurisdiction includes civil and military employees. In addition, some provisions in the Military draft law ease the criminalization of certain infractions and diminish penalties that were cited in the Anti-corruption Law, which will allow criminals to escape justice and undermine the principle of equal justice for all. AMAN also found that some provisions in the draft laws greatly expand the notion of military

³¹ Interview with Major General Abdel-Latif Al-Aydi, Chairman of the Military Justice Committee, November 2013

affairs to where it becomes an intrusion on the mandate of the Regular Court. That is, the law allows the military mandate to extend to civilian crimes and military crimes that are unrelated to military affairs. This clearly disregards international standards that give the military specific jurisdictions that cannot be extended into the civilian judicial domain which protects public rights and freedoms.

Shariah Courts: ignoring fundamental reform recommendations



The Shariah Court has not yet followed any of AMAN's recommendations in previous reports. AMAN pointed out the following problems such as those related to its administrative, legal framework, and the ongoing overlay of duties between the Chief Justice Bureau and the Shariah Court, resulting from merging the position of Chief Justice with the position of President of the Shariah Council. Moreover, the Court is riddled with other legal issues including litigating cases not within its jurisdiction, as well as not establishing a Shariah prosecution bureau. AMAN's reports also point out a general disregard of the principles of integrity and accountability in the Sahriah Court. It also disregarded the problem of external interference with the Court's affairs that affects independence



of judges, and other concerns that could allow impunity for corruption criminals, hence escaping justice and generally violating the rights of vulnerable citizens such as women and children.

Major Challenges facing the Shariah Court in 2013

- The Palestinian government does not have a policy for the future of the Shari'a Court due to absence of a clear and proper national vision for the judicial sector and its components.
- Absence of accountability in the Shariah Court wherein there is no separation between professional judicial work of the Chief Justice and the financial and administrative public affairs of the Court.

Shariah Prosecution: justifications for rejecting its establishment

The proposal to form a Shariah prosecution office was submitted to the Cabinet for comments from its Legislative Policy Committee. The Committee rejected the proposal for various reasons mainly because the justification given were not convincing of the need to establish a Shari'a prosecution office. It also pointed out that establishing it will add to the treasury's financial burden. As a result, and based on these comments, the Shari'a Judicial Council withdrew the proposal.

The Public Prosecution: a new Chief and three new assistant prosecutors

Most important developments in 2013

1. In 2013, two prosecutors, one of which is a chief prosecutor, were suspended and referred to the ACC for suspected corruption acts. This was the first time prosecutors were questioned for suspected criminal ac-

tivity. The Judicial Higher Council decided in October 2013, based on a request by the Public Prosecutor, to suspend an assistant prosecutor and sentenced him to 14 days in prison for illegal activity.

2. Five members of the Public Prosecution were referred to a disciplinary committee in 2013 for suspected misconduct and administrative wrongdoing, an indication of an increase in accountability for prosecutors³².
3. Members of Public Prosecution generally are not subject to any external inspection. However, often, assistant prosecutors run an internal inspection of the work of prosecutors. One of the important developments in 2013 was that the Public Prosecutor formally requested from the Judicial Higher Council to expand the responsibilities of the Judicial Inspection Committee to include inspection of the work of prosecutors, to which the Council agreed. For that purpose, it appointed a deputy public prosecutor, Dr. Ahmad Barrak, to represent prosecution in the Judicial Inspection Committee, which has not yet commenced its function because it is waiting for the amendment of judicial inspection bylaws.
4. In order to improve internal administration and documentation in the Public Prosecution office, a user program (Mizan) was added to the judiciary administration for use of the prosecution, and the more advanced user Mizan 2 program is in the process of installation.
5. The code of conduct for the prosecution was adopted in 2012, which was prepared in partnership with AMAN. It was then endorsed by the Public Prosecutor and distributed to the staff. The code will be used for training and will be the standard for in-

³² Interview with Dr. Ahmad Barrak, Assistant Public Prosecutor; January, 2014

ternal inspection of prosecutors.

Major challenges facing public prosecution in 2013

- The Public Prosecutor is an employee without job description
- The Public Prosecutor's position is still without a detailed scope of work, and the position is never open to competition. In addition, no conditions, criteria, or the legal terms of service have been set for hiring, important as this job is.
- The authority over the prosecution office is scattered among the Judiciary Council, the Ministry of Justice and the Presidential institution, therefore it is very unclear if it is subject to the Judiciary or the Executive Authority. This remains undetermined because of conflicting laws that place the Prosecution under different authorities. No new steps were taken in 2013 to rectify the situation and determine who has the responsibility of supervising and inspecting the operation of the Public Prosecution. The matter is still undergoing lengthy debates and discussions, which has given the President greater power over that office.
- Inspection of members of the prosecution has not been conducted throughout 2013.

The Police Force – its role in the pursuit of corruption

The Police Force is still operating without a legislative bill and its role in the pursuit of corruption is very limited, but there was some administrative progress made in that apparatus

Some positive changes in several areas have been made since 2008, specifically in the rise of integrity and accountability in the general operation of the Police, and in significant reforms

made to the internal administration of all sections of the apparatus. A General Inspector for the Police Force was appointed in 2008, and was given the authority to supervise and evaluate all its administrative sections on all levels³³. In addition, a department of grievances and human rights was established for the purpose of dealing with and reducing citizens' complaints about human rights abuses and grievances related to penal procedures used against them by the Police.

Important developments in 2013

- In 2013, a code of conduct for cooperation with the European Police and United Nations Development Program (UNDP) for the accountability project was endorsed by the Director General of the Police. However, it has not yet been distributed to the Police Force, but it is in the printing process to be ready for distribution in 2014³⁴.
- The Police Force is still operating without a legal framework to control its operation. Even though several legislations were ratified to regulate all security forces – like the legislation for the General Intelligence Agency and the Preventative Security Apparatus – the Police Force does not have its own regulations to control its operation and specify the standards for selecting the Chief of Police or the officers and employees of the Force.
- A procedural guide for the Department of Grievances and Human Rights was prepared with the proper forms for submitting a complaint. This guide lists the different kinds of grievances that could be accepted and the ones that are not within the jurisdiction of that department, and gives de-

³³ http://www.palpolice.ps/ar/?page_id=5580

³⁴ Interview with Lieutenant Colonel Rudaina Bani-Odeh, Director of the Department of Grievances and Human Rights; December 2014.





tails of follow-up mechanisms and procedures.

- The Department of Grievances and Human Rights received 240 complaints in 2012, of which 190 were indirect complaints from civil organization and institutions, and around 50 from citizens directly. These were reviewed and recommendations were made to the Director of the Police Force. Most of the complaints were allegations of dereliction of duty, mistreatment, or illegal search and seizure as well as unlawful financial demands³⁵.
- In 2013, 287 inspection visits to Police divisions sections and stations were completed, after which reports were prepared and submitted to the Director of the Police Force, but these reports were never pub-

lished.

- A few new appointments took place in the Police Force, particularly, in the Special Forces and the Forensic Laboratory. Vacancies are usually posted on the electronic website of the Police Force and in newspapers in the various districts. Applications are then recorded and a committee is formed to interview the applicants and conduct the oral and written exams. After employment, new recruits are sent for basic police training outside the country – to the Police Academy in Egypt, for example. However, it was observed that most of those sent on training scholarships are children of police officers and recruits.
- There are written rules and regulations to control use of official vehicles and gas allocations for the Police Force.

35 See reference 34

The departments for investigation of financial crimes and the special unit for preliminary investigations and evidence-gathering in corruption cases are still in the early stages of their development, and both are in need professional skills, orientation, and logistic and technical support. However, the work of these departments is being obstructed with constant external interference, in particular, interference from the Security, the Preventative Security, and the Intelligence agencies. It is important to note that there were also improvements in the area of rule of law in terms of external supervision, but the issue of pursuing fugitives is still ineffective and many are evading justice.

The role of media in pursuing cases of corruption

The official and private media outlets are restricting the role of journalists in pursuing corruption



A. External censorship

- There were many violations of the freedom of speech of journalist, reporters, and bloggers in 2013. Many in the West Bank were called in by the Internal Security for interrogation concerning things they reported or published on social networks about certain individuals suspected of corruption; in some cases, journalists were arrested, like was the case of George Kanawati in November 2013 who was arrested in Bethlehem because of a local political satire program he hosts³⁶. There was also clear negligence in pursuing and interrogating the violators of the rights of

journalist and reporters, allowing them to get away with these infractions. This put into question the declarations of some officials in the West Bank and Gaza about their complete commitment to freedom of speech and expression in Palestine.

B. Self-censorship

Self-censorship is still a major issue in all forms of media institutions. One problem, for instance, is when journalists want to investigate and report cases of corruption they are prevented from doing so if the target of the story is influential in local institutions or happens to pay for advertisements in one or another media outlet.

36 See the monthly report of the Palestinian Center for Development and Media Freedom – MADA for November 2013; http://www.madacenter.org/report.php?lang=2&id=1371&category_id=13&year=2013

Prime Minister Al-Hamdallah, "Preparation of the law for the right to access information is in progress."

Prime Minister Dr. Rami Al-Hamdallah declared that the government is working on a draft bill for the right to access information in order to guarantee freedom of the press in Palestine, and because of the need to issue such a law for all parts of society as well as to instill the spirit of transparency and accountability in Palestinian public institutions. He also added that this law will preserve freedom of the press, but also stressed the fact that civil society and private organizations must cooperate with the government in the implementation of this law.

- The board of the Journalists Syndicate ratified the journalists' code of conduct in 2013 and posted it on their website. However, the code still needs to be endorsed by the Board of Directors so it could go into effect and become part of the internal system of the Syndicate. Everyone working in media is included in this code, and it also regulates the relationships between journalists as well as the relationship of journalists with their employers and with the public³⁷.
- The Committee for Professional Ethics in the Syndicate was established in 2012, and has received since then 12 complaints that were all resolved. However, if the code of conduct is not ratified and without written regulations and a code of professional ethics, the Committee's work will remain unofficial and non-binding³⁸.
- The law for the right to access information was never issued, but, after several attempts at drafting the law, positive steps

37 Interview with journalist Muntaser Hamdan, member of the General Secretariat of the Journalists' Syndicate; January 2014

38 Ibid

were taken towards agreement on a draft for the bill. The entire text of this bill and all its previous drafts were revised by the Palestinian Center for Development and Media Freedom (MADA) and the Geneva Center for the Democratic Control of Armed Forces (DCAF) along with a group of experts. The revised draft included what AMAN had prepared for that bill, and from workshops it held for the discussion of the law, which resulted in a final draft submitted to the Cabinet. Additionally, in 2013, the Anti-corruption Committee signed a memorandum of understanding with the Cabinet in which they agreed to prepare a law regarding the right to access information³⁹.

Ministries and public institutions are still focusing on technical and professional aspects of their operation in what information they disclose, such as activities and annual reports; but they do not disclose financial statements or expenditures on implemented projects or other information related to finances.

- There was some progress made in some media institutions in publishing or broadcasting investigative reports, but the limitations of investigative journalism remained a problematic issue in 2013.
- The Palestinian law does not require newspapers or television and radio stations to disclose details of their assets and properties.

Many local journalistic institutions are still following a very conservative reporting policy to avoid conflict with any political, economic or social group in order to preserve indispensable revenues they collect from advertising. On the other hand, there was progress with the increase of informational programs and pro-

39 <http://www.alhayat-j.com/newsite/details.php?opt=3&id=218080&cid=3093>

grams that enhance the principles of integrity. To sum up, there were significant developments in the area of accountability for the Public Prosecution. Three prosecutors were suspended and placed under investigation, and 5 others were referred to a disciplinary council. On the other hand, the Judicial Higher Council, following a request by the Public Prosecutor, issued a decision to expand the realm of judicial inspection to include the Public Prosecution. But that decision, however, is awaiting amendments of inspection regulations hence has not yet been implemented. Moreover, there were no serious steps taken towards: clarifying the reference authority, the conditions and transparency for selecting and appointing the Prosecutor.

The Police Force: Role and contribution in combating corruption

The Police Force is still operating without a legislative bill and its role in the pursuit of corruption is very limited. Nevertheless, some administrative progress was made.

Few positive changes, in several areas, have been made since 2008. Specifically, improvement was recorded in the increase of integrity and accountability in the general operations of the Police force, and in reforms made to the internal administration of all sections of the apparatus. A general inspector for the Police Force was appointed in 2008, and was given the authority to supervise and evaluate all its administrative departments on all levels⁴⁰. In addition, a special department called "Complaints and human rights" was established for the purpose of dealing with and reducing citizens' complaints about human rights abuses and those related to penal procedures used against them by the Police.

40 http://www.palpolice.ps/ar/?page_id=5580

Important developments in 2013

- In 2013, a code of conduct for cooperation with the European Police and the United Nations Development Program (UNDP) for the accountability project was endorsed by the Director General of the Police. However, it has not yet been distributed to the Police Force, but it is in the printing process to be ready for distribution in 2014⁴¹.
- The Police Force is still operating without a legal framework to control its operations. Even though several legislations were ratified to regulate all security forces, like the legislation for the General Intelligence Agency and the Preventative Security Apparatus, the Police Force does not have its own regulations to control its operations. For example, it does not have a document that would specify standards for selecting the Chief of Police or officers and employees of the Force.
- A procedural guide for the Complaint and Human Rights department was prepared complete with application forms for submitting a complaint. This guide lists the different kinds of grievances or complains and defines those that are within the jurisdiction of that department and those that are not, and gives details of follow-up mechanisms and procedures.
- The Department of Complaints and Human Rights received 240 complaints in 2012. 190 of them were indirect complaints from civil society institutions and 50 from citizens directly. These were reviewed and recommendations were made to the general director of the police force. Most of the complaints were allegations of dereliction of duty, mistreatment, or illegal search and

41 Interview with Lieutenant Colonel Rudaina Bani-Odeh, Director of the Department of Grievances and Human Rights; December 2014.

seizure as well as unlawful financial demands⁴².

- In 2013, 287 inspection visits to police divisions sections and stations were completed. Reports were drafted and submitted to the Director of the Police Force after each visit. However, these reports were never published.
- Few new appointments took place in the police force during 2013. These were in the Special Forces and the Forensic Laboratory. Vacancies are usually posted on the website of the Police Force and in newspapers in the various districts. Applications are then documented and a committee is formed to interview the applicants and conduct an oral and written exams. Once selection is made and a person/s are appointed, new recruits are sent for basic police training abroad to the Police Academy in Egypt, for example. However, it was observed that most of those sent on training scholarships are sons of security personnel.
- There are written rules and regulations to control use of official vehicles and gas allocations for the Police Force.

The departments for investigation of financial crimes and the special unit for preliminary investigations and evidence-gathering in corruption cases are still in the early stages of their development; both are in need of improvement in regard to their professional skills, orientation, and logistic and technical support. However, the work of these departments is being obstructed with constant external interference. In particular, interference from other security apparatuses such as the Preventative Security, and intelligence agencies. It is important to note that there were also improvements in the area of rule of law in terms of following up on those who have violated the law. Never-

42 See reference 34

theless, the issue of prosecuting those accused of corruption remains ineffective, hence many of them seize the opportunity to escape justice.

The role of media in combating corruption

Official and private media continue to restrict journalists in the fight against corruption

C. External censorship

There were many violations of the freedom of speech of journalists, reporters, and bloggers in 2013. On the one hand, there many of these professionals, from the West Bank, who were called in by the Internal Security for interrogation concerning news items they reported or published on social networks concerning certain individuals suspected of corruption. In some cases, journalists were arrested, as in the case of George Kanawati in November 2013, who was arrested in Bethlehem because of a local political satire program he hosts⁴³. On the other hand, violators of the rights of journalists and reporters went unquestioned by any higher authority hence allowing them to get away with these infractions unpunished. This makes one wonder of the seriousness of officials, in the West Bank and Gaza, about their commitment to freedom of speech and expression in Palestine.

D. Self-censorship

Institutional self-censorship is still a major issue in all media outlets. One problem, for instance, is when journalists want to investigate and report cases of corruption they are prevented from doing so if the target of the story is influential in local institutions or happens to pay for advertisements in one or another media outlet.

43 See the monthly report of the Palestinian Center for Development and Media Freedom – MADA for November 2013; http://www.madacenter.org/report.php?lang=2&id=1371&category_id=13&year=2013

Prime Minister Al-Hamdallah, "Work is underway on the passage of the "Right to Access to Information Law"

Prime Minister Dr. Rami Al-Hamdallah confirmed that the government is working on a draft bill for the right to access information in order to guarantee freedom of the press in Palestine and to infuse the spirit of transparency and accountability in Palestinian public institutions. He also stressed the importance of this law to all aspects of Palestinian life by calling on civil society and private organizations to cooperate with the government in the implementation of this law.

- The board of the Journalists Syndicate ratified the journalists' code of conduct in 2013 and posted it on their website. However, the code still needs to be endorsed by the Board of Directors so it could go into effect and become part of the internal system of the Syndicate. Everyone working in media is included in this code. The code regulates the relationships between journalists as well as the relationship of journalists with their employers and with the public.⁴⁴
- The committee for professional ethics in the Syndicate was established in 2012. It received since then 12 complaints that were all resolved. However, if the code of conduct is not ratified and without written regulations to assist in implementation of the code, the Committee's work will remain unofficial and non-binding⁴⁵.
- The Law for the right to access information was never issued, but, after several attempts at drafting it, positive steps were taken towards agreement on a draft for this law. The entire text of this bill and all its

44 Interview with journalist Muntaser Hamdan, member of the General Secretariat of the Journalists' Syndicate; January 2014

45 Ibid

previous drafts were revised by the Palestinian Center for Development and Media Freedom (MADA) and the Geneva Center for the Democratic Control of Armed Forces (DCAF) along with a group of experts. The revised draft included AMAN's contribution to that bill, as well as feedback from workshops it held for discussion of the draft law. All of the above activities resulted in a final draft submitted to the Cabinet. Additionally, in 2013, the ACC signed a memorandum of understanding with the Cabinet in which they agreed to prepare a law regarding the right to access information⁴⁶.

Ministries and public institutions are still focusing on technical and professional aspects of their operation in what information they disclose, such as activities and annual reports; but they do not disclose financial statements or expenditures on implemented projects or other information related to finances.

- There was some progress made in some media institutions in publishing or broadcasting investigative reports, but the limitations of investigative journalism remained a problematic issue in 2013.
- The Palestinian law does not require newspapers or television and radio stations to disclose details of their assets and properties.

Many local journalistic institutions are still following a very conservative reporting policy to avoid conflict with any political, economic or social groups in order to preserve indispensable revenues they collect from advertising. On the other hand, there was progress with the increase of informational projects and programs that enhance the principles of integrity.

46 <http://www.alhayat-j.com/newsite/details.php?opt=3&id=218080&cid=3093>





Issues in the Spotlight



Integrity and Transparency in the Ministry of Jerusalem Affairs and the Jerusalem Governorate



The Palestinian-Israeli peace agreements, which were supposed to come to a final resolution in 1999, restricted the activities of the Palestinian National Authority in Jerusalem. It was agreed that Israel would not prevent PLO organizations from operating in Jerusalem, particularly Mr. Faisal Huseini's center, the Orient House, which played a crucial role after the Oslo agreements. Other institutions under the PNA included the chambers of commerce and industry, and various research and census centers, which Israel shut down in years following

the agreement.

As a result, the PA's work in Jerusalem became scattered and disorganized, with many different departments and committees handling the many affairs of the City. Moreover, often, due to unintentional neglect on the part of the leadership, some became a center of influence for few individuals in the absence of a national vision or direction for Jerusalem. This allowed individuals to make random decisions and unofficial statements in response to Israeli policies. Moreover, it led to complete confusion

and disorganization and made the citizens of Jerusalem lose faith in all the committees and organizations, not to mention the wasted funds that went for salaries or seasonal activities for temporary bodies that were formed expressly for one reason or another. This disorganization has become literally chaotic, leading to misuse and abuse of public funds, especially with the absence of any official requirements for transparency and accountability.

Conditions of integrity and transparency in official PA institutions in Jerusalem: analysis and findings

- The multi-reference authorities over all Jerusalem affairs (PA and PLO) are making decisions randomly or for personal reasons, and not in pursuit of a set vision or plan for issues of Jerusalem. As a result, each of the two authorities has become a place for "Machoism and Clickism", thus undermining each other, and damaging the cause of Jerusalem and its affairs.
- Jerusalem citizens have lost faith in the PA and are frequently complaining about its methods of dealing with their issues, particularly about the insufficient funds that are supposed to be used for helping them and the absence of transparency and accountability in the process of distribution of aid. They are also unhappy about the leadership's inability to effectively intervene when needed.
- There are no regulations to manage these institutions and organizations due to the absence of a regulatory structure and a clear work plan. Additionally, there are no systems and or written procedures for accepting gifts and or for reporting about corruption. Moreover, there is no guide for delineating procedures for offering and or purchasing services, or regulations to manage work hours of employees.

- The fact that the Ministry of Jerusalem Affairs has established several committees and bodies with no clear purpose resulted in creating personal "shops" for few individuals. Moreover, the Jerusalem District Institution is run by the same minister. AMAN's report on "Assessment of Integrity, transparency and Procedures of Accountability for Jerusalem organizations" revealed serious problems: One main problem is the hundreds of people receiving salaries as employees from the PA, which is contrary to the Minister's claim of having only 14 employees. Add to that the fact that funds for promotions, salary raises, and transportation expenses are being dispensed to employees that do not carry a Jerusalem identification card and do not reside in Jerusalem. All of the above indicates that there is no ratified scope of work or procedural guides for management by which these institutions are run.
- The Ministry of Jerusalem Affairs and Governorate is completely without internal or external supervision or monitoring that can hold these institutions accountable for the abovementioned.

Integrity, transparency and accountability in the management of Awqaf Properties Fund

The Awqaf (endowments) assets and properties are not only a matter of religious affairs regulated by the jurisprudence of its management, but rather, it is public funds institutions that fundamentally rely on competence, efficiency, and skills in management, drafting contracts, and investments. This is in addition to possessing know-how in calling and executing tenders, business agreements, and budgets that include revenues and expenses. The funds and properties of the Waqf are part of



the national resources that can be employed to reduce the financial burdens of the treasury in offering educational, social, and health services. Therefore, integrity, transparency and accountability in its management are crucial to preserve Waqf assets and properties hence protecting national interests.

AMAN had previously prepared a special report assessing integrity and accountability in the management of Waqf properties. The report revealed that it has a complex web of regulatory legislations applicable in the West Bank and Gaza, most of which are incompatible with the current changes. Examples include management of stocks, bonds and transferable assets. The Waqf also does not have a council for endowments and religious affairs to manage its assets and properties, as required by law no.26 of 1966 and its amendments for the affairs of endowments and Islamic holy places. In 1966, the Minister of Awqaf formed a supervisory committee instead of the council, which oversees the lease of Waqf properties.

Integrity, transparency and accountability in administering Awqaf Properties: analysis and findings

- In 2013, no reports were published regarding waqf profits and revenues either in print or through electronic posts on the Ministry's website. Instead, the General Administration of Awqaf Properties submits reports for the Minister only. At the same time, the Ministry of Awqaf and Religious Affairs does not issue or submit, to the Cabinet, any reports on properties, incomes and profits, or investments.
- The Ministry does not have an external accountant to audit its finances. Instead, the Ministry uses its own internal accounting unit that drafts and submits financial reports to the Minister directly.

- The Ministry also does not have an accounts auditor for the Ministry of Finance. Moreover, the civil financial control unit within the Ministry did not receive authorization to audit Awqaf finances, even though the Ministry itself is bound by the financial system applied in all ministries and public institutions of the PA, not to mention that its administrators and employees' salaries are paid by the PA from national general budget.
- Bank accounts where Awqaf revenues are deposited are not subject to inspection by the Ministry of Finance, and those revenues do not go into the public treasury.
- There is no publically known inventory of Awqaf properties. Properties of Awqaf are documented for Awqaf, but identified for others.
- There are no guides or defined mechanism to inform the public of the procedures to be followed when requesting to lease waqf real estate property or to establish and endowment fund; one would have to get the information about these procedures from the land and property department only.
- There is no computerized system of record-keeping and archiving linking the General Administration of Awqaf properties within the Ministry with directorates in the various governorates, which makes access to information extremely difficult.
- A complaints department was never established in the Awaqaf, hence there is no data or information about complaints made against it.
- To date, the Ministry does not have clear and published instructions to prevent conflict of interest for the In-kind Committee or for members of the Administration of Lease and Investment of Waqf Properties.

- Employees of the Awqaf have not received any awareness raising training courses of the provisions of the Civil Service and the Penal Laws, or of the Anti-Corruption Law related to abuse of position and other forms of corruption.
- There are no regulations or procedures to control gift-giving.
- No procedures or methods were set for reporting corruption in leasing and investment of properties.

Accountability of high-ranking employees in Palestine

In 2013, AMAN published a report on the conditions of integrity, transparency, and accountability of high-ranking employees. The report showed that PA employed 897 high-level employees of which 14 only are special category. These figures were based on data published by the General Personnel Council in 2013. .

The Basic Law states that the Cabinet is the body in charge of establishing and appointing heads of public institutions. It is also in charge of their supervision. Based on this, the President's role in making appointments is limited to approving the Cabinet's decisions and to give prestige to those in high level positions. However, in reality, the President is making all high-ranking appointments.

The absence of job descriptions and scopes of work for high-ranking employees has left the opportunity open for nepotism as well as politicized public positions. The Civil Service Law does not specify conditions of the qualifications of individuals to be placed in high ranking positions. Nor does it delineate procedures and processes of competing for these jobs. This contravenes the Basic Law which grants the right of competition to all citizens and delineates criteria for selecting a general director or director of any department within ministries.

However, the Basic Law does not have specific provisions for granting promotions or salary increase to high-ranking employees, which is a drawback in the provisions of the Law.

Environment of integrity, transparency, and accountability of high-ranking employees: Analysis and findings

- The absence of clear policies in specifying ranks for heads of public departments has resulted in waste of public funds and unjustifiable inflation of ranks and salaries for many employees.
- There are no written and published procedures for appointing and promoting high-ranking employees.
- Weakness of monitoring procedures on the work of the General Petroleum Corporation provides opportunities for those with corruption tendencies to have access to accounting programs and manipulate financial statements and reduce receivables.

The Cabinet has established an administrative ministerial committee to deal with high-ranking appointments; general directors only. This has helped in clarifying the criteria and measures that are illustrated in a written guide. However, this committee has no authority over the mechanism with which managers (directors) of public institutions are appointed even though the Civil Service Law has categorized this cluster as high-ranking employees.

The experiment of electronic complaints as a tool for accountability

The Cabinet issued regulation no.6 of 2009 regarding procedures for complaints to replace decision no.60 of 2005 for regulating the operation of the Cabinet's complaints departments and those in ministries. In 2013, implementa-



tion of an experimental electronic complaints system was launched in seven ministries to gauge points of strength and weaknesses of this system to eventually apply it in all ministries. However, there are some comments regarding legal and practical flaws in that system, some of which are,

- Several ministries and public institutions are still without complaints departments: in spite of the provisions of article 8 of complaints procedures of 2009, which clearly states that a complaints department must be established in all ministries and public institutions, many ministries, and until the end of 2013, had not yet established a complaints department; these are: the Ministry of Finance, the Ministry of State for Planning Affairs, Ministry of Jerusalem Affairs, and the Ministry of Higher Education. As for public institutions that have not established a complaints department, those are the governorates in general, non-ministerial governmental institutions, and the General Personnel Council.
- Some complaints departments are marginalized and do not play the role assigned: based on the Cabinet's decision, the complaints department is subject to the Ministry or the highest administrative level in the institution. However, in spite of the fact that this decision was intended to give strong support to these departments so they are a tool for accountability, it was observed that in 2013, many complaints departments are marginalized and do not receive the necessary training to deal with the complaints and the public. Departments also have not yet developed the needed forms to receive and process complaints.
- The concept of "complaint" is still viewed in a traditional way where it is perceived as simply a citizen who has a grudge against

an employee. Because of this attitude, the person who submits a complaint is treated callously. Whereas the real purpose of this mechanism is to use it to inform people of the operation of the institution and to explain its policies and decisions, and make them aware of the criteria for receiving services, and their right to acquire information from the source.

- In general, most managers of these units/ departments and people, as well, are not aware of the crucial role of the complaints units play in improving services, for example. This is partially because citizens have lost faith in these units/departments and their ability to respond to their requests respectfully and efficiently.

Accountability of Palestinian Non-Governmental Organizations (NGOs)

AMAN published a report on integrity, transparency, and accountability in Palestinian NGOs in 2013. The report states that there are some challenges that are still facing these institutions in areas of management of public funds and conduct of employees and managers, on the one hand. on the other hand, there is weakness in accountability on the part of ministries, committees and boards who are responsible for holding them accountable for their actions. Key recommendations of the report:

- Non-governmental organizations need to establish their own mechanism (internal audit) that would ensure the implementation of the adopted code of conduct.
- NGOs officials should commit to submitting a financial disclosure statement.
- Reinforcing the role of monitoring and supervision of related ministries over NGOs.

The SAACB published a report illustrating the

most common violations committed by NGOs and charitable organizations that were the central complaints for the year 2013. According to the report, the SAACB had audited 27 institutions and one governmental organization during 2012 and 2013. They also looked into the complaints and notifications they received from citizens regarding the operations of these organizations. In addition, the Bureau reviewed complaints referred to it by official institutions regarding financial audits of certain organizations. The result of audits revealed several significant violations that are:

- The failure of Board of Directors of some organizations to carry out functions and duties assigned to them as specified in related law.
- Financial statements do not reflect the true financial situation of the organizations.
- Weaknesses in the financial and administrative systems of some organizations and in their supervision and control procedures, while some are not committed to applied rules and regulations in daily performance such as in purchase procedures, for example.

In general, the SAACB and AMAN reports indicate that the principles of transparency and accountability are not well applied in some NGOs as is the case with some public institutions. This has created an environment that provides opportunities for corruption. The SAACB reports show that of the 27 NGOs audited, 14 were found to have suspicious corruption activities that needed to be further investigated. The remaining 13 were actually investigated for administrative and financial violations indicating lack of knowledge of the law or an increase to their resources was noticed that was not quite systematic. In addition, the opinion poll conducted by AMAN indicated that citizens believe there is corruption in some NGOs though to a

lesser extent than in other formal institutions. As for the suspected corruption, fraud, and breach of trust in committees and NGOs, the SAACB audit discovered several violations such as:

First: suspected illegal activities of fraud and forgery to obtain additional income for the organization

- Some organizations and committees made surreptitious deals with importers to add onto purchase invoices to inflate the amounts owed, which they would submit to donors and later cash-in on the difference of the forged invoices in the form of donations (i.e. receive kick-backs)..
- Some also disburse personal checks to beneficiaries of the organization, which they cash and return the money back to the organization in the form of a donation.
- Some organizations own land and property undisclosed in their financial statements.
- It is suspected that some organization forge financial audit reports to meet donors' criteria to receive funding, and then have their finance departments submit fake invoices and purchase orders to balance their financial statements.

Second: officials in some NGOs are suspected of corruption

- Some administrations of NGOs and charitable organizations are suspected of embezzlement and misuse of public funds.
- Individuals in some organizations were listed as beneficiaries of monetary aid, but when investigated by the SAACB, it was revealed they had never signed for or received any funds.
- Some employees of NGOs received amounts of money disbursed to their personal accounts using their organization's





name, which clearly indicates conflict of interest and abuse of position.

- Several invoices and supporting documents proving purchases are suspected of being fraudulent and many bills and supporting documents for training workshops could also be fictitious.

On the other hand, more NGOs and charitable organizations have begun internal awareness programs to strengthen the system of integrity and to combat corruption, in cooperation with the ACC and AMAN. Also some have initiated committees to form coalitions and to coordinate efforts, most important of which is the Civil Society Team for Transparency of the public Budget, and the new initiative for Civil Coal-

tion for Overseeing Security Institutions. Also, a positive development in 2013 was that the youth of various non-governmental organizations became involved in anticorruption work in the West Bank, Gaza, and Jerusalem.

Recommendations

Ministry of Education: Student Loan Fund

- Serious measures need to be taken to collect loan dues in order to have the highest possible liquidity to enable the Fund to grant loans to as many students as possible.
- The Fund should regularly post quarterly and annual financial reports on their website in a timely manner.
- Adopting an effective mechanism for dealing with bad debts (loans that cannot be collected).
- Speeding up the Cabinet's ratification of the financial and administrative regulations and the regulatory structure of the Fund.

Ministry of Transport and Transportation

- Call on the Cabinet to issue special regulations to control use of government vehicles in the civil sector and Security agencies. Although the Ministry of Transportation has prepared a draft regulation for that purpose, the issue has not been seriously implemented in the competent authorities within the Cabinet.
- Strengthen the capacity of the department of governmental vehicles at the financial and human resource levels in order that it can effectively supervise and control the use of these vehicles.
- Impose deterring penal measures on employees who misuse government vehicles. The main responsibility of violations, however, should fall on the official of the related ministry or public institution.

Ministry of Finance: budget and public procurements

It is important for the Ministry to:

- Call on the Cabinet to ratify the public procurement laws.
- Activate and Support the Public Procurements Committee by providing it with the necessary human resources it needs to complete its tasks effectively. This requires appointing a full-time director as stipulated by article 14 of related law.
- speed up the process of completing all documents and forms necessary for managing public procurements. also to launch a website for public procurements where all tenders and other information are published.
- Publish complete and accurate data and information, including financial statements, on regular and timely basis.
- Transparently disclose public debts within the financial statements.
- Disclose all information regarding public procurements contracts with the PA⁴⁷.
- Publish the year-end financial statements for 2012 and 2011, as dictated by the law for regulating the national budget.

Ministry of Health: medical transfers and referrals

⁴⁷ A Presidential law decree was issued in 2011 which calls for the establishment of a higher council for public procurements policies that would be responsible to draw national policies for public procurements, which would be submitted to the Cabinet for ratification. This higher council was actually formed in September 2012, and began its work that same year. It is now updating the necessary regulations and forms to establish a solid institutional structure. Once this process is completed, the law of public procurements and tenders will become in line with international standards.



- To audit and revise Israeli bills for medical referrals, received during the past several years, to see if they correspond with the amounts Israel has been deducting from tax clearings for the same years. It is also imperative to ensure that this monitoring and review of bills continues permanently and on monthly basis. It is also important to ensure that the medical services given by Israeli hospitals correspond with the requested services. Moreover, the audit committee formed, and headed by the Ministry of Health, should effectually audit all tax clearing bills to verify deductions for medical referrals abroad, water, and electric bills.
- To place all expenses for medical referrals to Israeli hospitals issued by the Military Medical Services within the military budget, noting that it is already incorporated in the budget of Security Agencies.
- To establish solid and clear mechanisms for determining and specifying the place of treatment for patients who are referred for medical services outside the Ministry's health institutions.
- To publish monthly reports and operations of the department of medical purchases on the Ministry's website, hence ensuring transparency of information to the public. This would enable the public to learn of documents and procedures on how to obtain medical referrals outside the Ministry's health institutions.
- To decentralize the work of the department of medical purchases for referrals abroad, and the medical committee with its branches in the north and south of the West Bank.

Ministry of Social Affairs: social aid

- All in-kind and other aid files should be transferred to the Ministry of Social Welfare. Or, at least, the Ministry should be well represented in any committee or groups that offer aid.

- All in-kind aid files should be transferred to the Ministry, since it has the most experience in that area, as well as that it houses all data and records regarding needy families.

Water Authority

- To activate the Water Council, which was formed based on the water law, so that it can carry out its duties of setting policies and supervise the Water Authority.
- To appoint a director for the Water Authority based on the standards of transparency and competence.
- To dissolve the project support unit in the Water Authority and restructure it in a way that would prevent conflict of interest. And to also separate tasks and responsibilities of the supervisory and executive posts.
- To Publish the memorandum of agreement for the desalination project in Aqaba, and to submit it to the Cabinet for ratification.
- To obtain approval for the water sector reform plan from the Water Council and to proceed with implementation.

Industrial Cities Council

- To complete the legal framework that would regulate the operation of the Council including: the administrative and financial systems, regulations to prevent conflict of interest, and those for receiving gifts. The Council must also establish a complaints department for documenting, responding, following up on all public complaints as specified in the provisions of the law.
- To issue executive regulations and systems for industrial zones and cities to avoid future conflicts and complications. In that respect, Dr. Jawad Naji, President of the Council stated that they are in the process

of publishing such laws and regulations.

- To define and establish conditions and measures for appointing the general director of the council rather than leaving it to the discretion of each of its boards and the Cabinet. It is worth noting that this recommendation will be implemented once revision of the law for the Council is completed, as stated by the head of the board of the council.
- To adhere to the Basic Law as it relates to the immunity of administrative decisions by amending article 20 of the Council's law, which allows the Council to make decisions that cannot be changed – such as its refusal to assign an industrial zone.
- To strengthen the policy of disclosure and publishing of information through establishing a set mechanism that allows access to information. Also to develop and continuously update the website where more detailed information will be published in Arabic. The Council also needs to publish its reports and decisions so they are available to all who are interested.
- To endorse all franchise agreements, signed for each industrial city and free zone, by the Legislative Council, or by the President since the Legislative Council is not convening at this time. The agreements must also be revised to amend some of their weaker items that may undermine integrity, transparency and accountability.
- To develop the institutional structure of the Council closing existing loopholes. According to the President of the Board of Directors, this is in the process of being done.

Private Sector

- Each company must have an active and updated website that would provide the basic minimum information to the public such

as: financial reports and bylaws, information about members of the board and their contributions to the company.

- Each company must work towards increasing awareness of the principles of good governance among members of boards and shareholders of public share-holding companies.

Legislative Council

- Legislative Council elections must be held as soon as possible.
- A specific code of conduct must be adopted by members of parliament (MPs) that addresses, among other issues the following: All matters relating to preventing conflict of interest; gift giving and receiving; other issues MPs must disclose; obligations of MPs after the end of their term of service.
- The 2013 code of conduct for Council employees needs to be endorsed.
- The issue of MPs involvement in private businesses must be discussed, since it is in contravention of the laws and regulations of the obligations and rights of Council members, and to adopt procedures that would prevent unlawful activities.

State Audit and Administrative Control Bureau (SAACB)

All parties subject to the authority of the Bureau must respond to its demands and recommendations in addition to accommodating to its auditing procedures.

- All Official institutions from all sectors must inform the Bureau of suspected corruption activities as required by law.
- The Bureau should adopt a policy of disclosure by publishing their audit reports in order to strengthen the principle of transparency and raising its standards to be in line with international best practices in that



regard.

- The Bureau must define and publicize measures used to determine selected institutions for audit, both public and private.

Anti-corruption Commission (ACC)

- To immediately work on officially joining state parties of the UNCAC.
- To provide the commission with a sufficient number of employees that is highly qualified in order that it can effectively undertake its responsibilities stipulated in the law and implement the national anti-corruption strategy.
- To revise procedural laws regulating the Corruption Crimes Court and higher courts to ensure speedy deliberation of corruption cases without infringing upon the rights of defendants for a fair trial.
- To publish the report of the Ministerial Committee regarding self-evaluation assessment. Also to begin taking steps towards closing loopholes in legislations and national policies so Palestine can qualify to join state parties of the UNCAC, now that it is a member state in the UN.
- The ACC needs to continue revising all legislations related to corruption to ensure compliance with international agreements, and to speed up the process of issuing the Right to Access Information Law.

The Judiciary

Taking into consideration the difficulty of reforming the Judiciary internally at the present time, it is nevertheless highly recommended that the Judiciary consider AMAN's recommendations of last year's report, which is to form a transitional Judicial Council. The Council, as suggested, would be composed of judges that are known for their integrity, and are reputable, and well qualified. This Council will focus on

reforming and restructuring the courts, drafting needed legislations, removing or retiring incompetent judges, or transferring them to a more suitable official position. It should also work on developing a plan that will take into consideration the principles of good governance, including increasing levels of transparency in decision-making, publishing periodic reports regarding its work, and defining the roles of the President of the Council and its members.

- Amending the bylaws for the judicial inspection department to include the General Prosecution and to give it more authority to summon judges, and make all its decisions related to judges' evaluations, and recommendations regarding complaints mandatory. It also should clarify the consequences or implications of receiving a poor evaluation.
- Giving more support to the Department of Judicial Inspection and increasing its staff of judges and employees.
- Linking the evaluations of judges to their promotions.
- Ending all unlawful appointments and adhering to the laws and decisions of the Court of Cassation as they relate to the maximum number of nominations allowed by law.
- Setting clear mechanisms for recruiting Supreme Court Judges based on best international practices.

The Military Justice

- Expediting the completion of the legislative package regulating the Military Justice while ensuring that they are current and in line with international standards for human rights.
- Although prosecuting civilians in military courts has completely stopped in early

2011, the laws that allow military courts to prosecute civilians remain valid. Hence these laws should be annulled and made obsolete to avoid referring to them when convenient.

- AMAN recommends the completion of a temporary bill for Military Justice until such time when there is political stability in Palestine, where it would also be clear that Military Justice Courts are not to infringe on the general jurisdiction of the Regular Court. Military Courts should be exclusively for military affairs addressing violations committed by military recruits.

Shariah Courts

- Shariah Courts should be made subject to Regular Courts by amending related legislations hence becoming under the jurisdiction of the Judicial Higher Council, same as other courts.
- Amending the conditions for appointing Shariah judges as provided in paragraph "C" of article three in the Shariah Court formation law, which states that a Shariah judge must have a law degree in addition to training in and command of Shari'a laws. While those who hold an Islamic Shariah college certificate must undergo an extended period of training in an institute of judicial training. And others holding a law degree must be trained in Shariah jurisprudence; all of which will provide judges with the skills and qualification they need to deliberate and rule effectively in cases they receive.
- Adopting a code of conduct for Shariah judges in order to enhance integrity and transparency. The code must contain all regulations concerning their independence, objectivity, and integrity. There should also be a code of conduct for employees of

the Shariah Court. Judges and employees should also be required to submit financial disclosure statements as affirmed in the Anticorruption Law. Additionally, the internal supervisory unit must resume its duties of auditing and inspecting both the financial and administrative operations of the Courts. Moreover, it should be allowed to verify that all appointments and reports are appropriate and accurate.

- Distributing and publicizing regulations that would prevent conflict of interest for judges and employees of the Shariah Council. For instance, disclosure of personal interests upon appointment.
- Instituting the complaints unit for Shariah Courts.
- Publishing financial and administrative reports for the Bureau of the Supreme Judge, and all reports issued by the Judicial High Council or the Shariah Courts.
- Developing the administrative and financial operations in the Courts by setting firm mechanisms for all revenues to flow into the public treasury as required by the public treasury law.
- Develop procedural guides for the Shariah Courts.

General Prosecution

- Specifying the conditions and qualifications for the position of general prosecutor
- Taking measures that would ensure the separation of the prosecution's judicial role and its obligation to defend public good and represent the government in courts.
- Expediting the regulations for judicial inspection so the Prosecution can be subject to inspection by the Judicial Inspection Department of the Supreme Court.
- Amending the judicial law to where it



would specify what authority is in charge of the Prosecution to determine its legal status.

- Increasing the administrative staff and training them to raise their competence and efficiency.

The Police Force

- Issuing a law that would regulate the work of the police force, and would define the rights and obligations of employees. It would also define methods of hiring and promotions, as well as measures of accountability.
- Adding articles to the Police Law that would grant more independence to the Chief of Police. For instance, to place the Chief directly under the authority of the Ministry of Interior or the Police Council, if and when that is formed.
- Disseminate the code of conduct among all police recruits of all ranks, making sure it is associated with inspection and training.
- Adopting an annual evaluation system for all recruits and linking the results with promotions.
- To publish the results of reviewed complaints, or, at the very least, to inform the petitioner of the results in detail.

The Media

- Dissolving the Ministry of Media Communication, and moving the media affairs to another official department.
- Completing the law for the right to access information, and giving journalists the right to access information related to the performance or corruption of public institutions.
- Ratifying the final draft of the code of conduct for journalists and making it part of the internal system of the Journalists' Guild.
- Ratifying the law for the Radio and Televi-

sion Commission being it is a public national service for the Palestinian people.

- Restructuring the Council of the Radio and Television Commission giving people from all political and social sectors the chance to be included in the Council. Also to define the authorities of the Council that would oversee the work of the Commission.
- Media institutions must adopt policies that support investigative journalism, especially those that might uncover corruption crimes and or mismanagement in public, private, and civil institutions.

Jerusalem

- Work to develop a unified national reference in the form of an institution. consolidating all authorities over Jerusalem. The task of this institution is to consolidate and coordinate official and popular efforts in confronting the challenges that face the City of Jerusalem and its citizens.
- Forming a committee headed by the Minister of Jerusalem affairs which must include high-ranking administrators, technical and professional from all ministries. This committee will be entrusted in preparing a work plan which will include means and methods for dealing with Jerusalem at the governmental level. It will also be responsible for defining the needs of the city and its citizens including allocating the needed budget within the framework of the general public budget.
- Ratifying a specific financial system for the Ministry of Jerusalem Affairs suitable for Jerusalem and its circumstances enabling the Ministry to effectively provide the needed services and assistance.
- Forming a committee of specialized individuals to look into the issue of the hundreds of employees working with the Min-

istry to determine methods and or options needed to rectify their situation as much as possible, and in a way that preserves their rights. Some suggestions would be to relocate them to work with other PA institutions and ministries, or provide them with a fair retirement fund.

Management of the Awqaf Properties

- Issuing a uniform national law that regulates the management of the Awqaf properties and incorporating all implemented legislations in one law.
- The Awqaf revenues must be subject to the general public budget laws.
- The Ministry needs to include a representative of the SAACB as an observing member in its committee for tenders and investments of waqf properties.
- The Cabinet needs to form an Awqaf and religious affairs council to manage waqf properties.
- The Ministry must publish periodic financial and administrative reports that contain documented detailed information about waqf properties.

High-ranking employees

- Preparing job descriptions and specifying the criteria for selecting and promoting high-ranking employees; allowing fair competition and equal opportunity through advertising, interviews and honest contending for these positions.
- Revising legislations that contravene article 69 of the Basic Law that address management and appointments of heads of public institutions so it is in line with that law.
- The General Personnel Council needs to prepare job descriptions specifying the qualification criteria for employees of public non- ministerial institutions. It is also im-

portant to define and publicize procedures that would allow for fair competition and equal opportunity in addition to having it detailed within the executive regulations for civil service, in order to prevent political factionalism and favoritism in job appointments.

- Reforming the civil service law to where it ends the confusion between the role of the President and that of the Cabinet in appointment of high-ranking employees, and granting that right within the Cabinet's responsibilities, while allocating supervisory authority to the President.
- The President office and the Cabinet need to continue scaling down appointments in high-ranking positions, and to learn from previous experiences.
- The Cabinet needs to form a specialized committee similar to the Ministerial Administrative Committee that would be responsible for approving procedures for the appointments of heads of public institutions.
- Amending some laws to specify clearly the party that is responsible for accountability of these officials. And to dictate that their appointment is conditional upon approval of the Legislative Council.

Complaints units

- Establishing complaints units in all ministries and government institutions that have not yet done so.
- Giving full support to all existing complaints units instead of marginalizing them and disregarding the complaints they receive.
- Completing the preparation of forms needed for submitting complaints as well as response forms that would allow for the appropriate completing of the complaints process.



- Orienting and training those in charge of the complaints units.

Non-governmental organizations (NGOs)

- NGOs must begin applying their code of conduct and establish an internal system of supervision that ensures its implementation.
- Ensuring the submission of financial disclosures by all NGO officials. Strengthening the supervisory role of related ministries and commissions by allowing stringent supervision over issues of transparency and accountability, particularly in budgets and expenditures of NGOs. o

PART TWO:

Integrity and Combating Corruption in the Gaza Strip 2013





Integrity and Combating Corruption in the Gaza Strip 2013

Integrity and combating corruption

The Israeli occupation remains the main obstacle to building a national integrity system in Palestine. It directly and indirectly affects the PA and its institutions. Israel's total and unyielding blockade around all Palestinian territories, land, air and sea, and its complete control over all borders and entries leaves many opportunities for corruption. Moreover, Israeli siege of the Gaza Strip was the main reason for creating the system of underground tunnels for transporting merchandise, money and people. This has obstructed the ability of the Gaza government to collect tariffs and customs since it simply cannot track all merchandise smuggled in and out through the tunnels. This clandestine method of business dealings is a direct result of the siege around the Gaza Strip and has created many opportunities for conflict of interest and undermined the systems of integrity and transparency.

The political division is probably the second most important factor that has damaged the national integrity system in Palestine. Most public employees, employed prior to 2007, have not returned to their jobs in Gaza because of the call for open-ended strike since the beginning of the division. The Hamas government, at the time, replaced them with its own employees most of whom lack experience and qualifications, which has had a negative impact on the governmental sector. More detrimental still is the politicization of public positions in favor of one political faction or another.

The executive authority in the Strip is basi-

cally a government without a president. In 2007, and following the split, the Palestinian President dismissed the government of Ismail Haniyyeh, who rejected the order and who, until today, continued on as head of the Hamas government. Haniyyeh amended several aspects of his government, including appointing Vice President Ziyad Ath-tha to administer some governmental sectors in 2013. He also established a judiciary authority for the Strip. Moreover, the Reform and Change Bloc continued to meet as the official legislative authority over Gaza.

The Gaza government is composed of 17 ministries: Finance, Exterior, Interior, National Security, Health, Education and Higher Education, National Economy, Transport and Transportation, Communication and Information Technology, Public Works, Awqaf and Religious Affairs, Justice, Local Governance, Agriculture, Prisoners, Released Prisoners and Jerusalem, Youth and Sports, Culture, and Women's Affairs.

Several decisions were made for new appointments in high-ranking positions in the government, including appointment of Ismail Mohammad Ali Mahfouth president of the Financial and Administrative Control Bureau (FACB). This appointment came about by the legislative council decision No. (1334 ¼) for the year 2012; and ratification of the decision No.286 issued by the Cabinet, in that regard, also in 2012.

Other appointments such as Ismail Abdel-Qader Jaber who was appointed as General Prosecutor for the Gaza Strip post issuing the decision No (1336 14) by the legislative council. It is worth noting that the President of the PA is

the one in charge of appointing the general prosecutor with recommendation from the Judiciary Higher Council and ratification from the Legislative Council; the same applies to appointing the head of the audit Bureau⁴⁸.

These and other similar decisions reinforced the creation of a complete second authority in Gaza with the exception of selection of its President.

Determining forms of corruption was based on some studies and opinion polls only. With that in mind, AMAN's study of the issue of bribery indicated that paying petty bribes for obtaining services in Gaza is remarkably high. For instance, it is used frequently for expediting process of obtaining travel permits and medical referrals abroad. This form of corruption was also confirmed in the result of a similar study conducted by the World Bank. The most prevalent forms of corruption, however, are Wasta and nepotism. In a Gaza opinion poll⁴⁹ conducted by AMAN in 2013, regarding Wasta and nepotism, confirmed that these two issues were most prevalent in Palestine. The result showed that 89% of participants of the poll admitted to using Wasta to obtain public services.

The study also revealed that the highest percentage of nepotism is within the governmental sector with 67.6%, followed by the private sector 17.3%, and the civil sector with 15.1%. The poll also indicated that half of the polled residents of Gaza, 50.3%, believe that appointments in public positions are where Wasta and nepotism is most common. 25.4% believe the same for public services, and 18% for tenders and contracts, and 6.3% for public share-holding companies.



48 Article 107, item 1, and article 96 item 3 of the Palestinian Basic Law of 2013.

49 Opinion poll for Gaza regarding nepotism and cronyism in Palestine conducted by AMAN between 1 and 8 February 2013, with results published in AMAN's publications in May 2013.



>> Integrity in the management of public affairs

The Ministry of Public Works and Housing – Central Tenders Department

The law for government tenders and public works no.6 of 1999 regulates the conditions and procedures for awarding public works contracts, which are finalized by the Central Tenders Department that has its own system. The number of bids for public tenders in 2013 was 22. The approximate amount of money earmarked for all contracts was 8 million dollars, which was disbursed for new constructions and infrastructure as well as central governmental procurements.

Bids for tenders are scrutinized by a specialized procurement committee, which has the right to set aside any bid that does not meet the official conditions for all tenders and contracts. These conditions are published in local newspapers for two days and posted on the Ministry's website⁵⁰.

All bids, received in a sealed envelope, are then opened in the presence of all members or the majority of the members of the committee, during which time any contractor or representative of contractors can attend the review process. After that, the Tenders Department secretariat announces the names of those who were awarded the contracts by posting them on a special bulletin board. All contractors then have the right to object to the selections within 48 hours following the announcements.

Objections are submitted to the Central Tenders Department, which then responds with acceptance or rejection of the objections in a letter addressed to the objecting contractor

50 Interview with Engineer Imad Hamada, General Director of the Central Tenders Department; 27/11/2013.

detailing the reasons for the rejection if that was the case. According to Imad Hamada, General Director of the Central Tenders Department, no bids were cancelled this year because there was no reason to do so. The objector also has the right to take his grievance to the courts, but no such case took place 2012 and 2013. Furthermore, incidents of conflict of interest of members of the committee is closely supervised, but no such cases were discovered during those same years; there were also no cases of corruption in any of the decisions made for public tenders⁵¹.

Ministry of Health – administers and operates all aspects of the health sector?

Free health service provided by the government is the largest service offered to the public in Gaza. People only pay a meager insurance premium for which they get full health care coverage. This is a big financial burden on the government⁵²; however, there is a shortage of medications mainly because the Ministry deals with a list of 478 basic medications and 1000 basic consumables only.

The Ministry of Health has established a complaints department which it had put into operation in 2013. According to the Ministry's monthly figures, 860 complaints were submitted to that department between January and the end of October 2013, of which 805 were

51 Ibid

52 Radio interview with Dr. Mohammad Al-Kashef, General Director for International Cooperation in the Gaza Ministry of Health; Radio Al-Quds program, "Between the Citizen and the Official"; 9/3/2013

reviewed and resolved, and the rest are still under review.



The Ministry also stated that it has taken a positive step towards improving health services and alleviating the suffering of patients in Gaza. To be precise, the establishment of an operational direct line service in all Gaza governmental hospitals in November 2013 was the most significant. This method allowed people to call in their complaints or give feedback regarding health care services 24 hours a day. The documented complaints and feedback are then submitted to those in charge to review and resolve the issues immediately without delay⁵³. The Ministry also developed an electronic page on which people could post complaints in writing that go directly to the Ministry⁵⁴.

The most critical problem for the health care system in Gaza at this point is the shortage in medical facilities and specialized medical staff hence compounding the number of treatment transfers outside the country for lack of essential health care services in the Gaza Strip.

53 Interview with Mr. Abdel-Mohsen Abu-Roos, Director of the Complaints Department in the Ministry of Health; November 20th, 2013.

54 <http://www.moh.gov.ps/portal/> - Ministry's website. Last visited on 3/1/2014

Ministry of Education

The Ministry states it has now improved the hiring process following a period of political aggravation and entanglement in issues of politically motivated appointments in all its departments. It has now adopted a proper hiring procedure, namely, going through the General Personnel Council for approval, and following all adopted legal processes for publicizing and competing for job vacancies.

The Ministry also affirms there is no external interference in its hiring process, and that, for the sake of transparency, it advertises on its website complete details of job vacancies, including job description, tests and dates of testing, and hiring procedures. The Director of Administrative Affairs in the Ministry of Education also stated that the Ministry allocates a special budget from the Cabinet – Ministry of Finance – to meet its needs of human resources. He added that it also uses whatever means available for recruitment if the budget is not sufficient enough⁵⁵, which is not the best way to get the most efficient employees.

According Ahmad Zourob, General Director of the Complaints Department in the Ministry, the established complaints and grievances department receives complaints forms, reviews and refers them to the relevant department, where they are reviewed and resolved, in a fair manner, by both the Complaints Department and the Administrative Affairs office. The results of the joint reviews are conveyed to the aggrieved person. The Ministry also posts all its activities and programs related to public service on its electronic website⁵⁶.

Regarding transparency, the Ministry reports

55 Interview with Director of Administrative Affairs for the Ministry of Education – Gaza; Mr. Na'el Alrabi, 25/11/2013

56 Interview with Mr. Ahmad Zourob, General Director of Complaints, Ministry of Education; 25/11/2013

submitted to the Legislative Council are not published. However, the Ministry has been inspected by the (FACB) for two consecutive months during 2013⁵⁷.

General Administration of Borders and Crossings

This body was established with the arrival of the PA in 1994 as part of a protocol stemming from the Oslo Accords. It was restructured in 2006 by the Presidential decree no.6, which made it an independent body both financially and administratively. It is responsible for border services and customs as well as all financial, administrative and security matters at the crossings in coordination with related officials. There are several crossings in the Gaza Strip: Rafah Crossing, used by people for travel between Gaza and Egypt; the Rafah Commercial Crossing, used for exporting and importing goods; the Soufa Crossing east of Rafah, used for transporting goods and people from the Israeli side; the Karem Abu-Salem Crossing used for transporting aid and goods from Egypt into the Strip through Israel; the Shajaiyyah Crossing (Nahal Ouz) for transporting fuel into the Strip; and Beit Hanoun Crossing (Erez) for people to travel between Gaza and the West Bank or Gaza and Israel. All these crossing except Rafah are under Israeli control⁵⁸. It is worth noting that the Rafah Commercial Crossing is used, in coordination with Israel, to transport aid and donations into Gaza. However, it was not operational at the time this report was issued.

The Gaza government established the Administration based on law no.5 of 2012, which

was issued by the Gaza Legislative Council on 27/6/2012. The law was published in the Gaza-based "Waq'a'e" newspaper in issue number 84 on the 5th of October, 2012. This General Administration was formed to replace the above-mentioned originally formed PA committee for borders and crossings. This body is a fully independent entity with the same responsibilities the PA's committee, but is under the authority of the Gaza government, not the President of the PA.



However, so far, this body does not have any administrative and financial regulations or by-laws, which were supposed to be prepared by its Board of Directors as required by article 21 of the law, and then released by the Cabinet.

In addition, the Crossings and Borders Administration does not have an electronic website, which is supposed to be a source of valuable information about movement and travel across borders. Whereas people used to register for travel on its electronic site, now they have to personally register in the physical location of the Administration in Gaza (Abu-Khadra). The Rafah crossing, however, does have a Facebook page, which is the only means for people to obtain travel information and communicate with the Administration. But, because the borders are often closed and opened at the discretion of Egypt, and opened for only two or three days every two weeks, applications for travel do pile up in huge numbers. For instance, on

the date this report was prepared, there were over 5000 travelers registered with the Administration, while only 200-500 people are allowed to cross each day the crossing is open. This predicament is compounded by the fact that several other parties register travelers, including the Palestinian Embassy in Cairo. It registers students through the Office of the Minister of Interior in Gaza for exceptional cases, in addition to the Interior Ministry's headquarters in Abu-Khadra building located in Gaza city for all other travelers.

Because of the multiple locations for travel registration, and the large number of registered travelers, Wasta and nepotism in travel registration has become widespread. What has become common as well is bribery paid in cash to the various individuals in the different registration locations in return for travel registration. In many cases, for instance, registrations for students were found to contain names of an entire family, including children, elderly men and women, young men, and even business people⁵⁹.

There is also the matter of the underground tunnels, which continue to operate between the Strip and Egypt due to the stringent Egyptian policy of closure on the Gaza Strip, particularly at the end of last year. These tunnels are being used for smuggling merchandise on a large scale, with the knowledge and approval of the Gaza government⁶⁰.

The tunnels between Gaza and Egypt: a poor and unsafe alternative to ending the siege

There are no laws or regulations to control the movement of merchandise and people in and out of the Gaza Strip through the tunnels.

59 See Rafah Crossing's facebook site and the objections that follow the lists of travelers: <https://www.facebook.com/ism.travel>

60 See the Ministry of National Economy's website: <http://www.mne.ps/mne/article/slideshow/242.htm> ; visited on 25/12/2013.

Supervision over the tunnels is conducted by the security forces and the Ministry of Interior, in cooperation with the municipality of Rafah who provides special services at the crossings and sets fees for each tunnel as well as provides them with electric power and water. These arrangements and activities are conducted with the full knowledge of the Ministry of Local Administration. Furthermore, taxes and fees are also levied on merchandise and fuel brought into the Gaza Strip through the tunnels without any legislation for that purpose. As such, these taxes and fees are constantly changed based on the need of one body or another.

Moreover, there is no indication that any financial or administrative reports, regarding all land crossings, were ever issued. Therefore, the entire process remains undisclosed, and the amount of revenues collected from land crossings is unknown. Furthermore, it is also unknown whether the (FACB) is auditing these revenues.

In addition to the administrative and financial problems, there is the issue of determining whether supervision and monitoring of the tunnels is truly effective, or if the quality of the various products and merchandise brought into the Strip is suitable for public use and consumption. Case in point, several complaints have come from agricultural organizations regarding contaminated agricultural pesticides that have come through the tunnels without inspection, which, if used, would have been detrimental to public health and the environment⁶¹.

61 Interviews with: Mahmoud Jourani, Head of the Planning and Strategies Unit in the Ministry of Agriculture, Engineer Ashour Lahham, Director of the Palestinian Agricultural Organization in Khan Younis, and Agricultural Engineer Mohammad Ghiben, Director of Beit Lahya Organization for Strawberry Farmers.

57 Interview with Dr.Walid Mizher, Director of the Legal Department – Ministry of Education, 25/11/2013

58 AMAN's report on the effectiveness and strength of the system if integrity in the General Administration of Boarders and Crossings; a series of reports no. 65; October 2012.



Gaza General Petroleum Association

The General Petroleum Association was established based on a decision by the Palestinian Cabinet on 16/10/1994 as an independent entity and eventually placed under the direct authority of the President of the PA⁶². Much suspicion of corruption activities has haunted this body from the onset of its establishment. This is due to the fact that it is not subject to any ministry for supervision, nor is it monitored by any of the PA's monitoring agencies. This has caused an absence of transparency and integrity in its operations, and non-existent accountability for any of its activities or revenues and expenditures. However, in spite of the progress made in the overall operation of the Association as a result of placing it under the Ministry of Finance in 2003⁶³, it remains without a legal structure that regulates its work. This has made transparency and accountability completely extraneous, and allowed for intermittent instances of corruption. In one instance, five employees were suspended from work and were investigated for corruption⁶⁴.

The internal division of 2007 added to the complexity of the situation as the Gaza Petroleum Association broke away from the Ramallah government. Instead, it relied on fuel imports

from Egypt through the tunnels until the end of 2013. It now has its own administrative procedures that differ from those in the West Bank. Following the closure of the tunnels in Gaza, the Association (in Ramallah) went back to sending petroleum by-products to Gaza after the closing of the tunnels and the Gaza Association started importing petroleum products directly from Israel⁶⁵.

Prices of fuel in Gaza are generally unstable due to the constant change in the situation. The inconsistent quantities of fuel imported from Egypt through the tunnels, or, alternatively, from Israel, in addition to the closures that prevented it from being brought into the Strip, have caused customs fees for fuel to change frequently depending on who provides it and how it is transported.

The General Petroleum Association in Gaza has not published any reports except some financial statements submitted to the Ministry of Finance⁶⁶. Although the Association in Gaza is officially under the authority of the (FACB)⁶⁷, the latter has never exercised its role in auditing the Association since its establishment. When interviewed, the Vice President of the Bureau stated that, based on the strategic plan for the Bureau, the Association will be listed under the (FACB) in 2014⁶⁸.

It was also observed that the Gaza Legislative Council is extremely lax in supervising the General Petroleum Association. This was attributed to the weakness of the (FACB) as justified by an MP and a member of the Economic Council;

62 The Association began operating in Gaza and Jericho then extended its work to include all of the West Bank and the Gaza Strip as decreed by the Cabinet on 12/11/1994.

63 Based on the provisions in article no.1 of the decree issued by the Prime Minister on 17/5/2003; published in the Palestinian "Waq'a'e" newspaper, issue number 48 of January 2004.

64 See AMAN's report on "The Environment of Integrity, Transparency, and Accountability in the General Petroleum Association"; a series of reports issued in 2014 – chart showing the distribution of employees in the Gaza Association through 31/12/2013.

65 Ibid

66 Ibid; see statements by officials in the Association.

67 Based on the provisions of article 31 of the law for BFAAs no.15 for 2004, regardless of whether the Bureau is financially and administratively independent, or whether it is under the Ministry of Finance.

68 Reference 57; see statements by Mr. Yussef Kayyali, VP of the Gaza BFAA.

He also added that the complaints about the Bureau are received and resolved by the Legislative Council. It should be noted that the Legislative Council received 20 complaints in 2013, most of which came from owners of propane gas and fuel stations. However, no written responses were sent to these people to inform them of the results of the investigations because most complaints are handled verbally⁶⁹. The Council also is not implementing the system of accountability neither on the Gaza government nor on the General Petroleum Association as relates to the fuel sector. Moreover, the Council does not implement the regulations for petitions and complaints as stated in articles 110 – 104 of the Council's bylaws. The Council also did not make use of its legal authority to activate the (FACB) so it would audit the operation of the Petroleum Association. Therefore, the Association has not been audited or held accountable for any of its activities since its establishment and until the preparation of this report.

Furthermore, there is no system that would prevent conflict of interest because the law for Palestinian civil service does not exclude public employees, who are not part of the company's administration body, from investing in shareholding companies. This combination creates opportunities for conflict of interest and corruption.

Management and Administration Committee

This body is parallel to the one in the West Bank. It is the body that in charge of managing job appointments and promotions in the security and military agencies within the Ministry of Interior. It is akin to the General Personnel Council.

69 Reference 57; see the statement by Dr. Atef Adwan, MP in the Gaza Legislative Council and President of the Council's Economic Committee.

Since the political division in 2007, the Ministry of Interior has been in need of new employees and has been recruiting human resources whenever it received funds from the Gaza government. The last advertisement for positions was in the mid 2013 when the fourth round of acceptances was published on 15/1/2014 on the Ministry's website by the Management and Administration Committee. Jobs are usually advertised through media outlets or the Ministry's website and the Management and Administration Committee's web page.



In the opinion of Colonel Bahjat Abu-Sultan, General Director of the Management and Administration Committee in the Ministry of Interior in Gaza, the Committee is interested in opening competition for positions and making appointments transparent and public. He said that if objections regarding appointments are received, the petitioner has the right to submit a complaint on the Ministry's electronic site, and responses will be published openly on the site. As for the security check, it is done both for issues of security and ethics⁷⁰.

In the meantime, the "Waq'a'e" newspaper re-

70 Radio interview with Colonel Bahjat Abu-Sultan, General Director of the Management and Administration Committee in the Gaza Ministry of Interior; Jerusalem Radio Station, 05/10/2013.

ported that the Cabinet has in fact made exceptions in job appointments and promotions for some officers. This is in contravention of the principles of integrity and accountability, and contradicts Cabinet decisions no.17, no.27, and no.28 of 2013 regarding exceptional appointments in general. The appointment of three specific officers in the Security Forces, and 19 cases of appointments in the Ministry of Interior and the National Security Agency were documented⁷¹.

Electric Power Distribution Company

The Electric Power distribution Company is a national semi-official company that has its own financial disclosure documents. The government owns 50% of its shares, and 50% is owned by the Gaza municipalities represented by the Ministry of Local Governance. The Minister of Power, who is different than the one for the West Bank, is the president of the board of the company⁷².

The power distribution sector carries the biggest burden since it is responsible for collecting power dues from the public⁷³. In reality, the Company is bankrupt because, at the end of 2013, it had 2.8 billion shekels in uncollected debts, half of which are bad debts that will not

be collected⁷⁴.

The Power Authority is responsible for the transformer substation. However, there are no projects reflected in the budget that will bring in extra revenues hence it relies on the Ramallah Power Authority to obtain funds. Also, the government in Gaza does not have the budget for large projects, so it coordinates with the Ramallah government for funding. The fact is that the Power Authority in Gaza is simply a manager of the current situation.⁷⁵



The substation went into operation in 1999 based on conditions set by the Power Authority who took it upon itself, at the time, to provide fuel for Gaza. It was exempted from taxes as stipulated in the Oslo Accords. It was also supposed to operate on propane gas power, but with none available, it is now operating on industrial diesel fuel, which raises the cost of electricity in general and hence, for the consumer. Additionally, it actually collects only 40% of individual electric bills and is now indebted to the Power Authority for about 42 million dollars for just one year and a quarter, which so far, has not been paid⁷⁶.

The Electricity Generating Company is owned

74 Ibid reference 65
75 Ibid
76 Ibid

by several local and international companies like CCC. The cost for building the station was 150 million dollars. The company until today is unable to generate enough electricity for the Gaza Strip, since electric consumption there is double what it can produce. As a result, the PA pays 2.30 million dollars each month to the owners of generation company, local and international⁷⁷.

The PA's commitment as illustrated in the agreement is to: provide fuel and the appropriate licenses and permits for generating power; provide security for plant workers; facilitate the entry of all necessary equipment and spare parts to keep the plant operational. The PA also has a contractual financial obligation wherein it pays the company 10 million shekels each month, which was recently reduced to 8 million shekels. However, this agreement is not equitable because it does not take into account the price of each electric kilowatt, since the PA pays 1.8 shekel per kilowatt when it could in fact, in its capacity as the recognized representative of the Palestinian people obtain it at half a shekel per kilowatt⁷⁸.

The Power Authority has an inadequate budget provided by the government which limits it to operating the plant only, but it cannot plan or implement any projects⁷⁹.

77 Engineer Walid Saad Sayel, Executive Director of the Palestinian Electric Company, in a press conference on 16/12/2013 organized by the "Press House" on Skype between Abu Dhabi and Gaza; attended by the President of the Power Authority in Gaza, Engineer Fathi Al-Sheikh Khalil, and Dr. Rafiq Malhiyyeh, General Director of the Gaza Electric Station Project, and media representatives on 17/12/2013. <http://www.alwatanvoice.com/arabic/news/2013/12/17/474007.html>

78 Interview with Mr. Fathi El-Sheikh Khalil; see reference 65.

79 Interview with Mr. Fathi El-Sheikh Khalil, President of the Power Authority in the Gaza government, in attendance of Mr. Jamal Dardasawi, General

In job appointments, the Electric Power Distribution Company follows the procedures of the General Personnel Council. It advertises job vacancies, does interviews, holds oral and written tests, and allows for fair competition, based on set criteria for each position. The exams are written by an expert and are suitable for the technical level of each job. As for promotions, they also follow the General Personnel Council's standards and procedures⁸⁰.

In the area of transparency, the Electric Power Authority has an electronic site for interested people and researchers who can also request information via an official form⁸¹. The Authority also prepares quarterly reports that it submits to the Gaza government, but it does not publish any on its website.

The Authority, however, does not have a complaints unit where people can submit their grievances, but they can submit them directly to the office of the President of the Authority. Responses to most complaints are done by telephone even when complaints are submitted in writing. These complaints come regularly throughout the week and are mostly about problems with people's subscriptions, the electric network, or electric development projects in some areas⁸².

General budget and governmental financial reports

The budget is an instrument of a detailed estimation of the PA's revenues and expenditures for each following year that is prepared by the Executive Authority, epitomized by the Cabinet, and cannot be implemented until it is approved by the Legislative Council.

Director of Public Relations in the Electric Distribution Company; Saturday, 23/11/2013

80 Reference 71
81 Ibid
82 Ibid

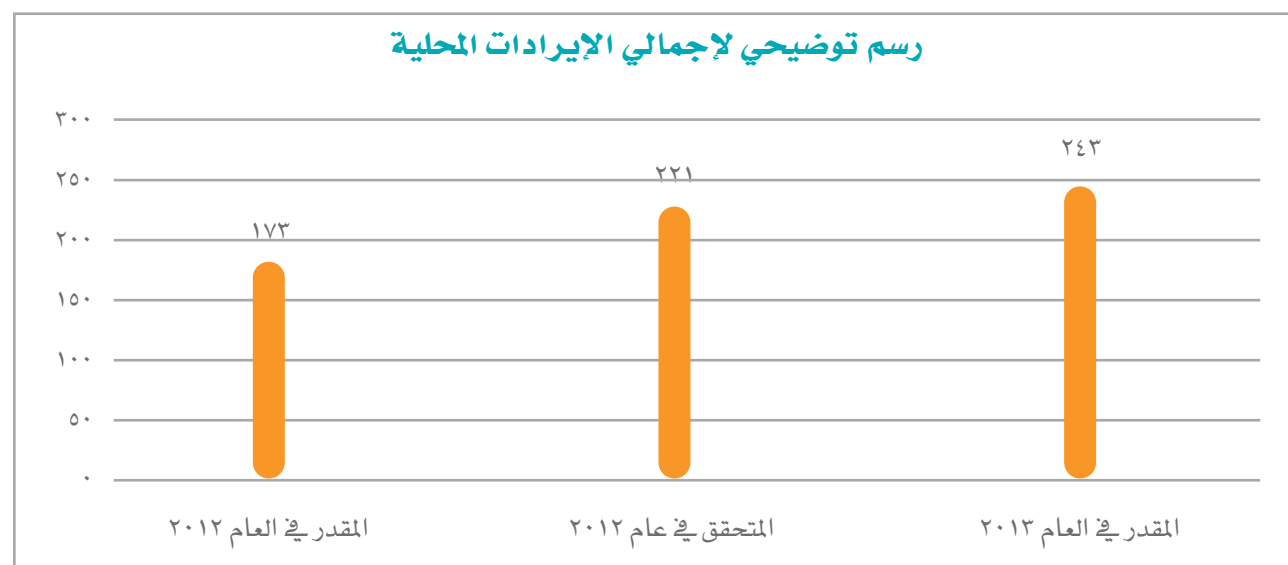
The Gaza Legislative Council ratified five general budgets between 2006 and 2013 with only one budget that was approved in 2009, and none in 2007 and 2008. In the meantime, government expenditures and revenues amounted to 1/12 of the 2006 budget because of the siege on Gaza and the political division⁸³.

In 2013, the Gaza Legislative Council published the general budget law in its "Barlamaan" (Parliament) periodical issue number 105 of 10/1/2013. This law was ratified by the Council in a meeting convened on Monday 31/12/2013. However, only the Council's decision regarding the law was published in the Palestinian "Waq'a'e" newspaper. The content of the law was left out, which is in contravention of all basic laws for general budgets. And in particular, article no.38 of law 7 of 1998, which states, "The general budget law must be publicized, following approval of the Legislative Council, since it is the right of media and the public to be informed."

The total local revenues for fiscal year 2013 were 243 million dollars. 27% of which was estimated for public expenditures. This amounted to 897 million dollars, with a deficit of 654 million dollars that might be covered by grants, donations and financial aid.

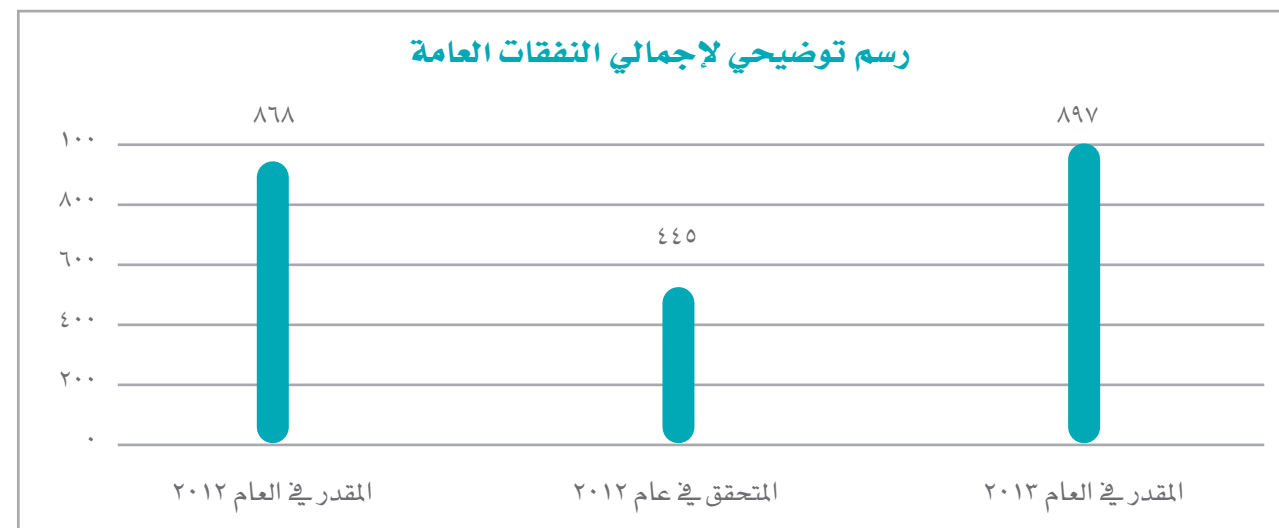
The following charts show the items listed in the general budget and comparisons between the different governmental sectors in Gaza. It is clearly apparent that the budget for the security and public order sectors is equal to that of the social services sectors that include the ministries of Education, Health, Social Welfare, Public Works, and others.

Estimated for 2012	Achieved by 30-09-2013	Expected by end of 2012	Estimated for 2013	Percentage of divergence between estimates for 2013 and actual figures in 2013
869	334	445	897	101.57%



83 Dr. Mazen Nour-eDiin, The Role of the Legislative Council in Anticorruption; work paper, 2013, p 7.

Estimated in 2012 budget	Achieved by 30.09.2012	Expected by end of 2012	Estimated in 2013 budget	Divergence between 2013 estimates and actual in 2012
173	166	221	243	9.95%



	Salaries	Operational expenses	Transferable expenses	Capital assets	Total	Overall total	Percentage
	191.04	20.32	20.26	21.7	253.33	815	31.08%
	127	7.43	13.92	0.45	149	328.5	45.36%
	169	10	15.56	0.6	199	438	45.36%
	184.48	22.59	18.75	15	241	815	29.57%

	Salaries	Operational expenses	Transferable expenses	Capital assets	Total	Overall total	Percentage
	127.81	68.2	38.75	2.83	237.59	815	29.15

nt order.

USD

figures

or 2013

103	13.42	11.72	5	128.87	328.5	39.23%
137	18	16	1	172	438	39.23%
148.44	70.57	41.25	2.84	263	815	32.26%

The revenues for 2014 were lower than what was estimated in the ratified budget for that year. It amounted to 195 million dollars which is less than the 2013 budget. Expenditures, on the other hand, were estimated at 894, which are close to the estimated amounts for 2013. And the deficit for fiscal year 2014, was approximately 589 million dollars⁸⁴.

Remarkably, all Gaza Legislative Council decisions are approved unanimously, which is generally impossible in any parliament anywhere, even when a parliament is composed of one political party.

Additionally, the final balance sheet that the Ministry of Finance was to submit to the Legislative Council was never published. The field researcher for this report went to the Ministry to obtain these budget reports, but the Ministry refused to give out any information.

Universities

To obtain loans, universities in Gaza rely on the unit for loans and student assistance in institutes for higher education in Palestine. The Ministry has set conditions for applicants to receive loans. These are: applicants must be full-time registered students in one of the higher-education institution in Palestine; are in financial need for the loan; have not received academic warnings; and have not obtained or received grants or loans from any other party for the semester during which they apply for the loan⁸⁵. After applications are received, a committee is formed to review each one through a scoring process done by every committee member individually.

Although schools and universities in Gaza do not have a special code of conduct, they do have basic principles, standards, and values that need to be followed, and are issued as miscellaneous publications or guidelines, one of which is the Charter of Academic Honor.

In an opinion poll conducted in universities, 87.3% of employees stated that there are clear regulations concerning the code of conduct at the universities. In the same poll and in response to a question concerning conflict of interest, 75.9% of the employees surveyed said that university bylaws work well at preventing conflict of interest, and there are clear and publicized regulations for that purpose.

The surveyed university employees were also asked about the selection process of applicants for the loan by the review committee. 76% stated that the process is guided by specific criteria and standards that ensure equal opportunity through advance public advertising and oral and written contests⁸⁶.

As for employees disclosing work they do outside the universities to their management, 76% said they do inform their work, especially if it is hourly teaching in other universities. However, getting

84 Issue no. 130 of the "Barlamaan" (Parliament) periodical; published on 2/1/2104; Gaza Legislative Council

85 Ministry of Higher Education website <http://www.mohe.pna.ps/Scholarships.htm>; last visited 5/1/2014

86 See "Integrity and Accountability in Higher Education in Gaza" - a series of reports by AMAN; report number 60; December 2012; p10.

permission for leave to attend external conferences is left up to up to the deans of the various faculties based on set regulations⁸⁷.

Employees were also asked about the publication of annual financial reports, self-evaluations, complaints, and the principles of transparency in higher education in Gaza universities. The majority of employees seem to believe these are in line with laws and standards, although only 56.7% of students polled on the matter of complaints believing that there are standards and policies addressing these issues. However, AMAN's investigation indicates some problems with publishing financial statements and the auditing processes as well as in job appointments⁸⁸.

Municipalities and Local Governance Councils

The Gaza Strip has 25 municipalities of various sizes. They all publish their projects and strategic plans on their electronic pages for the public to see. However, while some decisions made by these municipalities are also posted on the websites, others are placed on bulletin boards on the premises of the municipalities. Furthermore, the Central Administration Committee publicizes planned projects in local papers for a period of two months, as provided by law, in order for the public to review or object to these plans⁸⁹.

Even though the Public Tenders Law specifies when tenders are purchased and when procurements should be made directly, violations of the law are allowed due to the restrictions of the siege on Gaza, and the shortage of availability of different high quality products and

87 Ibid; p11

88 Ibid; also see full detailed report, data, and ratios; pages 15, 16, 17, 18.

89 Interview with Engineer Zuhdi El-Ghariz, Deputy Minister for the Ministry of Local Governance in Gaza; 25/11/2013

goods for export or local use and consumption. For instance, spare parts are extremely scarce in Gaza, so municipalities are forced to bypass the law when obtaining these goods, with approval from the Ministry of Local Governance.

Local elections are one of the main mechanisms of accountability, but they have not been held in over ten years. The Ministry of Local Governance explains that the current conditions and the political division do not allow for municipal elections to be held. Instead, local council members are appointed by the Ministry⁹⁰.

However, this contradicts the recent semi-collective resignation of the Gaza City Municipal Council staff. It is worthy to note that two thirds of the members have quit recently, leaving only the Mayor and two council members. Members who have resigned stated that the reason for their resignation is that the Mayor refuses to implement any of the Council's decisions taken by a majority vote or even unanimously. Consequently, the Mayor submitted his resignation alleging health reasons, and stating that he had tried to resign three months prior, but the Ministry of Local Governance rejected his resignation. The Ministry then appointed 12 new members headed by the resigned Mayor without holding elections⁹¹.

Five corruption crimes took place in few municipalities. Three of these were related to assault on public funds and two were related to administrative infringements and improper conduct. Of the five cases, three were referred to the Prosecution for corruption crimes, one is in the process of transfer to the Prosecution, and in the fifth case the offender was severely penalized and given a final warning for dis-

90 Ibid

91 See <http://www.maannnews.net/arb/ViewDetails.aspx?ID=661375> and <https://www.paldf.net/forum/showthread.php?t=1105464>; last visited 12/2/2014

missal if the offenses recur⁹².

The Coalition for Integrity and Accountability – AMAN signed memorandums of understanding (MOU) with Gaza municipalities of Maghazi, El-Breij, Bani Suhaila, Jabalia, and Khan Yunis, in order to bolster the principles of integrity and accountability, and to ensure the provision of quality services fairly and equally. The memorandums include agreements to prepare the code of conduct for local community bodies based on the need and nature of each. Also the MOUs stipulated that municipalities are to prepare work manuals for the codes, such as the guidelines for complaints, internal audit, and public hearings⁹³.

As a result, the Khan Yunis Municipality launched its first social accountability forum organized for Gaza governorates for the purpose of building better relations with the public⁹⁴. While the Jabalia Municipality held an open forum for the public to discuss needs and contribute ideas to strategic plans.

The Private Sector

The commercial business sector in Gaza includes all forms of companies, such as public share-holding companies and private businesses. Also included are banks, insurance companies, factories and trading companies. Twenty five public share-holding companies are registered, but only fifteen are operational, while there are over 7000 regular smaller companies and 8000 private ones.

This sector has specific problems related to the Gaza reality and because it is highly reliant on personal family resources in general. This makes it a local sector that has a limited num-

92 Interview with Engineer Zuhdi El-Ghariz; reference 82

93 See <http://www.aman-palestine.org/ar/activities/1637.html> ; last visited 17/12/2013.

94 See Safa news at <http://safa.ps/details/news/112771/> ; last visited 17/12/2013.

ber of international share-holders.

The laws and regulations in the Gaza Strip are not expressly written for corporate governance. They are more like general regulations inserted as separate items in different legislations. Examples are clear in the laws of the Monetary Authority, the law for new corporations, the law of illicit gain, and several others.

Most companies operate based on regulations for governance which they implement timidly. For instance, in public share-holding companies, the board of directors informs shareholders only of decisions they want them to know of and withhold information they do not want to disclose. Furthermore, these decisions are not made in the General Assembly of the companies. Dr. Issam Al-Baz, Corporate Registrar in the Gaza Ministry of National Economy, said that most financial statements submitted at the end of each fiscal year are generally inaccurate, while most statements that are detrimental to the companies are withheld from shareholders. Moreover, when the General Assembly convenes, the board of directors acts as if all is well with the company⁹⁵. Many serious violations were also discovered and were referred to the General Prosecution for investigation. Most violations are either revealed by shareholders or by someone with interest. However, there are actually very few violations⁹⁶.

Companies that have violated the laws and did not implement the governance regulations have not yet been held accountable, but they are being approached so they would at least set the general principles of good governance. Six companies were held accountable for not implementing the corporate law, and others

95 Interview with Dr. Imad El-Baz, Corporate Registrar in the Gaza Ministry of National Economy; 28/11/2013

96 Interview with Attorney Amjad Agha, Legal Department Rappporteur in the Palestinian Cabinet; 25/11/2013.

rectified the situation by amending their regulations and adhering to the law. All companies, however, submitted financial and administrative reports to the General Comptroller of Companies⁹⁷.

97 Interview with Dr. Imad Al-Baz; reference 88





System of Accountability

The Legislative Council

Based on article 3/4 of the general election law of 2005, the Legislative Council (LC) should be composed of 132 members. 48 seats are allocated for the Gaza Strip 27 of which are for the Change and Reform Block (CRB). However, several seats were vacated because of death or resignation of parliament members (MPs). Although others were appointed to fill the missing seats, the current number of MPs seats is at 127.



Despite the recent polarization between the different parliamentary parties, especially between Hamas and Fatah, caused by the political division that brought about paralysis of the Legislative Council in the first place, the Gaza LC continued to convene with the Change and Reform Bloc MPs. In 2013, they convened several sessions for various purposes and held open public hearing sessions and workshops in which many public affairs issues were discussed and decisions and recommendations were made⁹⁸. It held a total of 106 ordinary and extraordinary sessions, of which 90 were ordinary, 8 were special sessions, and 8 emergency sessions. Related sessions resulted in issuing 41 laws and 334 decisions were⁹⁹. They also issued several legislations during that year. In that regard, MP Dr. Yahya Abadseh stated that most laws ratified in Gaza were draft bills left over from the period prior to the division¹⁰⁰.

At this time, the Gaza LC is acting as a supervisory authority over the Gaza government using procedures provided for in the Palestinian Basic Law. It questions and interrogates ministers, suspends or holds votes of confidence from others, receives complaints and petitions from the public, and ratifies the fiscal budget. It also formed 11 parliamentary committees to look into different issues. The table below illustrates the various activities carried out by the parliamentary committees for the Gaza LC between the period of 1/1/2013 and 31/12/2013.

No.	Committee	Meetings	Hearings	Field visits	Reports	Workshops	Draft bills	Complaints	Correspondence
1	LC Affairs	10	0	0	0	0	0	0	0

98 Interview with Amjad Agha, Legal Rapporteur for the Legislative Council's Legal Department; 25/11/2013

99 Book: "Four Years of Dedication in spite of the Siege"; Gaza Legislative Council Publications. 2011.

100 Report by the Palestinian Center for Human Rights, "The Legislative Process and Parliamentary Supervision during the Palestinian Political Division." Published 1/12/2013, p.15

2	Budget	13	3	1	1	0	0	13	41
3	Control	33	2	4	7	0	0	55	200
4	Legal	19	4	3	6	8	21	44	88
5	Economic	7	28	3	1	1	0	51	139
6	Education	28	21	1	1	5	0	66	160
7	Political	2	0	0	0	0	0	0	0
8	Jerusalem	21	0	5	0	0	0	0	19
9	Interior	13	17	3	58	2	0	133	112
	Total	146	75	20	74	16	21	362	759

Note that the committees held a total of 75 public hearing sessions and received a total of 362 complaints.

Saturday of each week was designated for submitting complaints, when Dr. Ahmad Bahar, LC Vice President, and Dr. Nafeth Madhoun, General Secretary of the LC, meets with the petitioners. Most petitions are about requesting humanitarian aid and a few are complaints about the administrative performance of ministries or security forces noting that none of these complaints contained probing issues for any minister. The director of the office of complaints asserted that 93% of the complaints related to ministerial performance are resolved by these committees. Sometimes it is done by addressing the issues internal and in accordance with the administrative procedures of the relevant body¹⁰¹. During a period of 5 years between 2007 and 2010, only 12 queries were directed to ministers, and none were interrogated in that same period. Nevertheless, the Committees conducted 250 public hearing sessions on different issues¹⁰².

The Gaza LC made several decisions on laws and amendments in 2013 in different areas including: approving the 2012 fiscal budget, implementing the law against illicit gain and the law for the Palestine Capital Market Authority in Gaza and appointing a president for that body, and other laws, regulations and appointments. Also, the draft law for the public budget for 2013 was completed and published. But, thus far, it has not been published in the Palestinian "Waqae" newspaper, though the law for the Palestinian chambers of industrial commerce no.8 for 2006 was published in that paper on the 12th of May, 2013. At this time, 11 different draft laws are still under debate in the CRB, one of which is the penal law¹⁰³.

The Secretary General of the Gaza LC, Dr. Nafeth Madhoun, stated that the supervision of the Council over the general budget and balance sheets is inadequate. This due to the technical and accounting difficulties encountered, as well as missing data in the statements presented by the

101 Ibid; reference 93, pp 16, 17

102 Book: "Four Years of Dedication in spite of the Siege"; Gaza Legislative Council Publications. 2011.

103 See previously referenced report issued by the Palestinian Center for Human Rights on the Gaza Legislative Council, pp 18-20



government, in addition to the short deadlines allowed for discussion of laws related to budgets and finances. It is also impossible to conduct proper financial audits because most of the funds coming into the government's treasury are clandestine and cannot be revealed or reviewed¹⁰⁴.

However, MP and CRB member Mr. Yahya Mousa asserts that the government's treasury is audited thoroughly, but the method and reports of these audits cannot be publicly revealed because of the Israeli-American pursuit of monetary resources coming into Gaza¹⁰⁵.

Financial and Administrative Control Bureau (FACB)

Dr. Yousef Kayyali, Vice President of the Bureau says that every effort is being made to make sure the Bureau has all the staff it needs as they currently do not have enough employees to cover its needs¹⁰⁶. The Bureau also sent detailed reports of all the various cases it handled for the Legislative Council and the Cabinet addressing the problems, giving recommendations, and report also included responses from those concerned in the reviewed cases. There were 60 reports completed at the end of the third quarter of 2013, which addressed general control issues as well as a summary of the Bureau's accomplishments and activities for that quarter, in addition to the annual report, which would be the fourth quarter report¹⁰⁷.

104 Ibid; interview with Dr. Nafeth Madhoun.

105 Interview with MP Yahya Mousa, member of the Change and Reform Block; Monday, 30 July, 2012

106 Interview with Dr. Yousef Kayyali, VP of the Bureau of Administrative and Financial Audit; 25/11/2013

107 Interview with Mr. Zaher Atallah, Administrative Rapporteur for the Human Rights Committee – Palestinian Legislative Council; 25/11/2013

The Legislative Council approved the organizational structure of the (FACB). And, for the purpose of improving the operation of the Bureau, it appointed Mr. Ismail Mahfouth, former Deputy Minister of Finance, as president of the Bureau towards the end of 2013.

Dr. Kayyali also stated that the Bureau adheres to accountability and audit standards set by the Arab Organization for Supreme Audit Institutions, and the International Organization for Supreme Audit Institutions. He added that in general there is no external interference in the Bureau's internal affairs or its report preparation process, and that it is an independent and transparent entity¹⁰⁸.

The Palestinian Legislative Council usually announces the receipt of those quarterly reports on its website and does not disclose them to the public, yet they refused to reveal to the field researcher the content of these reports. This is in fact a deterrent to the principle of transparency and the public's perception of that body, since it is the right of every citizen to be informed about the government's work and that of its institutions as provided in article 31 of the law for the (FACB).

The Judiciary Authority

1. The Gaza Judiciary is administered by the Judicial Higher Council, and is composed of:
2. The Chief Justice – head of the Council.
3. Senior Vice President of the Supreme Court.
4. Two of the most senior Supreme Court judges chosen by a Supreme Court committee.
5. Heads of the Jerusalem, Gaza, and Ramallah Appellate Courts (Appeal courts).
6. The General Prosecutor.

108 Reference 99

7. Deputy Minister of the Ministry of Justice. However, following the division of 2007, and as a result of the control of some lawyers over the courts, a new Judicial Council was formed under the name of Justice Higher Council as a transitional body that has the powers and authority of the Judicial Higher Council, and the name was later changed once more to the Supreme Council for the Judiciary so it would be consistent with article 100 of the Basic Law.

The members of the Judiciary Inspection Committee can only review case files in court, but they cannot practice their authorities as dictated by the laws for judicial control and inspection¹⁰⁹.

The number of cases brought before the courts totaled 49,999 cases, with 33,249 of those adjudicated, that is, 66% of the total case load, between the period of January and end of May 2013¹¹⁰. It was not possible, however, to obtain information regarding cases of corruption the Prosecution brought before the courts because there are no corruption courts in the Gaza Strip. The Technical Office of the Supreme Court and the Criminal Court Clerk revealed that statistical information about corruption cases is not available because they are handled in Criminal Courts like any other criminal cases. Also, the archiving system of the court does not have the programming capability to sort and categorize the various criminal cases, but can only provide the number of cases brought before the court¹¹¹.

The Judiciary Council had previously issued the judiciary code of conduct as required by decision 1 of 2006, and contains 45 items. The first item deals with judicial independence and the second speaks of collateral litigation, and the third addresses judicial conduct, and the

109 Report of Counselor Inaam Enshashi.....

110 Technical Office of the Supreme Court in Gaza

Second visit to the Technical Office on 13/2/2014 111

last speaks of efficiency and ability of judges. Counselor Inaam Enshasi said that there are judges supervising the implementation of the judicial code of conduct including taken it into consideration when judges are appointed, as in making commitment to the code a condition. She also stated that 124 complaints were received by the complaints department of the Supreme Council, and responses were sent to 82 of them¹¹², some are still under deliberation, but most were set aside as cases of complaints in which the petitioners are appealing for review of a ruling against them or cases of individuals complaining about delays in litigation of their cases¹¹³.

Major problems facing the Judiciary Authority: excessive number of judges, lack of space, small courtrooms and judges' quarters and staff offices, shortage of furniture and equipment.

The Judiciary is also facing financial crisis since its budget allocation has expired in December 2013, hence the year ended a zero budget. This is causing a serious shortfall in essential personnel that cannot be easily overcome unless it is granted substantial financial support.

The Judiciary's financial situation will prevent it from effectively carrying out its duties and responsibilities in view of the funds it receives, wherein it was allocated only 433 thousand dollars in 2011, raised to 532 thousand in 2012, then reduced to 505 thousand dollars in 2013. This reduction is clearly contradictory to the financial needs of any judiciary sector since it is in constant growth and expansion in work load and personnel. Moreover, in Gaza, the shortage of funds has had serious consequences, not the least of which is the extremely low wages of judges.

112 Report by Magistrate Inaam Anshasi; previous reference

113 Ibid

The Courts and the Bailiffs Departments

One third of employees in the Bailiffs Departments are on annual contracts, the rest are hired on part time basis. Mr. Rami Saluha, Bailiff in the Court of First Instance in Gaza, stated that the temporary employees do not have much experience and knowledge when they're hired so they have to undergo rigorous training, which is a waste of time, money, and effort. The Bailiffs Department was promised that more qualified people with experience will be hired in the near future¹¹⁴.

The Hadaf Center for Human Rights conducted an opinion poll in 2013 in which a high percentage of employees in the Bailiffs Department said the number of people working in the Department is insufficient to offer quality services to lawyers and the public. This slows down the process of implementing court rulings and disabling one of the most important means of accountability. Also, 44% of the polled lawyers stated that most employees do not hold appropriate academic qualifications, while 83% of them said the Bailiff's staff has no administrative experience; 89% believe those employees do not have the suitable legal qualifications. The poll also showed that 79% of lawyers believe that the Department has a large back-log of cases; 60% of them believe that employees do not adhere to the official work hours. In general, 85% of lawyers indicated dissatisfaction with the slow process of implementing their transactions.

Another poll conducted by the Center of Women's Affairs funded by the UNDP regarding women and Gaza courts. The results indicated that 58% of women polled believe some people do not refer to courts because of the slow process of litigation and adjudication, and 64%

114 Interview with Mr. Rami Saluha, Bailiff of the Gaza Court of First Instance; "Justice and People" Magazine, published by Hadaf Center for Human Rights; July 2013 issue, p. 16

of them believe the courts discriminate against women in favor of men; 39% stated that the courts' facilities are acceptable and that court-rooms are suitably ventilated and appropriately furnished for the needs of the courts and judges¹¹⁵.

Hadaf Center for Human Rights published a report in "Al-Adaleh wa Annas" (Justice and the People) magazine in 2013, which pointed to failings in supervision of lawyers and follow up on public issues in general. The report also made several observations regarding the work efficiency of the courts, which hinders its ability to reach and accomplish true justice¹¹⁶.

When interviewed, Counselor Adel Khalifeh, President of the Supreme Judicial Council, stated that the courts' compound was constructed in the sixties and is rather old and dilapidated. The courts had one large hall, but the Ministry of Justice made an agreement with the Bank of Palestine to furnish a large empty hall with modern administrative and other necessary equipment. The government is also trying, under the difficult circumstance, to provide the courts and the judiciary with the needed personnel from a pool of unemployed individuals. In addition, the Supreme Judicial Council always follows up and questions employees about whom it had received complaints. If, after interrogation, any are found to have deliberately violated regulations, they are immediately referred to the relevant department for investigation¹¹⁷.

115 Opinion poll of women regarding the performance of the courts in Gaza, conducted within a program to empower women's ability to access the judiciary in marginalized areas of Gaza, implemented by the Center for Women's Affairs, funded by the UNPD. March 2013.

116 Interview with Counselor Adel Khalifeh.....

117 Interview with Counselor Rami Saluha; reference 107

The Shariah Judicial Council

In its session no.14 held in Gaza on 13/11/2012, the Supreme Shariah Judicial Council issued decision no.2/14 of 2012 addressing the Shariah judges' code of conduct, which contains 47 items and was published in the Gaza Palestinian "Waqae" newspaper on February 12, 2013, issue no.85. And in session no.1 held in Gaza on 5/2/2013, the Council also addressed a code of conduct containing 43 items and detailed instructions for Shariah lawyers in decision no.1/3 of 2013, which was also published in that same newspaper on May 12, 2013.

Public Prosecution

The Public Prosecution is a judicial institution that represents the people in the implementation of the penal law, and represents the government in cases brought to it and by it. It is also a body that independently prosecutes criminal cases.

In a statement published on the Ministry of Interior's website, Public Prosecutor and Counselor Ismail Jaber said that the Prosecution completed more than 12 thousand complaints. He also said that 600 people were interviewed and their complaints heard and addressed. There are more than 40 thousand cases that were handled and electronically archived in 2013. The purpose of the electronic system is to facilitate the process for the public. It is also used to provide the courts with information about previous offenders so they are dealt with accordingly. He also stated that the Prosecution formed 8 committees of various specialties to resolve cases of citizens who were swindled or cheated. One of these committees was able to recuperate 65% of the moneys swindled off different individuals. He added that the amounts of stolen funds totaled 21 million dollars last year¹¹⁸.

Corruption crimes recorded at the Prosecution Office for combating corruption in the Gaza

The table below shows the number of cases documented at the Prosecution office for combating corruption in the Gaza and cases brought before the specialized courts¹¹⁹.

Cases Case category	Cases related to civil society organizations and non-profit companies	Cases related to major financial crimes	Cases related to employees referred by Ministries and government institutions	Total
	58	49	38	145

Preliminary investigations were completed on 42 cases and referred to the relevant courts; while investigation of 83 cases is still ongoing¹²⁰. It was not possible to obtain more information about the categories of cases referred to the courts since there is no anti-corruption commission or corruption courts in the Gaza Strip. Statements by the Technical Office of the Supreme Court and

118 Post written by Public Prosecutor and Counselor, Dr. Ismail Jaber, on the Ministry of Interior's website; <http://www.moi.gov.ps/news/46436/>; visited on 21/1/2014

119 The Public Prosecution refused to divulge more details regarding the types of crimes or where these crimes occurred.

120 Queries were submitted to the office of The Gaza Public Prosecutor, and the answers were received several days later on 12/11/2013

the Court Clerk said that it is not possible to provide data about these crimes because they are adjudicated like any other criminal cases, and the case archives program does not have the capability to sort and categorize cases¹²¹.

The Media

Media outlets operate through the internet, television, print, theaters, cinemas and radio. Media undoubtedly has a positive influence in educating the public, transmitting news, exchanging ideas and information, and forming public opinion. Despite that, this does not override the fact that it also has been an ineffective tool against corruption thus far.

There is no Ministry of Information in Gaza, instead, there is a government media office headed by Engineer Ehab Ghaseen.

There are three forms of media outlets in Gaza, governmental, factional, and private.

The Broadcasting Union in Gaza has a code of ethics that is being implemented. There is also an internal code for the broadcasting company that is implemented despite the fact that it is not in line with its vision has not been signed¹²². Also, there is no code of conduct in the legal sense that companies are committed to. Moreover, there are no restrictions on the material they broadcast except what might be related to security issues, but are restricted in accessing and obtaining information¹²³.

Media is definitely influenced by political circumstances and events. For instance, they do not reveal any information about corruption cases, security issues, or political cases.

Chief Editor of Safa News Agency stated that media staff, especially photographers, is often verbally and sometimes physically assaulted while in the field. This is particularly true when covering events where media coverage is prohibited by the Gaza Ministry of Interior. Media coverage is also prohibited for some security cases, and if reports attempt to obtain information, they are assaulted by security officers or by individuals from one faction or another¹²⁴.

The Gaza government also prohibits some journalist from traveling. Often the reasons are related to the political division and conflict between the Gaza and Ramallah governments. Mr. Mohammad Othman stated that officials in government do not directly or indirectly interfere in media work, but the government does look at information published on the internet¹²⁵.

Only three newspapers are issued in Gaza. One is a daily paper, and two are semi-weekly. However, there are some governmental newspapers. Each newspaper is owned or aligned with one party or another, which is usually common knowledge¹²⁶.

To a certain extent, the media in Gaza does play a monitoring role over the work and performance of the Executive Authority by broadcasting reports prepared by correspondents and journalist on television and or radio, most of which are about citizens' complaints and responses by government officials. However, in some cases, ministers were called in and questioned by the Legislative Council.

With the absence of a law that guarantees the right to access information, it is nearly impossible for journalists to obtain information or documents from the government, or the public prosecution or the courts, about public cases.

121 Second visit to the Technical office and the Criminal Court Clerk on 13/2/2014

122 Interview with Mr. Mohammad Othman, Director of Public Relations for Palestine Today Satellite TV Station – Gaza; 27/11/2013

123 Interview with Yasser Abu-Hayn, Editor in Chief of Safa News Agency; 27/11/2013

124 Ibid

125 Mr. Mohammad Othman; reference 115

126 Mr. Yasse Abu-Hayn; reference 116



Former president of the Government's Media and Information Office had issued a code of conduct on his own initiative. The code was disseminated to journalist and media although it is not binding. Nevertheless, an agency or journalist can decide to commit to its application. At any rate, the code is not comprehensive and do not include all media outlets, but some do try to have the code implemented.

Civil Society Organizations (CSOs)

These organizations work in many areas of life, and some are specialized in pursuing corruption, like AMAN and its (CSOs) partners.

The Gaza government has amended the executive regulations of law no.1 of 2000 for charitable and civil society organizations and published it in issue number 81 of the Gaza-based Palestinian "Waq'a" newspaper in February 2012. The amendment was the addition of two

articles to the law. The first amendment is of article 31, which states that: "all branches of international organizations and bodies registered in Palestine are subject to the same rules and regulations as local organizations in terms of laws that govern their work and procedures of ministerial supervision". The second is in regard to article 74, which states that: "all branches of local organizations and bodies must provide the ministry or relevant ministries with any and all documents, invoices, or papers required for inspection by ministry or ministries responsible for the supervision of work and activities of these organizations, to attest that financial resources and funds were disbursed for the specified purpose of each organization." There were also decisions made by the Minister of National Economy regarding the operation of non-profit organizations and companies.

1. Cabinet decision no. 299 of 2011 regarding



amending Cabinet decision no.9 of 2003 of the executive regulations of related for NGOs and charitable organizations Law of 2003, in which paragraph 2 of the amended article 1 and article 47 of the law state:

- a. All branches of local NGOs and charitable organizations must provide, upon request, the ministry and relevant ministry with any and all documents, invoices, or papers required for inspection by relevant ministry or ministries.
- b. The relevant ministry or ministries are responsible for overseeing the work and activities of all branches and bodies of civil organizations to attest that financial resources and funds were disbursed for the specified purpose of each organization.

This law gives the Ministry of Interior the right to oversee all work and activities of CSOs. However, this contradicts the 2003 law of organizations which gives this authority to specific and specialized ministries and requires a justified decision from the relevant minister to allow the Ministry of Interior to intervene and investigate or inspect these organizations. Thus, the amendment was done to the law itself, not only the executive regulations, which contravenes the principle of legitimacy and the rule of law that prohibits any minister from putting in place regulations that are inconsistent with the law itself. In fact, this is an act by the Cabinet that epitomizes interference of the Executive Authority in the affairs of the Legislative Authority¹²⁷.

127 See "The Impact of the Division on Civil Organizations and their Legal Regulation" – Palestinian Center for Human Rights, 2013; pp 36-44. Also see "Commentary on the Gaza Cabinet Decision no.299 for the Amendment of the Bylaws"; legal review for opening a branch for the organization, 2012; and the annual 2012 report by

2. Cabinet decision no.17 of 2010, issued on 9/2/2010 that prohibits government employees from working other jobs with or without pay during or after their official work hours. Also decision no.48 of 2010, issued on 11/7/2010, which prohibits protesting employees (from opposition parties) from joining public organizations, charitable organizations, and civil society committees, or working in them as employees or members of their boards. The Palestinian Center for Human rights condemned this decision by the Minister of Interior and considered an infringement on the right of all people without exception to form or join organizations, which is stated in article 36 of the Palestinian Basic law, and does not give the Minister of Interior the authority to prevent any social sector from utilizing that law¹²⁸.
3. Decision no.8 of 2009 of the Ministry of National Economy regarding non-profit companies in which the Minister of Economy in the Gaza government makes it obligatory for non-profit companies to deposit a capital fund of 20,000 Jordanian Dinars (JDs) in their accounts in order to get a license. The decision also impels share-holders in companies to submit financial disclosures about their personal finances and those of their family members.
4. The Palestinian Center for Human Rights has noted that this decision imposes serious constraints on anyone who wants to establish a non-profit organization, particularly with the demand for setting aside such a large amount of money that most cannot afford, hence prevents them from registering their companies. Furthermore,

the Independent Commission for Human Rights, Office of the Ombudsman, p 114
 128 See reference 120 – "The Impact of the Division..." pp 36-44

compelling share-holders to submit financial disclosures constitutes interferences in the personal affairs of citizens and contravenes the basic principles of privacy¹²⁹.

Cabinet decision no.412 of 2011 regarding regulations for non-profit companies issued on 4 October, 2011. The amended regulations make the approval to form a non-profit company seem like a bequest from the Minister of Economy, and if the applicant does not receive a response from the Minister within thirty days, it is then considered an implicit rejection. This is in complete contradiction of the law for organizations, which actually states that an organization is deemed legally registered if a response to its application is not received within thirty days.

The regulations also include exaggerated supervisory procedures over non-profit companies, such as requiring them to disclose their bank account numbers, which usually cannot be obtained without a legal warrant, and is requested only by the Monetary Authority. Furthermore, the regulations also require companies to provide their salary scales for approval by the Ministry of Economy, and companies that do not comply are dismantled and liquidated.

Companies are also compelled under the amended regulations to provide the auditing body with financial statements and allow it to conduct unannounced external audits of the company finances. It also dictates that their activities and events adhere to rules of public order, which seems to be left to the discretion of the Executive Authority to determine what is or is not in violation of public order. Additionally, the Minister of Economy is given broad leeway in dismantling and liquidating non-profit companies and for the slightest violation¹³⁰.

129 Ibid
 130 Ibid

Non-governmental organizations face many difficulties in their anticorruption endeavors because of their inability to access information and obtain public records since most of them are not publicized. And also because organizations need to submit a request for accessing information from official bodies, which are either denied or stalled with excessive scrutiny or transfers from one official to another.

The Ministry of Interior has a program for integrity and transparency in civil society organizations called "The National Program of Indicators for the Performance of Charitable Societies and Civil Society Organizations". The program was prepared in cooperation with charitable and other CSOs and the (FACB), through which organizations proven committed to integrity and transparency principles would be honored. The program was launched in early 2013, and has its own administration under the Ministry of Interior which oversees the program.

Mr. Ayman Ayesh, Deputy Director of Public Affairs and Non-governmental Organizations, noted that the Ministry of Interior determines the procedures for filing complaints, which are seriously considered; and added that the Ministry also gives appropriate protection to those who report corruption to encourage people to come forward and report suspected corruption crimes¹³¹.

It is important to note here that CSOs in Gaza are de facto participants in the current conditions, since many of them were established on factional basis. This means that each factional organization attempts to prevail over the other. Also, many of these organizations are not supervised or questioned by any official authority, but do have their own internal financial auditors who are mostly used for their seal of

131 Interview with Mr. Ayman Ayesh, Deputy Director of Public Affairs and Non-governmental Organizations in the Ministry of Interior; on 26/11/2013



approval rather than actual audits¹³².

Additionally, CSOs in Gaza do not have a ministry in charge of their supervision which allowed the Ministry of Interior to take over instead. For instance, the Ministry of Health, who should be in charge of the health sector, or the Ministry of Agriculture for the agricultural sector¹³³, and so on. There are also many instances of financial mismanagement in these organizations where some submit invoices that contain questionable information. Verifying these bills also becomes questionable if organizations do

132 Issam Buhaisi, Administration Instructor at the Islamic University, in the minutes of the 2012 dialogue sessions; prepared by PNGO, within the Project for Promoting Democracy and Building Capacity in Civil Organizations; p 16

133 Imad Abu Dayyeh, Director of Training and Management Institute (TAMI); reference 125

not have their own internal auditor¹³⁴.

The estimated number of corruption cases reported to the Ministry of Interior in Gaza between 7/1 and 21/10/2013 is estimated at 17 suspected corruption crimes that were referred to the Prosecution for Combating Corruption. 14 of those were related to local CSOs, and three were suspected internal corruption cases in international organizations working in Gaza. These cases were investigated for mishandling of financial resources and exploitation of position for personal interest, but no organization was dismantled or shut down because of major corruption crimes during that same year¹³⁵.

134 Saher Younis, Director of Japan International Cooperation Agency (JICA) in Gaza; ibid

135 Interview with Mr. Fadi Oubaid, Director of External Relations for Radio Palestine – Gaza;



Issues in the Spotlight

Role of the underground tunnels in contributing to corruption: encouraging the import of expired foods and medicines

AMAN alluded to this problem in last year's report when the Palestinian market was flooded with expired foods and medicines¹³⁶ because of the extensive smuggling of unchecked goods through the tunnels on the Egypt-Gaza border. Based on the regulations of article 17 of the public health law, and law no.17 of 2004, the Ministry of Health (MoH) is the body in charge of inspection of food products upon their arrival at customs. Food cannot be brought into the country without the approval of the Ministry. In addition, article no.25 of the public health law gives MoH employees the authority to examine samples of food products when they are being sold in markets, which is conducted according to explicit regulations for that purpose. Article 2 of the public health law also charges the MoH with the inspection of pharmaceutical products and gives it the authority to issue medical practice licenses¹³⁷ and licenses for auxiliary medical professions. The law also dictates¹³⁸ that medicines and vaccines being used or sold in the market must be registered in the pharmaceutical constitution¹³⁹.

27/11/2013

136 <http://www.moh.gov.ps/portal/category/s5-2011-06-02-06-26-44/c45-2011-06-22-10-31-14/>

137 Article one of the public health law describes medical professions as human medicine, dental medicine, and pharmacy

138 Articles 65-72 of the public health law of 2004

139 Article one the public health law defines the pharmaceutical constitution as the approved

The MoH is also charged with setting and approving specifications of medicines and of inspecting those products. This, in addition to its responsibility for inspecting imported as well as locally-made food products during the process of manufacturing, and has the right to inspect samples of those products while being sold in the market.

On 23/9/2013, the MoH in Gaza amended the lists of approved medicines, and specified the conditions for licensing factories for beauty supplies, and the manufacturing of organic and herbal products, and other public health related regulations. It also published on its website on 30/7/2013 the requirements and health safety conditions and other essential requirements for the management of food supplements. However, it was unable to control the tunnel merchants or force them to comply with these requirements and conditions.

Therefore, all these processes and procedures are not preventing the smuggling and distribution of expired foods, medicines; beauty supplies and other assorted merchandize. This due to the fact that the Gaza market lacks serious supervision and inspection as a result of the special circumstances which prevent authorities from controlling the borders and the tunnels.

Ministry of Health list of physical, chemical and pharmaceutical specifications of certain materials or any of their derivatives, as well as their physiological and biological effect when used for prevention or treatment of people, animals, or plants.



The absence of integrity and transparency in procedures of medical referrals abroad

Medical transfers' procedures for treatment abroad are lacking integrity and transparency. They are tainted with frequent instances of Wasta and nepotism and petty bribery, not to mention exploitation of position and waste of public funds. All these issues and more were detailed in a special report on the health services. Yet, the Ministry of Health persists in transferring many cases to Israel, Jordan, Egypt, and the private health sector mostly because government hospitals and health care services are mal-equipped and short on many medical services that are not being developed to meet the local health care needs.

Law no.20 of 2004 governing public health services based on the provisions of the Palestinian public health law states that the MoH is responsible for providing the public with a wide range of health services. This includes: preventative services, diagnostic services, and treatments and therapeutic services. It is also charged with constructing health institutions for these services. It also has to provide medical insurance within available means and based on Cabinet decision no. 11 of 2006 of public health insurance regulations for the provision of health services and medical transfers outside the country.

The case files for medical transfers have increased tremendously since the establishment of the Palestinian National Authority in 1994. Cost for these cases exceeded half a billion shekels in 2013, for both the West Bank and Gaza (AMAN report: The Environment of Integrity and Transparency in Medical Transfers for Treatment in Non-Ministerial Health Institutions)¹⁴⁰. This dilemma is caused by three

140 Al-Quds radio interview with Dr. Mohammad Kashef, Department of External Medical Transfers,

main factors, the lack of infrastructural facilities appropriate for providing health services, unavailability of medical equipment and laboratories to support health services, and the lack of properly trained efficient medical staff.

With that in mind, and as a result, the Prince Nayef Oncology Center was not opened. The Center has in fact been ready since 2005, and in 2006 received all the equipment needed to begin operating, despite the Israeli occupation who obstructed the entry of this equipment for several months, although 20% of all medical referrals abroad are for cancer patients who need chemotherapy. According to a government source, the equipment and the necessary parts will be installed in March 2014 then the government will be able to forgo treatments abroad¹⁴¹.

The prevalent Wasta and nepotism are generally related to the location of the patients and the nature of the hospital where they receive treatment. They mostly occur when people submit their requests to members of parliament, officials in the President's Office, and the Office of the Prime Minister, due to their inability to communicate with or reach the persons officially in charge of receiving these applications.

However, the Gaza Department of External Medical Transfers denies these allegations, and insists that transfers from the West Bank cannot be approved before going through the Transfers Department in Gaza, and that Wasta and nepotism are non-existent.

The Absence of Effective Supervision over the Use of Chemical Pesticides and Fertilizers

The Administration for Plant Protection and Agricultural Quarantine is in charge of agricul-

Gaza Ministry of Health; 9/03/2013

141 Ibid

tural pest control, quarantines, and sanitary conditions; it is also in charge of the licensing and distribution of pesticides and supervising the import, export, and transport of plants at the borders.



The Ministry of Agriculture is unable to effectively control the import of chemical agricultural pesticides because these as well as fertilizers and other agricultural chemicals are smuggled in through the underground tunnels. It is also incapable of controlling the problem of pesticide residuals because farmers who spray crops with chemical pesticides harvest and sell their crops while still containing harmful levels of chemical residue and are not safe for human consumption; but when it comes to agricultural produce for export, farmers abide by international standards for use of pesticides because their produce is machine-inspected at the borders¹⁴².

Additionally, the Ministry does not have any laws or regulations to control the use of agricultural pesticides and does not supervise farm-

142 Interview with Engineer Mahmoud Jourani, head of the Strategic Planning Unit in the Ministry of Agriculture; a study for the determination of legal rights of agricultural workers, prepared by Access to Justice Network – AWN, Gaza; February 2013, p. 24

ers. There is no doubt that the absence of any effective control over the agricultural sector, and control by the authorities in charge of environmental pollution, is truly catastrophic¹⁴³.

Jadara Capacity Building Program for Graduates

In early 2014, the Ministry of Labor announced that the government is providing ten thousand temporary jobs for graduates in the Strip. Interested graduates were required to enter their personal data on the Ministry's website. The program was called "Jadara Capacity Building Program for Graduates" and is funded solely by the government.

The Ministry then called on private and public sector institutions to conduct needs assessment studies for considerations to be taken during the implementation phase of the program.

Chief Employment Officer Abdallah Kallab stated that the Ministry is about to form a committee for organizing and overseeing the process of implementation of the program to ensure integrity and accountability and also to develop the employment services and the mechanisms needed for screening applications. The Ministry is also about to produce visual material that will help people understand the standards for qualification and selection. There is also a box especially for complaints about the temporary employment program in which individuals could deposit any complaint against the employment department or any other de-

143 Interviews with Engineer Ashour Lahham, Director of Palestinian Farmers' Society in Khan Yunis, and Agricultural Engineer Mohammad Ghiben, Director of Beit Lahya Strawberry Farmers Society; a study for the determination of legal rights of agricultural workers, prepared by Access to Justice Network – AWN, Gaza; February 2013, p. 21 and 26 consecutively





partment in the Ministry¹⁴⁴.

However, incidents of corruption were discovered in this program. Mr. Nabil Mabhouh, General Director of Cooperation and Public Relations in the Gaza Ministry of Labor, revealed that some employees were dismissed when it was discovered they were cheating the program by getting second jobs with other institutions, so they were given their benefits for the period they worked within the program and their contracts were terminated¹⁴⁵.

144 Interview with Abdallah Kallab; previous reference

145 Dialogue with Mr. Nabil Mabhouh, General Director of Cooperation and Public Relations in the Gaza Ministry of Labor; "Between Citizens and Officials" radio program, Al-Quds Radio Station; 2/11/2013



Recommendations

Ministry of Public Works and Housing

1. The Central Tenders Committee needs to be more transparent, especially in publicizing the results of the bids for tenders and the parties that were awarded the contracts.
2. A website for the Central Tenders Committee must be established and launched, where it could publish all its decisions, operational processes, and data related to implemented projects and future projects.
3. Establishing a complaints department specifically for objections on awarded tenders and to make sure these objections are reviewed and answered with the utmost transparency.
4. The projects implemented by the Ministry, particularly the new cities projects, must have strict standards and procedures for construction, and specific criteria for acceptance or rejection, as well as the specifications for apartments in residential building. All these must be well publicized and published on a site for that purpose within the Ministry's main electronic page.
5. Establishing a citizen's complaints department, making sure those are reviewed and answered transparently; and to pursue violators of the principles of integrity.

Ministry of Health: Food, Medicines, and Environmental Pollution

1. Activating the role of the Ministry in control and supervision of medicines and food products that are brought into to the Strip or manufactured locally, and the (FACB) must help in making that possible.

2. Enforcing more stringent control over the tunnels and completely prohibiting the entry of any medicines as well as inhibiting the entry of food products, and preferably shutting down the tunnels all together.
3. Enforcing more stringent standards for licensing the manufacturing of beauty supplies and cleaning products, and intensifying control over of manufacturers and factories of those products to ensure their adherence to all safety regulations in the chemicals they use to make them, and expressly prohibiting the use of any chemicals that are detrimental to human health.
4. Empowering the role of the Ministry of Agriculture in controlling imported agricultural pesticides and fertilizers by instating mechanisms for inspection of these materials before permitting their entry into the Strip. Also, strictly prohibiting the entry of such substances through the underground tunnels as they cannot be inspected.
5. Rigorously pursuing those who neglect their supervisory duties over imported or locally-manufactured chemical substances, including foods containing harmful material and agricultural pesticides and fertilizers, in order to inhibit the rampant environmental pollution in Gaza and other health hazards, especially with the massive electrical outages that beleaguer the Strip and the prevalent use of generators.
6. Diligently handling citizens' complaints regarding the provision of medical treatments and to put an end to cronyism in the approval of those treatments which should also be controlled by the (FACB).
7. A committee must be formed for reviewing



and rectifying problematic issues in all cases of referrals for medical treatment abroad so a clear strategy can be set to for the process of approval. Also procedural policies should also be based on the principles of transparency to put an end to conflict of interest, Wasta, and nepotism in granting those referrals. It should be done in cooperation with the Prime Ministry, the Ministry of Health, and the Ministry of Finance.

Ministry of Education

1. The Ministry must take into consideration the principle of transparency when making appointments in the education sector, and must follow procedures delineated in the regulations of related laws.
2. It must include on its website the names of all job applicants and names of those who have been accepted or rejected, and show the results of competitions in scores and ranks for all contenders whether hired or not; and allow for complaints and grievances to be filed as well as respond to them with the utmost transparency.
3. It must publish its reports on regular basis and publish all its procedures and decisions on its electronic page.

General Administration of Borders and Crossings

1. Establishing a clear mechanism for the Administration and management of Borders, by which its authorities and budget should be specified clearly, as well as instituting an administrative and financial system.
2. Constructing and launching an active website where all its decisions, annual and periodic reports, and all its operational procedures can be published in a manner that is clear and accessible to the public.
3. Defining criteria and measures for selecting

individuals allowed to travel through these crossings. Also names of who are granted permits for travel should be publicized.

4. Instituting regulations and procedures for entry of goods through the crossings and publishing them on the suggested website of the Border Administration.
5. Establishing a complaints division within the Administration for submitting grievances, and responding to those complaints with the utmost transparency.

General Petroleum Association

1. Developing a clear structure for the Petroleum Association and delineating its authorities, setting its budget, and instituting administrative and financial systems.
2. Constructing and launching an active website for publishing all decisions made as well as annual and periodic reports and all its operational procedures in a manner that is clear and accessible to the public.
3. Defining all measures and procedures for the distribution of fuel to fuel stations and the public, particularly when there is a fuel shortage, and to publish these measures and procedures on its web page.
4. Establishing a complaints division within the Association for submitting grievances, and responding to those complaints with the utmost transparency.

Management and Administration Committee

1. The nature of the security agencies must not be a justification for the absence of transparency in appointments within those agencies. Job appointments are processes that must be conducted in an open and transparent procedure, and exceptions or special job appointments must be made

only within the provisions of the law.

2. It is crucial that the (FACB) becomes seriously involved in the affairs of the Security Agencies with the purpose of holding them accountable for all aspects related to public safety and security. Also to hold them accountable for any actions taken with the accused or arrested, all within the rule of law.

Electric Power Distribution Company

1. Delineating the relationship between the Power Authority and the Electric Distribution Company to prevent conflict of interest. This is particularly important as it relates to the President of Power Authority and the President of the Board of the Distribution Company.
2. Publishing all information related to agreements signed by the Power Authority and the Electric Generation Company, and what obligations each hold in those agreements.
3. Publicizing all information regarding the power shortage crisis in the Gaza Strip to keep the public informed of the circumstances so they could perhaps help in resolving their part of the problem.
4. Dealing responsibly with its duties and not allowing personal or political interest, and the division to prevail over public interest in resolving the power crisis in the Strip.
5. Establishing a complaints department within the Company for submitting grievances, and responding to those complaints with the utmost transparency.

Public Budget

1. To include in the general budget detailed information about the sources of revenues as the current published budget contains only the total sum of revenues without any

details.

2. Specifying areas of expenditures in more details, along with each source of spent revenues.
3. Raising the budget for education, health, development, trade, and production and investments sectors, instead of the rather inflated budget for the Security sector, which comes at the expense of all other sectors.

Universities

1. University rules and regulations should be published for employees on each university's website, especially administrative and financial regulations.
2. Publishing financial and administrative reports of universities on regular basis.
3. Disclosing decisions of general interest to university employees, and information regarding vacant positions, appointments, delegations, research projects, and competitions.
4. Publishing regulations and procedures for academic scholarships and student loans, and sorting students into specific categories prior to their obtaining scholarships or loans, with regular updates of their personal data.

Municipalities and Local Governance Councils

1. Constructing electronic websites for all municipalities and local governance councils so they are an open door for the public to access information.
2. Publishing financial and administrative reports for all municipalities and local councils regularly and transparently.
3. Announcing competitions for positions in both bodies and publishing the results and



names of appointees, particularly in high-ranking positions.

4. Preparing an electronic system and page specifically for receiving complaints and responding to them responsibly and seriously through a person assigned for that task in municipalities and local councils.

Private Sector

1. The Ministry of National Economy needs to compel public share-holding companies operating in Gaza to adhere to the rules of governance for companies which are applied internationally.
2. Public companies must hold their periodic meetings in order to disclose to investors all the decisions they had made.
3. Public companies must publish their administrative and financial reports on their websites on regular basis.

Legislative Council

1. The Legislative Council cannot possibly carry out its duties while the political division is still ongoing.
2. The Gaza Council must stop issuing legislations and so should the President of the PA because this only intensifies the political division.
3. Publishing the contents of the (FACB) reports submitted to the Gaza Legislative Council in order that accountably system indicators in Gaza are revealed.
4. Publishing administrative and financial reports for the Council in Gaza on regular basis so the public can be informed, since it is their legitimate right to know what their representatives are doing.

Financial and Administrative Control Bureau (FACB)

1. The (FACB) needs to do its job of auditing all sectors operating in the Gaza Strip as dictated in the Basic Law and its own law regarding its powers and obligations.
2. Publishing financial and administrative reports of the Bureau's work on quarterly basis, with all the details contained in those reports, particularly reports on the Legislative Council.

Judiciary Authority

1. The Department of Judicial Inspection must become more effective in its role so it is in line with the responsibilities assigned to it in the Judicial Authority law, particularly as relates to conflict of interest.
2. Updating the Supreme Judicial Council's website to contain its financial and administrative quarterly and annual reports and all decisions made by the Council, particularly those related to appointments, promotions, delegations, and transfers of members of judicial bodies.
3. Taking into most particular account integrity and transparency in regards to competition for appointments of judges by publishing the results of the written and oral examination of applicants. Also the names of appointees and those who were rejected, detailing the reasons for rejection, have to be published in a serious and transparent manner.
4. Judges must be compelled to submit personal financial disclosures upon appointment and to consign these disclosures to the Supreme Court. The judges should also be required to update their personal data on regular basis; and enforce the principle of asset disclosure in order to avoid soci-

ety's question and common proverb "How did you earn all this wealth?"; that is, accountability for all assets they obtain while in office.

5. Publishing periodic data and statistics on crimes including numbers, geographic locations, and the offenders who committed those crimes.

Prosecution for combating corruption

1. Publishing data and statistics of corruption crimes referred to the Prosecution as well as categorizing them by the nature of the crimes and where they were committed. It should also publish the names of those who committed corruption crimes. All this information needs to be posted on the Prosecution's website for the purpose of promoting transparency and the benefit of researchers.
2. Activating the Supreme Judicial Council's website so its annual and quarterly reports are published on the site and contain all activities and decisions of the Council that include: appointments, promotions, delegations, transfers, and castigations. It should also contain data and statistics of corruption crimes brought before judges and were adjudicated, and to sort the nature of the crimes and name the offenders.
3. To form a special court for corruption crimes that will adjudicate corruption cases since there already is a prosecution for combating corruption. This would also advance the capabilities of judges in deliberating corruption crimes and will speed up the litigation process hence enhancing integrity and transparency in the judiciary.

Media: Outlets and personnel

1. Media personnel should adopt a code of professional ethics that contain a pledge to work professionally, honestly, and with integrity when reporting on issues of public concerns and affairs.
2. Making the media more effective by promoting the rule of law and instilling the principles of transparency, integrity, and the accountability of public officials, and society at large.
3. Keeping a close watch on places where corruption lurks in all its forms, including Wasta, nepotism and exploitation of public position, and preparing investigative reports that uncover the corruption crimes.
4. Working towards the issuance of The Right to Access to Information Law.



