

U4 Expert Answer



Overview of corruption and anti-corruption in Palestine

Query

What is the status of corruption and anti-corruption in Palestine?

Purpose

Our country provides bilateral assistance to the Palestine authorities. Information focusing on the Petroleum sector and illicit capital flows in Palestine would be particularly helpful.

Content

1. Overview of corruption in Palestine
2. Anti-corruption efforts in Palestine
3. References

Caveats

There are relatively few publicly available sources of information on corruption and anti-corruption for Palestine (in English) than for other countries. The present answer draws heavily on a comprehensive 2011 World Bank report on improving governance and reducing corruption, the Global Integrity 2010 scorecard and the 2009 National Integrity System study as well as other reports produced by the AMAN coalition.

Summary

Since its inception, the Palestinian National Authority (PNA) has faced major internal and external threats and challenges that may have stalled its efforts to develop and implement effective anti-corruption policies. Against this backdrop, the PNA is credited with having made significant progress in strengthening public governance systems, as reflected by findings of various corruption surveys and governance indicators.

While domestic surveys show that perceptions of corruption remain high across the population, in actual fact, relatively few Palestinians experience petty bribery when dealing with public officials. Wasta (favouritism) and nepotism constitute the most common manifestations of corruption, in particular in relation to appointments in public institutions. Corruption in economic sectors that have monopolistic features such as the petroleum sector and in land management remain issues of major concern.

The PNA has made efforts to strengthen its legal and institutional framework against corruption. A number of anti-corruption laws have been enacted and institutions have been created, such as the Anti-Corruption Commission and Corruption Crimes Court, an external audit bureau, the SAACB, and the Economic Crimes

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and Support Unit within the Attorney General's office. But efforts remain fragmented and there is a need for better coordination of anti-corruption efforts and institutions. The lack of an access to information law also prevents civil society organisations and the media from fully playing their watchdog role.

1 Overview of corruption in Palestine

The Palestinian National Authority (PNA) was created pursuant to the 1993 Oslo Accords between the Palestine Liberation Organisation (PLO) and the government of Israel, as a five-year administrative organisation established to govern parts of the West Bank and Gaza Strip. While a final status has not yet been reached more than 17 years after its inception, the PNA is recognized as the governing body in the occupied territories by the international community, and receives aid from several bilateral and multilateral donors.

However, in its short period of existence, the PNA has been confronted with major challenges that have compromised its ability to design and implement effective national anti-corruption strategies: It does not enjoy full sovereignty over its administered territories, lost effective control over the Gaza Strip after Hamas gained control of it in 2007, and has large parts of its territory under Israeli military control. The political stability of the Palestinian Territory is compromised by the failure of the peace process and the related climate of constant tension with Israel as well as conflicts within the Palestinian society characterised by the political polarisation between Fatah and Hamas, the two major Palestinian factions.

Issues of national division have subsequently been brought to the forefront of the political agenda to the detriment of other issues such as the fight against corruption (AMMAN, 2009b). Against this backdrop, while the PNA is credited with having made significant progress in strengthening public governance systems (World Bank, 2011), as an emerging state that does not possess all the characteristics of a state, it continues to face major challenges in establishing and implementing an effective national integrity system (AMAN, 2009b). Within such a context, corruption within the PNA is an issue of major concern for both local and foreign stakeholders seeking to build a viable independent Palestinian state, as it can potentially undermine both the political and economic development of the Palestinian State, the legitimacy of the PNA and

hamper its ability to achieve full statehood (Sobovitz, D., 2010).

Extent of corruption

According to the World Bank Worldwide Governance Indicators (WGI), the West Bank and Gaza has made remarkable progress in terms of control of corruption in the past few years. Except in terms of voice and accountability and political stability, the West Bank and Gaza has considerably improved its performance on all other dimensions of governance measured by WGI, with notable gains in terms of rule of law (49.3 in 2010 compared to 42.6 in 2005), government effectiveness (40.7 in 2010 compared to 13.2 in 2005), regulatory quality (57.9 in 2010 compared to 16.2 in 2005) and control of corruption (48.3 in 2010 compared to 16.6 in 2005). However, suspicions of corruption that cast a shadow on the PNA's early years of existence continue to influence perceptions of official corruption which remain strong across the population, in spite of reforms and progress made in recent years, partly due to the failure to prosecute most senior officials suspected of wrongdoing (Associated Press, 2011).

According to the World Bank, while domestic surveys show that perceptions of corruption remain high across the population, in actual fact, relatively few Palestinians experience corruption when dealing with public officials. For example, according to a 2009 survey by the Palestinian Centre for Policy and Survey Research, 66% of the respondents believed that there is corruption in the PNA and 51% believed it would increase in future (World Bank, 2011). Consistent with these findings, another survey conducted in 2008 in the Palestinian society also revealed that more than 55% of the respondents believed that levels of corruption are increasing (AMAN, 2009a). However, according to World Bank data, although perceptions of corruption are high among citizens, less than 2% of its Household 2010 survey respondents reported paying a bribe to access centrally provided public services. While ranked as a very important problem, corruption is also not considered one of the most serious problems Palestinians face (World Bank, 2011).

This discrepancy is also reflected in private sector views on corruption. According to the World Bank's 2006 enterprise survey, 66.5% of the firms surveyed identify corruption as a major constraint to doing business in the West Bank and Gaza (World Bank, 2006). But only about 13% expected to give gifts to public officials to "get things done", which is lower than

the regional and world average (respectively 37.7% and 25.7%). The World Bank explains the large discrepancy between perception and actual experiences of corruption by: 1) the delayed impact of reforms on perceptions of corruption; 2) the high demand for scarce public services available, fuelling the perception of public sector corruption and; 3) general dissatisfaction with government performance in fighting impunity and prosecuting corrupt public officials.

However, not all surveys highlight this discrepancy between perceptions and actual experience of corruption: Transparency International 2010 GCB for example challenges these findings and shows relatively widespread experience of corruption, with 51% of public service users reporting paying a bribe to receive attention from at least one of nine different service providers in the past 12 months (Transparency International, 2010).

Forms of corruption

According to World Bank data, the use of favouritism/nepotism is considered to be the most frequent form of corruption in the public sector by the large majority of respondents (77%). Other forms of corruption perceived to occur in the public sector include conflict of interest (65%), unauthorised personal use of PNA resources (59.6%), and large-scale corruption (e.g., stealing money and public property, 56.4%). Bribery is reportedly the form of corruption perceived to occur the least frequently in the public sector.

Nepotism and favouritism

Forms of corruption that had characterised the PLO as an underground resistance movement such as nepotism, favouritism and political allegiance have persisted in the PNA and still pervade governmental and non-governmental institutions (AMAN, 2009b). According to a 2010 opinion poll conducted by AMAN, the Coalition for Accountability and Integrity (and Transparency International's national chapter in Palestine), *wasta* (favouritism) and nepotism in public positions appointments are perceived by more than half of the respondent as the most widespread forms of corruption. Such practices date back to the PNA post-formation, where governmental recruitment lacked professionalism and were linked to political affiliation, kinship and personal connections. In the absence of adequate control and oversight by the General Personnel Council, this had led to the inflation of the

number of civil servants beyond needs and resources available (AMAN, 2009a).

Looking at 23 public services, the World Bank 2010 survey confirms that the large majority of Palestinians surveyed consider *wasta* to be the most common form of corruption in Palestine, especially for accessing public employment, health services abroad and social services. This is corroborated by AMAN 2010 public opinion poll (AMAN, 2010). However, in practice, only 15% of the respondents reported having actually used their personnel connection to get preferential treatment in public employment (World Bank, 2011).

Petty and bureaucratic corruption

Bribery is perceived to be a common form of corruption in the West Bank and Gaza (AMAN, 2009a). However, according to the World Bank Household survey, few respondents identify bribery as a major problem in the public sector and even fewer respondents experienced it in practice. Similarly, less than 15% of public officials surveyed believed that bribery happened most of the time. Reported incidence of bribery was 5% for customs and less than 2% for other centrally provided services, significantly lower than in other countries in the region (World Bank, 2011).

Similarly, the vast majority of firms do not make extra-legal payments to public officials for routine business services. Less than 3% of the firms surveyed in the 2006 enterprise survey reported being asked to make an informal payment or a gift during public transactions (compared to a regional average of 18.8%). As a result, the West Bank and Gaza ranks on top of other countries in the region in this regard. An explanation for these relatively low levels of petty bribery is that the business environment is not perceived to be burdened by overregulation and administrative barriers. For example, licensing of business activity, permits and inspections are not mentioned as obstacles to doing business in the West Bank and Gaza. While tax law is poorly enforced, taxation is also generally not perceived as an obstacle to doing business in the West Bank and Gaza, as the tax regime aims to encourage investment (World Bank, 2011).

Misuse of public funds and resources

Misuse of public resources is also prevalent in the PNA. In the early days of the PNA for example, there have been some prominent cases of misappropriation of public funds such as in 1997, when a government audit revealed that US\$ 326 million of the PNA's budget—nearly 40%—has been wasted or misappropriated

(Global Integrity, 2010). More recently, in 2006, the public prosecutor launched investigations of 40 cases involving a number of public figures and former officials from across the PNA structure concerning the embezzlement of around US\$ 700 million (AMAN, 2009b). In 2009 alone, three high level officials were sentenced to imprisonment for embezzlement and misuse of public office (AMAN, 2010). According to the 2010 AMAN public opinion poll, Palestinians continue to believe that misusing public resources for private purposes is widely practiced in Palestine (AMAN, 2011).

As the exact number of employees paid as public servants is not known, public resources are also believed to finance “ghost” employees, inflating the public sector salary costs (AMAN, 2011). Another example of misuse of public resources is reflected in the use of governmental vehicles. The AMAN Coalition published a report in 2008 documenting how governmental vehicle funds were allocated to benefit privileged key personnel rather than based on needs and priorities (AMAN, 2009a). Similar practices have been found in the allocation of fuel coupons. Fuel coupons are often allocated as a privilege attached to certain posts and ranks in the form of a monthly lumpsum, which is contrary to the provisions of the Civil Service Law.

The misappropriation of state property is also reflected in the allocation of state land to individuals and firms, especially in the Gaza strip, where former Israeli settlements have been allocated to parties and individuals for political reasons (AMAN, 2009a).

Political corruption

While the West Bank performs well in terms of election integrity, political party financing is assessed to be very weak by Global Integrity (2010). This can be explained by the unique situation of the Palestinian Territories. Most Palestinian political organisations operate both inside and outside of the territory under the jurisdiction of the PNA and political activity is repressed in many occupied territories. According to the NIS report, since PNA laws are enforceable only in the Gaza Strip and parts of the West Bank, creating legislation to govern the activity of political parties may complicate the legal status of existing Palestinian political organisations (AMAN, 2009b). Many factors further contribute to the lack of transparency characterising political parties’ activities and management of finances, including political competition between the different factions, and

the general lack of trust among some parties and factions in the political system.

In the absence of a law regarding the financing of political parties, there are no limits on individual and corporate donations to political parties or candidates, or on political parties’ expenditures. There is no agency or entity that monitors the financing of political parties. The lack of adequate political party financing can result in opaque campaign funding and unsatisfactory auditing of the political parties’ income and expenditures, increasing risks of political corruption.

These risks are confirmed by local sources of information. According to AMAN, political parties contribute to the spread of corruption, using financial grants and deductions that party leaders obtain from the Treasury for party or personal purposes (AMAN, 2009a). Political parties also play a role in spreading the practice of *wasta*, with senior positions being granted by high ranking political leaders, regardless of their expertise or qualification. The GCB 2010 data backs these findings, with political parties being perceived by citizens as the institution most affected by corruption in the country, scoring 3.1 on a 1 to 5 (5 being extremely corrupt) scale (GCB 2010).

Illicit flows

There is very limited information on the extent and nature of illicit flows in Palestine. One of the only sources of information identified on this issue is a 2005 workshop paper that mostly describes challenges characterising the Arafat era (Dillman, B., 2005). No recent sources of information allow making an evidence-based assessment of illicit capital flows in Palestine in the post-Arafat period.

During the Arafat period, illicit flows in Palestine were believed to be closely associated to decades of political tension, violence and insecurity. During this period, as in many conflict torn countries, the climate of violence and war was likely to fuel the development of entrenched illicit networks in conflict zones and processes of smuggling of arms and illicit goods, profiteering and conflict financing. While there is no/little publicly available studies documenting this phenomenon in Palestine, secret contributions, the black market and extortion are believed to have played an important role in financing the Palestinian movement as became apparent when Arafat died in 2004 (Erlanger, S., 2004).

Beyond cross-border flows fuelled by conflict related activities, grand corruption and mismanagement are also believed to have played a central role in fostering illicit flows in Palestine during the Arafat period, as they usually had a transnational dimension. For example, an IMF audit of PNA finances in 2003 estimated that Yasser Arafat had diverted up to US\$ 900 million to a variety of commercial investments outside the West Bank and Gaza.

Transnational illicit activities often involve confusion between the public/private and state/business spheres of the economy. In the case of Palestine, the above mentioned paper further mentions the centrality of state officials in illicit transactions, with a core economic elite emerging in the post-Oslo era, involving Arafat loyalists, security officials, PNA professionals and private businessmen benefiting from the political instability. As PNA officials and security services became the main intermediaries between foreign and local actors, they established their own private businesses and channelled government purchasing to foreign firms in which they had financial interests (Dillman, B., 2005). While some serious measures have been taken to address these challenges, there are no recent sources of information that allow making an assessment of the impact of the reforms and the current extent and nature of illicit capital flows.

Sectors most affected by corruption

While 2010 GCB findings suggest that political parties are perceived as the most corrupt institution in the country, respondents also point to relatively high levels of corruption in the private sector, public administration, the media, NGOs and parliament, all institutions scoring 2.8/2.9 on a 1 to 5 scale.

Overview of corruption in the public sector

As already mentioned, according to the World Bank 2010 survey, in spite of being perceived as problematic, corruption is not regarded as the most serious problem in various public service delivery organisations, and bribe payments are seen as relatively unusual for the vast majority of public services.

In spite of these findings, corruption is generally perceived to occur more frequently in the public sector than in the private sector or civil society. 55.4% of the Household respondents believe that bribery occurred most of the time in the public sector, while less than one-third believes it occurred most of the time in the

private sector and in civil society. Similarly, public sector officials share these views, perceiving corruption in their sector to be considerably more serious than in the private sector or civil society (World Bank, 2011). Appointments and promotions are usually perceived as areas vulnerable to corruption, as well as the potential for conflicts of interest arising from the practice of changing positions between the public and private sectors without control and oversight (AMAN, 2011).

Bribe payments are perceived to be the least important obstacles to accessing health services (World Bank, 2011) and some progress has been made in promoting transparency, particularly with regards to bidding procedures within the health sector (AMAN, 2011). While a higher percentage of respondents reported having to use *wasta*, particularly for medical referrals abroad, incidence of preferential treatment for accessing health services was ranked relatively low. AMAN also confirms that *wasta* and favouritism still play a role in referrals for treatment abroad (AMAN, 2011).

Similar to the other services, perceptions of corruption in the education sector are greater than actual experiences. According to AMAN, while there were notable improvements in the transparency of grants and scholarship awarding processes, appointments within the education sector remains an issue of concern (AMAN, 2011).

While corruption is not perceived as the most important obstacle in the judiciary, *wasta* is perceived to be important in court decisions by more than 50% of 2010 World Bank survey respondents. However, actual use of *wasta* by those who used the courts is reported to be relatively low.

Private sector corruption

While petty corruption is not perceived to be a significant feature of the local business environment, issues of concerns traditionally relate to the lack of transparency in the operations and financial management of commercial enterprises in which the PNA had an equity stake, conflict of interest and misuse of public positions by officials who have direct or indirect affiliations/interests with commercial activities, and opaque awarding of operational licenses, allocation of import quotas, or granting of special privileges in key sectors (World Bank, 2011).

Corruption in the private sector is also generally linked to monopolies that developed after the PNA inception such as in the telecommunication or petroleum sectors

(AMAN, 2010). Anti-competitive practices, market dominance and ineffective regulations in a number of sectors can create room for state capture as well as opportunities for preferential and discretionary treatment by public institutions and officials with respect to the private sector. Using the example of the telecommunications sector, the World Bank report identifies possible abuse of market power and dominance by some powerful business groups, and close personal ties between large businesses and public officials as an important corruption related concern.

Based on these findings, the report identifies four areas of needed reforms in the private sector:

1. Establishing an independent regulator for key sectors;
2. Completing the development of a competition law and establishment of a competition authority;
3. Improving transparency in management of licensing and other services; and
4. Eliminating unnecessary or onerous market entry and trade restrictions.

The petroleum sector

Until recently, corruption in the Petroleum sector was an issue of major concern and the case of the former president of the Petroleum Commission, who received a prison sentence in 2008, was among the most recent and significant corruption cases handled by the Palestinian courts (AMAN, 2009b). To highlight the opaque management of import quotas, and licenses in the petroleum sector, the World Bank published a case study of the Palestinian Petroleum Commission (PPC) in its 2011 report.

The PPC was established in 1994 as the monopoly supplier of petroleum products in the West Bank. As such, it had exclusive rights to channel and sell petroleum products and was also mandated to regulate the sector. The PPC was attached to the President's Office and operated without a regulatory/legal framework for its operational and financial operations and was not subject to external audit or oversight. The proceeds of petroleum activities were directed outside the budget on accounts under the control of President Arafat and his financial advisor and were neither disclosed nor monitored. The weak governance of the sector resulted in widespread practices of revenue diversion, and non-transparent purchase agreements such as sole source contract signed with the Israeli

company Dor Alon, dubious commercial arrangements, etc. The PPC also adopted a monopolistic pricing policy in an attempt to maximise profits which created incentives for smuggling and unofficial sale of petroleum products, leading to revenue loss for the PNA.

From 2000 on, a series of reforms have taken place to address these governance challenges, incorporate the PPC within the framework of the Ministry of Finance (MoF), and consolidate all revenues under accounts controlled by the MoF, allowing the MoF to provide financial oversight and audit its financial transactions, etc. The MoF also reduced the PPC's involvement in downstream sector operations that could lead to conflicts of interest. According to experts consulted within the framework of this query, the inclusion of the PPC in the MoF has addressed many of the governance and corruption challenges in the sector.

In spite of progress made, reforms were not far-reaching enough and significant weaknesses were revealed by a 2008 audit, including the lack of an effective accounting system and financial reports on accounts receivable, absence of bank reconciliation, cash payment to employees outside the payroll, and deficiencies in internal and external oversight mechanisms. No audit had been conducted between 2004 and 2008. Since 2009, the PPC is implementing a number of measures to improve its internal financial management but some outstanding issues remain:

1. Separating reporting of the commission's financial performance and balance sheet;
2. Promoting transparency in procurement, and
3. Establishing a clear governance framework for the sector.

Spotlight on land management

Against the background of persisting conflict with Israel and related land scarcity, the way land is managed by the PNA carries a particular importance in the Palestinian context. Both the World Bank 2011 report and the AMAN 2008 annual corruption report raise concerns in this regard and identify a number of governance weaknesses in state land administration including opaque disposal/allocation of state land, absence of clear criteria for decision-making, and lack of monitoring of land use.

Practices of discretionary allocation of state land to influential PLO/PNA figures; non-payment of fees to the Treasury; lack of financial disclosure on state land

transactions; land swap between the State and individuals and institutions; and illegal encroachment and utilisation of state land for construction or agriculture are reportedly problematic practices both in the West Bank and Gaza strip.

According to the World Bank (2011), while the PNA has developed a land reform agenda that culminated in the adoption of the 2008 National Land Policy Framework, minimal progress has been made and efforts need to be intensified in a number of areas, including:

1. A clear policy framework for land management and allocation;
2. A comprehensive land registry;
3. Strengthening institutional capacity;
4. Strengthening land management accountability;
5. Improving access to information on state land management and allocation; and
6. A systematic approach to restitution of State land.

2 Anti-corruption efforts in Palestine

Overview of anti-corruption activities

Anti-corruption reforms and strategies

In the early period of its inception, the PNA struggled to establish good governance frameworks. Efforts to combat corruption in Palestine date back to 1997, triggered by the resignation of the Cabinet, Palestinians' growing concerns on corruption and pressure from the international community (AMAN, 2009b). Informal and fragmented government systems gave considerable discretion to the Office of the President and political leaders, resulting in waste of resources, leakages of public funds and public dissatisfaction in the PNA performances and ability to deliver basic public services (World Bank, 2011). Substantial reforms have been implemented since to address some of these weaknesses.

A first anti-corruption plan called the 100-Day plan was approved in 2002, including – among others - measures aimed at promoting principles of separation of powers, the independence and effectiveness of the judiciary and the rule of law, strengthening oversight of the police, preventive security and civil defence, and establishing a carefully monitored and audited investment fund to

handle investment and commercial operations of the PNA (AMAN, 2009b).

Further reform programmes have been implemented by the successive governments to prevent and address corruption, including the 2004-2005 Palestinian reform Programme which included reforms in finance, judiciary, public administration and civil service, security, general and local elections, and education. The current government has also taken a number of steps in the area of organisational and financial reform, including through the 2008-2010 Mid-Term Reform and Development Plan, which links programmes and activities to the budget in a unified strategy. Civil society organisations developed a draft framework for a comprehensive plan to combat corruption that was approved by the Cabinet in 2008 and is meant to serve as a basis to develop a detailed plan and a national strategy for implementation (AMAN, 2009b). Civil society (represented by AMAN) is currently providing support to the newly established Anti-Corruption Commission to draft a national strategy for combating corruption (AMAN, 2011).

General assessment of anti-corruption reforms

According to AMAN, the PNA has not yet developed the institutional capacity and lacks the expertise needed to fully develop and implement an effective national integrity system (NIS) (AMAN, 2009b), but acknowledges that some progress has been made to strengthen some pillars of integrity. 2010 GCB data also seems to indicate that progress has been made in fighting corruption, with 59% of the respondents believing that corruption has decreased in the past three years and perceiving government efforts against corruption to be effective.

According to both the 2009 national integrity study and the World Bank 2011 report, reforms have been particularly successful in the area of public financial management. The PNA took active steps to consolidate government revenues in the treasury and improve expenditure control. Improvements in the auditing systems also facilitate more robust and timely reporting of government finances. While a number of weaknesses remain with regard to reporting and complaints mechanisms, public procurement procedures have been strengthened and only 4.7% of the companies surveyed in the 2006 enterprise surveys expect to make a gift to secure a government contract, which is far below the regional average (38.8%).

Some reforms are also on the way to address some of the corruption challenges identified in public sector employment, where recruitment and promotion was used to reward individuals with personal connections to public officials or linked to political parties. The Civil Law Service 2005 was an effort to make staff recruitment and management more transparent by introducing a system of multiple approvals to appointments and controls. While there are still areas to be strengthened such as increased controls on hiring and promotion, the World Bank 2010 survey of public officials seem to indicate that PNA reforms are perceived by the respondents to have improved governance in public employment.

The World Bank 2011 report identifies land management, transparency in licensing and access to public information as areas of governance where reforms have largely stalled. Both the NIS and World Bank reports mention the failure of the PNA to take substantive measure to prosecute high ranking officials involved in corruption. Until 2005, only a limited number of cases had been referred to the public prosecutor.

Legal framework¹

The PNA has made efforts to strengthen its legal and institutional framework against corruption but according to various reports they remain fragmented.

According to Global Integrity 2010, active and passive corruption, attempted corruption, extortion and money laundering are criminalised in Palestine. The **Anti-Corruption Law** also includes favouritism and waste in the definition of corruption offences.

The State Audit and Administrative Control Law and Civil Service Law both aim to prevent favouritism, conflict of interest, or exploitation of position for personal gain. Further pieces of legislation include the 2007 Anti-Money Laundering Law and the 2005 Illicit Gains Law which was amended in 2010 and renamed Anti-Corruption Law (ACL) to establish a specialised anti-graft court (the Corruption Crimes Court) and an anti-corruption commission.

In terms of **assets declaration**, the Basic Law, the ACL and other laws such as the Judicial Authority Law constitute the legal framework of asset disclosure for

specific public officials such as members of the Legislative Council, the President, judges and prosecutors. Not all asset declarations of public officials are submitted to the ACC, some have to be submitted to the High Court of Justice, to the President, and to the Head of the Supreme Court. w

Global Integrity 2010 points toward several weaknesses in the legal framework, including the absence of legislation guaranteeing the **right to access government information**, inadequate transparency regulations around **political financing**, with few limits imposed on donations to parties or party spending. The report also highlights challenges in enforcing safeguards to minimise conflicts of interest in the legislature, civil service, and judiciary remain acute.

The ACL constitutes the first attempt to introduce **whistleblowing protection** which is especially important as the lack of protection for whistleblowers was identified as a key reason why corruption is not reported by respondents to the 2010 World Bank households and public officials' surveys. While civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences by law, these protections have proven to be ineffective in practice in several cases (Global Integrity, 2010). A complaints mechanism has been established with the creation of the new anti-corruption agency, but as a newly created body, it is still in its infancy and no assessment has been made of its effectiveness.

One of the constraints faced by the PNA in enacting anti-corruption (and other laws) is that the Palestinian Legislative Council (PLC) has not met since April 2007. Draft laws must be issued by presidential decree, which has resulted in lengthy delays for many key pieces of legislation (US Department of State, 2011).

The PNA does not have the power to sign or ratify the UNCAC but it has announced its commitment to respect the UNCAC and adhere to its provisions to the UN.

Institutional framework²

In recent years, the PNA has made substantial efforts to establish anti-corruption institutions such as the recently created Anti-Corruption Commission and

¹ The 2011 World Bank report provides a detailed gap analysis of the Palestinian legal framework.

² This section is primarily draws on the 2009 NIS report.

Corruption Crimes Court, an external audit bureau, the SAACB, and the Economic Crimes and Support Unit within the Attorney General's office. While this may reflect a political commitment to fight corruption, there is a need to address institution-specific financial and technical capacity limitations and ensure that these institutions, function effectively, coordinate their respective mandate and activities and are held accountable (World Bank, 2011).

The Palestinian Legislative Council (PLC)

The PLC is the body responsible for oversight of the PA's executive branch. The government is required to have the state budget approved by the PLC which grants it an important control function. However, following Hamas gaining control over the Gaza Strip in June 2007, the PLC ceased to be a functioning body with the legitimacy to hold government accountable.³ The continued paralysis of the PLC impedes the exercise of both its legislative and oversight role on the budget, use of public funds, appointments of high levels officials or use of parliamentary tools such as interpellation or investigative committees (AMAN, 2011). This lack of oversight and accountability of the executive branch has raised major transparency concerns (US Department of State, 2011). In addition, despite the commitment of government to allow the PLC to approve its budget, the executive branch, with very few exceptions, has failed to submit year-end reports to the PLC (AMAN, 2009b).

The Judiciary

According to the 2009 NIS, the judicial system has improved under the current government, with appointment of more judges and improvement of the courts' infrastructure which resulted in a reduction of cases backlog, an increase in the rate at which cases are resolved, and a decrease in dependence on traditional structures and local conciliation committees.

³ According to Global Integrity 2010, the PLC last convened with a quorum was on April 24, 2007. Firstly, more than one-third of the legislators were imprisoned by Israel and the majority of the Parliamentarian majority is among those imprisoned. Secondly, the clashes between the followers of the two major lists of the Council led to the seizure of full control by Hamas of the Gaza strip and the appointment of an emergency cabinet in the West Bank, which led to the formation of two governments.

Codes of conduct have been developed and adopted for judges and judicial workers. Reforms of the Judicial Authority's administrative and financial systems are under way. The Higher Judicial Council also conducts in-service training on topics such as corruption in order to build the capacity of judges.

In spite of progress made, the NIS report points to several weaknesses that affect the capacity of the judiciary to effectively prosecute corruption cases. Judges and staff still need to develop their skills and expertise in order to be fully competent for their work. While the independence of the judiciary is guaranteed by law in practice, judicial independence is impeded by resistance by the executive branch. In addition, a large number of judicial appointments have been allegedly made on the basis of favouritism and nepotism. Lines of accountability and oversight for the staff of the public prosecution are ambiguous, with an overlap of the powers of the president and the Ministry of Justice in terms of oversight of the public prosecution. Cases involving corruption are usually ruled as misdemeanours instead of felonies, resulting in offenders being given light penalties.

The Attorney General's Office

As already mentioned, the Attorney General's office has created the Economic Crimes and Support Unit in 2006 which has the jurisdiction to investigate and follow-up corruption and economic related crimes. Among others, it can receive cases from ministries, the SAACB, different law enforcement agencies, the presidential office, legislative council, the Cabinet, and various security forces. Since the 2009, more than 140 cases have been registered in the records of the Economic Crimes and Support Unit (AMAN, 2010).

Anti-Corruption Commission and the Corruption Crimes Court

As already mentioned, the ACL was recently amended to establish a specialised anti-corruption court (the Corruption Crimes Court) and an anti-corruption commission (ACC). The ACC is tasked with collecting, investigating, and prosecuting allegations of public corruption. The anti-corruption commission is also responsible for public information on corruption. Replacing the former Illicit Gains Commission, it is also in charge of holding declarations of financial status and request any additional information or clarification, reviewing the financial status of those subject to the provisions of this law and investigating reports of illicit gain.

According to Global Integrity 2010, the agency is protected from political interference by law. While it is a bit early to assess its effectiveness, the World Bank 2011 report mentions that the ACC has already started functioning, developed internal regulations and initiated investigations on a number of complaints. Several ministers and other high level officials have been questioned by the ACC. The ACC is also mandated to implement asset disclosure provisions, but the World Bank 2011 recommends requiring more frequent disclosure, verification and specific sanction for non-compliance to make these provisions more effective.

The Corruption Crimes Court was established in October 2010 as a specialised court designed to handle all corruption crimes. Since its creation, 15 cases were referred to the court (AMAN, 2011).

The Public Auditor

The public auditor was created within the MoF with the mandate of overseeing the unified accounting system, which covers all financial operations related to the budget. This includes financial orders, projections, disbursements, receipts, accounting records and commitments as well as registration of assets, oversight procedures and the release of all required financial reports and data. The financial management and accounting system has been upgraded to be in line with international standards for accounting (IAS) and sound management of the public treasury (AMAN, 2009b).

The State Audit and Administrative Control Bureau (SAACB)

The SAACB has been established by law in 2004 to oversee all bodies within the Authority, including monitoring of the collection of public revenues and spending within the limits of the budget. It is mandated to undertake financial and administrative oversight of all PA institutions through its audit work. The SAACB is required to submit an annual report, as well as additional reports as requested, to the president of the PNA and to the PLC. The bureau is an independent legal entity by law which is allocated a special budget within the overall budget of the PNA. The bureau chief is appointed by decision of the president. In 2010, the SAACB issued three quarterly reports.

Global Integrity 2010 argues that in practice, the audit agency is financially and administratively dependent on the executive branch; the independence of its staff is not guaranteed. The NIS identifies a couple of other obstacles to the Bureau's operations that may impede its capacity to hold government accountable including a

lack of resources as well as qualified and experienced staff, a lack of experience or a tradition of public control on which to build. In addition, the role of the bureau in reporting corruption to the public prosecutor is not clearly defined and no mechanism exists to govern the relationship between the bureau and PLC.

General Personnel Council (GPC)

The GPC is in charge of overseeing all civil service issues in the PNA, including implementation of the civil service laws. It can investigate potential administrative violations committed by civil servants and implement disciplinary measures with the relevant ministry or agency.

The Independent Commission for Human Rights (ICHR)

The ICHR was established in 1995 to function as a National Ombudsman but its mandate is limited to human rights issues according to Global Integrity (2010). Since 2005, the commission has continued to develop its organisational structure by increasing the number of staff and establishing specialised units to implement its programmes (AMAN, 2009b). It is fully independent from the government administratively and financially, although it recently started to receive some financial support from the treasury. It has successfully addressed many cases and violations by responding to complaints, producing reports and referring cases to the public prosecutor. Although there is no law binding the commission to publish its reports, the commission widely disseminates its annual report on the status of Palestinian citizens' rights

Other stakeholders

As active advocates of anti-corruption measures, Palestinian civil society and media are playing a growing role in demanding accountability and play an important watchdog role in the West Bank. This is noted as a positive trend in Global Integrity 2010 report.

Media

As a relatively new comer in the Palestinian context, the media can be divided into three categories, including State-controlled media such as Voice of Palestine, Palestine Television, private media and factional media that belong to political organisations. All government and private media agencies are subject to oversight by the Ministry of Information (AMAN, 2009b).

Freedoms of speech and the media are guaranteed by law in Palestine but the media face some restrictions in

practice and there is only limited media coverage of corruption due to a number of factors (AMAN, 2009b). In addition, freedoms of opinion and expression are perceived to be declining as a result of the internal division between the West Bank and Gaza (AMAN, 2011).

In the absence of a public access to information law, journalists find it difficult to obtain documents and information on corruption related cases from government departments or the public prosecutor. In addition, due to inadequate experience, training and investigative journalism tradition, they sometimes lack the expertise to investigate and cover corruption cases.

Although the law does not explicitly authorise official censorship, it prohibits reporting that may cause harm to national unity, which opens room for intimidation and can lead to self-censorship. According to AMAN, the PNA security services censor all media outlets and have investigated journalists and managers of media outlets. Global Integrity (2010) also refers to a report by Human Rights Watch alleging that law enforcement officials consistently harass journalists who cover corruption or support Hamas, highlighting seven cases of abuse in the West Bank. There is a prevailing perception among journalists that self-censorship is widely practiced.

Civil society

While there are more than 4,000 active NGOs in Palestine, few focus specifically on governance and corruption issues. The most active of these is as the AMAN Coalition for Integrity and Accountability, the Palestinian chapter of Transparency International (US Department of State, 2011).

According to both AMAN and Global Integrity, NGOs do not experience harassment as a result of their corruption related activities and operate in a relatively positive and supportive environment. There have been no known attempts by the government to hinder the establishment and operations of anti-corruption organisations.

The lack of access to information is perceived as the major constraints to operate effectively as a watch dog holding government accountable for its actions and decisions.

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