



The Coalition for Accountability and Integrity (AMAN)

**Executive Summary of the Study on
The National Integrity System in Palestine**

2018



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Introduction

Establishing a national integrity system (NIS) is a key requirement for ensuring good governance and strengthening impunity against corruption. The NIS expands the base of accountability and promotes the principle that every person who holds public office is answerable for their actions. According to their work, these persons are held to account by their immediate managers, the public, oversight and accounting agencies (e.g. parliaments, audit institutions and courts), and free media.

The NIS is premised on a comprehensive reform that covers all issues and aspects of the governance system. It also includes the institutional framework (government bodies and departments), legislation, and public policy making.

This study seeks to provide an overview of the NIS in the State of Palestine. It takes into account the challenges which government bodies face, primarily the Israeli occupation and policies.

The study is informed by a pre-established methodology, which was already adopted in 2013. It covers the main pillars of governance, namely, the legislative, judicial and executive branches of government; public sector; law enforcement agencies, Central Elections Commission (CEC), State Audit and Administrative Control Bureau (SAACB), Palestinian Anti-Corruption Commission (PACC), civil society, the media, and private sector. In each of these sectors, the study addresses a number of particular aspects, such as capacity, resources, independence, governance, including systems of accountability, values of integrity, and principles of transparency. Indicators of the NIS pillar of political parties do not apply to the Palestinian context in view of the nature and requirements for activity of Palestinian political parties under the Israeli occupation. This NIS pillar has, therefore, been excluded from this assessment.

In relation to the NIS, each sector is examined from legal, institutional, political and applied perspectives. Every indicator is given a score that seeks to provide a quantitative summary of qualitative information. A score reflects the extent to which legal indicators and practice indicators are compliant with the rules prescribed by the United Nations Convention against Corruption (UNCAC) and NIS best practice. Scoring ranges from a score of zero in case of lacking legal rules, absent best practice or breach of the rule of law, to a score of 100 when indicators of law or practice are consistent with legal rules and/or best practice. The score assigned to an indicator is required to reflect the best score according to the nature of the qualitative information obtained.

This is the third study to be carried out by the Coalition for Accountability and Integrity (AMAN) on the NIS in Palestine. Published in 2014, the second study was prepared under the title *National Integrity System Assessment Palestine 2013*. The first was titled *The National Integrity System in Palestine, 2009*, and published in the same year. These NIS

assessments build on many previous studies, which address the fight against corruption and relevant mechanisms in Palestine. These include *Reconstruction National Integrity System Survey*, developed under the supervision of the Tiri Organisation and in coordination with AMAN in 2007. AMAN has also published numerous studies on some NIS pillars.

Results

This NIS assessment results stress the need to introduce fundamental reforms to many sectors and public bodies responsible for public service provision or public financial management. These reforms should pave the way to creating a NIS, which is capable of providing impunity against corruption and heightening the risk of corruption in any of NIS pillars. Reforms needs to cover legal, institutional and political frameworks. Additionally, systems and mechanisms should be developed with a view to regulating the working relationship between fundamental powers (legislative, executive and judicial branches of government). Oversight mechanisms adopted within the framework of the Palestinian National Authority (PNA) should also be reinvigorated.

The NIS is distinctive of the strength of some pillars, including the CEC, civil society, PACC, SAACB, and Independent Commission for Human Rights (ICHR). On the other hand, law enforcement agencies, private sector, public sector, and the Judiciary enjoy a relative strength, thanks to their own resources and relative independence. However, these NIS pillars does not provide significant momentum to enhance the NIS. The performance of these pillars is debilitated by weaknesses of other pillars, mainly the Palestinian Legislative Council (PLC), the Executive, and the media. Critical deficiencies indicate that the PLC and the Executive are the weak pillars of the NIS.

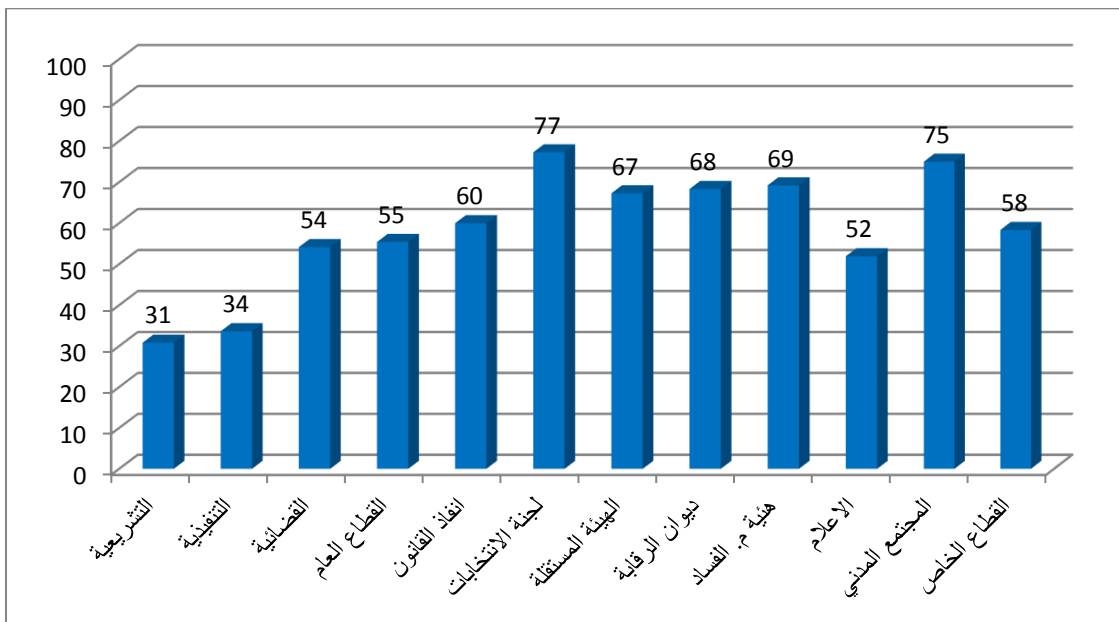
In spite of the significant development of promulgating the Anti-Corruption Law of 2010, the legal framework is still limited. By contrast, indicators show that there is no difference between legal rule in the majority of NIS pillars. This is because rules needed to regulate the mechanisms for integrity and transparency are lacking, notably impacting the dimension of good governance. In addition to certain weaknesses, many pillars feature significant gaps between law and practice, This is particularly the case for the PLC, law enforcement agencies, the Judiciary, civil society, and the Executive.

NIS Pillars, 2018

The NIS assessment results show that, out of 12 NIS pillars, the CEC had the highest score (77), followed by the civil society (67), PACC (69), SAACB (68), and ICHR (67). On the other hand, NIS pillars of the PLC and the Executive received the lowest score of 31 and

34 respectively. This was caused by the weak role the PLC and the Executive play in fighting corruption. Inactive as it is, the PLC does not carry out its task of control over the government and other public institutions. A Government Anti-Corruption Plan has not been developed. In the performance of its functions, the government does not honour the principles of transparency. The values of integrity are incomplete, including the code of conduct for ministers and code of conduct for PLC members. This has significantly impacted and obstructed a structural transformation of the NIS (See Chart 1 below).

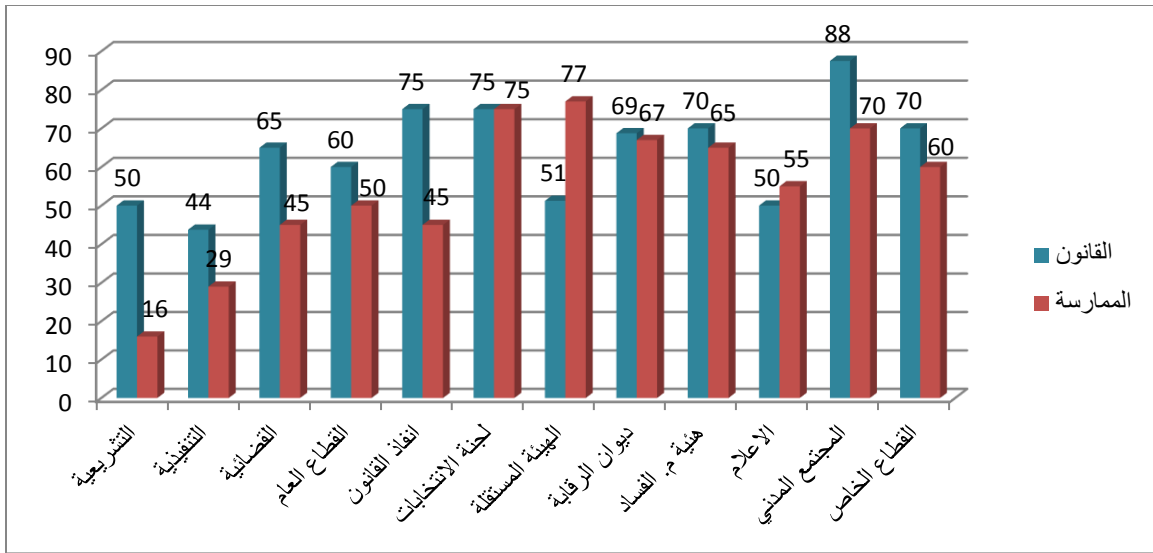
Chart 1: 2018 NIS pillar scores



Private sector / Civil society / Media / PACC / SAACB / ICHR / CEC / Law enforcement agencies / Public sector / Judiciary / Executive / Legislature

Chart 2 below illustrates the variation in the legal rules, which govern the NIS pillars. The civil society, CEC, law enforcement agencies, SAACB, and the Judiciary registered relatively high scores. By contrast, the ICHR, the Executive and PLC had relatively low scores.

Chart 2: Pillar scores by law and practice, 2018



Private sector / Civil society / Media / PACC / SAACB / ICHR / CEC / Law enforcement agencies / Public sector / Judiciary / Executive / Legislature
Law / Practice

In relation to actual practice, as Chart 2 above shows, the ICHR, CEC, SAACB and PACC had high scores. On the other hand, while the PLC received an extremely low score (16), the Executive registered a low score of 29. The Judiciary, public sector, law enforcement agencies, and the media had scores ranging from 45 to 55.

Chart 2 above demonstrates that practice scores of the ICHR increased by 26 points in comparison to law scores registered in 2018. Compared to law scores, practice scores rose by 5 points in the NIS pillar of the media. Law and practice scores were equal in the CEC pillar. In contrast with law scores, practice scores dropped to varying degrees in nine NIS pillars, indicating that these did not reflect legal capacity in actual practice for protection of the integrity system and fight against corruption. The difference between law and practice scores was as follows: 34 in the PLC pillar (50 compared to 16); 30 in the law enforcement agencies pillar (45 compared to 75); 20 in the Judiciary pillar (45 compared to 65); 18 in the civil society pillar (70 compared to 88); and 15 in the Executive pillar (29 compared to 44). By contrast Law and practice scores dropped by 5 points in the PACC pillar and by 2 points in the SAACB pillar.

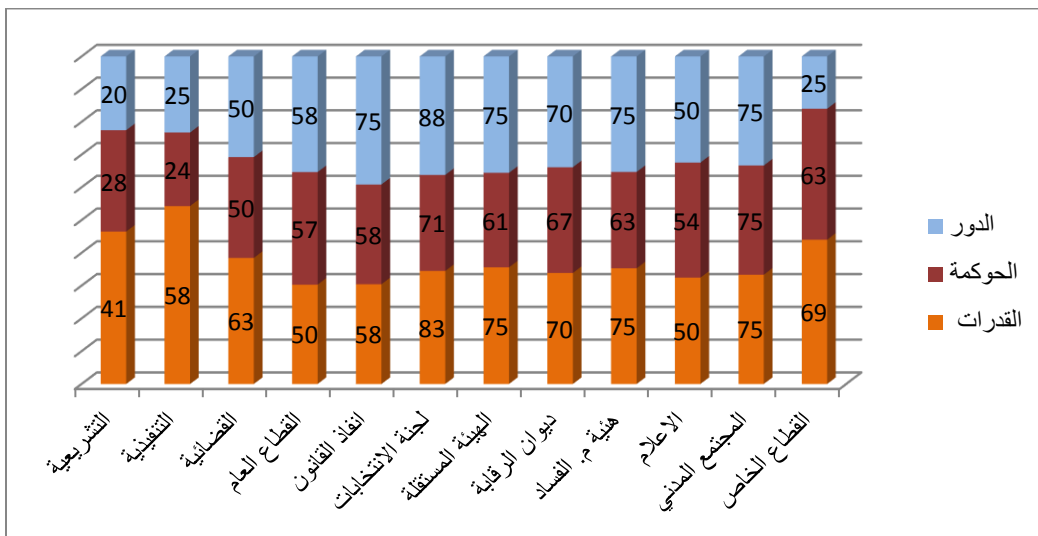
NIS dimensions (capacity, governance and role)

The dimension of the NIS capacity received higher scores than other dimensions, marking a difference of 7 points compared to the NIS institutions' role dimension and 8 points compared to the governance dimension. This difference is attributed to high practice scores

of NIS pillars, including the PACC, ICHR, private sector, CEC, SAACB, law enforcement agencies, and civil society. Also, the PACC, civil society, and Judiciary had high law scores in relation to resources.

As shown in Chart 3 below, the scores of the role of NIS pillars indicate a clear weakness, demonstrated by the low scores registered by the PLC, the Executive, and private sector in the fight against corruption or consolidation of the NIS. The PLC weakness is triggered by the internal Palestinian political divide, which disrupting the Council’s functions. The private sector refrains from activating its role in supporting anti-corruption activities because it gives more weight to improving investment conditions than to playing its role in fighting corruption. The Executive’s role is also weak because it has abandoned its leading role in the fight against corruption. The public sector, the Judiciary and the media also had average scores. Low scores awarded to the media are attributed to two factors. Firstly, a structural weakness is caused by the ownership of media outlets themselves. Management boards of media institutions do not provide the capacity need to develop units for investigative reporting. Secondly, journalists are afraid of prosecution by PNA agencies. The Judiciary scored low in light of its declining role of oversight of the Executive. The Judiciary’s roles is debilitated by the composition of courts with jurisdiction over objections filed against administrative decisions made by the Executive.

Figure 3: Average scores of NIS dimensions by pillar, 2018



Private sector / Civil society / Media / PACC / SAACB / ICHR / CEC / Law enforcement agencies / Public sector / Judiciary / Executive / Legislature
Role / Governance / Capacity

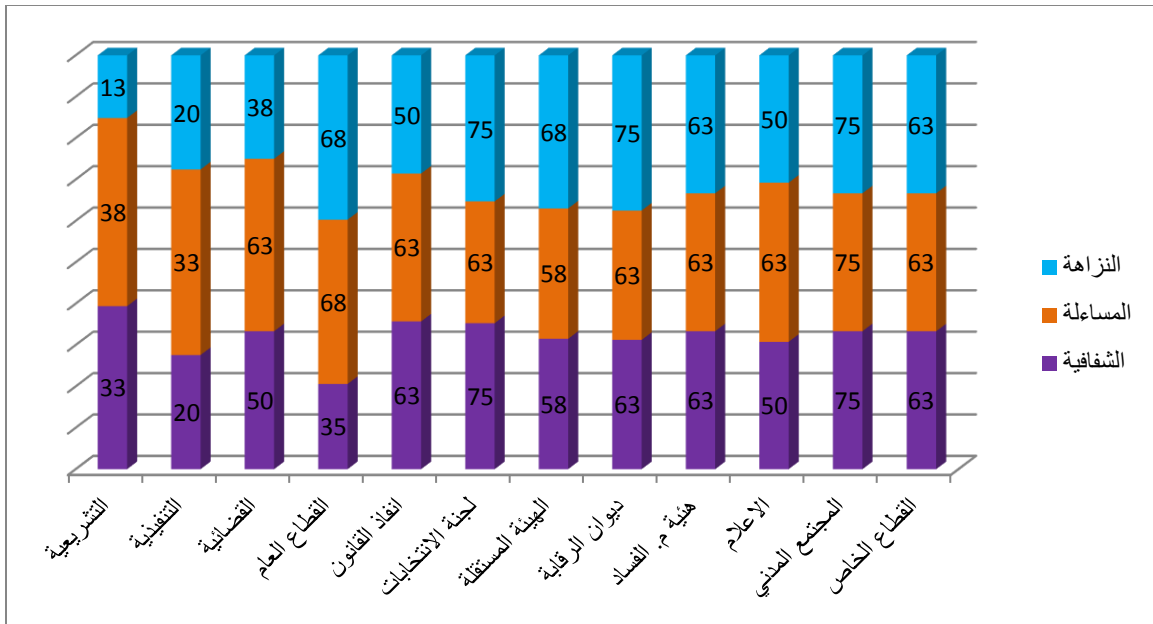
Results of the capacity dimension, including resources and independence, show that seven NIS pillars received high scores, namely, the CEC, PACC, civil society, SAACB, ICHR, private sector, and the Judiciary. Most significant among these is the CEC, which has access to necessary resources through international funding. It also enjoys needed independence to prevent intervention in its functions. The same factors apply to all civil society organisations and the ICHR. The scores registered by the PACC reflect the PNA's desire to fight corruption by setting a legal framework to support independence of the Commission and provide financial support that meets its needs. On the other hand, five NIS pillars received intermediate scores, namely, the Executive, PLC, public sector, law enforcement agencies, and the media.

The transparency dimension had the lowest scores compared to all other dimensions, including in relation to those indicators of law or practice (54 and 52 respectively). This is due to the absence of the Law on the Right to Access to Information in the majority of the NIS pillars. Notably, weakness is reflected by the scores given to the indicators of integrity mechanisms, including those related to practice (51). This is a result of lacking codes of conduct for members or employees in some NIS pillars, including the Council of Ministers and PLC, absent rules for the disclosure of interests and gifts, inadequate mechanisms for politicians and public sector employees moving to the private sector, and failure to announce or register breath of ethics in the PNA institutions.

As shown in Chart 4 below, scores of the accountability dimension unveil improvements in some NIS pillars, with seven pillars scoring 63. These are the Judiciary, public sector, law enforcement agencies, CEC, SAACB, PACC, the media, and private sector. The eighth pillar, namely the civil society, scored 75.

By contrast, the NIS pillar of the PLC had a very low score (13). The Executive pillar scored as low as 33. In relation to the accountability dimension, the ICHR had a low score of 58. This is triggered by the lack of legal rules that outline the mechanisms by which the ICHR is held to account before the PLC or the President. The low score achieved by the Executive is caused by absent oversight by the dysfunctional PLC and lack of consultations with civil society organisations.

Figure 4: Average scores of the governance dimension by pillar, 2018



Private sector / Civil society / Media / PACC / SAACB / ICHR / CEC / Law enforcement agencies / Public sector / Judiciary / Executive / Legislature
Integrity / Accountability / Transparency

Chart 4 above reveals a clear difference between NIS pillars in relation to the transparency dimension, with six pillars achieving high scores. Of these, two scored 75 (CEC and civil society) and four 63 (law enforcement agencies, PACC, SAACB, and private sector). Three NIS pillars had average scores: ICHR (58), the Judiciary and the media (5 each), public sector (35), and PLC (33). Of all NIS pillars, the Executive had the an extremely low score (20) – the lowest score among all 12 NIS pillars. The scores registered by the PLC and public sector indicate inadequate transparency of, and lack of public access to, relevant functions.

Regarding the integrity dimension, the PLC and the Executive had very low scores due to absent rules on the disclosure of gifts and failure to regulate transference to and employment in other sectors. Practice indicators show that the PLC, the Judiciary and the Executive had very low scores.

Priorities

The study concludes that a number of priorities should be taken into account with a view to constructing a NIS in Palestine. First and foremost is the priority of rejuvenating the PLC insomuch as it is the primary institution in charge of oversight and accountability of the Executive.

Second, independence of the Palestinian judicial system should be consolidated. The rules and mechanisms for selecting the chairperson of the High Judicial Council should be developed. Intervention in judicial functions should come to an end. Court decisions should be honoured and executed by all parties.

Third, work should continue to build a value system that rejects the favouritism and nepotism, and raises public awareness about maintaining public finance.

Fourth, civil society organisations should generate the political will of those in power within the PNA to adopt the principles of transparency, integrity and fight against corruption in public office. In this context, the State of Palestine's accession to the UNCAC should be invested, ensuring that the Convention is duly implemented. Public engagement in the implementation of the Palestinian National Anti-Corruption Plan also needs to be expanded.

Fifth, action needs to be taken to finalise the amendment of and align Palestinian legislation with the UNCAC. Special focus should be placed on the Law on the Right to Access to Information.

Finally, codes of conduct and ethics should be in place throughout the NIS pillars. Interests should be disclosed and registered by politicians and senior PNA staff. Disclosure can be either periodic or non-periodic. It should cover gifts, hospitality, travel, and privileges the said officials receive. Disclosure should also include actual or potential conflicts of interest, which arise when a case is discussed or presented in public institutions or by virtue of the public office of these officials. In addition, rules for post-employment movement of state personnel to the private sector need to be put in place.

Recommendations

In the light of the priorities concluded by the study, the following are recommended as requirements for strengthening and making the Palestinian NIS more effective:

1. The internal Palestinian political divide between the West Bank and Gaza Strip should come to an end. Importantly, mainstreaming functions of Palestinian institutions helps strengthen the NIS and eliminate potential evasion of public accountability by means of general elections.
2. The Palestinian Council of Ministers should develop and lead a comprehensive national plan to fight corruption and enhance integrity in the work of government institutions. This should be in line with the National Anti-Corruption Strategy, which led, supervised and implemented by the PACC.

3. The Palestinian legislature should align all Palestinian pieces of legislation with the UNCAC. It should criminalise all forms of corruption or aggravate penalties prescribed against the crimes of corruption. Specific laws and regulations should be enacted to preclude conflict of interest and provide for disclosure mechanisms in the public sector.
4. The Council of Ministers should take expedited action to finalise and submit the Draft Law on the Right of Access to information to the PNA President for promulgation.
5. The Council of Ministers should issue special instructions on the disclosure of gifts and hospitality items offered to employees. Relevant training programmes should continue to be delivered to public sector staff.
6. The Council of Ministers and PLC should issue forth codes of conduct for members of the Council of Ministers and PLC, delineate regulatory procedures to control the acceptance of gifts and hospitality items offered to ministers, PLC members, and senior public sector staff, and keep relevant records, including a non-periodic disclosure record of gifts and hospitality items.
7. The PACC and Council of Ministers should transform the submission of financial disclosure statements by some categories, particularly politicians (e.g. PNA President, Prime Minister, ministers, and PLC members) from a secret into a public process. Financial disclosure statements will be made in a register of interests in line with specific mechanisms and deadlines, ensuring these are made publicly available to the media and citizens.
8. A committee for good governance in the public sector should be established, including credible public figures with relevant work experience in governance affairs. This committee will examine appointments to senior public positions.
9. The Council of Ministers should follow up on the SAACB annual and special reports, which provide comments and recommendations to rectify errors, eliminate waste of public funds, and strengthen the NIS.
10. Board members of civil society organisations should enhance their role in supporting values of integrity, systems of accountability and principles of transparency within Palestinian society. They should also help grassroots organisations to play a direct role in raising public awareness about the importance of these values and principles, as well as about the risks of corruption. Additionally, codes of conduct need to be further and implemented by civil society actors, ensuring compliance by respective staff.

11. The Council of Ministers should enable the media to freely access information on corruption cases and play its assigned role in the fight against corruption. Media outlets and editors-in-chief will encourage journalists to produce investigative reports to disclose corruption cases.



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

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

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