



## **Updated Parallel Report**

### **On Palestine's implementation**

### **Of Sustainable Development Goal 16 (SDG16)**

**AMAN**  
Transparency Palestine



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

2022

**AMAN**  
Transparency Palestine



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## Executive Summary

Over the past few years, the Palestinian government has employed much effort to promote integrity and combat corruption, including:

- The enactment of the Anti-Corruption Law, which amended the Illicit Gain Law of 2005, and the establishment of the Anti-Corruption Commission (ACC) in 2010, in conformity with the Law.
- Preparation of anti-corruption plans and strategies, most recently the National Integrity Promotion and Anticorruption Strategy 2020-2022.
- Creation of the Corporate Registry in 2022 under the name of the Companies Portal, which is accessible to the public<sup>1</sup>. The portal was established following the enactment of the Companies Act No. (42) of 2021. Article (14) of which provides for the registry of companies for the collection of data, documents and information required, which affirms that they shall be public and accessible to the public through the website of the corporate registry. However, the published record shows that it contains only general information (the nature of the trader, the number of the company, the name of the trader or company, the trade name, the case, the date of registration, the state, the governorate, the directorate and the purposes of the company's establishment). On the other hand, the law did not provide for the identification or publication of the real beneficiary's name, as the absence of legal control of the beneficiary ownership continued, which could allow criminal individuals wanted or associated with the authorities to seek financial services under the name of a legal person or other legal shell agreements.
- The public service system was also reformed as the General Personnel Council completed a large number of job descriptions of supervisory posts and the appointment process and procedures were computerized.
- The Public Purchase Portal was activated and is accessed by institutions to post their call for tenders.
- The Council of Ministers ratified late 2018 the National Strategy to Combat Money Laundering and Financing Terrorism.
- Instructions were issued regarding the politically exposed persons and the instructions on combatting money laundering and financing terrorism were amended to include the importation of second-hand vehicles from outside the State of Palestine.
- Progress was made regarding the anti-corruption legislative framework with the promulgation of several regulations end of 2019 and early 2020, which include Regulation on Disclosure of Conflict of Interest, Regulation on Gifts, Regulation on the Protection of Corruption Witnesses and Whistleblowers, in addition to guidelines and manuals to implement the regulations on gifts and conflict of interest.<sup>2</sup> ACC completed its anticorruption strategy 2021-2023 and prepared the necessary action plan. It further promoted the National Observatory of Integrity, Governance, and Anticorruption indices, which it had adopted as part of its organizational structure in 2020.
- In terms of international coordination to return stolen assets, enforce court judgments, and extradite criminals, Palestine joined the International Police Organization (Interpol) in 2017<sup>3</sup>. Furthermore, the Financial Follow-Up Unit of the State of Palestine was admitted member to the Egmont Group of Financial Intelligence Units concerned with combatting money laundering and terrorism financing in 2019 .

ACC receives hundreds of reports and complaints on corruption suspicions. Its 2021 annual report showed that ACC handled 1246 complaints and reports, settling 747 of them, dismissing 524 and referring 45 files to the Prosecutor General. It closed 95 reports and complaints and dismissed 48 due to lack of jurisdiction. ACC also referred 80 files to other entities and listened to over 600 affidavits/ testimonies. It followed up on the enforcement of bank declassification decisions in 10 cases concerning 45 persons. It prepared 175 specialized reports, a total of 4921 disclosure of financial assets and received 42 requests for protection. The overall investigations managed by the Corruption Prosecution reached 82 lawsuits. The same report also mentioned that the abuse of power was the most prevalent offense, being the subject of 62% of the reports<sup>4</sup>

1 <http://www.mne.gov.ps:9095/ords/?p=103:298>.

2 Prime Minister's Office, National SDG Follow-up Team, Report on progress in the implementation of SDGs in 2020, September 2021.

3 Anti-Corruption Commission, Annual Report 2016, Ramallah 2017. [www.pacc.pna.ps](http://www.pacc.pna.ps)

4 ACC, summary of annual report 2021, January 2022 <https://www.pacc.ps/blog/post/191227>

The former Palestinian government (Dr. Rami Al-Hamdallah's cabinet) approved the National Policy Agenda 2017-2022 (Citizen First<sup>5</sup>). Although NPA included many of the Sustainable Development Goals and targets, including SDG 16 and its targets relating to promoting accountability and transparency in the public institutions and raising the efficiency of the management of public funds and facilitating access to justice, many of these goals were not achieved for many reasons, mainly because the action plans were not supported by budget allocations as the budget remained performance rather than program based.

Then, the new Palestinian government (Dr. Mohammad Ishtayyah's cabinet) launched the National Development Plan 2021-2023, which is an update of the NPA (2017-2022). In its second paradigm, NDP prioritizes governance efficiency with less bureaucracy. Several policies were adopted to implement this priority (promotion of integrity, accountability, and transparency, and combatting corruption in addition to upgrading the efficiency of public institutions and optimizing the efficiency of use and management of available resources<sup>6</sup>). However, the progress indicators do not show enough progress, for instance in the area of returning stolen assets while political corruption continues in several forms, undermining political integrity in access to power and transparency of the exercise of power. Furthermore, oversight of the executive power is weak and not independent.

Notwithstanding these efforts, many challenges continue to obstruct the realization of SDG 16. The justice sector, mainly the judiciary and public prosecution, does not enjoy independence because of the interference of the executive power in their affairs. As a result, the public trust in these institutions dropped not to mention the retreat of civil freedoms and human rights, including the non-implementation of the right to access to information and poor transparency of the management of public funds.

Moreover, the cross-sectoral anti-corruption strategic plan is lacking many necessary requirements where progress is needed to enforce the strategy and its relevant action plans. These requirements include the extent of the government's compliance with the mandatory nature of the strategy and the non-allocation of the necessary budgets. As a result, immunity against corruption is weakened in all government, civil and private sectors. The reasons must be addressed while the public opinion needs to be mobilized to end any resistance to the strategy.

Moreover, to date, corruption crimes, including bribery in the private sector, are not criminalized as per the United Nations Convention against Corruption (CAC). On another level, the financial assets disclosure system is still ineffective and must be amended to raise its effectiveness, including adopting policies related to the disclosure of assets by senior officials. The same applies to the oversight of the finance of the political parties and the funding of electoral campaigns.

### COVID-19 and the announcement of the state of emergency hindered the implementation of part of the targets of SDG 16:

Following the outbreak of Covid-19 and subsequent announcement of a state of emergency, Palestine's transparency record continued its deterioration as the government concealed information from the public on the contracts of basic services delivery and distribution of assistance, which was adversely affected due to improper database not to mention the lack of publication of the documents of the public budget. Furthermore, the laws on access to information and national archives were not promulgated while further restrictions were imposed on public freedoms and rights, especially the freedom of expression, media, and peaceful assembly. Arbitrary arrests of political activists, journalists and bloggers continued because of their publications, especially following the promulgation of the Cybercrime Law, which prescribed severe punishments in this regard. Consequently, self-censorship on the publication of material on corruption grew together with the authorities' control of media and social media. Public opinion polls conducted in the past few years showed a steady rise in the public perception of rising rates of corruption from one year to another<sup>7</sup>.

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

6 Prime Minister's Office, National Development Plan 2021-2023/ Public Policies 2021-2023

7 See the results of the public opinion poll conducted by AMAN Coalition on the link: <https://www.aman-palestine.org/reports-and-studies/page-sec-15-14?source=310>

## Recommendations:

### Target 16.4: By 2030, significantly reduce illicit financial and arms flows, and strengthen the recovery and return of stolen assets,

- Competent authorities cooperate with the Palestinian Foreign Ministry and embassies to conclude bilateral agreements with different countries to exchange information, return stolen assets, extradite criminals and facilitate investigation and litigation in accordance with the law.
- Observe the standards of independence and effectiveness of the consolidated efforts and coordination to recover stolen assets.

### Target 16.5: Substantially reduce corruption and bribery in all their forms

- Criminalize all the acts listed in the Convention Against Corruption as predicate crimes of money laundering, including exploitation of influence and abuse of positions.
- Criminalize bribery promises, offers, granting, requests, or acceptance in the private sector.
- Criminalize the use of force, threat, intimidation or promises, offering or granting undue privileges to incite perjury or intervene in the testimony or evidence in procedures related to acts criminalized in the Convention whether the perpetrator achieves his target or not, or interfere in the actions of a judicial staff or law enforcement agent on official duty, as per the provisions of the Convention.

### Target 16.6: Develop effective, accountable, and transparent institutions at all levels.

- Adoption by the government of a national integrity and anticorruption plan with the participation of all government, civil and private sectors in the definition of priorities and implementation steps and distribution of roles and responsibilities according to a clear and specific time frame. ACC, being the competent entity, coordinates these efforts and a sufficient budget is allocated to implement the plan.
- Adoption of a national judicial sector reform plan to review the legal and institutional framework of the judicial bodies and public prosecution.
- Regulations must be adopted to govern the transfer of public sector officials (ministers, members of parliament, tax and customs officers, and others) to the private sector.
- A competent or judicial body must verify and audit the information and data provided in the financial asset disclosures and abolish the absolute confidentiality applied to these disclosures to shift toward public disclosure for senior positions at least. Furthermore, sanctions must be imposed on offenders if they refrain from submitting the disclosures or do not meet the delay for submission, or those who provide false or erroneous information in their disclosures. The sanctions must be expanded to include all taxpayers.
- Disclose detailed financial statements as per the law on the Organization of the General Budget and Public Finances No. (7) of 1998.
- Finalize the institutional arrangements to enforce the Law on Public Purchase, mainly in terms of activation of the Higher Council for Public Procurement Policy, specifically the procedures governing the use of digital media in public purchases.
- Prepare a special regulation to monitor the financing of electoral campaigns to compel candidates or lists to open a dedicated bank account to control the funds allocated to the campaign. The account must be used to cover all expenses and the Central Elections Commission (CEC) should have the right to review the account at any time. Furthermore, a maximum ceiling of donations to candidates or lists must be defined. Every list or candidate should submit a statement of account showing all the transactions that took place during the electoral campaign and publish the statement to the public.

- Consider taking action to disqualify persons convicted of corruption offenses from holding office in a wholly or partly state-owned enterprise.
- Take action to deal with the consequences of corruption, including considering corruption a base for the termination of contract or disfranchising or any other similar instruments or applying any other remedy.

### **Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels**

- Adopt a woman quota in the appointments and promotions in the judicial sector, with due consideration of the terms of professionalism and qualification.
- Provide for a women's quota in the composition of the government, with due consideration of competence and professionalism to facilitate community acceptance of the presence of women in the government.
- Subject senior positions in the public service to the principle of equal opportunities to bridge the gender gap in access to public offices and reduce gender stereotyping.
- Stipulate in all Palestinian legislation the compulsory participation of the civil society in the making of public policies and decisions, and steadily encourage partnership in decision-making and opening to the society at large.
- Promote the rule of law and apply it to all citizens to ensure that government decisions and procedures are inclusive and non-discriminatory in order to avoid the spread of corruption like nepotism and bribery to access public services.
- Promote existing government policies that boost women's empowerment in the public sector, judiciary, and the police to ensure they are appointed to senior leading positions.
- Promote existing government policies focusing on changing the social culture that stereotypes women's professional paths and excludes them from decision-making positions.

### **Target 16.10: Protection of fundamental freedoms and public access to information**

- Repeal the penalty of seizure and imprisonment imposed on journalists for the publication offenses and expression of opinion and replace them with fines; stop the blocking of websites and media outlets without a court order.
- Expedite the adoption of the Law on Access to Information and the Law on the National Archives.



## Introduction:

The United Nations Organization adopted “**The 2030 agenda: towards sustainable development to transform our world**”, setting 17 sustainable development goals (SDGs), which include 169 targets to be implemented by 2030. The goals focus on three developmental aspects, being economic prosperity, social development, and environmental protection. At the national level, states and governments are encouraged to integrate these goals into their plans and policies and devise national indicators that respond to their particular circumstances. Consequently, governments are expected to proactively review the progress in achieving the goals via the preparation of National Voluntary Review Reports. Furthermore, civil society organizations and other stakeholders closely monitor government efforts at the national level.

SDG 16 shadow (parallel) report “**Peace, Justice, and Institutions**” contributes to government efforts in monitoring the national progress in combatting corruption. The report is boosting peaceful societies where nobody is left behind in order to achieve sustainable development and enable all to have access to justice in addition to building effective, inclusive, and accountable institutions. It, therefore, helps the government to identify the gaps in the national anticorruption system and provide recommendations to improve data collection.

The shadow report reflects the civil society's view of the progress and challenges of the implementation of the national plans; it is based on several foundations, mainly:

- The report focuses on the civil society's evaluation of the progress achieved in implementing the national sustainable development plans and translating SDGs into national policies. It assesses the implementation and success via a review of the achievement of the targets especially that governments focus on certain goals and neglect other goals and targets based on their priorities. This is the source of the gap in the government reports, which is filled in by the civil society.
- It is an independent report parallel to the government report and reflects the civil society's view of the level of commitment to the goals of the national plan toward the realization of the UN adopted SDGs.
- Formulate implementable recommendations from a community “popular” perspective using qualitative and quantitative data, statistics and indicators.

Civil society organizations active in the promotion of integrity and combatting corruption, like AMAN Coalition, play a constructive role in the achievement of SDG 16 “**Peace, Justice, and Institutions**”: (Establish peace, justice and institutions that lead to peaceful societies where no one is left behind. To achieve sustainable development and ensure everybody's access to justice, effective, accountable, and inclusive institutions must be built at all levels). This may be via focus on the following targets:

16.4: Significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crimes.

16.5: Substantially reduce corruption and bribery in all their forms.

16.6: Develop effective, accountable, and transparent institutions at all levels.

16.7: Ensure responsive, inclusive, participatory, and representative decision-making at all levels.

16.10: Ensure and guarantee public access to information and protect fundamental freedoms.

## Methodology:

The methodology for preparing the shadow report is based on the collection and analysis of information by focusing on the extent to which SDG16 and related targets are translated into policies and procedures and the harmonization of national legislation.

- I. Collect relevant data and facts on the achievement of the targets from different sources (including a review of the state report)
- II. Analyze data and facts to establish a realistic description of the findings and challenges and formulate conclusions and implementable recommendations.
- III. Prepare a draft report for discussion in a focus group with stakeholders.
- IV. Prepare the final report after introducing the acceptable amendments.

### Why preparing an independent professional report?

Governments usually prepare their national reports based on data prepared by official bodies like the central statistics bureaus or reports from other pertinent government bodies on their implantation of their action plans relating to SDGs. Therefore, it is necessary to consider other local factors, including:

- 1) Sustainable development targets are multi-dimensional; 2) The extent of data available; 3) The credibility of data prepared by government bodies. These factors are a strong justification to conduct an independent evaluation of the government's anti-corruption efforts in SDGs context as follows:

#### I. SDGs targets are multi-dimensional:

Many of SDG 16 targets are multidimensional, i.e., they measure broad concepts including corruption that is not sufficiently detectible using a single indicator. Moreover, the indicators in the Official International Package do not sufficiently respond to the different aspirations behind the targets. For example, Target 16.5 focuses on substantially eliminating all forms of corruption and bribery but the officially adopted indicators assess bribery between public servants and the citizens or business sector but do not assess inter-governmental bribery or other forms of non-governmental corruption.

The other international indicators selected failed to detect some sensitive issues like Target 16.4 relating to combatting all forms of organized crime. There isn't any official indicator to measure organized crime or promote the recovery and return of stolen assets. Therefore, the report aims to provide a more comprehensive assessment of the national progress in the area of anti-corruption.

#### II. Availability of data

Even when official indicators succeed in monitoring progress in SDG16, the data necessary to deal with the indicators may be lacking because many of these indicators depend on irregular data that do not apply a constant collection methodology. Therefore, the report aims at compensating for the lacking data when they are not available. It also proposes other indicators and alternative data sources.

#### III. Data credibility

The official assessment of the progress in achieving SDGs depends on the data prepared by government institutions, mainly national statistics bureaus<sup>8</sup>. However, the credibility of these official data may be uncertain for two reasons: **First**, they heavy burden of statistical bureaus due to the need to prepare data adjusted to each one of the 169 targets. **Second**: some politically sensitive issues, like those related to corruption and governance, require that governments assess their own effectiveness while illicit financial flows may involve government officials (16.4). corruption may be spread among the ruling elite while the government may block such information or target journalists, unionists, or other civil society activists (16.10)

<sup>8</sup> It should be noted that the report depends on official statistics produced by the Palestinian Central Bureau of Statistics, which is a highly trusted organization by the Palestinian civil society organizations.

Considering the previously mentioned challenges, it becomes necessary to carry out an independent assessment to help complement the data that are not revealed in the government voluntary reports on the progress in achieving SDGs 16.4, 16.5, 16.6, and 16.10 at all levels. This is particularly important since some of the entities that prepare the report are also responsible for the enforcement of the policies and decisions related to these targets. These are the objectives of the shadow report. The information used on the shadow report may support the voluntary national review in the Senior Political Forum. The information presented in the report may be used in the government review of SDGs-related progress by states on continual basis. But, most importantly, the shadow report informs the national policies to address the challenges delaying the implementation of the sustainable development goals.

#### **Methodology:**

The information and data used in the report were collected in the period from September 2020 to May 2022, depending on a desk review of the policies, legislation and structures adopted by relevant Palestinian bodies, data produced by the Central Bureau of Statistics and previous research, government websites, media websites, and a number of reports published by the Coalition for Accountability and Integrity (AMAN) on Corruption and Anticorruption Efforts in Palestine.

## **SDG16 National Progress Report**

The Palestinian Council of Ministers formed in 2018 a committee presided by the Ministry of Justice to prepare the National Voluntary Review on the Progress Towards SDG 16 and its Targets. The Committee comprised members represented government institutions and civil society organizations.

The National Team continued its follow up of the implementation of SDGs while the Committee reviewed the interventions and progress made till end 2020 toward the achievement of the goals and targets of sustainable development in order to identify the challenges that hinder progress and formulate recommendations to concerned stakeholders to achieve more progress.

The Report assessed progress towards Targets (16.4, 16.5, 16.6, 16.7 and 16.10) and the challenges. Although the report abundantly covered Target 16.6 related to the establishment of accountable, effective and transparent institutions, it did not provide any information on (key government expenses like the adopted allocations per sector or budget line in 2020, while it was prepared in 2021). Furthermore, the report did not address the lack of independence of public oversight bodies and inefficient anticorruption plans and strategies. It did not provide acceptable justification for the non-promulgation of the law on public access to information and this information was inaccessible to the public. Furthermore, the report did not mention the laws restricting public rights and freedoms or why the government has not taken any measures to halt the violations of citizens' basic rights and freedoms via arbitrary arrest of journalists although it referred to details related to cases of arbitrary arrest<sup>9</sup>.

<sup>9</sup> Prime Minister Office, National SDGs Follow-up Team, Report on Progress Towards SDGs in 2020, September 2021

## Findings on national progress towards SDGs 16.4, 16.5, 16.6, and 16.10

### Latest Developments:

Availability of a national anticorruption plan	(0.50)	
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The National Policy Agenda (NPA) 2017-2022 (Citizens First) reiterated the promotion of accountability and transparency in public institutions and efficient and effective management of public finance in addition to facilitating access to justice.

The Palestinian Anti-Corruption Commission (PACC) prepared the National Cross-Sectoral Strategy to Promote Integrity and Combat Corruption 2020-2022. The Strategy mentions that the cross-sectoral strategic planning was participatory and involved representatives of the public, private and civil sectors as well as international organizations.<sup>10</sup>

PACC also explained that it organized a concluding national workshop to adopt the strategy, which was attended by partners from all sectors representing the Palestinian public, private and civil society organizations. During the workshop, the strategy was fully presented and discussed by the participants<sup>11</sup>.

Regarding government's full compliance with anticorruption efforts, no budget allocations were made for this purpose. The same applies to the budget plan approval mechanism and issuance in a law as well as to the bodies responsible for overseeing compliance with the budget and submitting periodic report on progress achieved to hold the government accountable for any underperformance.

The General Personnel Office completed most of the job descriptions of supervisory posts in 15 government departments. The government started to publish summary of the resolutions made by the Council of Ministers via a dedicated e-platform on the Council of Minister's webpage. The Public Procurement Portal was activated to enhance transparency of public purchases. A national program was adopted to improve the quality of services in accordance with general criteria and specifications. A central government excellence systems and a staff training plan were adopted in government bodies in accordance with the standards and with budget allocations of over NIS 4 million for three years. Furthermore, the complaints system was activated at the Ministry of Justice. A single portal for social assistance was adopted to expand the outreach of poor families and prevent overlapping services and to enhance transparency<sup>12</sup>. Moreover, the Code of Conduct of Security Forces was issued and the regulation on disclosure of conflict of interest<sup>13</sup> was adopted, together with a regulation on acceptance of gifts<sup>14</sup> and another on the protection of whistleblowers and witnesses.<sup>15</sup>

On another note, court verdicts in corruption cases and seizure of funds were enforced in cooperation and coordination with the Judicial Police and the Judicial Cooperation Department at the Office of the Prosecutor General. The verdicts issued in absentia against fugitive defendants were shared with the Interpol and other international and Arab cooperation agreement to extradite them. Moreover, e-links with the judicial police were activated and an e-complaints mechanism was established to promote the capacities of the Ministry of Justice in delivering services and other programs to citizens. Additionally, the Higher Coordinating Council of the Justice Sector was formed<sup>16</sup>.

However, several challenges continue to affect the National Integrity System in Palestine, including lack of adoption of the principle of public announcement and competition to hold senior posts and presidency of public institutions, non-completion of the security sector reform project to ensure its independence, mainly the judiciary and public prosecution although a national

10 PACC, National Cross-Sectoral Strategy on Integrity Promotion and Anticorruption, 2020-2022. 2020, p. 9

11 Idem, p. 10

12 National Team Report, Ibid.

13 Council of Ministers' Resolution No. (1) of 2020, on the Regulation on Disclosure of Conflict of Interests.

14 Council of Ministers' Resolution No. (10) of 2019 on Gifts

15 Law by Decree No. (7) of 2019 Concerning the Regulation on the Protection of Whistle-blowers, Witnesses, Informants and Experts in Corruption Cases and their Relatives and Persons Close to Them.

16 National Team Report, Ibid.

committee was formed by a presidential decree for this purpose, in addition to the lack of promulgation of the right to access information and the relapse of transparency in the publication of the public budget documents. Furthermore, the resolutions of the Council of Ministers have not been posted on the webpage since 2017 as only the name of the resolution is published. The Council of Minister refused to sign the transparency undertaking prepared by the Coalition of International Civil Society Organizations and stipulating government's compliance with transparency in its periodic review relevant to UNCAC and participation of the civil society in the review. Furthermore, oversight of public services managed by the private sector remains weak following the signature of franchise contracts in the sectors of telecommunication, electricity and water, which were not made public. The Cybercrime Law was enacted and is deemed restrictive of the freedom of expression and of the media.<sup>17</sup> An opinion poll carried out by the Palestinian Center of Development and Media Freedoms "MADA" asked journalists in the West Bank and Gaza Strip to assess the media freedoms in Palestine. The findings showed that 85% considered the recently enacted Law by Decree on Cybercrimes a hurdle to the freedom of the press, while 90% of the respondents explained they exercised self-censorship on their work for fear of security issues, and 91% reported facing violations connected to their work<sup>18</sup>. **The Director General of the Palestinian Center for Development and Media Freedoms confirmed that auto-censorship increased significantly in Palestine following the Palestinian political split as a result of the severe chasing of journalists and media outlets. It also intensified during the state of emergency declared in the Palestinian Territories following the eruption of Covid-19 in March 2020<sup>19</sup>.** Another opinion poll conducted by the Palestinian Center for Policy Research and Survey showed that the perception of corruption in the Palestinian Authority institutions reached 82%<sup>20</sup>.

PACC receives hundreds of reports and complaints on suspicions of corruption. Its annual report in 2021 shows that it handled 1246 complaints and reports, 524 of which were classified and 45 referred to the Public Prosecutor. The total number of cases under investigation by the Corruption Crimes Prosecution reached 82 cases. The same report mentioned that the crime of abuse of power represented the highest share of the cases reported to the Commission (62% of all reports).<sup>21</sup>

Although social media platforms reported involvement of senior officials in corruption cases, a matter that PACC has not denied, these files are handled with confidentiality. Moreover, financial settlements were reached with some of these officials to dismiss their cases. No declaration was made to explain the nature of these settlements although some of the officials involved quit their positions<sup>22</sup>. In the same context, AMAN Coalition's annual report in 2021 referred to some economic crimes associated to crimes of corruption like the case of dates (sale of dates produced in Israeli settlements with Palestinian packaging and labels to benefit from bilateral trade agreements), which was revealed by AMAN Coalition three years ago. Nonetheless, the Public Prosecution announced toward the end of 2021 that it was prosecuting some businessmen to question them on suspicions of "laundering" settlements dates. However, these developments do not show clearly what is taking place behind the scenes or any serious endeavors beyond the legal formalities<sup>23</sup>.

17 Coalition for Accountability and Integrity (AMAN), Report on Integrity and Anticorruption Reality 2017, Ramallah, March 2018, p. 28, and Report on Integrity and Anticorruption Reality 2021.

18 Mada Center webpage <http://www.madacenter.org/news.php?lang=2&id=380>.

19 The Palestinian Center for Development and Media Freedoms (31/5/2020), <https://www.madacenter.org/article/1627/>.

20 The Palestinian Center for Policy and Survey Research, Findings of Survey No. 83 <https://www.pcpsr.org/sites/default/files/Poll-83-Arabic-Full%20text%20March2022.pdf>

21 PACC, Summary of Annual Report 2021, January 2022, *ibid.* <https://www.pacc.ps/blog/post/191227>.

22 Coalition for Accountability and Integrity (AMAN), Report on Integrity and Anti-corruption Reality 2017, *i* *ibid*

23 Coalition for Accountability and Integrity (AMAN), Annual Report "Integrity and Anticorruption Reality", 2021

## Target 16.4: By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crimes

### I. Combatting money laundering

There is a law on money laundering that is consistent with international standards	(0.50)	
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The first Palestinian anti-money laundering law was Law No. 9 of 2007 while the new law promulgated in 2015 was Law No. 20 on combatting money laundering and terrorism financing<sup>24</sup>. Furthermore, law No. 13 of 2016 was issued to amend the law on combatting money laundering and terrorism financing and several instructions were issued concerning this law<sup>25</sup>.

There is a published national evaluation report on the risks of money laundering	(0.50)	
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Former Prime Minister Dr. Rami Hamdallah launched the National Assessment Report on the Risks of Money Laundering and Terrorist Financing prepared by a national team<sup>26</sup> in July 2018. According to the Prime Minister's statement, the report's recommendations -- yet to be published -- will be adopted and implemented in the future, and the Government will allocate the necessary budget<sup>27</sup>.

In response to the national risk assessment, the Council of Ministers approved the "National Strategy to Combat Money Laundering and Terrorist Financing" at its weekly session on 22 November 2018<sup>28</sup>.

The Palestinian Monetary Authority (PMA) is also updating the National Assessment Report, which is expected to be launched this year. To date, it has completed an update on the financial aspect of the report<sup>29</sup>.

Prohibition of dealing with anonymous accounts and applying due diligence	1	
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Article (6) of the law on combatting money laundering and terrorism financing stipulates that financial institutions, and non-financial businesses and professions should not keep anonymous accounts or accounts in obviously fictitious names and identify and verify the identities of their customers (natural persons or legal persons) and beneficial owners through reliable documents, data, or records.

The obligation to report in case of suspicion	1	
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Article (5) of the same law stipulates the obligation to inform the competent Unit and agencies in charge of enforcing the law of the pertinent information promptly in cases of suspicion and investigation.

Non-financial businesses are obliged to carry out customer's due diligence	1	
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24 Law on Combatting Money Laundering and Terrorist Financing No. (20) of 2015, Palestinian Official Gazette, Issue 10, special issue, 30/12/2015

25 Law No. (13) of 2016, amending the Law on Combatting Money Laundering and Terrorist Financing No. (20) of 2015, Palestinian Official Gazette, Issue 122, 30/6/2016. Moreover, Instructions No. (2) of 2016 concerning combatting money laundering and terrorist financing for banks were published in the Palestinian Official Gazette, issue 124 on 25/8/2016 while Instructions No. (4) of 2016 concerning the entities subject to the oversight and supervision of the Palestinian Capital Market Authority were published in the Official Gazette, issue 128 on 14/1/2017 together with instructions (5) of 2016 concerning reporting expedited transfers.

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

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

28 [https://wafa.ps/ar\\_page.aspx?id=23qVrva842766812217a23qVrv](https://wafa.ps/ar_page.aspx?id=23qVrva842766812217a23qVrv).

29 Murara, Firas, Acting Director of Financial Follow-Up Unit, internal meeting with AMAN Coalition on 31/3/2022

The Law on Combatting Money Laundering and Terrorist Financing includes an annexed table (Table No. 2), which includes a list of the non-financial businesses and professions, which include real estate agents and brokers, dealers in precious metals and precious stones, other dealers who deal in high-value transactions, including antiquities dealers, as well as attorneys and accountants, providers of credit trust and corporate services, companies that provide services to third parties on a commercial basis. The law also provided for the possibility to add any other activities performed by natural or legal persons, which represent a risk of money-laundering. The law also reiterated the right of the National Anti-money laundering Commission to define the obligations of these parties in terms of whole or partial anti-money laundering measures.

Customer due diligence (CDD), beneficial owner, politically exposed persons (PEP).	1	
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Article (6) of the law underlines the necessity to adopt specific and adequate risk-management measures to determine whether a customer or a beneficial owner is apolitically exposed person. In which case, it is necessary to obtain the approve of the institution's senior management before establishing a business relationship with the customer. In addition to Article (6), instructions No. (1) of 2018 were issued to cover the politically exposed persons, defined as any person, his family members, relatives, and partners who work or have worked in Palestine or abroad, in public political positions or senior posts. The instructions also defined the scope of applicability to financial institutions and specific non-financial businesses and professions and their branches abroad to the extent allowable in the laws and regulations effective in the country where the branches operate. As for due diligence measures, in addition to the provisions of Article (6), the instructions stressed that financial institutions and non-financial professions and businesses must take a set of measures relating to the politically exposed persons, including devising adequate regulations and policies to manage risks and determine if the customer or beneficial owner is a politically exposed person, whether it be locally or abroad, or a family member or any other persons related to this person<sup>30</sup>.

## II. Transparency of beneficial ownership:

Definition of beneficial ownership	1	
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The Anti-Money Laundering and Terrorism Financing Law defines in Article (1) the beneficial owner as a natural person who owns or controls definitively the agent or account of a person who acted on the natural person's behalf in executing a transaction; or a person who exercises effective and definitive control of a legal person or its management.

The law requires determination of the beneficial owner (s)	0.50	
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Articles 1\6, 3\6, 5\6, and 7\6 of the Anti-Money Laundering and Terrorism Financing Law prescribe the terms and procedures applicable to determine the beneficial owner upon the establishment of the relationship with the customer in the cases that represent high risk.

Competent authorities, access to information	0.50	
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Article (23) of the Law defines the competent authorities that have the right to access private information on beneficial ownership. These include only the Financial Follow-up Unit (FFU). This is not available to all law-enforcement and tax bodies. FFU has the authority to refer the results of the analysis of information relating to proven criminal proceeds to competent authorities and to submit a report in this regard to the Prosecutor General to take the necessary precautionary measures as per Article (31) of the Law.

No information is available on the possibility for competent authorities to access the sources of information on beneficial ownership registered in the company's central records.

Public access to information	0	
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The law does not allow the public to access information on beneficial ownership and this information is not published in whole or partially.

Updating information	0.50	
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Instructions (2) and (4) issued in accordance with the Anti-Money Laundering and Terrorism Financing Law provide for updating information on beneficial ownership of legal person on annual basis and immediate updating in case of suspicion of the information acquired<sup>31</sup>.

In this context, after accessing the webpage of the Ministry of National Economy (MoNE), being the authority responsible for the registration of companies in Palestine, it appeared there is a companies' registry that is accessible to the public established in 2022 under the name of Companies Portal<sup>32</sup>. The Portal was activated following the promulgation of the Companies' Act No. (42) of 2021, which prescribes in Article (4) relating to companies' registration all the data, documents and information required from companies. The same article provides that such information shall be accessible to the public via the website of the Companies' Registry<sup>33</sup>. However, navigation of the published registry showed that the information shared is only general information (type of dealer, registration number of the company, name of the dealer or company, commercial name, status, date of registration, state, governorate, directorate and the raison d'être of the company).

On the other hand, the published registry lacked the following information prescribed by the law (name of signatories, declared capital of the company, forfeiture and warrants on the company's shares and equities unless they are documented at the deposit and transfer center and any other shareholding in limited liability companies, as well as names of directors and members of the board of the private shareholdings, name of the director general and members of the board of the public equities, companies' financial statements, names of accounts auditors and any other information relating to their removal or resignation, subscribed capital of shareholdings, commencement of insolvency proceedings, liquidation or restructuring of the company, or merger or dissolution as per the provisions of relevant effective laws and the updates on these proceedings and their outcome as per the decisions made by the courts considering the legal status of the company and other data or documents prescribed in the law.

On another note, the law did not prescribe the determination or publication of the name of the beneficial owner. Even after the enactment of the law, insufficient legal control continued regarding the beneficial owner, which allows fugitives or persons with connections to the authorities to access financial services under the name of a legal person or any other legal arrangement they manage behind the scenes.

Law No. (20) of 2015 on anti-money laundering and terrorism financing was amended in 2016 when the Amended Law by Decree No. (13) of 2016 was promulgated and instructions (1), (2), (3), (4), and (5) were issued in 2016 and 2017. The instructions relate to anti-money laundering in banks and non-financial institutions as well as in the sector of importation of second-hand cars and reporting expedited transfers. They include provisions on disclosing information on companies and other legal entities.

Instructions No. (1) of 2018 on politically exposed persons<sup>34</sup> were issued by the National Anti-Money Laundering and Terrorism Financing Commission. Instructions No. (1) of 2019 amended the instructions (3) of 2016 relating to the importation of

31 [muqtafi.birzeit.edu/pg/getleg.asp?id=16876](http://muqtafi.birzeit.edu/pg/getleg.asp?id=16876).

32 <http://www.mne.gov.ps:9095/ords/f?p=103:298>.

33 Law by decree No. (42) of 2021 concerning the Companies Act, published in a special issue, No. 25, on 30/12/2021

34 Palestinian Official Gazette, Issue 163, 30/1/2020, p. 52.



second-hand vehicles from abroad. These instructions were also issued by the National Commission<sup>35</sup>.

The Law by Decree on Companies Act No. (42) of 2021 provided that the companies' registry shall be accessible to the public and MoNE established the Companies Portal in 2022. However, the Law did not prescribe the determination of the beneficial owner.

FFU of the State of Palestine became member of Egmont Group of anti-money laundering and terrorism financing units in 2019 during the Group's twenty-sixth meeting in La Hague, the Netherlands. Accordingly, FFU may exchange intelligence information on money laundering and terrorism financing with over 159 similar units around the world. It also benefits from easier flow of information, capacity and competence building in the area of combatting money laundering and tracking the proceeds of predicate crimes to recover them at the international level<sup>36</sup>.

### III. Recovering stolen assets

Returning stolen assets	0.50	
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The Palestinian Anticorruption Law No. (7) of 2010<sup>37</sup> prescribes in Article (9) the mandate of the Anticorruption Commission including coordination with competent entities to track, control, seize and recover corruption crimes funds and proceeds. In addition, the National Anticorruption Strategy 2015-2018 includes a special provision on international cooperation, including bilateral and multilateral agreements to extradite criminals and cooperate in the area of law enforcement, exchange of information and recovery of assets<sup>38</sup>. The Cross-sectoral National Strategy for the Promotion of Integrity and Anticorruption (2020-2022) includes interventions to put into force the recommendations of the National Anti-money Laundering Commission and prepare an action plan for the cross-sectoral public finance management strategy 2017-2022<sup>39</sup>. However, the State of Palestine continues to face legislative and application challenges to conclude bilateral agreements and adhere to the international judicial cooperation conventions relating to recovery of stolen assets, enforcement of court verdicts or extradition of criminals.

Measures to confiscate criminal proceeds are in place	0.25	
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The Anti-Money Laundering and Terrorism Financing Law prescribes in Article (40) the physical confiscation of property constituting the proceeds of the offence, including property mixed with, derived from or exchanged for such proceeds, or funds whose value equals such proceeds. The court may confiscate the funds that are owned directly or indirectly by a person convicted of money-laundering or a predicate offence, which property was acquired during the 10 years before the person was charged with the offence; the court may decide to confiscate such property if reasonable grounds exist to indicate that such property constitutes the proceeds of the offence for which the person was convicted and the person is unable to prove that the property was obtained legally. Furthermore, Article (45) of the same law provides that, in accordance with bilateral and multilateral agreements to which the State of Palestine is a party, Palestinian judicial bodies may execute the judgments issued by foreign competent judicial bodies requesting the confiscation of proceeds of money laundering or terrorist financing after legalization. Article 9.5 of the Anticorruption Law grants PACC the authority to coordinate with competent bodies to track, seize, confiscate and recover funds and proceeds of corruption offences provided that the confiscation decision is issued by the competent court considering the case. Article 9.2 organizes the recovery of stolen assets internally. PACC is vested with the authority to issue the warrant to seize movable and immovable assets and prohibition of travel and suspension of a person from

35 Ibid, issue 149, 28/11/2018, p. 119.

36 PMA official webpage: <https://www.pma.ps/ar>.

37 Law by decree No. (7) of 2020 on an amendment to the Illicit Gain Law No. (1) of 2005, Official Gazette, Issue 87, 26/6/2010

38 National Anticorruption Strategy, *ibid*.

39 PAAC, National Cross-sectoral Strategy for the Promotion of Integrity and Anticorruption, 2020-2022. *Ibid*, p. 62.

work and of his/her salary, bonuses and other entitlements. This means that the Palestinian legislator has provided for several rules to recover funds of corruption offences internally or externally provided that the suspect is charged and convicted by the Corruption Crimes Court, in which case, the burden of proof lies on the prosecution not the accused.

Assets Recovery Unit	0.50	
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An international cooperation unit was created at the Ministry of Justice to specialize in recovering assets. It is vested with mutual legal aid and international judicial cooperation, including following up on the requests to extradite criminals and return stolen assets and execute judicial orders. The procedure is initiated by PACC that refers the case to the Anticorruption Prosecution to undertake the necessary investigation. The Anticorruption Prosecution prepares a memo to return or request precautionary seizure of the assets of the accused. the memo is sent to the International Cooperation Unit, which coordinates at the international level via the Ministry of Foreign Affairs and Expatriates<sup>40</sup>.

PACC's 2021 annual report mentioned that the Corruption Crimes Court pronounced several judicial orders in 2020 to compel the convicted persons to return their criminal proceeds from corruption offences. The criminal proceeds subject of the verdicts included returned proceeds and fines as follows<sup>41</sup>:

(2,610,340 US Dollars), (518,230 Israeli shiekels), (62,5 Jordanian Dinars)

The report also mentioned that criminal proceeds subject of recovery order or recovered as liquid money since 2010 till end 2020 were as follows:

Criminal Proceeds	Recovered sums
JD96,129	70,325
USD 53,153,669	5,121,231
EGP 227,468	0
AED 8,864,341	0

40 Marmash, Nirmeen, Lahha, Mazen, and Sawalhah, Ismat, The Regulatory Framework of Asset Recovery at local and international levels, Institute of Law, Birzeit University, 2015, pp. 60-63.

41 PACC 2020 Annual Report, March 2021, P. 34.

## Target 16.5: Substantially reduce corruption and bribery in all their form

### I. Corruption experience and perceptions:

A survey on citizens' perception of national priorities in the scope of SDGs implemented by the Palestinian Central Bureau of Statistics (PCBS) showed that 2.1% (including 1.9% in the West Bank) reported they paid a bribe or were asked to pay a bribe to facilitate their government formalities in the past eleven months, as mentioned in the SDGs Statistical Report 2019<sup>42</sup>.

Another survey carried out by AMAN Coalition in 2021 showed that 63% of the respondents believed that corruption is widespread in PNA institutions while 25% considered nepotism and favoritism the most prevalent form of corruption in Palestine, while embezzlement of public funds ranked second by (23%). Abuse of power ranked third, as reported by 14% of respondents, followed by abuse of trust (11% of respondents)<sup>43</sup>.

16% of respondents to the same survey pointed out that bribery was the most prevalent form of corruption. This percentage is significantly higher in 2021 compared to the two previous years. Furthermore, 17% of citizens reported that they (or their relatives) have paid a bribery or given a gift to a public official in exchange of a public service<sup>44</sup>.

### II. Anticorruption framework and institutions

Legal framework criminalizes corruption	75	
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Article (1) of the Anticorruption Law No. (1) of 2005 defined corruption for the purposes of implementing the law as 1) crimes prejudicial to the duties of the public office and to public trust as provided for in the applicable Penal Code, 2) Crimes emanating from money laundering as provide for in the Anti-Money Laundering Law, 3) Any act prejudicial to public funds, 4) Abuse of authority contrary to the provisions of the law, 5) Acceptance of nepotism and favoritism which eliminates rights and achieves falsehood. 6) Illicit gains, 7) All acts provided for in the Arab and International Conventions on Anti-Corruption ratified by the National Authority or to which it is member.

The Penal Code of 1960 applicable in the West Bank and the Penal Code No. (69) and (74) in effect in the Gaza Strip criminalized bribery and trade in influence in the public sector. The Law by decree on Anticorruption No. (37) of 2018 subjected foreign public officials and staff of public international organizations to its provisions. However, the Palestinian laws do not criminalize bribery and request of a bribe in the private sector.

Article (2) of the Anti-Money Laundering and Terrorism Financing criminalized laundering of criminal proceeds and any form of criminal act as well as the intent to commit such crimes. Furthermore, Penal Code of 1960 in force in the West Bank and Penal Codes 69 and 74 in effect in the Gaza Strip criminalized embezzlement of a public officer ex officio mandate without explicitly referring to embezzlement for the sake of other persons or entities or the actual dispossession and diversion. The laws criminalized the abuse of trust and official post by specific categories of public officials.

Article (1) of the Anticorruption Law criminalized illicit gains while the Penal Code effective in the West Bank and Penal Codes in force in the Gaza Strip criminalized the embezzlement of public property. Palestinian laws do not criminalize the incitement to obstruction of justice via the use of physical force or promising or offering undue privileges. They don't penalize

42 Palestinian Central Bureau of Statistics. 2020. SDGs Statistical Report 2019. Ramallah, Palestine, p. 141.

43 Coalition for Accountability and Integrity (AMAN). Annual opinion polls of Palestinian citizens on corruption and anticorruption efforts in Palestine, 2021. December 2021. Pp. 6-7.

44 Idem, p. 8

the preparation to commit a crime<sup>45</sup>. Article (9) of the Anticorruption Law and Article (39) of the Anti-Money Laundering Law prescribed the civil and criminal liability of legal persons in money laundering offences.

On 25 March 2019, a Law by Decree No. (9) of 2019 was ratified by the President to amend the Anticorruption Law No. (1) of 2005, as amended. The new law set the salary of the President of PACC at the same level of a minister's salary and granted him/her the same privileges if the original law did not provide for the same. An amendment was introduced to the terms of appointment of the President of PACC to prescribe being a Palestinian, instead of the previous provision, "to be a Palestinian of two Palestinian parents and grandparents and who does not hold another citizenship."<sup>46</sup>

PAAC receives hundreds of reports and complaints on suspicions of corruption. Its annual report of 2021 shows that it dealt with (1246) complaints and reports, settled (747) complaints and reports, dismissed (524) reports and complaints and referred (45) to the Prosecutor General. The total number of cases being investigated by the Corruption Crimes Prosecution reached (82). The same report mentioned that the offence of abuse of power was the most prevalent in the cases received by PACC, accounting for 62% of reports.<sup>47</sup>

**Speaking of the independence of the Anti-Corruption Commission (PACC), State Administrative Control and Audit Bureau (SAACB), the judiciary and public prosecution, it is as follows:**

Article (3) of the Anticorruption Law prescribes that PACC is a legal person that enjoys administrative and financial independence. Article (7) of the same law grants the President and staff of the Commission immunity in the works they perform to fulfill their task. However, the Law does not include a provision relating the ratification by the Palestinian Legislative Council of the President of the Commission. There are some signs of external interference in the activity of the Commission<sup>48</sup>.

Indicators of external intervention in PACC's can be seen when some cases involving influential persons are frozen or an agreement was reached to handle the case without trials while others have been opened to settle political accounts with opponents.

The opinion poll conducted by AMAN Coalition in 2021 indicated that 78% of respondents in the West Bank believe that the bodies vested with combatting corruption in the West Bank (including PACC and SAACB, etc.) do not exercise their role with independence, while 15% believe they are independent in their work. The findings of the same polls also showed that 31% of respondents who believe that anticorruption bodies are not independent also believe that the Prime Ministry and ministers are the bodies that most intervene in the work of anticorruption mechanisms, followed by the Presidency for 27% and security forces for 22%. On another note, 62% of respondents in the West Bank consider anticorruption efforts in efficient, while 35% of the respondents believe these efforts are effective or moderately effective<sup>49</sup>.

As for the judiciary, notwithstanding the explicit provisions in the Basic Law and Judicial Authority Law regarding the independence of the judiciary, many doubts have been raised about such independence in recent years following a dispute on the occupancy of the position of the President of the Higher Judicial Council. In an earlier period, the President of the High Judicial Council was appointed by the President of the PNA directly without any recommendation from the High Judicial Council until this was abolished by the Higher Court. A new difference over the appointment of a new HJC President broke

45 PACC, State of Palestine Review Report on the Implementation of the United Nations Convention Against Corruption: Review Cycle 2010-2015, [http://www.pacc.pna.ps/ar/files/reports/2015\\_10\\_14\\_Palestine\\_Final\\_Country\\_Report\\_Arabic.pdf](http://www.pacc.pna.ps/ar/files/reports/2015_10_14_Palestine_Final_Country_Report_Arabic.pdf).

46 Law by decree No. (9) of 2019, amending the Anticorruption Law No. (1) of 2005, as amended. Official Gazette, issue 154, on 16/4/2019.

47 PACC, Summary Annual Report 2021, January 2022. <https://www.pacc.ps/blog/post/191227>.

48 Coalition for Accountability and Integrity (AMAN), Report on Integrity and Anticorruption Reality 2016, Ramallah, 2018, p. 37.

49 Coalition for Accountability and Integrity (AMAN), Public Opinion Poll on Corruption and Anticorruption efforts in Palestine, 2021, *ibid*, p. 42

out and bargains on position sharing began, which enabled the executive power to place restrictions on the incumbents of these positions by requesting the candidate for the post of HJC President to sign a prior and undated resignation letter as a condition of incumbency. This was done with more than one candidate and constituted a blatant interference with the independence of the judiciary, especially with regard to its administrative control of government's decisions. The public's confidence in the judiciary has been weakened<sup>50</sup>. Indeed, the public opinion poll conducted by the Coalition for Accountability and Integrity (AMAN) in 2021 indicated that 84% of respondents in the West Bank believe there is corruption in the judiciary<sup>51</sup>.

These measures were followed by the promulgation by the President of two laws by decree on 15/7/2019, amending the Judicial Authority Law and prescribing the formation of a transitional High Judicial Council. The law was published in the Official Gazette on the following day. These laws resulted in the immediate retirement of one quarter of the judges, in particular judges of the Higher Court (35 judges), which means that not a single judge stayed. Judges of the appellate and first-instance courts were also referred to retirement while the existing High Judicial Council was dissolved together with the juries of the Palestinian Supreme Court and appellate courts. The President vested in the interim High Judicial council broad mandate without any control or standards, which contradicted the Basic Law and the Judicial Authority Law. These powers may entail removal of more judges. President Mahmoud Abbas also issued a series of laws by decree in 2022 to amend the laws governing the judiciary and judicial procedures<sup>52</sup>.

The Independent Commission for Human Rights (ICHR) issued a statement regretting the enactment of these laws without any dialogue or consultation with stakeholders, including the Bar Association and civil society organizations especially when they substantially contradict the Basic Law and establish for violations of the right to a fair trial under the pretense of expedited settlement of cases. ICHR underlined that it issued a legal memo addressed to the President on 01/02/2022 calling for the non-promulgation of the Law by Decree amending the penal procedures since it jeopardizes human rights and fundamental freedoms guaranteed by the Basic Law and international human rights conventions of which the State of Palestine is a party<sup>53</sup>.

Following the enactment of the above-mentioned laws, President Mahmoud Abbas promulgate Law by Decree No. (15) of 2022 on suspending the enforcement of a number of Laws by Decree until 1/6/2022. These laws by decrees include Law by Decree No. (7) of 2022 amending the penal procedures No. (3) of 2001, as amended and Law by Decree No. (8) of 2020 on amendment of the civil and commercial trials procedures No. (2) of 2001 and its amendments as well as Law by Decree NO. (12) of 2022 amending the Enforcement Law No. 23) of 2005<sup>54</sup>.

As for SAACB, it enjoys independence as per the Basic Law and SAACB Law No. (15) of 2004, as amended<sup>55</sup>. Article (4) of this law provides that the Chairman of SAACB shall be appointed by a decision of the President based upon the nomination of the council of Ministers and with the approval of the Legislative Council by absolute majority. Article (11) stipulates that the Chairman of the Bureau and the employees of the bureau shall enjoy immunity for all the functions which they perform with regard to their duties. Article (12) states that intervention in any function of the Bureau shall be prohibited. All parties, which are subject to the control of the Bureau shall cooperate fully and completely with all requests of the Bureau.

Despite the provisions regarding the independence of the State Administrative Audit and Control Bureau, the internal Palestinian division and the disruption of the Legislative Council's work (subsequently dissolved) to which the Bureau's reports

50 Mada Center Report, Al-Quds News paper on 25/8/2016 and Letter from Mr. Sami Sarsour, Former President of the High Judicial Council to the President regarding his resignation from office on 13/10/2016

51 Coalition for Accountability and Integrity (AMAN). Annual Opinion Poll of Palestinian Citizens on the State of Corruption and Anticorruption in Palestine 2021. December 2021, *ibid*, p. 41..

52 Official Gazette, special issue No. (26), 6/3/2022


53 ICHR, statement on the publication of laws by a decree relating to the judiciary in the Official Gazette <https://www.ichr.ps/statements/6065.html>

54 Law by Decree No. (15) of 2022 on freezing the enforcement of Laws by Decree

55 SAACB Law No. (15) of 2004, Official Gazette, Issue 53, 28/2/2005. Also, Law by Decree No. (18) of 2017 amending SACC B Law No. (15) of 2004, Official Gazette, issue 135, 25/9/2017

are submitted infringes on the effectiveness and independence of the Bureau and precludes genuine accountability of government entities based on deviations referred to in SAACB reports. Furthermore, the appointment and removal of the Chairman of the Bureau lies in the hands of the Executive Power alone, which compromises its independence. This particularly noted when the government removed the former chairman and appointed a new one prior to the elapse of the former chairman's seven-year mandate and without any consideration of the provisions providing for the absolute majority of votes of the Palestinian Legislative Council to remove the chairman<sup>56</sup>.

### III. Corruption in the private sector

Criminalization of bribery of foreign public officials	1	
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An amendment to the Anticorruption Law by Decree No. (37) of 2018 was introduced to add to the persons subjected to the law any non-Palestinian national who holds a position in any legislative, executive and judicial entity and any person who performs a public function in the service of a public agency or institution or foreign civil society association or international organization. This means that the Palestinian legislation now criminalizing bribery of foreign public employees<sup>57</sup>.

Prohibition of monopoly	0	
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In its session No. (73) on 7/9/2020, the Palestinian government ratified the formation of a committee to prepare a draft law on franchises and prohibition of monopoly<sup>58</sup>. Until the date of the present report, the law on competition, prohibition of monopoly and franchise was not adopted although several drafts have been submitted to the PLC and the government since 2003. Most Palestinian companies listed in the financial market are committed to timely disclosure of their financial statement. The rate of compliance with the submission of periodic financial statements reached 89% in the third quarter of 2020<sup>59</sup>.

Several provisions in the Companies Act, the PMA Law, and the Capital Market Authority Law prescribe rules to organize the transparency of data in companies and order accurate record keeping and accessibility to records for inspection purposes. Many bodies perform control and oversight of the companies depending on the financial sector subjected to each of these bodies' control (the Palestinian Monetary Authority oversees the financial institutions, banks and exchange bureaus, the Palestinian Capital Market Authority (PCMA) monitors the non-banking financial sectors while the Companies' Registrar at the Ministry of National Economy exercises general oversight of companies). There is also a code of governance of companies to which most shareholding companies adhere<sup>60</sup>.

### IV. Transparency of political parties and electoral campaigns

The legal organization of electoral campaigns funding in Palestine is complex for many reasons. The Palestinian Territories are still under occupation and lack real Palestinians sovereignty. For this reason, the political factions have major reservation vis--vis the enactment of the Political Parties Law since these factions are still national liberation movements and not political parties. Indeed, the Israeli occupation continues to ban and outlaw most of these movements. Therefore, they act in quasi-secrecy in terms of their membership and sources of funding. Most of the Palestinian forces and movements have presence outside Palestine and individuals and institutions financing them.

Despite the unique Palestinian context, an internal dialogue took place to agree on a set of principles that were drafted in a

56 Decision by the Council of Ministers in its session No. (31) on 13/5/2014 concerning referring Dr. Sameer Abu Zneid, Chairman of SAACB to retirement. Also, Maan Agency Report on the removal of the Chairman of SAACB <http://maannews.net/Content.aspx?id=697459>

57 See Anticorruption Law and its amendments

58 <http://www.palestinecabinet.gov.ps/portal/Decree/Details/0559d172-dad6-41e7-abe8-92b37484f6f5>

59 PCMA, annual report 2020, p. 22

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

charter to ensure a minimum level of transparency and equal opportunities in the financing of elections. The purpose is to circumvent the current situation while laying the foundations of a democratic system. For this reason, when elections are held, these movements and forces are registered as electoral lists.

Funding of political parties and electoral campaigns	0.50	
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Numerous provisions deal with the financing of electoral campaign, some of which are part of the General Elections Law No. (9) of 2005, which is not different from the Law by Decree on General Elections No. (1) of 2007, as amended and the Law on the Election of Local Authorities No. (10) of 2005 and its amendments. Article (100) of the General Elections Law<sup>61</sup> specified the sources of funding of electoral campaigns as follows: Any electoral list or candidate participating in the elections shall be prohibited from obtaining funds for his/her election campaign from any foreign or external non-Palestinian sources directly or indirectly.

Detailed reports on the funding of electoral campaigns that are made accessible to the public	0.0	
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Article 100 stipulates that every electoral list taking part in the elections and every successful candidate therein will submit to the Central Elections Commission, within a maximum period of thirty days from the date of announcement of the final election results, a detailed statement of his/her financing sources and the sums he/she spent on the electoral campaign. However, the law did not provide for specific ceilings for contributions to candidates and did not require the candidate to publish details of income and expenditure to the public; This would put election campaigns under public scrutiny.

Ceiling of spending on electoral campaign and an independent entity is in place to oversee the funding	0.50	
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Article (101) defined the ceilings of spending on electoral campaigns for the position of the President or an electoral list at USD 1 million or the equivalent thereof in the currency legally in circulation and at USD 60,000 or the equivalent thereof in the currency legally in circulation for candidates to the PLC membership in the constituency. CEC monitors compliance with the ceilings and sources of funding of the electoral campaign. It is also vested with the authority to have the financial statements on spending on the electoral campaign audited by a certified auditor. Other oversight bodies also exercise control as per the Anticorruption Law No. (1) of 2005 and SAACB Law No. (15) of 2004. However, the Palestinian law does not compel candidates to disclose their financial assets upon their candidacy and does not abide them to publish these disclosures to the public<sup>62</sup>.

Article (105) criminalizes the violation of the regulations related to the electoral campaign, mainly those governing the sources and ceilings of funding and states that any person who violates these regulations shall be punished with imprisonment for a period no longer than six months or a fine not more than six thousand US Dollars, or equivalent thereof in legally circulated currency, or with both penalties. It also allowed the court to exclude any person who violates the regulations from the list of candidates and seize these assets. The Local Elections Law No. (10) of 2005 prescribes similar punishments, but the sanctions imposed by the General Elections Law do not represent a real deterrent against manipulation of spending on the electoral campaigns and do not represent sufficient guarantees of the transparency and integrity of the elections. The Law does not explicitly provide that any candidate or list that violates the regulations shall be removed from the list of candidates; it only grants the court the authority to possibly remove the candidate. Furthermore, the law does not provide for subjugating the pre-campaign expenses of candidates and lists to oversight or specific spending ceilings<sup>63</sup>.

61 Law no.(9) of 2005 on Elections

62 Jabiti, Annan and Bilal, Lutfy, Integrity and Transparency in Spending on Electoral Campaigns, Coalition for Accountability and Integrity (AMAN), Ramallah, 2016, pp. 17-18


63 Jabiti, Annan and Bilal, Lutfy, ibid, pp. 23 and 24.

CEC has not published any detailed manuals or procedures relating to the mechanisms of audit of spending on electoral campaigns or the financial statement and reports forms that must be submitted by lists and candidates. The law does not compel candidates to open a special bank account for the election campaigns and does not compel the candidates to submit a disclosure of their financial assets.




## Target 16.6: Develop effective, accountable and transparent institutions at all levels


### I. Integration and Transparency of the public administration:

There is a code of conduct that includes the terms of transparency and integrity of public servants	1	
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The Council of Ministers issued a code of moral and ethical conduct of the public function in 2012<sup>64</sup>. The General Personnel Council coordinated with governmental and civil society organizations that took part in the discussion and preparation of the code of conduct to form a Higher National Committee to supervise its implementation. Several training workshops were organized for public servants on how to comply with and apply the code. The code addresses the values of integrity, transparency, objectivity and rules applicable to gifts and conflict of interest.

The law organizes the transfer of staff from the public to the private sector	0	
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Generally speaking, there aren't any provisions that regulate the transfer of senior officials from the public to the private sector whether they be ministers, PLC members or other government officials and tax and customs officers. There isn't a revolving door policy applied to all decision-makers and no compulsory delay prior to moving from the public to the private sector or vice versa. There isn't any public entity charged with giving advice and supervising the regulations of "revolving door in Palestine". The revolving door was enforced without any progress to put an end to this phenomenon.

Legislations regulating disclosure of financial assets periodically	0.25	
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The Palestinian Basic Law (Articles, 11, 54.2 and 80.1), the Law on the Judiciary (Articles 28.2 and 71) and the Law on the Rights and Duties of PLC Members<sup>65</sup> (Article 12) as well as the Anticorruption Law (Article 2) prescribe the regulation of submission of financial disclosure statements.

The aforementioned Palestinian legislations do not stipulate the obligation to submit periodic financial assets disclosures by the President, Prime Minister, ministers, members of the PLC, judiciary and the public prosecution. These officials submit a disclosure only once upon occupancy of their positions. However, holders of other positions regulated by the Anticorruption Law are required in Article (13) to submit disclosures within two months from their appointment to the position and a month after they leave the position and periodically every three years.

The regulatory framework of senior public officials and civil servants to regularly declare their interests including any paid or unpaid jobs or financial interests in companies and other entities.

Subjecting all authorities to submission of financial assets disclosures	1	
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The statutory provisions specify which public offices are required to file financial disclosure statements: President of the National Authority, his/her advisors, heads of presidential institutions, the President and members of the Council of Ministers and persons of similar status, the Speaker and members of the Legislative Council, members and officials of the judiciary and

<sup>64</sup> Council of Ministers Decision No. (04/23/14. M.o./S.F. of 2012 on the Code of Ethics and Conduct of the Public Service

<sup>65</sup> Amended Basic Law of 2003, Judiciary Law No. (1) of 2002, the Law on the Rights and Obligations of members of the PLC No. (10) of 2004

the Public Prosecutor's Office, heads of the PNA organs and bodies, governors, public officials, heads and members of local councils and the chairpersons and members of the boards of directors and employees of public shareholding companies in which the PNA or any of its institutions are shareholders, Collectors, their delegates, and deposit and bank trustees, arbitrators, experts, judicial guards, creditors' agents, liquidators, chairpersons and members of the governing bodies of public entities and institutions, and of charities, civil society organizations, political parties, and labor unions and their staff. The requirement also applies to the persons in charge of public service, any non-Palestinian person holding office in any institution of the National Authority, or any person exercising a public function for any public organ, establishment, or nongovernmental organization of a foreign country, public international institution and any other person or entity whose subject to the provisions of the law is decided by the Council of Ministers.


These parties highly comply with filing their financial disclosures, taking into account that this is not a particularly important step since these disclosures are kept confidential and are accessed only when the concerned person is accused of corruption.

Publication of disclosures to the public	0	
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The Anticorruption Law does not provide for the public access to the financial disclosures, which are not published.

An entity audits the disclosures	0.25	
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According to effective legislation, and only following the approval and permission of a competent court, PACC is the only authority allowed to access the financial disclosure statements in case of suspicion of corruption against any of the persons required to submit these disclosures<sup>66</sup>.

Imposition of sanctions in case of failure to submit the financial disclosure statement	0.25	
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The Palestinian law does not impose any sanctions for the failure to submit or late submission of the financial disclosure or for the invalidity of statements contained therein in respect of the positions of the President, Prime Minister, ministers, members of the Legislative Council, Judges and Public Prosecutor's Office although the submission of these disclosures is a precondition of appointment for judges and the Public Prosecutor's Office. Conversely, penalties for the other categories required to file these disclosures by Article (28) of the Anticorruption Law, the penalty is a fine of no less than JD 100 and not more than JD 1,000 or its equivalent in the legally traded currency for every month of delay in filing the disclosure following the date on which it becomes required. The same penalty applies to those who submit invalid data in their statements. However, such penalties have not been applied to any offender to date although the law entered into force 8 years ago.

Palestine's asset disclosure mechanism can be described as ineffective and it does not play an important role in preventing corruption because of the lack of penalties that ensure compliance with these mechanisms in most cases and because the disclosures are not subjected to auditing and are kept confidential and inaccessible to competent authorities or to the public except in exceptional cases and with the prior permission of a competent court.

## II. Financial Transparency

Publication of budget documents (8 documents)	0.75	
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General Budget Law NO. 7 of 1998 regulated the general budget and financial affairs of Palestine. According to Article 38, the Government is required to publish the PNA General Budget Law on the media and the Official Gazette after its approval


<sup>66</sup> Anticorruption Law No. (1) of 2005 and its amendments, and the integrated anticorruption law and its amendments, Articles (8) and (16).

by the Palestinian Legislative Council. Article (58) stipulates that any loans or transaction securities must be published in the Official Gazette. However, the Law does not compel the government to publish any other relevant documents including the final accounts statement or periodic reports on the implementation of the general budget.


In Practice, the Ministry of Finance (MoF) publishes general budget-related documents on its webpage including the General Budget Law and monthly progress reports as well as the Citizens' Budget. However, there are problems relating to budget transparency. For many years, the latest of which is in 2021, the government has not been publishing budget details focusing only on aggregated sums together with the citizens' budget, which is a very simple document. The end-of-year report of 2020 was published but only in summary with dumb figures that do not reflect the performance in the elapsed year or the progress in the implementation of the projects. The 2019 audited report was not published noting that the last audited report was published in 2015 but the reports for 2016, 2017, and 2018 are supposed to be published<sup>67</sup>.

As for the ranking on the open budget index, Palestine was not part of the classification, but when AMAN Coalition applied the index locally, the findings showed that MoF published 5 out of 8 documents. The published documents included the pre-budget statement, the approved general budget, citizen's budget, periodic progress reports (monthly and quarterly), year-end report "Final Accounts" for 2020), while the summary of the budget proposal, semi-annual report, and audited report for 2019 were not published<sup>68</sup>.

**III. Public Purchase**

The law stipulates direct purchase thresholds.	1	
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The Public Purchase law and executive regulations<sup>69</sup> set ceilings and thresholds for direct public purchases. Appendix (A) of the Regulation on Public Purchase<sup>70</sup> set these ceilings at USD 3,000 for supplies, USD 5,000 for public works, and USD 100,000 for consultancy services purchase.

Exceptions in the law that may entail misuse.	0.50	
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The Public Purchase Law stipulates exceptions for public procurement in which direct contracting is permitted over the specified ceilings. Article 3 excludes from the application of the law the procurement of supplies of high-security nature determined by a decision of the Council of Ministers. The same applies to the printing and issuance of currencies and their transfers. Article (28) provides for other exceptions to the direct purchase as follows: if the required supplies, works, or services are available only from one bidder, provided that the specifications set by the procuring entity are not intended to apply to that bidder. If the required procurements are spare parts, complementary components or services, or an expansion of the works that are available only from the original supplier or contractor. If the supplies or services must be procured from that supplier for reasons related to standardization or compatibility with the existing goods and services. In case of extreme necessity or natural disasters. If the estimated cost of supplies, works or services is very small according to what the Regulations specify. In case of procuring scientific or cultural materials, such as movies, manuscripts, and the like.

Article (105) of the Executive Regulations of the law imposes further restrictions and conditions on direct purchases in addition to the provisions of Article (28) of the law. However, these exceptions may entail abuse when some public institutions seek a Council of Ministers' resolution although the purchases in question do not represent part of the exceptions set forth in the

67 Civil Society Team for the Promotion of Public Budget Transparency, Semi-Annual Report on the Public Budget 2021, October 2021, p. 3

68 Idem. P. 4.

69 Public Procurement Law No. (8) of 2004, Official Gazette, issue 107, 28/5/2014, and CoM Resolution No. (5) of 2014 on Public Procurement Regulation.

70 Council of Ministers Decision No. (3) of 2015 amending some provisions of the Public Procurement Regulation No. (5) of 2014

law<sup>71</sup>. Appendix (A) of the amended Council of Ministers' Resolution (3) of 2016 allows the direct purchase of supplies and services if the estimated cost does not exceed USD 3,000 and of consultancy services up to a ceiling of USD 100,000 without any announcement of an expression of interest.

Publication of complete information on tenders	0.50	
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Article (33) of the Public Purchase Law and Article (62) of its executive regulations require the procuring service, Public Procurement Department, or the Central tenders department to advertise the tenders and prequalification of bidders in two widely spread local papers on two consecutive days at least and on the Public Purchase Portal. Bidders must be given 30 days from the date of the advertisement to prepare their tenders and related documents and a delay of no less than 10 days in expedite and emergency situations. Article (66) of the Executive Regulations provides that the ad must specify the minimum qualifications to take part in the tender and the entire tender documents by all interested bidders who respond to the tender. To date, information and documentation related to public tenders and procurement and to government contracts have been published on the Public Procurement Department webpage<sup>72</sup>. When the unified public procurement portal was activated, a link thereto is added to the ads on the webpage. A review of the portal shows that government institutions use the portal regularly. Based on the latest access on 12 April 2022, the number of records of published tenders reached 2,455. However, the portal still needs to attract other procurements<sup>73</sup>. It should be noted that government contracts related to the exploitation of public resources like telecommunication, water, and electricity have not been tendered and the contracts related to these services with the private sector were not published to the public.

In spite of the progress achieved in the public procurement system, the Higher Council for Public Procurement Policy continues to face some challenges related to the exceptions granted by some entities as per Article (28) of the Law by Decree No. (8) of 2014 on the Public Purchase. Examples include the approval to purchase 4 million doses of Pfizer anti-covid vaccine and 500,000 doses of Sputnik vaccine<sup>74</sup>.

Disclosure of beneficial owners	0.0	
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The Law does not require tenderers to disclose the beneficial owners. On another note, the Public Purchase Law stipulates in Chapter VI, Articles (56-58) complaints mechanism and review. The Law guarantees tenderers the right to submit written complaints to the procuring agency or to the General Supplies Department or the Central tenders department if they endure or may endure losses or damage as a result of the procuring agency's failure to fulfill its obligations or relating to the pre-qualification conditions or the preparation of the list of short-listed tenderers or the decisions or procedures made by the procuring agency provided that the complaint is reasoned and that it specifies the act of omission or violation of the law or regulation. The agency against which the complaint was filed must review the complaint and notify the complainant of the results within seven days from the date of submission of the complaint. The procuring agency does not take any measures relating to the tender during this period. The complainant may also file a grievance with the Dispute Review Unit at the Higher Council for Public Procurement Policy if he/she rejects the decision made by the entity to which he/she submitted the complaint or in the event this entity does not review the complaint and issue a decision within the legal delay. Article (58) of the Law provides that the decisions issued by the procuring agencies, Higher Council for Public Procurement Policy and the Dispute Review Unit are appealable before the courts.

71 Abu Dayyah, Ahmad, special exceptions related to direct purchase according to the Public Procurement Law, Coalition for Accountability and Integrity (AMAN), Ramallah, 2018, p. 6.

72 See webpage of the Directorate General of Public Procurement, <http://www.gs.pmf.ps>.

73 <https://www.shiraa.gov.ps/ProcurementList>, accessed on 13 April 2022

74 Coalition for Accountability and Integrity (AMAN). 2021. Fourteenth Annual Report – State of Integrity and Anticorruption in Palestine. Ramallah – Palestine, p. 46.

Chapter VIII of the executive regulations of the Law (Articles 138-152) prescribe the details of submission of complaints, their delays and decision-making mechanisms for the procuring agency, the Dispute Review Unit and the Higher Council for Public Procurement Policy.

#### IV. Whistle-blowing mechanisms

Legislation to protect whistle-blowers	1	
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Article (18) of the Anticorruption Law No. (1) of 2005 stipulates that PACC must provide legal, professional and personal protection to witnesses, experts and whistle-blowers of corruption crimes and that the protection procedures and measures shall be regulated by regulations prepared by PACC and issued by the Council of Ministers (CoM). CoM issued Resolution No. (7) of 2019 on the protection of whistle-blowers, witnesses, informants and experts in corruption cases, their relatives and persons close to them<sup>75</sup>.

Definition of corruption whistle-blowers	1	
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Article (19) of the Anticorruption Law underlines that any public official who becomes aware of a corruption crime must notify PACC thereof and that whistleblowing cannot constitute a reason to apply disciplinary measures against him/her or any other procedures that undermine his/her professional status. Article (22) stipulates that the complaints shall be confidential, which is a form of protection of whistle-blowers. PACC receives reports on corruption crimes and investigates them. It has the necessary resources to perform this role.

Article (24) of the Law of Penal Procedures No. 3 of 2001 provides that any person who learns of a crime (including corruption crimes) shall report the same. Article 25) states that every authority and every public official who, in the performance of his/her duties or because of it, acquires knowledge of a crime, shall report the same to the competent authorities. In addition to these provisions, the Decision on the Protection of whistleblowers, witnesses, informants and experts in corruption cases and their relatives and persons close to them provides a clear definition of the whistleblower, informant, witness, expert, and protection seeker)<sup>76</sup>.


Protection of whistleblowers	1	
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Article (10) of the Decision on the Protection of whistleblowers, witnesses, informants and experts in corruption cases and their relatives and persons close to them focuses on personal protection. It states that PACC shall provide personal protection to the persons covered by the decision on protection in cooperation with the Police and competent bodies within the security forces. Protection shall be in the following manner: 1. Protecting the places of residence or providing shelters when necessary. 2. Taking measures to ensure safe movement, particularly when attending trials and investigation sessions. 3. Protecting homes, property, and workplaces. 4. Changing either or both the place of residence and workplace on a permanent or temporary basis and provide appropriate alternatives depending on the surrounding conditions and circumstances. 5. Changing or wiretapping telephone numbers at the behest of relevant persons in accordance with the legislation in force and provide an emergency telephone number on a round-the clock basis to receive calls for relief. 6. Using modern telecommunication technologies to ensure safety for making statements and testimonies. 7. Concealing and replacing all information relating to identity and personal details with non-signifying symbols or nickname. 8. Taking any procedure or measure and undertake any action that is necessary to ensure safety.


<sup>75</sup> Official Gazette (issue 161), 28/11/2019

<sup>76</sup> Law No. (7) of 2019 on the Protection of Whistleblowers, Witnesses, Informants and Experts in Corruption Cases and their Relatives and Persons Close to Them, Official Gazette, issue 161

Considering the above, Palestine has taken sufficient measures to provide effective protection to witnesses, experts and whistleblowers. Compliance in this regard is conform to the UN Convention Against Corruption (UNCAC).

There is a body responsible for supervising and investigating reports	1	
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PACC and the Prosecutor's Office are responsible for the reception of complaints and reports and for investigating the same. PACC publishes on its webpage the addresses to submit reports on crimes of corruption. It also publishes ads in the papers and different media to encourage the public report these crimes. PACC publishes, in its annual reports, statistics on the numbers of complaints and reports relating to crimes of corruption and the procedures and measures applied, including investigations and referral to the Corruption Crimes Court.

Compensation for damages	1	
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Articles (194), (195) and (228) of the Law on Penal Procedures provide that a victim of a crime shall have the right to file a claim with the Prosecutor's Office or the court seized of the case, in which he assumes the capacity of a civil claimant for reparation of the injury suffered as a result of the claim. The claimant may testify and ask for compensation for the damage endured.

However, Article (15) of the Decision on the Protection of Witnesses provides that the protected person shall have the right, in the event they are subjected to a physical or material assault which results in a functional disability, to request compensation from PACC. The heirs of the protected person shall have the right to request compensation, assistance, and expenses, in case the assault results in the death of the protected person.

## Target 16.7: Ensure responsive, inclusive, participatory and representative decision-making at all levels

### Indicator 16.7.1

Proportions of positions (by sex, age, persons with disabilities and population groups) in public institutions (national and local legislatures, public service and the judiciary) compared to national distributions.

Legal framework to ensure women's participation in all three powers	0.25	
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The Palestinian Basic Law prohibits PNA officials from discriminating in the appointment of employees and provides that appointment to a public position shall be based on the rule of equal opportunity. Most legislations regulating the three authorities provide for the same. However, compliance with these provisions remains only formal.

The laws relating to women's participation and candidacy to the legislative authority are binding. The General Elections Law stipulates a minimum quota for women on the electoral lists to PLC membership. Consequently, women's representation, following the latest amendments to the law, reached 24%.

However, legislations on women's participation in the executive power are general and loose, which leads to weak compliance. They are mostly not "laws", but rather presidential decrees or Council of Ministers' resolutions. There is for example the Presidential Decree No. (24) of 2005, where Article (1) stipulates that the institutions of the State of Palestine shall support, promote, and apply the full and equal participation of women in peacekeeping and security efforts. Article (2) of the Decree on State of Palestine's Support of Palestinian Women's Participation in Women's International Good Offices within the United Nations and participation in the negotiations to make genuine, just and sustainable peace in the Palestinian-Israeli conflict.

Council of Ministers' Resolution No. (366) of 2005 includes articles on the protection of battered women while Article (2) mandates the Ministry of Interior to provide qualified women in police stations to deal with the cases of violence against women.

#### Membership in the Permanent Committees of the Executive Power:

Council of Minister's Resolution No. (1) of 2019 on the formation of permanent ministerial committees guarantees women's representation in some government committees, such as: Membership of the Minister of Women's Affairs in the Social Committee, Developmental Policies Committee and Reform Committee. The decision also states that the [female] Minister of Health shall be member of the Jerusalem Committee and the Social Committee while the Minister of Antiquities shall be member of the Economic Committee. Although there isn't a law stipulating that the incumbent of the post of Minister of Women's Affairs must be a woman, it had been filled by a woman in all successive governments and has become a legal custom.

#### Membership in the governing bodies/boards of public institutions and bodies:

There is no legislation establishing the proportion of women on the governing bodies/ boards of public institutions, but the membership of the Ministry of Women's Affairs, which has been included in many laws, has resulted in the inclusion of women indirectly, although the Ministry of Women's Affairs (WoFA) is not required to be represented by a woman. Article 5 of the Alimony Fund Law No. (6) of 2005 provides for the membership of a representative of the Ministry of Women's Affairs on the Board of Directors of the Fund and six other members of other ministries. Amendments have been made to the Law by Decree No. 12 of 2015, which included a representative of the WoFA with the rank of Director – General. In addition, the Decision

of the Council of Ministers No. (18) of 2005 on the Establishment of the National Anti-Poverty Commission provides for the membership of the Deputy Minister of WoFA in the Commission. Moreover, Decree No. 31 of 2005 on the reconstruction of the Higher National Committee for the Prevention of Narcotic Drugs and Psychotropic Substances stipulates that the Committee, which comprises 19 members, includes a delegate from WoFA. Council of Ministers' Decision No. (198) of 2004 establishing the Advisory Council for Official Statistics also included a member of WoFA and a member of the General Union of Palestinian Women.

Council of Ministers' Decision No. (9) of 2011 on the Regulation of The Center for the Protection of Women Victims of Violence stipulates in Article (11) that the Center's Committee shall comprise members representing WoFA. Furthermore, CoM Decision No. (5) of 2014 on the Regulation of the Scientific Research Council explicitly stipulates in Article (5) that women's representation shall be taken into account when nominating members to the council based on the nomination of the Minister of Higher Education and Scientific Research but does not specify the minimum representation. The text is loose. The same is included in CoM resolution (5) of 2020 on the Regulation of the National Commission for Accreditation, standards, and Quality of Higher education Establishments. Article (5) of the decision underlines the necessity to take women's and private sector's representation in the formation of the Board of the National Commission for Accreditation, Standards and Quality of Higher Education Establishments. CoM also issued Decision No. (7) of 2019 on the Establishment of Gender Policies Institute; however, although the law stipulates the enactment of the Institute's regulations, they have not been promulgated to date.

Decree No. (1) of 2018 established the National Team to Discuss the Reports of the State of Palestine on the Enforcement of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article (1) of the Decree provides for the membership of WoFA while Article (2) stipulates that the National Team shall be co-chaired by WoFA and the Ministry of Foreign Affairs and Expatriates while the Minister of Women's Affairs shall personally chair the National Team involved in the periodic reports submitted to CEDAW Committee.

Decree (6) of 2019 establishes the National Team responsible for the discussion of the reports of the State of Palestine on the enforcement of the Convention on the Elimination of Racial Discrimination (CERD). The Team also includes a member representing WoFA.

### **Membership in the Council of Ministers**

Statistics indicate that women represented 22.7% of the thirteenth government, 20.8% of the fourteenth government, 12% of the fifteenth government, 12.5% of the sixteenth government, 17.6% of the seventeenth government and 12.5% of the eighteenth government.

### **Judicial Authority:**

Palestine's judicial system comprises four types: the regular judiciary, which is regulated by the Law on the Judicial Authority No. (1) of 2002, The Sharia Justice System, the Constitutional Judiciary and the Military Judiciary. Each type is supervised by an independent administrative entity. Every judicial administration is independent and subject to its own law, including in terms of appointment and promotions. Although the laws regulating the judicial authorities do not prevent women's appointment to this authority, they also lack specific quotas to enable women to hold senior posts, which makes women's representation in these posts limited.

### **Legislative Authority**

The indicator relating to women and youth participation in the legislative authority cannot be applied due to the paralysis of the PLC since 2007 and the subsequent decision by the Constitutional Court in 2018 to dissolve the Council.



Appointments in public service	0.25	
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Statistics published by the Palestinian Central Bureau of Statistics (PCBS) in 2021 show that the estimated population of Palestine in mid-2021 reached 5.23 million, including 2.66 million males (51%) and 2.57 million females (49%). The sex ratio stood at 103.4%, meaning that there are 103 males per every 100 females<sup>77</sup>. PCBS defines youth as the age group of 18-29 years<sup>78</sup>. The youth indicator used in the shadow report focuses on youth in the labor market below 45 years. This is the indicator taken into account in the data collection.

### I. Key indicators on men and women in key decision-making positions in Palestine<sup>79</sup>

Table (1): Women's Participation in Decision-making Positions:

Position	Female participation	Male participation	Average age
Members of the Palestinian National Council (PNC)	10.9%	89.1%	N/A
Members of the PLO Executive Committee	0%	100%	71 years
Members of the PLO Central Council	25.0%	75.0%	N/A
Members of the 18 <sup>th</sup> government	12.5%	87.5%	60 years
Governors	6.3%	93.7%	*58 years <sup>80</sup>
Members of the Prosecution Office	20.4%	79.6%	N/A
Judges	19.2%	80.8%	N/A

#### Women's Participation in Decision Making in the Public Service and Police

Women represent 45% of the total staff of the civil sector based on data of the General Personal Council in February 2021. The gender gap in the public function appears at the positions of Director General and higher where women represent 14%, compared to men who account for 86% of the incumbents of these senior posts<sup>81</sup>.

#### Posts that require daily interaction with citizens:

The number of women working in the government education sector reached 24,465, compared to 16,658 men. Thus, women account for 59.5% of the total employees of the government education sector.<sup>82</sup>

77 PCBS, Women and Men in Palestine, Issues and Statistics. 2021

78 See, PCBS, Review of the Situation of Youth in the Palestinian Society in the Eve of the International Youth Day, 12/08/2021 <https://www.pcbs.gov.ps/postar.aspx?lang=ar&ItemID=4045>.

79 Percentages retrieved from PCBS 2020. Palestine in figures 2021, Ramallah, Palestine, the average age was calculated based on a study by Jihad Harb on the Sociopolitical structure of the Palestinian 18th Government.

80 the number is calculated by the researcher and covers 16 governors appointed by President Mahmoud Abbas (11 in the West Bank and 5 in Gaza).

81 Idem.

82 PCBS, Women and Men in Palestine, Issues and Statistics. 2021

The distribution of women in the health sector<sup>83</sup> was as follows: 63 dentists working with the Ministry of Health, representing 37.5% of the total number of dentists (169), MoH has 445 women doctors out of a total of 2,358, being 18.9%. of the 447 pharmacists in MoH, 295 (61.8%) are women. Nurses and midwives reached 2,098, representing 48.1% of the total number of nurses working with MoH.

In the Police Force: According to 2020 statistics, 476 of the 9,563 police officers in the West Bank are women, representing 5.6% of the total staffing.

Statistics of 2020 also show that 7,953 of the total 8,563 police officers in the West Bank are youth, representing thus 92.9% of the total staffing.

Table (2): Percentage of women, youth and persons with disability in work age in the government sectors for the following categories:

Government sector	Women percentage	Youth percentage	Persons with disabilities
Director General and higher	14% <sup>84*</sup>	N/A	N/A
Education sector	58.7% <sup>85</sup>	N/A	N/A
Dentistry	37.5% <sup>86</sup>	N/A	N/A
Human Medicine	18.9% <sup>87</sup>	N/A	N/A
Pharmacy	61.8% <sup>88</sup>	N/A	N/A
Nursing	48.1% <sup>89</sup>	N/A	N/A
Police	5.6% <sup>90</sup>	N/A	N/a

The above table provides indicators on government policies' orientation regarding the representation of different social groups in several public sectors. It appears that the policies encourage women's participation in certain sectors like the sector of education where women working as teachers a clear majority of 59.5% as well as in the pharmacy and nursing sectors with 61.8% and 48.1% respectively. Conversely, data indicate weak government policies to promote women's employment in sectors such as the medical sector and police service.

In reading these figures, it is not possible to overlook the social cultural that encourages women to join certain professions like education rather than medicine.

Appointments in the Judicial Authority	0.50	
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### Women's Place in the Judiciary:

The 2020 Annual Report of the High Judicial Council indicates that the number of regular judges in Palestine was 264, including 51 women in the West Bank and 4 women in the Gaza Strip, representing 19% of the total number of judges<sup>91</sup>

83 Data on the percentages was collected from PCBS, while the digital data was retrieved from the Annual Health Report 2020, MoH and the results were calculated by the researcher

84 · idem

85\* PCBS, Women and Men in Palestine, Issues and Statistics, 2021, p. 28

86 Data on the percentages was collected from PCBS, while the digital data was retrieved from the Annual Health Report 2020, MoH and the results were calculated by the researcher.

87 \* idem.

88 \* Idem.

89 \* Idem.

90 \* PCBS (2020), Number of Police Forces Agents Per General Direction, Governorate, and Sex 2020, Ramallah: Palestine [https://www.pcbs.gov.ps/statisticsIndicatorsTables.aspx?lang=ar&table\\_id=986](https://www.pcbs.gov.ps/statisticsIndicatorsTables.aspx?lang=ar&table_id=986)

91 The Supreme Judicial Council (2020), «Annual Report 2020», Ramallah: Palestine, pp. 25-26.

Court	Total number of judges	Number of women	Percentage of women
Higher court	29	3	10%
Court of Appeal	59	13	22%
First-instance Court	77	19	25%
Magistrate Court	66	12	18.2%
Sharia Courts <sup>92</sup>	46	4	8.7%

### Place of Youth in the Judiciary:

According to the HJC Secretary General's letter to AMAN Coalition, 61% of all judges are young judges under 45 years of age and are distributed as follows:

Court	Total number of judges	Young judges	Percentage
Higher Court	29	0	
Court of Appeal	42	9	21%
First-instance Court	82	58	71%
Magistrate Court	72	71	99%
Total	225	138	61%

Place of persons with disabilities in the judicial authority: (Not available)

None of the members of the constitutional and regular courts<sup>93</sup> (Higher Court, Court of Appeal, First-instance Court and Magistrate Court) is a person with disability.

<sup>92</sup> PCBS website, accessed on 23/1/2022

<sup>93</sup> Letter of the Secretary General of the High Judicial Council to AMAN Coalition on 2/6/2022

## Indicator 16.7.2

Proportion of population who believe decision-making is inclusive and responsive by sex, age, disability and population group

Engagement of the civil society	0.5	
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The government launched the National Policy Agenda (NPA) 2017-2022 under the slogan of “citizen first” in reference to a broad participatory process involving local and international partners and stakeholders in Palestine and abroad to build on previous achievements, as explained by the then Prime Minister, Dr. Rami Al-Hamdallah. At the time, the Prime Minister referred to the contributions of representatives of the civil society and private sector with ideas, visions and advice in the preparation of NPA and sectoral and cross-sectoral strategies. He reiterated a full partnership and group effort of government institutions with local government authorities, the civil society, private sector, academic establishments, and international partners in the area of development. NPA stressed in several locations a move toward partnership with the civil society organization whether it be via the reiteration that it was prepared with participation of partners from the civil and private sectors or via underlining the role of civil society organizations as a partner in the adoption of national priorities and policy interventions or in the implementation of the required interventions<sup>94</sup>.

Although the Council of Ministers produced a manual for the preparation of sectoral plans for the ministries, which provides for engaging the civil society in preparing the plans, the civil society organizations still view their partnership with the government formal, selective and incomplete, focusing on certain areas of planning only. For example, these organizations do not play a role in monitoring the implementation of the plans or overseeing their application. They are not granted sufficient time to express their opinion while they remain excluded from the preparation of budgets related to these plans<sup>95</sup>.

Bilal Barghouti, AMAN Coalition's Legal Advisor, explained that although NPA slogan is “citizen first”, the reality based on the experience of the civil society is otherwise. The slogan remains a slogan while the relationship between the government and civil society and citizens is not open. The Government has not accepted the recommendations of the civil society organizations in many areas and refrained from engaging or partnering with some of them as well<sup>96</sup>.

On another note, the Executive Director of the Independent Commission for the Independence of the Judiciary and the Rule of Law “Istiqlal”, Mr. Majed Al-Aroui pointed out that the government is not proactive in engaging the civil society in the discussion of the draft laws to be submitted to the Palestinian president for ratification. Civil society organizations were shocked to see that some of these laws affected their very scope of work, noting that if they were consulted, the laws would have been better drafted and more useful and meaningful<sup>97</sup>.

In this context, Ms. Lamees Al-Shuaibi from Miftah Organization – Member of the Civil Society Team for the Promotion of Budget Transparency – mentioned that the government usually seeks to engage civil society organizations as representatives because they are specialized organizations and because their representation improves the image of these bodies and promotes their financial and administrative independence, especially those related to the establishment of funds like the Alimony and Employment Funds. Presence of the civil society is needed to mobilize funds for these funds and create a value-added. Furthermore, civil society representation promotes monitoring and follow up of these funds, especially as the government attempts to hegemonize them since the presidents of the boards of these funds are representatives of the government. However, thanks to this partnership, civil society organizations contribute to the compliance with financial and administrative regulations and procedures when they publish periodic reports on the activities of the funds. Still, this partnership with the government is almost nonexistent in the preparation of national and developmental plan since the government believes it is more competent

94 Musleh, Ahmed. Place of Palestinian Civil Society Organizations in the National Policy Agenda 2017-2022, in Report on the State of Palestinian Civil Society Organizations and Future Prospects, Palestinian Nongovernmental Organizations Network (PNGO). Ramallah 2019 (unpublished study)

95 Idem. Pp. 32-33

96 Qandeel, Raweda, Legal and Procedural State of Social Accountability in the Arab World “Palestine”. Social Accountability Network in the Arab World. 2021, p. 15.

97 Phone interview with Mr. Majed Al-Aroui, Executive Director of the National Commission for the Independence of the Judiciary and Rule of Law “Istiqlal”, on 10/5/2022

and can provide a better vision, notwithstanding the fact that these plans could have been better with contributions from the civil society<sup>98</sup>.

A report on Integrity and Anticorruption published by AMAN Coalition in 2021 confirmed that the government continues to be unopen and untransparent and does not engage the public in the formulation of policies, regulations and procedures relating to the management of public finance and affairs. The public budget is still managed based on a policy that lacks transparency and participation.

There are laws that prescribe that decision-making is a participatory process that involves stakeholders.	0.5	
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Palestinian laws or legislations do not provide for any obligation to engage the civil society organizations in the government's decision-making or public policy formulations or proposal of draft bills prior to submission to the PLC for approval. However, many Presidential decrees and CoM resolutions stipulate the representation of pertinent civil society organizations in the boards of some public and quasi-public institutions.

The following table shows the civil society representation in the boards and committees of some of the public and quasi-public institutions<sup>99</sup>.

	Institution	Total number of members	Civil society representatives	Percentage of civil society representation
1	National Higher Committee on Substance Abuse	17	5	29.5%
2	National Water Council	13	2	15.5%
3	Official Statistics Advisory Board	31	15	48%
4	Fund for the Compensation of the Victims of Israeli Occupation Aggression	11	2	18%
5	Higher Council for Traffic	15	5	33%
6	Foundation for the Administration and Development of Orphans' Funds	11	None	0%
7	National Anti-Poverty Commission	21	6	29%
8	Negotiations Committee	16	None	0%
9	Pilgrimage (Haj and Omrah) Committee	10	None	0%
10	Higher Council for the Regulation of the Electricity Sector	7	None	0%
11	National Land Council	11	2	18%
12	Committee of Centers for Women Victims of Violence	12	4	33%
13	Palestinian Public Finance and Tax Institute	13	None	0%
14	Scientific Research Council	13	5	38.5%
15	Palestinian Agricultural Disaster Risk Reduction and Insurance Fund	15	5	33%
16	Higher Education Students' Loan Fund	13	2	15.5%
17	Higher Council for the Regulation of the Water Sector	7	Provisions on the representation of all sectors, but without specification	---

98 Phone Interview with Lamees Al-Shuaibi, Member of the Civil Society Team for the Promotion of Budget Transparency on 11/5/2022

99 Data was collected by the researcher via a review of all legislation related to the establishment of public institutions and bodies or government committees for which law, a law by decree, a decree, or a CoM decision is issued and percentages were calculated.

18	National Heritage Preservation Center	5	None	0%
19	Palestinian National Center for Agricultural Research	11	2	18%
20	Agricultural Credit Foundation	13	3	23%
21	Social Security Foundation	11	1	9%
22	Municipal Development and Lending Fund	9	1	11%
23	Palestinian International Cooperation Agency	11	None	0%
24	National Public Health Institute	11	2	18%
25	Achievement and Excellence Fund to Support Education	7	1	14.5%
26	National School of Administration	13	None	0%
27	Palestinian National Committee for International Humanitarian Law	None	There are provisions but without specification of numbers	---
28	National Council for Children	18	4	22%
29	National Library	13	3	23%
30	National Legal Committee Against Israel's Racist Legislation	21	3	14.5%
31	Heritage Advisory Council	13	2	15.5%
32	Palestinian National Institution for Economic Empowerment	13	1	8%
33	National Commission for Study Missions and Scholarships	5	None	0%
34	Palestinian Fund for the Compensation of Victims of Traffic Accidents	7	2	29%
35	Insurance and Pension Fund	6	1	17%
36	National Studies and Documentation Center	7	Not specified	---
37	Board of the Palestinian Industrial Estates Agency	11	2	18%
38	Board of the Investment Promotion Commission	13	None	0%
39	Board of the Palestinian Standards Institute	14	5	36%
40	Labor Policies Committee	21	None	0%
41	Higher Council for the Management of Palestinian Airlines	8	None	0%
42	Labor Employment and Social Protection Fund	16	3	19%
43	Alimony Fund	11	4	36.5%
44	Palestinian Consumers' Protection Council	Not specified	Not specified	---
45	Board of Trustees of the Palestine Medical Complex	17	4	23.5%
46	Palestinian Higher Health Council	13	None	0%
47	Committee for the enforcement of Security Council Resolutions	12	None	0%
48	National Team for CERD	12	None	0%

The previous table shows that civil society organizations' representation in the boards of public institutions or other national committees or teams ranged from 8% (National Economic Empowerment Institution) and 48% (Palestinian Official Statistics Advisory Board).

Fifteen councils or committees out of 48 public institution or agency were established without providing for the inclusion of the civil society.

Inclusive decision-making	0.75	
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**Inclusive and responsive decisions**

The opinion poll conducted by AMAN Coalition in 2021 shows that 28% of respondents believe that transparency of the management of many public issues, like distribution of the anti-Covid vaccine in some stages, is weak. The same applies to the mechanism of distribution of financial aid to those harmed by the pandemic. In other words, transparency of government executive measures is inadequate as citizens do not have access to information on the measures applied in a manner that would ensure they exercise participation and social oversight.

This coincides with weak transparency in the management of many public issues related to the Covid pandemic and announcement of the state of emergency, including distribution of vaccines in some stages and mechanisms relating to the distribution of financial aid to those affected. This is contrary to the fact that government decisions must be responsive to the needs of all equally and without discrimination. Most respondents in the West Bank believe that the most prevalent form of corruption is nepotism, favoritism and abuse of power.

Nepotism to access services:

Findings of the same poll indicate that 45% of respondents who tried to access a public service in 2021 needed a form of nepotism to have the service. Service recipients raised doubts about easy, equal, needs and merit-based access to resources. This is the justification they used to have recourse to nepotism. In other words, citizens' needs are not fulfilled on automatic and fair basis.

The findings of the poll on the forms of corruption per service classified by the order of prevalence and impact on life citizens were as follows: from highest to lowest, financial services, health services, social services, personal status services, educational services, crossing points services, transportation, residency and permits, land and real estate transactions, religious services, economic services, water services, telecommunication services.

## Target 16.10: Ensure public access to information and protect fundamental freedoms

### I. Protection of fundamental freedoms:

The Palestinian Basic Law and Charter of Independence focus on the importance of respecting and protecting fundamental freedoms.

The Print and Publication Law of 1995 clearly promotes a philosophy of freedom of expression and prints' issuance, publication and distribution as stipulated in Articles (2) and (4). However, the same law has vague articles that may be interpreted in favor of restricting these freedoms. The law imposes restrictions on what can be published including censorship on publications that are contrary to the principles of freedom and national responsibility or that are against Palestinian morals, values and traditions or which may destabilize trust in the Palestinian currency or the publication of confidential and classified information on the security forces, National Council and Council of Ministers. The Law also imposes the submission of four copies of the publications to the Ministry of Information prior to their publication (Articles 7,8 and 37). It also imposes strict penalties on the violation of these provisions that may reach imprisonment (Articles 44 and 45)<sup>100</sup>.

The Cybercrime Law also includes provisions that may violate and restrict many citizens' fundamental freedoms and rights, mainly the freedom of opinion and expression against anybody who produces indecent material that compromise public morals or who prepares, sends or stores material for exploitation or offering to others via the web or any other means of information technology. Any person who establishes a site, or produces and application or other e-account to publish information, programs and ideas on the web that are contrary to the public morals shall be penalized<sup>101</sup>.

The wording of the law by decree on cybercrimes is vague and general and allow the authorities a large room to restrict freedoms, mainly the freedom of opinion, expression and the press, especially for opponents. The authorities may inflict severe penalties that are not proportional to the offense in many cases<sup>102</sup>.

Regarding the violations against journalists in 2021, the Independent Commission for Human Rights has not recorded any case of murder, abduction, or forced disappearance against journalists or human rights advocates but recorded a sharp increase in the number of complaints against arbitrary detention (279 in the West Bank, 89 of which became lawsuits regarding journalists, activists, human rights advocates and candidates to the elections<sup>103</sup>.)

The killing of activist Nizar Banat on 24 June 2021 during his arrest by the Palestinian security forces provoked widespread mobilization by human rights organizations. The joint facts finding report produced by the Independent Commission for Human rights and Al-Haq Institute regarding Nizar Banat's assassination on 7 March 2022 noted that protests that followed the assassination, including peaceful assemblies that called for prosecution of the perpetrators were suppressed by the security forces, that used civil uniform in some cases, targeting participants including journalists. The protests resulted in security subpoena and arbitrary detention due to political activism and freedom of opinion and expression, which represent a systemic attituded of security forces against peaceful assemblies and the exercise of the right to freedom of opinion and expression. This is an indicator of lack of serious and real accountability, which entails impunity and grants security agents the immunity against their violations of human rights. Consequently, the PNA must be held internationally accountable following its accession to international human rights conventions and the International Criminal Court. The report recommended that the PNA should formally issue a full acknowledgment of the responsibility for the killing of the activist Banat, and make a formal apology and

100 Dweek, Ammar (edited) Law on Prints and Publication: Review and critical remarks, ICHR, Ramallah, 1999, p. 40.[https://cdn1.ichr.ps/cached\\_uploads/download/ichr-files/files/000000387.pdf](https://cdn1.ichr.ps/cached_uploads/download/ichr-files/files/000000387.pdf).

101 See Law by Decree No. 10 of 2018 on Cybercrimes

102 Briefing of the Independent Commission for Human Rights to the President on the Law by Decree No. (16) of 2017 on cybercrimes

103 ICHR "ombudsman". The situation of Human Rights in Palestine. Twenty-sixth Annual Report. 1 January – 31 December 2021. ICHR "Ombudsman". Palestine 2022, pp.



redress to his family and friends, including material compensation, knowledge of the truth, and bringing all those responsible for the incident to a fair and impartial trial with guarantees of fair trial for the accused<sup>104</sup>.


Palestine ranked 132 globally on the World Press Freedom Index, produced by Journalists without Borders in 2021<sup>105</sup>.

The Palestinian Center for Development and Media Freedoms “Mada” observed in its 2021 annual report a rise in the number of violations against media freedoms in Palestine. The report documented a total of 562 violations in the West Bank, Occupied Jerusalem and the Gaza Strip. The Israeli occupation is responsible for 368 of these violations (65%) while different Palestinian entities in the West Bank and Gaza committed 123 violations (22%) and social media companies are responsible for 69 violations (12%) while other bodies committed two other violations<sup>106</sup>. The report added that a quick review of the violations against the media freedoms in Palestine in the past ten years show that these violations increased by 236% while those committed by Palestinian bodies in the same period increased by 166%.


On another note, no assaults were documented against the civil society organizations working in the area of anti-corruption while none of these organizations was shut during the reporting period.

A report published by Facebook Company in 2021<sup>107</sup> that two separate groups of hackers in Palestine – a network linked to the Preventive Security Forces and a threat actor known as Arid Viper - are intercepting the privacy of Palestinian citizens, mainly in the West Bank. Their espionage activities targeted journalists, government opponents, human rights activists, officials in the Palestinian Authority and Fatah movement. This is an indication of continuing security forces’ intervention in political life in favor of the ruling political elites. These activities represent a breach of the Basic Law, which prohibits infringement of citizens’ privacy. Although Palestinian human rights organizations requested that a transparent investigation be conducted into the incident observed by Facebook, the Public Prosecution and government have not announced any such investigation<sup>108</sup>.

**II. Access to Information**

Constitutional legislation on the right to have access to information	0	
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The Palestinian Basic Law does not include any articles that compel officials to make information accessible to the public. Furthermore, to date, the Law on the Right to Access Information has not been promulgated although the draft law has been prepared since 2005 and has undergone several readings and multiple versions have been produced. Nonetheless, there are some legal provisions dealing with the right to have access to information in sporadic laws. For example, Article (4) of the Law on Prints and Publication grants journalists the right to seek, circulate, disseminate and comment on information from different sources and Article (4) of the General Statistics Law provides the right of all society members to have access to official statistics collected, prepared and published by PCBS in accordance with effective regulations and instructions with due consideration to the confidentiality of certain data and personal information.

Regulating the right to access information	0.0	
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The Law on the Right to Access Information has not been promulgated to date, which means that this right has not been regulated. There aren't any comprehensive and clear provisions to specify the information that can be publicly accessible and

104 The joint facts finding report produced by the Independent Commission for Human rights and Al-Haq Institute regarding Nizar Banat's assassination on 7 March 2022 <https://www.ichr.ps/reports/5987.html>.

105 Journalists without Borders, World Press Freedom Index 2021. <https://rsf.org/ar/flstyn>.

106 Palestinian Center for Development and Media Freedoms “Mada”, Violations of the Freedom of Media in Palestine. Annual Report 2021. P. 37

107 Coalition for Accountability and Integrity (AMAN). 2021. Fourteenth Annual Report – State of Integrity and Anticorruption in Palestine. Ramallah – Palestine, p. 52

108 <https://www.ichr.ps/media-center/3809.html>

classified confidential information or the government entities whose files should be open and those that are classified. There isn't any official independent entity that monitors the implementation of this right and there are no legal delays relating to responding to citizens' request to have access to information or the cost and other formalities borne by citizens, or the information to be disseminated by the official authorities on their own.

Therefore, some government decisions restricting the free expression of opinion were issued. For example, in 2021, the council of Ministers issued a resolution published in the Official Gazette amending the Code of Ethical Conduct in the Public Service<sup>109</sup>, which included the revocation of Article (22) of the Code of Conduct and Ethics of the Public Office, which provided "an employee has the right to express his/her opinion, to publish it in words or writing, or other means of expression, or art, subject the provisions of the law, and that the employee, when expressing an opinion, comment or posts on social media sites, must make it clear that he/she represents his/her own opinion only and does not reflect the opinion of the government entity in which he/she works."

#### Regulatory framework of the right to access information

Are there agencies or bodies that regulate the application of the right to access information?	0	
are there clear and reasonable delays for responding to a request for information, regardless of how the request is met?	0	
Are there exceptions of the right of access to information in line with international standards?	0	
Is the damage test applied to all exceptions so that disclosure of information is denied when it poses a real risk to a protected interest?	0	
is there a mandatory override of the public interest so that the information is disclosed, when it is in the public interest, even if it is prejudicial to a protected interest? Are these absolute abuses, for example of the information on human rights, corruption or crimes against humanity?	0	
Is there an independent body of information, or a similar oversight body, whose applicants are entitled to file an external appeal?	0	
Are there clear and reasonable delays for responding to a request for information, regardless of how the request is met?	0	
Are the exceptions to the right to access information in line with international standards?	Non applicable	
Is the damage test applied to all exceptions so that disclosure of information is denied when it poses a real risk to a protected interest?	Non applicable	
is there a mandatory override of the public interest so that the information is disclosed, when it is in the public interest, even if it is prejudicial to a protected interest? Are these absolute abuses, for example of the information on human rights, corruption or crimes against humanity?	Non applicable	
Is there an independent body of information, or a similar oversight body, whose applicants are entitled to file an external appeal?	Non applicable	

<sup>109</sup> The Official Gazette (181) amending the Code of Ethical Conduct in the Public Service , which included the revocation of Article (22) of the Code of Conduct and Ethics of the Public Office, 27/7/2021

Does the Law/ Policy on Access to Information contain minimum standards on mandatory initiative (automatic not upon request) for the dissemination of information?	Non applicable	
What is the state's ranking regarding the right to access information? <a href="http://www.rti-rating.org/country-data/">(http://www.rti-rating.org/country-data/)</a>		
What are the shortcomings in the access to information system?		
Are there any factors that, in practice, create an unnecessary burden and make it difficult to request access to information?		
How many requests for information have been submitted to the competent authorities each year in the preceding two years?		
Have there been any developments in the past two years indicating an improvement or decline in the public's access to information and/or its implementation?		

## Recommendations:

### I. Combatting Money-Laundering:

- Competent bodies need to cooperate with the Palestinian Foreign Ministry and embassies to conclude bilateral agreements with different countries on the exchange of information and extradition of criminals and facilitation of investigation and litigation in line with the law.
- Intensive training and capacity-building of employees of government departments, private companies and organizations that may be confronted with money-laundering activity or whose activities may be used for money-laundering in addition to public awareness programs and spread of a general culture on the risks and necessity to combat money-laundering.
- Official and non-official bodies need to cooperate with entities concerned with combatting money-laundering to facilitate an accurate and expedite flow of information.

### II. Return of Stolen Assets:

- Enable the confiscation of government proceeds of predicate crimes as per the Anticorruption Agreement in the Gaza Strip or forfeit of property with a value equivalent to these proceeds and seizure of the items prepared to commit these offenses and the property (assets) purchased using the proceeds and any revenues or benefits resulting from these assets (beyond the actual proceeds of money-laundering, bribery and embezzlement).
- Conclude bilateral agreements and cooperation protocols with regional and international parties to promote cooperation between these states and Palestine in the area of international jurisdiction whether at the level of recovery of the stolen assets or enforcement of judgments or extradition of criminals.
- Consider the standards of independence and effectiveness of the unit responsible for the coordination and follow up of efforts relating to recovery of stolen assets.
- Prepare a procedural manual on the formal and substantive conditions prescribed in the Arab and international agreements on the extradition of criminals and cooperation in investigations and enforcement of judgments.

### III. Development of Anticorruption Institutions:

- Article (174) of the effective Penal Code in the Gaza Strip needs to be amended to explicitly refer to embezzlement for personal or third party's interest and leakage and waste.
- Criminalize the use of physical force, threat, intimidation or promise or offering of undue privilege to incite perjury or intervene in the testimonies and evidence in proceedings relating to criminal acts as per the Agreement, whether the perpetrator achieves his/her goals or not.
- Criminalize the use of physical force, threat, or intimidation to interfere in the acts of a judicial agent or other law enforcement agent on official duty.
- Consider applying procedures to disqualify the persons convicted with crimes of corruption from appointment to any fully or partially state-owned institution.
- Apply necessary measures to address the consequences of corruption, including considering corruption a factor to terminate or end a contract or a franchise or any other similar instruments or remedy.
- The government needs to adopt a national integrity and anticorruption plan in which all public, civil and private sectors take part to set the priorities and action plans and distribution of roles according to a clear and precise time frame. PACC shall then be responsible for the coordination of these efforts, being the competent body and receiving sufficient budget allocations to implement the plan.
- The government needs to adopt a national plan to reform the judiciary including the Public Prosecution via a review of their regulatory and institutional framework.

**IV. Corruption of the Private Sector:**

- Criminalize bribery promises, offers, granting, request or acceptance in the private sector.
- Expand the jurisdiction of the Anti-Corruption Commission and Anti-Corruption Court to include crimes of corruption in the private sector.

**V. Transparency of Political Parties and Electoral Campaigns:**

- Compel candidates or lists to open a bank account dedicated to the funds of their electoral campaigns and used to cover all the expenses of the campaign, and grant the Central Elections Commission the right to have access to these accounts at all times.
- Prepare a standard form on the sources of funding of electoral campaigns, which CEC delivers to candidates to fill and return to the Commission.
- Set a maximum ceiling of donations from any donor to the same candidate.
- Compel CEC to publish audited financial reports submitted thereto by the candidates on the sources of funding of their campaigns and areas of expenditure on propaganda so that voters can have access to this information.
- Impose stricter penalties than those already in the law to be deterrent against those who violate the provisions relating to the financing of electoral campaigns.

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

- Devise a regulation to govern the transfer of public sector officials (like ministers, MP's, tax and customs officers) to the private sector.
- Adopt a code of conduct of ministers and PLC members showing the cases of conflict of interest and how to deal with gifts.
- A competent or judicial body should examine and audit the information and data provided in the financial assets disclosure statements and absolute confidentiality of these disclosures must be waived to shift toward public access to the disclosures filed by senior officials. Penalties must be enacted and enforced on those who violate the law and refrain from submitting the disclosures and those who do not file them in a timely manner as well as those who provide wrong or erroneous information. The penalties must be imposed on all categories required to file the disclosures.

**VII. Financial Transparency:**

- Disclose detailed financial data in line with the General Budget and Financial Affairs Law No. (7) of 1998.
- MoF must implement the provisions relating to the issuance and dissemination of timely final accounts in line with the law.
- SAACB should publish timely reports to ensure transparency.

**VIII. Public Procurement:**

- Devise measures relating to the use of information technology means in public procurement.
- Comply with the law when applying exceptions to the direct public procurements.
- The Government needs to adopt a regulation that clearly specifies the supplies of high security nature that are exempted from the application of the public procurement measures and contracting procedures.

**IX. Whistleblowing Mechanisms:**

- Article (18) of the Palestinian Anticorruption Law must be amended to include further details so that reporting on corruption is not restricted to PACC and to provide for the possibility of hearing witnesses, informants and whistleblowers of corruption via modern technological means.
- PACC needs to adopt the necessary measures to apply the regulation on protection of whistleblowers of corruption, their relatives and persons close to them.

**X. Protection of Fundamental Freedoms:**

- Revisit the Print and Publication and Cybercrimes Law to amend the provisions that restrict public rights and freedoms.
- Give a clear definition of the vague terms in the Print and Publication Law and cybercrime law. The terms include public order, public moral, national security, etc., which may be misused to restrict the freedom of the press.
- Abolish the punishment by confinement or imprisonment for crimes of publication and expression of opinion inflicted on journalists and replace them with financial fines.

**XI. Access to Information:**

- Amend the Basic Law to include concepts related to the right of access to information and explicitly provide for citizens' right to access information from public bodies.
- Accelerate the promulgation of the Law on Access to Information and the Law on the National Archives.
- Establish a financially and administratively independent public body to manage and regulate the right to access information and make it presided by an information commissioner general.
- Raise staff and officials' awareness of the close relation between the right to access information and the promotion of a culture of transparency, openness and accountability.

**XII. Ensure Responsive, Inclusive, Participatory and Representative Decision-making at all levels**

- Adopt a woman quota for appointments and promotions in the judiciary with due consideration to the conditions of professionalism and competence.
- Prescribe a woman quota for the formation of the cabinet with due consideration to competence and professionalism to encourage the community accept women in government.
- Subject senior public positions to equal opportunities principles to allow for the reduction of the gender gap and help women to exit their professional stereotypes.
- Prescribe legislation to render the participation of the civil society in public policy and decision-making mandatory and lay the foundations of partnership in decision-making and openness to the society and its different groups.
- Institute and implement the rule of law equally on all citizens to ensure that government decisions and measures are inclusive and do not discriminate between different groups to prevent the spread of corruption like nepotism and bribery to access public services.

**XIII. International Cooperation**

There is a need to increase cooperation between the Palestinian Anti-Corruption Commission and other anticorruption entities, mainly foreign entities, since PACC is a member of the Arab Network of Anticorruption Commissions. It is important to seek and promote communication with foreign authorities to enforce the law and promote the activity of competent bodies and agencies. Palestine also needs international legal assistance to draft an international cooperation law and requests of mutual legal aid in general, with a special focus on recovery of assets. Furthermore, the domestic laws need to be amended to allow for bilateral agreements on extradition of criminals, international judicial cooperation and return of stolen assets.

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