



Research Study on
**Assessment of Palestinian Civic Space: Participation in
Shaping Public Policy and Implementation Accountability**
Pre-Assessment

Report No 284

Part one



AMAN
Transparency Palestine



The Coalition for Accountability and Integrity-AMAN

Research Study

on

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Public Policy and Implementation Accountability**

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Preface

The term civic space expresses a set of conditions and elements that allow citizens in a given society to exercise different types of rights that enable them to participate in decision-making, formulate policies and assess implementation of those policies. It also influences the social, economic, political and cultural environment of countries and requires a set of pillars, including: Legal, political, political and social recognition. The difficulty of liberating civic space is influenced by the type of relationship between civil society institutions (CSOs) and the authority. It is also influenced by stakeholders as well as by the power of financial, media and technology and society itself.

Civic space: is an environment that enables meaningful participation by individuals and groups in their virtual or real lives; as well as in in the political, economic, social and cultural life of their society, where people express their opinions freely and without fear, gather peacefully and participate in decision-making processes concerning issues that affect their lives.

**Source: United Nations Human Rights-Office of the High Commissioner. UN role in protecting and promoting civic space

The term civic space is not limited to its practice in the real world, but extends to cyberspace. This made it more visible and particularly strong due to the large use of internet and social media, which helped the emergence of a virtual civic space in cyberspace.¹

The participation of rights holders (i.e., citizens) and their representative organizations in public life constitutes one of the fundamental principles of human rights, since it improves the effectiveness of political systems. Therefore, the existence of (CSOs) is fundamental not only to preserving human rights, but also for development, peace and security as a whole. Furthermore, effective CSOs participation makes the process of formulating policies a more enlightened, effective and sustainable one. In addition, it also contributes to the prevention of conflicts and combating impunity and corruption.²

Within the same context, article 13 of the International Convention against Corruption (UNCAC) affirmed the importance of strengthening partnership between the government and CSOs in the fight against corruption, stipulating: “State Parties shall take appropriate measures to encourage the active participation of CSOs in preventing and combating corruption”, by taking measures such as: (a) enhancing transparency in decision-making processes, engaging and encourage people’s participation in the process; (b) ensure people access to information; (c) respect freedom of access to information on corruption; also promote , protect, receive, disseminate and circulate the information.

Long before the establishment of the Palestinian Authority (PA), Palestinian CSOs played a pivotal role in the Palestinian society. These organizations were keen to strengthen the steadfastness of Palestinians on their land and expose the ongoing oppressive practices and violations of the occupation. Palestinian NGOs, characterized by its democratic and developmental struggle, have been known to resist the Israeli occupation and at the same time preserve their national goals.

Since the establishment of the PA, CSOs have supported the emerging institutions and continue to do so as they share their experience and assist them in providing services to the public. In this regard, CSOs consider themselves a complementary partner to official institutions, especially in the fields of education, health and social services.

The establishment stages of the PA were characterized by a participatory approach, which was strengthened by the first legislative council in drafting legislation, identifying national priorities and putting forth policy implementation plans. CSOs carried out without these tasks without neglecting their critical oversight role of government institutions based on its right to social accountability.

However, thirty years into the life of the PA accompanied by deterioration of the political system and divided authority/leadership, many challenges were faced by Palestinian CSOs in the West Bank and Gaza (WB&G), in addition to the continued occupation. Other impactful challenges include the internal political division which began in 2006 until today; failure to hold presidential and legislative elections;

1. See: Maharat. “Reducing Civic Space... Solidarity and Networking is the Solution- 2019” <https://maharat-news.com/shrinkingcivicspaces> . Also see: Introduction to Civic Space and challenges Faced in the Arab World, 2022. <https://n9.cl/kq9f5>

2. See: Official page of the United Nations. Promoting participation and protecting civic space. <https://www.ohchr.org/ar/about-us/what-we-do/our-roadmap/enhancing-participation-and-protecting-civic-space>

dissolution of the Legislative Council (PLC); and the many restrictions and limitations imposed on the Palestinian civil space. Despite this reality, many CSOs continue to be active in advocating and lobbying to strengthen governance and address violations of civil rights and freedoms. In addition, they continue to demonstrate their willingness to participate in shaping public policy with the Government; utilize social accountability tools to hold officials of the political system accountable, especially in the absence of the PLC. This absence weakened the role of formal oversight institutions and allowed the ruling power to monopolize decision-making in government institutions by granting some influential individuals the right to exclusively formulate and implement policies according to their own interests.

Therefore, for CSOs participation role to be activated in contributing to shaping public policy, monitor, and hold officials implementing public policy accountable, it is essential to identify and address gaps and general challenges related to the participation of civic space components. For these reasons, AMAN has taken it upon itself to assess the reality of civic space and its relationship with the state by preparing a study that describes the participation of CSOs in shaping public policy. This is achieved by developing a set of relevant indicators, including reality on the ground of citizens and their representatives' participation in public policy-making, and social accountability practices.

Objective of the study:

The main goal of this study is to develop a set of indicators that can assess the space available for CSOs to participate in the formulation of public policies, monitor the implementation and hold accountable (social accountability) those responsible for applying them, in order to enhance governance integrity in Palestine. The indicators will consider the specificity of the Occupied Palestinian territory (OPT), political division, reality of assembly and association, freedom of expression and opinion, the government's role in stopping infringements on these rights and the extent of its compliance with relevant laws, relying on results of reports issued by human rights institutions in this regard; namely: The Independent Commission for Human Rights (ICHR) MADA's annual report, Human Rights and Democracy Media Center (SHAMS), AMAN, Hurriyat, The Palestinian Initiative for Global Dialog and Democracy (MIFTAH) and other NGOs.

Methodology

- Benefited from similar indicators on which international or local reports were based, with focus on qualitative assessment indicators more than quantitative measures.
- AMAN's research unit developed a set of indicators related to community participation in formulating public policies and accountability of implementation.
- Formed a group of experts (think tank) and civil society activists to review and develop the proposed draft indicators.
- Held a series of meetings with the formed group to come up with the final version of the indicators.

Target Group:

The implementation of this study was limited to the West Bank (WB) due to the fact that it coincided with the on-going war on the GS, and hence institutions there were excluded due to the inability of reaching them. Hence, an intentional sample was selected that included a group of CSOs in various fields: (public freedoms, human rights, individuals with special needs, women, etc.). The sample considered the geographical dimensions of the area (i.e., north, center and south of the WB) while taking-into-account key institutions as well as institutions that work in networking with grassroots organizations. Also, a sample was selected from the competent official authorities that represented the central government, sectoral institutions and ministries. Finally, the sample included state institutions: The Anti-Corruption Commission (ACC), ICHR as a (state institution whos work brings together all formal and informal sectors of the state).

Institution	Representative	Field	Headquarters
Advisory Board for the Development of Non-Governmental Institutions	Ahmad Heejawi/General Director	Development of grass-roots NGOs	Jenin
Al-Haq	Ashraf Al-Hayya/Legal Advisor	Rule of Law and Human Rights	Ramallah
The Palestinian NGO Network	Dua' Qrei'/ Executive Director	An independent civil democratic group; includes 145 Palestinian NGOs working in humanitarian, social and development fields	Ramallah
SHAMS	Omar Rahhal/ General Director	Promoting the concepts of human rights, tolerance, dialogue, democracy and the rule of law	Ramallah
MIFTAH	Tahreer Al-A'raj/ Executive Director	Promoting the principles of democracy and good governance within the Palestinian society and its various institutions	Ramallah
Roles for Social Change Association- ADWAR	Sahar Al-Qawasmi/Executive Director	Empowerment of women	Hebron
QADER for Community Development	Lana Al-Bandak/ General Director	Promoting better well-being for persons with disabilities in Palestine	Bethlehem
Center for Defense of Liberties & Civil Rights	Hilmi Al-A'raj	Human rights and civil & political freedoms	Ramallah

Study sample from government institutions:

Institution	Representative
Council of Ministers	Meeting was not held
Ministry of Women Affairs	Meeting was not held

Study sample from the State institutions

Institution	Representative	Work Field
The Anti-Corruption Commission (ACC)	Abdallah Alian/ The General Manager of the General Department of Integrity and Prevention of Corruption	Leading national anti-corruption efforts to protect Palestinian society and public funds from the dangers of corruption. Prosecuting perpetrators of corruption
Independent Commission for Human Rights (ICHR)	Ammar Dweik/ General Director	Follow up on the inclusion of requirements that maintain and protect human rights are provided in the various Palestinian laws, legislations and regulations; work of the various departments, apparatuses and institutions of the State of Palestine and the Palestine Liberation Organization's (PLO).

Definitions of the most important terms:

Civil Society: refers to all sorts of voluntary collective activities organized around shared interests, values, and objectives. These activities can be very diverse and may include providing services, supporting independent education, or affecting public policy. In the last example, citizens may come together outside of government to inform, bring pressure to bear on, or reinforce policies (punish or reward policymakers).³

Governments Public Policies: refers to a set of actions, chosen by governments to manage communities, such as: laws, regulations, decrees, plans, activities, behaviors, decisions necessary for the implementation of programs aimed at achieving political, economic or social goals.⁴

Integrity of Governance: refers to officials' decisions responsible for the management of public centers and facilities which must be taken in favor of public interest, and not for the benefit of any other party such as: (certain segment, ruling group, or ruling party). Governance integrity encompasses the various areas of the state's work and institutions based on a formal and practical adoption of the principle of separation of powers and managing public funds transparently and in the public's interest. This must be executed in the presence of independent and effective regulatory bodies, where all employees of public institutions are subject to oversight so that no official is granted immunity, or escapes enquiry concerning his actions; a civil society that is empowered and able to exercise social accountability; a free and investigative media that exposes corruption cases; official media that expresses the opinion of all sects, and reflects the state of diversity in society.⁵

Participation: means the right of individuals to vote and express an opinion directly or through elected councils. Participation requires laws that include freedom to form associations and political parties; freedom of expression and voting, and public freedoms in general, to ensure effective citizens involvement and establish political legitimacy.⁶

Social Accountability: It is one form of accountability that derives from the actions of citizens and CSOs, which aims to hold government officials accountable for their actions. It includes efforts that support these actions taken by the government and other actors such as: media, private sector and funders.⁷

3. National Democratic Institute for International Affairs, «Civic Engagement Terminology», 2009. https://www.ndi.org/sites/default/files/CivicParticipationTerminology_2009May.pdf

4. Bu-Reesh Riyad. Public policies from a governmental perspective. Mediterranean Dialogue, 2013. <https://www.asjp.cerist.dz/en/article/17139>

5. The Coalition for Integrity and Accountability (AMAN), 2019. 12th Annual Report on the Status of Integrity and Anti-Corruption in Palestine

6. AMAN. Guidelines for Good Governance Terms and Concepts, 2010.

7. Fostering Social Accountability: From Principle to Practice, UNDP, 2010, P. 11.

First: The General Environment of the Palestinian Political System and its Ramifications on CSOs Work Space

The on-going Israeli occupation is considered the major obstacle hindering the effectiveness of CSOs work, as many CSOs are constantly subjected to harassment and persecution to include arrests and closure of some institutions at times as punishment to its role in the national struggle and societal status. In this regard, the occupation authorities issued several military orders to close a number of them or to arrest CS activists in addition to spreading rumors to tarnish some institutions' reputation aiming to place pressure on donor countries to withhold funding of Palestinian NGOs.

The internal political division, which occurred in 2007, is also an issue to reckon with due to its complexities and negative consequences at all levels, most prominent of which is the suspension of the PLC and later dissolution. This led to the dominance of the executive authority over the rest of the authorities on the one hand, and becoming the sole body in charge of decision-making without control or accountability, on the other hand. Hence the executive authority captured the role of the PLC and dominated the legislative process through exploiting the power granted to the President for issuing decrees in cases of necessity only. Many such decrees were issued and several other legislations were modified hence affecting the independence granted to regulatory bodies. Exploiting this privilege, the President appointed heads of some institutions without the approval of the PLC, for example. Moreover, amendments were made that affected judiciary laws, which constituted an infringement on constitutional principles that are there to protect the principle of separation of powers and rule of law.⁸ Also, many attempts were made to amend the Charities and NGO Law to weaken the independence and freedom of civil activity, and its oversight role over the executive authority and institutions.⁹

In addition, post political division in 2007, CSOs encountered many difficulties under the PA's control where security services in both the WB&GS applied pressure on these institutions to take a stance in support of the ruling authority. It also interfered in their internal affairs to the point of appointing boards of directors for some of these institutions, which is contrary to the law.¹⁰

Furthermore, often, CSOs were to undergo security checks and approval by the security services prior to registering an NGO, which constitutes a violation of the Charitable Associations and NGOs Law.¹¹ In addition, the ICHR's annual report showed many violations relating to the right to form and operate associations. Examples include, restricting the registration process or freezing bank accounts of institutions without any legal justification or clarifications of the reason/s for this action.¹²

The Commissioner-General of the ICHR also referred to the executive authority's restricting certain public freedoms, and in particular to tightening the work space of CSOs, media and social activists who exercise their right to accountability and criticism. Restrictions were placed on the following rights: assembly and association, freedom of media and press and freedom of expression and opinion. All of which is intended to weaken the social accountability system and hence prevent oversight of public performance.¹³

The Palestinian government has often intended to keep CSOs out of the process of shaping public policy and or in drafts of legislation (decisions by law and regulations). Not only that, legislations were drawn and passed with lack of openness to civil society, especially those that are CSOs work related. The Civil Society Team for Enhancing Public Budget Transparency (Civil Society Team) considers that lack of transparency and participation has become the adopted government's policy in the management of public funds. This conclusion is based on the fact that the government solely prepares the public budget

8. AMAN's 2021 Annual Conference. <https://www.aman-palestine.org/activities/15877.html>

9. A position paper issued by civil society organizations on a decree amending the law on associations, March 2021. . <https://mezan.org/ar/post/31484>

10. Gian Francisco Costanini (et al.). An Analytical Survey of CSOs in the OPT (Final Report) May 2011. P. 23. The project was implemented with funding from the European Union.

11. See Report on the Evaluation of the Impact of the Charitable Societies and NGOs Law No. 1 of 2000 and its Executive Regulations on the Performance of Associations. MAS Institute 2016. <https://n9.cl/ty9km9>. And AMAN, Legitimizing the Requirement of Security Safety with Secondary Legislation in Violation of the Basic Law and Democratic Values. <https://n9.cl/dzr8ap>

12. ICHR's 28th annual report, 2022, Ramallah, 2023, P. 81.

13. Issam Arouri, Commissioner General of the ICHR. AMAN's Annual Conference 2021.

without enforcing the right of taxpayers and their representatives' participation in the formulation of public spending, (i.e., it prioritizes spending without publishing and or clarifying it).¹⁴

Although this study focuses on analyzing the space available for CS to participate in public policy-making without analyzing the environment and structure of NGOs and their role in it. Therefore, it is necessary to point out some of the issues faced by CS which weakens their ability to do so. Some of these problems were pointed out by interviewees of this study in addition to referrals in other studies... **External funding:** this was one of these issues that was attributed to the government's lack of support to CSOs as there is no allocation within the public budget for this purpose. Hence, they relied heavily on foreign aid, which came at a loss of their independence and freedom and also threatened their stability and ability to engage in public policy-making and follow-up.

Second: The Constitutional and legal Framework¹⁵ Governing the Right of Participation in Public Policy-Making, accountability and implementation:

1. International declarations and covenants signed by the PA

Ever since its inception, the PA joined a series of international declarations and covenants that guarantee citizens the right to participate in policy-making and accountability of implementation. The most prominent of which are:

- **International Covenant on Civil and Political Rights:** Article 25, paragraph (a), of the this covenant stipulates: "every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part In the conduct of public affairs, (directly or through freely chosen representatives."¹⁶
- **Convention on the Elimination of All Forms of Discrimination against Women:** Article 7, paragraph (b), provides for the right of women to participate in the formulation and implementation of government policy.¹⁷
- **Convention on the Rights of Persons with Disabilities:** Article 29, paragraph (b), stipulates that States Parties shall act effectively; in order to create an environment in which persons with disabilities can participate effectively and fully in the conduct of public affairs, without discrimination, and on an equal basis with others, and to encourage their participation in public affairs.¹⁸
- **The United Nations Convention Against Corruption (UNCAC):** Article 5, paragraph 1, provides that each State Party shall, in accordance with the fundamental principles of its legal system, develop, implement and consolidate effective and coordinated anti-corruption policy that promotes community engagement, embodies the principles of the rule of law, good management of public affairs and property, integrity, transparency and accountability.¹⁹

14. The Civil Society Team for Enhancing Public Budget Transparency. Watan Press Conference: "lack of transparency and participation has become the adopted government's policy in the management of public funds" 29/05/ 2023.

15. In the legal section related to local legislation, reliance was placed on a previous study prepared by the researcher entitled "Study of the Legal and Procedural Reality of Social Accountability in the Arab World: The Case of Palestine," issued by the Arab Accountability Network (ANSA), February 2021.

16. The UN. International Covenant on Civil and Political Rights.

<https://www.ohchr.org/ar/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

17. The United Nations Convention on the Elimination of All Forms of Discrimination against Women.

<https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

18. The United Nations Convention on the Rights of Persons with Disabilities. <https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-rights-persons-disabilities#29>

19. The United Nations Convention Against Corruption (UNCAC). https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50024_A.pdf

2. The Basic Law and Other Palestinian Legislation

The elements of CSOs participation in public policy-making and accountability for implementation is mentioned at several legal levels: preceded by the Constitution's General Provisions, which provides guarantees for the preservation of human rights and public freedoms, especially the Right to: Expression and Opinion, Form Associations, Access Information, and the Right to Freedom of Information and Publishing; the existence of the principles and standards necessary for holding officials accountable, in addition to mechanisms for citizens' participation in public policy-making; addressed by the Palestinian legislator as follows:

- **Article 26 of the amended Basic Law of 2003 guaranteed** the right for Palestinians, individuals and groups, the right to participate in political life. In particular, they have the rights to form and join political parties in accordance with the law. They also have the right to form unions, associations, federations, associations, clubs and popular institutions in accordance with the law, as well as hold private meetings without the presence of police officers, in addition to the right to hold public meetings, processions and gatherings within the limits of the law. **Collectively, these foundations are among the components of social accountability and citizens' participation in public life.**

Furthermore, Article 69 of the Basic Law empowered the government to set public policy within the limits of its competence, but certainly did not set any limits that prevent the participation of CSOs.

- The Charitable Societies and NGOs Law, in its article 1, affirms the right to practice social, cultural and professional activity freely including the formation and management of SCOs and charitable organizations.²⁰ However, it did not include explicit provisions on the right of CSOs participation in: the preparation of national development or sectoral plans; criticize public policies; exercise community control on public institutions, or that it is the duty of the competent official authorities to respond to the readings of the civil sector. However, the law also did not contain provisions that prevent any of the above-mentioned.
- Freedom of expression and the media: The legal framework for freedom of opinion and expression, and the registration and censorship of the media includes a number of legislations that provides for regulatory mechanisms. For example, article 19 of the Palestinian Basic Law stipulates that: "Freedom of opinion shall not be prejudiced...everyone has the right to express and disseminate his opinion orally, in writing or by other means of expression."

The provision banning media censorship is an indication that the media is given freedom of expression and accountability.

Article (39) of Law by Decree No. (10) of 2018 on Cybercrime and its amendments includes broad language to allow blocking websites, such as: (National Security, Public Order and Public Morals). This applies in the event that websites hosted inside or outside the State are detected putting any phrases, numbers, photos, films or any other promotional or other material that affects the aforementioned limitations. **These types of broad phrases, and other provisions of the decree law is an incentive for media self-censorship and constitutes restrictions on freedom of expression, and hence on social accountability for actions of officials, especially in light of the penalties stipulated in the decree by law.**

- **The Right of Peaceful Assembly:** The Public Meetings Law No. 12 of 1998 regulated everything related to the right of peaceful assembly. First, it demanded that organizers of a gathering are obliged to provide notice to the governor or to the Director of Police to include location, time and purpose of the gathering. However, it allowed the governor or the director of police to have control on the duration and course of the gathering, without prejudice to the right to assemble peacefully.

Contrary to the law, the executive regulations of the Public Meetings Law, issued by the Minister of Interior in 2000, imposed many restrictions on the right to assemble peacefully. In particular those

²⁰. Article (1) of the Charitable Societies and NGOs Law No. 1 of 2000.

that related to: respect to the notification procedures and conditions, defining the date, time, place, purpose, duration and course of the gathering. The executive regulations also imposed an additional restriction demanding that marches must be held far from places of tension, otherwise it would be considered in violation with the law or public order. Furthermore, the regulations granted the Director of Police the authority to respond to the notice of organizing a march or meeting by requesting to meet with the organizers of these events to discuss objectives, topics, places, dates, time, duration of the meetings/marches, the intended rout of the march and the need to observe the presidential decree, for the sake of national unity and the prevention of incitement. **The regulation's expansion of restrictions on peaceful assemblies is a violation of the freedom of peaceful assembly and that of expression, hence it is an obstacle to establishing movements and social accountability.**

- **Legislation on the right to information:** Although the Basic Law guarantees many freedoms, it does not mention regulating the right of access to information; guaranteed by international agreements and covenants and in particular, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. And although the first PLC guaranteed the right to information in some laws, such as: The General Statistics Law, and Criminal Procedure Law among others, it failed to enact an access to information law. And since the disruption of the second PLC as a result of the political division, persistent demands by CSOs addressing the government to pass the law through a law by decree has also failed. **The absence of transparency and access to information makes it difficult for relevant CSOs to engage and participate effectively in public policy-making. Nor does it provide an environment for applying social accountability on performance of formal bodies and their officials.**

It is clear as shown above, that Palestinian legislations are void of any provision that prevents CSOs from participating jointly with the government in the formulation of public policies.

3. General Government Policies:

In theory, the government states in its documents that it will involve CS in shaping public policy. For example, the Government's Policy Document 2021-2023²¹ indicated that the Government's approach is based on partnership. As stated by Prime Minister Dr. Mohammad Shtayyeh in the introduction of the document who said: "this is the government of all Palestinians" and shall continue to be keen on enhancing the trust between it and citizens based on partnership, consultation, and shared responsibilities."

The document indicated that during the three years of the plan, the government seeks to strengthen partnership with all non-governmental partners, and to enhance and develop the services provision to citizens everywhere including universities, the private and the civil sectors.

Moreover, the eighth policy of the document indicated that improving the level of public services provision to citizens will be by strengthening partnership and integration of service delivery with NGOs and the private sector. Also, in policy 21 concerning youth empowerment, the document referred to a range of policies including promoting youth participation in public life and decision-making. Furthermore, the document listed policy interventions that ensure the elimination of all obstacles hindering women's full participation in community, economic and public development.

21. Office of the Prime Minister, Public Policies 2021-2023. <https://n9.cl/zecg3>

As for the reform agenda issued by the Council of Ministers on April 15, 2022²², it also pointed out that the role of CSOs must be viewed through an integrated vision, i.e., as partners in development and not as competitors. Rather, work must be exerted to sustain these institutions, and not to weaken or restrict them and to activate the system of transparency and disclosure within them. Also, the government must emphasize its role through an objective evaluation to ensure integration and coordination with NGOs, benefit from their expertise in drawing government policies and initiatives, and to mobilize community support for them. Moreover, the agenda indicated that the government's main challenge to break out of the divergence in opinions on the role of NGOs is to establish an institutional process of consultation with the sector. This would complete the preparation of the legal environment governing its work with all its components and hence create the proper conditions for these institutions to carry out their role in an integrated atmosphere of openness, partnership, control, work in a democratic atmosphere that allows for holding their elections periodically, present their administrative and financial reports as a requirement that describes the nature of programs and activities, which will be a guiding tool to support them and provide licenses for the continuation of work. It is also important to note that the oversight role of the Government is linked to the reciprocal role of these institutions in order to monitor and evaluate the performance of the government, and the effectiveness of its policies that must be in the national interest, without any consideration of other factors regardless of what they are. Accordingly, the government presented in this agenda some commitments to achieve what it mentioned above, as follows: ensure compatibility and integration of NGOs and their programs with government action plans; establish a sustainable framework for dialogue with CSOs that allows updating of laws that are work related; each government department must keep and open dialogue with representatives of the sector it represents, etc.²³

In the context of government policies, the Palestinian Ministry of Justice issued a public consultation guide in June 2018²⁴, which was supposed to establish the process of community participation in public policy-making, but it has not been published or activated since then.

For its part, the 19th government, headed by Dr. Mohamed Mustafa, showed positive attitudes towards partnership with CSOs in its government's work program, which it submitted to President Mahmoud Abbas, where he indicated that despite the difficult situation and the enormous challenges in which the Government assumes its duty, it will implement its program in partnership with the private and civil sectors, and the local government units (LGU). In addition, he referred to the principle of partnership with CSOs in several sectors, as: institutional reform, anti-corruption, reinforcing citizens' steadfastness and presence in the marginalized areas.²⁵

22. Office of the Prime Minister. Reform Agenda April 15, 2022. <https://n9.cl/mg5bn>

23. Council of Ministers. Previous source.

24. Ismail Hammad. Legal Advisor to the Ministry of Women. Intervention in the workshop held to discuss this study on 7/5/2024

25. Palestinian News and Information Agency (Wafa) Prime Minister-designate presents the government's work program and composition to the President to gain confidence (Wafa) 28/3/2024.

Third: Reality of Participation in Shaping Public Policy

1- Access to information; transparency of data and information dissemination

With the development of democratic and other related concepts along with citizens' rights and being the basis of governance in societies, information has become prerequisite for participation and thus for accountability. In Palestine, however, access to information remains a major problem faced by the various segments of society due to the absence of a regulating law.

To ascertain the extent of access to information and its impact in shaping public policy, the competent authorities must provide some guarantees that aim for optimal participation, such as: disclosure of plans and policies intended to be adopted and in accessible ways. It must also ensure citizens' access to information at all stages of the policy-making process (drafts, justifications, comments and feedback, plans etc.). Similarly, it must publish draft policy plans and agendas, as well as its own agenda with clear, concise and comprehensive information thereon.

Many CSOs representatives noted that access to information is one of the biggest challenges they face at work due to the absence of a regulating law. Dr. Ammar Dweik, General Director of ICHR, said that the adoption of the Law has been postponed by successive governments. He also noted that during a meeting with the 18th government, headed by Mohammad Shtayya, the Commission at the time demanded the adoption of the Law. This request was met with resistance for four years before a draft was submitted by the government. However, it was discovered upon review that it differed from the previous versions agreed upon that included the Commission's observation, and ever since neither the Commission nor any NGO has received any responses from the official parties in this regard.²⁶

Also, Mr. Ahmad Heejawi, Director of the Advisory Board for the Development of Non-Governmental Institutions, confirmed that the absence of a political will to disclose public information leads to problems in the management of information. He added, information is sometimes withheld, not because it is confidential, but because there are no written or oral instructions to provide it. This lack of access to relevant information makes participation in shaping public policy difficult for many NGOs, especially grassroots organizations. He added that one of the obstacles is the lack of development of digital tools in participation where the official authorities publish the plans after their completion without related data, such as financial statements, or minutes etc.²⁷

Mr. Ashraf Al-Hayya, Legal Advisor of Al-Haq, pointed out that the government's disclosure of policy-making documents comes in various degrees. For example, at the level of legislation, the government does not disclose any draft until it is final and approved. And at the level of strategic plans, partial disclosure is revealed as the reform document for example, where the official authorities shared related information during a brain-storming session, and for one time only.²⁸ Ms. Dua' Qrei', Executive Director of the Palestinian NGO Network, stated that the government has reservations in providing CSOs with information concerning financial issues, such as budgets and grants as: EU Support Mechanism (PEGASE)²⁹ the details of which are not disclosed neither by the government or the European Union.³⁰

Fluctuations in access to information is not limited to the type of document, it is also linked to the government and its officials. In this regard, some governments have been relatively more open than others in disseminating and providing information. Dr. Omar Rahhal, Director of SHAMS affirmed that the flow of information from the competent authorities is seasonal. i.e., depends on the official position

26. Ammar Dweik, General Director of ICHR. Personal interview via Zoom on 12/3/2024.

27. Ahmad Heejawi, Director of the Advisory Board for the Development of Non-Governmental Institutions, personal interview via Zoom on 7/3/ 2024.

28. Mr. Ashraf Al-Hayya, Legal Advisor of Al-Haq. Personal interview via Zoom on 7/3/2024.

29. PEGASE is the financial mechanism launched in 2008 to support the Palestinian Authority's Reform and Development Plan, the Development Plan, and subsequent Palestinian national plans and agendas, including the current "Citizens First" National Policy Agenda.

30. Ms. Dua' Qrei', Executive Director of the Palestinian NGO Network. Personal interview via Zoom on 9/3/2024.

concerning the issues raised and personal relations with some officials of the formal institutions.³¹ Dr. Tahreer Al-A'raj, executive Director of MIFTAH, said that the official authorities withhold or release information, based on their stance from the party requesting it. For example, in the context of working within the Civil Society Team for the Public Budget Transparency, official parties respond favorably if the request is submitted by MIFTAH, but not by AMAN.³² The Director of the ICHR added that poor disclosure and transparency of information are not limited to CSOs, it is also difficult for the Commission³³ to obtain draft decisions by laws before they are approved. Also, the same applies to the public budget's drafts as he described the level of disclosure by the official authorities, in general, as low.³⁴

Although access to information for policy-making is a phenomenon, there are some exceptions in some institutions that are located outside the central government, such as the Anti-Corruption Commission, where the Commission publishes drafts of strategic plans and shares them with various sectors and citizens to enrich them, whether through the Commission's website or by sending them via email or paper, in addition to its commitment to publishing its annual report, monthly report, the national strategic plan across sectors, studies and fact sheets, through the Commission's website.³⁵

The problems related to the dissemination of information, its lack of institutionalization and its association with the convictions and attitudes of individual officials cannot be resolved in the absence of a legal framework regulating its access. AMAN revealed in its annual report that the Council of Ministers continued to ignore pushing forward the mentioned draft law, which was prepared years ago in partnership with many NGOs and the ACC, in-line with the decision issued by the 17th government in 2013. Therefore, the report concludes that the procrastination of issuing the Law by Palestinian government is due to fear of CSOs participation and community accountability.³⁶

2- Institutionalizing Participation

Institutionalizing participation is established between official bodies and CSOs based on the existence of a central permanent structure, or at the sectoral level, whose mission is to enable a sustained and effective relationship between CSOs and official bodies. Or, official authorities can form administrative councils or advisory boards for public institutions/bodies that include representatives from both, government and CSOs, in order to follow up on the implementation of public policies. Another option is to form temporary or permanent committees comprising of CSOs representatives within the framework of implementation of public policies, as needed. To facilitate this institutionalization, allocation of funds must be provided by the competent official authorities to meet the requirements and ensure CSOs participation in public policy-making (regular or open meetings, joint research etc.).

It is worth noting that there are many international models for institutionalizing the participation of CSOs in official bodies such as the formula adopted in socio-economic councils, which represent the various professional bodies. Other examples include the establishment of: national media councils; election supervisory committees; participation of representatives of professional groups in some courts; judicial and administrative committees; a type of CSO participation in the form of advisory committees in certain ministries; anti-corruption committees; or to appoint a mediator.³⁷

31. Dr. Omar Rahhal, Director of SHAMS. Personal interview via Zoom on 7/3/2024.

32. Dr. Tahreer Al-A'raj, executive Director of MIFTAH. Personal interview via Zoom on 11/3/2024.

33. The Independent Commission for Human Rights is an international institution that specializes in following up on the requirements for preserving human rights in various Palestinian laws and legislations and ensuring their availability, and in the work of various departments, agencies and institutions in the Palestinian National Authority.

34. Dr. Dweik. Previous source.

35. A written response from the Anti-Corruption Commission to the items of the study index, coordinated by Dr. Abdullah Alian, Director General of Integrity and Prevention of Corruption at the Anti-Corruption Commission. Dated 23/5/2024.

36. AMAN's 2022-15th Annual Report: "Status of Integrity and Ant-Corruption in Palestine". Ramallah, Palestine.

37. Ibtisam Al-Attyiat. At the ESCWA Expert Group Meeting to discuss the directions of the Guide to Enhancing Participation between Governments and CSOs in Public Policy-Making Processes. Background paper (Legal frameworks governing the participation of civil society in decision-making) Beirut 2009.

At the Palestinian level, the Council of Ministers issued the Decision number 205 in its meeting on August 5th, 2023 to form a ministerial committee for dialogue and meetings with civil society. According to Mr. Amjad Ghanim, Secretary General of the Council, this committee is tasked with strengthening cooperation and consultation with NGOs, and for holding joint meetings, which reflects positively on the spirit of dialogue. This action is intended to create mutual understanding when addressing common issues in order to achieve solutions that are in the public interest. He added: this is an opportunity for the government to benefit from the cadres, energies and ideas of CSOs and the private sector representatives.³⁸ For his part, Mr. Helmy Al-Araj, Director of the Center for the Defense of Liberties and Civil Rights (Huryyat), said that, until today, the above-mentioned committee never held any meetings with CSOs since its establishment due to unexplained delays, or as a result of the war on Gaza.³⁹

Within the same context, it is worth noting that the dialogue committee with CSOs was formed during the preparation of the National Policy Agenda 2017-2022, consisting of 5 government institutions and headed by the Minister of Justice, these bodies are: Ministry of Justice, Council of Ministers, Ministry of Interior, Ministry of National Economy, and the Finance Ministry, and 6 key CSOs representatives... to consult periodically on common files with NGOs⁴⁰. This means that these committees attempt to institutionalize relationships, which do not achieve sustainability.

For its part, the 19th government gave attention to the role of civil society as a partner in policy-making. Whereas, the Council of Ministers decided in its first session, held on April 2, 2024, to assign the heads of government departments, each according to its competence, to hold periodic meetings with CSOs. The aim is to discuss common issues, in order to serve the government's programs and objectives and public's interest. Also, to create effective and sustainable communications mechanisms with each other.⁴¹

It is clear from the foregoing that there are no permanent mechanisms or central administrative departments or official sectors for facilitating CSOs participation in the process of public policy-making, although some temporary advisory committees were formed. According to Al-Haq's legal advisor, the government resorts to competent NGOs when forming committees to follow up on national entitlements such as: Assessment of the Sustainable Development Goals, which is most likely a requirement of the international community, or donors.⁴² Director of SHAMS also added that some of the committees formed by the government, as needed or demanded, but not as a participatory approach; and in some committees' membership is only a formality. For example, SHAMS was invited by the government to be a member of the Committee for Harmonizing Palestinian Legislation with International Treaties and although this membership has been since 2014, the Committee has yet to meet. He also pointed to the absence of criteria for the membership of NGOs committees, as some institutions are left out due to the government's dissatisfaction with them even if their competence falls within the committee's needs. This is in addition to refraining from involving CSOs in any of the investigation committees formed by the official authorities.⁴³

For her part, the Executive Director of MIFTAH stressed that the relationship between CSOs and official bodies is seasonal that depends on the public mood towards CSOs, or the result of external pressure. This relationship is far from institutionalization, as there is no approved memorandum of understanding (MoU) or policy paper that is issued by the government to be binding to all parties, governmental and CSOs.⁴⁴

With reference to some successful models in this field, Ms. Sahar Qawasmi, Director of Roles for Social Change Foundation ADWAR, pointed to the Advisory Council, formed from CSOs representatives from the Hebron Governorate. She said that although effective in terms of consultation and planning, it is

38. Mr. Amjad Ghanim, Secretary General of the Council of Ministers, on 28/5/2023.

39. Mr. Helmy Al-Araj, Director of the Center for the Defense of Liberties and Civil Rights. Personal meeting via Zoom, on 9/3/2024.

40. Ahmad Musleh and others. Study on: "The reality of Palestinian NGOs and Future Prospects". NGO Affairs Commission. 2019

41. Council of Ministers official Facebook page on April 2, 2024. <https://www.facebook.com/PALCAB>

42. Al-Hayya. Previous source.

43. Omar Rahhal. Previous source.

44. Tahreer A'araj. Previous source.

also linked to the conviction of the governor, as an individual. In other words, its work and effectiveness depends on whether the official is open-minded to civil society or not.⁴⁵

3- Active Participation Through Dialogue

Active participation requires a real will and positive view from all parties involved. In this case, it is the official bodies and officials view towards CSOs that is important where they should view CSOs as partners, and not as competitors. To be partners in all stages of the decision-making process beginning with (setting the agenda and priorities, through formulating public policy, and making decisions related to implementation and evaluation). This requires the availability of certain conditions, such as:

- Official parties must commit to include CSO participation to a minimum in situations where the participatory process cannot be fully implemented, such as in natural disasters time, conflicts and wars. During such times, the authorities must announce and publish the draft copy of the intended policy plan and provide sufficient information and time for CS's comments and opinion in its regard. It should also demonstrate its cooperation with CSOs participation in all stages of the public policy-making process through (agenda setting, issue identification, formulation, decision-making, and implementation); allow all components of CS to form lobbying and advocacy groups while participating in public policy-making; respond to their orientations and observations on drafts or policy documents presented. Finally, the authority must provide feedback on the final version of public policies, following consultations and dialogues with CSOs.

In the context of the competent authorities inviting CS with all its components to present their opinions and observations on public policy papers, many of CSOs representatives interviewed for this study stated that the government does not call on them for their opinion, especially if the subject is related to finances such as: the public budget, policies with a human rights dimension or related to freedoms. For example: Decrees-by-laws relating to charities and NGOs. Ms. Lana Al-Bandak, General Director of Qader Foundation for Social Development, confirmed that government officials do not call on her for consultations concerning public policy, although her institution's work is to provide service to the people with special needs sector, and requires the submission of special budgets from the Ministry of Social Development. She added: although her institution and other grassroots institutions are the most capable of setting priorities, their opinion is not considered, neither before nor after money allocations in the public budget.⁴⁶

In this regard, AMAN's 15th Annual Report showed that the public budget Law for the year 2022 was issued on March 31, 2022 (i.e., three months into the new year). In addition, it was issued without being introduced to the citizens (tax payers) and was not discussed by CSOs representatives, hence neither NGOs nor citizens participated in selecting priorities. Moreover, only a short version of the budget was later published with no details. This weakened the ability of CSOs to analyze and audit the data, and hence hampered their accountability mechanisms.⁴⁷

The Director of SHAMS said that it is not certain that official bodies intend to remove obstacles that hinder young people and women's full participation in public policy-making. For instance, although the policy agenda included women and youth specifically, institutions representing these groups did not participate in the discussions of this agenda.⁴⁸ This was also mentioned in a policy paper on enhancing youth participation in public policy-making centers, issued by Masarat. Although the government's public policy document 2021-2023 emphasized enhancing youth participation in public life and decision-making, representation of youth in the government shows otherwise. Moreover, the government does not allow full participation of youth in the preparation process of public policy and sectoral strategies (i.e., their participation was marginal). The matter was limited to holding special

45. Ms. Sahar Qawasmi, Director of Roles for Social Change Foundation. Personal interview via Zoom on 17/3/2014.

46. Ms. Lana Al-Bandak, General Director of Qader Foundation for Social Development. Personal interview via Zoom on 13/3/2014.

47. AMAN. 15th annual report. Previous source.

48. Omar Rahhal. Previous source.

consultative meetings with youth institutions, CSOs, the private sector, UN institutions, and donors.⁴⁹

According to the head of the NGO Network who pointed out that the government's calls for the network do not require the presence of certain groups such as representatives of women or people with special needs. She added that participation invitations from official bodies tend to be more selective. Meaning that it invites institutions closest to their positions and orientations hence facilitating the passage of its policies, which ends affecting the independence of CSOs.

In this context, it is worth noting some exceptional models, such as providing women with the opportunity to participate in promoting integrity and combating corruption at the strategic level by adding two women to the Commission's advisory board by decision of the Commission's president.⁵⁰

On the other hand, the study revealed that the government shows more openness at the level of sectoral policies, as confirmed by the director of the Qadir Center who stated that the Ministry of Development takes its opinion on most of the relevant official documents through participation. This was also confirmed by the Director of Hurriyat, and that of SHAMS in regard to the Ministry of Interior, Ministry of Women's Affairs, and the ACC. Similarly, the Director of Roles Foundation for Community Development said that the Ministry of Women shows good cooperation concerning some public policy-making by providing the NGO with the draft copy for review and comments and later the Ministry provides feedback with comments taken. In addition, she said that the official parties have been inviting them directly to participate in related policy-making processes, based on the fact that the institution has proven its ability to communicate with grassroots institutions far from the decision-making center.⁵¹

In the same context, the written responses of the Anti-Corruption Commission indicated that civil society participates in the Advisory Council of the Anti-Corruption Commission. Since its establishment, the Commission has usually followed a participatory approach, inviting civil society institutions to participate in making policies to enhance integrity and combat corruption, including successive strategies, any legal amendments, studies conducted by the Commission, and membership in the Transparency Committee emanating from the National Team for Goal 16 of the Sustainable Development Goals.⁵²

As for the official parties' readiness to cooperate with CSOs participation in all stages of public policy-making, it became evident from the opinions of those interviewed that participation is limited to discussing the document after its preliminary preparation is completed. This means that no participation occurs during the preparation stages of the agenda, defining priorities or indicators, etc. On the contrary, institutions are taken by surprise when laws are issued concerning their own NGO or civil sector without their consultation or participation, as in amending the Charities Law, the Social Security Law and the law of the Higher Media Council.

With some exceptions, such as the response of the Anti-Corruption Commission after each consultation process in making anti-corruption policies with the relevant authorities from civil society institutions to obtain their feedback on drafts of public policies or documents proposed for public policies, the Commission communicates with a number of civil society institutions to inform them of the final drafts to express their opinion, such as the final draft of the Commission's upcoming strategy⁵³. This was confirmed by a group of institutions, such as the Shams Center and the Aman Coalition.

This approach is not limited to ordinary cases, it goes beyond that to include putting forth plans for emergency, natural disasters and or war plans. Many of those interviewed confirmed that these policies are prepared without CSOs participation despite their importance as competent, relief

49. Youth Bloc to Support Rights and Justice in Public Services. Policy Paper on Enhancing Youth Participation in Public Policymaking Centers- Masarat Center. <https://n9.cl/u4yh2>

50. Alian. Previous source

51. Al-Qawasmi. Previous source.

52. Anti-Corruption Commission Response. Previous source

53. The previous source

or service provision organizations. In terms of participation in public policies related to the Corona period, for example, participation was limited at the sectoral level, such as: health and education, and even that was only partial involvement. On the other hand, CSOs were not involved or consulted in the establishment of the Waqfat Ezz Fund. It is worth noting that the State Audit and Administrative Control Bureau (SAACB) report revealed violations in the work of the Fund. Accordingly, AMAN held a press conference concerning the issue where it pointed out that crisis and disaster management requires the highest degree of transparency, availability of information and partnership with the civil and private sectors, as well as local authorities. All of which to ensure the best ways to protect citizens, safeguard management of the country's affairs under exceptional circumstances, prevent violations and confusion and enhance citizens confidence in the management of cash and in-kind assistance.⁵⁴ Dr. Ammar Dweik, pointed out that participation of the official authorities with other institutions during that period varied among ministries. For example, while the Ministry of health cooperated effectively, the Ministry of Labor approved and implemented its policies without participation and consultation.

As for policies concerning the war on Gaza, no meeting or consultation was held at the central or sectoral levels with CSOs despite expectations of citizens that a national plan will be drawn in participation with formal and informal parties. This was confirmed by the Director of ICHR where he pointed out that the government did not initiate participation with the Commission or CSOs in its policies concerning the war on Gaza. Nevertheless, the Commission took the initiative to bridge the gap between these bodies. It requested from the Ministry of Foreign Affairs to hold a meeting with NGOs with the Commission as coordinator. He said that the Ministry responded and provided clear information at the meeting. He also affirmed that the Commission will continue to hold this type of meetings with other relevant ministries such as: The Ministry of Labor and Social Development, saying that official authorities respond to requests for such meetings, but do not initiate them.

In general, CSOs have formed an impression from experience that participation called for by the competent authorities, especially the central ones, is nominal and ineffective. Unlike in sectoral policies where some ministries are open to considering the opinions of CSOs, such as the: ACC, Ministries of Interior, Development and Health. CSOs representatives said that it all depends on the person in charge in these ministries who shows an understanding of the role CSOs play. The Director of Qadir Foundation indicated that the Foundation had interactive and influential relations with the Ministry of Health in implementing the project of interventions to protect people with disabilities from violence. The project was very successful until there was a change of officials where obstacles hindered progress of the project. This also applies to the Ministry of development.

At the level of central government, although participation is limited to reviewing drafts are completed, the majority of participation ends there, since the official parties do not provide participants with the minutes of the sessions or feedback concerning suggestions given.⁵⁵

Concerning cases that the government does respond to CSOs advice, the director of ADWAR indicated that official bodies are likely to respond if the NGOs are in contact with grassroots institutions in area (c) due to the difficulties encountered. In other situations, representatives of CSOs interviewed in this study pointed out that the government is likely to respond if the issue becomes a matter of public opinion, or in response to pressure groups. The NGOs representatives mentioned praised the government's respect for the right to public assembly where it exercised no violence towards participants in gatherings or against pressure groups to stop or change policies issued by the official authorities, as happened in protests concerning the Social Security Law and Cybercrime Law Decisions and in the case of amending the Law on Charities and NGOs.

4- Implementation of public policies, and evaluation of outputs

CSOs undertake the tasks of partnership with the competent authorities not only in shaping public policy and defining priorities, but also in the implementation of policies and assessing their outputs. This is in preparation for examining official parties' adherence to the implementation and for holding them accountable later if applies. Hence the government must realize that active participation in policy-making requires that they provide space for CSOs to be partners and contributors to implementation,

54. Statement issued by AMAN on October 11, 2021 at the link <https://n9.cl/emrq6>

55. Rahhal. Previous source.

follow-up, evaluation and revision of plans as needed; requiring the that: the competent official authorities must implement public policies in partnership with CS, especially in cases where it applies to the NGO, such as in: development, relief, services and public awareness among others. Based on policy documents, it must also develop a periodic follow-up plan in partnership with civil society in order to ensure proper implementation and achieve desired objectives. In addition, it must allow civil society to monitor the implementation of public activities by holding officials accountable via media, or at public hearings. Moreover, officials must respond to the observations of CSOs related to public policies. whether during implementation, and periodically amending its plans. In addition to its response to shadow reports, submitted by civil society, and related to evaluating public policies in various fields.

Also, through meetings with NGOs representatives in the context of this study, it became clear that officials do engage some CSOs in the implementation of public policies, especially in regard to services where financial consequences are at stake; as in sectors for people with special needs, marginalized groups or capacity building.⁵⁶ Otherwise, there are no real partnerships at the implementation level.

In terms of follow-up, there are no agreed upon follow up plans between official parties and NGOs; there's weakness in transparency of official information; absence of the PLC and weakness of regulatory bodies. Hence, CSOs are left out in regard to follow-up and evaluation in most cases with the exception of few institutions, such as the ACC⁵⁷ and police, unless such follow-up is issued by specialized monitoring teams on the ground. However, this option, forming teams able to cover all areas of implementation is costly.⁵⁸

As for shadow reports presented by CSOs on the implementations of public policies by formal institutions, (international requirement; submitted to international bodies), there is near unanimity among the presenters of these reports that formal bodies respond to these reports and implement their recommendation, especially those on development or evaluation of certain policies. However, if the recommendation entailed financial consequences authorities welcome it in principle only without carrying out due to the current financial crisis they are going through.⁵⁹

Fourth: Status of Social Accountability on Public Policy Implementation

Social accountability is a cornerstone in subjugating officials in charge of service provision and management of public resources to control and accountability. It is also an important tool for increasing efficiency, performance and effectiveness of public institutions; improves service quality, and contributes to the control over public fund's management and in shaping public policy. It also enhances good governance and achievement of objectives due to the embedded principles of participation, teamwork and transparency within it.⁶⁰

1- Transparency of Information

Easy access to data and information is key to empowering CS activists in conducting social accountability. However, this depends on disclosure of information by the official authorities and formal procedures related to public policy and policy-making in addition to presenting periodic reports to CS on implementation of these policies.

The Palestinian reality, throughout the lives of many governments, officials and official bodies do not initiate disclosure of information and especially in regard to public policies. However, when requested, the government does disclose some information that lacks details. For example, Director of the NGO Network testifies that upon requesting information on certain health services she needed for her report from the MoH, she received information in the form of numbers, which reflected a perfect

56. Al-Bandak&Hayya and others. Previous sources.

57. The Commission and its civil society partners adopted an executive program for the years 2022-2023 in implementation of the national cross-sectoral strategy to enhance integrity and combat corruption, and was implemented in cooperation between the Commission and civil society institutions. Response of the Anti-Corruption Commission, previous source.

58. Rahhal & Qrei'. Previous sources.

59. Heejawi & Qrei'. Previous sources.

60. Ahmad Musleh, et al. A study of the legal and procedural reality of social accountability in the Arab world. Arab Network for Social Accountability in the Arab World (ANSA). 2021.

performance picture of the Ministry. The Network was unable to obtain information related to the type of services provided or fairness of distribution, for instance. Some of the information sent is general information that is available in the MoH reports.⁶¹

On the other hand, it was quoted by some NGOs representatives that some officials refrain from providing information to CSOs even if it has been published, due to fear expressed by some towards CSOs.⁶²

In general, CSOs' impression is that the government is not completely closed to providing information as long as it has nothing to do with finances or security. Nevertheless, However, provision of this information lacks systematic and well-thought-out mechanisms due to the absence of the Access to Information Law that would regulate all aspects in this regard for citizens to access accurate and reliable information on time with the least obstacles, hence strengthening their ability to hold the ruling authority accountable. It will also enhance their political participation and make their participation more meaningful and effective.⁶³

2-Participation and Response

The inclination of official authorities shows some willingness to respond to CSOs concerns on public policies. It is demonstrated by their announcements and formal addresses that support the right of NGOs to exercise social accountability, in addition to their response to media interviews. They also attend hearings held by CSOs where they respond to questions concerning decision-making mechanisms. They also encourage citizens to hold community accountability sessions by showing their willingness to respond to citizens' requests and reactions and accepting their feedback concerning government's decisions in addition providing clarifications on public policy, whether requested by citizens or initiated by them. Also, the competent official authorities show willingness to hold officials accountable for their failure to respond to accountability, or for neglecting community accountability sessions or activities.

On the other hand, representatives of NGOs interviewed in this study testified that despite the void in the official authorities' announcements and addresses on CS's right to hold social accountability sessions, it has no problem participating in these events, especially at the sectoral level. Although this presence, if attended, is often partial or a matter of formality, hence lacks "real" answers to questions raised by CS. This often means that they do opposite of what they say; and sometimes they admit to the problem, but do not try to solve it.

For its part, the Anti-Corruption Commission takes the initiative to enhance the use of community accountability mechanisms and tools by citizens and their representatives and facilitate them, as it has implemented awareness-raising meetings on integrity and community accountability in partnership with civil society institutions such as the Coalition for Integrity and Accountability - AMAN, the Community Development and Continuing Education Association, and Bethlehem and Palestine Ahliya Universities. In addition to forming student groups at Palestine Ahliya University and qualifying them to implement community accountability initiatives and activities during the academic year 2022-2023, which included 120 students of the Community Service course for a bachelor's degree, and addressed a group of topics such as integrity in the management of scholarships with the Deanship of Student Affairs, and others.⁶⁴

Responses of the official authorities to the issues of community accountability is further heightened when it becomes of public opinion, and spread by the media, specifically social media, which is classified by CSOs as impactful among accountability and response tools.⁶⁵

61. Qrei'. Previous source.

62. Rahhal. Previous source.

63. Ahmad Abu-Dayya. Freedom of access to Information in Palestine. 2013.

64. Alian. Previous source.

65. Rahhal. Previous source.

On another note, official authorities refrain from responding or allowing community accountability sessions to take place in some instances such as those related to internal security or political issues, and especially in cases where human rights violations are suspected. However, if the security issue is international nature such as “the observations of the Committee against Torture, then the official parties are willing to be responsive to CSOs, as the case in the Human Rights Department in the Ministry of Interior. Here, it called on related CSOs to attend a workshop in order to listen to its recommendations in this regard.

Concerning readiness of the competent authorities holding officials accountable for being non-responsive and or not participating in community accountability sessions or activities, CSOs representatives denied this. On the contrary, they said in cases where violations were recorded publicly by some officials they were not held accountable or their behavior justified to CSOs.

3- Monitoring, Control and evaluation

For CSOs to achieve oversight, monitoring and evaluation of public policies during implementation of public policy plans, an incubating environment must be provided by the official authorities; i.e., to accept criticism, respond favorably to CSOs concerning performance of officials hindering CS’s right to accountability, and to provide constructive criticism. Furthermore, it should pay attention and follow-up on recommendations related to these policies that are contained in the periodic CSOs’ reports. To also provide CSOs tools that enable them to provide suggestions related public polices quickly and in due time, as well as cooperate in applying these policies.

CSOs representatives said that the complaint system used by official authorities is “regular” and does not provide for effective participation in assessing the reality of implementing public policies and counter response by officials.

As for the regulatory reports, official parties seem to read and follow up on them. They also implement recommendation included in some case, although not immediately and without knowledge of the issuing institution, especially in relation to financial issues.

As for official parties’ interactions and responses to CSOs opinion and evaluation of any official who hinders the CS’s right to accountability, CSOs representatives said that no case was recorded in this regard. However, many constructive criticism cases were recorded and sometimes harsh criticism was also noted to the prime minister, who took it with stride. On the other hand, some officials were resistant to criticism while others accepted it. This type of attitude depended on the personality of the official and the method by which criticism was introduced than a general policy followed by official parties, as expressed by CSOs representatives.⁶⁶

66. Rahhal, Dweik, and others.

Conclusions

First: General Environment of the Palestinian Political System and its reflection on civil society

It is essential to look into the civil space allowed within the environment of the political system if one is to participate in shaping public policies. This process takes place in a complex and precarious environment in terms of the continuation of the Israeli occupation and its control over sovereignty and capabilities of the PA. Another major complexity is the on-going internal political division that ultimately led to the dissolution of the PLC and the domination of the executive authority on the other authorities hence it became the sole policy-maker in all its forms including (plans, strategies, agendas, decrees by law et.) not to mention the number of violations by official bodies related to the right to form and operate associations in addition to many problems and obstacles concerning structures of CSOs.

Second: The Constitutional, Legal and Policy Framework Governing the Work of the PA, and its Impact on the Participation Right of CSOs in Contributing to Policy-Making, and its Supervisory (Critical) Role on Implementation

- The PA joined a series of international declarations and covenants that guarantee citizens the right to participate in policy-making and accountability of its implementation. Also, the amended Palestinian Basic Law guaranteed elements for community accountability and citizens' participation in public life.
- The Palestinian legislations are void of any provision that prevents CSOs from participating jointly with the government in the formulation of public policies; the absence of a true political will is the reason for the lack of openness.
- Although the Charities and NGOs Law does not clearly include the right to CSOs participation in the preparation of the national sectoral development plans or community control of public institutions, it also did not include provisions that prevent it.
- No law has been approved to regulate the right of access to information as of the preparation date of this study.
- The study concluded the absence of a written public policy to regulate the relationship between CSOs and official bodies as partners in shaping public policy; although officials' statements often indicated of engaging CSOs in the preparations of documents and plans.

Third: Participation in Public Policy-Making

- Access to information is considered one of the biggest obstacles faced by CSOs, in general, and grassroots organizations in particular, in terms of being able to participate in public policy-making. This is due to the publication of such documents by the official parties after being completed. It also does not publish data such as financial statements or minutes... etc.
- Dissemination of information by official authorities is affected by a range of factors depending on the issues at stake, personal relationships with officials and the official stands towards CSOs that request the information.
- The study revealed the absence of a permanent administrative body (institutional structure) that ensures CSOs participation with official parties and promotes partnership in public policy-making in particular. This made this relationship subject to the convictions and orientations of officials, which became known as "seasonal format" rather than a professional approach.
- The majority of committees formed by the official authorities, concerning NGOs participation in shaping public policies, function seasonally and formally and often its formed based on donors' requests in the absence of clear selection criteria.

- Despite the formation of more than one committee by successive governments and institutionalizing work with CSOs, no consistent approach has been established concerning the relationship between official bodies and NGOs. This means that the relationship will remain seasonal and as needed, and not an established approach. Also, official parties varied in their openness to interaction with CSOs and its participation in public policy-making, as sectoral institutions are more open than the central government.
- Despite progress achieved in participation of CSOs in public policy-making with the government, it has not risen to an active, and full representative participation. The majority of participation begins and ends with discussing drafts. In addition, official authorities do not require that its participants include representatives of all segments of society as women, persons with special needs and youth...
- The study revealed the official authorities' reservation concerning CSOs participation in sensitive policies such as, the public budget and security. They respond temporarily when the topic turns into a public opinion issue after CSOs pressure groups are formed.
- Weak cooperation between official bodies and civil society in the implementation and follow-up of policies prevails.
- The response of official authorities to the recommendations of audit and shadow reports issued by CSOs, ceases if financial obligations are entailed.

Fourth: Status of Accountability in the Implementation of Public Policies

- In regard to policies of the official parties towards social accountability activities, the study showed positive response in terms of requests for information on public policies. However, the information is presented too general with no details. Also, the authorities do not initiate provision of information, since there is no written policy to encourage openness for societal constructive critical opinion.
- The same applies for participation in social accountability activities, where officials attend and only provide general information. Furthermore, they do not show any signs of holding their officials accountable for their lack of responsiveness to social accountability and participation in sessions. Official bodies are also reluctant to respond to petitions and requests for issuing or implementing a public policy.
- Many officials do not accept criticism by CSOs, especially when the criticism relates to major centers of influence in the political system, public funds, corruption prevention, government policy on the rule of law, human rights and public freedoms.

Recommendations

First: In order to create a more stable environment in the Palestinian political system, political parties and factions must play a more serious role in ending the internal division by putting public interest above all other interests. To also hold elections, reestablish the PLC in order to restore balance between the three authorities and hence limit the encroachment of the executive power on the rest of the powers.

Second: To develop the constitutional, legal and policy framework governing participation in public policy-making and accountability of implementation, it is vital to work towards the:

- Approval of the Right to Access Information Law.
- Inclusion of relevant laws with binding texts that guarantee: the right to participate in the preparation of national and sectoral development plans effectively and fully throughout the stages of public policy-making; the right to criticize public policies; community control over public institutions.
- To consult with CSOs; formulate a written public policy that regulates the relationship between CSOs and official bodies in the framework of policy-making and to dispose of what is called seasonal partnerships.

Third: To improve the level of participation in public policy-making, official authorities must work on the following:

- Adopting a collaborative spirit approach; To enhance integration between the two sectors: Governmental and civil, each according to its field and scope of powers, so that this approach is practiced as an official policy approved by all ministries and sectors. This can be executed through mechanisms for consultation and coordination between official and civil work institutions without hampering the independence of CSOs.
- Allowing CSOs to contribute effectively to develop their vision on national priorities and implementation of activities; each institution within its field of competence, and in accordance with standards and principles; prepare, implement and evaluate plans.
- Commit to implementing adequate support and assistance to CSOs, directly and indirectly; request support for CSOs from donors for the implementation of joint activities and projects.
- Publish policy documents and their annexes in full and facilitate easy access to all citizens and CSOs; avoid selectivity in the dissemination of information regardless of its type, unless its publication is prohibited by law.
- Create a fixed communication and coordination mechanism (department, committee, advisory council, etc.) that views CSOs as partners in shaping, implementing and monitoring public policies; ensure inclusion of all CSOs representatives from major and grassroots organizations; the mechanism must be agreed upon in consultation with CSOs.
- Upgrade participation in public policy-making to a full and active participation, where CSOs committees are formed to represent major and grassroots institutions; each in-line with its competence; from all categories; to be integrated and consulted with during all policy-making stages beginning with defining priorities.
- Unify the official position in all its central sectors and sectoral divisions to work in partnership with CSOs; not to rely on the conviction of each individual official.
- Emphasize the necessity for official bodies be open to CSOs participation in setting priorities and building the public budget and other financial issues.
- Strengthen cooperation with CSOs to: implement policy plans, especially in public services: (health, relief, education, public awareness, etc.). Develop follow-up plans to implement and evaluate public policy outputs in partnership with CSOs by considering their point-of- views during the evaluation and follow-up process.

Fourth: To develop the state of accountability in implementing public policies, official parties must be obligated to:

- Commit to periodically provide information on official procedures related to policy-making, and implementation, in a detailed and clear manner.
- Respond to participation in community accountability activities in a more effective and open manner; avoid participation as a formality or as a result of public pressure.
- Be more explicit and transparent with CSOs and citizens concerning approved cases that they cannot implement; avoid making promises, or obligations that are difficult to fulfill; build bridges of trust between them and CSOs.
- Be more open in responding to community accountability on: decisions and actions related to security policies; human rights; financial; and in normal and emergency situations.
- Hold any official accountable regardless of rank who hinders or refrains from participating in community accountability activities.

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AMAN
Transparency Palestine



Coalition for Accountability and Integrity – AMAN

AMAN was established in 2000 as a civil society organization that seeks to combat corruption and promote integrity, transparency and accountability in the Palestinian society. The Coalition was first formed by an initiative from a number of civil society organizations working in the field of democracy, human rights and good governance. In 2006, the Coalition was accredited as a national chapter for Transparency International.

AMAN is a Palestinian think tank and a specialized body providing knowledge on corruption at the local and regional level through producing specialized reports and studies. The periodic publications include: The annual Integrity and Anti-Corruption Report, the annual Palestinian Integrity Index and the National Integrity System studies and reports, in addition to the Coalition's continued contributions to produce reports and studies on the status of corruption in the Arab region.

As part of the global anti-corruption movement - and of international alliances and partnerships with relevant specialized coalitions and organizations - AMAN plays a key role in the transfer and contextualization of necessary international knowledge and tools to combat corruption in all sectors.

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