

STRENGTHENING THE PREVENTION, INVESTIGATION, AND PROSECUTION OF CORRUPTION CRIMES, AND PUBLIC-PRIVATE PARTNERSHIP IN PALESTINE

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I. INTRODUCTION

Corruption remains one of the most critical challenges facing states globally, undermining governance and eroding public trust. In Palestine, the prevention, investigation and prosecution of corruption crimes are essential to promoting the rule of law, ensuring accountability and safeguarding public resources. The fight against corruption requires the active engagement of both public institutions and private actors, as well as strong international cooperation to tackle cross-border corrupt activities.

The legal and political situation in Palestine has been significantly impacted by the history of its Legislative Council and its relationship with Israel and internal political divisions. In 1996, the first Palestinian Legislative Council elections were held under the newly established Palestinian Authority, following the Oslo Accords. These elections resulted in a mixed government with both Fatah and smaller parties represented in the Council. The establishment of the Legislative Council marked a key milestone in the self-governance of Palestine, providing a platform for legal debates, legislation and political expression within the Palestinian territories.

However, the 2006 elections marked a dramatic shift in the political landscape. Hamas, a political and militant group, won a majority of seats in the Palestinian Legislative Council. This victory led to increased political tensions between Hamas and Fatah, the latter traditionally holding power in the Palestinian Authority. Despite winning the elections, Hamas's victory was not accepted by some international actors and led to a blockade on Gaza and a split between the West Bank and Gaza. The legislative body was effectively paralyzed, and internal power struggles intensified.

In 2007, the situation worsened when Israel arrested most of the Hamas-affiliated members of the Legislative Council. This move, combined with internal Palestinian political conflicts, rendered the Legislative Council inactive, with little capacity to legislate or function as a body. The arrest of elected representatives further deepened the political divide between the West Bank and Gaza, and undermined the functioning of the Palestinian government.

Finally, in 2012, Palestinian President Mahmoud Abbas took the controversial step of dismantling the Palestinian Legislative Council, citing its dysfunction due to the political divide between Hamas and Fatah, as well as the Council's inability to function properly. The dissolution of the Council shifted legislative powers entirely into the hands of the President, consolidating executive authority and further centralizing governance in the West Bank. This move drew criticism from various quarters, as it eliminated a key democratic institution in Palestine, reducing the role of elected representatives in the legislative process and limiting checks on executive power.

These events highlight the complex interplay of Palestinian politics, governance and the legal structures meant to ensure democratic functioning. The ongoing political rift between Hamas and Fatah, along with Israeli interference, has made it difficult to establish a stable and functional legislative system in Palestine, leaving the country's legal and political framework in a state of flux.

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This paper provides a comprehensive analysis of the mechanisms for preventing, investigating and prosecuting corruption in Palestine, with an emphasis on legal instruments, institutional frameworks and the importance of public-private partnerships. Additionally, it highlights the challenges faced by Palestinian authorities in this area and offers recommendations for strengthening these efforts, particularly through enhanced international collaboration.

II. PREVENTIVE MEASURES AGAINST CORRUPTION IN PALESTINE: CHALLENGES AND RECOMMENDATIONS

Preventing corruption is often more cost-effective and efficient than trying to address its consequences after the fact. In Palestine, the introduction of preventive measures has been vital to tackling corruption at its roots. These efforts are aimed at fostering a culture of integrity within public institutions, enhancing transparency and reducing opportunities for corrupt behaviour. However, significant challenges remain in implementing these measures effectively.

A. Preventive Measures in General

1. Transparency and Accountability

Transparency is a fundamental pillar of any anti-corruption strategy. Public officials and institutions in Palestine must be held accountable for their actions, with clear processes for auditing and monitoring financial transactions and public service activities. Efforts to increase the transparency of government operations, such as public access to budgetary information and decision-making processes, are crucial to building public trust and reducing opportunities for corruption.

2. Internal Controls and Risk Management

Preventive measures often involve the implementation of robust internal controls within government agencies and public institutions. These controls include financial management systems, auditing processes and strict protocols for public procurement and contract management. Effective risk management systems can detect vulnerabilities and prevent corrupt practices before they occur.

3. Public Awareness Campaigns

Public engagement and education are essential in preventing corruption. Educating the public about the dangers of corruption and promoting a culture of honesty and integrity can reduce tolerance for corrupt activities. Public awareness campaigns can also encourage citizens to report corruption, which in turn strengthens the overall anti-corruption framework.

4. Whistle-Blower Protection

One of the most effective preventive measures is the protection of whistle-blowers who report corruption. Ensuring that individuals can report corruption without fear of retaliation creates an environment where public officials and private actors are held accountable. In Palestine, whistle-blower protection is an essential measure, ensuring that people who expose corrupt practices are shielded from harm.

B. Challenges in Implementing Preventive Measures

1. Political Interference

Political interference remains one of the most significant obstacles to effective corruption prevention in Palestine. Given the complex political environment, it is difficult to establish fully independent oversight bodies and implement reform measures without encountering resistance from powerful political groups. This makes it difficult for anti-corruption bodies to function effectively and with autonomy.

2. Limited Resources

Despite efforts to implement preventive measures, many institutions in Palestine face severe resource constraints. The lack of adequate funding for anti-corruption bodies, combined with limited human resources and expertise, hampers the development of effective preventive systems. This shortage of resources often leads to weak enforcement of anti-corruption policies and undermines the credibility of prevention mechanisms.

3. Weak Institutional Frameworks

While some legal and institutional frameworks for preventing corruption exist, there is a lack of coordination among various bodies responsible for enforcement. Fragmented efforts, overlapping mandates and weak institutional capacity make it difficult to ensure comprehensive prevention across the public sector.

4. Cultural and Social Factors

Cultural and social factors also play a role in perpetuating corrupt behaviour. In some cases, there is societal tolerance for small-scale corruption, such as bribery, which is seen as a necessary means to navigate bureaucratic hurdles. Changing these attitudes and promoting a culture of zero tolerance for corruption is a long-term challenge.

C. Recommendations for Strengthening Preventive Measures

1. Strengthening Institutional Coordination

To ensure the success of preventive measures, it is important to strengthen coordination among various governmental institutions, including anti-corruption bodies, the public prosecution and the judiciary. A centralized mechanism for monitoring and evaluating anti-corruption efforts would help reduce gaps in enforcement and ensure that preventive measures are applied consistently.

2. Building Capacity in Key Institutions

Increasing investment in the training and development of anti-corruption professionals — such as auditors, investigators and public servants — is crucial to improving the effectiveness of preventive measures. Moreover, specialized capacity-building programmes should be developed to address emerging corruption risks, such as those related to digital transactions and e-governance.

3. Enhancing Public Engagement

The government should invest in public awareness campaigns that emphasize the importance of integrity, the costs of corruption and the benefits of a transparent public sector. Encouraging citizens to participate in anti-corruption efforts, such as reporting suspected wrongdoing, would create a more proactive and accountable society.

4. Strengthening Legal Protections for Whistle-Blowers

It is essential to ensure the full protection of whistle-blowers who expose corrupt practices. Strengthening whistle-blower protection laws, providing anonymous reporting mechanisms, and offering legal and financial protection for those who come forward can help foster a more transparent and accountable environment.

III. LEGAL FRAMEWORK FOR PREVENTION, INVESTIGATION AND PROSECUTION OF CORRUPTION IN PALESTINE

To combat corruption, Palestine has adopted a series of legislative measures aimed at preventing corrupt practices across public institutions. These legal instruments serve as the foundation for creating a transparent and accountable public sector.

A. Anti-Corruption Law No. 1 of 2005

The Anti-Corruption Law (Act No. 1 of 2005) is the primary legal instrument for combating corruption in Palestine. This law provides the framework for establishing the Palestinian Anti-Corruption Commission (PACC), which is tasked with investigating corruption-related offences, promoting transparency and developing preventive measures.

The law sets forth the duties and powers of the PACC, including the authority to receive reports of corruption, investigate complaints and oversee the implementation of anti-corruption measures across the public sector. Article 16 of the law provides specific provisions regarding financial disclosures, which public officials are required to submit. The failure to comply with this obligation is punishable by fines, with the penalty increasing for repeated offences.

B. Decree-Law on Combating Money-Laundering No. 20 of 2015

Decree-Law No. 20 of 2015 plays a critical role in strengthening anti-corruption efforts in Palestine by addressing financial crimes, including money-laundering and the financing of terrorism. Article 45 of the law outlines the mechanisms for international cooperation in tracing, freezing and seizing assets related to money-laundering and corruption crimes. This legal framework provides the basis for Palestinian authorities to collaborate with international counterparts, sharing information and coordinating efforts to combat financial crimes.

C. Public Sector Accountability Framework

The Palestinian public sector is also governed by a variety of laws and regulations aimed at ensuring transparency and accountability. This includes guidelines on financial disclosure for public officials and a framework for assessing conflicts of interest. The introduction of a whistle-blower protection regime, as per Decision No. 7 of 2019, also complements the legal landscape by offering protection to those who report corruption and misconduct.

IV. INSTITUTIONAL FRAMEWORK FOR INVESTIGATING AND PROSECUTING CORRUPTION

The institutional mechanisms for investigating and prosecuting corruption crimes in Palestine involve several key bodies, each with distinct mandates. The effectiveness of these institutions is paramount to ensuring that corruption is detected, investigated and prosecuted in a timely and impartial manner.

A. Palestinian Anti-Corruption Commission (PACC)

The PACC, established under the Anti-Corruption Law, is the leading agency responsible for combating corruption in Palestine. It has the mandate to conduct investigations, analyse corruption risks and advocate for preventive measures across the public sector. However, the PACC cannot prosecute crimes of corruption as that is an exclusive power of prosecution. The PACC has the power to protect reporting persons, witnesses, informants and experts. In recent years, the PACC has taken steps to strengthen its capacity for handling complex corruption cases, including through capacity-building programmes and international partnerships.

B. Public Prosecution Office

The Public Prosecution in Palestine plays a vital role in prosecuting corruption crimes. It is tasked with reviewing the investigations conducted by the PACC and making decisions on whether to bring charges against individuals suspected of corruption, i.e. prosecute for corruption crimes. The prosecution office operates within the framework established by the Criminal Procedure Code of 2001, which outlines the legal procedures for criminal investigations and trials.

C. The Judiciary

The Palestinian judiciary, namely, the Special Court of Corruption Crimes, is responsible for adjudicating corruption cases. Judges are required to act impartially and base their decisions on the evidence presented during the trial. However, the independence of the judiciary has been an area of concern, particularly regarding political influence in sensitive cases. Ensuring the autonomy of the judiciary is critical to upholding the rule of law and promoting fair trials in corruption cases.

D. Financial Follow-Up Unit

The Financial Follow-Up Unit, operating under the Palestinian Monetary Authority, is tasked with monitoring financial transactions and preventing money-laundering. It works closely with other agencies, including the PACC and the Public Prosecution, to trace illicit financial flows linked to corruption. The unit also collaborates with international financial intelligence units as part of its efforts to combat cross-border corruption.

V. CHALLENGES IN INVESTIGATING AND PROSECUTING CORRUPTION IN PALESTINE

Despite the legal and institutional frameworks in place, several challenges hinder the effective investigation and prosecution of corruption in Palestine.

A. Political Interference

One of the most significant challenges faced by Palestinian authorities in investigating corruption is political interference. Given the complex political environment, where the Palestinian Authority's institutions sometimes face pressure from political actors, investigations into corruption, especially those involving high-ranking officials, can be delayed or obstructed. This undermines the public's trust in the anti-corruption institutions and their ability to act independently.

B. Limited Resources and Capacity

While the Palestinian Anti-Corruption Commission and the judiciary have made progress, they still face limitations in terms of resources and capacity. The lack of specialized training and insufficient funding for anti-corruption activities have hindered the effectiveness of investigations. Additionally, limited technical resources to trace illicit financial transactions or carry out complex financial investigations present another barrier to effective prosecution.

C. Weak Enforcement of Financial Disclosure Regimes

Although Palestinian law requires public officials to submit financial disclosures, enforcement remains weak. Many officials fail to comply with the reporting obligations, and penalties for non-compliance are often not applied in a consistent or timely manner. The lack of transparency in the financial dealings of public officials exacerbates corruption risks and undermines the prevention efforts.

D. Jurisdictional and Legal Barriers

The legal framework in Palestine does not provide sufficient provisions for the direct enforcement of foreign asset recovery orders or for confiscation of illicit proceeds obtained through corruption crimes. Jurisdictional challenges also arise when dealing with cross-border corruption cases, especially when foreign entities are involved. The absence of comprehensive mutual legal assistance agreements limits the ability of Palestinian authorities to effectively collaborate with foreign counterparts in corruption investigations.

VI. RECOMMENDATIONS FOR IMPROVING THE INVESTIGATION AND PROSECUTION OF CORRUPTION CRIMES IN PALESTINE

To enhance the effectiveness of Palestine's efforts to combat corruption, the following recommendations are made:

A. Strengthening Institutional Capacity

1. **Resource Allocation:** Increase funding and resources for the Palestinian Anti-Corruption Commission, the judiciary and other relevant agencies. This will allow for more comprehensive investigations and the implementation of anti-corruption measures across the public sector.
2. **Capacity-Building:** Provide specialized training for investigators, prosecutors and judges in handling corruption-related cases, including complex financial crimes and cross-border corruption cases. Collaboration with international organizations such as the United Nations Office on Drugs and Crime (UNODC) and the World Bank can facilitate this.

B. Enhancing International Cooperation

1. **Bilateral and Multilateral Agreements:** Palestine should prioritize the negotiation and signing of bilateral and multilateral treaties for mutual legal assistance in criminal matters, particularly in relation

to corruption. These agreements would streamline information sharing, asset recovery and the enforcement of foreign judgments.

2. **Membership in International Networks:** Palestine should continue efforts to join global anti-corruption networks such as the Egmont Group of Financial Intelligence Units. This would enhance its capacity to trace and recover assets linked to corruption crimes.

C. Strengthening Legal Frameworks

1. **Enforcing Financial Disclosure Regimes:** Strengthen the enforcement of financial disclosure requirements for public officials, ensuring that penalties for non-compliance are consistently applied. Consider expanding the scope of financial disclosure to cover foreign accounts and other assets.
2. **Expanding Asset Confiscation Laws:** Amend Palestinian law to allow for the confiscation of assets obtained through corruption crimes, even in the absence of a conviction. This would prevent corrupt officials from benefiting from illicit gains and enhance deterrence.

VII. PUBLIC-PRIVATE PARTNERSHIP IN PALESTINE

Public-private partnerships (PPPs) can play an integral role in strengthening the fight against corruption. These partnerships involve collaboration between government entities and the private sector to improve transparency, prevent corrupt practices and support anti-corruption initiatives.

A. Role of the Private Sector

The private sector in Palestine can support anti-corruption efforts in various ways. Private businesses, financial institutions and civil society organizations have a crucial role in promoting transparency and ethical practices within their organizations. By adopting rigorous internal controls, adhering to anti-corruption standards and reporting suspicious activities, private entities can contribute to a broader anti-corruption strategy.

1. Financial Sector Collaboration

Banks and financial institutions can be key players in preventing money-laundering and financial corruption. They are in a unique position to detect unusual financial transactions and work closely with regulatory authorities to ensure compliance with anti-corruption laws.

2. Corporate Social Responsibility (CSR)

Through CSR programmes, businesses in Palestine can foster a culture of integrity and transparency. Companies can engage in training programmes, support whistle-blower protection and advocate for anti-corruption measures within their supply chains.

3. Cooperation in Government Procurement

The private sector can help monitor public procurement processes by ensuring that government contracts are awarded based on merit and free from corrupt practices. This can be achieved through independent oversight mechanisms and collaboration with the government to ensure accountability.

B. Challenges in Public-Private Partnerships

While the private sector can be a valuable partner in anti-corruption efforts, several challenges hinder effective collaboration:

1. Lack of Trust

A significant barrier to effective public-private cooperation is the lack of trust between the government and the private sector. Business entities may be wary of working with government institutions due to fears of retaliation, corruption within public offices or political instability.

2. Limited Capacity

Many private entities in Palestine lack the capacity to engage fully in anti-corruption initiatives. They may not have the necessary resources, expertise or training to identify and prevent corruption risks within their operations.

3. Legal and Institutional Gaps

There is a lack of clear legal frameworks that outline the responsibilities and incentives for private companies to participate in anti-corruption initiatives. Additionally, the absence of effective mechanisms for public-private collaboration, such as joint task forces or committees, limits the potential for meaningful partnership.

C. Recommendations for Strengthening Public-Private Partnerships

To enhance the effectiveness of public-private partnerships in Palestine, the following recommendations should be considered:

1. Legal Framework for PPPs

Palestine should establish clear regulations that outline the roles and responsibilities of private entities in anti-corruption efforts. These regulations should incentivize businesses to adopt ethical practices and report corruption, while ensuring protection for whistle-blowers.

2. Building Trust Between Sectors

Initiatives aimed at building trust between the public and private sectors should be prioritized. Regular dialogues, joint workshops and shared anti-corruption objectives can help foster a cooperative environment.

3. Enhancing Capacity-Building

Capacity-building initiatives are essential for both public and private institutions. Training programmes focused on anti-corruption strategies, financial monitoring and legal compliance should be introduced to enhance the capabilities of all stakeholders.

4. Incentivizing Corporate Compliance

The government should offer incentives, such as tax breaks or certifications, to companies that demonstrate strong anti-corruption practices. Public recognition of ethical businesses could also encourage others to follow suit.

VIII. CONCLUSION

The fight against corruption in Palestine, like in many other countries, is a multifaceted challenge that requires strong institutional frameworks, effective legal instruments and comprehensive international cooperation. While significant strides have been made in establishing a legal foundation for anti-corruption efforts in Palestine, many challenges persist in the areas of prevention, investigation and prosecution. The key to overcoming these challenges lies in continuously strengthening the institutional capacities of relevant bodies, enhancing the transparency of government operations and ensuring that anti-corruption measures are applied consistently and effectively.

As outlined in this paper, Palestine has established several legal instruments and institutions that are designed to prevent, investigate and prosecute corruption crimes. The Anti-Corruption Commission (PACC) plays a central role in investigating corruption cases and overseeing the implementation of the anti-corruption laws. The enactment of laws such as Decree-Law No. 20 of 2015 on Combating Money Laundering and Terrorism Financing, and the Cybercrime Law No. 10 of 2018, reflects Palestine's commitment to aligning its legal framework with international anti-corruption standards. These laws are critical for fostering transparency, regulating financial flows and enhancing the capacity of law enforcement agencies to handle complex corruption cases, particularly those with transnational dimensions.

The establishment of a public-private partnership (PPP) model is another vital component in combating corruption. Engaging the private sector, civil society and international organizations in anti-corruption efforts

provides a robust platform for sharing resources, expertise and information. Through PPPs, Palestine can increase its outreach and collaboration with international partners, such as the Egmont Group and various regional financial intelligence units, to ensure that corruption cases are investigated and prosecuted in accordance with global standards. These partnerships also allow for better resource allocation, which can help overcome financial and capacity-related limitations in the public sector.

However, the full potential of these efforts has yet to be realized. Several systemic barriers continue to hinder the effectiveness of corruption investigations and prosecutions in Palestine. The lack of judicial independence, political influence and the inadequacy of enforcement mechanisms undermine the credibility and reliability of anti-corruption institutions. Furthermore, challenges related to the lack of coordination between domestic agencies and the limited use of international cooperation tools for asset recovery remain significant obstacles to effective anti-corruption strategies. These issues have led to a situation where many corruption cases, particularly those involving senior officials, remain unresolved, contributing to a climate of impunity and public distrust in the judicial system.

VIII. CASE-STUDY: FORGERY AND MISREPRESENTATION BY THE DEFENDANT IN MUNICIPAL PAPER

In this case, the defendant was involved in a legal matter concerning a municipal document that contained forged information. The defendant, who was associated with the land in question, had authorized a municipal paper which stated that a 3000 square metre plot of land belonged to him. The document, dated 2016, bore an official municipal stamp, marked with the inscription “Palestinian Authority.”

However, this document raised immediate concerns due to the presence of the “Palestinian Authority” stamp. In 2012, all municipalities across Palestine had officially switched their stamps from “Palestinian Authority” to “State of Palestine” in alignment with the political changes and institutional reforms. This discrepancy pointed to the possibility of fraud, as the document presented a stamp that was no longer in circulation at the time it was supposedly issued.

To address these concerns, the municipal paper was sent for forensic analysis. The analysis confirmed that the document was indeed a forgery. The forensic report highlighted that the defendant had likely manipulated the document to falsely assert ownership of the land, using a stamp that was outdated and no longer valid for official documents.

Following the forensic findings, the case was referred to the Corruption Crimes Prosecution. The prosecution pursued charges against the defendant based on the evidence of forgery and fraudulent misrepresentation. After presenting the evidence in court, the verdict resulted in a conviction, affirming that the defendant had committed a crime by forging an official municipal document in an attempt to unlawfully claim ownership of the land.

This case underscores the importance of maintaining proper legal and administrative procedures in municipal governance, as well as the role of forensic analysis in uncovering criminal activities, particularly in cases involving forged official documents. The conviction serves as a deterrent against the use of fraudulent practices in the legal and real estate sectors, reinforcing the need for transparent and accurate public records.

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