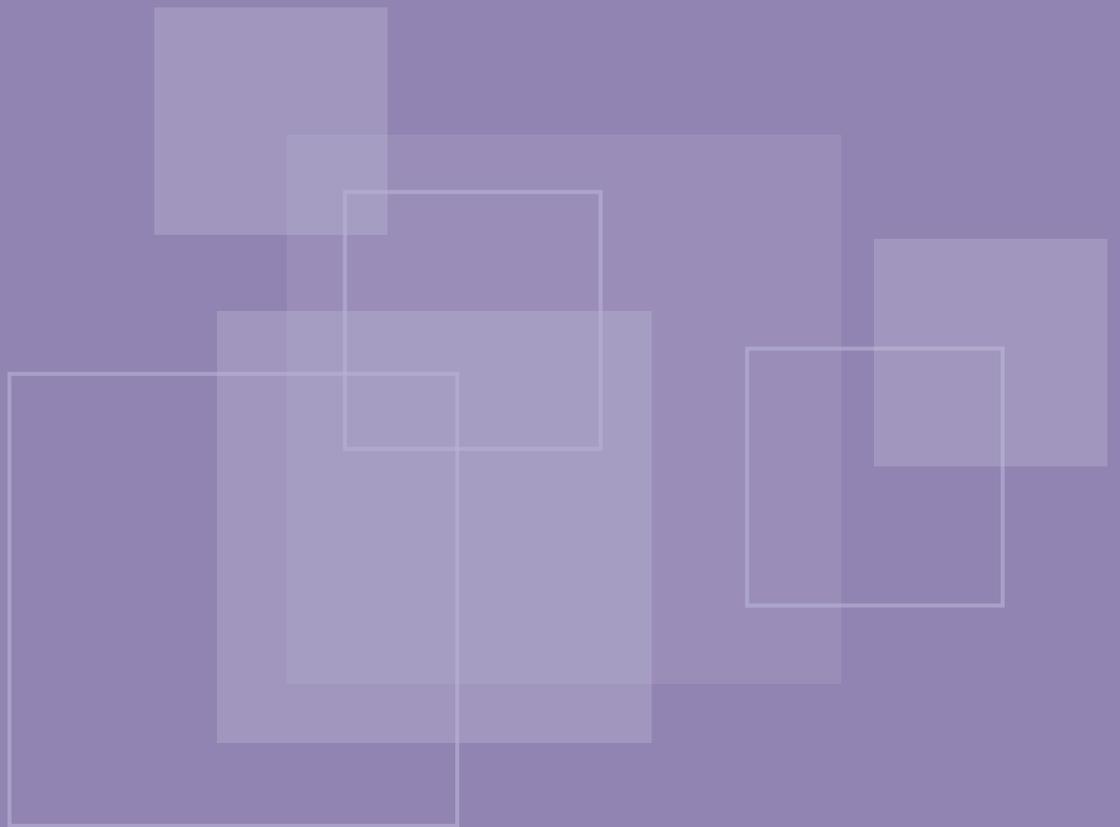


Mapping the Palestinian Complaint-Handling System



DCAF

a centre for security,
development and
the rule of law

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Ramallah and Geneva, November 2015



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About DCAF

The Geneva Centre for the Democratic Control of Armed Forces (DCAF) is an international organisation dedicated to assisting states – both developed and emerging democracies – in advancing good security sector governance, within a democratic framework and in respect of the rule of law. DCAF provides in-country advisory support and practical assistance programmes to states that seek to strengthen governance of their security sector. DCAF works directly with national and local governments, parliaments, civil society, international organisations and defence and security forces.

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- the Palestinian Legislative Council;
- the Independent Commission for Human Rights (ICHR);
- the State Audit and Administrative Control Bureau (SAACB);
- the Anti-Corruption Commission (ACC);
- the Ministry of Interior;
- the Civil Police;
- the General Intelligence;
- the Military Intelligence;
- the Preventive Security;
- the National Security Forces.

Introduction

Complaints mechanisms help citizens report mistreatment and abuses of power. They also allow government institutions to receive feedback on their work and actions. They thus act as a rare point of contact and feedback between citizens and their government or security forces. By receiving, addressing and investigating individual complaints, this system helps to prevent human rights abuses, eliminate malpractice and contribute to overall good governance.

Why are complaints mechanisms for the security sector important?

A key element of good governance of the security sector is accountability. Security forces that can receive and respond to complaints from their citizens will be more effective, more respected, and less likely to commit human rights abuses.

An effective complaints mechanism can also provide a safe opportunity for citizens and beneficiaries to raise valid concerns about the security sector. These concerns can lead to genuine improvements in the security sector's service delivery. Effective complaints mechanisms thus benefit both the administration and the citizen.

Complaints mechanisms usually receive requests that concern:

- any action, lack of action or decision that is unfair, unlawful or seen to do wrong;
- access to information - for example the impact of projects, procurement procedures, human resource issues, customer relations, etc.¹;

- any aspect of the planning, implementation or impact of government projects;
- treatment by government officials that is seen as unfair or obstructive.

The complaints system compliments the judicial system, not replace it. The mandates of the two should not overlap. Whereas the judicial system can issue punishments and force the redressing of grievances, the complaints system usually has no power beyond the decisions of the organisation in question.² However, it is easier for citizens to access the complaints system for two reasons:

1. its services are generally for free; and
2. the citizen can approach the complaints system directly to solve his/her issue.

Table 1 gives examples of when a complaint should be handled either by a complaints mechanism or by the court system:

¹ In Palestine, there is no access to information law (although, as of the date of publishing this report, a draft law on access to information was being reviewed by the Council of Ministers). Thus, the Palestinian complaints system does not handle complaints related to this right.

² In Palestine, the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009* clearly defines the relationship between the complaints system and the judicial system. It specifies that complaints bodies working under its jurisdiction are not allowed to receive complaints already filed at courts.

Table 1

Complaints mechanism	Judicial authority
A delay in processing a new passport	An illegal confiscation of a passport
The social or environmental impacts of a government project	A government project which severely harmed health or property of a person, and for whose damages compensation should be paid
Rude or insulting treatment by the police	Violent, abusive or clearly criminal treatment by the police
A human resources issue (concerning an employee)	An illegal dismissal from a government position
Refused access to information (government documents, etc.)	A situation in which access to information is being denied illegally

The Palestinian complaint-handling system

The complaints system plays an ‘oversized’ role in the Palestinian accountability system. The main accountability role should be played by the parliament. However, due to the lack of a functioning Palestinian parliament since 2007, citizens increasingly use the complaints system.

The system also suffers from extraordinary complexity. A myriad of different institutions have complaints units that perform often widely different functions, but with mandates that frequently overlap. Therefore, various complaints mechanisms at different levels are tasked with handling the same complaints. Roughly every ministry and security force has at least one complaints unit, but there is little coordination between any of them. In addition, there are some other units that are also mandated to handle complaints, such as legal departments or internal oversight units.

The legal framework for complaints mechanisms is also unclear, and also does not provide complaints units with necessary powers (e.g. to enforce their decisions).

For all these reasons, Palestinian citizens’ complaints addressing key issues related to human rights, maladministration or abuse of power remain very often unsolved. This eventually leads to people’s distrust in the

authorities and widens the gap between Palestinian citizens and their government.

Purpose of this report

Since 2009, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) has assisted Palestinian authorities in the West Bank³ with improving the existing system for handling citizens’ complaints.

Recently DCAF was tasked by its partners to support a platform for all complaints mechanisms, and examine the coordination between these bodies. The first step was to establish a clear understanding of how the current system functioned, what the institutions involved were, and what legal or regulatory texts they were based on.

DCAF gathered the data with the help of the Council of Ministers, and all the relevant complaints mechanisms in the security sector, including those in civil society and the media. This report presents a comprehensive legal and institutional mapping of the system.⁴

³ DCAF could not complete the same process in the Gaza Strip due to the difficulty of accessing that area. Therefore, this report mentions only those mechanisms that are functioning in the West Bank.

⁴ The Palestinian judicial system has its own internal mechanisms for handling complaints received against it. However, these mechanisms are out of this reports’ scope in order to avoid any confusion between the complaints system and the judicial system.

It intends to serve two main purposes:

1. to provide Palestinian citizens with relevant information on the existing complaint-handling institutions, their legal basis, and mandate; and
2. to provide Palestinian stakeholders involved in reforming the complaint-handling system with a comprehensive overview of the system, its opportunities, overlaps and potential deficiencies.

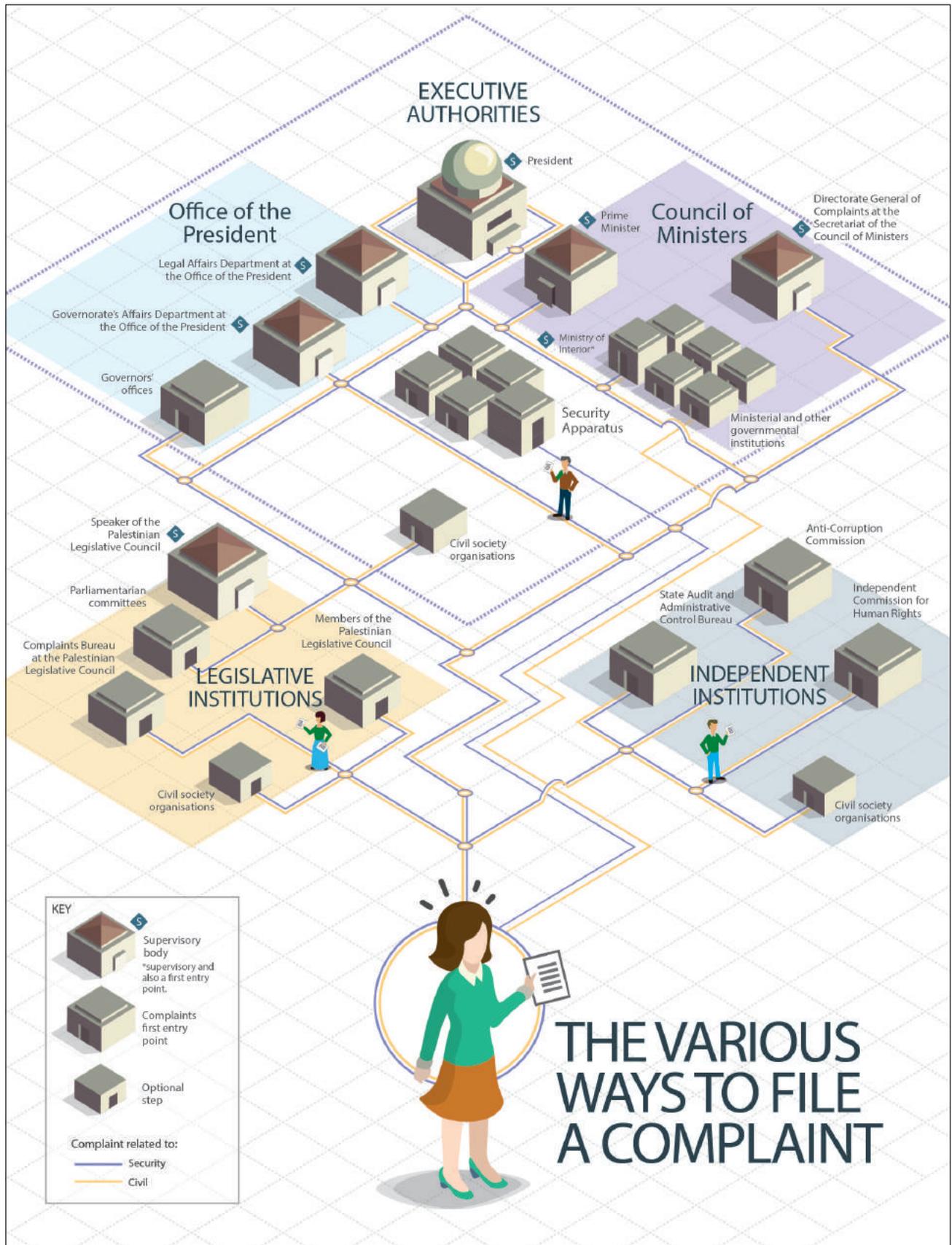
Filing a complaint in the Palestinian system

When filing a complaint, Palestinians have a large number of complaints units from which to choose. The existence of a multitude of complaint-handling institutions can be seen positively. Very few countries in the region or beyond have as many units that receive citizens' complaints as Palestine. Yet, this also leads to confusion. Very often, there are no clear criteria guiding the citizen's as to which complaints unit they should choose (see chart 1, below). As a result, Palestinian complainants often submit the same complaint to several institutions in the hope that one of them will be successful in solving their complaint. The resulting overload of the system is eventually likely to lead to a dilution of responsibilities and a lack of accountability.

DCAF has observed that citizens choose the institution to which they submit their complaint based on the following criteria:

- 1. The institution responsible for the suspected wrong behaviour:** for instance, if a complaint is directed against a particular ministry, citizens often choose to approach the corresponding ministerial unit. Similarly, if the complaint is directed against the governor's office or any person or institution depending thereof, the complainant might find it more advantageous to approach a complaint-handling staffer at the governor's office.
- 2. The degree of confidence the citizens have in the complaint-handling institution:** in many cases, citizens do not have great trust in the ability of the complaint-handling institution to solve the complaint. Therefore, they submit the same complaint to several authorities, in the hope of maximising the chances of seeing their complaint solved. They do so either directly or through the intermediary of third party organisations, such as influential community members, members of the Palestinian Legislative Council (PLC), independent public bodies, and civil society or media organisations.
- 3. The proximity of the complaint-handling institution:** Since not all complaint-handling institutions are present in all governorates, citizens might have to approach the only available institution in their governorate or municipality.

Chart 1: The various ways to file a complaint



Overview: Mapping Palestinian complaint-handling institutions

This chapter presents an overview of the Palestinian complaint-handling system. The institutions which have complaint-handling structures related to security issues fall under the following categories:

1. executive authorities;
2. legislative authorities;
3. independent public institutions;
4. security forces;
5. civil society organisations and the media.

The following sections contain an overview of the complaint-handling mechanisms in place for each of these categories and describe their opportunities and challenges as well as the legal framework that regulates their work.

Some of the institutions that are classified under independent public institutions, e.g. the State Audit and Administrative Control Bureau (SAACB), are in fact part of the executive authorities. They are classified in a separate category in order to highlight their oversight role over other executive authorities.

Annex 1 provides a full overview of the mechanisms, including their detailed legal references and the procedures they follow in handling complaints.

1. Complaint-handling institutions managed by the executive authorities

Overview

Palestinian executive authorities have established an internal system for handling citizens' complaints. This system consists of the following two main tracks:

1. **Governmental complaints units deal with citizens' grievances against the various Palestinian ministries and other governmental institutions** under the

umbrella of the Directorate General of Complaints at the Council of Ministers. Some of the ministerial and other governmental institutions run complaints units/offices both in Ramallah and in the governorates.

2. **Legal departments at the governors' offices handle citizens' complaints in the governorates** under the authority of the Legal Affairs Department and the Governorates' Affairs Department at the Office of the President.

How many complaints units are there?

In the West Bank, the complaints structure at the executive authorities umbrella consists of:

- the Directorate General of Complaints at the Council of Ministers;
- the Legal Affairs Department and the Governorates' Affairs Department at the Office of the President;
- 19 ministerial complaints units in the West Bank;
- 11 other governmental complaints units; and
- 11 legal departments at the governors' offices.

The legal framework

The *Amended Basic Law of 2003* outlines the powers and duties conferred to the President and the Council of Ministers as the two main entities of the executive authorities (art. 34-46 and 63-96 respectively).

The regulatory framework for complaint-handling under the supervision of the Council of Ministers and the various governmental institutions, ministerial and other institutions, consists of a decision issued by the Council of Ministers, which is the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*, articles 2 & 8.

The legal framework for complaint-handling mechanisms under the supervision of the Office of the President and the Governors' offices consists of a combination of the following two legal texts (one of which predates the establishment of the Palestinian National Authority in 1994):

- *Jordanian Regulation No. 1 of 1966 on Administrative Formations*, article 11; and
- the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*, article 8.

In 2009, the Legal Affairs Department at the Office of the President signed a memorandum of understanding with the Directorate General of Complaints at the Council of Ministers. One of the aims of concluding this memorandum was to coordinate the complaint-handling work of both parties.

Opportunities and challenges

Opportunities

- Every ministry, other governmental institutions, and governors' office has a complaints unit, meaning that citizens can directly complain to the most appropriate institution.
- Ease of access: the number of complaints units in different local governorates makes it easier for citizens to access these unit.

Challenges

- The *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009* suffers from gaps that restrict the role of these bodies in handling citizens' complaints.
- The jurisdiction of the regulations is unclear: the main legal framework that regulates the complaints system at the governorates issued by the Council of Ministers. However, as the governorates report directly to the Office of the President, it is unclear to what extent these regulations apply. To overcome this issue, the governorates and the Council of Ministers have signed a memorandum of understanding, but this offers a weak basis for cooperation.

- Some executive authorities have more than one unit that receives and handles citizens' complaints, which can lead to confusion.
- Some governmental institutions did not apply the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*, and refused to establish complaints units.

2. Complaint-handling mechanisms of the legislative authorities

Overview

The Palestinian Legislative Council (PLC, the Palestinian parliament) has two formal and one informal mechanism for handling citizens' complaints. The first two mechanisms are outlined in article 102 of the *Bylaw of the Palestinian Legislative Council of 2003*, whereas the third function is of customary nature. These three mechanisms are:

1. the Complaints Bureau at the PLC (*formal*);
2. the 14 parliamentary committees (*formal*); and
3. any of the 84⁵ members of parliament (*customary/informal*).⁶

It is important to note that none of these parliamentary mechanisms are like the independent parliamentary ombuds institutions or commissioners that exist in other parliamentary democracies. Parliamentary ombuds institutions in certain European countries have specific oversight functions over state institutions, such as the armed and security forces.⁷ In the Palestinian case, the existence of these parliamentary complaint mechanisms is rather based on the PLC's representative role

⁵ The total number of PLC members is 132 members. 84 of them live in the West Bank, 48 in the Gaza Strip.

⁶ 'Customary' or 'informal' means that this function is not defined in law, and nowhere is it decreed that Parliamentarians must handle citizens complaint. In practice however, doing so is a basic task of a democratically elected official.

⁷ For a specific overview of those institutions, see Buckland, Benjamin S. and William McDermott, *Ombuds Institutions for the Armed Forces. A Handbook*. Geneva: DCAF, 2012 (<http://www.dcaf.ch/Series-Collections/DCAF-Handbooks>), p. 31.

than on its oversight function. As the parliament has been paralysed since 2007, none of the three above-mentioned mechanisms carries out independent investigations.

The legal framework

The *Amended Basic Law of 2003* establishes the PLC (art. 47) and outlines the powers, rights and duties of its members and special committees with regards to interpellations (art. 56-57) as well as investigations and fact-finding (art. 58).

The PLC's functions of complaint-handling are based on articles 75-80 and 100-104 of the *Bylaw of the Palestinian Legislative Council of 2003*.

Articles 75-80 of this bylaw outline the conditions that apply to interpellations of PLC members. In theory, any PLC member can use these powers to make an enquiry or interpellation based on a complaint received from a citizen. The enquiry can be related to any subject of interest to the member and can be used to:

- a. verify the occurrence of an event;
- b. or to clarify procedures that were taken or should be taken.

The PLC member submits the enquiry in written to the PLC Speaker who then forwards it to the relevant minister.

Articles 100-104 of the bylaw outline the procedures for handling complaints submitted to the PLC as an institution. The PLC Speaker is responsible for handling incoming citizens' complaints, and he/she may refer them to the relevant parliamentary committee, in case the complaint is related to a matter that was previously referred to a specific committee. The Complaints Bureau then examines the complaint. It clarifies in its report to the PLC Speaker its recommendations regarding the complaint. It also states if complaints should be transferred to the Council of Ministers or the relevant parliamentary committee or they should be rejected. The PLC Speaker has the authority to ask the ministers for clarifications regarding complaints referred to them. He also has the obligation to inform the complainant about the procedure taken.

Opportunities and challenges

Opportunities

- Ease of access: this system is easy to access for citizens. Most PLC members have offices in their governorates. Therefore, citizens can easily contact a member of parliament and submit a complaint for transmission to the Complaints Bureau or the PLC Speaker.
- The citizens can choose to which PLC member they wish to submit their complaint.

Challenges

- The immobilisation of the PLC since 2007 affects its efficiency and capacity to solve complaints.
- The legal framework for the complaints work of both the parliamentary Complaints Bureau and the parliamentary committees is not sufficiently developed.
- The lack of a clear regulatory framework for parliament members hinders the transparent and efficient handling of complaints.

3. Independent public institutions with complaint-handling mandates

The Palestinian government includes institutions which are funded from state funds, but are structurally independent from the executive authorities. Many of the public institutions have complaint-handling departments. These departments mainly deal with administrative complaints in their fields of service provision. The following three institutions are most involved in addressing citizens' grievances related to the behaviour of security forces or other security-related issues.

a) The Independent Commission for Human Rights (ICHR)

Overview

The main mandate of the ICHR, according to its legal basis, is to ensure that human rights

are integrated and respected in Palestinian legislation and the work of public administration. In extension of this mandate, ICHR also acts as a general ombuds institution. The ICHR receives citizens' complaints of all kinds, with a strong focus on human rights abuses, arbitrary arrests and detention.

After receiving complaints, the ICHR refers them to the relevant public institution. It follows up on the referred complaints and makes sure to get a reply. Moreover, the ICHR visits Palestinian prisons and rehabilitation centres and receives the complaints of the prisoners. These are in its annual report. This report also reflects on the responsiveness of various Palestinian institutions to referred complaints.

Despite being a public institution, only five percent of the ICHR's budget is covered by public funds. The remaining 95% is covered by five external donors.⁸ This weakens its position as an independent institution, as its budget is not guaranteed by law. It is also unusual for a public institution to be funded externally, and could lead to accusations that it is being steered by its donors.

The legal framework

The ICHR was established in 1993 by *Presidential Resolution No. 59 of 1993* issued by late President Yasser Arafat. The *Amended Basic Law of 2003* then provided for the establishment of an independent human rights commission (art. 31). The next natural step would have been to draw the line between these two texts, and further define the ICHR's mandate, by writing a founding law for the ICHR which could be passed by the PLC.

However, the existing draft law for the ICHR has so far not been adopted by the PLC or enacted by the President. Therefore, the legal basis for ICHR's work is weak. Until today, the governance and functioning of the ICHR is mainly defined by its internal regulations.

⁸ Karlstedt, Cecilia et al., *External Evaluation of the Palestinian Independent Commission for Human Rights (ICHR), Final Report*, 6 May 2013, p. i.. The five donors are: the Swedish International Development Cooperation Agency (SIDA); the Swiss Agency for Development and Cooperation (SDC); the Netherlands Representative Office; the Royal Danish Representative Office; the Representative Office of Norway to the Palestinian Authority.

Opportunities and challenges

Opportunities

- The ICHR is well-known to Palestinian citizens and has gained their trust.
- It is relatively accepted by authorities which enables ICHR to have access to the institutions, e.g. through regularly announced visits to Palestinian detention facilities.

Challenges

- The ICHR's legal basis is weak.
- Despite the authorities' relative acceptance of ICHR's role, its impact remains limited and its recommendations are non-binding.
- It is dependent on funding from international donors.
- Its ombuds function is contested. Due to the absence of a clear legal framework, not all governmental and non-governmental institutions recognise ICHR's complaint-handling work as legitimate.

b) The State Audit and Administrative Control Bureau (SAACB)

Overview

As the Palestinian public audit bureau, SAACB receives citizens' complaints related to maladministration and abuses of power within Palestinian institutions, including the security forces. SAACB employees are granted the status of judicial police, which in principle allows them to pay announced and unannounced visits to any of the Palestinian public institutions.

In practice, however, SAACB is not performing its defined authorities. Furthermore, its independence is regularly contested since the head of the SAACB is appointed by the Palestinian president.

The legal framework

SAACB has a solid constitutional and legal basis. It enjoys independent juridical personality and exercises financial and administrative audit and

control over all ministries, public institutions, security institutions, and non-governmental organisations.

The SAACB was formally created by regular legislative process via the *Law of the State Audit and Administrative Control Bureau No. 15 of 2004*. This law clearly outlines the scope of the bureau's functions and mandate. Article 23 (11) of the law grants the SAACB the power to '[d]iscuss citizen complaints related to contraventions or negligence in the performance of public functions and obligations and to study those complaints or investigative reports published through various media outlets which may address aspects of negligence, malfeasance, malpractice, or mismanagement'.

Opportunities and challenges

Opportunities

- The SAACB has a strong legal basis.
- Its employees enjoy the status of judicial police.
- By law, SAACB has unlimited access to documents and premises.

Challenges

- Its political independence can be questioned.
- The SAACB is not an active stakeholder in the complaints system. It does not have a practical role in handling complaints.
- The SAACB's role in handling complaints is not known to citizens.

c) The Anti-Corruption Commission (ACC)

Overview

The ACC was established in 2011. This development which was very much welcomed by the international donor community, as they wanted to ensure that the funds they granted the Palestinian authority were being spent correctly.

The ACC has a strong mandate to handle complaints related to corruption. The

commission has judicial powers which allow it to have access to institutions, including security institutions, and to examine their files if deemed necessary to investigate a complaint. In addition, the head of the commission can file complaints to the Anti-Corruption Court in case investigations show that there are grounds for legal action.⁹

The Commission can investigate cases that are referred to it by other institutions, such as the PLC. It also receives complaints from citizens directly if they focus on maladministration and corruption. The ACC's legal department receives complaints against all public institutions, including the security institutions. It also receives complaints against all Palestinian senior officials, including the president, ministers, PLC members, judges, governors, and commanders of security forces.

The legal framework

The ACC has a very strong legal basis in the *Law No. 1 of 2005 concerning Illegal Gains*. Moreover, this law was passed and voted into law by the PLC. It was amended in 2010 by the *Decree Law No. 7 of 2010 concerning the Amendment of the Law on Illegal Gains No. 1 of 2005*, issued by President Mahmoud Abbas. Article 6 of the *Decree Law No. 7 of 2010* assigns the role of appointing the commission's chairman to the Palestinian president. Article 9 (1) stipulates that ACC shall receive complaints related to corruption offences and investigate them. Items (2-9) of the same article outline ACC's extensive powers, such as investigation, prosecution, witness summoning, access to data, seizure of properties, launching of independent investigations, etc. The *Decree Law* also guarantees the protection of the complainants (article 11). In addition, its recommendations are binding, since ACC's head has the authority to file the complaints to the Anti-Corruption Court (article 13).

⁹ The Court was established in order that the Commission did not have to file proceedings through the regular court system, which can be slow.

Opportunities and challenges

Opportunities

- ACC has strong legal basis.
- Its employees enjoy the status of judicial police.
- By law, ACC has access to documents and premises.
- The commission's recommendations are binding.

Challenges

- Once the complaint is filed at the Anti-Corruption Court, procedures can be slow.
- Complainants do not receive responses. The *Law No. 1 of 2005* stipulates that the complaint-handling procedures are confidential and cannot be published, unless decided differently by a court decision (article 22).

4. The Palestinian security forces

Overview

The Palestinian security sector consists of numerous forces and a number of other official security institutions that support the forces' work. All the security forces have established internal complaints mechanisms by either

- setting up a complaints unit;
- assigning a complaints officer; or
- integrating complaint-handling into the mandate of their legal departments.

Besides these internal mechanisms, the complaints unit at the Ministry of Interior also receives complaints against the Police and the Preventive Security.

The effectiveness of these mechanisms varies greatly. In general, some of the complaints mechanisms at the security forces play an important role in the Palestinian complaint-handling system. These include:

- **The Civil Police**

The Civil Police have a Grievances and Human Rights Department. This office, which

is known as the 'police ombudsman office' is part of the police's operational structure. It is therefore not an independent ombuds institution for the police as it might be the case in other countries, for example in Northern Ireland.¹⁰

- **The General Intelligence, Military Intelligence and Preventive Security**

In 2012 and as a direct result of the consultations conducted by DCAF and the Council of Ministers, these three forces formally appointed complaint-handling staffers. Since then, they have developed their complaints mechanisms further. The General Intelligence established a complaints department which reports directly to the Inspector General. The Preventive Security and the Military Intelligence added complaint-handling to the responsibilities and duties of their legal departments.

- **The National Security Forces**

Complaints submitted to the National Security Forces are received and handled directly by the Office of the General Commander of the National Security Forces.

In general, the Palestinian security forces handle two types of complaints:

1. **Internal complaints** filed by officers of the security forces against their peers or superiors.
2. **External complaints** filed by:
 - a) the complainant directly;
 - b) independent public institutions, mainly the ICHR;
 - c) civil society; or
 - d) other third party intermediaries.

Internal complaints usually concern:

- **disciplinary issues**, such as cases of abuse of power by superiors;

¹⁰ See: *International References for the Establishment of Ombuds Institutions. Compilation of Reference Texts*. Geneva: DCAF, 2010, p. 62.

- **financial issues**, such as the non-payment of salaries or retirement compensations by the hierarchy; and
- **career issues**, such as the lack of promotion of officers to higher military ranks.

External complaints usually concern:

- **general human rights issues**, such as cases filed against security officers for violations of human rights;
- **detention issues**, such as cases filed by relatives of detainees who are abused or kept isolated from their relatives; or
- **administrative issues**, such as cases of mismanagement or corruption.

In practice, the complaints mechanisms at the Police, the General Intelligence, the Preventive Security and the National Security Forces only accept complaints against their own apparatus. The complaints units at the Ministry of Interior receives complaints against its own institution, but also against the Police and the Preventive Security.

The legal department at the Military Intelligence can receive complaints against all security forces. This 'supervisory' role increases the oversight of the security forces. However, it also creates an overlap between all of them, especially if a citizen files the same complaint at several institutions.

The legal framework

None of the laws specifically regulating the security forces entitle the forces to handle complaints, either from citizens or from their own officers.

In order to address this, the security forces established their complaints mechanisms in light of the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*. However technically this regulation applies only to the civilian sector. Article 8 (1) stipulates that "specialised units shall be composed in government institutions," and item (3.1) of this article states that the head of these units must be a 'civil servant'.

In practice, the power of the security forces to handle complaints depends on the apparatus

itself. For instance, the complaints department at the General Intelligence has the authority to investigate the complaint, to question the officer in charge, and to access all needed internal documents. The Inspector General sends the recommendations of the complaints department directly to the Commander General of the General Intelligence¹¹ This is also the case for the Grievances and Human Rights Department at the Police.¹²

Opportunities and challenges

Opportunities

- Citizens can complain directly to all the security forces, as all have functioning units.

Challenges

- Some of the complaints units at the security forces are not always transparent about their work.
- The lack of a clear legal framework for complaints mechanisms at the security forces leads to an overlap between their roles and responsibilities.
- The coordination and reporting lines between the units is unclear. Some report to the Ministry of Interior, others report directly to the President in his capacity as the Supreme Commander of the security forces.

¹¹ Presentation conducted by the head of the Complaints Department at the General Intelligence during one of the DCAF complaints sessions within the framework of the project "Strengthening Civilian Oversight over Palestinian Complaints Mechanisms within the Executive Agencies and Service Providers." 18 November 2015, Grand Park Hotel, Ramallah.

¹² Presentation conducted by the head of the Grievances and Human Rights Department at the Palestinian Police during one of the DCAF complaints sessions within the framework of the project "Strengthening Civilian Oversight over Palestinian Complaints Mechanisms within the Executive Agencies and Service Providers." 18 November 2015, Grand Park Hotel, Ramallah.

5. Civil society organisations and the media

Overview

The role played by civil society and media in the complaints system is important for those who are afraid of approaching the public authorities - especially the security forces - directly. Many also use the media as a 'last resort', if they have been unable to have their complaint resolved by the authorities.

Civil society organisations (CSOs)

Many Palestinian civil society organisations have begun to receive complaints from citizens and to follow up on them with official authorities. Civil society organisations transfer the complaint to the institution concerned, without verifying whether it is true or not. Once they receive the reply, they forward it to the complainant. Thus, civil society and media organisations play more and more the role of intermediaries between citizens and the official authorities.

Some of these organisations focus on specific types of complaints, such as complaints related to detention or human rights abuses. Al-Haq, a human rights organisation, was the first civil society organisation to do so, followed by others such as the Palestinian Centre for Human Rights, the Coalition for Accountability and Integrity (AMAN) and the Palestinian Centre for Development and Media. Some of these organisations spend most of their budget on this issue.

Media

During the past two years, local media have become more interested in complaints. They have started reporting on citizens complaining about the performance of governmental institutions or unresolved issues within an administrative body. For example:

- In 2012, Wattan TV established its programme *Ashkilamen* ('To whom shall I complain?'). The programme presents cases of citizens specifically complaining about security sector institutions.¹³

¹³ For more information about the programme and to watch its episodes in Arabic: <http://www.wattan.tv/wattan-tv/81052.html?q=about>.

- Ajial Radio developed a radio programme called "Radio Ombudsman" which publicises citizens' complaints to public institutions.

Although the role played by media is very important, it is usually not done in a systematic way. Furthermore, the media don't have the capacity to follow up on complaints voiced on airwaves. Moreover, the power of civil society organisations and media to advocate for complaints or to put pressure on public authorities is weak.

Box: Strengthening relations between ombuds institutions and civil society organisations

International standards for national ombuds and human rights institutions stress the importance of reinforcing the relations with civil society organisations.

"In view of the fundamental role played by the non-governmental organisations in expanding the work of the national institutions, [National Human Rights Institutions shall] develop relations with the non-governmental organisations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialised areas."

Source: UN Principles relating to the status of national institutions (Paris principles), available at: <http://www.un.org/documents/ga/res/48/a48r134.htm>.

The legal framework

The work of civil society organisations is regulated by *Law No. 1 of 2000 concerning Charitable Associations and Civil Society Organisations*. This law does not mention role of civil society organisations in the complaints system, but neither does it forbid it. It allows every association to issue its own internal bylaws, leaving room for CSO to receive and transmit complaints.

Most public institutions are legally required to accept complaints transmitted by CSO in

article 6 of the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*. This stipulates that the public administration shall handle complaints presented by civil society organisations against the performance of the government and its subordinate institutions. This is the only reference to the mandate of civil society organisations in complaint-handling.

However, the Anti-Corruption Commission (ACC) is unique among the public institutions as its legal mandate prevents CSOs from handling corruption related complaints. Article 8 (3) of *Law No. 1 of 2005 concerning Illegal Gains* provides that the commission shall be competent to “investigate complaints which are filed with reference to illegal gains.” Therefore, the ACC has a monopoly over handling corruption-related complaints. It can even be risky for civil society organisations to receive complaints in this regard. If investigators find out that a complaint is false and criminal proceedings are brought against the complainant, the CSO itself might be subject to criminal proceedings.

The role of media in publishing citizens’ complaints is only mentioned in article 23 of the *Law of the State Audit and Administrative Control Bureau No. 15 of 2004* which defines SAACB’s responsibility to ‘[d]iscuss citizen complaints relating to contraventions or negligence in the performance of public functions and obligations and to study those complaints or investigative reports published through various media outlets which may address aspects of negligence, malfeasance, malpractice, or mismanagement’.

Opportunities and challenges

Opportunities

- Citizens trust many civil society organisations more than public institutions. Thus, they often prefer to file their complaints at these organisations and do not address public institutions directly.
- Some civil society organisations have gained a good reputation in handling complaints.
- Civil society organisations have stronger capabilities to promote complaint-handling activities in the media than public institutions.
- Complaints presented through media gain high attention by decision-makers are thus an effective tool.

Challenges

- Civil society organisations lack the legal power to receive complaints and follow up on them.
- Some civil society organisations prefer to handle complaints in cooperation with official authorities.
- In general, CSO are not trained to handle complaints. This creates problems particularly on technical issues such as balancing the citizens’ right to access information with the need for privacy or secrecy.

Conclusion

This report presents a mapping of the main Palestinian complaint-handling institutions, their legal and institutional framework, as well as internal procedures. The annex to the report provides more detailed information on the laws and regulations defining the work of these institutions. It also indicates the responsible complaint-handling unit in these institutions to allow Palestinian citizens to identify easily where to file their complaints.

Based on this mapping, the following key observations can be highlighted:

1. *Palestinian citizens have a large number of complaints mechanisms from which to choose*

Several Palestinian institutions have established their own internal complaint-handling mechanisms. These mechanisms are also widely spread out across the West Bank, as all governorates have complaints units, and many ministries have local complaints units outside of Ramallah. This means that Palestinian citizens usually have easy access to a wide number of places to complain.

2. *The structure of the Palestinian complaints system is complex and confusing*

A Palestinian citizen can file a complaint at many institutions at the same time, due to the variety of complaints mechanisms, and the overlaps in their mandates, roles and responsibilities.

The citizen can also file the complaint at more than one unit or department within the same institution, for example at the complaints unit, the legal department, or the head of the institutions. This complex and interlaced system is unclear for citizens. As a result, they frequently depose their complaint at several institutions.

3. *Most complaints units don't have the ability or authority to effectively investigate complaints*

Most of the institutions involved in handling citizens' complaints in the West Bank don't have the authority or access to the necessary documents to actually investigate the complaints they receive. They can only refer the complaint to the concerned institution and communicate results to the citizens, but are not able to force institutions to reply to complaints or to verify results. Only the ACC has a clear mandate to investigate and resolve corruption-related complaints.

4. *The regulatory framework for Palestinian complaint-handling mechanisms is incomplete*

The main complaint-handling institutions that have a clear legal basis to deal with complaints are the Council of Ministers, Palestinian ministries, other governmental institutions, the governors' offices, the PLC, the SAACB, and the ACC.

Out of these, only the Council of Ministers has a regulation explicitly detailing how complaints should be handled. However, the legal gaps in the text make it difficult for the Directorate General of Complaints at the Council of Ministers, governmental complaints units, and the legal departments at governors' offices to effectively handle complaints.¹⁴ The regulations for the other institutions deal with complaints as one of their many tasks. In these regulations, neither is authority given to a specific department to handle complaints nor are the procedures fully described.

¹⁴ For more information on these gaps, see: *Amending the Regulatory framework for Handling Palestinian Citizens' Complaints: Working Paper*. Geneva: DCAF, 2014 (<http://www.dcaf.ch/Publications/Working-Paper-Amending-the-Regulatory-Framework-for-Handling-Palestinian-Citizens-Complaints>).

Mapping the Palestinian complaint-handling system

The security forces do not have a clear legal framework which defines their authority to receive and handle complaints. However the complaints units at some security forces, such as the Police and the General Intelligence, are granted a broad authority by their institution. They are thus able to effectively investigate the complaints they receive. Nevertheless the lack of clear regulations means that this authority is ad hoc and not common to all the forces.

5. The lack of a Palestinian ombuds institution severely reduces the oversight and accountability of the complaints system

Currently, there is no Palestinian ombuds institution with authority to oversee the entire complaints system. All complaint-handling mechanisms report to their own institutions, not to any external

body. This raises a serious question about the independency of and effective oversight over complaint-handling at these institutions. Only the SAACB has a strong mandate to oversee governmental institutions in general, but is not an active stakeholder in the Palestinian complaints system.

The system would be far more efficient if the various units were better coordinated, had clearer mandates and powers, and benefited from key oversight bodies – namely an ombuds institution and a functioning parliament.

DCAF and the Directorate General of Complaints at the Council of Ministers remain available to support Palestinian efforts to establish or reform the legal and institutional framework for complaint-handling mechanisms in line with democratic standards.
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Annex 1: General overview of existing Palestinian complaint-handling mechanisms (West Bank)

The following table maps the existing mechanisms for handling complaints in the West Bank. The parties involved in the complaint-handling system can be divided into the following categories:

1. executive authorities;
2. legislative authorities;
3. independent public institutions¹;
4. security forces²; and
5. civil society organisations and the media.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
Executive authorities			
Council of Ministers <ul style="list-style-type: none"> • Directorate General of Complaints 	<ul style="list-style-type: none"> • Amended Basic Law of 2003, art. 63-96 	<ul style="list-style-type: none"> • Council of Ministers' Decision on Regulation of Complaints No. 6 of 2009, art. 2 	Complaint-handling process: The Directorate General of Complaints at the Council of Ministers receives complaints either: <ul style="list-style-type: none"> • through the complaints units at the ministries and other governmental institutions; • from any intermediary, third person or organisation representing the complainant; or • from the complainant directly.

¹ Some of the Palestinian independent public institutions are actually part of the executive authorities (e.g. the State Audit and Administrative Control Bureau). However, and for the purpose of highlighting their supervising role over other executive authorities, they are classified as a separate category in this table.

² The Palestinian security forces are part of the executive authorities. Despite that, this table classifies them as a separate category in order to clarify their role in the Palestinian complaints system.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
<p>Ministries and other governmental institutions</p> <ul style="list-style-type: none"> Complaints units 	<ul style="list-style-type: none"> Amended Basic Law of 2003, art. 63-96 	<ul style="list-style-type: none"> Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009, art. 8 	<p>Scope:</p> <p>The Directorate General of Complaints at the Council of Ministers coordinates with ministerial and non-ministerial complaints units and governorates' legal advisors, which receive complaints at field level; and deals with complaints concerning any Palestinian governmental institution.</p> <p>Person in charge of complaints: The Director of the Directorate General of Complaints.</p> <p>Ultimate authority: The Secretary General at the Council of Ministers.</p> <p>Complaint-handling process:</p> <p>Complaints units at the ministries and other governmental institutions work at the local level and receive complaints either:</p> <ul style="list-style-type: none"> from any intermediary, third person or organisation representing the complainant; or from the complainant directly. <p>Scope:</p> <p>Complaints units:</p> <ul style="list-style-type: none"> deal with complaints concerning their institutions and the agencies that are linked to them; and refer cases directly to the relevant minister or to any party concerned in the governmental institution. <p>Person in charge of complaints: The Head of the Complaints Unit.</p> <p>Ultimate authority: The Minister.</p>

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
<p>Office of the President</p> <ul style="list-style-type: none"> The Legal Affairs Department The Governorates' Affairs Department 	<ul style="list-style-type: none"> Amended Basic Law of 2003, art. 34-46 	<ul style="list-style-type: none"> Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009, art. 8 	<p>Complaint-handling process:</p> <ul style="list-style-type: none"> The Governorates' Affairs Department and the Legal Affairs Department at the Office of the President receive complaints either: <ul style="list-style-type: none"> through the legal departments at the Governors' offices; from any intermediary, third person or organisation representing the complainant; or from the complainant directly. <p>Scope:</p> <p>The Governorates' Affairs Department and the Legal Affairs Department at the Office of the President:</p> <ul style="list-style-type: none"> coordinates with the legal departments receiving complaints at the level of the governorates; and deals with complaints concerning any governorate and person in charge thereof. <p>Persons in charge of complaints: The President's Advisor on Governorates Affairs and/or the President's Advisor on Legal Affairs.</p> <p>Ultimate authority: The Director of the Office of the President.</p>
<p>Governors' offices</p> <ul style="list-style-type: none"> The legal departments 	<ul style="list-style-type: none"> Regulation on Administrative Formations No. 1 of 1966 Presidential Decree No. 22 of 2003 concerning Jurisdictions of Governors 	<ul style="list-style-type: none"> Regulation No. 1 of 1966 on Administrative Formations, art.11 Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009, art. 8 	<p>Complaint-handling process:</p> <p>Legal departments at the governors' offices receive complaints:</p> <ul style="list-style-type: none"> from any intermediary, third person or organisation representing the complainant; or from the complainant directly.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
			<p>Scope: Legal advisers at the Governors' offices deal with complaints concerning any Palestinian governmental institution and person in charge thereof.</p> <p>Persons in charge of complaints: The Head of the Legal Department at the Governors' offices.</p> <p>Ultimate authority: The Governor.</p>
Legislative authorities			
<p>Palestinian Legislative Council (PLC)</p> <ul style="list-style-type: none"> • Complaints Bureau • Parliamentary committees • Members 	<ul style="list-style-type: none"> • Amended Basic Law of 2003, art. 47-62 • Bylaw of the Palestinian Legislative Council of 2003. 	<ul style="list-style-type: none"> • Bylaw of the Palestinian Legislative Council of 2003, art. 75-80 and 100-104 	<p>Complaint-handling process: The Complaints Bureau of the PLC, PLC committees and PLC members receive complaints:</p> <ul style="list-style-type: none"> • from any intermediary, third person or organisation representing the complainant; or • from the complainant directly. <p>There is a draft law for the Complaints Bureau. It is applicable although it is not officially ratified.</p> <p>Scope: The complaint-handling mechanisms of the PLC:</p> <ul style="list-style-type: none"> • deal with complaints concerning any Palestinian governmental institution and person in charge thereof; and • deal with complaints addressed against all security forces. <p>Person in charge of complaints: Head of the PLC Complaints Bureau.</p> <p>Ultimate authority: The PLC Speaker.</p>

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
Independent Public Institutions			
<p>The Independent Commission for Human Rights (ICHR)</p> <ul style="list-style-type: none"> Complaints Management Unit 	<ul style="list-style-type: none"> Amended Basic Law of 2003, art. 31 Resolution Regarding Constitution of the Higher National Palestinian Commission for Human Rights No. 59 of 1994 	<ul style="list-style-type: none"> None³ 	<p>Complaint-handling process:⁴</p> <p>The ICHR operates as an intermediary between complainants and any Palestinian institution, governmental or private body.</p> <p>Scope:</p> <p>The ICHR handles all complaints regarding violations of basic human right by all governmental authorities, whether military or civil.</p> <p>Person in charge of complaints: The Director of the Complaints Unit.</p> <p>Ultimate authority: The General Commissioner of ICHR.</p>
<p>State Audit and Administrative Control Bureau (SAACB)</p> <ul style="list-style-type: none"> Legal Affairs Department 	<ul style="list-style-type: none"> Amended Basic Law of 2003, art. 96 Law of State Audit and Administrative Control Bureau No. 15 of 2004 	<ul style="list-style-type: none"> Law of State Audit and Administrative Control Bureau No. 15 of 2004, art. 23 (11) 	<p>Complaint-handling process:</p> <p>The Legal Affairs Department receives financial and administrative complaints against all Palestinian institution.</p> <p>Scope:</p> <p>SAACB's judicial powers give it the authority to go to all parts of the public administration, including the security forces, and to examine their files if deemed necessary to solve a complaint.</p> <p>Person in charge of complaints: The Head of the Legal Affairs Department.</p> <p>Ultimate authority: The Head of SAACB.</p>

³ A draft law regulating ICHR's role in handling citizens' complaints was presented to the PLC in 2005: Draft law concerning the Palestinian Independent Commission for Human Rights No. () of 2005.

⁴ For a detailed description of ICHR's complaint-handling mechanism refer to <http://www.ichr.ps/atemplate.php?id=8&lid=8>.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
Anti-Corruption Commission (ACC) <ul style="list-style-type: none"> Legal Department 	<ul style="list-style-type: none"> Law No. 1 of 2005 concerning Illegal Gains Decree Law No. 7 of 2010 concerning the Amendment of the Law on Illegal Gains No. 1 of 2005 	<ul style="list-style-type: none"> Law No. 1 of 2005 concerning Illegal Gains, art. 18, 20-22 Decree Law No. 7 of 2010 concerning the Amendment of the Law on Illegal Gains No. 1 of 2005, art. 9(1, 6), 11-13 	<p>Complaint-handling process:</p> <p>The Legal Department at the Anti-Corruption Commission receives complaints related to corruption against all Palestinian senior officials including the president, ministers, PLC members, judges, governors, and commanders of security forces.</p> <p>Scope:</p> <p>The Anti-Corruption Commission has the authority to go to institutions, including security institutions, and to examine their files if deemed necessary to investigate a complaint. If investigations reveal that the complaint is correct, the Head of the Commission may decide to refer the issue to the Anti-Corruption Court.</p> <p>Person in charge of complaints: The Head of the Legal department.</p> <p>Ultimate authority: The Head of the Anti-Corruption Commission.</p>
Security Forces			
Palestinian Civil Police <ul style="list-style-type: none"> Grievances and Human Rights Department 	<ul style="list-style-type: none"> Law of Service in the Palestinian Security Forces No.8 of 2005 	<ul style="list-style-type: none"> None⁵ 	<p>Complaint-handling process:</p> <p>The Grievances and Human Rights Department of the Palestinian Civil Police receives complaints from:</p> <ul style="list-style-type: none"> police officers; the ICHR, the SAACB, and other third party intermediaries; civil society organisations; and citizens. <p>Scope:</p> <p>The Grievances and Human Rights Department receives citizens' complaints against the police and any officer in charge thereof.</p>

⁵ Although the *Council of Ministers Decision on the Regulation of Complaints No.6 of 2009* refers only to civil governmental institutions (art. 8), the Palestinian Civil Police conducts its work on complaints according to this regulation.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
<p>General Intelligence</p> <ul style="list-style-type: none"> Complaints Department 	<ul style="list-style-type: none"> Law of Service in the Palestinian Security Forces No.8 of 2005 General Intelligence Law No. 17 of 2005 	<ul style="list-style-type: none"> None⁶ 	<p>Persons in charge of complaints: the Director of the Grievances and Human Rights Department.</p> <p>Ultimate authority: The General Director of the Palestinian Civil Police.</p> <p>Complaint-handling process:</p> <p>The Complaints Department at the General Intelligence receives complaints from:</p> <ul style="list-style-type: none"> employees in the General Intelligence; the ICHR, the SAACB, and other third party intermediaries; civil society organisations; and citizens. <p>Scope:</p> <p>The Complaints Department handles all complaints from citizens and employees of the General Intelligence against the institution and its personnel. The Complaints Department has the power to investigate complaints and to question the concerned officers.</p> <p>Persons in charge of complaints: The Head of the Complaints Department under the supervision of the Inspector General.</p> <p>Ultimate authority: The Commander of the General Intelligence.</p>
<p>Preventive Security</p> <ul style="list-style-type: none"> Legal Department 	<ul style="list-style-type: none"> Law of Service in the Palestinian Security Forces No.8 of 2005 Presidential Decree No.11 of 2007 	<ul style="list-style-type: none"> None⁷ 	<p>Complaint-handling process:</p> <p>The Legal Department receives complaints from:</p> <ul style="list-style-type: none"> officers in the Preventive Security; the ICHR, the SAACB, and other third party intermediaries;

⁶ Although the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*, art. 8, refers only to civil governmental institutions, the General Intelligence conducts its work on complaints according to this regulation.

⁷ Although the *Council of Ministers Decision on the Regulation of Complaints No. 6 of 2009*, art. 8, refers only to civil governmental institutions, the Preventive Security conducts its work on complaints according to this regulation.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
<p>National Security Forces</p> <ul style="list-style-type: none"> Office of the General Commander 	<p>Concerning the Preventive Security</p>		<ul style="list-style-type: none"> civil society organisations; and citizens. <p>Scope: All complaints from citizens and employees of the Preventive Security against the institution and its personnel.</p> <p>Person in charge of complaints: The Director of the Legal Department.</p> <p>Ultimate authority: The General Commander of the Preventive Security.</p>
<p>National Security Forces</p> <ul style="list-style-type: none"> Office of the General Commander 	<ul style="list-style-type: none"> Law of Service in the Palestinian Security Forces No.8 of 2005 	<ul style="list-style-type: none"> None⁸ 	<p>Complaint-handling process: The Office of the General Commander receives complaints from:</p> <ul style="list-style-type: none"> officers in the National Security Forces; the ICHR, the SAACB, and other third party intermediaries; civil society organisations; and citizens. <p>Scope: The Office of the General Commander receives citizens' and employees' complaints against the National Security Forces and its personnel.</p> <p>Person in charge of complaints: The Head of the Office of the General Commander.</p> <p>Ultimate authority: The General Commander of the National Security Forces.</p>

⁸ Although the Council of Ministers Decision on the Regulation of Complaints No.6 of 2009, art. 8, refers only to civil governmental institutions, the National Security Forces work according to it.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
<p>Military Intelligence</p> <ul style="list-style-type: none"> • Legal Department 	<ul style="list-style-type: none"> • Law of Service in the Palestinian Security Forces No.8 of 2005 	<ul style="list-style-type: none"> • None⁹ 	<p>Complaint-handling process:</p> <p>The Legal Department receives complaints from:</p> <ul style="list-style-type: none"> • officers in the Military Intelligence and any other security institution; • ICHR, SAACB, and other third party intermediaries; • civil society organisations; and • citizens. <p>Scope:</p> <p>The Legal Department at the Military Intelligence receives citizens' complaints against the Military Intelligence, any other security institution, and any officer in charge thereof. In the complaints system, The Military Intelligence plays an intermediary role between the Military Justice and the Security Forces.</p> <p>Person in charge of complaints: The Head of the Legal Department.</p> <p>Ultimate authority: The Commander of the Military Intelligence.</p>
Examples of civil society organisations and the media			
<ul style="list-style-type: none"> • Al-Haq • The Palestinian Center For Human Rights • Coalition for Accountability and Integrity (AMAN) • The Palestinian Center for Development and Media • Wattan TV 	<ul style="list-style-type: none"> • Law No.1 of 2000 concerning Charitable Associations and Civil Society Organisations. 	<ul style="list-style-type: none"> • None 	<p>Complaint-handling process:</p> <p>Legal Advisers or employees of these organisations receive complaints from citizens directly or through other intermediaries.</p> <p>Scope:</p> <p>The role of civil society organisations is restricted to documenting human rights violations. Because of the lack of regulations, they act individually (rather than as an organisation) as legal representatives between citizens and official institutions,</p>

⁹ Although the Council of Ministers Decision on the Regulation of Complaints No.6 of 2009, art. 8, refers only to civil governmental institutions, the Military Intelligence conducts its work on complaints according to this regulation.

Institution	Laws regulating the institution	Legal basis for handling complaints	Procedures in place
<ul style="list-style-type: none"> Ajjal Radio 			<p>especially when citizens are afraid of approaching the official institutions.</p> <p>The media's role is limited to publishing the complaint of the citizen in an attempt to make his/her voice heard by Palestinian decision-makers.</p> <p>Person in charge of complaints: Legal Adviser or employee.</p> <p>Ultimate authority: Director of the organisation.</p>

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