

The Complaint-Handling System and Civilian Oversight of the Palestinian Security Sector

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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.

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Overview

This working paper highlights deficits in the Palestinian security sector complaints system and proposes recommendations to rectify them. It particularly focuses on the insufficient coordination between the vast array of different complaints units and the disputed and unclear role played by civil society and the media. It hopes to make Palestinian decision-makers and citizens aware of these issues.

In particular, this working paper aims to support the current efforts of the Palestinian executive authorities, security forces, independent institutions, civil society organisations (CSOs) and the media to strengthen the existing complaints system. When properly functioning, the complaint-handling system can be an effective source of

information for the government to develop its performance and improve its services.

The content of this paper is based on the discussions of an ad hoc working group of government officials and representatives of the security forces, civil society and the media working on complaints, called the complaints working group (see 'Response' section below), as well as individual interviews with additional civil society and media organisations. It has been reviewed by international experts and presented to representatives of government institutions, security forces, state institutions and civil society and media organisations. The recommendations presented in this working paper have been developed based on the discussions of the complaints working group.

Problem statement

Accountability is central to good governance of the security sector. 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. However, ideally, the purpose of establishing a complaint-handling system should be addressing grievances and remedying rights breaches. Complaint-handling mechanisms also help security forces improve their performance by highlighting administrative failings and lessons to be learned. Interacting with citizens can also increase respect for security forces, and their legitimacy in the eyes of their citizens.

In Palestine, various actors are involved in handling citizens' complaints, including, but not limited to:

- complaints units at the ministries and other government institutions;
- legal advisors at the governors' offices;
- the Directorate General of Complaints at the Council of Ministers;
- the Governorates Affairs Department and the Legal Affairs Department at the Office of the President;
- complaints units at the security forces;

- the Independent Commission of Human Rights (ICHR); and
- civil society and media organisations.¹

In general, a multiplicity of actors provides numerous channels for citizens to file their complaints. However, it negatively affects the efficiency of the Palestinian complaints system as a whole. This occurs as a consequence of two main problems:

1. The different complaint-handling actors rarely coordinate. This makes it difficult to draw clear coordination channels between these actors and leads to a duplication of roles and tasks.
2. Many actors in the Palestinian complaint-handling system misunderstand or disagree on the roles that civil society and media organisations should play. For example, the executive authorities and the security forces diminish the importance of the role played by CSOs and the media. They criticise them for not being effective. Hence, civil society and media organisations believe that they are hindered from being effective actors in the complaints system.

¹ For more information on the complaints system in Palestine, see *Mapping the Palestinian Complaint-Handling System*. DCAF: Ramallah and Geneva, 2015: <http://www.dcaf.ch/Publications/Mapping-the-Palestinian-Complaints-Handling-System>.

Response

In July 2015, DCAF suggested the establishment of a working group to discuss, analyse and improve the current handling of complaints in the Palestinian security sector. This complaints working group incorporated three pillars of oversight and control levels:

- executive control (Directorate General of Complaints at the Council of Ministers and the Complaints Unit at the Ministry of Interior);
- internal control (complaints units at the security forces represented by the Bureau for Grievances and Human Rights at the Palestinian Civil Police and the Complaints Unit at the General Intelligence); and
- civilian oversight performed by independent institutions and civil society and media organisations (represented in the working group by the Palestinian Independent Commission for Human Rights (ICHR), the Civil Commission for the Independence of Judiciary and Rule of Law (ISTIQLAL), Amin Media Network, and the Institute of Modern Media at Al-Quds University).

DCAF assisted the working group in assessing:

- the current mechanisms for handling complaints received by the Palestinian Civil Police and the General Intelligence;
- the coordination between these forces and the Complaints Unit at the Ministry of Interior and the General Complaints Directorate at the Council of Ministers; and
- the role of civil society and media organisations.

DCAF and the working group also conducted a study visit to Serbia and Jordan to learn about best practices and international standards on civilian oversight and complaints mechanisms.

Specific findings

1. The coordination among complaint-handling actors must improve

In Palestine, the structure of the complaints system is complex. Several Palestinian institutions have established their own internal complaint-handling mechanisms. Their mandates, roles, and responsibilities overlap. Although overlapping mandates may help to ensure that no complaint falls through the gaps, this system is inefficient without effective coordination. It can confuse citizens and encourage them to file their complaints at several institutions simultaneously. It can also result in complaints not being resolved or filed at all.

Although progress has been made recently, coordination between the actors of the complaints system remains weak and based on personal relations rather than institutionalised channels.

Coordination channels among the executive authorities and the security forces

Finding 1.1: The legal framework does not efficiently regulate coordination and communication among the various complaint-handling actors

The current legal framework for complaints does not satisfactorily regulate coordination among the various government institutions nor that between them and civil society. Based on Article 3 of the Regulation on Complaints No. 6 of 2009, the Directorate General of Complaints at the Council of Ministers supports supervision, monitoring and coordination of the complaints units at ministries and governorates' offices. In addition, the Directorate General coordinates with the Complaints Department at the Office of the President of the State of Palestine. Article 9 of the Procedures Manual of the Regulation on Complaints further states that if the complaint involves more than one executive institution, complaints units at these institutions shall coordinate among themselves to solve this complaint.

In reality, the different units coordinate and share information to varying extents. The Directorate General of Complaints rarely coordinates with the security forces. Usually, this coordination takes place via the Ministry of Interior. However, the Directorate General of Complaints shares any information related to citizens' complaints with the concerned executive authorities and the concerned security forces.

Finding 1.2: *Existing regulations do not compel systematic sharing of information on complaints between government institutions*

The executive authorities and security forces only share information on complaints received in a segmented fashion. Furthermore, the information that units share is rarely detailed. The Bureau for Grievances and Human Rights at the Palestinian Civil Police is the institution that communicates the most details to the Directorate General of Complaints.

General statistics on complaints handled by the complaints units at the Ministry of Interior, the General Intelligence and the Bureau for Grievances and Human Rights at the Palestinian Civil Police are sent to the Directorate General of Complaints on a yearly basis and go into the annual report which is made publicly available. The 2014 annual report of the Directorate General of Complaints, for example, included the reports of four security forces. The 2015 annual report even included the reports of five security forces.

Finding 1.3: *The Complaints Unit at the Ministry of Interior does not directly refer received complaints to the security forces' complaints units*

When the Complaints Unit at the Ministry of Interior receives a complaint against any of the security forces, it refers it to the commander of that force rather than to its internal complaint unit. The commander is seen as the main, or only, point of access to the security forces, based on centralised internal structures.

This weakens the direct cooperation between the Complaints Unit at the Ministry of Interior and complaints units at the security forces. The lack of a direct relationship between these parties makes the process of handling the complaint more difficult, time-consuming and governed by bureaucracy. It also puts all communication between these units under the extensive control and supervision of their commanders, which may affect the accuracy of information shared.

Finding 1.4: *The Ministry of Interior and the security forces hold differing views on their respective roles*

The Complaints Unit at the Ministry of Interior claims that it coordinates with the security forces on complaints filed against them, including complaints filed against the General Intelligence. However, the complaints units at the General Intelligence and the Bureau for Grievances and Human Rights at the Palestinian Civil Police state that they do not coordinate directly with any other complaints units, including the Complaints Unit at the Ministry of Interior. They handle complaints entirely within their own institution. However, the Police and the General Intelligence reply to institutions that refer complaints to them in writing. If their investigations on the complaint reveal a serious problem, they refer the whole file to the Military Justice Authority.

In general, if a complaint-forwarding authority is a supervisory body, it is desirable that the institution handling the complaint sends detailed feedback to the former. When the complaint-forwarding and the complaint-handling institutions disagree on the coordination channels, this shows a structural problem of unclear role distribution.

Coordination channels between the executive authorities, the security forces, and ICHR

Finding 1.5: *The coordination between ICHR and the executive authorities is neither regulated nor systematic*

There is no standardised or regulated coordination between ICHR and the executive authorities or the security forces. The executive authorities and the security forces communicate with ICHR on complaints forwarded by the latter, but the nature of the coordination varies from institution to institution. For instance, coordination between ICHR and the General Intelligence occurs through the Legal Department at the General Intelligence, which then coordinates internally with the Complaints Unit. When it comes to complaints against the Palestinian Civil Police, ICHR contacts the Bureau of Grievances and Human Rights directly.

ICHR also receives different types of responses to its reports and referred complaints. The Bureau of Grievances and Human Rights, for example, provides ICHR with detailed responses about the referred complaints, whereas the Complaints Unit at the General Intelligence only states that the complaint has been handled, without indicating any details.

Finding 1.6: *ICHR ensures coordination by maintaining good relations with most executive authorities and security forces*

ICHR maintains good informal and formal relations with most executive authorities and security forces, which provides for smooth coordination of its work. It also signs Memoranda of Understanding with the individual institutions where possible. While the existence of these Memoranda shows the lack of a more formal regulatory system, it also highlights the strength of ICHR's work.

Regarding information-sharing, ICHR provides the executive authorities and the security forces with periodic legal and fact-finding reports published in print and online. It also shares information with concerned institutions on citizens' complaints, the complaint-handling system and applicable procedures, including information on complainants. The concerned institutions themselves provide ICHR with responses about referred complaints.

Coordination channels between executive authorities, the security forces, ICHR, civil society, and the media

Finding 1.7: *Formal communication channels between civil society and media organisations and the executive authorities and security forces are weak*

Ideally, executive authorities should communicate to civil society and the media according to the rules on providing information of public importance. These rules should be defined by laws on access to information or protection of personal and classified data. However, the media will always rely, in parallel, on personal relations, whistle-blowers and informal sources to gain or confirm information. This is an important cornerstone for the independence of the media and investigative journalism. In Palestine, there are no formal communication channels on complaints between executive authorities or the security forces and

civil society or the media. The Palestinian media almost exclusively depend on their own sources of information and do not receive enough official information from executive authorities.

Despite these shortfalls, CSOs and the executive authorities do manage to coordinate amongst each other. Most often, this coordination takes place through meetings or written correspondences and aims at discussing complaints filed by citizens or a group of citizens. Cooperation between civil society, executive authorities and the security forces is limited to handling specific cases. There are no joint committees that meet regularly on complaints and no intentions to develop or explore long-term partnerships.

Finding 1.8: *Coordination among CSOs concerning complaints is not regular*

Coordination is not only weak between the government and CSOs. CSOs do not regularly coordinate among themselves either. Their coordination is circumstantial, focusing exclusively on complaints of public interest. Unfortunately, they rarely discuss issues related to networking, follow-up and their division of labour.

Finding 1.9: *Executive authorities share little information with CSOs, thereby hindering their work*

The information flow from executive authorities and security forces to CSOs is sparse. Typically, executive authorities only share general information on complaints with CSOs, such as working procedures or the role of the units. Additionally, CSOs claim that they rarely receive replies from executive authorities and the security forces about the complaints they refer to them; this is not wrong per se. However, receiving a brief feedback on the outcome of handling a complaint would strengthen the system.

To gain information on complaints, CSOs attend press conferences, follow statements made by the government, and conduct interviews with representatives of executive authorities and the security forces. They also rely on their personal networks and relations.

Finding 1.10: *Security forces coordinate poorly with the media*

The relationship between executive authorities, the security forces, and the media is even more conservative and sensitive. The point of contact for the media regarding complaints is at most the media departments at security forces. However, these media departments are not sufficiently informed on complaints and are thus unable to share the required information with the media on complaints.

An exception to this is the Bureau of Grievances and Human Rights at the Palestinian Civil Police. Following the approval of the General Commander of the Palestinian Civil Police, the Bureau directly communicates with the media.

2. The role of CSOs and the media is unclear and disputed

Finding 2.1: *There is no standardised or coordinated role for civil society in the Palestinian complaints system*

CSOs see their role in the Palestinian complaints system as a form of community accountability and civilian oversight of the performance of executive authorities and the security forces. Therefore, many Palestinian CSOs which receive complaints from citizens merely refer them to the concerned government institution. As a result, CSOs turn into “intermediary” actors rather than playing an advisory role.

Some CSOs, such as Al-Haq and the Coalition for Accountability and Integrity (AMAN), publish in-depth analytical reports on the complaints they transfer on their website. Others organise support and advocacy campaigns on complaints. For instance, both Al-Haq and AMAN have advocacy and legal aid programmes. However, these activities are part of ad hoc projects rather than being strategic goals of their respective organisations.

Many executive authorities and the security forces criticise the current role played by CSOs in the Palestinian complaints system as being ineffective. In their point of view, CSOs are not entitled to receive complaints. According to them, they should solely play an advocacy role and guide citizens to the right institution to file a complaint.

In early 2016, the Council of Ministers issued its Decision No. R.H./CoM/17/92/02 on Receipt and Handling of Complaints at the Executive Institutions. This decision limits the power to receive and handle complaints to executive authorities and the security forces. At the same time, however, it stipulates in Article 2 that CSOs can file complaints at the State Audit and Administrative Control Bureau. CSOs criticise the decision for being unclear and for reflecting the government’s view on the role of CSOs.

This controversy demonstrates that the division of roles in handling citizens’ complaints is characterised by conflict and misunderstanding about the role of CSOs.

Box: Overview of civil society’s possible roles in complaint-handling

In Palestine, the debate on the distribution of roles in the complaints system focuses on the question of who is allowed to receive complaints. However, best practice includes many other roles for CSOs. According to the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD DAC), being part of multi-layered security system governance and enjoying political protection, civil society can play various important roles. These include:

- providing expertise either by direct involvement with executive authorities and the security forces or by publishing research papers and studies;
- collecting information and analysing security and justice policy;
- lobbying and advocating a change in policy or practice;
- providing an alternative view to the public and its representatives;
- investigative reporting; and
- monitoring the ongoing activities of the security system.

Conclusion

The Palestinian complaints system includes a large number of governmental and non-governmental actors. This diversity and multiplicity does not represent a problem in itself. However, the efficiency of such a multi-player system depends on the strength of the coordination channels among the different actors and the understanding of and respect for each other's roles.

As the findings in this working paper show, coordination is currently lacking in the Palestinian complaints system. This applies to both the coordination among government institutions as well as to the coordination between government institutions and the media and CSOs. The legal framework on complaints does not sufficiently regulate the division of labour between the different actors.

There are contrasting views on how government institutions and the security forces, which receive a complaint, should coordinate with each other. This may result in complaints not being handled appropriately.

Government institutions and the security forces often do not provide CSOs and the media with sufficient information on complaints. This is due to differing understandings of the role of civil society in the complaints system and the lack of a clear legal framework on access to information.

The multitude of actors constitutes an obstacle rather than an advantage. It is crucial to improve coordination and to clarify the roles of all actors involved.

Recommendations for further steps

Based on the internal discussions of the complaints working group and its interaction with international best practice in complaint-handling, DCAF recommends the following:

To high-level decision-makers of Palestinian executive authorities and the Palestinian Legislative Council:

- Develop a clear vision for an effective complaints system in Palestine, based on continuous monitoring, evaluation and fine-tuning, through a consultative process involving all interested parties;

- Ensure internal complaints units at all authorities which operate semi-autonomously under the principles of accessibility, simplicity, promptness, objectiveness, confidentiality, and accountability;
- Establish a complaints system that is financially and administratively independent, and inclusive of civil society, with a clear mandate and regulatory framework for the complaints units to follow up on and handle complaints;
- Strengthen the role of the different complaint-handling actors, including oversight by CSOs and the media as specified in the recommendations below;
- Reconsider the Council of Ministers' Decision No. R.H./CoM/17/92/02 of 2016 on Receipt and Handling of Complaints at the Executive Institutions as it increases the confusion in the complaints system in Palestine;
- Set up a legal framework that completes the Council of Ministers' Decision on the Regulation on Complaints No. 6 of 2009 and enhances the effectiveness of the complaints system in Palestine; and in which the jurisdiction of executive authorities, the security forces, independent institutions, CSOs and the media is clear and integrated;
- Establish oversight committees, in which CSOs are involved as members through nomination; such committees should exercise civilian oversight on the complaints mechanisms at the executive authorities and the security forces; and
- Adopt an "open government" approach by developing a law on access to information.

To decision-makers of complaints units at Palestinian executive authorities and the security forces:

- Clarify and enhance coordination channels between executive authorities, the security forces, CSOs and the media;
- Develop and adopt an information strategy for the executive complaint-handling institutions, including the security forces, to raise citizens' awareness of their role;

- Increase the capacities of complaints staff at executive authorities and the security forces in dealing with CSOs and the media;
- Regularly inform media departments about complaints so that they are able to provide civil society and the media with official information;
- Intensify and formalise the exchange with other complaints institutions (both inside Palestine and internationally); and
- Improve the functioning of complaints units at executive authorities by:
 - making the documentation system reliable and strong;
 - ensuring that complaints procedures are widely published and written clearly in plain, non-technical language;
 - ensuring adequate processing of special cases (criminal liability, unrepairable damage, especially vulnerable groups or individuals, systemic issues, cases indicating the need for legislative change);
 - defining a policy for receiving and handling anonymous complaints;
 - ensuring appropriate training of staff, including psychological support on how to deal with complainants;
 - developing staff capacities to allow for regular preparation and issuing of reports on complaints;
 - ensuring analysis and strategic planning for complaint-handling; and
 - ensuring quality control, notably by asking citizens for feedback. This control should cover all phases of the complaint-handling process from receipt to closing the file.
- provide full legal support to citizens in strategic cases, including writing and submitting the complaint on behalf of the complainant;
- request executive authorities to publish information of public importance on complaint-handling;
- analyse the complaints system and its strengths and weaknesses;
- liaise with the media to investigate and report on major failures and successes in addressing complaints;
- lobby and advocate for continuous legislative and practical improvements in the complaints system, including proposing solutions;
- Advocate for the highest quality regulation on access to information, classification of secret data and personal data protection, and participate in the applicable legislative processes;
- Strengthen the coordination channels between civil society and media organisations and the complaint-handling units at executive authorities and the security forces regarding their activities on complaints;
- Cooperate with colleagues from other countries, e.g. by taking part in joint projects;
- Increase cooperation among CSOs to avoid overlap of provided services, and to discuss how to improve the complaints system and keep the focus on citizens' complaints and the protection of their rights;
- Develop their capacities and increase their understanding of the Palestinian complaints system and of relevant international standards; and
- Continue the work of the complaints working group to implement the recommendations of this paper.

To Palestinian CSOs and the media:

- Re-evaluate their strategic role in the complaint-handling system. Complaints should be part of their relevant strategic action programmes rather than ad hoc projects. In particular, they should:
 - educate citizens about their right to submit complaints and about the complaints system in general;
 - assist citizens in writing and submitting complaints to the relevant authority;

DCAF remains 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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