



**THE GOOD  
GOVERNANCE  
CHALLENGE:  
EGYPT, LEBANON,  
MOROCCO  
AND PALESTINE**

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Transparency International (TI) is the global civil society organisation leading the fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption and works with partners in government, business and civil society to develop and implement effective measures to tackle it.

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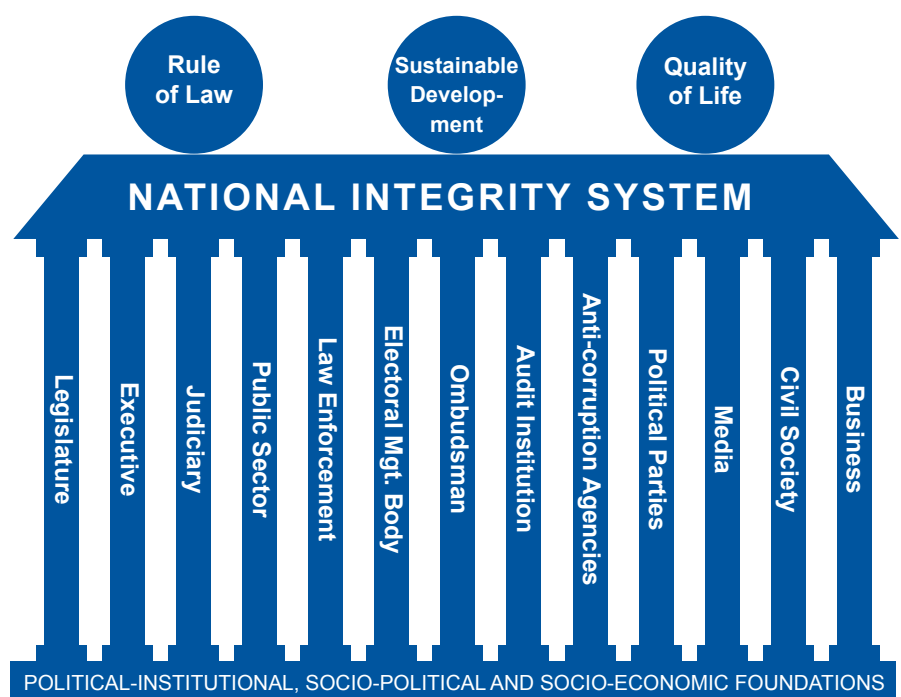
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# EXECUTIVE SUMMARY

Accountability, transparency and the fight against corruption have been high on the policy agenda in the Middle East and North Africa, particularly since the publication in 2004 of the influential Arab Human Development Report<sup>1</sup>, which focused attention on the dire state of governance in the region. Continuing this line of inquiry, Transparency International, as part of a shared endeavour by civil society stakeholders, progressive policy makers and international institutions to promote the reform of governance systems within the region, has conducted evidence-based assessments of the “National Integrity System” in each of four countries - Egypt, Lebanon, Morocco and Palestine.<sup>2</sup>

The National Integrity System is formed by the key institutions and actors which shape how a country is governed, including the executive, legislature, judiciary, and the public oversight institutions of the government, as well as non-state actors, such as the media, civil society and the business sector. As expressed visually in the figure below (Figure 1), where these institutions are strong and play their respective roles within the overall integrity system, transparency, accountability and integrity is firmly established and, as a consequence, corruption risks are minimal.

**Figure 1:** A functioning National Integrity System



<sup>1</sup> UNDP, “Arab Human Development Report 2004”, [www.arab-hdr.org](http://www.arab-hdr.org) [accessed 1 March 2010]

<sup>2</sup> For the sake of convenience, the term “Palestine” is used here as a short-cut to refer to the occupied Palestinian territories of the West Bank and the Gaza Strip.

Where these institutions are weak, however, corruption and other forms of governance deficits are likely to dominate the state's interactions with its citizens and the private sector, with negative consequences for sustainable development, social cohesion and economic growth.

Overall, the NIS country studies find that the four countries have in common very weak integrity systems, containing major gaps in legal anti-corruption provisions and showcasing an even more worrisome lack of commitment to effective anti-corruption practices. In fact, the research shows that in each of these countries it is difficult to speak of a National Integrity System, since the various governance pillars are largely isolated from one another and operate in an uncoordinated manner, without sufficient checks and balances. One problem shared by all countries studied is that of unchecked executive power that is able to interfere widely in the activities of the other branches of government and non-governmental organisations. As a consequence, the few horizontal accountability mechanisms that exist across public institutions do not function effectively. In addition, vertical accountability processes, i.e. the power of citizens to hold the powerful to account, are largely absent. Egypt, and, to a lesser extent, Morocco still lack many democratic rights and institutions, while Palestine and Lebanon's political cultures are highly polarised and dominated by informal patronage systems, which undermine the performance of the existing formal governance institutions.

Nevertheless, in comparison to the late 1990s, the Transparency International studies indicate that some progress has been made in initiating legal and institutional governance reforms. In all countries studied, governments have initiated major anti-corruption programmes, established specific oversight institutions, such as anti-corruption agencies and electoral commissions, and drafted important pieces of anti-corruption legislation. While the NIS country studies unequivocally note the serious implementation gap between the promising text of anti-corruption legislation and its often quite ineffective enforcement in practice, the increased attention paid by official political leadership to fighting corruption merits acknowledgment and support. Despite this, even on the legal front, there remain a number of glaring gaps; here, the absence of whistleblower protection mechanisms and, apart from in Lebanon, extremely weak provisions regarding public access to information, are most noteworthy.

Citizen groups have increasingly succeeded in focusing public attention on these and other voids in the countries' integrity systems, and in advocating for governance reforms. One positive trend visible in the National Integrity System studies is the increasing role of civil society in shaping the overall development of countries in the region through implementing social programmes, empowering the marginalised, and increasingly, through advocacy as well. In order for this trend to continue sustainably, the excessive constraints imposed upon civil society activities, particularly in Egypt, must be lifted. In Lebanon and Palestine, it is important for civil society and public authorities to continue their cooperation on specific reform activities, while also ensuring that civil society actors retain their independent role as watchdogs and critics of government officialdom.

Last, but not least, the regional dimension of anti-corruption reform in the Middle East and North Africa should not be underestimated. As this report indicates, a growing number of regional initiatives can be found, which involve public authorities, civil society and business. Such initiatives, which require the ongoing support of the international community, offer much-needed opportunities for cross-sectoral dialogue and for building capacities within the state, private sector and among independent organisations to move the anti-corruption agenda forward.

## Recommendations

In addition to the numerous country-specific proposals detailed in the individual NIS country reports, a number of cross-cutting recommendations, requiring action by policy-makers and anti-corruption advocates, can be identified:

- The state should strengthen horizontal and vertical accountability mechanisms by safeguarding the independence of public oversight bodies, and by substantially increasing the participation of citizens in governance processes;
- The state should respect and protect the freedoms of association and expression as fundamental rights of citizens, non-governmental organisations and media entities to engage in a country's public affairs, including the fight against corruption;
- The executive should allow for a strengthening of the role of parliament, the judiciary and public oversight bodies as effective checks on its operations;
- Governments should sustain and expand ongoing institutional and legal reforms to areas such as whistleblower protection, freedom of information and conflict of interest;
- Governments should further civil service reform by introducing enforceable codes of conduct and greater public transparency requirements, as well as by expanding the opportunities for citizen involvement in monitoring public sector activities;
- Civil society organisations should commit themselves to the highest standards of accountability and transparency in their own internal functioning and operations;
- Governments and civil society should promote the United Nations Convention Against Corruption as a suitable framework document to advance anti-corruption reform in law and in practice; and
- All stakeholders should continue to strengthen regional multi-stakeholder dialogue and capacity-building efforts on anti-corruption issues, e.g. under the aegis of the United Nations Development Programme - Programme on Governance in the Arab Region (POGAR).

# I. INTRODUCTION

This report summarises the key findings of four country studies conducted by Transparency International (TI) in 2009, which examine the performance of the national governance systems in Egypt, Lebanon, Morocco and Palestine. These studies examined to what extent each country's National Integrity System is in place in law, and to what extent it functions effectively in practice.

These studies are key outputs of TI's 'Promoting Transparency and Enhancing Integrity in the Arab Region' project.<sup>3</sup> The goal of this project is to identify practices that promote transparency and enhance integrity in the Middle East and North Africa (MENA) region. The project's first phase entailed conducting National Integrity System (NIS) assessments in four countries: Egypt, Lebanon, Morocco and Palestine. These NIS assessments identify areas of focus for advocacy and policy reform activities in these countries and also form the basis for the regional overview document presented here. The second component of TI's project focuses on building the capacity of civil society organisations (CSOs) to tackle issues of transparency, accountability, integrity and corruption, as well as on conducting an independent monitoring exercise of the countries' compliance with the United Nations Convention Against Corruption (UNCAC).

The project uses TI's NIS framework as its analytical tool to examine the soundness of the countries' anti-corruption systems. The concept of the NIS has been developed and promoted by TI as part of an holistic approach to combating corruption. The NIS encompasses the key institutions, sectors or specific activities (i.e. the 'pillars') that contribute to integrity, transparency and accountability in a society, including both official government institutions, such as the executive, legislative, and judicial branches of government, official auditing and ombudsman institutions, and also relevant non-state actors, such as the media, civil society and the private business sector. When functioning properly, the NIS combats corruption as part of a larger struggle against abuse of power, malfeasance and misappropriation in all its forms and comprises a framework that both prevents and penalises such abuses. The aim of strengthening the NIS is therefore to promote better governance across all aspects of society.

The NIS studies are based on assessments of the quality of those institutions that comprise the overall anti-corruption system, using extensive desk research, key informant interviews and focus groups as its main data collection methods. While there is no universal blueprint for an effective system to prevent corruption, a growing international consensus has formed around the salient institutional features that work best to prevent corruption and promote integrity. A comprehensive understanding of these institutional pillars and of

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<sup>3</sup> For further information on the programme, please see [http://www.transparency.org/regional\\_pages/africa\\_middle\\_east/current\\_projects/mabda](http://www.transparency.org/regional_pages/africa_middle_east/current_projects/mabda)

their interactions with one another is necessary to diagnose corruption risks and to subsequently develop strategies to counter those risks.

This regional report provides a cross-country analysis of the NIS assessments in Egypt, Lebanon, Morocco and Palestine. Section II presents the analysis of the anti-corruption systems in the different political contexts of the four countries, which have profound impacts on the specific challenges and opportunities for anti-corruption reform and advocacy in each country. Section III, which forms the bulk of the report, offers an analysis of the key issues emerging from the NIS country reports. While this section highlights the main problems of building stronger integrity systems in the region, it also points to a number of promising reform efforts. The final section takes a regional perspective and examines the potential contributions of cross-country initiatives in the field of anti-corruption.



## II. BACKGROUND

The four countries share some similar contextual factors, including their development levels, cultural contexts and social indicators (see Table 1), and face similar challenges and opportunities. They are also largely comparable when it comes to issues related to corruption and integrity. For example, the Global Integrity Index rates all four countries as “very weak” due to the poor quality of their corruption safeguards.<sup>4</sup>

**Table 1:** Socio-Economic and Corruption Indicators

	Egypt	Morocco	Lebanon	Palestine
<b>Human Development Index<sup>1</sup></b>	0.70	0.65	0.80	0.74
<b>Population Growth<sup>2</sup></b>	2.03	1.1	1.11	2.18 <sup>6</sup>
<b>Corruption Perception Index<sup>3</sup></b>	2.8	3.3	2.5	n/a
<b>Global Integrity Index<sup>4</sup></b>	54 <sup>5</sup>	48 <sup>5</sup>	53	53 <sup>5,6</sup>

*Note: Reference year is 2009, if not otherwise indicated.*

<sup>1</sup> Indicates the overall state of development of the country, where 1.0 is very high and 0.0 is very low; Human Development Report 2009; [http://hdr.undp.org/en/media/HDR\\_2009\\_Tables\\_rev.xls](http://hdr.undp.org/en/media/HDR_2009_Tables_rev.xls).

<sup>2</sup> In percent per annum; 2009 CIA World Factbook; <https://www.cia.gov/library/publications/the-world-factbook/index.html>

<sup>3</sup> Assesses experts' perception of corruption in the country, where 0 is most corrupt and 10 is least corrupt; [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2009/cpi\\_2009\\_table](http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table).

<sup>4</sup> Assesses the existence, effectiveness, and citizen access to key national-level anti-corruption mechanisms on a scale of 1-100, where 90-100 indicates “very strong integrity”, 80-90 indicates “good integrity”, 70-80 indicates “not so good integrity”, 60-70 indicates “poor integrity”, 60 and under indicates “very poor integrity”; <http://report.globalintegrity.org/>.

<sup>5</sup> Reference year: 2008.

<sup>6</sup> West Bank only.

There are, however, crucial differences in the political contexts of the four countries, which are important for understanding the country-specific risks for corruption and the opportunities for anti-corruption reforms. Palestine and Lebanon share a fairly open, yet unstable, political context, while Egypt is characterised by a relatively closed political system which does not allow for meaningful popular participation. Morocco blends a powerful monarchy and weak political institutions with a rather free civil society and media. These contextual factors have important consequences for the fight against corruption in individual countries, and directly impact on the potential for the success of such a struggle.

The cases of Lebanon and Palestine highlight the problems of fighting corruption in open yet unstable political environments. While there are certain democratic rights and processes in place, both countries face severe political instability that makes it difficult to establish and sustain a fully functioning

<sup>4</sup> Global Integrity, “Global Integrity Report”, <http://report.globalintegrity.org/> [accessed 4 March 2010]

NIS. The Palestinian National Authority (PNA) operates in an environment where most of its territory and resources are under Israeli military occupation, disrupting the PNA's ability to implement initiatives to strengthen the NIS pillars. The PNA has not yet developed the "institutional capacity to fulfil all of its functions and lacks the expertise needed to fully develop"<sup>5</sup> the NIS pillars. Further, the conflict among the political leaderships in the West Bank and Gaza Strip prevents the further strengthening and unification of national institutions. The result "is that combating corruption has taken a back seat to the issue of national division, which continues to dominate the agenda".<sup>6</sup>

Lebanon has a history marked by civil war and its entire system of governance is based on an ill-functioning confessional system. The NIS report on Lebanon remarks that the rigid sectarian power-sharing formula in Lebanon "divides power amongst warlords, former militia leaders and political figures that represent the different political and confessional communities of Lebanon".<sup>7</sup> Inter-communal relationships are thus characterised by deep mistrust and high levels of volatility, while, internally, each communal group relies on systems of patronage and clientelism for political and economic access to resources, thereby increasing the risk for corruption to occur.<sup>8</sup>

Lebanon and Palestine also share the existence of powerful security forces which remain largely outside the official governance system. At the same time, while political instability and powerful non-state actors pose challenges to the integrity system, CSOs and the media have significant room to manoeuvre and are sometimes even able to work in conjunction with official bodies to promote anti-corruption initiatives. Both countries have democratic electoral processes in place, which ensure a channel - albeit imperfect - of citizen influence upon the political system.

The Egyptian case – and, to a lesser extent, the Moroccan case as well - highlights the challenges of promoting integrity in the context of an overbearing state that largely silences citizen voices. In Egypt, citizens lack means to engage with the government and hold it accountable. In addition, accountability mechanisms among the main institutions of government are generally weakly developed and the executive dominates other branches of government. Similarly, in Morocco, the activities of the King remain largely unchecked by other public institutions.

These variations in the political contexts of the four countries studied must be borne in mind, even where common trends seem evident. Solutions to the corruption challenges in each of the MENA countries will only be effective if carefully tailored to the national contexts described above.

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5 AMAN Coalition, *National Integrity System Study Palestine 2009* (Ramallah: AMAN Coalition), p. 6

6 *National Integrity System Study Palestine 2009*, p. 11

7 Lebanese Transparency Association – LTA, *National Integrity System Study Lebanon 2009* (Beirut: LTA), p. 27

8 Kibranian, Gaëlle, "Communal Corruption and Peace-Building in Lebanon", in: *New Routes – Pilfering the Peace: The Nexus between Corruption and Peace-Building*. Life and Peace Institute: Tufts University, Vol. 14, September 2009, 20-21.

# III.

## OVERVIEW

### 1. The Absence of a Good Governance Framework

The governance systems in each of the four countries exhibit major defects, rendering them prone to a variety of corruption risks. Recent assessments indicate that these countries rank as “very weak” in terms of their integrity system.<sup>9</sup> For example, in Egypt accountability remains a significant challenge across all branches of government as well as in other social sectors, including business, the media and civil society. In Morocco, the governance system is characterised by a dominant executive in the form of the King, whose powers are not controlled by the parliament or other public institutions in any substantial manner. In Palestine, the government’s institutional capacity to fulfil all of its stated functions is underdeveloped as a consequence of its status as a self-rule authority administering Israeli-occupied territory, rather than as an independent state. In addition, there are more recent negative effects of the internal rift between the respective authorities in the West Bank and Gaza on the state’s ability to assert its authority. Moreover, the NIS assessment finds that the public authorities of the PNA lack the expertise needed to fully develop an effective integrity system. In Lebanon, the precarious relationship between citizens and the state, due to the dominant role of communal groups, which is institutionalised in the country’s governance system, has a negative impact on public accountability, separation of powers and the efficacy of public institutions. Its consociational democracy, which is based on a power-sharing formula among different communal groups, opens up possibilities for informal bargaining and deals among the political elites of the various sects.<sup>10</sup>

While the four countries share the problems of extremely under-developed public accountability systems and uneven enforcement of existing anti-corruption laws, the countries differ significantly in the extent to which private watchdog actors, such as CSOs and the media, are able to plug the gaps left by the absence of meaningful checks and balances among official public institutions. Lebanon and Palestine allow for greater freedom of expression and association, while the state in Egypt seeks to control independent organisations and often clamps down on outspoken activists. In Morocco, while there is no active collaboration between state and civil society, there are also no severe restrictions on CSO activities. However, there are significant corruption risks in all countries and the anti-corruption community faces tremendous challenges across the region.

<sup>9</sup> Global Integrity, “Global Integrity Report 2007/2008”, <http://report.globalintegrity.org/> [accessed 1 March 2010]; with respect to Palestine, the Global Integrity Report is an assessment of the West Bank only.

<sup>10</sup> Kibranian, p. 21

## 2. Key Challenges

The NIS studies indicate common challenges across the four countries which exemplify many of the wider problems encountered throughout the MENA region. Some of these issues are conceptual, such as limited understandings of transparency, independence and accountability as key governance principles, while others are more tangible, such as a failure to enact laws to protect and encourage whistleblowing.

### 2.1 Entrenched nature of corruption

Anti-corruption concepts, such as integrity, transparency, and accountability, are poorly understood by public sector officials, private companies and the citizenry alike in all four countries, posing a challenge to the fight against corruption. Government officials often have difficulty in grasping these concepts and finding ways to make them part of their oversight practices. This is evident in Palestine where “[m]anagers of some institutions understand independence to mean the completely autonomous management of the institution with no oversight whatsoever. To say that controls are needed for independent institutions appears to be a complete contradiction in terms.”<sup>11</sup>

Moreover, there are certain corrupt practices, such as nepotism, that are deeply embedded in the social and political culture of these countries. As explained in the NIS Study on Palestine:

*To a large extent, Palestine shares the socioeconomic environment and cultural heritage of the Arab region and the greater Middle East. In these societies, favouritism and nepotism frequently undermine the integrity of government because culturally there is no clear distinction between providing legitimate assistance and crossing the line into corruption in the form of nepotism and favouritism. In Palestine, the family, tribe or political faction constitutes the most important affiliation in the lives of citizens, often holding higher priority over belonging to the society or state. In such a social and political context, a public employee is faced with the need to build ownership on the part of the tribe or political faction through providing it with services, in contravention of the law and greater good of the public.<sup>12</sup>*

Nepotism affects many aspects of political, social and economic activity in Lebanon, Morocco and Egypt as well. In Lebanon, the public contracting system suffers from clientelism, “whereby political leaders take advantage of their position to promote the interests of their own communities” at the expense of the public good.<sup>13</sup> Across the region, there are concerns that appointments to high positions in the civil service can be based on nepotism, cronyism and clientelism and that “bribery is rife within the public administration”.<sup>14</sup> The Lebanese NIS report states that citizens routinely resort to bribery to facilitate common transactions, such as obtaining a driver’s license or requesting a construction permit.<sup>15</sup> The NIS studies of Egypt, Lebanon, and Morocco concluded that nepotism, bribery and patronage are so common that they are widely accepted as facts of life. It is therefore no surprise to find that there is limited support among citizens to hold the government accountable for corrupt practices.<sup>16</sup>

### 2.2 Lack of cooperation among the pillars

The country studies point to the need for greater cooperation among the main governance stakeholders in order to strengthen the NIS as a means of facili-

<sup>11</sup> National Integrity System Study Palestine 2009, p. 66

<sup>12</sup> National Integrity System Study Palestine 2009, p. 20

<sup>13</sup> National Integrity System Study Lebanon 2009, p. 87

<sup>14</sup> National Integrity System Study Lebanon 2009, p. 78

<sup>15</sup> National Integrity System Study Lebanon 2009, p. 27

<sup>16</sup> National Integrity System Study Lebanon 2009, p. 78; Transparency Maroc, National Integrity System Study Morocco 2009 (Rabat: Transparency Maroc), p. 14; Transparency International Secretariat, National Integrity System Egypt 2009 (Cairo: International Company for Training and Development), p. 15

tating good governance. According to the NIS study on Palestine, “a phased approach is needed that engages the participation of the community, civil society organisations, the private sector, the media and religious institutions. Such a holistic reform programme would address all aspects of governance, including the institutional framework (governmental apparatus and administration), and work toward legislation to protect civil liberties and address corruption in government as well as policies and planning that reflect the needs and desires of all sectors of society”.<sup>17</sup> Similarly, the report on Lebanon calls for “a national anti-corruption strategy that brings together all stakeholders”.<sup>18</sup> However, the assessments clearly highlight the immense obstacles to greater cooperation among institutions. As long as the relationships among political parties, as well as between the state and civil society, remain adversarial, and public watchdog agencies remain largely disempowered, meaningful collaboration is unlikely to materialise.

### 2.3 Incomplete Integrity System – Absence of strong public watchdog agencies

The absence of important NIS pillars is evident upon examination of the entire National Integrity Systems in the countries under study. While there are certain institutions which can be called upon by citizens to report malpractice by public authorities in Morocco and Egypt, in none of the countries is an ombudsman institution with full powers in place. Furthermore, Egypt, Palestine and Lebanon do not possess national anti-corruption agencies, even though such an agency has been proposed in Lebanon. The Moroccan anti-corruption agency, Central Instance for Corruption Prevention (CICP), which was established only in 2008, lacks the required investigative and sanctioning powers to adequately pursue corruption charges.<sup>19</sup> Where public watchdog agencies do exist, they are assessed as weak and as suffering from limited powers and resources to play an effective role in combating corruption.<sup>20</sup>

The lack of intra-governmental checks and balances, particularly with regard to the executive, indicates the limited political will of the respective governments to fight corruption and is a key impediment to substantive progress. While progress has certainly been made in terms of putting corruption on the political agenda and passing some legal reforms, the actual test of whether political will exists lies in the stringent application and enforcement of these provisions in practice. There are, however, no signs that this is taking place in a systematic manner in any of the four countries.

### 2.4 Political interference in the work of public and private watchdog agencies

While the governments in all four countries have implemented programmes to address the roots of corruption, both public and private watchdogs are not always free from political interference in their work.<sup>21</sup> Political interference comes most often from the executive branch, which in each country studied is able to influence many of the public oversight agencies. There are concerns that the executive is able to use The Egyptian NIS report, for example, cites the cases of the Central Auditing Organisation, whose oversight role in the recent privatisation programme has been curtailed.<sup>22</sup> In this context, the Egyptian study also mentions a legal provision which requires consent of the president to begin a judicial investigation against government officials.<sup>23</sup>

<sup>17</sup> *National Integrity System Study Palestine 2009*, p. 6

<sup>18</sup> *National Integrity System Study Lebanon 2009*, p. 14

<sup>19</sup> *National Integrity System Study Morocco 2009*, p. 10

<sup>20</sup> *National Integrity System Study Lebanon 2009*, p.14; *National Integrity System Study Morocco 2009*, p. 9-10; Global Integrity, “Global Integrity Report 2008 Egypt”, <http://report.globalintegrity.org/Egypt/2008/scorecard>; Global Integrity, “Global Integrity Report 2008 West Bank”, <http://report.globalintegrity.org/West%20Bank/2008/scorecard>

<sup>21</sup> *National Integrity System Study Egypt*, p.127; *National Integrity System Study Morocco*, p. 87; *National Integrity System Study Lebanon*, p.14; *National Integrity System Study Palestine*, p.99

<sup>22</sup> *National Integrity System Study Egypt 2009*, p. 125

<sup>23</sup> *National Integrity System Study Egypt 2009*, p. 125

Attempted or actual executive branch influence over the judiciary is an additional concern.<sup>24</sup> In Palestine, these concerns relate to the risk that the executive branch influences judges or prosecutors in favour of a particular case or apply pressure to have a case dismissed.<sup>25</sup> In Egypt, judges who were known for their criticism of the conduct of the 2005 parliamentary elections have faced disciplinary action.<sup>26</sup>

In addition, there are concerns in Egypt, Morocco and Palestine that the executive is able to use its power to curtail the role of civic and media actors which are critical of its actions.<sup>27</sup> Many CSOs, particularly those working on advocacy and governance issues, experience interference with their work, such as burdensome legal registration requirements.<sup>28</sup> For example, non-profit groups in Egypt can be dissolved if they receive foreign funds or affiliate with foreign organisations without official permission.<sup>29</sup> In addition, CSOs are restricted to working in only the governorates in which they are registered, and face mandatory government approval of CSO boards and participants in CSO conferences.<sup>30</sup> In Morocco, CSOs are also subject to extensive administrative and financial regulation by the state, including registration procedures, which can be applied in a discriminatory fashion.<sup>31</sup> Similar, but less severe constraints upon CSOs' registration existed in Lebanon prior to the 2005 Cedar Revolution. While no CSO has been refused registration since that time, more subtle forms of political interference by communal groups via patronage continue.<sup>32</sup> In Palestine, as a consequence of heightened political tensions, including both internal political division and conflict with the Israeli military occupation, government interference in CSO activities has increased, both from the respective authorities in Gaza and the West Bank as well as from Israel, leading to the closure of several organisations.<sup>33</sup>

The media have also experienced political interference in the four countries studied. Legal restrictions and government practices hamper the media's ability to act independently when reporting or investigating stories. In Egypt, the government controls the main print media outlets and uses as many as 186 different regulations to restrict the freedom of the media.<sup>34</sup> In Palestine, "some media agencies have been shut down in the West Bank and Gaza Strip, and there have been incidents in both the West Bank and the Gaza Strip of journalists being arrested because they expressed opinions that opposed official discourse".<sup>35</sup> While the situation for the media in Lebanon is better, the Lebanese NIS report mentions press freedom restrictions during the 2009 Parliamentary Elections as well as a large number of legal actions (such as libel and defamation charges) and physical attacks against individual journalists.<sup>36</sup> Finally, in Morocco, there are concerns that the courts might use

24 *National Integrity System Study Lebanon 2009*, p.70; *Transparency Maroc*, "Royal Power and Judicial Independence in Morocco", in: *Transparency International, Global Corruption Report 2007 – Corruption in Judicial Systems*, Cambridge: Cambridge University Press, 232-5.

25 *National Integrity System Study Palestine 2009*, p. 61

26 *National Integrity System Study Egypt 2009*, p. 82

27 *Global Integrity*, "Global Integrity Scorecard Morocco 2008 – Civil Society Organisations", <http://report.globalintegrity.org/Morocco/2008/scorecard/2>, *Global Integrity*, "Global Integrity Scorecard Morocco 2008 – Media", <http://report.globalintegrity.org/Morocco/2008/scorecard/7>; *Global Integrity*, "Global Integrity Scorecard West Bank 2008 – Media", <http://report.globalintegrity.org/West%20Bank/2008/scorecard/7>; *Sandels, Alexandra*, "A Dark Year for Press Freedom in Egypt", <http://www.menassat.com/?q=en/news-articles/2641-dark-year-press-freedom-egypt> [accessed 8 March 2010]; *Kausch, Kristina*, "Defenders in Retreat - Freedom of Association and Civil Society in Egypt", *Working Paper 82*, April 2009, FRIDE, Madrid.

28 *Kausch, p.3-5, Chene, Marie*, "Civil Society Anti-Corruption Initiatives in MENA Countries", *U4 Expert Answer*, December 2007, <http://www.u4.no/pdf/?file=/helpdesk/helpdesk/queries/query157.pdf> [accessed 12 March 2010]

29 *National Integrity System Study Egypt 2009*, p. 138

30 *National Integrity System Study Egypt 2009*, p. 139

31 *National Integrity System Study Morocco 2009*, p. 91-101

32 *National Integrity System Study Lebanon 2009*, p.101

33 *National Integrity System Study Palestine 2009*, p. 99

34 *National Integrity System Study Egypt 2009*, p. 130

35 *National Integrity System Study Palestine 2009*, p. 95

36 *National Integrity System Study Lebanon 2009*, p. 95-96; see also *The SKeyes Center for Media and Cultural Freedom's 2009 Annual Report (Lebanon, Syria, Palestine, Jordan)*, <http://www.skeyesmedia.org/?mode=newsdetails&id=510> [accessed 12 March 2010]

disproportionately high fines as a means to silence journalists.<sup>37</sup>

## 2.5 Implementation gap between legal reform and institutional practice

There have been a number of legislative anti-corruption reforms across the region, which can be seen as evidence of increased attention to the issue of fighting corruption. However, a closer look reveals that many of these legislative reforms fall short of proven mechanisms to ensure accountability and transparency. For example, Egypt's Central Auditing Organisation (CAO) is responsible for the auditing of public sector institutions and some other entities, and for producing audit reports. However, no mechanism exists to make CAO reports available to the public, nor is an effective system in place to ensure follow-up of CAO findings. Moreover, the CAO's mandate is severely limited in that it does not address the efficiency and effectiveness of budget execution, or delivery of public services. Another example of a piece of legislation that contains loopholes and is therefore open to abuse, is Lebanon's Illicit Wealth Law. This law requires members of Parliament and the executive branch to declare their own assets and wealth within their first month in office and within three months of leaving office. However, "the law does not clarify the procedures by which the President of the Constitutional Council can verify the authenticity of such declarations"<sup>38</sup> and is therefore difficult to implement meaningfully.

Indeed, across the four countries, there is a critical gap between the number and quality of legal reforms on the one hand, and the actual enforcement of these reforms on the other.<sup>39</sup> The weak capacity of enforcement institutions and the limited political will to actually implement existing provisions are the primary reasons for this 'implementation gap'. Morocco created the Central Instance for the Prevention of Corruption (CIPC) in 2008 to both institute a corruption prevention policy throughout the country and to monitor government practices. Nonetheless, the CIPC lacks vital enforcement mechanisms and is hampered by "the absence of competencies related to investigation, which constitutes a significant weakness in a field where allegations verification is essential".<sup>40</sup> In Palestine, there is concern that the Cabinet has not complied with legal requirements regarding the submission of proposed budgets to the Palestinian Legislative Council (PLC) and the adoption of a participatory approach in drafting the state budget for the PNA due to the suspension of operations of the executive council.

## 2.6 Lack of whistleblowing mechanisms

Another key challenge to effectively addressing corruption in the countries studied (as well as in the wider MENA region) is the lack of effective and well-functioning whistleblowing mechanisms. Such mechanisms allow witnesses of corruption and other forms of malpractice to report these cases to the relevant authorities without having to fear reprisals. The protection of these whistleblowers from negative consequences is central to any successful anti-corruption effort, as evidenced by the prominence given to the issue of whistleblower protection in the United Nations Convention Against Corruption.<sup>41</sup>

Specific provisions regarding whistleblowing or whistleblower protection are almost fully lacking across the region. While certain government agencies may make use of information from whistleblowers, such as the Egyptian CAO, clear procedures regulating how to report corruption and mechanisms

37 *National Integrity System Study Morocco 2009*, p. 91

38 *National Integrity System Study Lebanon 2009*, p. 49

39 *The Global Integrity Index finds these gaps between law and practice to be large (Lebanon, Morocco, Palestine) and very large (Egypt)*, <http://report.globalintegrity.org/> [accessed 1 March 2010].

40 *National Integrity System Study Morocco 2009*, p. 87

41 *UNCAC, Article 33*, <http://www.unodc.org/unodc/en/treaties/CAC/index.html> [accessed 1 March 2010]

to protect whistleblowers from retaliation are absent.<sup>42</sup> Where they exist, whistleblowing laws generally regulate only a reporting mechanism. For example, while the Civil Service Law in Palestine provides for complaints to be filed against public employees, “it includes no provisions to protect employees who report a violation”.<sup>43</sup> The same holds true for Egypt where the relevant law is focused on penalising misreporting of alleged corruption offenses, rather than on protecting whistleblowers from recrimination.<sup>44</sup> In fact, the only law in the four countries studied that contains mechanisms to protect whistleblowers is the Palestinian Illicit Gains Law, which requires all public employees to report any incidences of illicit gains of which they have knowledge. While it prohibits any disciplinary action against informants, it includes stringent penalties for misreporting, therefore discouraging whistleblowing.<sup>45</sup>

## 2.7 Conflation of private and public interests

Conflict of interest laws are important in order to instil integrity in government practices, as such laws regulate how to deal with situations where a public official might also have private interests which could influence his or her public duties. However, across the four countries, these laws are either absent or inadequate to achieve this goal. Problems concerning conflict of interest emerge in a number of NIS pillars, especially in those which are related to political and economic activities, such as public procurement, the business sector and civil service.

In Egypt, situations posing a conflict of interest have recently increased, particularly the emergence of prominent businesspeople that simultaneously hold high-level public offices.<sup>46</sup> Similarly, in Lebanon, “many of the companies [...] are family-owned enterprises and there is seldom a distinction made between the family members and their roles in company management, which can lead to a conflict of interest if they are also involved in politics or industry associations”.<sup>47</sup> Moreover, across all countries studied, there is a risk of that conflict of interest situations can occur in those procurement contracts, which are granted to former or current state officials, to relatives of these officials or to a limited number of private companies which are closely linked to the government.

## 2.8 Limited access to public information

Public access to information is extremely limited across the four countries studied. Comprehensive laws on the freedom of information are missing and those laws which do address rights to access information do not contain enforcement provisions which could be used to ensure the compliance of reluctant institutions. This lack of access to information compromises transparency and meaningful public participation and hinders the public’s ability to uncover corrupt practices. This is particularly problematic for the media, as it restricts journalists’ ability to investigate suspicions of corruption without encountering legal obstacles.<sup>48</sup>

In several of the countries studied, laws exist which require institutions to make certain information available. However, these laws either restrict public access to this information or, as stated, lack effective enforcement mechanisms. For example, in Egypt, Law 121/1975 prohibits the independent use or publishing of official documents.<sup>49</sup> Members of parliament in Morocco must

42 *National Integrity System Study Egypt 2009*, p. 78

43 *National Integrity System Study Palestine 2009*, p. 69

44 *National Integrity System Study Egypt 2009*, p. 108

45 *National Integrity System Study Palestine 2009*, p. 69

46 *National Integrity System Study Egypt 2009*, p. 55; Global Integrity, “Global Integrity Report 2008 - Reporter’s Notebook: Egypt”, <http://report.globalintegrity.org/Egypt/2008/notebook> [accessed 17 March 2010]

47 *National Integrity System Study Lebanon 2009*, p. 108

48 *National Integrity System Study Morocco 2009*, p. 94; *National Integrity System Study Egypt 2009*, p. 133-134

49 *National Integrity System Study Egypt 2009*, p. 41; IFEX, “Journalists, civil society groups call for freedom of information coalition”, [www.ifex.org/egypt/2009/11/27/freedom\\_of\\_information\\_coalition/](http://www.ifex.org/egypt/2009/11/27/freedom_of_information_coalition/) [accessed 5 March 2010]



submit a statement of their properties when entering office and at the end of their parliamentary terms. While these statements are renewed every three years, the statements are not made public. In Palestine, there is a concern that the PNA has not complied with laws requiring it to publish information on its financial performance and thus “reliable information about the financial performance of the PNA was not available during 2006 and 2007, resulting in conflicting and contradicting rumours being circulated regarding the PNA’s financial activities”.<sup>50</sup>

## 3. Key Positive Trends

3. Given the range of institutional problems outlined above and the web of political, social and cultural factors mitigating against the anti-corruption fight, it is unsurprising that only a limited number of good practices can be identified from this set of NIS assessments. These positive trends with respect to combating corruption are, nonetheless, noteworthy.

### 3.1 Increased institutional and legal reforms

All of the four countries have adopted either national anti-corruption plans or passed major anti-corruption laws in recognition of the urgent need to address corruption. The Palestinian Legislative Council, in 2002, passed laws that aimed to increase and enforce separation of powers in the PNA, strengthen the independence and power of the judiciary, and provide some oversight over security institutions. The Cabinet later adopted the Palestinian Mid-Term Reform and Development Plan (2008-2010) to address organisational and financial reforms.

In Lebanon, substantive progress has been made on the legal front, which is reflected in the improved score of the country on the Global Integrity Index.<sup>51</sup> The Office of the Minister of State for Administrative Reform has launched several initiatives to fight corruption, including drafting access to information laws, proposing the establishment of an ombudsman and seeking the amendment of the Illicit Wealth Law, which however remain in draft form. In addition, a Special Investigation Committee was established as part of the Lebanese Central Bank in order to investigate cases of money laundering.

The Moroccan government in 2006 adopted a plan to fight corruption and created the Central Instance for the Prevention of Corruption in 2008. Advisory in nature, its role is to make “recommendations to administrators, public organisations, private companies and any actor in the corruption prevention policy”.<sup>52</sup>

Likewise, in Egypt, “efforts undertaken to combat corruption by the government and anti-corruption agencies have increased”.<sup>53</sup> For example, in 2005, a Presidential Election Commission (PEC) was established and charged with supervising the presidential election process and monitoring campaign rules, especially pertaining to quality of media access and campaign financing, as well as taking proper action if such rules are violated.<sup>54</sup> Other recent reform initiatives in Egypt include the establishment of a multi-stakeholder Transparency and Integrity Committee under the auspices of the Minister of State for Administrative Development and the setting up of a Centre for Transparency located at the Ministry for Investment.<sup>55</sup>

50 *National Integrity System Study Palestine 2009*, p. 32

51 *Global Integrity Index 2009*, <http://report.globalintegrity.org/> [accessed 4 March 2010]

52 *National Integrity System Study Morocco 2009*, p. 85

53 *National Integrity System Study Egypt 2009*, p. 24

54 *National Integrity System Study Egypt 2009*, p. 66

55 *National Integrity System Study Egypt 2009*, p. 29-30

### 3.2 Increased role for civil society in fighting corruption

To varying degrees, civil society has increasingly assumed a stronger role in combating corruption in the countries under study over the last few years. CSOs have adopted a variety of different approaches. Some CSOs have played an active role by directly working with government to develop the legislation necessary to effectively address corrupt practices. For example, the Lebanese Transparency Association (LTA) has partnered with the Lebanese government on a number of initiatives, including the most recent “National Budget Transparency Initiative” to develop a citizens’ budget and to introduce more transparency into the budget process. Similarly, in Palestine, Transparency Palestine (AMAN), in cooperation with other CSOs, developed a draft framework for a comprehensive national plan to combat corruption, based on a 2007 request from the Cabinet. Due to the different political circumstances, such examples of civil society-government cooperation are absent in Morocco and Egypt. However, in these countries (as well as in Lebanon and Palestine), many CSOs exist which seek to raise public awareness about the scourge of corruption, monitor the activities of public and private actors, and seek to bring corrupt officials and private beneficiaries of corruption to justice.

# IV. REGIONAL COOPERATIVE ANTICORRUPTION EFFORTS

The governments of the countries under study have signed on to regional and international treaties as part of a collective effort to eradicate corruption in the MENA region. The countries have also already implemented some of the provisions and mandates of these regional and international treaties in their domestic laws, even if these laws lack enforcement in practice to date. Such implementation not only reflects the desire of the countries for regional cooperation but also indicates some level of commitment to furthering anti-corruption activities domestically.

All of the countries<sup>56</sup> have ratified the United Nations Convention Against Corruption (UNCAC). The UNCAC provides international standards to which signatory countries must adhere in order to instil transparency, integrity and independence in governmental institutions, as well as in the private and public sectors. It also provides standards for monitoring mechanisms to verify the effective implementation of its commitments in the signatory countries.

Domestic legislation to implement UNCAC provisions has already been passed in a number of countries. In Palestine, several laws have been amended to conform to the UNCAC including the Illicit Gains Law. In Lebanon, CSOs are working with government agencies to create mechanisms to implement UNCAC mandates. In Egypt, “the government, together with the general prosecutor’s office, has been cooperating with concerned international organisations to fulfil its obligation in regard to the UNCAC”.<sup>57</sup>

In addition, a number of regional cooperative anti-corruption efforts are ongoing throughout the MENA region. The Arab League has embarked on a series of initiatives, including drafting the Arab League Convention on Combating Corruption, which will constitute its commitment to the UNCAC. Parliamentarians in Morocco, Palestine and Lebanon are active within the Arab Region Parliamentarians Against Corruption (ARPAC) initiative, which partners with the United Nations Development Programme (UNDP) Parliamentary Development Initiative in the Arab Region to provide assistance to Arab parliamentarians lacking the “capacity, resources and independence required to carry out their core functions effectively”.<sup>58</sup> An important regional initiative is the UNDP’s POGAR, which promotes good governance and effective anti-corruption efforts across the region. Under the auspices of POGAR, a regional anti-corruption and integrity network, ACINET, was founded in 2008. ACINET focuses on government authorities, but also involves parliamentarians as well

<sup>56</sup> Palestine is not a recognized state and therefore cannot ratify conventions. The PNA, a self-rule authority governing the Israeli-occupied Palestinian territories of the West Bank and Gaza Strip, has, however, signed a memorandum indicating its commitment to adherence to the UNCAC; see [www.aman-palestine.org/eng/UNCAC/PalestineUNCAC.htm](http://www.aman-palestine.org/eng/UNCAC/PalestineUNCAC.htm)

<sup>57</sup> OECD, “MENA, OECD countries pledge new efforts to streamline public services, boost investment”, [http://www.oecd.org/document/49/0,3343,en\\_2649\\_34487\\_44123953\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/49/0,3343,en_2649_34487_44123953_1_1_1_1,00.html) [accessed 1 March 2010].

<sup>58</sup> UNDP-POGAR, <http://arabparliaments.org/> [accessed 1 March 2010]

as representatives from civil society and the private business sector.<sup>59</sup> While still all too rare, such multi-stakeholder and regional efforts are likely to represent one of the more promising avenues to address the scourge of corruption, which continues to inhibit sustainable and equitable development and to deny people crucial opportunities and freedoms across the entire MENA region.

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<sup>59</sup> UNDP-POGAR, “The Arab Anti-Corruption and Integrity Network”, [www.pogar.org/publications/ruleoflaw/acinet-brochure-09e.pdf](http://www.pogar.org/publications/ruleoflaw/acinet-brochure-09e.pdf) [accessed 1 March 2010].



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