



The Palestinian Center for the Independence  
of Judiciary and Legal Profession - MUSAWA

# Executive Summary

The Palestinian Center for the Independence  
of the Judiciary and the Legal Profession "MUSAWA"

Third Legal Monitor

To Identify variable and fixed in the status of the Justice in West Bank  
and Gaza Strip

(Comparative Study for different years)

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The Palestinian Center for the independence of the Judiciary and the Legal Profession "MUSAWA"

Ramallah; Al Bireh – Al Balou' – Courts Street

Tel: +972 (2) 2424870

Fax: +972 (2) 2424866

Gaza; al Jala' Street- Al Jala'Tower

Telefax: +972 (8) 2874206

e-mail: musawa@musawa.ps

URL: www.musawa.ps

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**Contents**

Introduction ..... 4

Methodology ..... 4

Status of Justice in West Bank..... 9

Good Governance indicators in the justice sector institutions in West Bank ..... 22

Status of Justice in Gaza Strip ..... 32

Good Governance indicators in the justice sector institutions in Gaza Strip ..... 40



## **Introduction**

This Third Legal Monitor on the status of the Justice sector in Palestine, issued by the Palestinian Center for the Independence of the Judiciary and the Legal Profession "MUSAWA" since 2007, complements the center's efforts - in cooperation with other stakeholders (legal, civil, governmental, Non-governmental, etc...) – to maintain and develop the Justice sector in Palestine. Hence this sector is considered one of the most important sectors that impact the Palestinian citizens and their potentials in achieving national independence particularly during this critical and sensitive phase of building the Palestinian State.

This study report is based on indicators that were developed in accordance to the "Sectoral Survey of the Pillars of Justice in Palestine" implemented by MUSAWA in 2007, in which the different pillars of justice were identified along with indicators related to each pillar. As in the past years a big and diverse sample was surveyed, the sample included; workers in the justice sector different institutions such as judges, members of the public prosecution, public prosecution staff, Sharia court staff, in addition to practicing lawyers, lawyers-in-training and instructors and students at the different Palestinian law schools. A sample of the Palestinian public was also surveyed and another sample that represented the "litigants"- Palestinians who went to the different Palestinian courts and used them. These surveys aims at forming a clear picture on the status of Justice in Palestine during last year and to

compare it to the previous years, in order to measure any progress or decline in the performance and potentials.

Finally, it should be noted that during the targeted groups questionnaire design phase, the Center for the Independence of the Judiciary and the Legal Profession "MUSAWA" conducted two workshops at Ramallah under the title of "Development of performance indicators for the formal justice institution in Palestine", 15 official representatives from the formal justice institutions participated in the first workshop (of which 5 females) and 11 participated in the second workshop (of which 1 female). Topics of rule of law and levels of the Palestinian public trust in the judicial sector were discussed in the workshops. The participants also recommended additional targeted groups such as: media, the Police, heads of reform, representatives of tribal judiciary, Ministry of Justice and governorates.

## Methodology

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### 1.1 Study tools

This study used field survey of a sample representing the targeted groups. The main surveying tool was a number of specially designed questionnaires for each of study targeted groups, pre-prepared questionnaires designed by MUSAWA used in the first Legal Monitor of the Justice status in Palestine in May 2010 were used. The questionnaire included three main parts:

- Introductory Data; included the questionnaire number, governorate/ district, the locality, and other information, in addition to quality control information such as the surveyor name, the auditor, and the field supervisor.
- The surveyed background; included questions on the marital status, economical situation, and Academic background.
- Study indicators; included a number of legal indicators.

### 1.2 Pilot study

A pilot study was conducted on a sample of the targeted group, this pilot survey/ study aimed at identifying items that could hinder the credibility of the used tool because of a conceptual, lingual or other

ambiguities. The pilot study also aimed at exploring the questionnaire instructions, its suitability to the timeframe, and the internal consistency factor for the questionnaire components. After the pilot study was concluded the questionnaire was revised, modified, and finalized as the study survey tool.



### 1.3 The study sample

Study Group	Sample size	Sample type	Data Collection tool	Geographical location	Notes	
	West Bank	Gaza Strip				
Sharia Judges	75	0	Stratified, Random	Personal Interview	West Bank Only	Approval from officials could not be granted to collect data from Sharia Judges in Gaza
Sharia Courts staff	118	0	Stratified, Random	Personal Interview	West Bank Only	Approval from officials could not be granted to collect data from Sharia Courts staff in Gaza
Members of the Prosecution	57	43	Stratified, Random	Personal Interview	West Bank and Gaza	
Public Prosecution staff	70	41	Stratified, Random	Personal Interview	West Bank and Gaza	
Practicing Lawyers	217	241	Stratified, Random	Personal Interview	West Bank and Gaza	
Lawyers-in-training	263	152	Stratified, Random	Personal Interview	West Bank and Gaza	
University Instructors	31	22	Stratified, Random	Personal Interview	West Bank and Gaza	

Palestinian Universities law school students	377	303	Clustered Stratified, Random	Personal Interview	West Bank and Gaza	
Palestinian Public	981	635	Clustered Stratified, Random	Personal Interview	West Bank and Gaza	
The litigants	899	0	Stratified, Random	Personal Interview	West Bank Only	Approval from officials could not be granted to collect data from litigants in Gaza
Reform Centers	3	5	Stratified, Random	Personal Interview	West Bank and Gaza	
Law schools	4	3	Stratified, Random	Personal Interview	West Bank and Gaza	
Civil Judges	75	0	Stratified, Random	Personal Interview	West Bank Only	Approval from officials could not be granted to collect data from Civil Judges in Gaza
Civil Courts staff	298	0	Stratified, Random	Personal Interview	West Bank Only	Approval from officials could not be granted to collect data from Civil courts staff in Gaza

## 1.4 Field work

### **Field team:**

“Alpha international” recruited a number of field supervisors and researchers experienced in conducting surveys from the different districts. It is worth mentioning that “Alpha International” keeps an advanced data base that includes a large number of field researchers from different districts, this data base is enriched with indicators on the researchers’ observations and opinions regarding the surveys they conduct in order to derive subjective comparative criteria that helps improve the researchers’ performance.

### **Field team training:**

Two training workshops were organized for the researchers; the first was conducted in the West Bank where all field researchers for all West Bank districts participated, the other was conducted in Gaza Strip and all field researchers participated in the workshop. In the workshops the study goals were explained, indicators and terms used were clarified, and all the questions listed in the questionnaires were explored. “Alpha International” team presented quality assurance and precision criteria applied by the company in all of its surveys. The team also explained the methodological, logistical, administrative and financial determinants of the field work. They have also stressed the importance of not compromising data collection quality under any circumstances, and the importance of continuous coordination with the field supervisor in the named area to find solutions and solve any field problems.

### **Field work mechanism:**

A field coordinator was assigned and dedicated to West bank and another was assigned to Gaza Strip. Five experienced and knowledgeable field work supervisors were also assigned; three were assigned to the north, middle and south of the West Bank; and two field work supervisors were assigned to Gaza. The field team included selected field researchers with experience, credibility and the ability to handle crisis and difficult situations. The number of field researchers was 50 distributed in groups in accordance with the sample size in each area.

### **1.5 Data validation**

All questionnaires and data went through many phases of revision and validation in accordance to “Alpha International” quality standards for data collection; the phases were as follows:

- 1. Field check:** field check is the responsibility of the coordinators and area supervisors, the coordinators and supervisors reviewed a number of questionnaires selected randomly before sending to the main office.
- 2. Office audit:** at this stage all questionnaires were audited by the research team, the team reviewed and revised all questionnaires for credibility and logical answers.
- 3. Questionnaires coding:** after the audit questionnaires were coded according to pre-prepared codes. And the questionnaires were ready for data entry.

4. **Data Entry check:** this is conducted through the data entry software, the program was equipped with precautionary logical rules that don't allow the entry of wrong data, in addition to the automatic consideration of transitions in the questionnaires
5. **Data Cleaning:** after data entry is complete, initial frequency tables were generated for the study indicators, tables were reviewed by the statistical team to ensure the integrity of data, and that there are no extreme striking cases. And in case of errors, the questionnaire was re-entered.
6. **Data Credibility:** in this phase 10% of the questionnaires were re-entered and compared to the previously entered data, in case of differences or irregularities, questionnaires were revised and re-entered correctly.

## 1.6 Data Entry

Data entry program was designed using "MS Access 2010", the entry program has the following features and properties:

1. The possibility of dealing with carbonic copies (in Arabic language) on the computer monitor.
2. Maintaining minimum error in digital data entry, or field work mistakes
3. Easy presentation of different data for all parts of the questionnaire
4. The ability for logical check of the questionnaire data

5. The ability for internal audit
6. User- friendly

## **1.7 Data Analysis**

After data entry, validation and readiness for analysis is complete, data was exported from Access 2010 to the statistical package (SPSS) using (StartTransfer) software, this software guarantees transfer from one data base to another maintaining the same data features. Data was analyzed for results using SPSS and the generation of frequency tables and cross tables that reflects the relative distribution of the study indicators according to special study groups' variables.

## Status of Justice in West Bank

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### Introduction

Imbalances and obvious areas of weaknesses negatively affect the Palestinian justice system, in addition to the slowness and complexity of the procedures, lack of transparency and deficiencies in comparison to modern measures. Restrictions on access to the judiciary, interference in its affairs, limiting its independence and impartiality, and the use of Alternative Dispute Resolution (ADR) methods represent the major weaknesses facing the judiciary. In addition the absence of political will for reform and change could harm the judiciary in all aspects.

The most serious imbalances in the justice system lies in the presence of two political systems in each of Gaza and West Bank which caused a separation in the judicial system, the absence of mutual coordination between the two systems and the decrease in the level of citizens trust in the judiciary which led to the lack of citizen trust in achieving justice in timely matter. On the other hand and on the level of judicial independence, the executive authority is extremely interfering in the judiciary affairs.

Following are the main conclusions of the Palestinian public survey in West Bank:

#### **The First Pillar: Trust in the justice institutions:**

This pillar aims at identifying the extent of trust of the surveyed groups

in the justice system and the extent to which the civil courts are been accessed.

The results show the following:

### **1. Perceptions of the Palestinian public:**

- 81% of the public believe that citizen negative view towards the judiciary cause them to resort to Alternative Dispute Resolutions such as tribal justice and security forces
- It's clear that 55% of the Palestinian public do not trust the civil courts or have low level of trust. 92% think that citizens should have legal culture through the introduction of law into school curricula.
- 65% of the public prefers tribal justice
- More than half of the public (65%) don't trust or have low level of trust in the public prosecution.
- 64% of the public don't trust getting a fair solution through the judiciary.
- 77% of the public prefers using their connections and friends to help solving disputes among litigants as an alternative to civil courts
- 68% of the public believe that judgments issued by the courts are not enforced in timely manner. Whereas the delays in the enforcement of the judgment prejudice the justice system and lead to lack of citizens' trust in the judiciary.
- 41% of the public believe that they will not get a fair trial if they resort to civil courts.



- Half of the public (50%) don't trust the police or have low level of trust in them.
- 65% of the public believe that lawyers receive bribes and gratuities, and they lack integrity and transparency.
- 75% of the public believe that the judges discriminate between litigants based on their social status.
- 61% of the public believe that the courts staff' performance is corrupted and not transparent, 74% of them believe that the employees serve the public in an inappropriate manner.

## **2. Perceptions of litigants/courts users**

1. 82% of the litigants and courts users think that citizens' view is negative towards the judiciary and cause them to resort to ADR methods such as tribal justice, and to obtain their rights by themselves apart from the rule of law.
2. 63% prefers the intervention of tribal justice. More than half of courts users (56%) don't trust the public prosecution or have a low level of trust.
3. 47% of the litigants/courts users don't trust they will get a fair solution when resorting to the judiciary.
4. 79% of the litigants/courts users prefer family and friends interference between the dispute parties as an alternative instead of civil courts.
5. 70% of the litigants believe that there are delays in the enforcement of judgment which prejudice the justice system and result in the

lack of the citizen's trust in the judiciary.

6. 43% of the litigants/courts users believe that they will not get a fair trial if they resort to civil courts.
7. There is a low level of trust amongst the litigants/ court users and lawyers whereas 62% of the public believe that the lawyers receive bribes and gratuities and they lack integrity and transparency. 40% of litigants and courts users said they will not appoint a lawyer in case they faced a problem.

### **3. Perceptions of public prosecution members:**

There are several Justice Sector institutions; of which is the judicial authority that is represented by the High Judicial Council, Ministry of Justice, Shari'a Courts, The Bar Association, Security organizations and the related Civil Society Organizations. Following are the most important results:

- 33% of the public prosecution members confirmed lack of trust in the judiciary and 18% refrained from declaring their opinion, and it is most probably that they don't trust the judiciary but prefer not to declare it.
- 40% of the public prosecution members do not trust lawyers.
- 58% of the public prosecution members think that the Ministry of Justice does not carry out its duties from while 30% have refrained from giving their opinion.

#### **4. Perceptions of Civil courts' staff:**

- The percentage of civil courts staff that does not trust the public prosecution is 34%.
- The percentage of civil courts staff that does not trust the lawyers is 61%.
- The percentage of civil courts staff that does not trust the police is 38%.
- The percentage of civil courts staff that does not trust the courts staff is 20%.
- The percentage of civil courts staff that does not trust the Palestinian judiciary is 29%.
- The majority of the courts staff (67%) believes that the inspection department scope is limited to following up on employees' attendance rather than their work achievements and performance because there are no performance indicators neither of a work plan based on which the performance could be measured. The inspection department will not take action unless a complaint by the citizens or the employees is filed.

#### **5. Perceptions of practicing lawyers**

- Senior lawyers think there is rigidity in the Palestinian judiciary towards enhancement and continuous development. 69% of senior lawyers believe that the judiciary is not moving towards continuous development.
- 72% of the practicing lawyers think the state failed to maintain

the judicial independence.

- 60% of the practicing lawyers believe that the issued judgments are subject to external influences.
- 70% of the practicing lawyers there is slowness in the enforcement of judgment which hinders the achievement of justice.
- There is a trust crisis between lawyers and the judiciary and the justice institutions, where 60% don't trust the judiciary and 37% of the lawyers don't trust their colleagues. 71% don't trust the public prosecution, 31% don't trust the Shari'a courts, and 35% don't trust the notary public.
- There is court cases disposition is extremely slow at the civil courts with a percentage of 83%.
- 40% of the lawyers believe that the relation between the justice institutions is conflicted and of dispute nature over authorities rather than coordination and cooperation. 37% of them believe that the relation between the justice institutions is not based on a regulated legal framework.
- The results of practicing lawyers' perceptions show that 49% think that the security forces interfere mostly in the judicial work, followed by the executive authority (Ministry of Justice, High Judicial Council, Council of Ministers with a percentage of 27%, in addition to other bodies that interfere in the judicial work.
- Practicing lawyers' perceptions show that 52% think the High Judicial Council interferes in the judiciary with, and 48% senior judges, and 29% think that the inspection department interferes during trial process, while 51% think members of the public

prosecution interferes.

- 95% of practicing lawyers believe that the judges do respond to pressures practiced over them, by the High Judicial Council, the minister of Justice, the senior judges, relatives, friends and the security forces, to influence judgments.

#### **6. Perceptions of lawyers-under-training:**

- The results show that 63% think the Ministry of Justice interferes mostly in the Judiciary work, followed by the Council of Ministers with 18% and the security forces (Preventive Security 49%, Intelligence 23%, and Military Intelligence 8%).

#### **7. Perceptions of law students:**

- 40% of law students do not trust the Palestinian Judiciary.
- 41% of law students do not trust the public prosecution.
- 49% of law students do not trust the Palestinian Police.
- 40% of law students do not trust courts staff.
- 38% of law students do not trust lawyers.

#### **Second Pillar: Perceptions of the surveyed groups towards the judicial authority, Shari'a courts and Justice Institutions.**

This pillar aims to identify the surveyed groups' perceptions from the different surveyed groups of the study towards the Judicial Authority, Shari'a courts and the Justice Institutions in terms of integrity,

impartiality, transparency and judicial fairness.

The results showed the following:

### **1. Perceptions of the civil courts judges towards the judiciary**

- 29% of the judges at civil courts believe that the Palestinian judiciary is corrupted and partial. 11% of the judges believe that the judiciary lacks impartiality, integrity and fairness and is not in a better situation than in other Arab countries. This is an alerting percentage taking into consideration that judges are knowledgeable and part of the judicial system.
- 43% of the judges believe that the judiciary is not heading towards improvement.
- 41% of the judges in civil courts believe that justice in Palestine is currently in bad conditions. The Majority of judges (60%) believe that the state failed to maintain judicial independence.
- 21% of judges believe that judicial judgments are subject to external influences.
- 49% of judges believe that the Palestinian Police performance in enforcement of judgments is not excellent, while 29% believe that Police performance is excellent in enforcing judgments.
- 37% of judges think that the notification process is one of the most significant reasons behind the delay of cases disposition before civil courts, followed by absence of lawyers from trials with 19%. Absence of witnesses with 13%, and the huge cases backlog with 12%.
- 28% think the High Judicial Council interferes in the judge's work

during viewing and dismissal of disputes.

- 28% think senior judges interfere in the judge's work during viewing and dismissal of disputes.
- 39% believe that the judicial inspection department interferes in the judge's work during viewing and dismissal of disputes.
- 16% of judges believe members of the public prosecution interfere in the judge's work during viewing and dismissal of disputes.
- 46% of judges confirm that they are exposed to pressure from the High Judicial Council members in different levels. 76% of judges believe that the judges respond to pressure with various degrees.
- 47% of judges confirm that they are exposed to pressure by senior judges in varying levels. 86% of judges believe that the judges respond to this pressure in different degrees.
- 24% of judges confirm that they are exposed to pressure by influential figures from the private sector in varying degrees. 73% of judges believe that judges respond to pressure in different degrees.
- 37% of judges confirm that they are exposed to pressure by family members and friends in varying degrees. 73% of judges believe that the judges are responding to the pressure in varying degrees.
- 39% of judges believe that the High Judicial Council is not leading the judiciary to independence.
- 47% of judges believe that the High Judicial Council complements the executive authority and 23% did not agree to that while 30% had no say.

- 35% of judges believe that the High Judicial Council deals with judges in an objective way and not in personal way. While 42% oppose that and 23% has no say.
- 27% of judges do not trust courts staff.
- The vast majority of civil judges (72%) do not trust lawyers.
- 19% of civil judges do not trust the Palestinian judiciary.

## **2. Perceptions of the public prosecution members:**

- Around half of the public prosecution members (49%) believe that the judiciary is not heading towards improvement.
- Around half of the public prosecution members (51%) believe that the state failed to maintain judicial independence.
- 47% of public prosecution members believe that judicial judgments issued by judges are subject to external influences.
- More than one third (39%) of the public prosecution members believe that the Palestinian judiciary is corrupted and partial.
- 54% think Security forces interfere, the most, in the public prosecution work.
- 39% of the public prosecution members believe that senior public prosecution members are interfering in public prosecution work, while 11% has no say.
- 68% think the executive authority interferes in the public prosecution work.
- 40% of public prosecution members believe that they are exposed



to pressure by the High Judicial Council members. 61% of which believe that the public prosecution members are responding to the pressure in different degrees.

- 65% of public prosecution members confirm that they are exposed to pressure by senior prosecutors. 92% of which believe that the public prosecution members are responding to the pressure in varying degrees.
- 47% of public prosecution members confirm that they are exposed to pressure by influential figures from the private sector. 78% of public prosecution members believe that the prosecutors are responding to this pressure.
- 61% of prosecutors confirm that they are exposed to pressure by family members, relatives and friends. 83% of them believe that prosecutors are responding to the pressure. 25% only deny presence of pressure by family members, relatives and friends and 14% are not certain about the existence of such pressure.
- 46% prosecutors think the nature of the relation between the official justice institutions (the judiciary, public prosecution and Ministry of Justice) is conflicted and in dispute and struggle over authority, and 44% think the relation is not based on a regulated legal framework
- 65% think that the dependency of the public prosecution is to the judicial authority, while 7% think it is to the Ministry of Justice, and consider it as an independent commission.

### **3. Perceptions of lawyers-under-training towards the judicial authority and the justice institution:**

The results show the presence of a deep misunderstanding of the relation between lawyers and the judicial authority which is basically the result of the unclear relationship between them. It is not a relation of conflict and contradiction rather of an integration and mutual cooperation to uncover the truth and achieve justice for all. Following are the main results:

- 56% of the trainee lawyers think that because of the rigidity of the Palestinian judiciary towards enhancement and continuous development it is not moving towards continuous improvement.
- 52% of the lawyers-under-training think the state failed to maintain the judicial independence, 60% think that the issued judgments are subject to external influences, 48% think the Palestinian judiciary lacks the impartiality, the integrity and justice and is not of a better situation than in other Arab countries.
- 83% of trainee lawyers believe court cases disposition rate is extremely slow at civil courts.
- 23% of the trainee lawyers believe that the relation between the justice institutions is of a conflicted, contradicted nature and is in dispute over authorities rather than being in a situation of coordination, integration and cooperation. 34% of them believe that the relation between the justice institutions is not based on a regulated legal framework.

#### **4. Perceptions of Sharia Judges towards the judiciary in general and the justice institutions:**

1. Approximately half of the Sharia Judges (48%) believe that the Palestinian judiciary moving towards the continuous improvement. While the other half do not believe that judiciary is moving towards improvement.
2. Approximately half of the Sharia Judges (48%) believe that the state succeeded in maintaining the independence of judiciary, while the other half does not believe that.
3. 56% of the Sharia Judges believe that the courts judgments are not subject to external influences, while 26% of judges believe that the courts judgments are subject to external influences.
4. More than one third of the Sharia Judges believe that the judiciary is of integrity and is not corrupted, while two thirds believe the opposite.
5. One third of the Sharia Judges (33%) believe that security forces do interfere in the judiciary judgments.
6. 33% of the Sharia Judges believe that there is interference in the judiciary judgments and decisions.
7. 41% out of the Sharia Judges believe the executive authority intervene in the Sharia judiciary.
8. The majority of the Sharia judges confirm their trust in the Sharia judiciary (74%) while 22% do not have trust in judiciary, and 4% do not have a say.
9. 63% of the Sharia judges believe that the level of lawyers is weak

in general.

10. 33% of the Sharia judges believe that the Ministry of Justice does not perform its duties (role), and 48% did not have an answer for this question, this is a high percentage and probably it will lead to a negative direction in the Ministry evaluation.

#### **5. Presumptions of Sharia Courts staff towards the Sharia Judiciary.**

- Half of the Sharia Courts staff (50%) believes that the Palestinian judiciary is moving towards continuous improvement. While the other half opposes this which means that the employees are divided in their evaluation of the judiciary.
- 38% of the Sharia courts staff believes that the state did not succeed in maintaining the independence of judiciary.
- 31% of the Sharia courts staff believes that the courts judgments are not subject to external influences.
- 46% of the Sharia courts staff believes that the judiciary is not of integrity and is corrupted,
- 20% of the Sharia courts staff does not trust the Sharia judiciary.
- 62% of the Sharia courts staff does not trust lawyers.
- 25% of the Sharia courts staff does not trust their colleagues in the Sharia courts, and 12% did not answer.

#### **6. Perceptions of law schools students:**

- 53% of the law schools students believe that the Palestinian

judiciary is moving towards continuous improvement.

- 41% of the Law schools students believe that the courts judgments are not subject to external influences.
- 36% of the Law schools students believe that the judiciary is of integrity and is not corrupted,
- Less than 44% of the law schools students believe that the state succeeded in maintaining the independence of judiciary.
- Less than half of the law schools students (48%) believe that the Palestinian judiciary enjoys the impartiality, integrity, fairness in comparison to other Arab countries.
- 30% of the law schools students believe that the weakness of lawyers is because of the weakness of justice.
- 44% of the law schools students believe that the courts buildings are appropriate and adequate.

## **7. Perception of Civil court staff:**

- One third of civil courts staff (32%) believe that the Palestinian judiciary is not moving towards continuous improvement and development, while 10% did not answer this question, most probably they tend to not believe that the judiciary is moving towards future development and they don't want to answer or they don't know.
- 25% of the civil courts staff believes that the judiciary in Palestine is not better than in the Arab countries in regards of impartiality, integrity and fairness. It worth mentioning that 21% did not

answer this question.

- Approximately half of the civil courts staff 48% believes that the Palestinian Judiciary is not of integrity, and is corrupted.
- 38% of the civil courts staff believes that Justice in Palestine is in a bad condition.
- 38% of the civil courts staff believes that the state did not succeed in maintaining judicial independence.
- 35% of the civil courts staff believes that the courts judgments are subject to external influences.

#### **8. Perceptions of Public prosecution staff:**

- 39% of the public prosecution staff is not optimistic about the future of the Palestinian judicial Authority and they believe that the judiciary is not moving towards continuous improvement and development, while 36% believe that the state did not succeed in maintaining judicial independence. 16% did not want to answer, this is a high percentage and should not be underestimated considering that the staff is very close to events and witnesses firsthand the realities.
- 50% of the public prosecution staff believes that the courts judgments are subject to external influences. While 44% believe that the Judiciary is not of integrity and is corrupted, 21% did not answer.

## **The Third pillar: Perceptions of the surveyed groups towards the human resources and training programs in the judicial institutions.**

### **1. Perceptions of the civil courts judges:**

- More than half of civil courts judges (59%) think that the number of court staff is not adequate.
- 44% of the civil courts judges believe that the court staff appointment is not in accordance to legal procedures.
- The majority of civil courts judges (53%) believes that the Ministry of Justice does not perform its tasks adequately.
- The majority of civil courts judges (71%) believes that lawyer are weak in general.
- The majority of civil courts Judges (61%) think that there is a problem in the distribution of judges within cities, and 74% believe that there is a problem in distributing the judges as per courts.
- The results show that more than two thirds of civil judges (69%) believe that promotion criteria are not clear.
- The results show that half of the civil judges (49%) believe that there is discrimination in promotions, and 47% believe that there is discrimination in judge's appointments.
- The results show that more than one third of civil judges (39%) believe that promotions depend on personal relation and nepotism, 77% believe that there is discrimination in hiring of judges.
- The results show three quarters of civil judges (72%) believe that

there is discrimination in nomination of judges for trainings, 67% believe that there is discrimination in judges transfer (from court to court).

- The results show majority of civil judges (79%) believe in the necessity of training judges in different specialization.

## **2. Perceptions of civil courts staff:**

- The majority of civil courts staff (71%) believes that the number of courts staff is not adequate and does not match courts needs.
- More than half of the civil courts staff (56%) thinks that the notification is the main problem in the litigation process.
- The majority of the civil courts staff (61%) believes that there is a delay in cases disposition in courts.
- Approximately half of the civil courts staff (51%) believes that courts employee's appointment is not in accordance to legal procedures.
- Approximately two thirds of civil courts staff (64%) believe that nepotism is the base of appointment and promotion in courts.
- 91% of the civil courts staff confirms that they need continuous training.
- 85% of the civil courts staff is in favor of providing employees with computer training.
- 84% of the civil courts staff believes that training of courts staff should be conducted by the judicial training institute.



### **3. Perceptions of Sharia Judges:**

- The Majority of the Sharia courts judges (93%) consider that the Sharia courts facilities are inappropriate and unsuitable for the nature of the courts work.
- 63% of the Sharia judges believe that promotions depend on personal relation, nepotism and favoritism.
- 52 % of the Sharia courts judges believe there is discrimination in job appointments.
- 67% of the Sharia courts judges believe there is discrimination in promotions.
- 48% of the Sharia courts judges believe there is discrimination in dealing with judges.
- 63 % of the Sharia courts judges believe there is discrimination in job transfers.
- 56% of the Sharia courts judges believe there is discrimination in distribution of duties, tasks and external assignments.
- 85% of the Sharia courts judges believe that the number of Sharia court employees in general is not sufficient and does not respond to the courts needs.
- 70% of Sharia courts judges believe that the training is not continuously nor periodically conducted.

### **4. Perceptions of Sharia Courts staff:**

- 64% of the Sharia Courts staff considered that nepotism and favoritism is the base for appointments and promotions in courts.

- The majority of the Sharia Courts staff (78%) confirms their need for training.
- Two thirds of the Sharia Courts staff (67%) confirms the inexistence of adequate interest in their training.

**5. Perceptions of practicing lawyers towards the performance of judges and employees:**

- 80% of the practicing lawyers consider that appointments in the judiciary lack transparency, nepotism and lacks clarity.
- 69% think that appointments in the judicial system and the public prosecution based on nepotism and favoritism.
- 72% think the performance of employees in courts and the public prosecution is corrupted and not transparent.

**6. Perceptions of lawyers-in-training:**

- 64% of trainee lawyers consider that appointments at the judiciary are based on nepotism and lack transparency and clarity.
- 65% think appointments and judicial system and the public prosecution are on bases of nepotism and favoritism.
- 67% think the performance of employees in courts and the public prosecution is corrupted and not transparent.

**7. Perceptions of the public and courts users :**

- The results show the presence of negative impressions by the

litigants and courts users towards judges and courts staff where 53% of the litigants believe that the judges discriminate between case parties on the bases of their social status.

- 55% of the litigants and the courts users believe that the performance of the courts staff is corrupted and not transparent, 38% of the litigants believe that the employees treat courts users in an inappropriate manner.
- 56% of the litigants and the courts users believe that the public prosecution members lack the knowledge and the needed experience to fulfill their duties.
- 35% of the public believe that the public prosecution members don't treat users in an appropriate manner.

#### **8. Perceptions of members of the public prosecution:**

- More than two thirds of the public prosecution members (68%) believe that the public prosecution facilities are inappropriate and unsuitable for the nature of their work.
- 63% of the Public prosecution members believe that the promotion is not on the bases of achievements, 51% think its standards are not clear, 60% think training programs designated for the public prosecution members are not sufficient and don't fulfill their training needs.
- 64% of the public prosecution members believe there is discrimination in appointments between the public prosecution members.

- 57% of the public prosecution members believe there is discrimination in the secondment of staff between the public prosecution members.
- 61% of the public prosecution members believe there is discrimination in treating public prosecution members.
- 57% of the public prosecution members believe there is discrimination in job transfers.
- 70 % of the public prosecution members believe there is discrimination in the distribution of duties, tasks and external assignments.
- 65% of the public prosecution members believe that the number of employees at the public prosecution is not sufficient.
- 39% of the public prosecution members believe that the public prosecution staff is not sufficiently trained.

#### **9. Perception of law schools student:**

- About one third of the students only (35%) believe that appointment of judges is currently transparent and its procedures are more clear and far from nepotism.
- About half of the students (51%) believe that the appointment of judges is currently done based on their knowledge, experience and their integrity.
- 43% of the students think that nepotism and favoritism are the bases for appointment and promotion at the judicial system.

### **The Fourth Pillar: Perception of the surveyed groups on the causes of problems challenging the judiciary:**

In West Bank the judiciary is challenged with several problems, most alerting of them is the delay in cases processing and disposition, as expressed by the public in the survey, this delay is caused by the irregular attendance of judges, inefficiency of the judicial inspection, recurred case postponement, weak notification system, absence of parties, witnesses or evidence presentation by the lawyers, the security conditions, and weakness of the human and material resources in the courts.

#### **1. Perceptions of the Palestinian public on judiciary problems :**

- The Israeli occupation of the Palestinian territories and the division of West Bank into separated security zones hinder the Palestinian security forces from entering their zones preventing the enforcement of law and justice in these zones. 19% considered this as one of the main challenges facing the judiciary. 19% think that it is the lack of trust in the judiciary, 16% believe it is the citizens rejection of the rule of law. 16% think it is the lack of political will to reform, 14% think it is the executive authority interference, and 17% belief the challenge is the shortage in the number of employees and the lack of training.
- 68% of the public believe in the existence of a clear weakness in the enforcement of courts judgments and judicial orders which is considered an obstacle facing the improvement of the public confidence in the judiciary, and harm the judicial authority, rule of law and justice.

- 55% of the public don't trust civil courts or rather have low level of trust in them. This lack of confidence encourages citizens to resort to tribal justice, security forces, or the Palestinian political parties away from the civil courts.
- The executive authority interference in the judiciary is one of the major challenges facing the judiciary which affects the citizen confidence in the system. The interference in the judicial authority has several manifestations. The public believe many of the executive authority institutions interferes in the judiciary such as the Ministry of Justice 35%, President Office 19%, Prime Minister Office 12%, and the council of ministers 6%.
- The public think a number of challenges are related to courts infrastructure and shortage of support units' staff 37%, shortage of judges 47% which causes backlogs and problems in the notification department, in the high cost of litigation 70%. These challenges discourage citizens from using courts for litigation.
- Case delays also discourage the citizens from resorting to litigation before courts and 17% believe this delay is due to increased number of pending cases before the judges, 15% think it is because of notifications delay, 14% because of absence of witnesses, 11% due to absence of judges, and 10% believe it is because absence of lawyers.

## **2. Perceptions of the public prosecution members on challenges facing the judicial institutions:**

- 27% of the members of the prosecution think the main challenge

is from the Israeli occupation.

- 18% believe executive authority interference is a challenge.
- 14% believe lack of political will for reform is a challenge
- 13% believe shortage of court staff and judges is a challenge.
- 4% think that the lack of adequate training and qualification of the court staff and judges is a challenge.

### **3. Perceptions of the public prosecution staff:**

- 54% of the public prosecution staff believes that inappropriate and unsuitable public prosecution facilities are a challenge.
- 27% that the Israeli occupation is an obstacle that faces the development of the public prosecution work.
- 14% think weak political will of the decision makers for reform is a challenge.
- 24% believe the big shortage in the number of staff and public prosecutors in comparison to the number of cases assigned to each prosecutor is a challenge.
- The executive authority interference in the work of the public prosecution and the shortage of training programs that respond to staff and public prosecutors needs 4%.
- Challenges related to the appointment of young and inexperienced prosecutors 67%
- The promotion of the public prosecution staff is not done on the bases of achievements and performance 53%. And the

appointments and promotions are based on nepotism and favoritism 33%.

- 31% of the public prosecution staff believes that the procedures in the public prosecution are subject to favoritism in practice.

#### **4. Perceptions of the Sharia courts staff:**

- 59% of the employees confirmed that the followed mechanism in the notification departments constitute a basic problem in the litigation process.
- 54% of the Sharia courts staff described the nature of the relations among the Justice stakeholders as a relation that lacks harmony, is in conflict over powers, and lacks of the base of legal framework

#### **5. Perceptions of the litigants and courts users**

- In the West Bank the judiciary is challenged with several problems and 88% of the litigants and the public think the main problem is the delay in case processing and case disposition.
- Challenges facing the judiciary such as the Israeli occupation of the Palestinian territories are believed to form a challenge by 21% of the litigants, while 14% think it is the division of the West Bank into security zones hinders the Palestinian security forces from entering these zones and prevent the enforcement of justice in these zones. 14% think the executive authority interference is one of the challenges, the lack of political will for reform had 13%, citizens' rejection of the rule of law 12%, and 18% think it is the



lack of trust in the judiciary.

- 70% of the litigants believe there is clear weakness in the enforcement of courts judgments and judicial orders which is considered as an obstacle facing improvement of the public confidence in the judiciary and harm the judicial authority, rule of law and justice.
- 58% of the public don't have confidence in the civil courts which largely hinders achievement of justice, enforcement of the rule of law on all citizens, and giving citizens their rights and freedoms granted by law.
- The executive authority interference in the judiciary is one of the major challenges facing the judiciary which affects the citizen confidence. The interference in the judicial authority has several manifestations. Many of the executive authority institutions interfere in the judiciary such as the Ministry of Justice 37%, President Office 1%, Prime Minister Office 38%, and council of ministers 24%.
- Several challenges from the litigant's point of view are related to courts infrastructure 44%, 68% think high cost of litigation discourages the citizens from using courts for litigation.
- The negative culture of the litigants regarding the rule of law on all causes a problem of resorting to ADR (tribal justice, friends, relatives and security forces) according to 82% of the litigants point of view, this is a problem expressed by the culture of the society which is reflected by the lack of desire to use courts for obtaining rights.

- The majority of the litigants and courts users sample believe that the reasons behind problems in the Notary Public are because of crowding of users 42%, the exaggeration of auditing by the notary public 23%, lack of order at the notary public 35%, it should be noted that these negative attitudes and practices weakens the people confidence and trust in the judiciary and in all of the justice system institutions in Palestine.

#### **6. Perceptions of civil courts judges:**

- The lack of political will for reform 30%
- The Israeli occupation and political situation 22%.
- No trust nor confidence in the judiciary 16%
- Shortage in the numbers of court staff and judges 16%.
- The citizen culture which doesn't accept the rule of law 11%
- Executive authority interference 4%
- Lack of adequate training and qualification of the court staff and judges 1%.

#### **7. Perception of civil courts staff:**

- The Israeli occupation and political situation 25%.
- No trust nor confidence in the judiciary 16%
- Shortage in the numbers of court staff and judges 14%.
- The citizen culture which doesn't accept the rule of law 13%

- Lack of adequate training and qualification of the court staff and judges 12%.
- The lack of political will for reform 10%
- Executive authority interference 10%

#### **8. Perceptions of Sharia courts judges on challenges:**

- Lack of political will for reform: this challenge comes first with a percentage of 26% as expressed by Sharia courts judges
- Shortage of court staff and judges: this challenge comes second with a percentage of 22%.
- No trust or confidence in judiciary: this pushes citizen to obtain their rights by themselves and it comes third with 15%.
- Executive authority interference: comes fourth and its one of the Sharia judiciary problems with a percentage of 11%.
- The citizen culture which doesn't accept the rule of law with 11%
- Lack of adequate training and qualification for the court staff and judges: it is the last challenge and it is an internal challenge that has a relation with the human resources training programs with a percentage of 7%.
- The Israeli occupation and political situation: is one of the challenges the Sharia judiciary is facing in the region with a percentage of 7%.

## **9. Perceptions of the practicing lawyers:**

- Majority of the lawyers (63%) believe that their profession colleagues suffer from weaknesses in their level of qualification. They don't do any personal effort to overcome these weakness but they rely on work experience according to 50% of them. This experience in many occasions is limited and redundant; they also do not depend on self improvement and don't read according to 24%, they don't attend specialized lectures according to 7%.
- There is a real problem in the relation between lawyers (53%) of them admit this problem exists, in relation to lawyers professional ethics and conduct, 30% of them believe that their colleagues have no professional ethics at all, and 58% of them believe that lawyers make profit on the account of their clients.
- Weakness of the new law schools graduates according to 29% of the practicing lawyers, and the weakness of training according to 36% of them.
- Deficiency in the Bar Association role, whereas the Bar has not performed its duties to enhance the profession according to 61% of the practicing lawyers, and it engaged itself with political parties activities on the account of the profession according to 59%, and 67% think that there is a group of lawyers that monopolize the Bar committees.

## **10. Perceptions of lawyer-in-training:**

The results show that lawyers-in-training do not trust each other whereas the coordination and cooperation among them is very limited

to its lowest level, and it is related to mere personal interests rather than to humanitarian and professional interests. The results show the following:

- Majority of the trainee lawyers (72%) believe that their profession colleagues have weaknesses in their level of qualification. They don't put any efforts to overcome their weaknesses but according to 21% of them they rely on their work experience, which is in many occasions limited and redundant. They do not depend on self improvement and reading according to 22% of them, while 7% think they don't attend specialized lectures.
- 34% of lawyers-in-training believe that their colleagues have no professional ethics at all and 54% of them believe that lawyers make profit on the account of their clients. While 46% think there is weakness in their training.
- Deficiency in the Bar Association role, whereas the Bar has not performed its duties to enhance the profession according to 50% of the lawyers-in-training, and 67% think that there is a group of lawyers that monopolize the Bar committees

### **11. Perceptions of law school students:**

Perceptions of the law school students towards the law education methodology in the Palestinian universities in West Bank are positive in general, in the different aspects of the law curriculum. The following are the main challenges:

- 36% of the university students consider high school graduates level weak.

- 32% of law school students are not confident enough that the scientific (information) level of Palestinian law school graduates is excellent, while only 57% of students did not agree to that, while 11% did not have an opinion.
- 33% of the students do not believe that Palestinian law school graduates have excellent capacity for creative thinking and analysis.
- 79% of the students believe that teaching methods used in the Palestinian universities in the West Bank are still traditional and don't follow the new methods used at the American and European universities.

## **12. Perceptions of universities instructors:**

- 68% of university instructors believe that high school graduates are weak.
- 52% of university instructors believe that law school graduates do not have the skills for writing , legal research, and studies preparations
- 48% of instructors do not believe that Palestinian law school graduates have excellent abilities of creative thinking and analysis.

## **The Firth Pillar: Reform and rehabilitation centers:**

1. In the three reform and rehabilitation centers, the officers in charge conduct medical tests for the prisoners detained under their custody once they enter the center and whenever needed. As

for the periodic medical tests, only one of the centers mentioned that they conduct such tests for prisoners on quarterly basis.

2. All reform and rehabilitation centers that were visited in the West Bank confirmed that they are visited by a judge. The majority of them mentioned that the visits are distant and not regular.
3. All Reform and rehabilitation centers in the West Bank that were visited mentioned that they are being visited by the public prosecution members on periodic basis.
4. The majority of the reform and rehabilitation centers visited in the West Bank mentioned that they are being visited by the minister of justice but not on regular basis, and that the visits are distant.
5. All Reform and rehabilitation centers visited in the West Bank mentioned that they are being visited by representatives of the civil society organizations including The Independent Commission for Human Rights and that the majority of these visits are conducted on periodic basis.
6. The results confirmed that the centers are being visited by lawyers on periodic basis.
7. All visited centers indicated that the lighting in the centers is sufficient for reading and work.
8. The prisoners are allowed to make phone calls.
9. One visit per week only is permitted for each prisoner in all of the reform centers.
10. Entering food is permitted to the centers for prisoners' families
11. Complaints are submitted to the prison director who then

transfers it to the head of the security for examination and official processing.

12. Awareness, guidance and coaching programs are conducted by an Emam or a priest once a week during Friday prayers.
13. Sports and entertainment programs are available in two of the centers that were visited.



## **Good Governance indicators in the justice sector institutions in West Bank**

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For several years MUSAWA continued to conduct public periodic and annual surveys for all justice sectors stakeholders, starting from civil judges, Sharia judges, public prosecution members, justice sector institution staff, practicing lawyers, lawyers-in-training, rehabilitation centers, law school students, law school instructors, to the Palestinian public in a national sample comprising litigants and legal services seekers. These groups represent the Palestinian community general perceptions and trends towards the justice institutions, whereas each sample of the targeted groups properly represents its community. In addition the national sample properly represents all adult community groups. And the overall median (average) gives an approximate and accurate reflection of the community perceptions towards the main elements of good governance in the Palestinian community.

These surveys aim at identifying the justice sector stakeholder's perceptions in Palestine, they also aim at observing the changes in the stereotypes of the Palestinian public regarding justice sector institutions role, performance level, litigation environment, working environment, quality of services, and fairness of judgments. They also observe the developments in the protection of judicial independence, judges' independence, separation of powers, the principle of rule of law for all, protection of public and private freedoms, human rights

principals, and the level of confidence in the justice system and others. Over the years MUSAWA accumulated qualitative and quantitative information and a huge amount of statistical data which gives accurate reflection of the reality. This data needs data analysts and specialized researchers to conclude results and come up with recommendations for decision makers to develop plans and formulate policies, building on the accurate and documented information and data.

The Third Legal Monitor targeted thirteen groups. A comparison between the results of the Third Legal Monitor and the results of the two preceding monitors of the years 2009 and 2011 was conducted to identify the progress and delays in the good governance indicators that were created in a participatory approach with the majority of the surveyed groups.

The overall average was calculated for all answers to come up with the national standard that could be regarded as a criterion to measure levels of the good governance in Palestine. This overall average measures the development achieved within the justice institutions efficiency and the extent of its response to citizens needs in improving the level of justice, equity, integrity, impartiality, participation in the decision making process and the empowerment of the working human forces to enhance their performance.

**The National Indicator (Overall average): Equals the average of all averages of the targeted groups' perceptions surveyed, with a total of eleven groups.**

**First Indicator: Possibility of potential future improvements in the Palestinian Judiciary.**

This indicator measures the future vision of the possibility to enhance the Palestinian judiciary level in Gaza in general. It reflects the optimistic or pessimistic view of the judiciary future from all surveyed groups perspectives. The national sample, comprised of eleven targeted groups that are in direct relation with the justice institutions, including West Bank population, participated in the formulation of this indicator.

The chart below shows the main results of this indicator:

**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian judiciary is moving towards future improvement decreased to 47% in the Third Legal Monitor in comparison with year 2011 percentage of 64% with a difference of 17 points, and in comparison with year 2009 results the percentage decreased from 60% with a difference of 13 points.

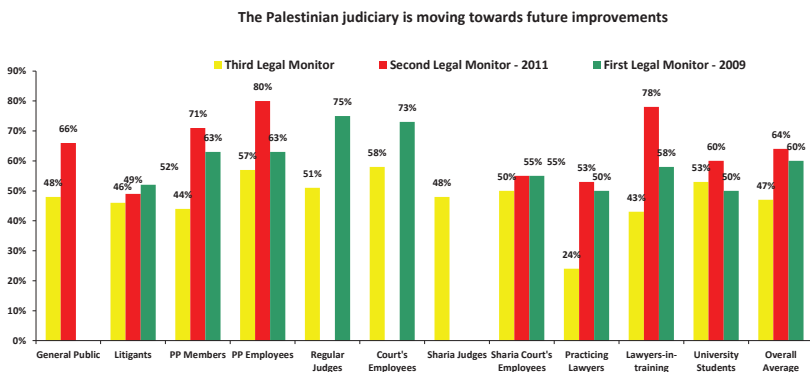
**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **Litigants:** showed the most pessimistic views towards future improvement of the Palestinian judiciary which affected the general indicator negatively. Their percentage decreased to 46% in the Third Legal Monitor in comparison with the percentage of year 2011 which was 49% with a difference of 3 points, and

in comparison with year 2009 the percentage decreased to 52% with 6 points difference.

- **Practicing Lawyers:** was the second most pessimistic group towards the future improvements of the judiciary. Their percentage was decreased to 24% in the Third Legal Monitor in comparison with the percentage of year 2011 which was 53% with a difference of 29 points, and in comparison with year 2009 the percentage decreased to 50% with 26 points difference.

**3. Conclusion:** In the past years of 2009 and 2011 the results showed that the general perceptions towards the future improvements of the Palestinian judiciary were more positive than in the Third Legal Monitor which indicates that the situation of the judiciary in West Bank is not moving in the right direction and is not encouraging. There is a need to focus on the courts proceedings, improve and enhance access to justice, speed courts case trials and speed case enforcement to raise the general indicator, taking into consideration that the litigants have the most negative attitude of the surveyed groups since they tried the litigation experience of which they have developed this attitude.



## **The second indicator: The success of the Palestinian state in maintaining the independence of the judiciary:**

This indicator measures the level of success of the Palestinian state in maintaining the independence of judiciary from all the surveyed targeted groups' perspectives. The national sample, comprised of eleven targeted groups that are in direct relation with the justice institutions, including West Bank population, participated in the formulation of this indicator.

The chart below shows the main results of this indicator:

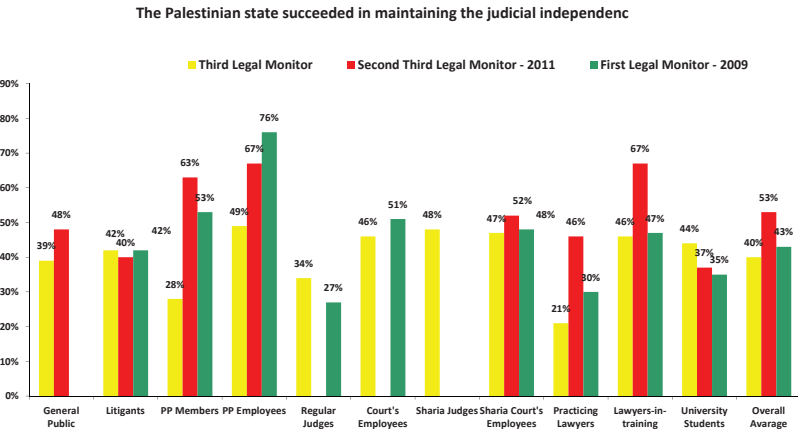
**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian state succeeded in maintaining the judicial independence decreased to 40% in the Third Legal Monitor in comparison to 2011 with a percentage of 53% with a difference of 13 points, and in comparison with year 2009 results the percentage decreased from 43% with a difference of 3 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **Civil judges:** Were the most pessimistic group towards the judicial independence as well as the role of the state in maintaining this independence. The results of their perspective have affected negatively the general indicator. The percentage among those who believe that the state succeeded in maintaining the judicial independence increased to 34% in the Third Legal Monitor in comparison to the year 2009 in which the

percentage was 27% with a difference of 7 points.

- **Public Prosecution Members:** Were the second most pessimistic group towards the judicial independence as well as the role of the state in maintaining it. Their percentage decreased to 28% in the Third Legal Monitor in comparison with the percentage of year 2011 which was 63% with a difference of 35 points, and in comparison with year 2009 the percentage decreased to 53% with 25 points difference.
- 3. Conclusion:** the results shows that the judicial independence indicator has declined in the Third Legal Monitor in the majority of the surveyed groups' perspective in comparison with the preceding years included in the study. 67% of the Judges don't believe that the state succeeded in maintaining judicial independence, also 56% of University Students and 60% of the general public have the same believe. This negative prospective is a result of the executive authority, the security forces and the High Judicial Council interferences in the judicial affairs and courts judgments.



### **The Third Indicator: Palestinian judiciary enjoys impartiality, integrity and fairness in comparison to other Arab countries:**

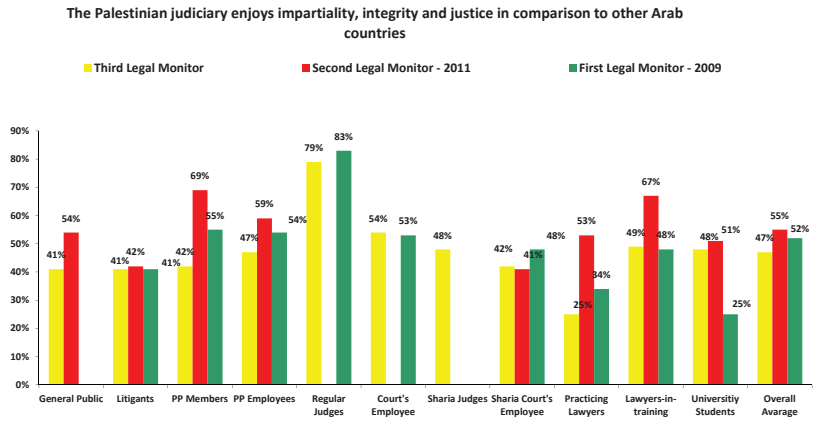
This indicator measures the extent to which the Palestinian judiciary enjoys impartiality; integrity and justice in comparison to other Arab countries from all the surveyed groups' perspectives. The national sample, comprised of eleven targeted groups that are in direct relation with the justice institutions, including West Bank population, participated in the formulation of this indicator.

The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian judiciary enjoys impartiality, integrity and justice in comparison to other Arab countries decreased to 47% in the Third Legal Monitor in comparison to 55% in 2011 with a difference of 8 points, and in comparison with year 2009 results the percentage decreased to 52% with a difference of 5 points.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:
  - **Practicing Lawyers:** the percentage of those who believed that the judiciary enjoys impartiality, integrity and justice decreased to 25% in the Third Legal Monitor in comparison to 2011 percentage of 53% with a difference of 28 points, and in comparison to 34% in year 2009, the results decreased with a difference of 9 points.
  - **Lawyers-in-training:** their percentage decreased to 49% in

the Third Legal Monitor in comparison to 2011 percentage of 67% with a difference of 18 points, and in comparison with year 2009 results of 48% the percentage increased with a difference of one point.

**3. Conclusion:** The Palestinian community is divided in believes if the judiciary is impartial, integral and just in comparison to other Arab countries. Around half of the society believes that the judiciary is not in a better position of other Arab counties in regards of integrity, impartiality and fairness, whereas the other half have an opposite opinion and think that the judiciary is in a better position of other Arab counties in regards of integrity, impartiality and fairness



**The Fourth Indicator: Courts judgments are subject to influences and external pressures**

This indicator measures the extent to which the judicial judgments are subject to influences and external pressures from the prospective

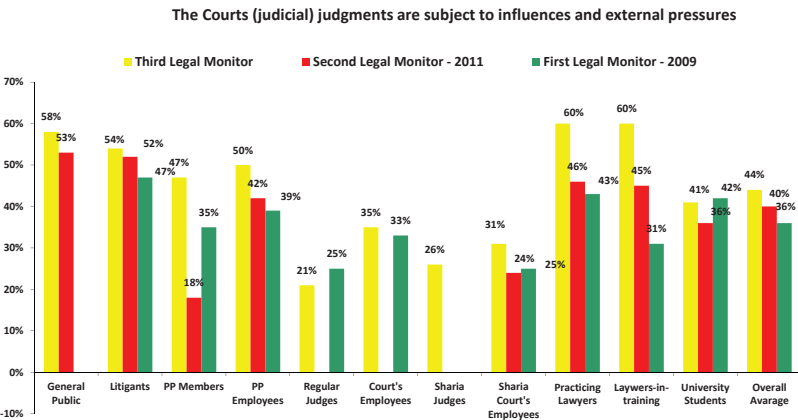


of eleven of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study.

The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who believed that the Courts (judicial) judgments are subject to influences and external pressures increased to 44% in the Third Legal Monitor in comparison to 2011 percentage of 40% with a difference of 4 points, and in comparison with year 2009 results the percentage increased from 36% with a difference of 8 points.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:
  - **Practicing Lawyers:** the percentage of those who believed that courts judgments are subject to influences and external pressures increased to 60% in the Third Legal Monitor in comparison to 2011 percentage of 46% with a difference of 14 points, and increased in comparison with year 2009 results of 43% with a difference of 17 points.
  - **Lawyers-in-training:** their percentage increased to 60% in the Third Legal Monitor in comparison to 2011 percentage of 45% with a difference of 15 points, and increased in comparison with year 2009 results of 31% with a difference of 29 points.
- 3. Conclusion:** Around one quarter of Judges (21% and 25%) respectively, in the Third Legal Monitor and the Second Legal

Monitor – 2011, believes that the Courts judicial judgments are subject to external influences, also 47% of the Public Prosecution Members confirm that the judgments are subject to external influences, and more than one third of Courts Staff are in agreement with the Judges and the Public Prosecution Members. These are alerting and serious indicators and should be immediately taken into consideration.



**The Fifth indicator: The Palestinian Judiciary is impartial and is corruption free**

This indicator measures the extent to which the Palestinian judiciary is impartial and corruption free from the prospective of eleven of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study.

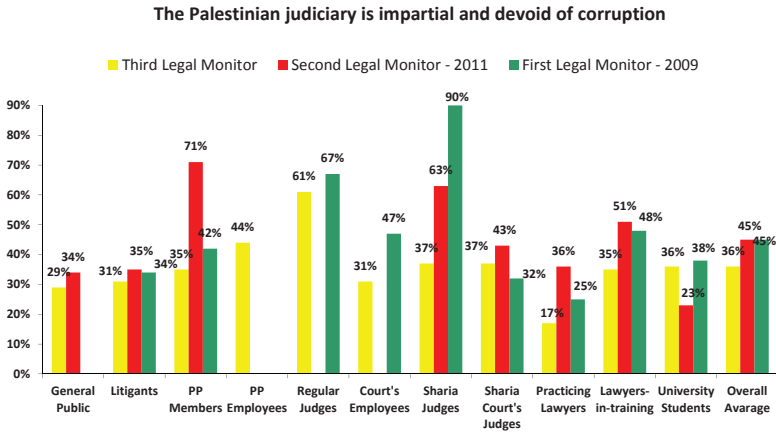
The chart below shows the main results of this indicator:

**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian judiciary is impartial and corruption free decreased to 36% in the Third Legal Monitor in comparison to 45% in 2011 with a difference of 9 points, and 45% in 2009 with a difference of 9 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **The general public:** was the group with the most negative views towards the integrity and transparency of the judiciary, the percentage of those who believed that the Palestinian judiciary is impartial and corruption free decreased to 29% in the Third Legal Monitor in comparison to 2011 percentage of 34% with a difference of 5 points.
- **Litigants:** was the group with the second most negative views towards the integrity and transparency of the judiciary, their percentage decreased to 31% in the Third Legal Monitor in comparison to 2011 percentage of 35% with a difference of 4 points, and decreased in comparison with year 2009 results of 34% with a difference of 3 points.

**3. Conclusion:** In general there is a tremendous deterioration in the majority of the surveyed views towards the integrity and transparency of the judiciary (corruption free) which affected on the general indicator. More than a third of Civil judges believes that the judiciary is corrupted and partial, and two thirds of Public Prosecution Members believe that also.



### The Sixth indicator: Trust in the Palestinian Judiciary is high.

This indicator measures the extent of trust in the Palestinian judiciary from the perspective of eleven of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study.

The chart below shows the main results of this indicator:

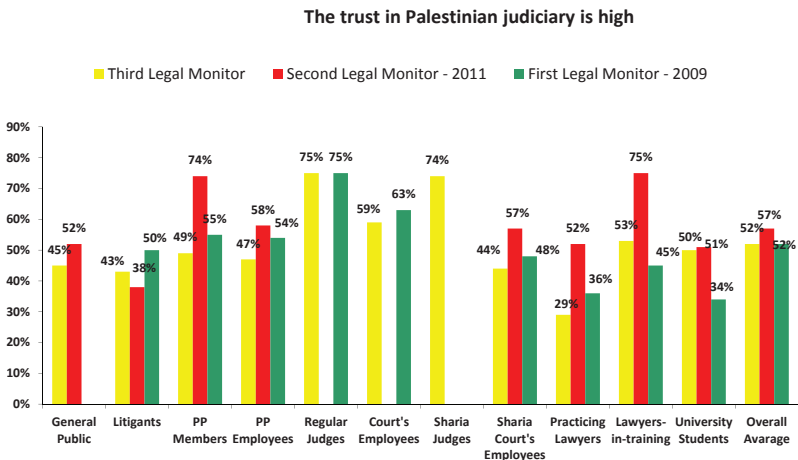
**1. The National Indicator (Overall Average):** the percentage of those who believed that the trust in Palestinian judiciary is high decreased to 52% in the Third Legal Monitor in comparison to 57% in 2011 with a difference of 5 points, and the percentage remained the same 52% in year 2009.

- The Special Indicator for all surveyed groups: This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:
- The general public: was the group with the most negative views

towards the trust in the judiciary, the percentage of those who trusted the Palestinian judiciary decreased to 45% in the Third Legal Monitor in comparison to 2011 percentage of 52% with a difference of 7 points.

**2. Litigants:** Was the second most negative group in their perspective towards the trust in the judiciary. The percentage of those who trusted the judiciary increased to 43% in the Third Legal Monitor in comparison to 2011 percentage of 38% with a difference of 5 points, and decreased in comparison with year 2009 results of 50% with a difference of 7 points.

**3. Conclusion:** In general there is a tremendous deterioration in the majority of the surveyed views towards the trust in the judiciary in comparison to 2011 which impacted the general indicator. Whereas a quarter of civil judges don't have high trust in the judiciary, and around half of Public Prosecution Members don't trust the judiciary.



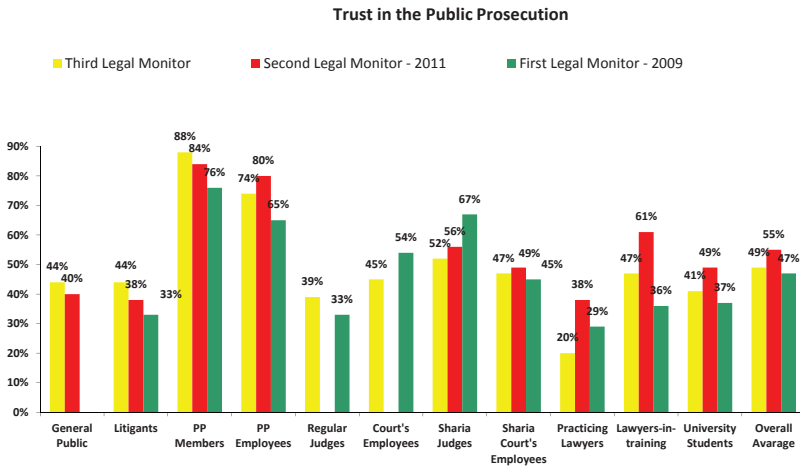
## **The Seventh indicator: Trust in the Public Prosecution.**

This indicator measures the extent of trust in the Public Prosecution from the prospective of eleven of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study.

The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who trust the public prosecution decreased to 49% in the Third Legal Monitor in comparison to 55% in 2011 with a difference of 6 points, and in comparison to year 2009 results the percentage increased from 47% with a difference of two points.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:
  - **The general public:** was the group with the most negative views towards the trust in the public prosecution, the percentage of those who trusted the public prosecution increased to 44% in the Third Legal Monitor in comparison to 2011 percentage of 40% with a difference of 4 points.
  - **Litigants:** the second group with most negative views of the trust in the public prosecution. The percentage of those who trusted the public prosecution increased to 44% in the Third Legal Monitor in comparison to 2011 percentage of 38% with a difference of 6 points, and increased in comparison with year 2009 results of 33% with a difference of 11 points.

**3. Conclusion:** There is no significant change in the level of trust in Public Prosecution over all the three years of the study, whereas the society in general is divided between who have trust and who doesn't have trust in the Public Prosecution, it is interesting to note that more than one third of the civil Judiciary (39%) and less than a quarter of the practicing lawyers (20%) have trust in Public Prosecution in the Third Legal Monitor.



## The Eighth Indicator: Trust in the Palestinian Police.

This indicator measures the extent of trust in the Palestinian Police from the prospective of eleven of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study.

The chart below shows the main results of this indicator:

**1. The National Indicator (Overall Average):** the percentage of those

who trust the Palestinian Police decreased to 49% in the Third Legal Monitor in comparison to 53% in 2011 with a difference of 4 points, and in comparison to year 2009 results the percentage increased from 47% with a difference of two points.

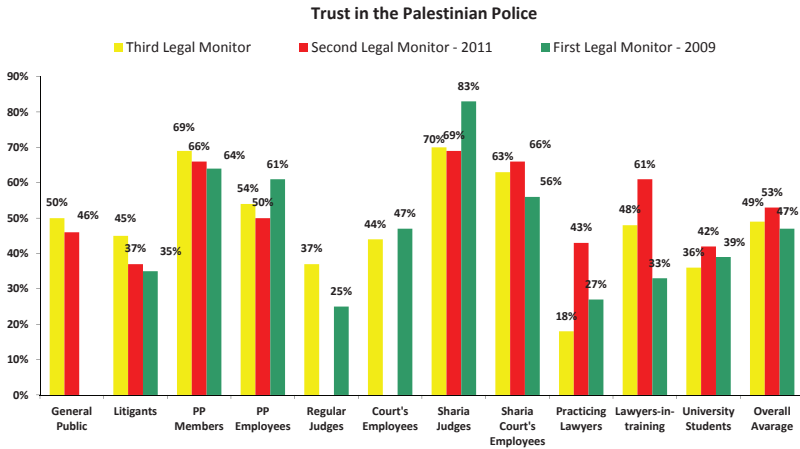
**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- Law School students: was the group with the most negative views towards the trust in the police, the percentage of those who trusted the Palestinian police decreased to 36% in the Third Legal Monitor in comparison to 2011 percentage of 42% with a difference of 6 points, and in comparison with 2009 results decreased from 47% with a difference of 11 points.
- Practicing Lawyers: the second group with most negative views of trust in the Palestinian Police. The percentage of those who trusted the police decreased to 18% in the Third Legal Monitor in comparison to 2011 percentage of 43% with a difference of 25 points, and decreased in comparison with year 2009 results of 27% with a difference of 9 points.

**3. Conclusion:** It's noticed that the majority of the civil judges don't trust the police (63%) and the public is divided equally regarding having trust in the police. As for the Sharia Judges 83% of them have trust in the police in the Third Legal Monitor which is the highest percentage, also two thirds of the Public Prosecution Members have



trust in the police.



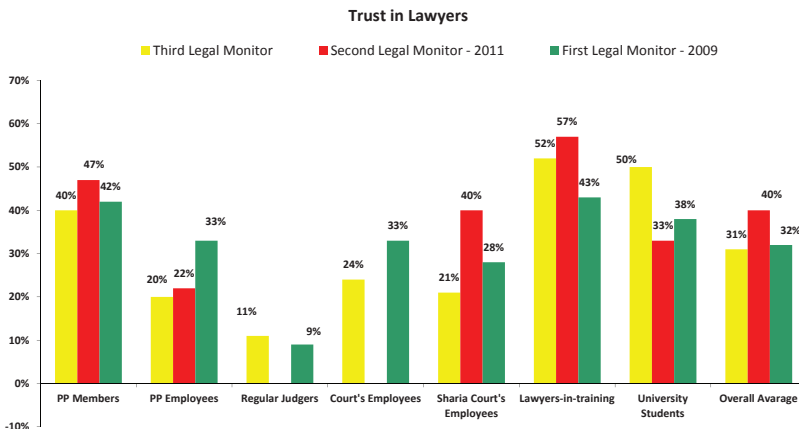
## The Ninth Indicator: Trust in the Lawyers

This indicator measures the extent of trust in the lawyers from the prospective of seven of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who trust the lawyers decreased to 31% in the Third Legal Monitor in comparison to 40% in 2011 with a difference of 9 points, and remained the same of year 2009 results 31%.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **Civil judges:** was the group with the most negative views towards the trusting lawyers, the percentage of those who trusted the lawyers increased to 11% in the Third Legal Monitor in comparison to 2011 percentage of 9% with a difference of two points.
- **Public Prosecution Staff:** the second group with most negative views in regards to trusting lawyers. The percentage of those who trusted the lawyers decreased to 20% in the Third Legal Monitor in comparison to 2011 percentage of 22% with a difference of two points, and decreased in comparison with year 2009 results of 33% with a difference of 13 points.

**3. Conclusion:** The percentage of the lawyers-in-training who don't trust the lawyers decreased to 48% in the Third Legal Monitor in comparison to year 2009 results of 57% with a difference of 9 points. In general more than two thirds of the surveyed have no trust in lawyers.



## Status of Justice in Gaza Strip

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### Introduction

Imbalances and obvious areas of weaknesses negatively affect the Palestinian justice system, in addition to the slowness and complexity of the procedures, lack of transparency and deficiencies in comparison to modern measures. Restrictions on access to the judiciary, interference in its affairs, limiting its independence and impartiality, and the use of Alternative Dispute Resolution (ADR) methods represent the major weaknesses facing the judiciary. In addition the absence of political will for reform and change could harm the judiciary in all aspects.

The most serious imbalances in the justice system lies in the presence of two political systems in each of Gaza and West Bank which caused a separation in the judicial system, the absence of mutual coordination between the two systems and the decrease in the level of citizens trust in the judiciary which led to the lack of citizen trust in achieving justice in timely matter. On the other hand and on the level of judicial independence, the executive authority is extremely interfering in the judiciary affairs.

Following are the main conclusions of the Palestinian public survey in West Bank:

## **First Pillar: Trust in the justice institutions:**

This pillar aims at identifying the extent of trust of the surveyed groups in the justice system and the extent to which the civil courts are been accessed.

The results show the following:

### **1. Perceptions of the Palestinian public:**

- 81% of the public believe that citizen negative view towards the judiciary cause them to resort to Alternative Dispute Resolutions such as tribal justice and security forces
- It's clear that 59% of the Palestinian public do not trust the civil courts or have low level of trust, and 41% of them trust the civil courts.
- 81% of the public prefers tribal justice
- Around two thirds of the public (63%) don't trust or have low level of trust in the public prosecution.
- 45% of the public don't trust getting a fair solution through the judiciary.
- 77% of the public prefers using their connections and friends to help solving disputes among litigants as an alternative to civil courts
- 60% of the public believe that judgments issued by the courts are not enforced in timely manner. Whereas the delays in the enforcement of the judgment prejudice the justice system and lead to lack of citizens' trust in the judiciary.
- 40% of the public believe that they will not get a fair trial if they

resort to civil courts.

- Half of the public (52%) don't trust the police or have low level of trust in them.
- 52% of the public believe that lawyers receive bribes and gratuities, and they lack integrity and transparency.
- 66% of the public believe that the judges discriminate between litigants based on their social status.
- 62% of the public believe that the courts staff' performance is corrupted and not transparent, 74% of them believe that the employees serve the public in an inappropriate manner.

## **2. Perceptions of public prosecution members:**

There are several Justice Sector institutions; of which is the judicial authority that is represented by the High Judicial Council, Ministry of Justice, Shari'a Courts, The Bar Association, Security organizations and the related Civil Society Organizations. Following are the most important results:

- Around quarter of the public prosecution members (23%) confirmed lack of trust in the judiciary and 14% refrained from declaring their opinion, and it is most probably that they don't trust the judiciary but prefer not to declare it.
- 67% of the public prosecution members do not trust lawyers.
- 56% of the public prosecution members think that the Ministry of Justice does not carry out its duties from while 12% have refrained from giving their opinion.

### 3. Perceptions of practicing lawyers

- Senior lawyers think there is rigidity in the Palestinian judiciary towards enhancement and continuous development. 61% of senior lawyers believe that the judiciary is not moving towards continuous development.
- 61% of the practicing lawyers think the state failed to maintain the judicial independence.
- 57% of the practicing lawyers believe that the issued judgments are subject to external influences.
- 45% of the practicing lawyers there is slowness in the enforcement of judgment which hinders the achievement of justice.
- There is a trust crisis between lawyers and the judiciary and the justice institutions, where 65% don't trust the judiciary, 46% of the lawyers don't trust their colleagues, 65% don't trust the public prosecution and 82% don't trust the police.
- There is court cases disposition is extremely slow at the civil courts with a percentage of 67%.
- Quarter of the lawyers (25%) believe that the relation between the justice institutions is conflicted and of dispute nature over authorities rather than coordination and cooperation. 51% of them believe that the relation between the justice institutions is not based on a regulated legal framework.
- The results of practicing lawyers' perceptions show that 73% think that the executive authority institutions interfere mostly in the judicial work, 24% Ministry of Justice, 19% Prime Minister Office,

19% Council of Ministers and 11% Security Forces.

- Practicing lawyers' perceptions show that 38% think the High Judicial Council interferes in the judiciary with, and 36% senior judges, and 30% think that the inspection department interferes during trial process, while 39% think members of the public prosecution interferes.
- 63% of practicing lawyers believe that the judges do respond to pressures practiced over them, by the High Judicial Council to influence judgments, also, 82% of them do respond to pressures practiced over them by the minister of Justice, 89% of them do respond to pressures practiced over them by the senior judges, 92% by relatives and friends and 92% by the security forces.

#### **4. Perceptions of lawyers-in-training:**

- The results show that 46% think the Ministry of Justice interferes mostly in the Judiciary work, followed by the Council of Ministers with 34% and the security forces (Preventive Security 25%, Intelligence 26%, and Military Intelligence 16%).

#### **5. Perceptions of law students:**

- 38% of law students have high trust in the Palestinian Judiciary.
- 43% of law students have high trust in the Public Prosecution.
- 41% of law students have high trust in the Palestinian Police.
- A third of law students (33%) have high trust in the Lawyers.

## **Second Pillar: Perceptions of the surveyed groups towards the judicial authority, Shari'a courts and Justice Institutions.**

This pillar aims to identify the surveyed groups' perceptions from the different surveyed groups of the study towards the Judicial Authority and the Justice Institutions in terms of integrity, impartiality, transparency and judicial fairness.

The results showed the following:

### **9. Perceptions of the public prosecution members:**

- More than a quarter of the public prosecution members (28%) believe that the judiciary is not heading towards improvement.
- Around half of the public prosecution members (47%) believe that the state failed to maintain judicial independence.
- 26% of public prosecution members believe that judicial judgments issued by judges are subject to external influences.
- More than a quarter (26%) of the public prosecution members believe that the Palestinian judiciary is corrupted and partial.
- Ministry of justice interferes, the most, in the public prosecution work, followed by the Security Forces.
- 54% of the public prosecution members believe that senior public prosecution members are interfering in public prosecution work, while 7% has no say.
- 46% of public prosecution members believe that they are exposed to pressure by the High Judicial Council members. 90% of which believe that the public prosecution members are responding to the pressure in different degrees.



- 77% of public prosecution members confirm that they are exposed to pressure by senior prosecutors. 96% of which believe that the public prosecution members are responding to the pressure in varying degrees.
- 61% of public prosecution members believe that they are exposed to pressure by influential figures from the private sector. 77% of public prosecution members believe that the prosecutors are responding to this pressure.
- 70% of prosecutors confirm that they are exposed to pressure by family members, relatives and friends. 86% of them believe that prosecutors are responding to the pressure. 19% only deny presence of pressure by family members, relatives and friends.
- 19% prosecutors think the nature of the relation between the official justice institutions (the judiciary, public prosecution and Ministry of Justice) is conflicted and in dispute and struggle over authority, and 44% think the relation is not based on a regulated legal framework
- 51% think that the dependency of the public prosecution is to the judicial authority, while 51% think it is to the Ministry of Justice, and 14% consider it as an independent commission.

## **10 Perceptions of lawyers-in-training towards the judicial authority and the justice institution:**

The results show the presence of a deep misunderstanding of the relation between lawyers and the judicial authority which is basically the result of the unclear relationship between them. It is not a relation of conflict and contradiction rather of a integration and mutual

cooperation to uncover the truth and achieve justice for all. Following are the main results:

- 69% of the trainee lawyers think that because of the rigidity of the Palestinian judiciary towards enhancement and continuous development it is not moving towards continuous improvement.
- 66% of the lawyers-in-training think the state failed to maintain the judicial independence and 51% think that the issued judgments are subject to external influences.
- There is a trust crisis between trainee lawyers and the judiciary and the justice institutions, where 52% don't trust the judiciary, 53% of the trainee lawyers don't trust their colleagues and 61% don't trust the public prosecution and 82% don't trust the police.
- 73% of trainee lawyers believe court cases disposition rate is extremely slow at civil courts.
- 22% of the trainee lawyers believe that the relation between the justice institutions is of a conflicted, contradicted nature and is in dispute over authorities rather than being in a situation of coordination, integration and cooperation. 38% of them believe that the relation between the justice institutions is not based on a regulated legal framework.

## **11. Perceptions of law schools students:**

- 37% of the law schools students believe that the Palestinian judiciary is moving towards continuous improvement.
- 47% of the Law schools students believe that the courts judgments

are not subject to external influences.

- Only 24% of the Law schools students believe that the judiciary is of integrity and is not corrupted,
- Less than the third of the law schools students (29%) believe that the state succeeded in maintaining the independence of judiciary.
- Less than half of the law schools students (41%) believe that the Palestinian judiciary enjoys the impartiality, integrity, fairness in comparison to other Arab countries.
- 43% of the law schools students believe that the weakness of lawyers is because of the weakness of justice.
- 21% of the law schools students believe that the courts buildings are appropriate and adequate.

## **12. Perceptions of Public prosecution staff:**

- 22% of the public prosecution staff is not optimistic about the future of the Palestinian judicial Authority and they believe that the judiciary is not moving towards continuous improvement and development, while 12% believe that the state did not succeed in maintaining judicial independence. 32% did not want to answer, this is a high percentage and should not be underestimated considering that the staff is very close to events and witnesses firsthand the realities.
- More than half of the public prosecution staff believes that the courts judgments are subject to external influences. While 21% believe that the Judiciary is not of integrity and is corrupted.

### **Third pillar: Perceptions of the surveyed groups towards the human resources and training programs in the judicial institutions.**

#### **1. Perceptions of practicing lawyers towards the performance of judges and employees:**

- 77% of the practicing lawyers consider that appointments in the judiciary lack transparency, nepotism and lacks clarity.
- 64% think that appointments in the judicial system and the public prosecution based on nepotism and favoritism.
- 65% think the performance of employees in courts and the public prosecution is corrupted and not transparent.
- 65% think the performance of employees in courts and the public prosecution is corrupted and not transparent.
- Around two thirds of the practicing lawyers (63%) believe that there are weaknesses in the level of process to qualifying Lawyers.

#### **2. Perceptions of lawyers-in-training:**

- 63% of trainee lawyers consider that appointments at the judiciary are based on nepotism and lack transparency and clarity.
- 55% think appointments and judicial system and the public prosecution are on bases of nepotism and favoritism.
- 70% think the performance of employees in courts and the public prosecution is corrupted and not transparent.

### **3. Perceptions of members of the public prosecution:**

- More than three quarters of the public prosecution members (77%) believe that the public prosecution facilities are inappropriate and unsuitable for the nature of their work.
- The majority of the Public prosecution members (70%) believe that the Public Prosecution doesn't have the required qualification for crime investigation in the medical examiner centers and specialized labs.
- 56% of the Public prosecution members believe that the promotion is not on the bases of achievements, 51% think its standards are not clear, 72% think training programs designated for the public prosecution members are not sufficient and don't fulfill their training needs.
- 72% of the public prosecution members believe there is discrimination in promotions between the public prosecution members and 56% believe there is discrimination in appointments.
- 58% of the public prosecution members believe there is discrimination in the seconding staff between the public prosecution members.
- 54% of the public prosecution members believe there is discrimination in treating public prosecution members.
- 56% of the public prosecution members believe there is discrimination in job transfers.
- 43% of the public prosecution members believe there is discrimination in the distribution of duties, tasks and external assignments.

- 84% of the public prosecution members believe that the number of employees at the public prosecution is not sufficient.
- 84% of the public prosecution members believe that the public prosecution staff is not sufficiently trained.

#### **4. Perception of law schools student:**

- Only less of quarter of the students (22%) believe that appointment of judges is currently transparent and its procedures are more clear and far from nepotism.
- 39% of the students believe that the appointment of judges is currently done based on their knowledge, experience and their integrity.
- 40% of the students think that nepotism and favoritism are the bases for appointment and promotion at the judicial system.

#### **The Fourth Pillar: Perception of the surveyed groups on the causes of problems challenging the judiciary:**

In Gaza strip the judiciary is challenged with several problems, most alerting of them is the delay in cases processing and disposition, as expressed by the public in the survey, this delay is caused by the irregular attendance of judges, inefficiency of the judicial inspection, recurred case postponement, weak notification system, absence of parties, witnesses or evidence presentation by the lawyers, the security conditions, and weakness of the human and material resources in the courts.

## **1. Perceptions of the Palestinian public on judiciary problems :**

- 13% considered the continuation of the Israeli occupation of the Palestinian territories as one of the main challenges facing the judiciary, 15% think that it is the lack of trust in the judiciary, 17% believe it is the citizens rejection of the rule of law. 18% think it is the lack of political will to reform, 12% think it is the executive authority interference, and 13% believe the challenge is the shortage in the number of employees and the lack of training.
- 60% of the public believe in the existence of a clear weakness in the enforcement of courts judgments and judicial orders which is considered an obstacle facing the improvement of the public confidence in the judiciary, and harm the judicial authority, rule of law and justice.
- 59% of the public don't trust civil courts or rather have low level of trust in them. This lack of confidence encourages citizens to resort to tribal justice, security forces, or the Palestinian political parties away from the civil courts.
- The executive authority interference in the judiciary is one of the major challenges facing the judiciary which affects the citizen confidence in the system. The interference in the judicial authority has several manifestations. The public believe many of the executive authority institutions interfere in the judiciary such as the Ministry of Justice 30%, Prime Minister Office 9%, and the council of ministers 15%.
- Case delays and slowness also discourage the citizens from resorting to litigation before courts, these delays are believed to

be due to: increased number of pending cases before the judges by 12%, notifications delays 16%, because of absence of witnesses 9%, 18% due to absence of judges, and 18% believe it is because absence of lawyers.

## **2. Perceptions of the public prosecution members on challenges facing the judicial institutions:**

- 30% believe executive authority interference is a challenge.
- 19% of the members of the prosecution think the main challenge is because of the Israeli occupation and the political situation.
- 12% believe lack of political will for reform is a challenge
- 9% believe shortage of court staff and judges is a challenge.
- 5% think that the lack of adequate training and qualification of the court staff and judges is a challenge.

## **3. Perceptions of the public prosecution staff:**

- 71% of the public prosecution staff believes that inappropriate and unsuitable public prosecution facilities are a challenge.
- Public prosecution problems as perceived by its staff: 22% think that the Israeli occupation is an obstacle that faces the development of the public prosecution work, 10% think weak political will of the decision makers for reform is a challenge, 15% believe the big shortage in the number of staff and public prosecutors is a challenge, which confirms the big load in cases distributions per prosecutor, the executive authority interference



in the work of the public prosecution and the shortage of training programs that respond to staff and public prosecutors needs 15%.

- Challenges related to the appointment of young and inexperienced prosecutors 32%
- The promotion of the public prosecution staff is not done on the bases of achievements and performance 47%. And the appointments and promotions are based on nepotism and favoritism 24%.
- Around one quarter of the public prosecutors (27%) believes that the procedures in the public prosecution are subject to favoritism in practice, while 22% had no say in this matter.

#### **4. Perceptions of the practicing lawyers:**

- Majority of the lawyers (82%) believe that their profession colleagues suffer from weaknesses in their level of qualification. They don't do any personal effort to overcome these weakness but they rely on work experience according to 45% of them. This experience in many occasions is limited and redundant; they also do not depend on self improvement and don't read according to 21%, they don't attend specialized lectures according to 12%.
- There is a real problem in the relation between lawyers (52%) of them admit this problem exists, in relation to lawyers professional ethics and conduct, 29% of them believe that their colleagues have no professional ethics at all, and 56% of them believe that lawyers make profit on the account of their clients.
- Deficiency in the Bar Association role, whereas the Bar has not

performed its duties to enhance the profession according to 64% of the practicing lawyers, and it engaged itself with political parties activities on the account of the profession according to 49%, and 67% think that there is a group of lawyers that monopolize the Bar committees.

## **5. Perceptions of lawyer-in-training:**

The results show that lawyers-in-training do not trust each other whereas the coordination and cooperation among them is very limited to its lowest level, and it is related to mere personal interests rather than to humanitarian and professional interests. The results show the following:

- Majority of the trainee lawyers (57%) believe that their profession colleagues have weaknesses in their level of qualification. They don't put any efforts to overcome their weaknesses but according to 27% of them they rely on their work experience, which is in many occasions limited and redundant. They do not depend on self improvement and reading according to 29% of them, while 15% think they don't attend specialized lectures.
- 28% of lawyers-in-training believe that their colleagues have no professional ethics at all and 51% of them believe that lawyers make profit on the account of their clients.
- According to 26% the bar association doesn't perform its associative and union duties
- Deficiency in the Bar Association role, whereas the Bar has not performed its duties to enhance the profession according to

57% of the lawyers-in-training, and it engaged itself with political parties activities on the account of the profession according to 41%, and 51% believe that there is a group of lawyers that monopolize the Bar committees

## **6. Perceptions of law school students:**

Perceptions of the law school students towards the law education methodology in the Palestinian universities in Gaza Strip are positive in general, in the different aspects of the law curriculum the following are the main challenges:

- The curricula focus on preparation of researches in the different courses of the law schools, which is by more than half of the students (57%).
- 40% of the students confirm that they reflect on courts' decisions and judgments in the different courses of law school.
- 44% of law schools students in Gaza Strip confirm that their universities focus on the practical aspects in teaching law
- 40% of law school students are not confident enough that the scientific (information) level of Palestinian law school graduates is excellent.
- 56% of the students do not believe that Palestinian law school graduates have the ability of creative thinking and analysis.
- 86% of the students believe that teaching methods used in the Palestinian universities in Gaza Strip are still traditional and don't follow the new methods used at the American and European universities.

## **7. Perceptions of universities instructors:**

- 54% of university instructors believe that law school graduates do not have the skills for writing , legal research, and studies preparations
- 45% of instructors do not believe that Palestinian law school graduates have excellent abilities of creative thinking and analysis.

## **The Firth Pillar: Reform and rehabilitation centers:**

1. Results show that all inmates at the reform centers in Gaza are primary detained at three centers and convicted at two of the centers only.
2. All reform centers rely on prisoners' separation strategy, where prisoners are separated according to their crimes or charges.
3. All of the reform rehabilitation centers visited conduct medical tests for the prisoners once they enter the center and whenever needed. As for the periodic medical examinations, only one of the centers mentioned that they conduct periodic tests for prisoners.
4. All reform and rehabilitation centers that were visited in the Gaza confirmed that they are visited by a judge. The majority of them mentioned that the visits are distant and not regular.
5. The study shows that the vast majority of the reform and rehabilitation centers visited in Gaza are being visited by members of the public prosecution (four centers). Most of them pointed that the visits are distant and irregular.
6. The majority of the reform and rehabilitation centers visited in

Gaza mentioned that they are being visited by the minister of justice; the majority mentioned the visits are distant and irregular.

7. Only one of the visited centers mentioned that it is visited by the chief police, and confirmed these visits are periodic.
8. The results show that all the centers are visited by lawyers, and they mentioned that lawyers visits are on periodic basis.
9. Results show that all the visited centers are visited by the prisoners' families and that these visits are periodic.
10. When asked on lavatories (toilets) available at the reform centers, it turned out that the least number of toilets available is 17 toilets at one of the centers, and the most was 35 toilets. The other centers had an average of 2129- toilets. All are suitable for use by the inmates.
11. All visited centers indicated that the lighting in the centers is sufficient for reading and work.
12. One of the centers pointed that a physician is available at the center, while the other four indicated they don't have physicians.
13. Results show that one visit per week only is permitted for each prisoner in all of the reform centers.
14. Results show that none of the centers provide daily newspapers to inmates, but all of the centers visited have one library.
15. The results show that the vast majority of the reform centers visited provides at least one work program for the prisoners, such as:
  - Vocational work: building, bleaching and paint, blacksmithing, constructions, electrical appliances maintenance.

- Handicrafts: Sewing, embroidery, arts and arts of cooking
- Cultivation of parks and cleaning of streets and cemeteries.
- Municipalities' works.
- Working in poultry farms.

## **Good Governance indicators in the justice sector institutions in Gaza Strip**

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For several years MUSAWA continued to conduct public periodic and annual surveys for all justice sectors stakeholders, starting from civil judges, Sharia judges, public prosecution members, justice sector institution staff, practicing lawyers, lawyers-in-training, rehabilitation centers, law school students, law school instructors, to the Palestinian public in a national sample comprising litigants and legal services seekers. These groups represent the Palestinian community general perceptions and trends towards the justice institutions, whereas each sample of the targeted groups properly represents its community. In addition the national sample properly represents all adult community groups. The overall median (average) gives an approximate and accurate reflection of the community perceptions towards the main elements of good governance in the Palestinian community.

These surveys aim at identifying the justice sector stakeholder's perceptions in Palestine and particularly in Gaza, they also aim at observing the changes in the stereotypes of the Palestinian public regarding justice sector institutions role, performance level, litigation environment, working environment, quality of services, and fairness of judgments. They also observe the developments in the protection of judicial independence, judges' independence, separation of powers, the principle of rule of law for all, protection of public and private freedoms, human rights principals,

and the level of confidence in the justice system and others.

Over the years MUSAWA accumulated qualitative and quantitative information and a huge amount of statistical data which gives accurate reflection of the reality. This data needs data analysts and specialized researchers to conclude results and come up with recommendations for decision makers to develop plans and formulate policies, building on the accurate and documented information and data.

The Third Legal Monitor targeted 7 groups. A comparison between the results of the Third Legal Monitor and the results of the two preceding monitors of the years 2009 and 2011 was conducted to identify the progress and delays in the good governance indicators that were created in a participatory approach with the majority of the surveyed groups.

The overall average was calculated for all answers to come up with the national standard that could be regarded as a criterion to measure levels of the good governance. This overall average measures the development achieved within the justice institutions efficiency and the extent of its response to citizens needs in improving the level of justice, equity, integrity, impartiality, participation in the decision making process and the empowerment of the working human forces to enhance their performance.

**The National Indicator (Overall average): Equals the average of all averages of the targeted groups' perceptions surveyed, with a total of 6 groups.**

**First Indicator: Possibility of potential future improvements in the Palestinian Judiciary.**

This indicator measures the future vision of the possibility to enhance the judiciary level in Gaza in general. It reflects the optimistic or pessimistic view of the judiciary future from all surveyed groups



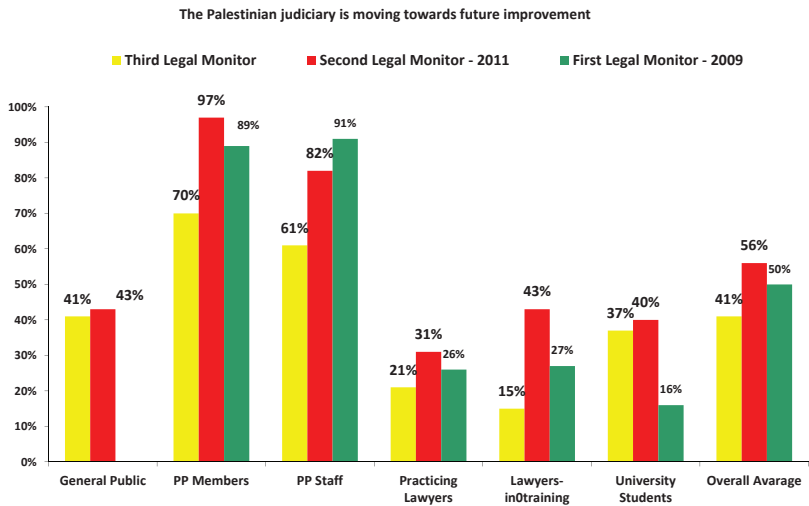
perspectives. The national sample, comprised of six targeted groups that are in direct relation with the justice institutions, including the Gaza population, participated in the formulation of this indicator. The chart below shows the main results of this indicator:

**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian judiciary is moving towards future improvement decreased to 41% in the Third Legal Monitor in comparison with year 2011 percentage of 56% with a difference of 15 points, and in comparison with year 2009 results the percentage decreased from 50% with a difference of 9 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **Practicing Lawyers:** showed the most pessimistic views towards future improvement of the Palestinian judiciary which affected the general indicator negatively. Their percentage decreased to 21% in the Third Legal Monitor in comparison with the percentage of year 2011 which was 31% with a difference of 10 points, and in comparison with year 2009 the percentage decreased to 26% with 5 points difference.
- **Lawyers-in-training:** was the second most pessimistic group towards the future improvements of Palestinian judiciary. Their percentage was decreased to 15% in the Third Legal Monitor in comparison with the percentage of year 2011 which was 43% with a difference of 28 points, and in comparison with year 2009 the percentage decreased to 27% with 12 points difference.

**3. Conclusion:** In the past years of 2009 and 2011 the results showed that the general perceptions towards the future improvements of the Palestinian judiciary were more positive than in the Third Legal Monitor which indicates that the situation of the judiciary in Gaza is not moving in the right direction and is not encouraging. There is a need to focus on the courts proceedings, improve and enhance access to justice, speed courts case trials and speed case enforcement to raise the general indicator, taking into consideration that the litigants have the most negative attitude of the surveyed groups since they tried the litigation experience of which they have developed this attitude.



**The second indicator: The success of the Palestinian state in maintaining the independence of the judiciary:**

This indicator measures the level of success of the Palestinian state in maintaining the independence of judiciary form all the surveyed

targeted groups' perspectives. The national sample, comprised of six targeted groups that are in direct relation with the justice institutions, including the Gaza population, participated in the formulation of this indicator. The chart below shows the main results of this indicator:

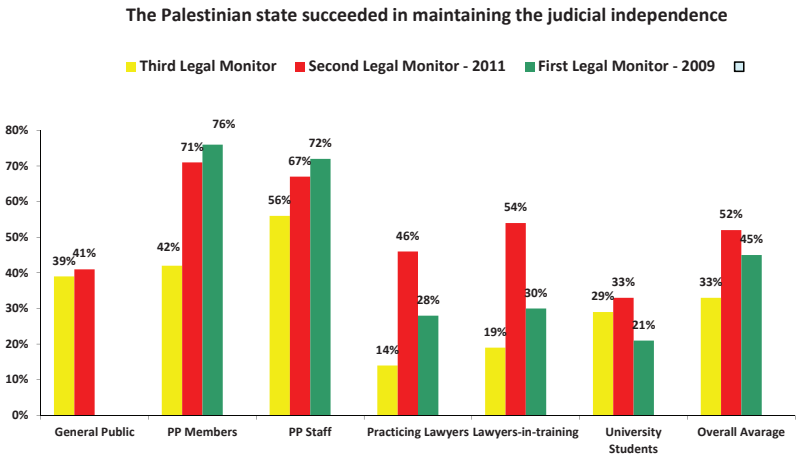
**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian state succeeded in maintaining the judicial independence decreased to 33% in the Third Legal Monitor in comparison to 2011 with a percentage of 52% with a difference of 19 points, and in comparison with year 2009 results the percentage decreased from 45% with a difference of 12 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **University Students:** Were the most pessimistic group towards the judicial independence as well as the role of the state in maintaining this independence. The results of their perspective have affected negatively the general indicator. The percentage among those who believe that the state succeeded in maintaining the judicial independence decreased to 29% in the Third Legal Monitor in comparison to the year 2011 in which the percentage was 33% with a difference of 4 points, while it increased in comparison to 21% in 2009 and with a difference of 8 points.
- **Practicing Lawyers:** Were the second most pessimistic group towards the judicial independence as well as the role of the state in maintaining it. Their percentage decreased to 19% in

the Third Legal Monitor in comparison with the percentage of year 2011 which was 54% with a difference of 35 points, and it decreased to 28% from 21% in year 2009 with 9 points difference.

**3. Conclusion:** the results shows that the judicial independence indicator has declined in the Third Legal Monitor in the majority of the surveyed groups' perspective in comparison with the preceding years included in the study. 61% of the general public doesn't believe that the state succeeded in maintaining judicial independence. This negative prospective is a result of the executive authority, the security forces and the High Judicial Council interferences in the judicial affairs and courts judgments.



### **The Third Indicator: Palestinian judiciary enjoys impartiality, integrity and fairness in comparison to other Arab countries:**

This indicator measures the extent to which the Palestinian judiciary enjoys impartiality; integrity and justice in comparison to other Arab countries from all the surveyed groups' perspectives. The national sample, comprised of six targeted groups that are in direct relation with the justice institutions, including the Gaza population, participated in the formulation of this indicator. The chart below shows the main results of this indicator:

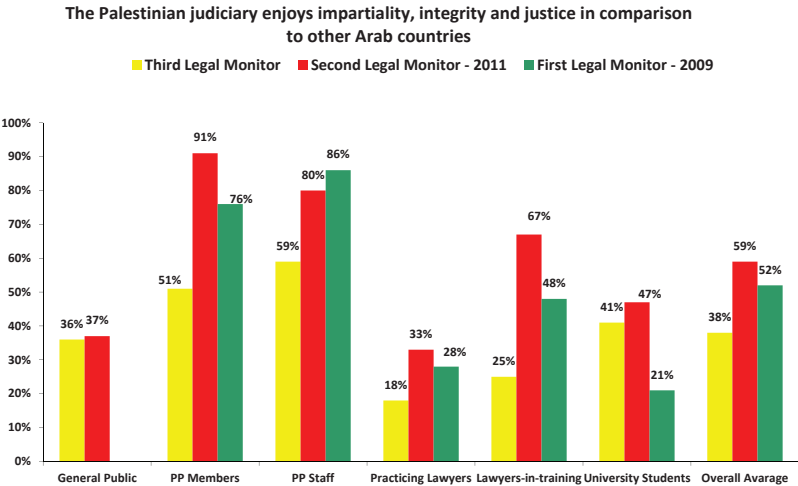
**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian judiciary enjoys impartiality, integrity and justice in comparison to other Arab countries decreased to 38% in the Third Legal Monitor in comparison to 59% in 2011 with a difference of 21 points, and in comparison with year 2009 results the percentage decreased to 52% with a difference of 14 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **Practicing Lawyers:** the percentage of those who believed that the judiciary enjoys impartiality, integrity and justice decreased to 18% in the Third Legal Monitor in comparison to 2011 percentage of 33% with a difference of 21 points, and in comparison to 28% in year 2009, the results decreased with a difference of 10 points

- **University Students:** the percentage of those who believed that the judiciary enjoys impartiality and integrity decreased to 41% in the Third Legal Monitor in comparison to 2011 percentage of 47% with a difference of 6 points, and in comparison with year 2009 results of 21% the percentage increased with a difference of 20 points

**3. Conclusion:** Around a third of the Palestinian society (38%) only believes that the judiciary is impartial, integral and just in comparison to other Arab countries, whereas around two thirds have an opposite opinion and think that the judiciary is not in a better position of other Arab counties in regards of integrity, impartiality and fairness.



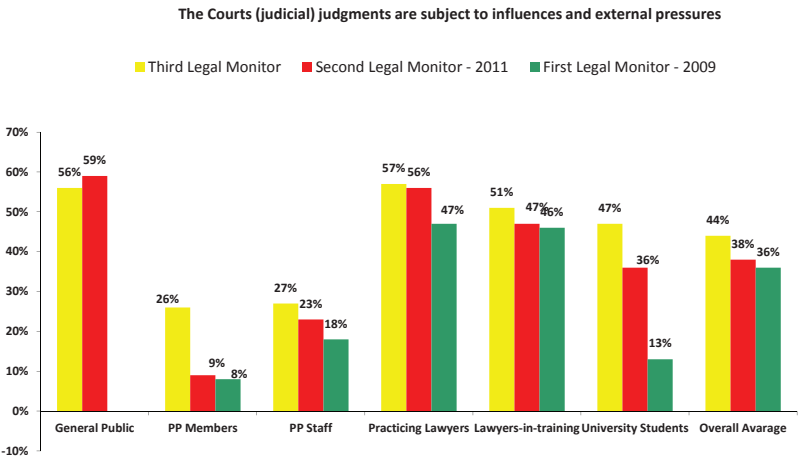
## **The Fourth Indicator: Courts judgments are subject to influences and external pressures**

This indicator measures the extent to which the judicial judgments are subject to influences and external pressures from the prospective of six of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who believed that the Courts (judicial) judgments are subject to influences and external pressures increased to 34% in the Third Legal Monitor in comparison to 2011 percentage of 38% with a difference of 6 points, and in comparison with year 2009 results the percentage increased from 36% with a difference of 8 points.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:
  - **The general public:** the percentage of those who believed that courts judgments are subject to influences and external pressures decreased to 56% in the Third Legal Monitor in comparison to 2011 percentage of 59% with a difference of 3 points.
  - **Practicing Lawyers:** the percentage of those who believed that courts judgments are subject to influences and external pressures increased to 57% in the Third Legal Monitor in

comparison to 2011 percentage of 56% with a difference of one point, and increased in comparison with year 2009 results of 47% with a difference of 20 points

**3. Conclusion:** more than half of the general public in the national sample in the Gaza believes that the Courts judicial judgments are subject to external influences.



**The Fifth indicator: The Palestinian Judiciary is impartial and is devoid of corruption**

This indicator measures the extent to which the Palestinian judiciary is impartial and devoid of corruption from the prospective of six of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below shows the main results of this indicator:



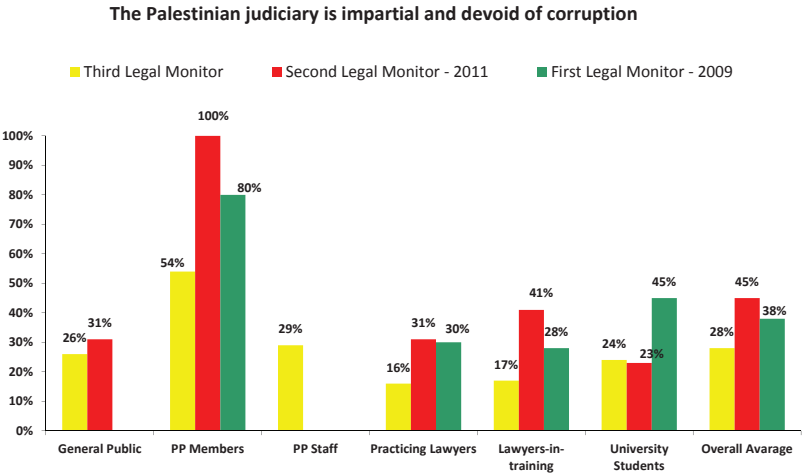
**1. The National Indicator (Overall Average):** the percentage of those who believed that the Palestinian judiciary is impartial and devoid of corruption decreased to 28% in the Third Legal Monitor in comparison to 45% in 2011 with a difference of 17 points, and in comparison with year 2009 results the percentage decreased to 38% with a difference of 10 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **The general public:** was the group with the most negative views towards the integrity and transparency of the judiciary, the percentage of those who believed that the Palestinian judiciary is impartial and devoid of corruption decreased to 26% in the Third Legal Monitor in comparison to 2011 percentage of 31% with a difference of 5 points.
- **Practicing Lawyers:** was the group with the second most negative views, the percentage of those who believed that the Palestinian judiciary is impartial and devoid of corruption increased to 16% in the Third Legal Monitor in comparison to 2011 percentage of 31% with a difference of 15 points, and decreased in comparison with year 2009 results of 30% with a difference of 14 points

**3. Conclusion:** In general there is a tremendous deterioration in the majority of the surveyed views towards the integrity and transparency of the judiciary (devoid of corruption) in particular

the university students, lawyers-in-training and the general public, which affected on the general indicator.



**The Sixth indicator: Trust in the Palestinian Judiciary is high.**

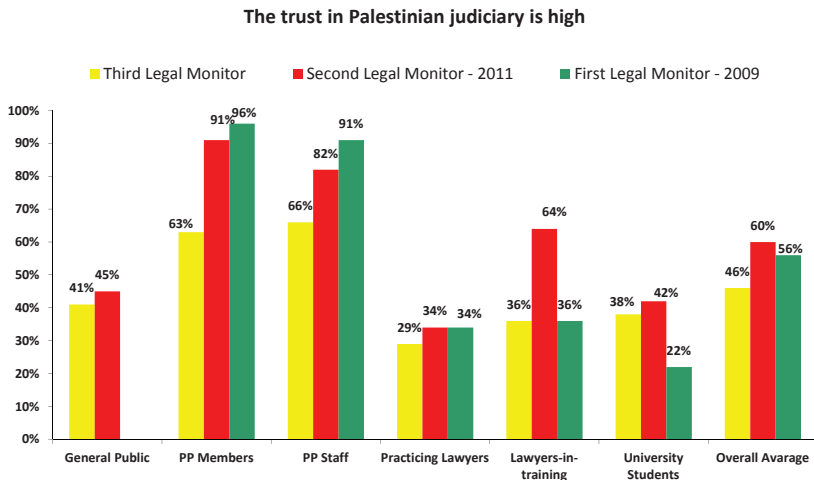
This indicator measures the extent of trust in the Palestinian judiciary from the prospective of six of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who believed that the trust in Palestinian judiciary is high decreased to 46% in the Third Legal Monitor in comparison to 60% in 2011 with a difference of 14 points, and in comparison to year 2009 results the percentage decreased from 56% with a difference of 10 points.
- 2. The Special Indicator for all surveyed groups:** This indicator

measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **University Students:** was the group with the most negative views towards the trust in the judiciary, the percentage of those who trusted the Palestinian judiciary decreased to 38% in the Third Legal Monitor in comparison to 2011 percentage of 42% with a difference of 4 points, and in comparison with 2009 results increased to 22% with a difference of 16 points.
- **The general public:** Was the second most negative group in their perspective towards the trust in the judiciary. The percentage of those who trusted the judiciary decreased to 41% in the Third Legal Monitor in comparison to 2011 percentage of 45% with a difference of 4 points.

**3. Conclusion:** the most optimistic surveyed group is the public prosecution Staff, 66% of them have trust in the Judiciary.



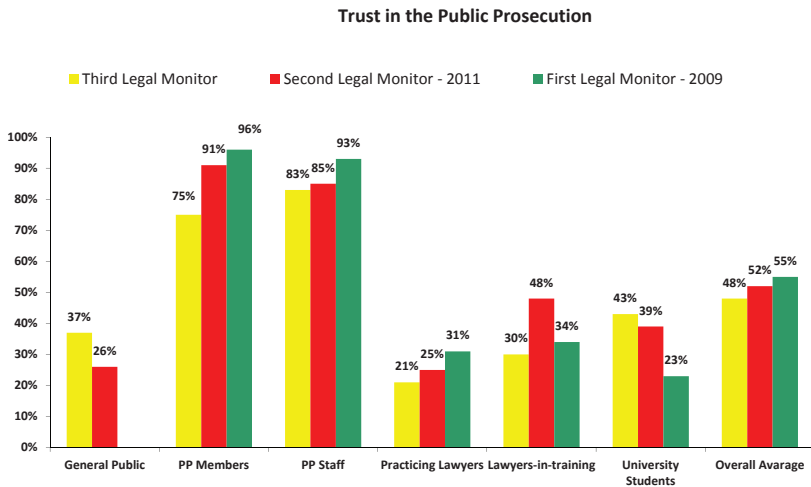
### **The Seventh indicator: Trust in the Public Prosecution.**

This indicator measures the extent of trust in the Public Prosecution from the prospective of six of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who trust the public prosecution decreased to 48% in the Third Legal Monitor in comparison to 52% in 2011 with a difference of 4 points, and in comparison to year 2009 results the percentage decreased from 55% with a difference of 7 points.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:
  - **The general public:** was the group with the most negative views towards the trust in the public prosecution, the percentage of those who trusted the public prosecution increased to 37% in the Third Legal Monitor in comparison to 2011 percentage of 26% with a difference of 11 points.
  - **Practicing Lawyers:** the second group with most negative views of the trust in the public prosecution. The percentage of those who trusted the public prosecution decreased to 21% in the Third Legal Monitor in comparison to 2011 percentage

of 25% with a difference of 4 points, and decreased in comparison with year 2009 results of 31% with a difference of 10 points.

**3. Conclusion:** If we exclude the public prosecution members and public prosecution Staff from the surveyed groups, the general average will decrease dramatically for this indicator of trust in the public prosecution to 22%.



### **The Eighth Indicator: Trust in the Palestinian Police.**

This indicator measures the extent of trust in the Palestinian Police from the perspective of four of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below

shows the main results of this indicator:

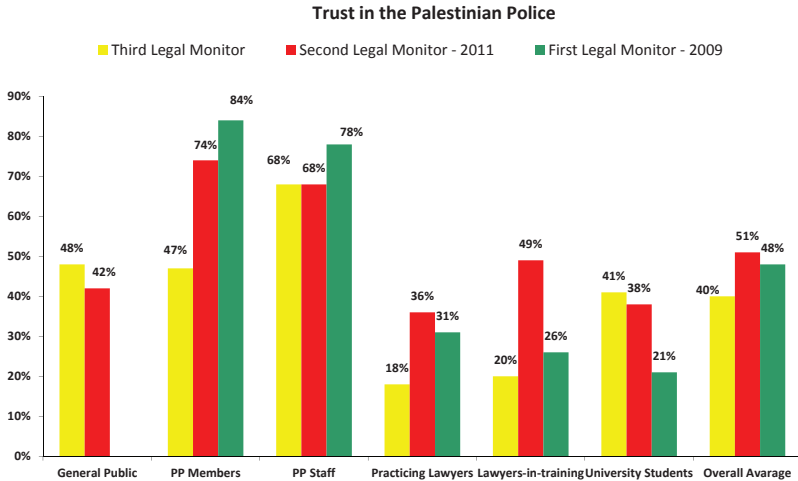
**1. The National Indicator (Overall Average):** the percentage of those who trust the Palestinian Police decreased to 40% in the Third Legal Monitor in comparison to 51% in 2011 with a difference of 11 points, and in comparison to year 2009 results the percentage decreased from 48% with a difference of 8 points.

**2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted groups affecting the overall average positively or negatively, as follows:

- **Practicing Lawyers:** was the group with the most negative views towards the trust in the police, the percentage of those who trusted the Palestinian police decreased to 18% in the Third Legal Monitor in comparison to 2011 percentage of 36% with a difference of 18 points, and in comparison with 2009 results increased to 31% with a difference of 13 points.
- **Law School students:** the second group with most negative views of trust in the Palestinian Police. The percentage of those who trusted the police increased to 41% in the Third Legal Monitor in comparison to 2011 percentage of 38% with a difference of 3 points, and increased in comparison with year 2009 results of 21% with a difference of 19 points.

**3. Conclusion:** it's noticed that the majority of the general public don't trust the police (52%), in addition 82% of the practicing

lawyers and more than half of the members of the public prosecution don't trust the police either.



## The Ninth Indicator: Trust in Lawyers

This indicator measures the extent of trust in the lawyers from the perspective of four of the surveyed groups targeted by the three surveys. The indicator measures the positive and/or negative development through the duration of the study. The chart below shows the main results of this indicator:

- 1. The National Indicator (Overall Average):** the percentage of those who trust the lawyers decreased to 26% in the Third Legal Monitor in comparison to 36% in 2011 with a difference of 10 points, and in comparison to year 2009 results the percentage decreased from 40% with a difference of 14 points.
- 2. The Special Indicator for all surveyed groups:** This indicator measures each target group perceptions separately, to identify the main targeted

groups affecting the overall average positively or negatively, as follows:

- **Members of the Public Prosecution:** was the group with the most negative views towards the trusting lawyers, the percentage of those who trusted the lawyers decreased to 23% in the Third Legal Monitor in comparison to 2011 percentage of 35% with a difference of 12 points, and in comparison with 2009 results increased to 36% with a difference of 13 points.
- **University students:** the second group with most negative views in regards to trusting lawyers. Only one third of the students trust lawyers over all the three years of the study, the other two thirds have no trust in lawyers.

**3. Conclusion:** In the Third Legal Monitor it appears that approximately two thirds of the lawyers-in-training (62%) have no trust in lawyers; moreover approximately three quarters of the members of the public prosecution have no trust in lawyers.

