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SAWASYA

UNDP/UN Women/UNICEF Joint Programme:
Promoting the Rule of Law in the State of Palestine

JUSTICE AND SECURITY MONITOR

**A Review of Palestinian Justice
and Security Sector Data
2011 - 2016**

Disclaimer

This publication was developed with support from Sawasya, the UNDP/UN WOMEN Joint Programme “Promoting the Rule of Law in the State of Palestine”, generously funded by the Government of the Netherlands and the Swedish International Development Agency.

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Introduction and Executive Summary

The 2016 Justice and Security Monitor is a joint publication between the Sawasya UNDP/UN Women Joint Programme on Strengthening the Rule of Law and the Palestinian Central Bureau for Statistics (PCBS). The report reviews quantitative, administrative data from the rule of law institutions of the State of Palestine from 2011 to 2016. It is the second report published as part of the Justice and Security Monitoring project – the first report which was published in 2013 provided an overview of baseline data from 2011. The Monitor includes data from the Palestinian Civil Police, the Attorney General's Office/Public Prosecution, the High Judicial Council, the Family (Sharia) courts, the Palestinian Bar Association and the Ministry of Justice. Data provided by the institutions covers personnel and the performance of core functions. The report also includes crime and victimization survey data collected by the PCBS.

Since the first report was published the justice and security institutions in the West Bank have made progress in collecting and publishing more data on critical justice and security issues. The PCP has improved the data that it makes available on the number and type of police-recorded crime and the type of cases dealt with by specialized units such as the Family and Juvenile Protection units. The Attorney General's office has invested significantly in increased resources for better planning and data collection. It publishes more detailed data on the types of cases dealt with including those related to sexual and gender based violence and juvenile justice. The High Judicial Council has continued to extend and upgrade the MIZAN case management system which provides more detailed data on the efficiency of the regular court system and enforcement of civil cases.

However, significant gaps remain in the quality, comparability and availability of data relating to justice and security in Palestine. These

challenges are most profound with regard to data from institutions in Gaza. Following the division in 2007, the justice system in Gaza suffered from huge gaps in human, financial and technical resources. The lack of modern data collection and storage methods, the lack of formal engagement with the justice system, and the lack of consistent access for the PCBS to gather data from justice and security institutions in Gaza all contribute to data gaps. Although, more data from the institutions in Gaza is available than the first edition of the Monitor, it is still significantly less than that provided for the West Bank.

In the West Bank, major challenges still remain in generating the kind of data needed for evidence-based policy making in the justice and security sector, in particular in assessing the quality of the justice and security services. With regard to the PCP, despite the progress in publishing more police-recorded crime data, the data collection processes do not align with international best practice for crime and criminal justice statistics. There is no data on the progress or outcome of investigative cases. There is also no data on the number of people held in police-holding cells, despite concerns raised in the last report that both adults and children were held by the PCP, often for prolonged periods. Despite important investments in improving the institutional response, including better data collection, on sexual and gender based violence by both the PCP and the AGO, monitoring progress in SGBV related cases continues to be hampered by the weak legislative and policy framework.

The Sharia courts, the Palestinian Bar Association and the Ministry of Justice all made limited progress with regard to improving data publication on core aspects of their work. The data provided on the situation of persons held in detention in Palestine only covers the seven PCP-run Correction and Rehabilitation Centers

in the West Bank, and does not cover people held for long periods in police-holding cells, in the estimated 32 other detention facilities in the West Bank run by security services, those detained in Gaza, or in Israeli-detention facilities, or other detention facilities. No data on the military court system was made available for this edition of the Monitor.

Another challenge in finalizing this report related to issues of data quality, comparability and verification. Some institutions still struggle with manual data collection systems, or databases which are out of date or not fit for purpose. This resulted in delays in providing data, but also in lengthy verification processes to resolve discrepancies. Regular changeover of staff in planning units, as well as lack of technical capacity contributed to these challenges. Definitions of key concepts, or data collection methods can vary across institution, making it difficult to track issues across the criminal justice chain.

2017 provides an important opportunity to review the focus of the Justice and Security Monitor project, improve data collection on justice and security issues, and address some of these gaps. The implementation of the project highlighted the need for a more coherent, system-wide framework for monitoring key justice and security and human rights indicators across the rule of law institutions. This is critical for monitoring the implementation of the new Justice Sector Strategy, 2017 to 2022, and to measure progress in implementing the seven core human rights treaties which the State of Palestine acceded to in 2014.^[1] The framework should bring together all relevant stakeholders and agree on key measures to improve data collection processes in line with international

standards and best practice. This should include, inter alia, improving available data on access to legal aid; the right to a fair trial; women's access to justice, including tackling sexual and gender based violence; ensuring the rights of children; comprehensive data on the situation of all persons detained in Palestine; better data on the enforcement of judicial decisions, and data on the outcome of cases in the Sharia courts. The MIZAN system is a powerful analytical tool and more work should be done to explore its potential to generate data that could provide insights into the quality of the justice system, in addition to its efficiency. The recommendations provided in this report have tried to highlight key issues and gaps to guide future data collection efforts.

The data presented in this report shows that the justice and security institutions have made important progress in some areas, but that significant challenges remain. **In terms of overall staffing levels, the justice institutions in Gaza remain severely under resourced in comparison to the West Bank.** In the West Bank, there was a slight increase in PCP officers between 2011 and 2016. In 2016, there were an estimated 300 PCP officers per 100,000 inhabitants. However, data provided by the Ministry of the Interior to the Palestinian Independent Commission for Human Rights (ICHR) in 2015 noted that there approximately 31,752 police or security officers or 1,095 per 100,000 people in the West Bank in 2015, making the West Bank a highly securitized environment. There was no available data on the number of police or security personnel on duty in Gaza. In the justice sector, the number of judges in the West Bank remained the same at approximately 7.3 per 100,000 in 2011 and 2016. This is significantly higher than Gaza where there were only 2.09 judges per 100,000 inhabitants in 2015. Similarly, in the Public Prosecution in the West Bank, the number of prosecutors increased from 4.7 per 100,000 in 2011 to 5.7 per 100,000 in 2016. In contrast, in Gaza, in 2014 there were only 3.2 prosecutors per 100,000. In 2016, there were approximately 150 registered lawyers per 100,000 people in the West Bank, compared to 72 per 100,000 in Gaza. Up to date information on staffing levels in the Sharia courts was not available for either the West Bank or Gaza, but data from 2014 suggested that there remained a severe lack of Sharia court prosecutors, with only 5 in the West Bank in total. Sharia court judges in Gaza had

^[1] The State of Palestine acceded to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention against Torture (ICAT), the International Convention on the Rights of the Child, and its optional protocols (CRC), the Convention on the Elimination of Discrimination against Women (CEDAW), the Convention on the Elimination of Racial Discrimination (ICERD), and the Convention on the Rights of Persons with Disabilities (ICPRD), and one of the substantive protocols: the Optional Protocol on the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (CRC-OPAC).

approximately double the incoming caseload of their West Bank counterparts. There was no data available on the number of enforcement officers in either the West Bank or Gaza.

There has been a slight improvement in gender balance across the institutions in the West Bank. The representation of women in the PCP has improved slightly from 3.3% to 3.7%, but remains far off the PCP's Gender Strategy goal of reaching 7% by 2018. The number of women public prosecutors at the Attorney General's office increased from 17% in 2015 to 21% in 2016. Women's representation on the judiciary improved slightly going from 16% in 2011 to 19% in 2016. The Palestinian Bar Association (PBA) has made particular progress in increasing the representation of women as registered lawyers. Between 2015 and 2016, the number of women lawyers registered with the PBA increased by 85% in the West Bank and 98% in Gaza. In the Ministry of Justice, the gender balance improved from 38% of staff in 2011 to 42% in 2015. Data from 2016 was not available, but according to data from 2014, 80% of prosecutors in the Sharia Courts in the West Bank were women. The area where women remain most severely under-represented was on the Sharia judiciary where only 4% of women were judges according to data from 2014.

In the West Bank and Gaza, there was an improvement in the efficiency of both the regular and Sharia courts in handling its incoming caseload. However, the regular court system in both regions still struggles with high levels of case backlogs. In contrast, the Sharia court system in both the West Bank and Gaza has managed to maintain a relatively low case backlog.

In the West Bank, the regular courts experienced a 33% increase in incoming cases since 2011. The courts managed to maintain a clearance rate of incoming cases of 95% or above for the Court of Conciliation, the Court of First Instance and the Court of Appeal. However, a high backlog of cases remains a challenge. When looking at the total caseload of the Courts, in 2016, the Court of Conciliation cleared only 62% of its cases; the Court of First Instance cleared 43%, and the Court of Appeal cleared 73%. Criminal cases at the Court of First Instance, which represent the most serious criminal offences, experienced a particular improvement in clearance rates between 2013 and 2016,

going from 64% to 129% of all incoming cases. However, the court still only cleared 33% of all criminal cases registered at the court, so more progress is needed. The courts with the highest caseloads included Ramallah/Al-Bireh, Nablus and Hebron. In 2016, the Ramallah court made good progress in clearing its criminal caseload, while Hebron struggled clearing only 19% of its total criminal caseload.

In Gaza, due to challenges in interpreting the data, it is not possible to compare trends between 2011 and 2015. Overall, the courts in Gaza had lower levels of efficiency. The data from the Court of First Instance highlighted the profound challenges facing the criminal justice system there, as the court only cleared 1,255 of its 12,429 total filed criminal cases – This represents only 10% of the total caseload. The extremely low rate of criminal case processing in Gaza presents serious challenges to ensuring the right to a fair trial. Although there is no data on the detention in Gaza, the Independent Commission on Human Rights annual report for 2015 notes high levels of overcrowding in prisons and numerous cases of lengthy pre-trial detention.

There are major challenges in both the West Bank and Gaza with regard to the enforcement of judicial decisions. In the West Bank, at the end of 2016 there were still almost 45,000 pending criminal cases (including traffic related cases) to be enforced. Criminal enforcement is overseen by the Public Prosecution. Data disaggregated by type of crime, and whether it related to a custodial sentence is not available so it is not possible to analyze the rate of enforcement of felonies. Criminal enforcement rates in some areas of Area C are particularly low, such as Hebron and Jericho. Enforcement of civil cases is overseen by the Civil Enforcement Department of the High Judicial Council. At the beginning of 2016, there was a backlog of approximately 153,000 cases. 81% of the incoming cases for civil enforcement concerned debt-related issues. In Gaza, there were approximately 68,000 pending enforcement cases from the Court of First Instance and the Court of Conciliation at the end of 2015. It was not possible to disaggregate by civil or criminal cases. In 2016, the Sharia courts opened ten new offices to enforce Sharia Court decisions, which had previously been managed by the Civil Enforcement Department of the High Judicial Council. It is hoped this will

contribute to quickly clearing the high backlog of Sharia court enforcement cases, and will free up additional capacity in the Civil Enforcement Department to also address the backlog of civil cases from the regular courts. Improving the capacity of enforcement departments, and the rate of enforcement of both criminal and civil cases is critical to ensure the proper functioning of the justice system in Palestine.

There is no comprehensive data on the situation of persons in detention in Palestine. There was no data on the number of people held in detention in Gaza. In the West Bank, data was only available for those detained in Correction and Rehabilitation Centers run by the PCP. Comprehensive data on the number of people detained in the estimated 32 other detention facilities in the West Bank, in Israeli detention, or in PCP holding cells or other facilities was not available. Data that is available from PCP-run detention centres suggests a 36% decline in the number of people detained annually since 2011. **Approximately 56% of people detained in Correction and Rehabilitation Centers in the West Bank in 2016 were detained without conviction.** Data from 2015 suggests that over 120 people had been detained for over a year without conviction in PCP detention centers – over 60 of those had been detained for over 2 years. The majority of convicted prisoners serve short sentences, and 64% of the convicted detainees' charges related to unpaid debts and checks. Only 8.5% of charges of convicted detainees related to non-sexual violent crime. Data did not allow for analysis of persons serving sentences for SGBV related charges. It will be important to improve available data on the situation of all detainees in Palestine and to develop a comprehensive strategy to address problems with detention in Palestine, including eliminating illegal detention, prolonged pre-trial detention, illegal detention of children and arbitrary detention practices, as well as ensuring appropriate sentencing policies for those convicted of a crime. This should include ensuring appropriate sentencing for serious violent crime, and estimating the costs and benefits short-term custodial sentencing, including exploring options for non-custodial sentencing for minor offences.

Significant challenges remain in relation to the provision of pro-bono legal assistance in the West Bank and Gaza. In 2016, in the West

Bank, the Bar Association provided legal aid in only 85 cases. In Gaza, the PBA provided legal aid in 789 cases. The vast majority of legal aid support is provided by NGOs, however there is no comprehensive data available on the total legal aid needs in Palestine. Important progress was made in 2016 in establishing the National Legal Aid Committee which aims to provide an overarching national policy framework to address complex legal aid needs affecting all Palestinians across the West Bank and Gaza. In addition, agreement was reached to customize MIZAN to produce data on the number of cases requesting, and provided with legal aid. This will provide an important source of data to allow for more detailed monitoring of legal aid cases, including access to and quality of legal aid provided by the Palestinian court system in the West Bank.

Since the publication of the last Monitor, Justice and Security institutions have made significant investments in improving the available data on cases relating to sexual and gender based violence, and children on conflict with the law. This is part of broader efforts to improve the justice and security sector's response to these core human rights issues. In 2016, **the adoption of the Juvenile Protection Act and inauguration of the Children's court in Ramallah coincided with a 60% drop in the number of incoming juvenile criminal cases filed at court** concerning a child accused of a crime – going from 2,872 to 1,141. In addition, since 2011, **there has been a 56% decline in the number of boys entering Dar Al Amal juvenile detention center.** However, data on girls, or children other detention facilities in the West Bank was not available. In Gaza, there remained a higher number of children entering juvenile detention facilities – almost 900 in 2015, and data on juvenile cases across the criminal justice chain was not available.

Sexual and gender-based violence remains a serious problem in Palestine, with 37% of women in the West Bank and 51% of women in Gaza experiencing violence according to survey data by the PCBS. Despite this, data that is available from the criminal justice system in the West Bank continues to show a very low level of reporting, a high level of attrition of cases across the criminal justice chain and relatively low conviction rates for these types of crimes. **Of 2,161 cases of SGBV involving women complainants which were processed in 2016 in the West Bank only 25% received a conviction.**

This has increased from a low of 20% in 2011, but decreased from 2014 when 30% of cases achieved a conviction. Data gathered by the Public Prosecution noted that in 2015 and 2016, in 81% of murder cases with female victims the accused was a family member. There is no disaggregated data available on persons serving custodial sentences for SGBV crimes. Available data on cases relating to sexual and gender based violence has improved in the West Bank but no data whatsoever is available for Gaza. However, significant progress in this area is hindered by many factors including the extremely weak legislative and policy framework with regard to SGBV. It is hoped that the Family Protection from Violence Bill will be finalized and adopted, and will address some of these issues, but much more work is needed across the criminal justice

chain to bring law, policy and practice in relation to SGBV in line with international standards and best practice.

This report provides an insight into the progress made by key institutions in improving data collection and monitoring processes. However, even more importantly, it also highlights some of the critical challenges still facing the justice and security institutions in the State of Palestine. It is hoped that the data and recommendations provided in this report can provide a useful input for future work to improve evidence-based policy making within the justice and security sector in the State of Palestine, as part of collective efforts to improve justice and security, and human rights protection for all Palestinians.

Recommendations

Overall recommendations

The following recommendations draw from lessons learned in the implementation of the Justice and Security Monitoring Project.

- Establish an integrated Justice and Security Sector monitoring framework that would bring together all relevant stakeholders to collect and publish data on progress in implementing the National Justice and Security Sector Strategies and meeting key human rights obligations.
- Harmonize definitions, in line with international standards, to improve the comparability of data across time, and across institutions, and to allow for the analysis of critical issues across the criminal justice chain, such as sexual and gender based violence.
- Develop a strategy to address the specific challenges relating to data on justice and security in Gaza.
- Consistently disaggregate all data by age and gender to allow for monitoring of the experience of women and children. Develop a policy on disaggregation to ensure disaggregation by other factors, including inter alia, geographic location, disability, ethnicity, refugee status etc.
- Improve data collection policies and practices on police-recorded crime to bring it into line with international standards on criminal justice statistics.
- Develop a comprehensive method to track legal aid needs and provision of legal aid.
- Expand the use of MIZAN and explore how it can be used to measure the quality of justice administered, in addition to efficiency of the court system. Implement changes to monitor the full implementation of the Juvenile Protection Bill and the availability and quality of legal aid.
- Implement a system wide approach to improving the legal and policy framework and data collection processes relating to access to justice for women, in particular in relation to sexual and gender-based violence (SGBV) to align with international standards.
- Improve data collection on access to justice for children and their experience of the justice system, including urgently investigating cases of illegal detention of children.
- Develop a policy on Detention and Rehabilitation in the State of Palestine to ensure minimum standards in lawful detention, including eliminating illegal and arbitrary detention; ending excessive and prolonged pre-trial detention; ensuring the rights of women and children in detention including eliminating their illegal or inappropriate detention, as well as ensuring appropriate sentencing policies for those convicted of a crime. This policy should ensure standards set out in the ICCPR and the UN Standard Minimum Rules for the Treatment of Prisoners and other relevant international standards are adhered to. It should also address appropriate sentencing for serious violent crime, and estimate the costs and benefits short-term custodial sentencing, including exploring options for non-custodial sentencing for minor offences.

Palestinian Civil Police

- Continue to monitor and publish data on progress against the commitments outlined in the 2016 PCP Gender Strategy, including i) to increase women police officers to 7% of total staff, ii) to recruit 40 women to the PCP annually and iii) to ensure a numerical increase of 10% per year iv) adopt a fixed quota of 30% for women in replacements v) to ensure 20% of women police officers are in leadership positions.
- Improve and standardize crime reporting and statistics, including ensuring disaggregation by gender, age and other factors, in line with international standards, and in cooperation with the Palestinian Central Bureau of Statistics, and the Office of the Public Prosecution.
- Implement a system wide approach to improving the legal and policy framework and data collection processes relating to access to justice for women, in particular in relation to sexual and gender-based violence (SGBV) to align with international standards.
- Collect data on the outcome of police investigations, disaggregated by type of crime, as well as by gender and age, including on the number of cases opened, those closed at police level and those progressing to formal prosecution.
- Gather data on arrests made, reasons for arrest, whether the arrest took place with a warrant and for how long the individual was detained.
- Publish data, disaggregated by age and gender, on the number of people detained in police holding cells, reason for detention and length of detention.
- Gather data on the total number of children who come into conflict with the law, including those detained, the reasons for their detention and the length of time and place of detention, as well as whether

they were provided with immediate access to a parent or guardian, lawyer and specially-trained police officer.

- Gather data on the number of specially-trained police available to deal with cases involving women and children, including the number of cases they handle compared to total recorded cases.
- Improve data collection on the nature of police complaints, whether they were investigated and the outcome of any investigation.

The Attorney General's Office/Public Prosecution

- Continue to improve the gender balance of staff in the public prosecution, including increasing the number of women prosecutors in leadership positions.
- Explore the extension of the MIZAN case management system to the Public Prosecution to allow streamlined case management between the public prosecution and the court system across all district offices.
- Implement a system wide approach to improving the legal and policy framework and data collection processes relating to access to justice for women, in particular in relation to sexual and gender-based violence (SGBV) to align with international standards.
- Address the system of 'double-counting' cases to allow for the analysis of the total number of new and disposed cases.
- Continue to improve available data including on the number of out of court disposals, the number of cases that proceeded to trial or were filed with a guilty plea, as well as case outcome, including dismissals, discontinuances or convictions after trial and sentencing. This would facilitate comprehensive analysis of case progress through the criminal justice system.

- Improve data collection on children's access to justice and juvenile cases, as part of the full implementation of the Juvenile Protection law.

The High Judicial Council

- Develop a monitoring framework, making use of MIZAN data, to monitor key indicators of the quality of the justice system, including relating to the right to a fair trial, access to legal aid, conviction rates for serious crimes, including SGBV, the number of individuals detained in pre-trial detention and length of detention, and access to justice for women and children, including the full implementation of the Juvenile Protection Act, and the full implementation of the Family Protection from Violence bill once finalized and adopted.
- Implement a system wide approach to improving the legal and policy framework and data collection processes relating to access to justice for women, in particular in relation to sexual and gender-based violence (SGBV) to align with international standards.
- Work with other justice sector actors to improve the policy framework and available data around custodial sentencing in the State of Palestine, including pre-trial custodial sentencing and sentencing of convicted prisoners, that aligns with international human rights international standards and best practice.
- Fully implement the proposed changes to the MIZAN system to allow for the tracking of cases where legal aid was requested and generate data on the situation of persons requiring legal aid, the level of provision of legal aid and the conviction rates of persons with legal aid, compared to conviction rates of persons without legal aid.
- Develop a strategy to improve case load management, drawing on MIZAN data,

and working closely with the Public Prosecution, to look at workloads across the courts, including gaps in relation to number of judges, but also core judicial staff, and prosecutors, as well as bottlenecks in administrative and other areas that could be causing delays. Invest in targeted capacity building efforts for the Court system, focusing on courts which experience particular challenges in case processing and management.

- Fully implement proposed changes to the MIZAN system to allow for the tracking of juvenile cases and the work of the Children's court, including to ensure the full implementation of the Juvenile Protection Bill.
- Invest in data collection and monitoring of complaints made regarding court proceedings and judges, the adjudication of these complaints and ensure that this information is publicly available.

The Family (Sharia) Courts

- Improve the gender balance of judges and staff at all levels.
- Improve data collection on the outcome of cases, including from the perspective of the human rights of women and children.
- Gather better data on access to justice needs including requests for, and provision of, legal aid.

Enforcement

- Gather more disaggregated data on the criminal and civil enforcement decisions, including type of case, to allow for specific monitoring of the implementation of decisions relating to custodial sentences and serious crimes. Establish policies and procedures that can facilitate the prioritization of the implementation of decisions, focusing on decisions which have significant human rights implications

for individuals. Link this with broader work to review detention practices and procedures in the State of Palestine.

- Undertake a review of the capacity and operation of both the Criminal and Civil Enforcement Departments and the Judicial Police with a view to addressing capacity gaps, in particular challenges relating to lack of access to Area C, and increasing the rate of enforcement of decisions.
- Invest in the newly opened Sharia Enforcement Departments to ensure they have the necessary resources to increase enforcement rates for Sharia decisions and to quickly address the high backlog of cases for enforcement.

Detention

- Gather and publish data on all persons detained in the State of Palestine, including all persons detained in Gaza and the West Bank in Correction and Rehabilitation Centers, police holding cells, and the detention Centers run by all other security agencies, and other institutions to gain an accurate picture of the number of detainees in the State of Palestine.
- Disaggregate between those arrested and detained without charge, those detained in pre-trial detention following judicial proceedings, and those serving custodial sentences following conviction, or those detained under any other circumstance.
- Develop a policy on Detention and Rehabilitation in the State of Palestine to ensure minimum standards in lawful detention, including eliminating illegal and arbitrary detention; ending excessive and prolonged pre-trial detention; ensuring the rights of women and children in detention including eliminating their illegal or inappropriate detention, as well as ensuring appropriate sentencing policies for those convicted of a crime. This policy should ensure standards set out in the ICCPR and the UN Standard

Minimum Rules for the Treatment of Prisoners and other relevant international standards are adhered to. It should also address appropriate sentencing for serious violent crime, and estimating the costs and benefits short-term custodial sentencing, including exploring options for non-custodial sentencing for minor offences.

- Gather and publish complete, disaggregated, data relating the detention of children, boys and girls, and immediately investigate cases of illegal detention of children in PCP holding cells and other inappropriate facilities.
- Improve the legislative and policy framework, and data collection methods, around sexual and gender based violence to align with international standards and allow analysis of rates of conviction and custodial sentencing for sexual and gender based violence.

Palestinian Bar Association

- Collect and publish more data on the situation of women lawyers, including if there is adequate representation across all areas of law, in leadership roles, and in the criminal justice sector.
- Collect data on the professional performance of lawyers, distribution among different areas of law and continuous professional development.
- Gather data on the number of pro bono cases handled by PBA registered lawyers, including hours invested and outcome of cases.
- As part of the National Legal Aid Committee, continue work to improve the data available in relation to legal aid needs in Palestine, including revision of the MIZAN case management system to accurately track the number of defendants requesting free legal assistance, those provided with assistance and the outcome of their cases.

Data should be disaggregated by gender and for juvenile cases.

- Improve the system of recording complaints against lawyers in cases of professional misconduct, and collect and publish data on complaints made, how they are investigated and the outcome of any investigation.

Ministry of Justice

- As part of the National Legal Aid Committee, improve the data available in relation to legal aid needs in Palestine.
- Collect more data to enable the assessment of the Ministry's performance of core functions, including its commitments under the National Justice Sector Strategy, 2017 to 2022. This includes the Ministry's work on legislative drafting, legal harmonization, expanding access to and improving the quality of legal aid, and the frequency and quality of legislative impact and cost assessments.
- Improve the system of oversight and monitoring of accredited arbitrators, including gathering data on the total number of arbitrators registered, cases processed and complaints received and the outcome of the investigation.

Justice and Security Institutions in Gaza

Major investment is required to improve both data availability and the capacity of the justice system in Gaza. The recommendations here focus only on data availability.

- Extend the electronic case management system, MIZAN2 to Gaza to improve the effectiveness of the court system, and the availability of data to monitor progress. This system should also be extended to related institutions such as the Public Prosecutor's office, and the Enforcement Department and Judicial Police to allow for streamlined tracking of cases and the identification of bottlenecks.
- Invest in data to better understand and address the bottlenecks causing the significant delays in processing criminal cases in the Court of First Instance.
- Collect data on the situation of detained persons, including the detention of children, in Gaza as a matter of priority. This should inform broader efforts to improve the human rights situation of detained persons and children in conflict with the law.
- Explore options to improve data availability across the criminal justice chain.

Methodology

The administrative data used in this report from 2011 to 2015 inclusive was gathered by the Palestinian Central Bureau of Statistics of Palestine (PCBS) in collaboration with the relevant justice and security institutions. The data from 2016 was gathered directly from the institutions themselves, or taken from Annual Reports or other administrative documents. Court case data and data relating to civil enforcement was generated directly from the MIZAN case management system maintained by the High Judicial Council. Data from the institutions in Gaza was gathered by the PCBS. This report also includes data from the crime and victimization surveys conducted by the PCBS in 2012 and 2016, and in some cases cross references survey data from the 2015 Public Perception Survey on Justice and Security.

Data Limitations

The data collection process involved extensive consultation between the PCBS and the various justice and security institutions. This was done both during the data collection process and in the course of the preparation of this report. During the course of the preparation of the report numerous data gaps discrepancies were encountered, which also contributed to delays in the reports publication. As a result, this edition includes a review of all data gathered since the first report which provided baseline data for 2011.

In addition, numerous challenges with regard to data quality and reliability were highlighted. Every effort has been made to address these challenges and minimize the errors, including through verification processes, cross referencing and consultation with stakeholders. It is hoped that errors have been minimized, however, there remain clear challenges in relation to the quality and reliability of administrative data

from key justice and security institutions in the State of Palestine. These challenges relate to a wide range of factors, including lack of human and technical capacity and resources across the justice and security institutions; the lack of a strong and harmonized legal framework; and the lack of harmonized concepts, definitions and approaches to data collection. These challenges are particularly acute in Gaza where the low contact policy with rule of law institutions and severe human and technical capacity gaps in the institutions contribute to the lack of timely data collection, but also provide serious challenges with regard to the accuracy and quality of the data, and its interpretation.

Population Calculations

The population estimates are taken from the Palestinian Central Bureau of Statistics's annual reports and reflect the population of the West Bank and Gaza. In 2016, the population of the State of Palestine was estimated to be 4,816,503, including 2,935,368 in the West Bank and 1,881,135 in Gaza.^[2] The ratio of staff per 100,000 inhabitants in the West Bank has been calculated to exclude those Jerusalem residents falling under de facto Israeli control in J1. In 2016, the PCBS estimated the population of J1 at 264,937.^[3] This is without prejudice to the status of 'J1' as an illegally annexed territory under international law.

^[2] Estimated Population in the Palestinian Territory Mid-Year by Governorate, 1997-2016 http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/gover_e.htm

^[3] Jerusalem Statistical Year Book, 2016, Palestinian Central Bureau of Statistics.

The Palestinian Civil Police

Introduction

The Palestinian Civil Police (PCP) comprises part of the Palestinian security establishment. The security services include the Palestinian Civil Police and the General Intelligence, Civil Defense, Preventive Security Organization, Military Intelligence, National Security Forces, Presidential Guards and Customs Control.^[4] The legal framework for these institutions is provided through the Law of Service in the Security Forces, however this does not provide the full legal framework for the Palestinian Civil Police.^[5] The police service plays a critical role in ensuring the human rights of Palestinian people. Often the police service is the main rule of law institution which citizens come into contact with and therefore a professional and competent police service is an essential aspect of ensuring public trust and confidence in the rule of law. The PCP faces significant challenges in implementing its mandate for a range of reasons, including lack of access to areas across the West Bank, in particular Area C and limitations in travelling to and from cities in the West Bank, as well as a lack of resources.

Personnel

In 2016, there were 8,017 Palestinian Civil Police officers in the West Bank, including 300 women police officers representing 3.74%.^[6]

While this is higher than the regional average for the Middle East of 2% it is much lower than the global average of 9%.^[7] There has been a slight improvement in the gender balance since 2011, when women made up 3.34% of the police force. Approximately 6% of women police officers (18) are in leadership positions within the PCP.^[8] Since the publication of the last Monitor, the PCP has made concrete commitments to improve the gender balance within the force. The National Security Sector Strategy, 2014 to 2016, included a commitment to recruit more female police officers and this was reiterated in the PCP's 2016 Gender Strategy which pledged to increase women's representation in the PCP to 7%.

According to data provided by the PCP in 2015, there were 63 police stations across the West Bank. In 2016, the number of police officers per population was approximately 300 PCP officers per 100,000 people in the West Bank.^[9] No data was available for the police service in Gaza. However, it is also important to recall that the Palestinian Civil Police make up only one of a large number of security agencies. According to data provided by the Ministry of the Interior to the Palestinian Independent Commission for Human Rights (ICHR) in 2015 there were approximately 65,527 police and security personnel in the State of Palestine. This figure included approximately 31,752 officers or 1,095 per 100,000 people in the West Bank in 2015.^[10]

^[4] State of Palestine Ministry of the Interior, 'Palestinian Security Sector Strategic Plan, 2014 to 2016', 2014.

^[5] State of Palestine Ministry of the Interior, 'Palestinian Security Sector Strategic Plan, 2014 to 2016', 2014; Human Dynamics and EU Coordinating Office for Palestinian Police Support, Public Perceptions of Palestinian Civil Police Performance, 2015 <<http://humandynamics.org/uploads/ckeditor/may2015-palestinePCP-publicperceptions-civilpolice.pdf>>., pg. 5

^[6] Palestinian Civil Police, Palestinian Civil Police Gender Strategy, 2016.

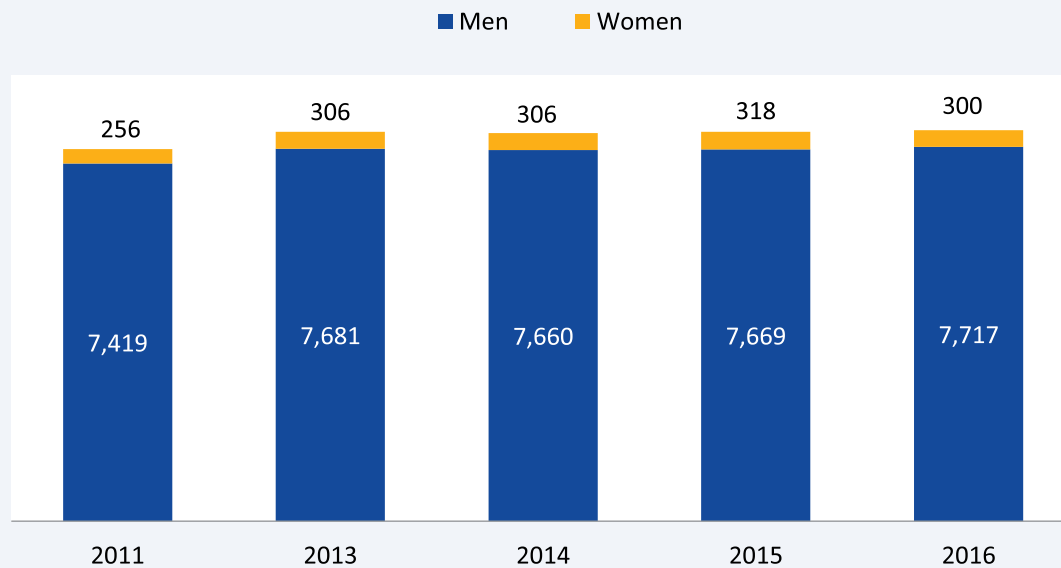
^[7] See UN Women, *In Pursuit of Justice: Progress of the World's Women* (2011); pg. 60.

^[8] Palestinian Civil Police. Pg 25

^[9] Calculated based on PCBS estimated population in mid-2016, excluding J1 (see methodology).

^[10] The data on recorded crime is gathered and published by the Palestinian Civil Police

Figure 1: Police officers, Palestinian Civil Police, 2011 to 2016



Core Functions

Police-recorded Crime

Since the last Monitor, the Palestinian Civil Police has made progress in publishing more detailed annual data on police recorded crime. In 2016, in the West Bank there were 29,279 recorded criminal offences, including 33 cases of murder,^[11] 202 cases of attempted murder, 8 cases of rape, 112 cases of sexual assault and 7,515 cases of assault, including 738 cases of serious assault and 5,039 cases of crimes relating to property.^[12] Data published by the PCP in 2016 on murders in the West Bank relates to the number of 'cases', and not the number of individuals murdered. In 2016, the PCP reported that 38 cases of first and second-degree murder (33), and manslaughter (5) were recorded that resulted in 43 deaths.^[13] Police-recorded crime has increased by 65% since 2012, and by 10% since 2015. The largest increase in police-recorded crime occurred between 2012 and 2013.

Recorded crime per 1,000 people increased from approximately 8.07 in 2012 to 11.11 in 2013. In

2016, it was approximately 10.96.^[14] In terms of geographic breakdown, Hebron recorded 21% of all reported crimes, Ramallah 15%, then Nablus at 13% and Jenin at 10%. The rate of recorded crime, by population, shows that some areas such as Jericho, Salfit and Qalqiliya have much higher levels of recorded crime per capita than others. In 2016, the PCP reported that 86% of recorded criminal investigations were 'completed' (25,181) while 14% were under investigation (4,098). However, no additional data was available relating to completed files, including the percentage forwarded to the prosecution, where a charge was brought or which files were dropped. It is also important to note that some crimes are reported directly to the public prosecution, so may not be captured in police recorded statistics.

Police-recorded crime data alone may not be an accurate indicator of actual crime rates, due to various factors related to crime reporting rates. Increases in police-recorded crime can be the result of an increase in trust in the police services, an increase in accessibility to police stations or

^[11] This includes 19 cases of first degree murder and 14 cases of second degree murder.

^[12] 2016 PCP Annual Report

^[13] PCP Annual Report, 2016, page 1

^[14] Figures on crime per 1,000 people are provided by PCBS for 2011 to 2015. Due to slight differences in calculating recorded crime between the PCBS and the PCP there may be a difference in the PCBS calculated crime rate per 1,000.

officers, improvements in internal data collection processes, or increased knowledge of how to report a crime.

In 2016, the PCP made important progress in publishing more detailed data on recorded crime. However, a number of challenges exist in the further analysis of this police-recorded crime data. The data published by the PCP draws on a range of categories, most of which draw from the existing penal code. Criminal justice data collection and classification methods are not aligned with international standards for the classification of crime for statistical purposes.^[15] In some cases, the categorizations are not the same as those used by other justice and security institutions. This creates difficulties in analyzing trends in relation to the most serious types of crime and the progress in prosecuting these crimes across the criminal justice chain, in particular those relating to sexual and gender-based violence (SGBV).

A major challenge stems from the existing criminal justice legislation in the State of Palestine which is based in part on the Jordanian Penal code (1960). The categories used by the PCP stem from this legislation, and as a result data published on some

charges relating to SGBV are recorded within the context of 'crimes against morality', which includes a broad range of other crimes including 'sorcery', and 'public disturbance.'^[16] This makes it difficult to analyze the prevalence of the recording of crimes related to SGBV over time, and the number of people serving sentences for convictions for SGBV related crimes. The adoption of the Family Protection from Violence bill will represent an important step forward in addressing these gaps, but much more investment is needed to improve the quality of data on violent crime, in particular sexual and gender based violence. This data should be collected based on international best practice for the classification of crime for statistics, and should be done in a way that allows for its comparability across the criminal justice chain.

Progress has been made in establishing the PCP Family and Juvenile Protection units and improving the available data in relation to the cases these units deal with, which is listed below. However, data is not disaggregated by gender, age, or by familial relationship. Disaggregated data is critical to better understand the nature of violent crime, and for analyzing the response of the police to gender-based violence and violence within the family.

Figure 2: Total police-recorded crime, West Bank, 2012 to 2016



^[15] See International Classification of Crime for Statistics Purposes

^[16] Crimes against Morality and Public Decency as categorized by the PCP include: Adultery, rape, sexual harassment, sexual molestation, ruining marriage, inciting debauchery, sorcery, harassment, public disturbance, shameful act and other.

Data from the public prosecution notes that over 80% of people charged with murder of women in 2015 and 2016 were male relatives. PCP recorded data suggests an extremely low level of reporting

rape cases – only 8 cases recorded in 2016, while data on other violent sexual offences was difficult to compare across years, due to differences in categorizing the data between different years.

Figure 3: Police recorded cases of assault, crimes against property, drug offences and murder, and attempted murder, 2012 to 2016

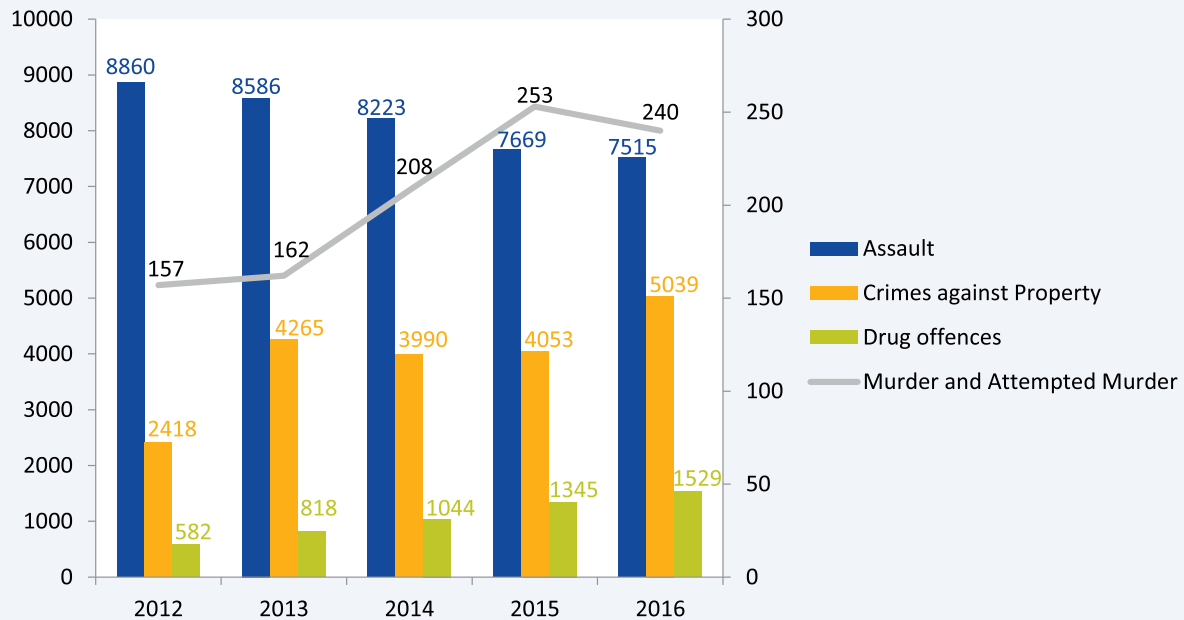
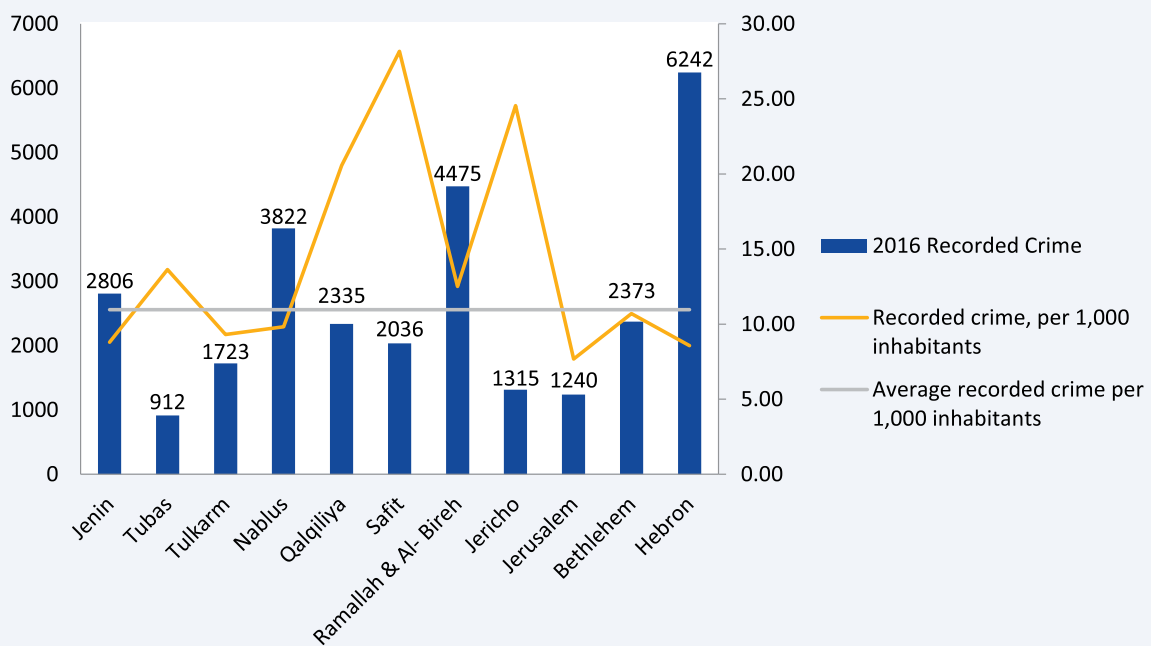


Figure 4: Police recorded crime by district, and per 1,000 people, 2016



Crime Victimization Surveys

An important additional tool to measure the occurrence of crime is a crime and victimization survey. In 2016, the PCBS published its latest crime and victimization survey for the West Bank and Gaza – the findings updated the previous survey which was conducted in 2012. The survey was implemented between October 2016 and January 2017. The sample included 7,603 households in Palestine. The survey generated useful data on the experience of crime by Palestinian citizens, including the type of crime, and rate of crime reporting and whether the crime underwent legal proceedings. In contrast to the trends in police-recorded crime, which have increased significantly since 2012, the PCBS crime and victimization survey suggested a decrease both in the experience of crime, and in the rate of crime reporting. The survey estimated that the number of persons exposed to at least one type of crime in the West Bank declined from 1.4 in 2012 to 1.1 in 2016. In terms of crime reporting, the percentage distribution of victimized persons who reported the last crime declined from 50% in 2012 to 38% in 2016. Of those who reported the crime, a decline was also seen in the percentages of victims whose reported crime underwent legal proceedings, from 42% in 2012 to 24% in 2016. Of those victimized, in the West Bank, in 2016 43.9% were victims of theft, 32.5% were victims of harassment or assault by Israeli settlers or soldiers and 5.4% reported being victims of assault.^[17] Of those not reporting crime in the West Bank, 33% said it was because it was not serious, and approximately 23% said they did not want police interference/did not trust the authorities.

Despite providing a useful additional tool to analyze crime experienced by citizens, crime victimization surveys also tend to under-represent the levels of violence experienced by individuals, in particular sexual and gender-based violence and violence within the family. Therefore, it is important to also conduct specific surveys measuring the prevalence of violence within society. The most recent violence survey conducted by the PCBS was in 2011. It found that half of Palestinian households were directly

exposed to violence by Israeli forces or settlers, including 49.1% in Gaza and 47.8% in the West Bank. In terms of violence within households, the survey found that 46% of children in the West Bank had been exposed to some form of violence inside the home. 37% of women who had ever been married were exposed to one form of violence by their husbands in the past 12 months, including 29.9% in the West Bank and 51% in Gaza. In the West Bank, 48.8% were exposed to psychological violence, 17.4% exposed to physical violence, 10.2% exposed to sexual violence, 44.8% exposed to social violence and 41.6% exposed to economic violence.^[18] 64% of women remained silent with regard to this violence, 24% sought the assistance of their family while only 0.7% approached a women's institution or other service center for support.^[19] Data including both the West Bank and Gaza noted that only 0.8% of women exposed to violence went to the police to file a complaint against their husband.

SDG 16 on Peaceful and Inclusive Societies, and Access to Justice for All seeks to measure a number of indicators relating to violence, and the response of rule of law institutions to that violence. The proposed indicators include measuring the proportion of the population subjected to physical, psychological or sexual violence in the previous 12 months, and the proportion of victims of violence in the previous 12 months who reported their victimization to the competent authorities or other officially recognized conflict resolution mechanism. In addition, indicators on the proportion of children who experience violence by a caregiver, and young people who experience sexual violence by the age of 18, and the proportion of the population that feel safe walking alone around the area they live are also proposed to measure this goal.

A new violence survey should integrate the key indicators under Goal 16 to provide a useful baseline and to measure trends in prevalence of violence in the State of Palestine. This violence survey data can also be used to better understand the prevalence and experience of violence by Palestinian citizens, in particular women and

^[17] PCBS Crime and Victimization Survey, 2012. <http://www.pcbs.gov.ps/Downloads/book1968.pdf>

^[18] Palestinian Central Bureau of Statistics Violence Survey, 2011

^[19] Palestinian Central Bureau of Statistics Violence Survey, 2011

Figure 5: Percentage Distribution of Victimized Persons by Type of Last Criminal Offense During Previous 12 Month, West Bank, 2012 to 2016

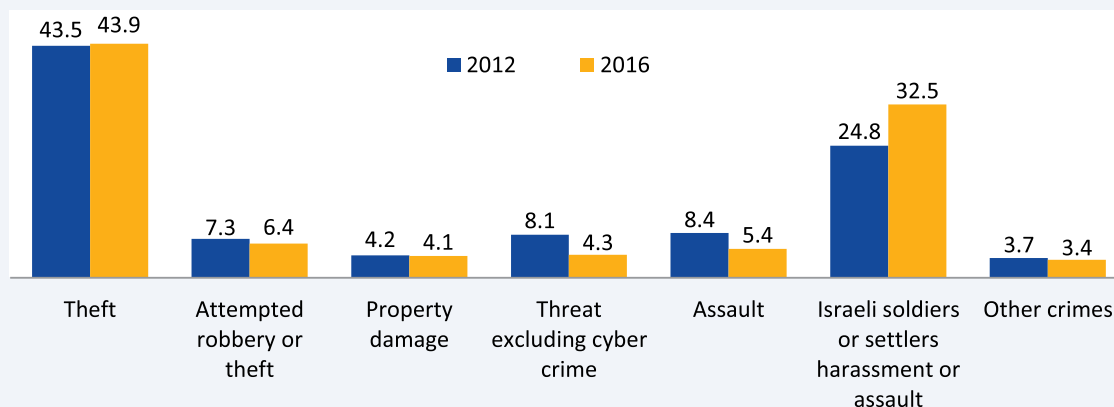
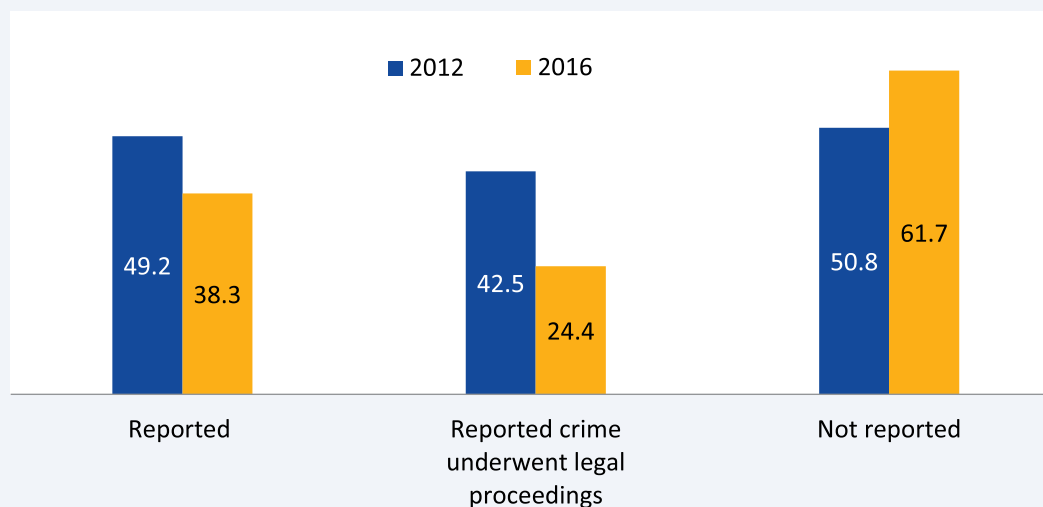


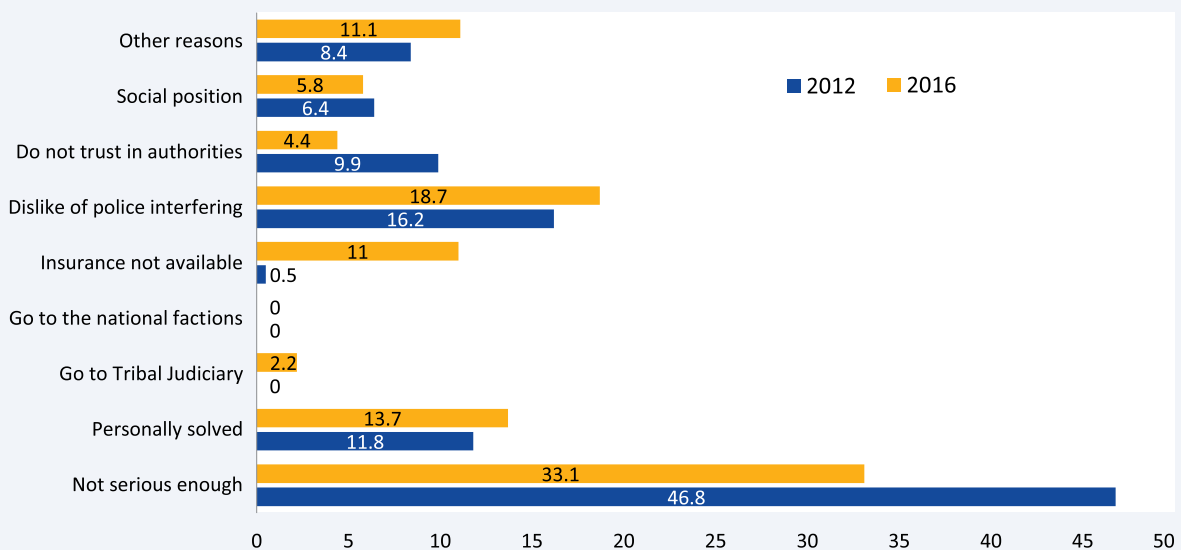
Figure 6: Percentage distribution of Victimized Persons, by last crime reporting during the previous 12 months, West Bank, 2012 and 2016



children and improve the institutional response to such violence. Measuring crime and violence is extremely complex, however triangulated data from police-recorded crime, crime and victimization and violence surveys can provide important insights into the actual levels of crime and violence, compared to that recorded

by the police. By disaggregating consistently by age, gender, region and other factors, data can also highlight the individuals and areas which experience high levels of victimization, but low levels of crime reporting, or institutional response. This can facilitate the development of more effective criminal justice policies.

Figure 7: Percentage distribution of victimized persons by reasons for not reporting and region during previous 12 Months, West Bank, 2012 and 2016



Family and Juvenile Protection Units

The PCP has invested significant resources in the Family and Juvenile Protection Units (FJPUs), which were established in 2009. In addition, a 'one stop center' for victims of violence was opened in Ramallah in early 2017 bringing together a range of justice actors to support women and children who are victims of violence. These are important steps forward in efforts to reduce the extremely high levels of violence, in particular family-related violence in the West Bank, and to increase the rate of reporting, and conviction for these crimes. The data on family protection cases relates to cases where women and children have been victims of violence in the family, and SGBV cases, and in some instances cases where women are alleged to have perpetrated a crime. Data on juvenile cases concerns cases of children in conflict with the law.

In 2016, the FJPUs had 3,131 registered family-related cases. This represented a 10% decline since 2014. The most common cases related to assault/harm (42%), threatening behaviour (20%), running away from home (12%) and

attempted suicide (8%). In 2016, 2,807 juvenile cases were registered with the FJPUs. In 2016, 44% of cases related to harm, 14% to robbery and 6% to destruction of property, and 7% to threatening behaviour. Data did not disaggregate by age, or gender, or victim or perpetrator,^[20] or the outcome of investigations, so it is not possible to fully analyze the nature of the cases dealt with by the FJPUs. This hinders analysis of the progress made in tackling sexual and gender based violence and other issues relating to the human rights of women, or the progress made in ensuring full protection for the rights of children who come in contact with the police.

^[20] The pie chart reflects 88% of registered FJPU cases. The remaining 12% of cases include those relating to Shameful act; Seizing of ID documents; Breach of trust; Negligence; Extortion; Sexual abuse and harassment; Begging; Harassment; Restriction of freedom; Fall from a Height; Rape; Public Fight; Adultery; Incitement to Abortion; Pregnancy outside of marriage; Causing harm; Breaking the inviolability of a dwelling; Attempted murder; Forced Marriage; Incest and others.

Figure 8: Incoming Family Protection Cases, PCP, 2014 to 2016

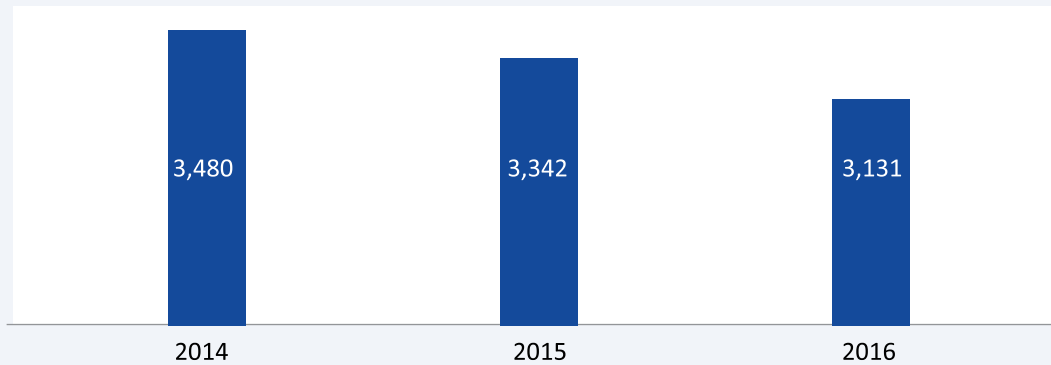


Figure 9: Most common family-related cases, registered with the Family and Juvenile Protection Unit, PCP, 2016

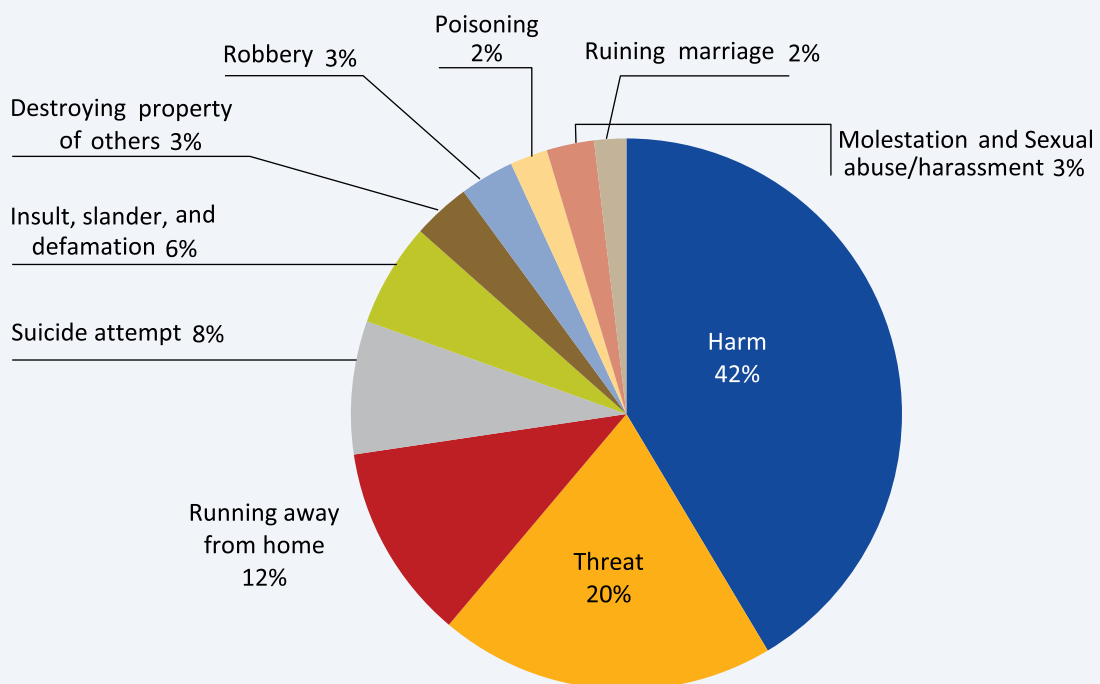


Figure 10: Juvenile cases registered with the PCP, 2011, 2013 to 2016

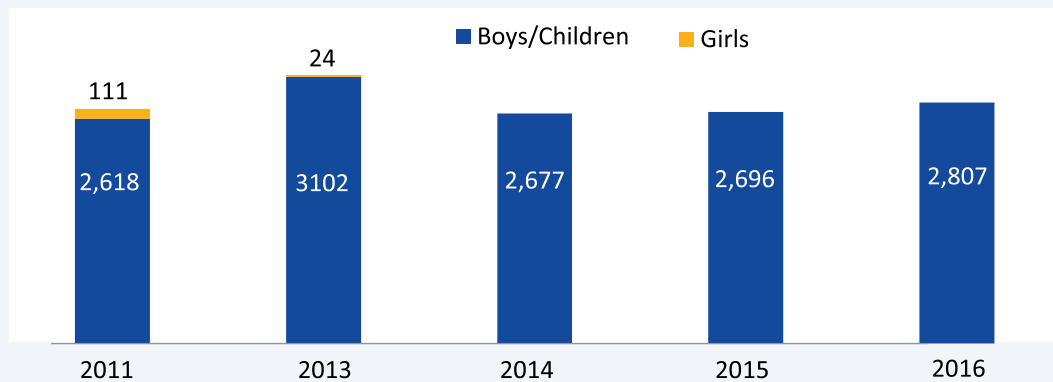
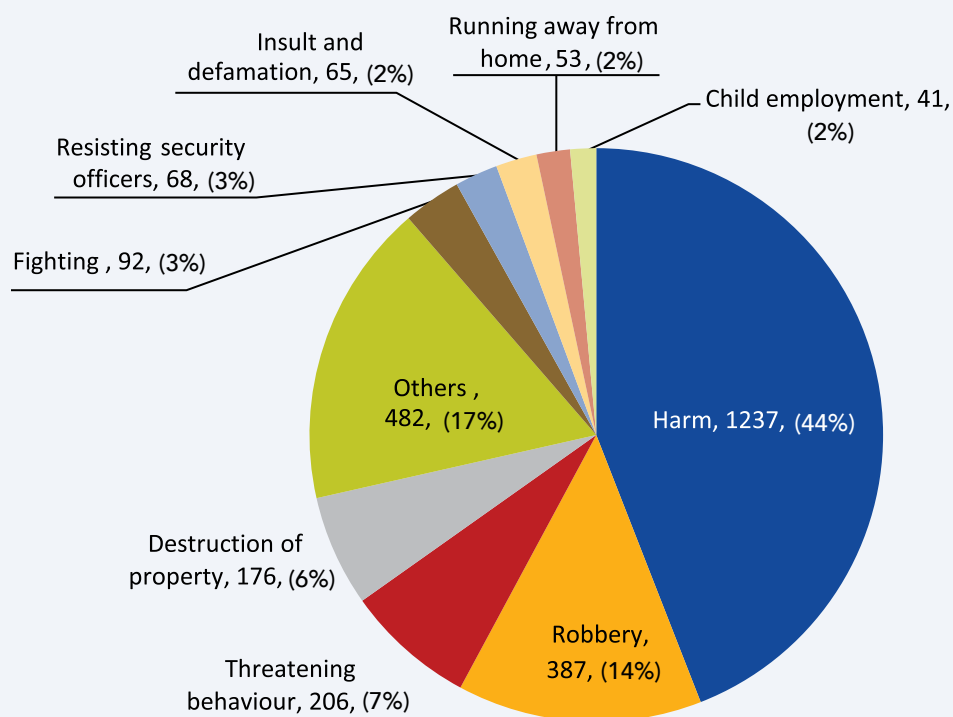


Figure 11: Juvenile cases registered with the PCP by type of case, West Bank, 2016



^[21] The 'other crimes' listed in this pie chart include a total of 482 'other crimes' which combines approximately 156 crimes listed by the PCP as 'other' and 326 crimes including attempted suicide (36); causing harm for others (33); fall from a height (29); molestation (28); violent actions (27); disturbing the peace (27); shameful act (26); arson (23); breaking and entering (19); begging (16); weapons possession (15); drug possession (13); harassment (11); sexual abuse (10); restricting freedom (8); attempted robbery (3); fraud (2).

Detention

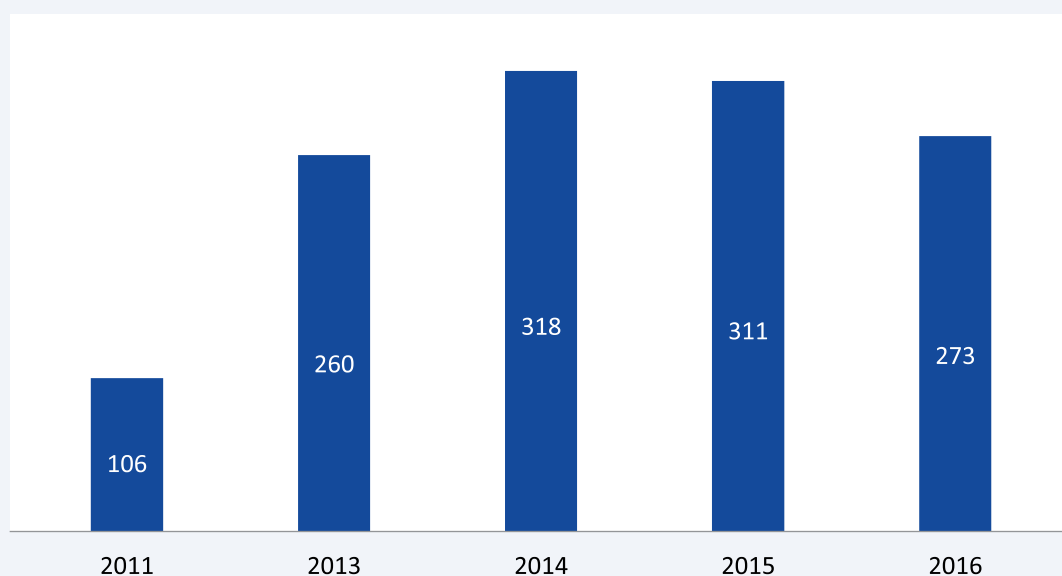
Data on people held in PCP-run Correction and Detention facilities is included in the chapter on Detention. Since the publication of the last Monitor, there was no data available on numbers of people detained in police holding cells. The last Monitor highlighted that in 2011 740 children were held in police detention, and noted a particular concern regarding the practice of holding children for long periods. The 2015 Independent Commission for Human Rights Annual report also raised concerns regarding the detention of adults and children for long periods in police holding cells. The detention of children in police holding cells, even for a short length of time, and the prolonged detention of adults without charge is contrary to Palestinian law and international human rights law. Complete data on the number of adults and children held in police holding cells should be published to facilitate tracking the full implementation of key legislation such as the Juvenile Protection Act and improvements in human rights protection.

Complaints^[22]

There are a number of departments dealing with complaints in the Palestinian Civil Police. The Bureau for Grievances and Human Rights Unit is the main link between human rights organizations and the PCP. It can receive complaints from the complainant directly, via email or through a human rights organization. The Office also visits Correction and Rehabilitation Centers to view the situation of inmates. The Bureau was established in 2009. The number of complaints submitted to the Bureau has increased by almost 200 since 2011, but declined slightly since 2015.

The Police Security Department also receives complaints relating to human rights violations and the performance of policing tasks, as well as violations of police discipline. It shares an oversight function with the Bureau for Grievances and Human Rights. It is also responsible for following up on violations with the Military Judiciary. In 2016, 2,428 complaints were submitted, including 646 complaints

Figure 12: Number of complaints submitted to the Bureau for Grievances and Human Rights, PCP, 2011, 2013 to 2016

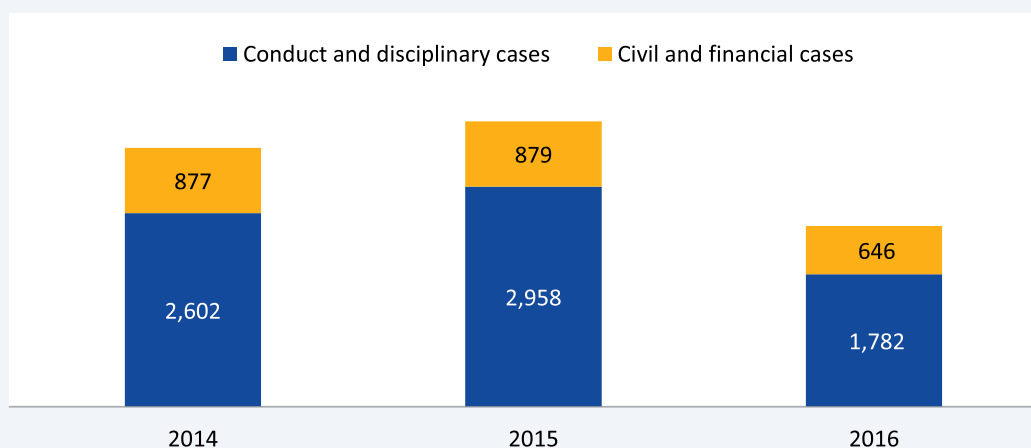


^[22] Data on 2016 police complaints is sourced from the PCP's 2016 Annual report.

received from outside the PCP: a 37% drop since 2015. In 2016, 25 cases were transferred to the military prosecutor and 21 cases were transferred to the military intelligence, while 559 arrest warrants were received against police personnel, however no data is available on the outcome of the cases in the military court, or relating to the arrest warrants issued to the police officers. Improving the data collection around complaints procedures will be important to better understand the nature of complaints submitted to the PCP and how they are dealt with.

However, significant challenges remain. There is a lack of detailed data, including relating to those cases that are investigated at police level, investigated under public prosecution supervision and the number and types of cases resolved informally at police level, as well as the number of arrests made, including with or without warrants. With regard to the police response to sexual and gender based violence, numerous problems remain. Data is not consistently disaggregated by gender or age. The lack of data disaggregated by defendant or victim, data on the familial relationship between victims and suspects, as well as problems with

Figure 13: Number of complaints submitted to the Police Security Department, PCP, 2014 to 2016



Key findings

The PCP has made progress in improving the gender balance of the force, and making concrete commitments towards improving gender equality through the adoption of the 2016 PCP Strategy on Gender Equality. It has improved the availability of data relating to police-recorded crime, and it has invested in improving police response to sexual and gender-based violence. Improvements in data availability in 2016 provide opportunities to better understand and analyze crime trends, including the availability of both police-recorded crime data, and crime and victimization survey data generated by the PCBS.

the categorizations of crimes relating to sexual and gender based violence hinders the accurate measurement of progress by the police, and the criminal justice institutions as a whole in tackling these crimes. The lack of data with regard to persons held in police-holding cells is also of concern particularly given previous reports of the use of holding cells for long term detention, including for children.

Recommendations

- Continue to monitor and publish data on progress against the commitments

outlined in the 2016 PCP Gender Strategy, including i) to increase women police officers to 7% of total staff, ii) to recruit 40 women to the PCP annually and iii) to ensure a numerical increase of 10% per year iv) adopt a fixed quota of 30% for women in replacements v) to ensure 20% of women police officers are in leadership positions.

- Disaggregate data by age and gender.
- Improve and standardize crime reporting and statistics, in line with international standards, and in cooperation with the Palestinian Central Bureau of Statistics, and the Office of the Public Prosecution.
- Improve data collection on sexual and gender-based violence as part of a system wide approach bringing together all actors in the criminal justice chain to improving the State of Palestine's response to SGBV, and in line with international standards.
- Collect data on the outcome of police investigations, disaggregated by type of crime, as well as by gender and age, including on the number of cases opened, those closed at police level and those progressing to formal prosecution.
- Gather data on arrests made, reasons for arrest, whether the arrest took place with a warrant and for how long the individual was detained.
- Publish data, disaggregated by age and gender, on the number of people detained in police holding cells, reason for detention and length of detention.
- Gather data on the total number of children who come into conflict with the law, including those detained, the reasons for their detention and the length of time and place of detention, as well as whether they were provided with immediate access to a parent or guardian, lawyer and specially-trained police officer.
- Gather data on the number of specially-trained police available to deal with cases involving women and children, including the number of cases they handle compared to total recorded cases.
- Improve data collection on the nature of police complaints, whether they were investigated and the outcome of any investigation.

The Palestinian Attorney-General's Office/Public Prosecution

Introduction

The Palestinian Office of the Attorney General and Public Prosecution plays a key role in the administration of justice. It specializes in investigating and prosecuting criminal cases, and their follow-up.^[24] The public prosecution also represents the state in civil litigation, executes judicial decisions, oversees law enforcement officers and monitors reform and rehabilitation Centers.^[25] The Palestinian public prosecution differs from its counterparts in the Arab world as it has the power to investigate, bring charges, and litigate. The role of investigating, in addition to litigating, adds a significant burden to public prosecutors.^[26] Law No. 1 of 2002 on the Judicial Authority regulates the work of the public prosecution. The legal framework establishes the principle of administrative and judicial independence of the public prosecution in line with the work of both the judicial and executive authorities. Since 2011, a number of steps have been taken to improve the ability of the public prosecution to deliver justice in a timely, and fair manner. A number of offices were renovated and a new premises in Bethlehem was built. An Office of the Attorney General was built and the IT system developed.^[27] There are a number of ongoing reforms, including linking the public prosecutor's database with that of the High Judicial Council and preparing optimum

timelines for cases to address excessive delays.

Personnel

In 2016, there was a 40% increase the number of prosecutors in the West Bank as the Attorney General appointed 44 new Assistant Prosecutors bringing the total number to 157. This brings the number of public prosecutors to approximately 5.7 per 100,000 inhabitants in the West Bank.^[28] The percentage of women prosecutors increased from 17% to 21%. In the West Bank, staff of the Public Prosecution Offices are distributed across 13 district prosecutors' offices, specialized offices and the Office of the Prosecutor General. Specialized offices include the office for appeals, justice, corruption and economic crimes. In 2016, the Attorney General also formally established an Office for the Protection from Family Violence and an Office for Juvenile Justice, and the Office for Anti-Cyber crimes.

^[23] Data from 2011 to 2015 provided by Public Prosecution to the Palestinian Central Bureau of Statistics. The data from 2016 is taken from the Attorney General's annual report.

^[24] Palestinian Central Bureau of Statistics, A Review of Palestinian Justice and Security Sector Data, 2013.

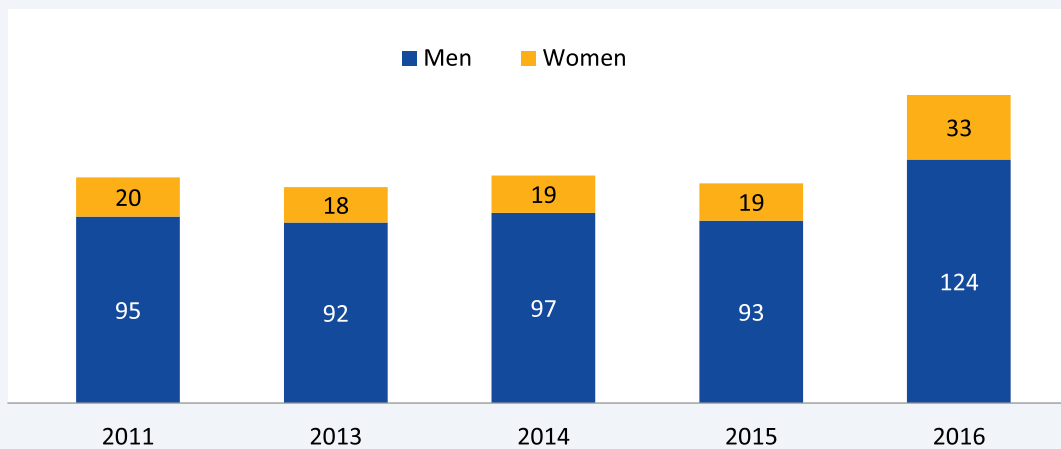
^[25] Ministry of the Interior., pg. 123.

^[26] Ibid., pg. 54.

^[27] Ibid., pg. 123.

^[28] Calculated based on population projection for the West Bank at end 2016, from Palestinian Central Bureau for Statistics:

Figure 14: Number of Prosecutors in the Public Prosecution, West Bank, 2011, 2013 to 2016



Core functions

Prosecution Caseload

The public prosecution is responsible for investigating and litigating cases on behalf of the public and the State in the courts. One of the challenges with interpreting the data provided by the Public Prosecution relates to the issue of 'double counting' of investigative cases. This is because 'incoming cases' registered in a public prosecutor's office include both new cases which have been referred to the office of the prosecutor, either from the police, as a result of a public complaint, or those that have been received from another office – for example, those cases that have been returned for further investigative work. For this reason, total incoming case figures do not accurately reflect the actual number of new cases being submitted to the public prosecution each year. Similarly, disposed or cleared cases refer to those that have been investigated and passed on either to the Attorney General's office for review, or filed at court, while pending cases are those which are still being investigated having been opened in a previous year. The Public Prosecutors office is looking at ways to address this so that files can be differentiated between newly filed, and those which are reactivated or returned from central offices. While the data does not allow for the analysis in whether the Public Prosecution is dealing with more or less

new cases each year, it does allow to draw some insights into the workload of public prosecution offices.

In 2016, the public prosecution reported approximately 38,937 incoming cases. It closed approximately 35,475 of these incoming cases. Pending cases from the previous year numbered 5,530 approximately 4,614 pending cases were closed at the end of the year. Data on the clearance rate of incoming cases since 2011^[29] shows that the Public Prosecution has managed to maintain a relatively high clearance rate of cases. In 2016, the clearance rate was 91% for incoming cases and 83% for pending cases.

Type of Cases

In 2016, felonies comprised about 7% of the public prosecutions criminal caseload.^[30] The clearance rate for felony cases was approximately 70%, while the clearance rate for misdemeanors was 91%.

^[29] This figure excludes both pending cases, and number of cleared pending cases by the Attorney General.

^[30] This data excludes cases dealt with by the prosecution where no charge was brought, or cases relating to offences where fines were imposed, such as traffic offences or environmental violations.

Charges relating to theft or robbery, damage to public or private property, drug offences and offences against members of the security services represented the most common charges. In terms of distribution by district,

Ramallah registered the highest number of these type of cases with almost 2,000, followed by the Nablus district office which registered approximately 1,000 of these cases.

Figure 15: Number of Incoming and cleared investigative cases, Public Prosecution, 2011 to 2016

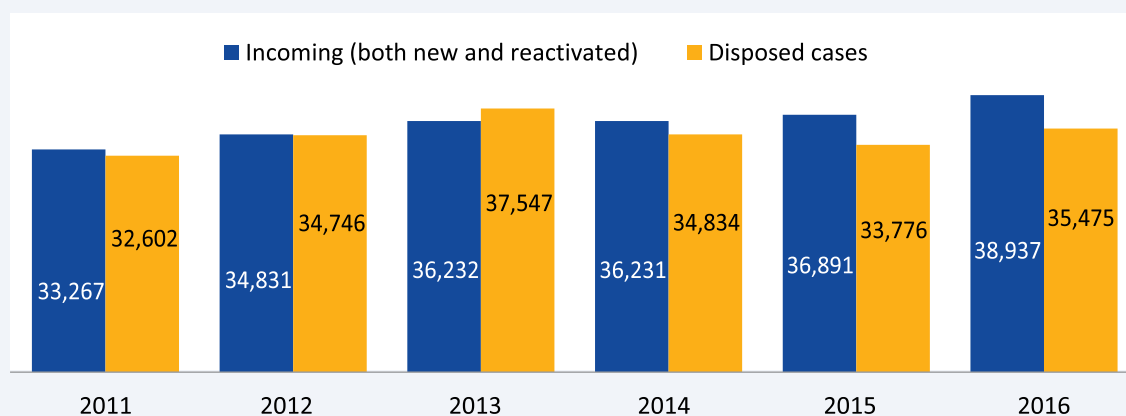


Figure 16: Number of cases registered with the Public Prosecution in 2016, disaggregated by felony or misdemeanor

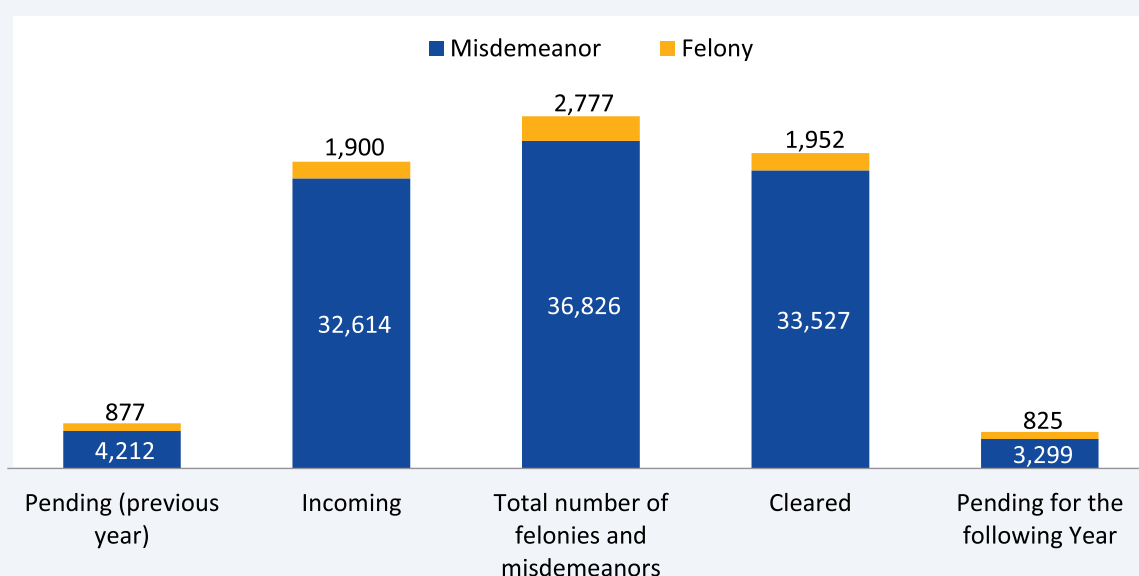
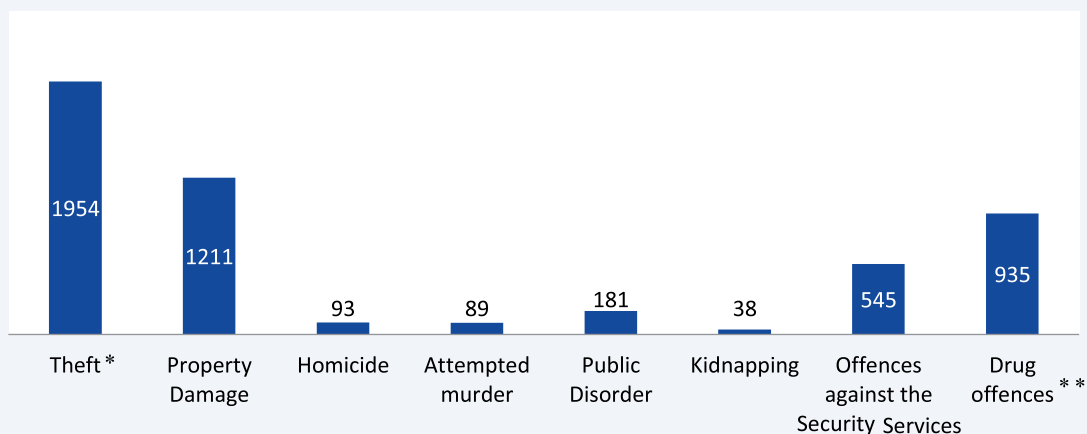


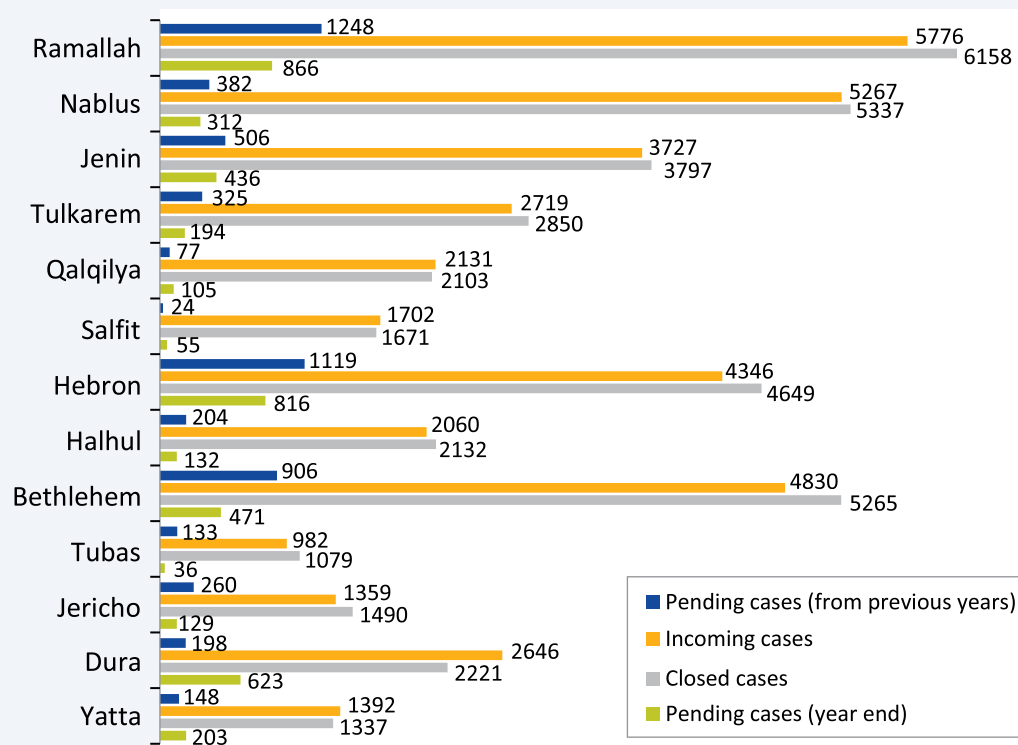
Figure 17: Distribution of cases based on the legal characterisation of the charge, district prosecution office, 2016



* (including theft, robbery in a public place armed robbery)

** (including possession, trafficking and production)

Figure 18: Caseload by district prosecution office, 2016



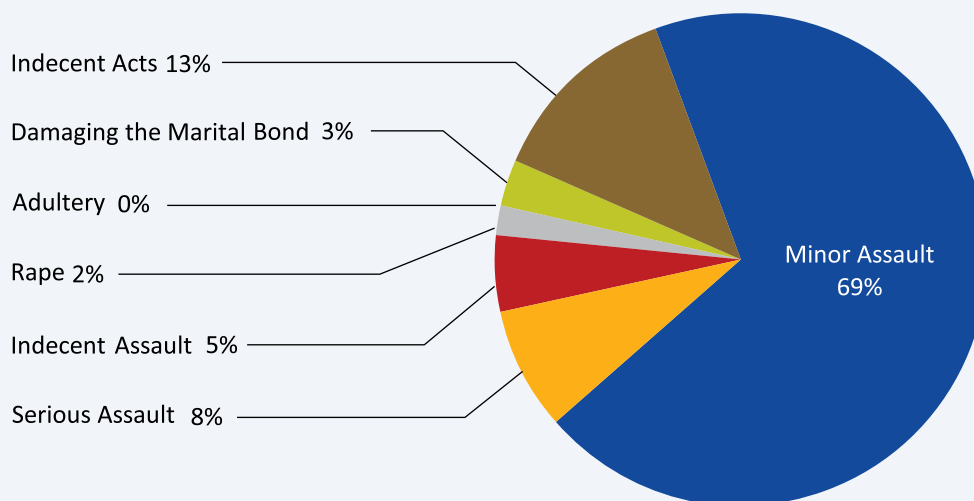
Sexual and Gender-based violence

In 2016, the Public Prosecution also established the Special Prosecutor's unit for the Protection from Family Violence which has a mandate to prosecute offences including violence perpetrated within the family, sexual offences perpetrated against women and children outside the family, and in relation to offences concerning threatening behaviour towards women. This unit also has a mandate with regard to certain sexual offences perpetrated by women which remain offences under Palestinian law such as adultery, debauchery and incest. Under the Palestinian penal code, crimes of adultery and incest are considered to be consensual crimes that happen with both parties consent, however, the complaint can only be filed by male relatives – This represents a form of discrimination against women who are incompetent to file complaints against such crimes.^[31] Data from 2016 shows that approximately 1,101 cases of gender based violence were registered with the Public Prosecution in 2016. 69% of those cases related to minor assault, 13%

to indecent acts, and 8% to serious assault. Ramallah, Nablus, Jenin and Yatta registered the largest number of cases. Data from previous years was not available so it is not possible to compare trends. 15 rape cases were registered, 8 of which were registered in the Nablus office.

In 2015, the Public Prosecution dealt with seven cases of murder of women.^[32] Of these seven cases, four were referred to the Court of First Instance and two cases which were deemed manslaughter were referred to the Court of Conciliation, and one case remains under investigation. Of the nine cases of women's murder, received in 2016, six were referred to the Court of First Instance, two were still being investigated and one was under review by the Attorney General. In 81% of the cases dealt with in 2015 and 2016, the accused was a male family member, either a father, spouse, brother, cousin or son or a member of the extended family. In 19% of the cases there was no family relation.

Figure 19: Types of gender-based violence cases received by the Public Prosecution, 2016



^[31] UN Women, Access Denied: Palestinian Women's Access to Justice in the West Bank of the Occupied Palestinian Territory, 2013, liii <<http://dx.doi.org/10.1017/CBO9781107415324.004>>.

^[32] Breakdown by district is as follows: 2015: 1 case in Ramallah, 3 in Nablus, 1 in Hebron, 1 in Salfit, and 1 in Bethlehem. 2016: 3 cases in Ramallah, 2 cases in Nablus, 1 case in Hebron, 1 case in Salfit, 2 cases in Jenin.

Figure 20: Gender-based violence cases, by District office, Public Prosecution, 2016

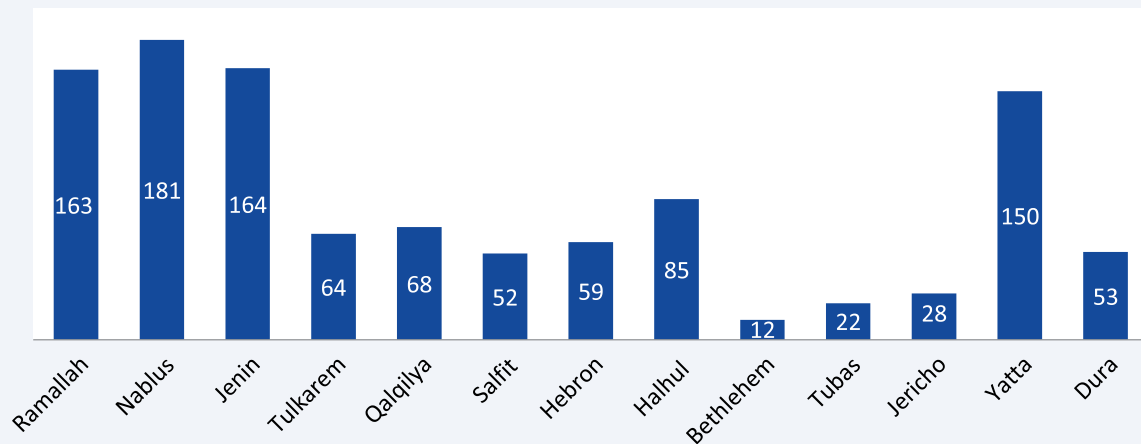
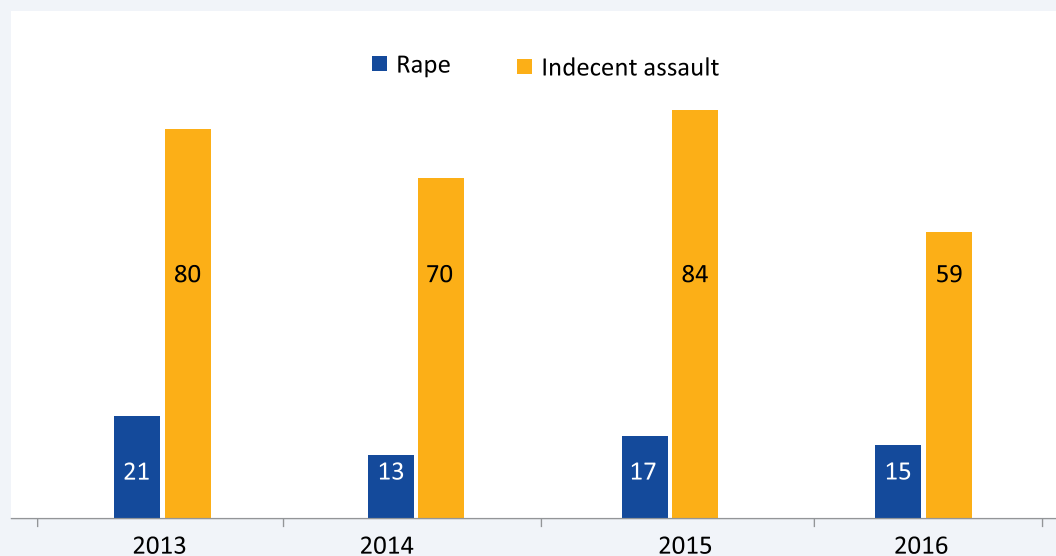


Figure 21: Number of cases of rape and indecent assault received by the Public Prosecution, 2013 to 2016



Cases involving Children in the Public Prosecution ^[33]

In 2016, the decision was also taken to establish a Specialized Prosecution for Juvenile

Justice. The new specialized prosecution has a central role in the implementation of the new Juvenile Protection act and works with the Ministry for Social Affairs and other actors in relation to cases involving children in conflict with the law.

The Public Prosecution received 1,747 cases involving accused juveniles – These cases concerned 2,108 children (2,053 boys and 55

^[33] As per the Convention on the Rights of the Child, and The Palestinian Child Law No. 7 of 2004 to which Palestine, a child in this section is defined as any human being under the age of eighteen years. (Palestinian Central Bureau of Statistics, 'The Status of the Rights of Palestinian Children', 2014.; page 17)

Figure 22: Juvenile cases, by district office, Public prosecution, 2016

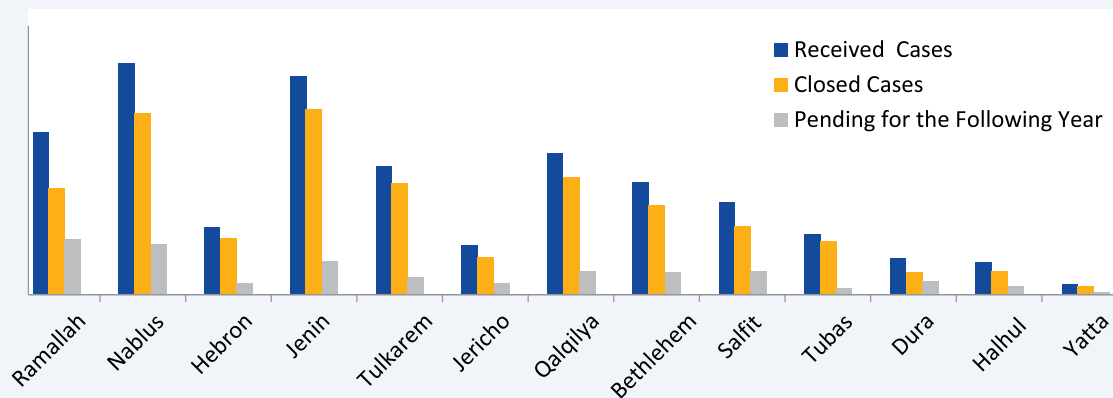
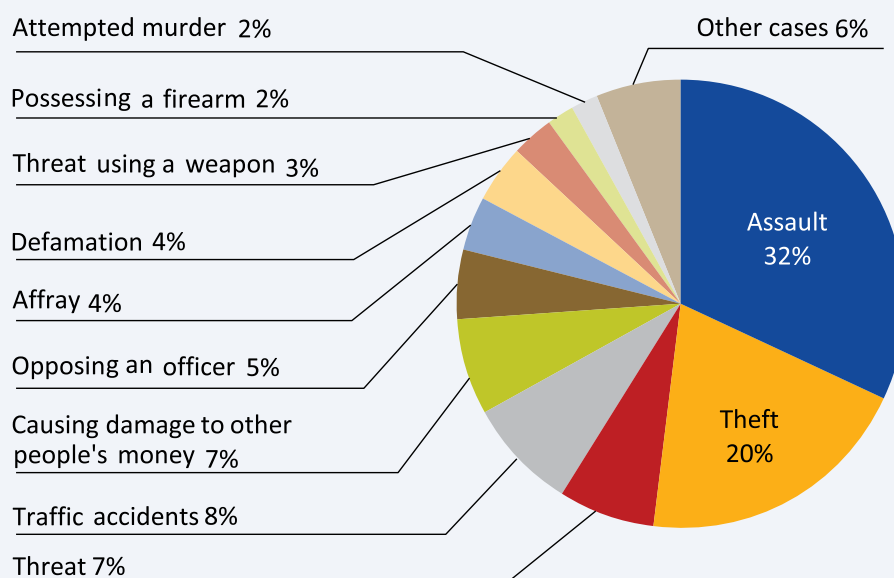


Figure 23: Juvenile cases, by charge, Public Prosecution, 2016



girls).^[34] During the year, 1,383 cases were closed, leaving 364 pending for the following year. Nablus and Jenin registered the highest number of juvenile cases. 11% of the cases involved felonies (230 boys and 1 girl) and 89% (1,823 boys and 54 girls) were accused of misdemeanors. Over 50% of

juvenile cases^[35] were related to assault and theft. In 2016, there were four cases of juveniles accused of homicide, one of rape and 45 cases relating to

^[34] There were 2,108 children accused, in 1,747 cases, as some cases involved more than one child.

^[35] Other cases reflected as 6% in the pie chart include: 23 cases of indecent assault, 22 cases of 'causing fire due to negligence, 22 cases of indecent acts, 13 cases of drugs possession, 4 cases of homicide and 3 cases of drug trafficking and 1 case of rape.

indecent assault or indecent acts. The Juvenile Protection law (2016) conferred powers on the Public Prosecution with regard to the mediation of cases between children accused of felonies and misdemeanors, and the victim. In 2016, 171 cases of mediation were undertaken by District Prosecution offices. Bethlehem (22%) and Qalqilya (26%) recorded the highest percent of mediation cases, and Yatta and Ramallah recorded the lowest, with three cases of mediation in Ramallah, two cases in Yatta, and one case in Dura.

Key Findings

In 2016, the number of prosecutors increased by 39% to 157 and the percentage of women prosecutors increased from 17% to 21%. The improved gender balance among prosecutors, as well as the establishment of new Specialized Prosecutions on issues including gender-based violence and juvenile justice are important steps forward for the public prosecution.

Significant progress has been made in improving the data collection capacities of the Office of the Public Prosecutor since the publication of the last Monitor. This includes new data on the types of cases submitted, including those relating to felonies and misdemeanors, sexual and gender-based violence and cases related to children in conflict with the law. Disaggregated data on the number of accused juveniles is now available, including disaggregated by case type. However, there remains scope to improve the data collection processes further. The issue of the double-counting of cases continues to pose challenges in accurately analyzing the workload of the Office.

Nevertheless, the prosecution is making important progress in improving its data collection methods and processes, which is a critical step in improving the capacity of the criminal justice system to analyze its performance on key issues.

Recommendations

- Continue to improve the gender balance of staff in the public prosecution, including increasing the number of women prosecutors in leadership positions.
- Explore the extension of the MIZAN case management system to the Public Prosecution to allow streamlined case management between the public prosecution and the court system across all district offices.
- Implement a system wide approach to improving the legal and policy framework and data collection processes relating to access to justice for women, in particular in relation to sexual and gender-based violence (SGBV) to align with international standards.
- Address the system of 'double-counting' cases to allow for the analysis of the total number of new and disposed cases.
- Continue to improve available data including on the number of out of court disposals, the number of cases that proceeded to trial or were filed with a guilty plea, as well as case outcome, including dismissals, discontinuances or convictions after trial and sentencing. This would facilitate comprehensive analysis of case progress through the criminal justice system.
- Improve data collection on children's access to justice and juvenile cases, as part of the full implementation of the Juvenile Protection law.

The Palestinian High Judicial Council

Introduction

The Court system in the State of Palestine is divided into four levels: The Conciliation Courts, Courts of First Instance, Courts of Appeal and the High Court, as set out in the Law of the Formation of Regular Courts, Article 7, 2001.^[36] In 2016, a presidential decree was issued establishing the first Palestinian High Constitutional Court. Since the last Monitor was published the electronic case management system MIZAN has been extended to all courts in the West Bank, and reforms have been implemented to accelerate case disposition in the Courts.^[37] These efforts have resulted in improvements in the efficiency of the Palestinian court system. However, public perception data published in 2015 found that 43% of Palestinians 'would not go to court to resolve a dispute', and of those, the overwhelming majority stated that this is because the proceedings are too lengthy.^[38] PCBS survey data on crime and victimization from 2016 noted a decline from 42% in 2012 to 24% in 2016 of the percentage of reported crime that underwent legal proceedings.

The measurement of the success of a court system entails a number of important elements including inter alia, the substantive law which should be enforced; the judicial decision-making process covering how the court finds facts and applies the law to those facts; and the administration of justice; the practical processes and procedures by which courts deal with disputes. All of these combine to provide information on how successful a given court system is in administering justice. The

quantitative data on core functions provided in this report focuses predominantly on one aspect of judicial administration: the efficiency of case management. The measurement of efficiency is important for a number of reasons. Long delays, in particular those involving pre-trial detention are contrary to international human rights treaties, including the ICCPR.^[39] Delays can also undermine public confidence in the justice system, discourage litigants from availing of remedies and hinder access to justice, in particular for more vulnerable or marginalized individuals or groups. Delays also impact the quality of the trial, including increasing difficulties related to locating witnesses or the disappearance of evidence. It is critical that a justice system is able to deliver justice, fairly and in a timely manner. At the same time, it is important to acknowledge that this is just one part of a functioning justice system. How the law is applied substantively must also be considered, in particular to ensure that the practical application of the law meets minimum human rights standards.

Concepts and Definitions

This report uses a number of quantitative measures of overall efficiency of the courts and prosecution.^[40] The main measures used are i) the disposition or clearance rate of incoming cases ii) the disposition or clearance rate of the total caseload iii) the congestion rate and iv) the disposition time.

^[36] Geneva Center for the Democratic Control of Armed Forces (DCAF), The Security Sector Legislation of the Government of Palestine, Journal of Chemical Information and Modeling, 2008, liii <<http://dx.doi.org/10.1017/CBO9781107415324.004>>.

^[37] Government of Palestine, *The State of Palestine: National Strategy for Justice and Rule of Law 2014-2016*.

^[38] Ibid., pg. 32.

^[39] Article 14 of the International Covenant on Civil and Political Rights outlines that everyone is entitled to a number of minimum guarantees including 'to be tried without undue delay'

^[40] Maria Dakolias, 'Court Performance Around the World: A Comparative Perspective', Yale Human Rights and Development Journal, 2.1 (1999), 87–142.

Clearance or Disposition rate of Incoming cases^[41]

The disposition or clearance rate indicates whether or not the court is able to keep up with its incoming cases. The rate is calculated by dividing the total number of disposed or cleared cases by the incoming cases. Incoming cases are defined as both newly filed cases, and those which are reactivated. This figure expresses the cleared cases as a percentage of the incoming cases. A figure of less than 100% means that the Court/Office is not keeping up with its caseload and is accumulating a backlog. A figure of over 100% means that it is processing more than the number of incoming cases per year, and therefore reducing its backlog.^[42]

Congestion Rate

The congestion rate is calculated by dividing the total caseload, by the number of cleared cases. A congestion rate of 100% means that the court resolves its entire caseload in a given year. A congestion rate of more than 100% indicates that a backlog is building up.^[43] Therefore a rising congestion rate indicates the court is less efficient at clearing its backlog and becoming more congested.

Clearance or Disposition of Total caseload (Pending and Incoming Cases)

The Palestinian National Justice Sector Strategy, 2017 to 2022 proposes to 'increase the annual rate of clearance (pending and new cases) effectively and efficiently by 6% compared to the previous year'. The rate of clearance of the total caseload (both new and pending cases) is expressed by dividing the total number of disposed or cleared cases, by the total caseload. This expresses the cleared cases as a percentage of the total caseload and is basically the inverse of the congestion rate listed above; as such a declining clearance rate of the total caseload suggests the court is becoming less efficient at clearing its backlog. Both the congestion rate and the clearance rate of the total caseload provide information on the effectiveness

of the court in clearing its entire caseload. The two measures are included for ease of reference, since they both are proposed as indicators to measure the effectiveness of the court in clearing both newly filed cases and reducing its backlog.

Disposition Time

Disposition time is commonly used in judicial statistics to measure the 'estimated number of days that are needed to bring a case to an end'. The indicator compares the total number of pending cases at the end of the observed period with the number of resolved cases during the same period, and converts this ratio into a number of days. It measures the theoretical time necessary for a pending case to be solved in court in light of the current pace of work. Disposition time is obtained by dividing the number of pending cases at the end of the observed period by the number of resolved cases within the same period multiplied by 365 (days in a year). This can show when the time necessary for clearing a pending case has increased. This indicator is not an estimate of the average time needed to process a case, and does not show the mix, merit or concentration of cases – e.g. a ratio of 90 days for two cases could include one solved on the 10th day and one on the 90th day.^[44]

Personnel

In 2016, there were 197 judges in the West Bank – a 8% increase since 2015. Between 2011 and 2016, the number of women judges increased from 28 to 37, or from 16% to 19% of judges in the West Bank.^[45] Women's representation decreases in the higher courts. In 2015, women represented 27% of the judges on the Conciliation court, 16% of the Court of First Instance, 17% of the Court of Appeal and only four per cent of the judges on the High Court.^[46] In terms of ratio per population, there were approximately 7.3 judges per 100,000 people in the West Bank. The National Justice Sector Strategy aims to increase the ratio to 13 judges per 100,000 people.

^[41] This report refers to the clearance or disposition rate interchangeably.

^[42] World Bank, *Justice Sector Assessments: A Handbook*, 2006 <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/JSAHandbookWebEdition_1.pdf>., pg. 56.

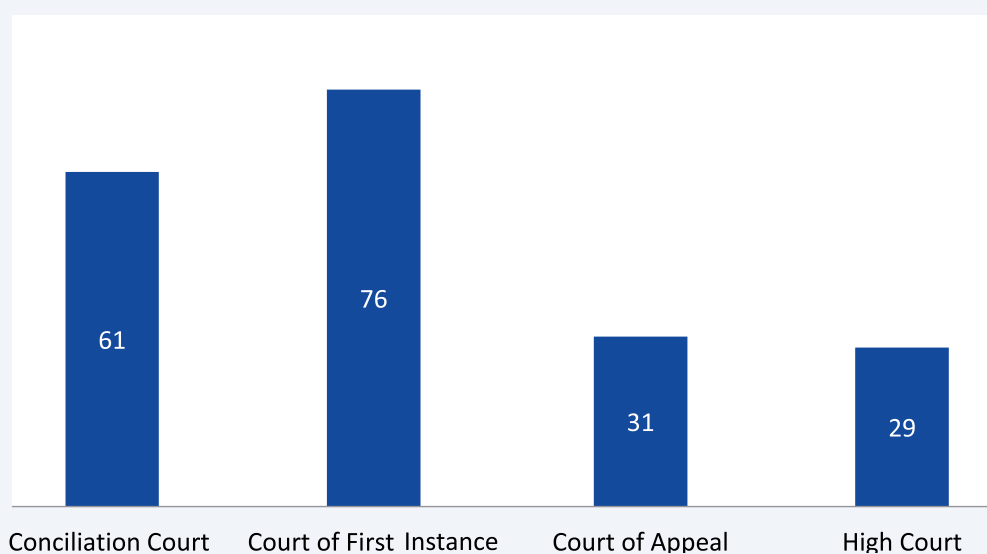
^[43] Dakolias.

^[44] European Commission for the Efficiency of Justice, *European Judicial Systems : Efficiency and Quality of Justice*, 2016, mmxvi.

^[45] At the time of writing data on the gender representation of judges disaggregated by court for 2016 was not available.

^[46] 2016 data on women judges disaggregated by court was not available at the time of writing.

Figure 24: Number of judges, by court, West Bank, 2016



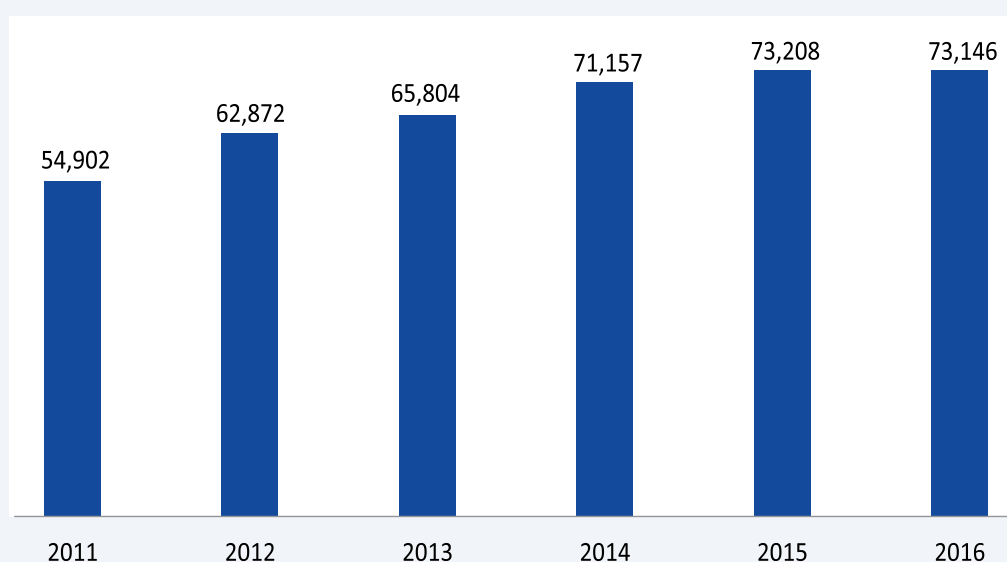
Core Functions

Court Efficiency

In 2016, 73,146 incoming civil and criminal cases were received in the regular courts.^[47]

This represents a 33% increase when compared to 2011.

Figure 25: Total number of incoming cases to the regular courts, excluding traffic cases, 2011 to 2016



^[47] Incoming cases exclude traffic cases, and refer to total newly filed and reactivated cases at the regular courts.

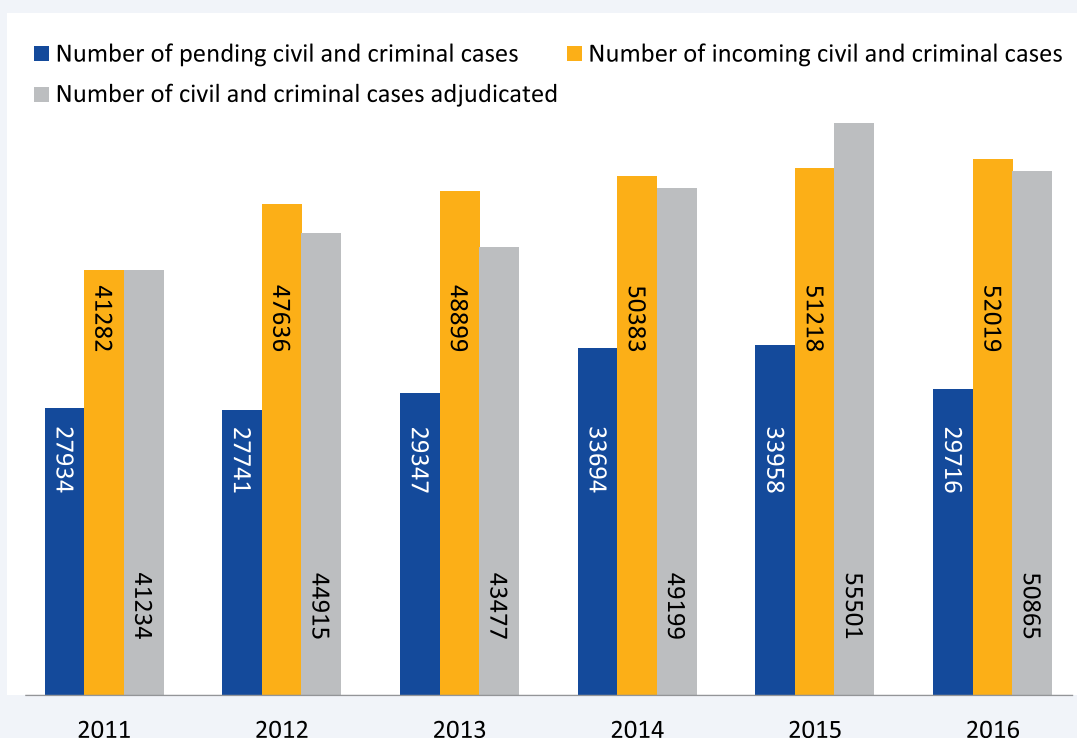
Court of Conciliation

The Court of Conciliation deals with less serious misdemeanors, including traffic violations. Between 2011 and 2016, it experienced a continuous increase in incoming cases, from 94,845 to 175,420 cases. This was mostly accounted for by an increase in cases relating to traffic violations. Traffic misdemeanors are mainly dealt with by the police but are passed to the courts for signature when a fine is involved. These cases are excluded for the purpose of examining the efficiency of the court. The court also saw a 24% increase in incoming civil and criminal cases – reaching approximately 16,000 civil cases and 36,000 criminal cases in 2016. Between 2011 and 2013, the disposition rate declined to a low of 89%, and increased to a high of 108% in 2015. In 2016, the rates declined again as the disposition rate was 98%, and the congestion rate was 161% and the disposition

to process approximately 7,000 more cases in 2017 than it did in 2016.^[48] Criminal cases have had a consistently higher disposition rate in terms of total caseload than civil cases. The disposition time for criminal cases decreased from 194 days in 2014 to 155 days in 2016. For civil cases, the disposition time increased from 364 days in 2014 to 379 days in 2016.

In 2016, the number of judges dropped from 71 to 61, resulting in an increase in the caseload per judge. Since 2011, the total number of cases per judge has increased by 49%, to 1,340. This does not appear to have adversely affected clearance rates, as the number of adjudicated cases per judge also increased by 56%, to 834. Nablus and Ramallah had the busiest Conciliation courts, followed by Bethlehem and Jenin. Nablus and Ramallah also had among the lowest disposition rates in terms of total caseload at 50% and 57% respectively.

Figure 26: Caseload of the Conciliation Court, West Bank, 2011 to 2016



rate of the total caseload was 62%. The planned 6% increase in this rate between 2016 and 2017, would require the Court of Conciliation

^[48] Annual increase in incoming cases 2014 to 2016 for the Conciliation court was around 2%, so this is assuming approximately 53,000 incoming cases.

Figure 27: Disposition and congestion rates, Conciliation Court, 2011 to 2016

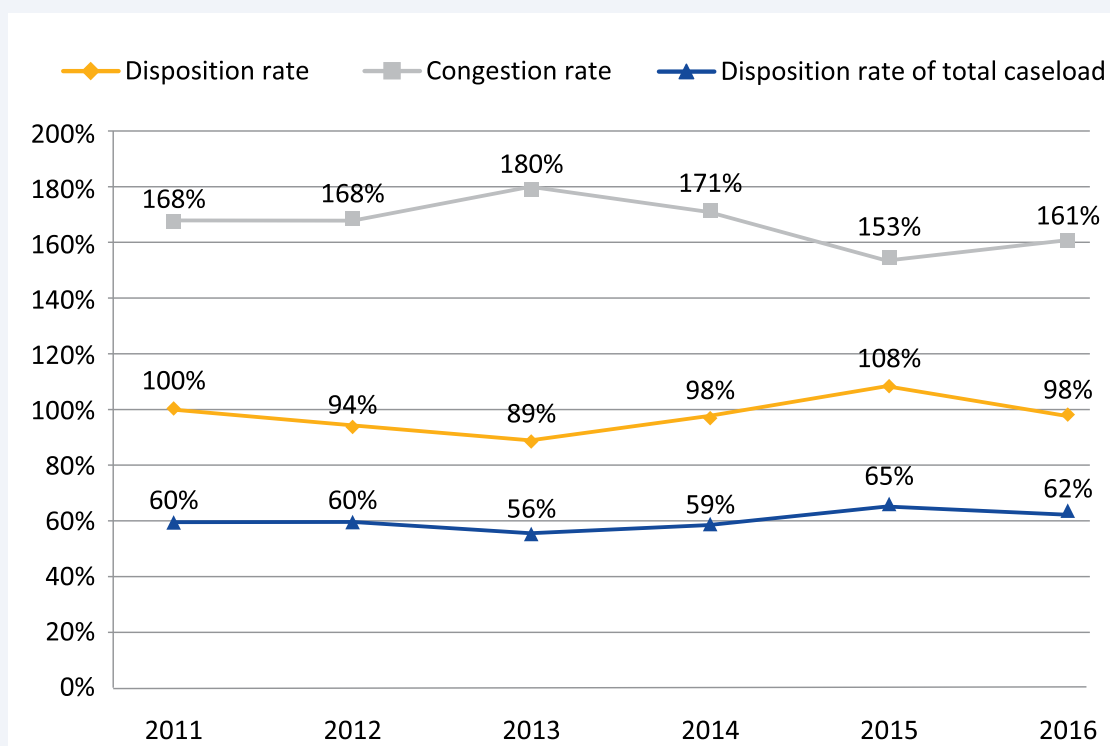


Figure 28: Disposition rate of total caseload, Criminal and civil cases, Conciliation Court, 2011 to 2016

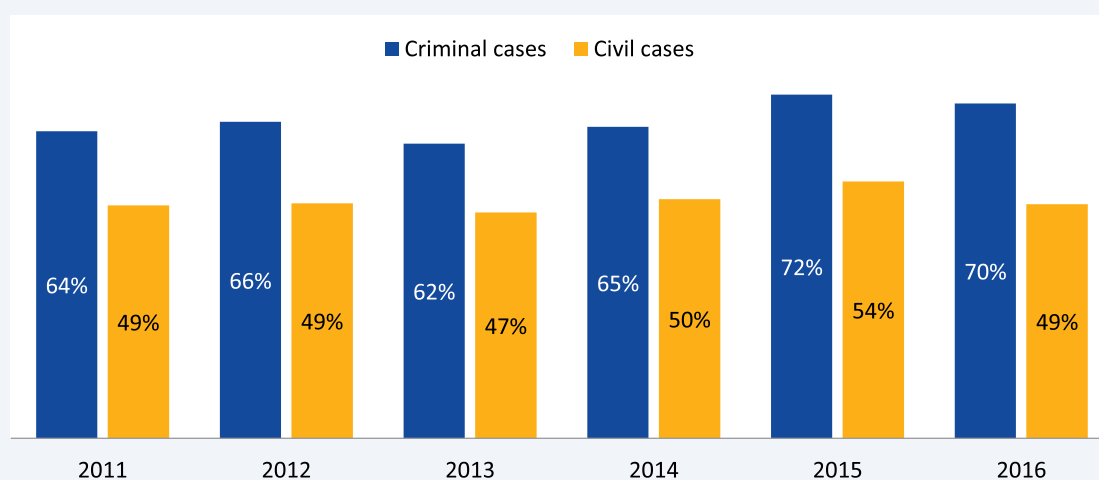


Figure 29: Total Caseload and Disposition Rate, by Court, Conciliation Court, 2016

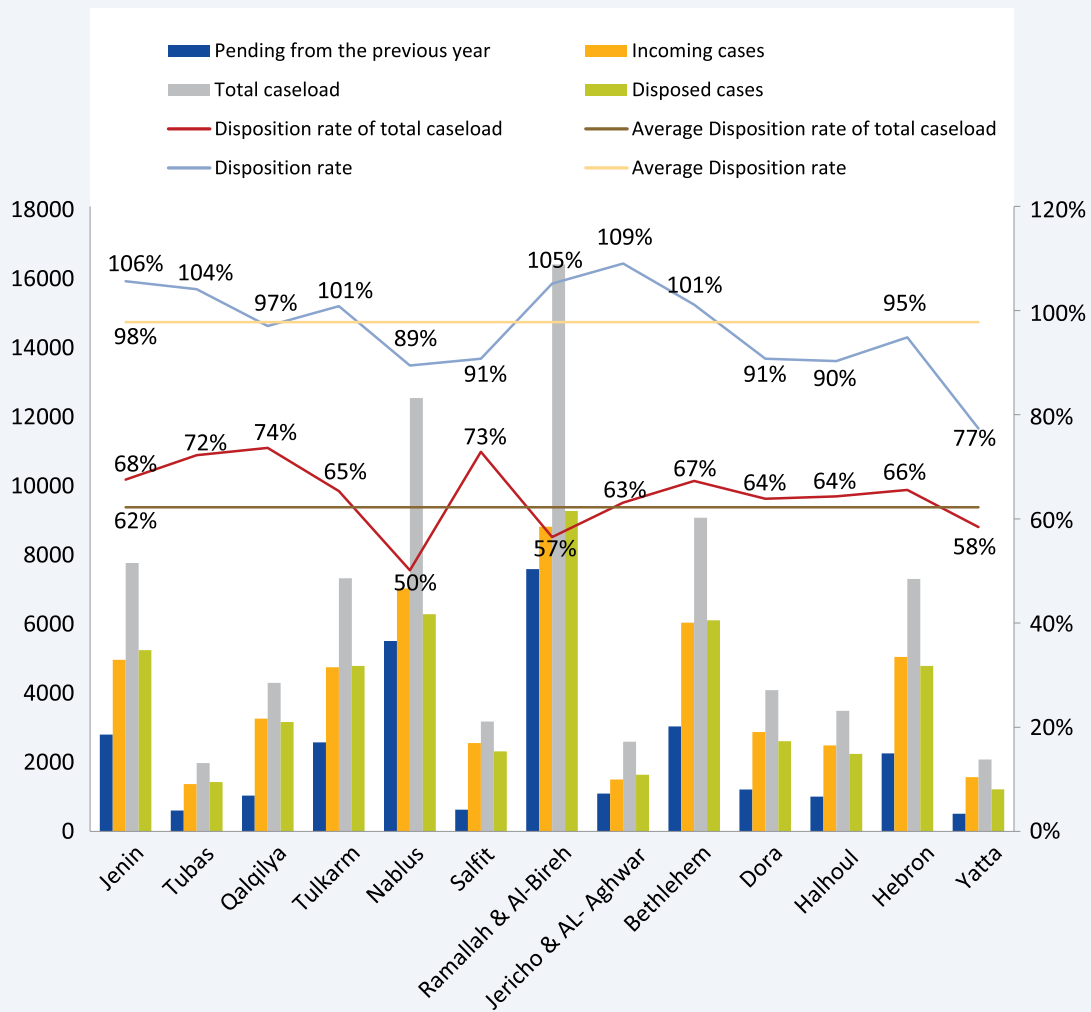
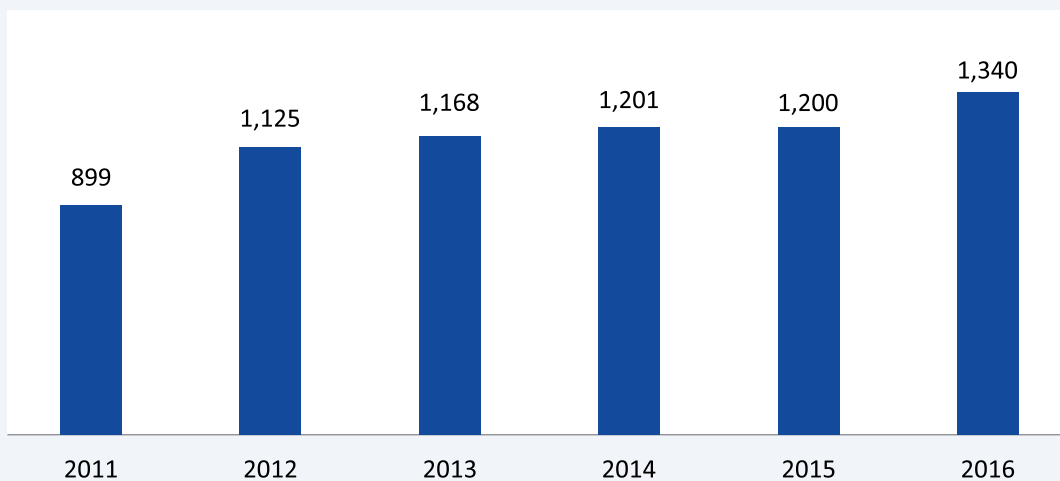


Figure 30: Estimated Caseload per judge, Conciliation Court, 2011 to 2016

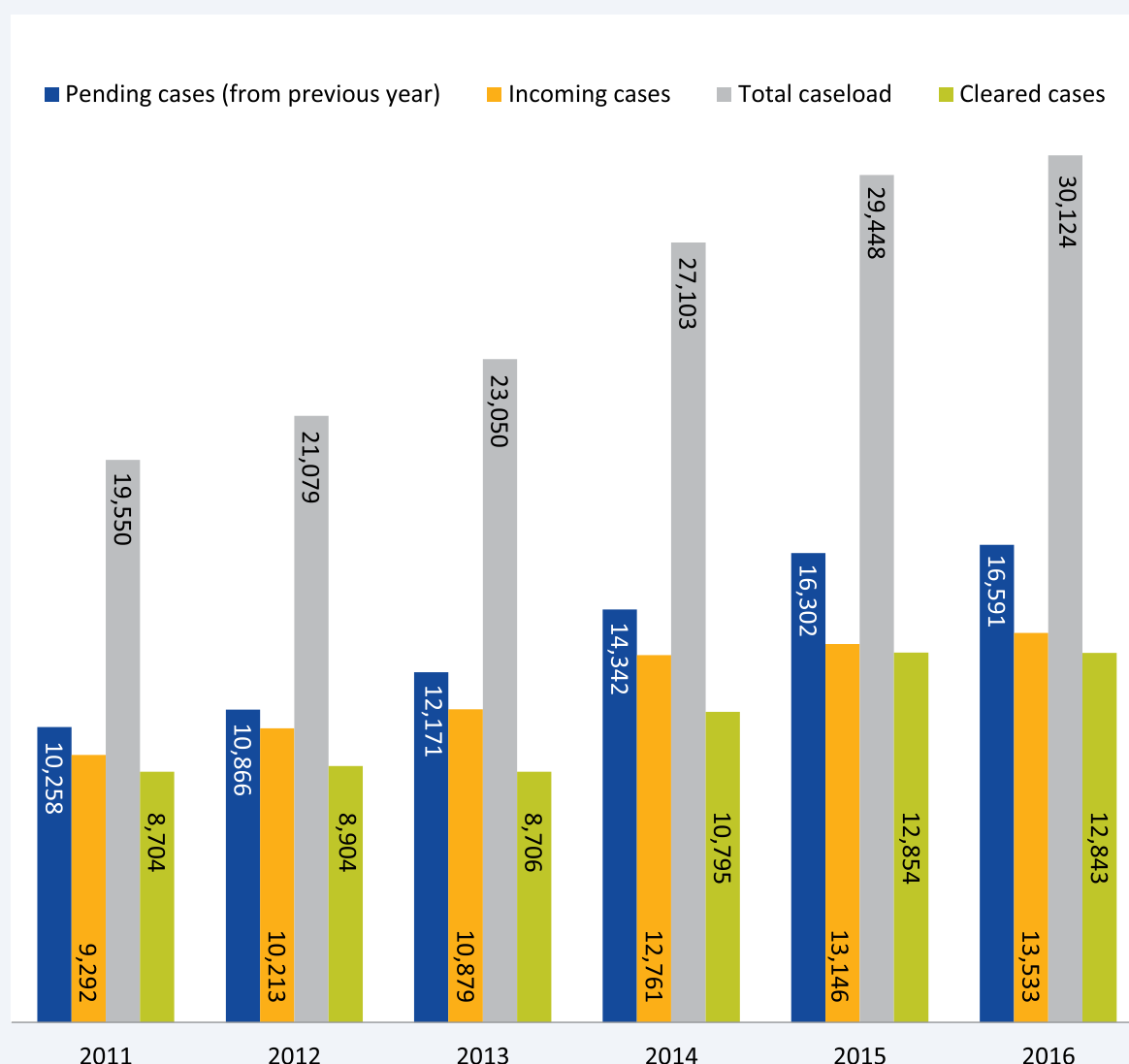


Court of First Instance

The Court of First Instance has jurisdiction over all felonies, misdemeanors and appeals from the Conciliation Courts, as set out in Article 49 of the Law of the Formation of the Regular Courts No. 5 (2001).^[49] Incoming cases to the court have increased by 46% since 2011. The Court experienced a decline in efficiency between

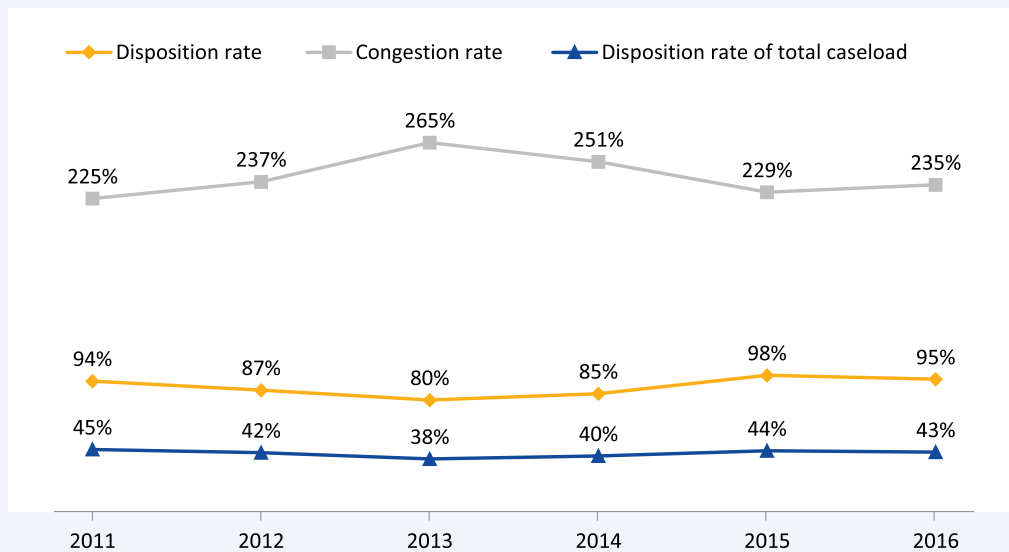
2011 and 2013, as the disposition rate dropped to 80% of incoming cases. However, since then it has improved – reaching 95% in 2016. In 2016, the Court only cleared 43% of its total caseload. To achieve the Justice Sector Strategy goal of a 6% increase in this rate, it would have to be processing an additional 2,000 cases in 2017.

Figure 31: Caseload of the Court of First Instance, West Bank, 2011 to 2016



^[49] Geneva Center for the Democratic Control of Armed Forces (DCAF), liii.

Figure 32: Disposition and Congestion rates, First Instance Court, 2011 to 2016

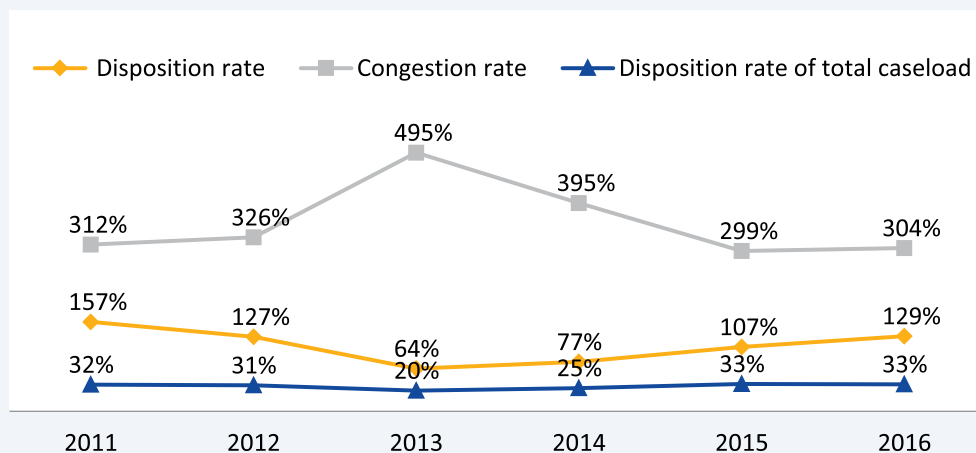


Criminal Cases

Criminal cases represent about 15% of the court's total caseload, or about 4,520 cases. Incoming cases increased from 1,200 in 2013 to almost 1,600 in 2015. As they represent the most serious criminal offences, efficient processing of these cases is particularly important to ensure the right to a fair trial and to avoid lengthy pre-trial detention. Processing of criminal cases experienced a particular decline

between 2011, and 2013. Since then, the court has significantly increased its disposition rate for criminal cases from 64% in 2013 to 129% in 2016. However, in 2016, it still only cleared about 33% of its total backlog. Disposition time for criminal cases was approximately 746 days. This presents challenges to ensuring the right to a fair trial.

Figure 33: Disposition and Congestion rates, Criminal cases, Court of First Instance, 2011 to 2016



Civil cases

Civil cases represented about 55% of the Court's caseload in 2016, making up 16,000 cases. Disposition rates for civil cases remained relatively stable at around 80%, increasing to 93% in 2015, and reverting back to 80% in 2016. Since 2011 the court has experienced a continued increase in congestion as its performance in terms of clearing its overall backlog declined from clearing 34% of the total caseload in 2015 to 31% in 2016. The disposition time for civil cases in the Court of First Instance is about 795 days.

Appeal Cases at the Court of First Instance

Both civil and criminal appeal cases from the Conciliation court are heard in the Court of First Instance, representing about 30% of its total caseload (approximately 5,200 criminal appeals and 3,900 civil appeals). In 2016, the court was significantly more efficient at processing its criminal appeals (74%), than civil appeals (59%), when measured against the total caseloads.

Incoming criminal appeal cases increased by 31% between 2011 and 2016, to approximately

Figure 34: Disposition and Congestion rates, Civil Cases, Court of First Instance, 2011 to 2016

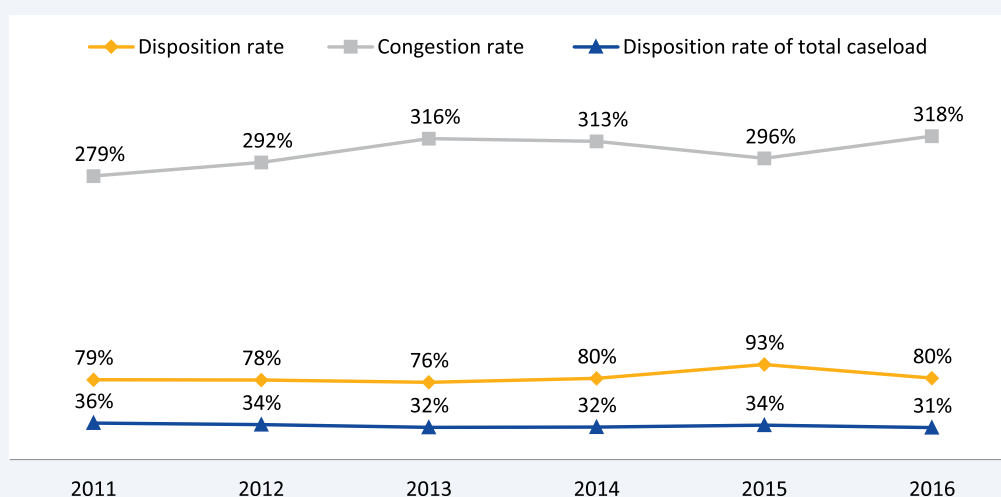
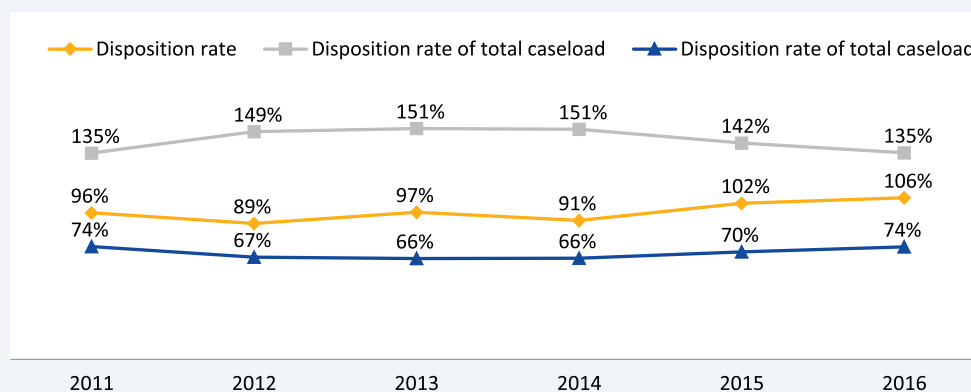


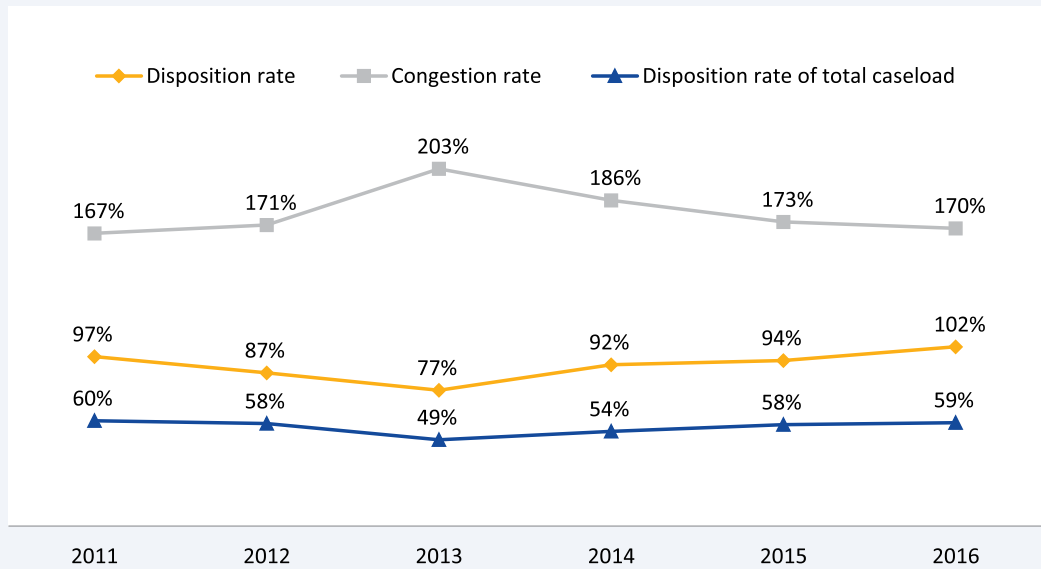
Figure 35: Disposition and Congestion rates, Criminal appeal cases, Court of First Instance, 2011 to 2016



3,600 cases. Between 2014 and 2016, the court has seen an improvement in disposition time these cases decreased from 185 days to 129 days. Incoming civil appeals cases increased

by almost 88% between 2011 and 2016, to approximately 2,200 cases. The disposition time for these cases also improved between 2014 and 2016, from 312 days to 254 days.

Figure 36: Disposition and Congestion rates, Civil appeal cases, Court of First Instance, 2011 to 2016

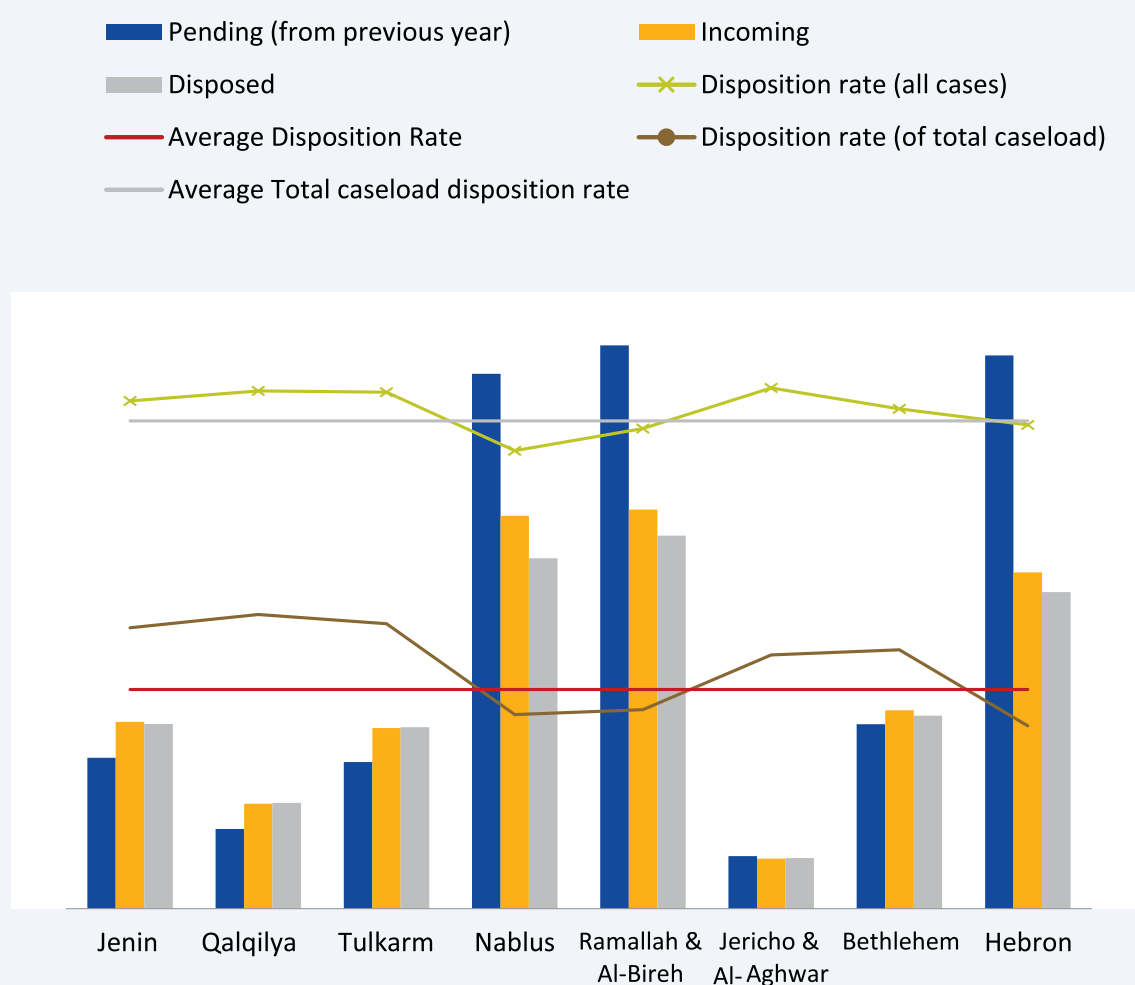


Efficiency across Districts^[50]

The Courts with the largest caseloads in terms of absolute numbers, including case backlogs were Ramallah/Al Bireh, Hebron and Nablus. These courts also had the lowest clearance rates looking across all case types – Nablus had the lowest disposition rates (89% of incoming and 38% of total caseload), while Ramallah/Al Bireh had a disposition rate of 93% of incoming and 39% of total caseload.

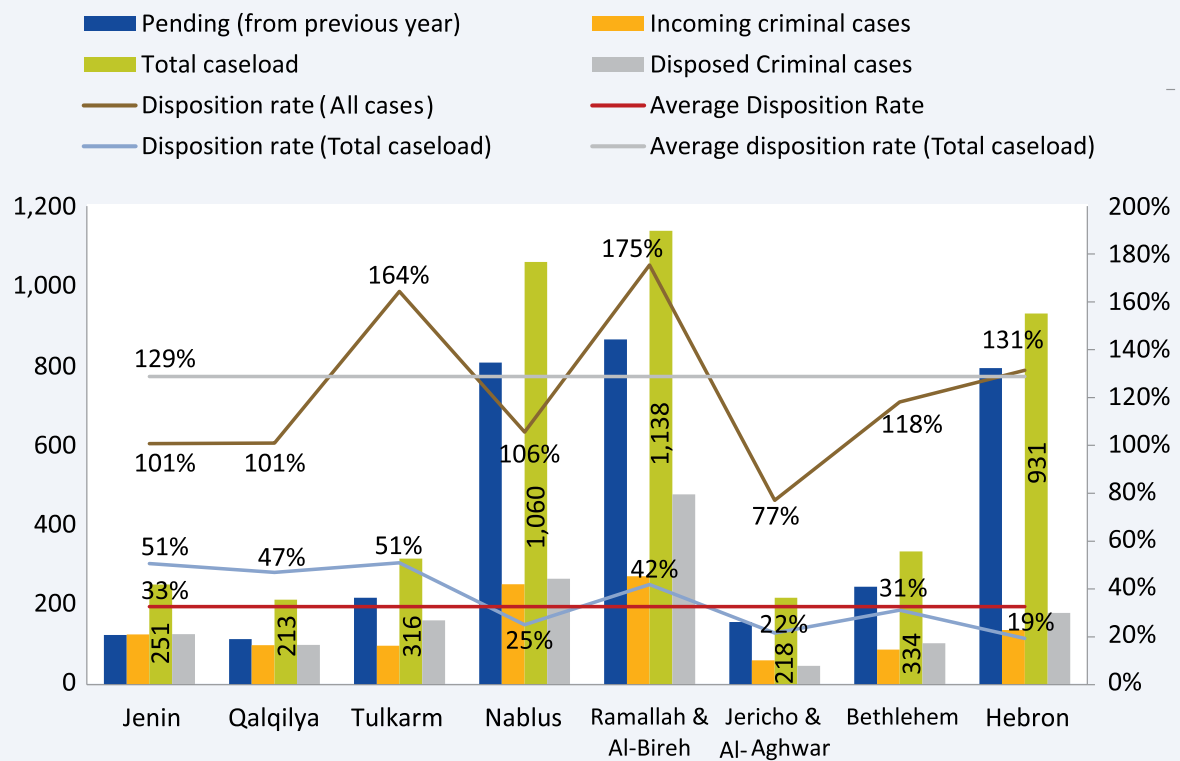
When only looking at criminal cases, Ramallah/Al Bireh, Hebron and Nablus also had the largest backlogs, but there was significant difference in their clearance rates compared to the average. Ramallah/Al Bireh made important progress in addressing its criminal case backlog in 2016, by clearing almost 500 criminal cases and 42% of its total criminal caseload. Nablus and Hebron continued to struggle with a high case backlog, clearing only 25% and 19% of their total respectively.

Figure 37: Total caseload, and disposition rates by court, Court of First Instance, 2016



^[50] These figures exclude the Customs Court and the Corruption Crimes court.

Figure 38: Caseload and disposition rates of criminal cases, Court of First Instance, 2016

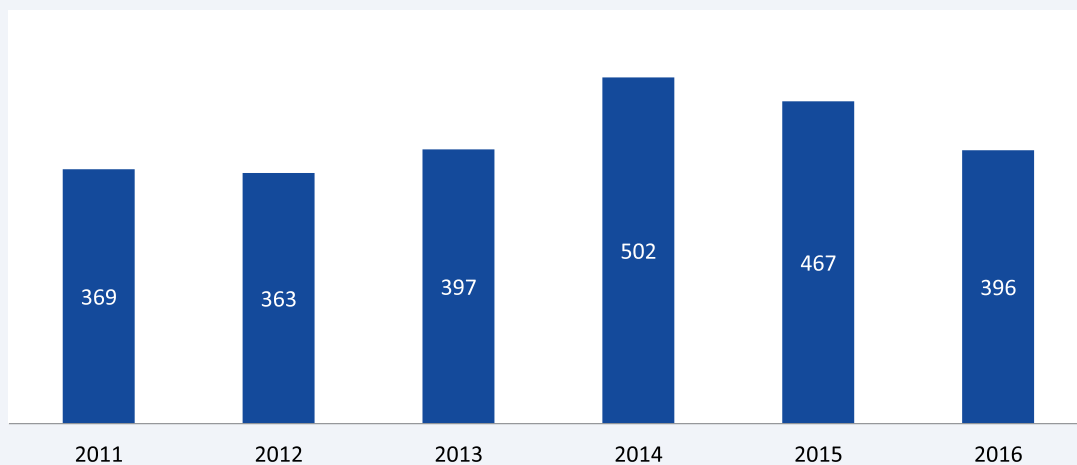


Caseload per Judge

In 2016, there approximately 396 cases per judge, and 169 adjudicated cases per judge in the Court of First Instance. This declined from approximately 502 cases per judge,

and 200 adjudicated cases per judge in 2015. The number of judges on the Court of First Instance increased from 54 in 2014 to 76 in 2016.

Figure 39: Caseload per judge, Court of First Instance, 2011 to 2016



The Court of Appeal

Between 2011 and 2016, incoming cases to the Court of Appeal increased by 77%, to approximately 7,500 cases. Cleared cases increased by 69%, reflecting the improved effectiveness of the Court in responding to the increased number of appeals from the lower courts. 42% of the court's total caseload were civil appeal cases, 47% related to enforcement appeals and 11% were criminal appeals. The Court of Appeal's disposition rate in 2016 was

98% while the disposition rate of the total caseload was 73% for all case types.

When disaggregated by case type, enforcement appeals were the most efficiently cleared case type – with 95% of incoming cases cleared, and 89% of the total caseload cleared in 2016. The Court cleared 93% of incoming criminal appeals, and 64% of its total criminal appeal caseload. For civil appeals, the court cleared 105% of the

Figure 40: Caseload of the Court of Appeal, 2011 to 2016

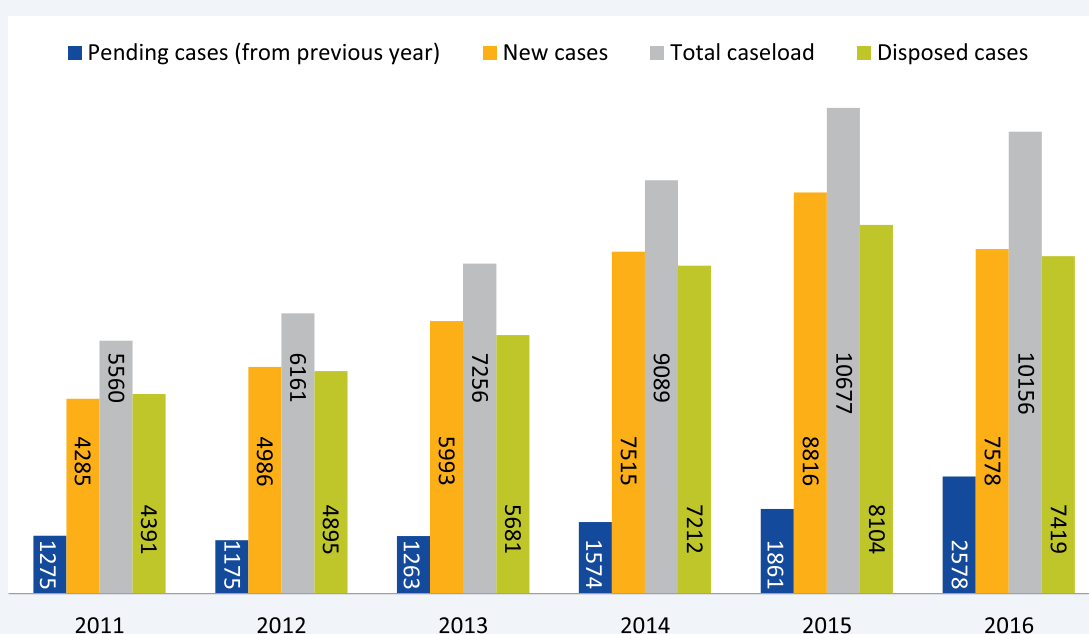
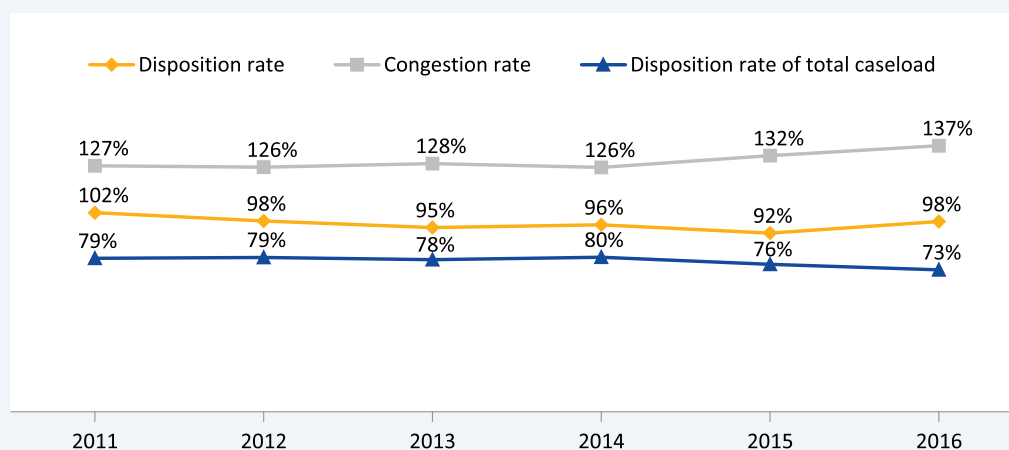


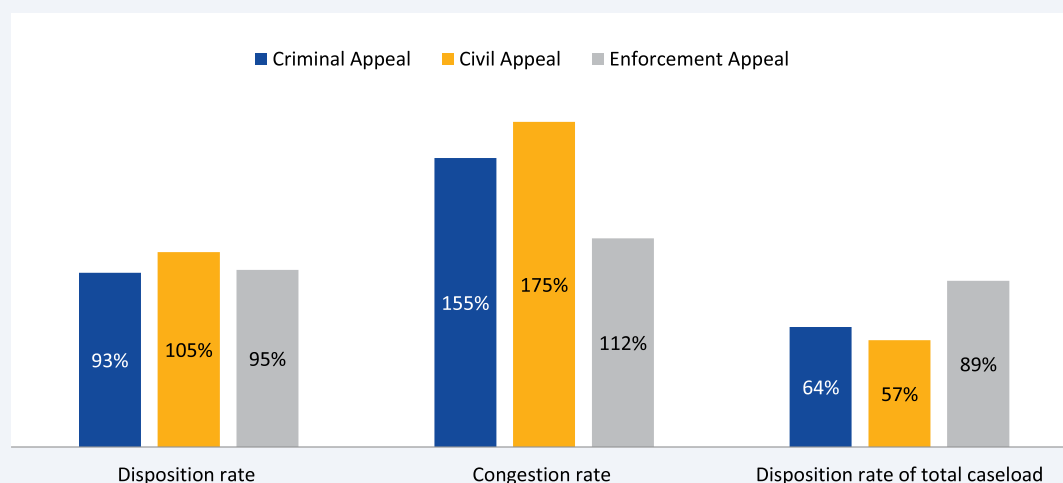
Figure 41: Disposition and congestion rates, Court of Appeal, 2011 to 2016



incoming cases, but only cleared 57% of the total caseload. This reflects the high number of pending civil appeal cases which were carried into 2016 of approximately 1,938. In contrast, only 346 criminal appeals and 288 civil appeals were carried into 2016. The caseload per judge was 327 cases per judge (out of total caseload), and in 2016 judges adjudicated an average of 238 cases.

justice.^[52] There are numerous existing weaknesses in the existing legal framework in the State of Palestine with regard to sexual and gender based violence (SGBV). While the eventual adoption of the Family Protection bill will address some of the weaknesses in this legal framework, including relating to family-violence, it will not address all issues. The data on SGBV for this report is taken from MIZAN based on a number of case types

Figure 42: Disposition and Congestion rates by case type, Court of Appeal, 2016



Sexual and Gender-based Violence cases in the Court of First Instance^[51]

Facilitating access to justice for women, children and marginalized groups was a policy objective of the National Strategy for Justice and Rule of Law, 2014 to 2016. Among the performance indicators selected to monitor the Strategy include the number of cases concerning children, women and people with special needs which are registered, adjudicated, appealed and enforced, as well as ensuring that judges, members of the prosecution and lawyers are trained to be able to appropriately deal with cases concerning gender and juvenile

including rape, physical harm, sexual assault, threatening behaviour, murder, premeditated murder, and attempted murder, libel and defamation, crimes relating to individual or state property, and imprisonment where women are the victims, but also crimes including 'procuring or inducing an abortion' and 'public decency crimes' where women can be defendants.

Court data shows that approximately 11% of claimants or plaintiffs, and approximately 8% of defendants at the regular courts are women. This proportion has remained relatively consistent each year since 2011.

Between 2011 and 2015, the number of adjudicated cases of SGBV involving female complainants increased by 30%, but in 2016 this number declined by 15% to 2,161 cases.

In 2016, the conviction rate for SGBV cases with

^[51] To note: there is no legal definition of gender based violence in Palestinian law, so this data is based on a number of cases including cases of rape, physical harm, sexual assault, threatening behaviour, murder, premeditated murder, and attempted murder, libel and defamation, crimes relating to individual or state property, and imprisonment where women are the victims, but also crimes including 'procuring or inducing an abortion' and 'public decency crimes' where women can be defendants.

^[52] Government of Palestine, 'The State of Palestine: National Strategy for Justice and Rule of Law 2014-2016'. Pg. 39 and 41

women complainants was approximately 25%. The court adjudicated three cases of murder of women, achieving two convictions, five cases of rape achieving two convictions, and one case of sexual assault, with no conviction. The low rate of sexual assault cases is notable; the case adjudicated in 2016 was the only sexual assault case registered as adjudicated since 2011. It is important to note that this may be due to the weaknesses in data collection methods and the lack of harmonized legal definitions of SGBV, however data from other justice and security agencies also suggests a very low rate of reporting and prosecution of these

crimes, when compared against survey data on women's experience of them. Approximately 1,100 cases of physical assault or harm were adjudicated with a 19% conviction rate, and approximately 1,092 cases related to threatening behaviour, with a 37% conviction rate.

The majority of SGBV cases registered by police, prosecutors and the courts related to assault and threatening behaviour. There is low rate of reporting of sexual offences with both the police and prosecutor, however there is an even lower rate of bringing these cases

Figure 43: Number of claimants and defendants in adjudicated cases, disaggregated gender, 2011 to 2016

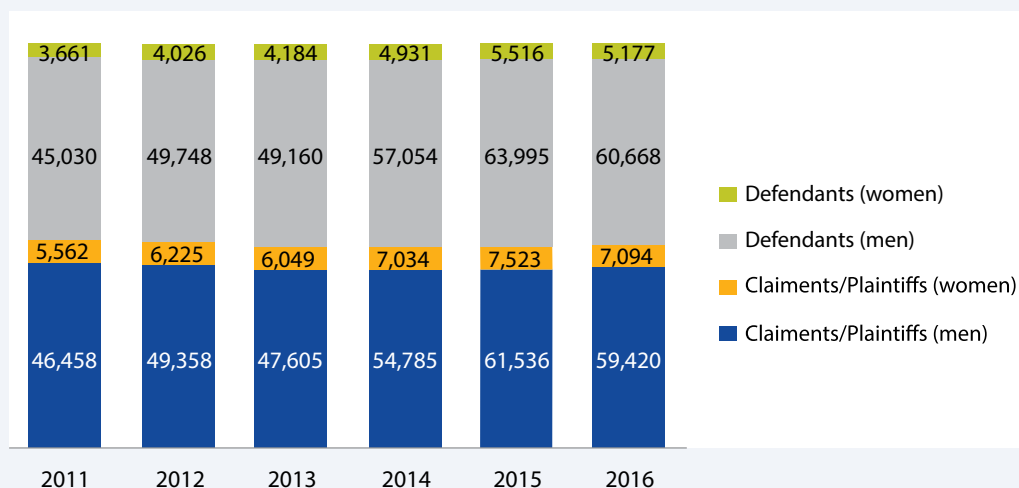
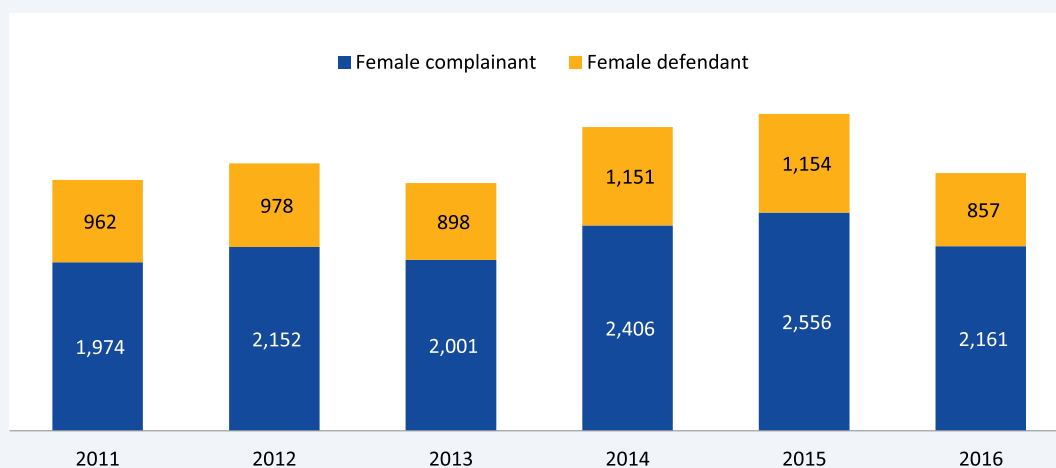


Figure 44: Number of adjudicated gender-based violence cases, involving female complainants and defendants, Court of First Instance, 2011 to 2016



to court, with very few convictions achieved since 2011.^[53] Data published by the public prosecutor relating to women victims of

murder shows that in 81% of cases registered in 2015 and 2016 the accused was a male relative of the victim.

Figure 45: Gender-based violence cases before the Courts, involving women complainants 2011 to 2016

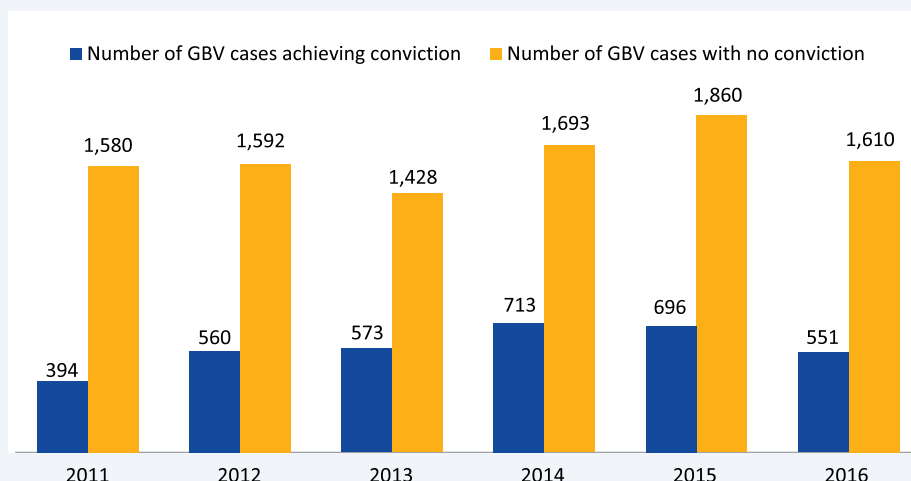
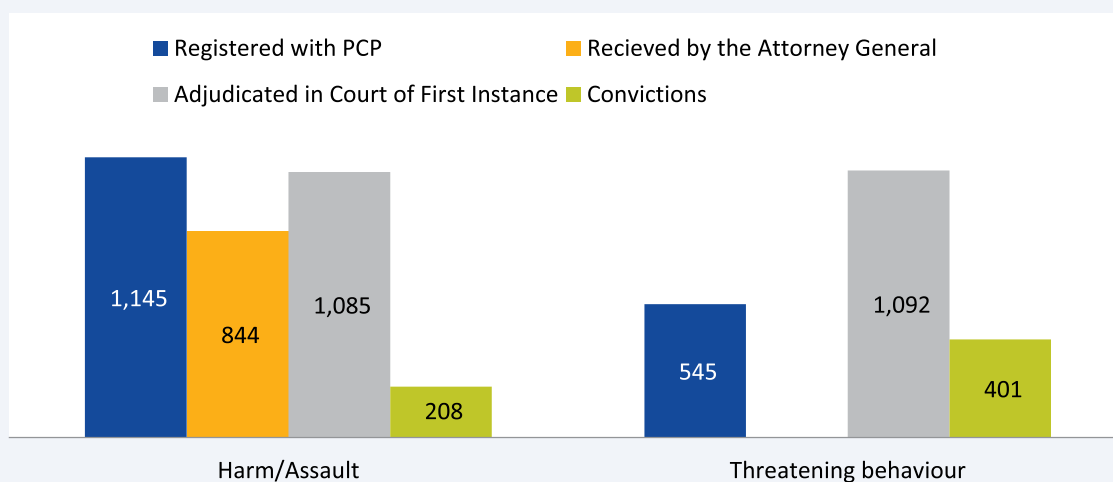
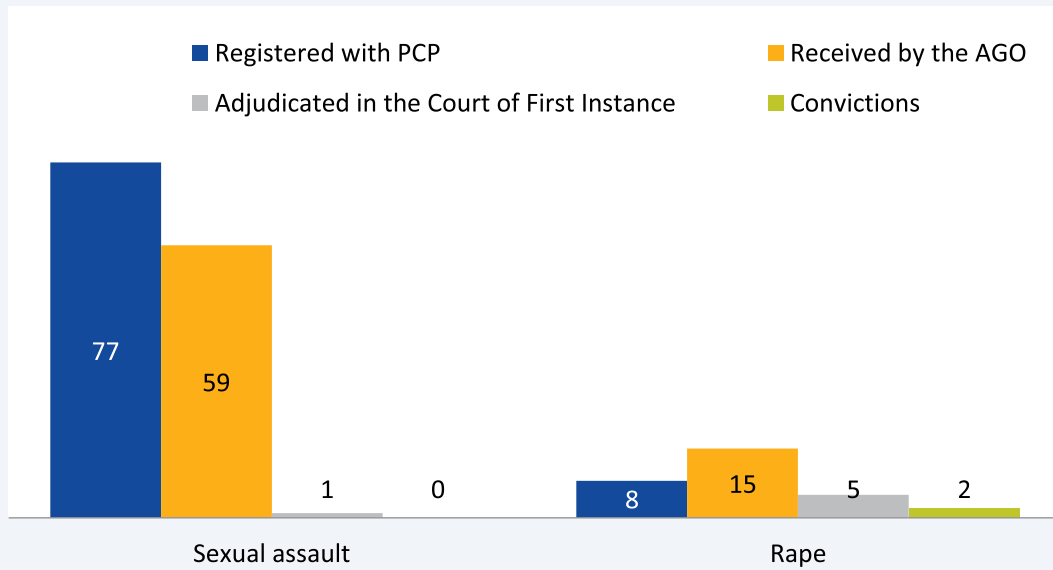


Figure 46: Cases of Assault and threatening behaviour against women across the criminal justice chain, 2016



^[53] It is important to note that cases can be either reported to the police and then handed to the prosecutor, or reported directly to the prosecutor, so it is not possible to ascertain what proportion of these cases in the prosecution are also reflected in the PCP figures. There is also obviously delays in processing cases so adjudications in 2016 may not relate to cases registered in 2016, however these can give an indication of the level of reporting and cases processing for these crimes, as well as conviction rates broadly speaking.

Figure 47: Cases of sexual assault and rape across the criminal justice chain, 2016^[54]

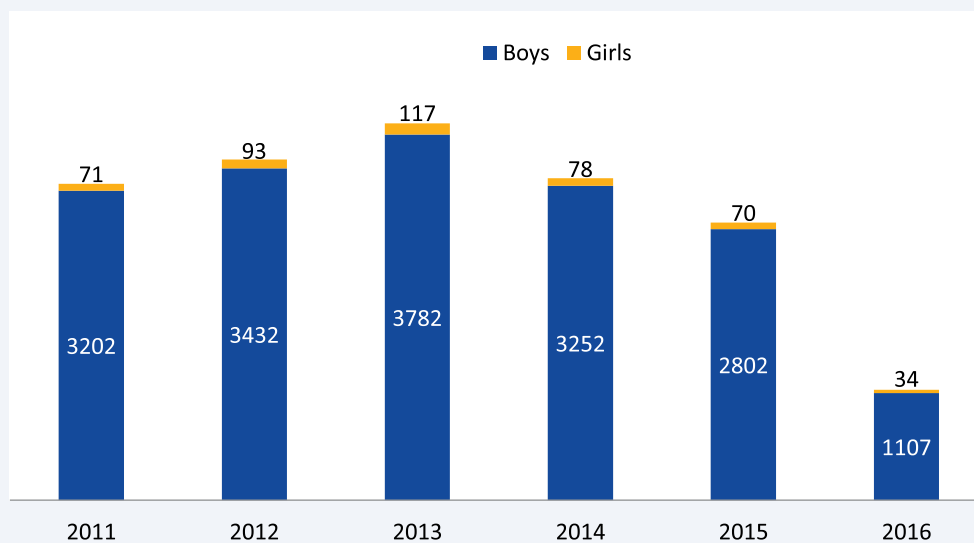


Children's cases before the Courts

In 2016, approximately 1,141 criminal cases involving children as defendants were filed in the courts, involving 1,107 criminal cases with male defendants, and 34 cases with female

defendants. This number declined by 60% since 2015, when 2,872 incoming criminal cases were filed. In 2016, the court had an almost 200% disposition rate for juvenile criminal

Figure 48: Number of incoming cases, involving children in conflict with the law (accused), to the Courts, 2011 to 2016



^[54] Number of PCP rape cases taken from total police-recorded crime and not just cases registered with FJPUs.

cases, clearing 2,271 cases involving juvenile defendants, making important progress on the case backlog.

The adoption of the Juvenile Protection Act in 2016 inaugurated the first Children's Court in Ramallah and a number of important changes were made to the MIZAN system which will allow disaggregated, anonymized data on the outcome of juvenile cases to be generated. From 2017, this will provide an important opportunity to track the implementation of the Juvenile protection act and the experience of children in the justice system, including based on the outcome of their case and follow up with the probation system.

Judicial Oversight

An important aspect of judicial oversight is the work of the Judicial Inspection Department. The Department carries out internal judicial inspections and receives and investigates complaints against judges, as set out in the Judicial Authority Law (2002).^[55] The National Strategy for Justice and Rule of Law includes the number of complaints submitted regarding the performance of judges that have been followed up by the Judicial Inspection Department and the number of follow up and evaluation reports as indicators of improved performance in relation to the policy objective 2.4 'Enhancing the frameworks of oversight, accountability and transparency'.^[56]

In 2011, 192 complaints were received, 180 investigated and 12 carried into the following year. It also noted that 76 inspection visits were carried out, although no information on the nature of the visits was provided. In 2013, it was reported that 86 complaints against judges were submitted, including 56 by citizens, 24 by lawyers and 6 by human rights institutions. In 2014, 142 complaints were submitted against judges or staff. In 2015, 98 complaints were submitted against judges and staff. In 2016, 121 complaints against judges were submitted, and 118 cases were cleared, leaving 28 complaints pending. Data on the outcome of these complaints or any disciplinary procedures

implemented was not available.^[57] In 2016, the HJC inspection unit was also linked electronically to the Complaints Department which is expected to decrease the processing times for complaints and increase available data on outcome of investigations. The lack of data regarding the investigation, and outcome, of complaints hampers the ability to assess the extent to which the High Judicial Council is exercising its role in ensuring accountability and transparency, and the ability to measure progress this performance indicator in the National Strategy for Justice and Rule of Law.

Key findings

The Palestinian courts have experienced a 33% increase in incoming civil and criminal cases since 2011. In 2016, the clearance rate for all courts was above 95%, however the courts still struggled with high case backlog. The Court of Conciliation only cleared 62% of its total caseload, the Court of First Instance cleared 43% of its total caseload, and the Court of Appeal cleared 73% of its total caseload.

In terms of criminal cases, the Court of Conciliation cleared 99% of its incoming criminal cases and 70% of the total criminal caseload. The Court of First Instance, cleared 129% of its incoming criminal caseload, which increased significantly from only 64% in 2013. However, this still represented only 33% of all criminal cases registered at the court in 2016. The Ramallah/Al Bireh Court of First Instance made particular process in clearing 50% of its criminal case backlog. The Court of Appeal's criminal appeal disposition rate was 93% of incoming criminal appeals, and 64% of its total criminal appeal caseload.

Data on conviction rates for all criminal cases was not available, but of 2,161 cases of SGBV, involving women complainants processed in 2016, only 25% received a conviction. This has increased from a low of 20% in 2011, but decreased from 2014 when 30% of cases achieved a conviction. The adoption of the Juvenile Protection Act saw a 60% drop in the number of incoming juvenile criminal cases filed at court concerning a child accused of a crime in 2016 – going from 2,872 to 1,141.

^[55] Geneva Center for the Democratic Control of Armed Forces (DCAF), liii.

^[56] Government of Palestine, The State of Palestine: National Strategy for Justice and Rule of Law 2014-2016.

^[57] Sawasya Annual Report 2016,

Recommendations

- Develop a monitoring framework, making use of MIZAN data, to monitor key indicators of the quality of the justice system, including relating to the right to a fair trial, access to legal aid, conviction rates for serious crimes, including SGBV, the number of individuals detained in pre-trial detention and length of detention, and access to justice for women and children, including the full implementation of the Juvenile Protection Act, and the full implementation of the Family Protection from Violence bill once finalized and adopted.
 - Improve data collection on access to justice for women, in particular addressing sexual and gender based violence, as part of a system wide approach across the criminal justice chain, in line with international standards.
 - Work with other justice sector actors to improve the policy framework and available data around
 - custodial sentencing in the State of Palestine, including pre-trial custodial sentencing and sentencing of convicted prisoners, that aligns with international human rights international standards and best practice.
 - Fully implement the proposed changes to
- the MIZAN system to allow for the tracking of cases where legal aid was requested and generate data on the situation of persons requiring legal aid, the level of provision of legal aid and the conviction rates of persons with legal aid, compared to conviction rates of persons without legal aid.
- Develop a strategy to improve case load management, drawing on MIZAN data, and working closely with the Public Prosecution, to look at workloads across the courts, including gaps in relation to number of judges, but also core judicial staff, and prosecutors, as well as bottlenecks in administrative and other areas that could be causing delays. Invest in targeted capacity building efforts for the Court system, focusing on courts which experience particular challenges in case processing and management.
 - Fully implement proposed changes to the MIZAN system to allow for the tracking of juvenile cases and the work of the Children's court, including to ensure the full implementation of the Juvenile Protection Bill.
 - Invest in data collection and monitoring of complaints made regarding court proceedings and judges, the adjudication of these complaints and ensure that this information is publicly available.

Family Courts (Sharia courts)

Introduction

The Sharia Courts are considered part of the formal justice system and play an important role in the resolution of a range of disputes, including matters relating to family law, such as marriage, divorce, inheritance, paternity, guardianship, alimony and child custody, using Islamic Sharia law as their legal framework. These courts are particularly relevant for women's rights.

the caseload. The Sharia court system is lagging behind the regular court system on gender equality in the judiciary. Data disaggregated by gender was not available for 2016 for judges, prosecutors or clerks. In 2014, only 2 of 45 judges were women - representing 4% of total judges compared to approximately 19% of the judiciary in the regular courts. In 2014, 4 out of 5 Sharia prosecutors were women.

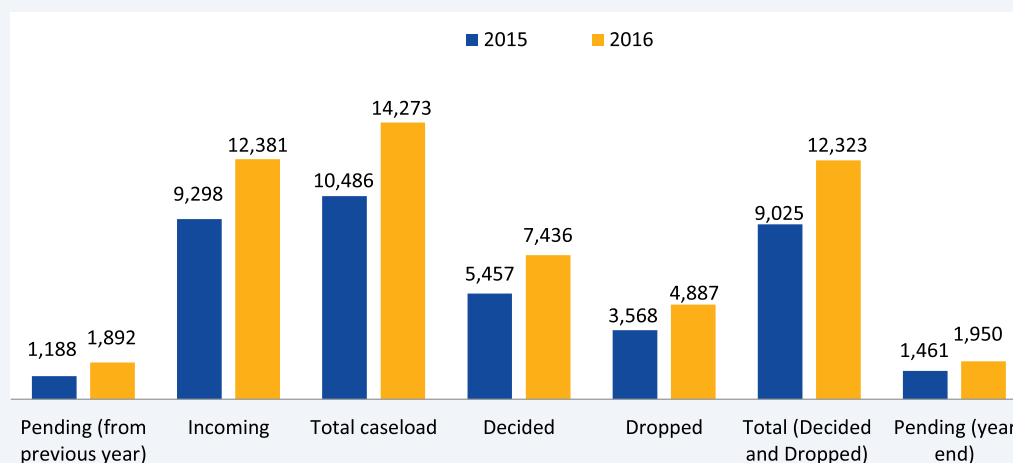
Personnel

In 2016, there were approximately 48 Sharia judges in the West Bank. This has increased by 14% since 2011. In 2015, there were only five prosecutors; an extremely low number given

Core functions

The Sharia courts deal with a range of family law issues as part of its casework including divorce, alimony, child custody, as well as

Figure 49: Total caseload, Sharia courts, West Bank, 2015 and 2016



[58] Data from the Sharia courts for 2016 is taken from the Sharia Court Annual Report. Data from 2015 and prior is taken from the PCBS data on the Sharia courts gathered as part of the Justice and Security Monitoring project. However, there were difficulties in the verification for some of the 2016, 2015 and 2014 data and as a result it is incomplete.

inheritance issues. The court also has a high level of 'non-case' work relating to the issuance of certificates and other documentation such as power of attorney. In 2016, the total caseload of the Sharia courts was approximately 14,000

cases – an approximately 57% increase since 2011 when the total caseload was about 9,000 cases. In 2016, the courts cleared 86% of the total caseload, and 100% of incoming cases, leaving only 1,950 pending cases at the end of the year.

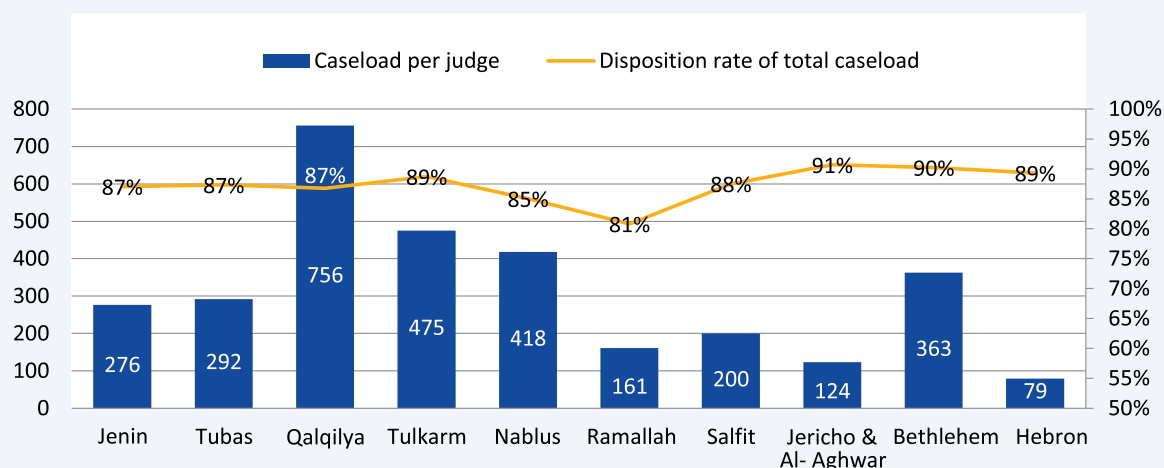
Based on 2015 data, efficiency rates across the courts in the West Bank were quite similar. All the courts performed well at clearing their total caseload. The lowest was Ramallah (81%), and the highest in Jericho (91%). This was also the case when looking at only decided cases (excluding dismissed cases).^[59]

only one judge serving the courts, while 14 judges were assigned to the courts in Hebron and in Ramallah. High caseloads per judge may also have an impact on the quality of decision-making. It is not possible to measure the caseload per prosecutor across the various Sharia courts, but the number of prosecutors may also affect court efficiency.

Non-case Work

In 2011, 82,127 instances of non-case work were recorded, mainly related to the provision of certificates, marriage, divorce, power

Figure 50: Caseload per judge and disposition rate of total caseload, Sharia court, 2015



There was a high variation in the caseload per judge. In Hebron, the caseload per judge was only 79 in 2015, while in Qalqilya the caseload reached 756. This reflects the significantly higher number of judges assigned to courts in Hebron when compared to Qalqilya. The disposition rate for the courts' total caseloads were remarkably similar – 89% and 87% respectively. According to the data provided, in Qalqilya, Tubas and Salfit in 2015 there was

of attorney among other matters. In 2016, it was estimated that the court dealt with approximately 123,638 instances of non-case work including approximately 30,000 marriages.

Key Findings

Gender balance among judges in the Sharia courts is poor and it is important that more women be appointed to the judiciary. In 2016, the clearance rates of both incoming, and total caseload for the Sharia courts remained high – at 100% and 86% respectively. At the end of 2016, the Sharia courts had only 1,950 cases

^[59] There was also a very similar rate of decided cases, out of total cleared cases, across the courts. The lowest was Bethlehem which decided 55% of its cleared cases, while Nablus was the highest which decided 64% of its cases.

pending. However, improved data collection is required to better understand access to, and the quality of justice at the Sharia courts, including reasons for dismissal of cases and the number of litigants requesting and being provided with legal aid. More qualitative data is needed to understand the outcome of cases from a human rights perspective, in particular for women and children.

Recommendations

- Improve the gender balance of judges and staff at all levels.
- Improve data collection on the outcome of cases, including from the perspective of the human rights of women and children.
- Gather better data on access to justice needs including requests for, and provision of, legal aid.

Enforcement of Rulings

Introduction

The enforcement of rulings is critical to a well-functioning justice system. There are two main bodies responsible for the enforcement of judicial decisions in the State of Palestine – the Civil Enforcement Department within the High Judicial Council and the Criminal Enforcement Department in the Public Prosecution. The Civil Enforcement Department is responsible for overseeing the enforcement of decisions resulting from civil cases. As outlined by Enforcement Law No. 23 (2005), officers have the power to enforce court rulings and arbiters decisions, by issuing arrest warrants and seizing debtors property.^[60] This Department was also responsible for enforcing the decisions of Sharia courts until 2016 when the Sharia court established its own Enforcement offices. The Enforcement Department in the Public Prosecution is responsible for overseeing enforcement with regard to criminal cases and civil cases that involve the state or a state institution. Data provided this report regarding the Civil Enforcement Department is generated from MIZAN, while data on criminal enforcement is collated by the Public Prosecution from its own enforcement offices. In the Palestinian context, the ability of justice and security institutions to enforce decisions and execute warrants is severely hindered by the lack of access and freedom of movement for Palestinian law enforcement to many areas within the West Bank in Area C.

Personnel

Complete data on the number of enforcement officers operating in the various enforcement offices and departments West Bank in 2016 was not available at the time of writing.

^[60] Government of Palestine, Law of Execution, No 23, 2005 <[http://legal.pipa.ps/files/server/ENG Enforcement of judgements Law No_ \(23\) of 2005.pdf](http://legal.pipa.ps/files/server/ENG%20Enforcement%20of%20judgements%20Law%20No_23%20of%202005.pdf)>.

Core Functions

Enforcement of Decisions relating to Criminal Cases

Between 2014 and 2016 the number of cases enforced increased by 30%. The Public Prosecution implemented approximately 11,572 criminal enforcement cases in 2016, representing approximately 49% of its incoming caseload and 20% of its entire caseload. At the end of the year, it had almost 45,000 cases pending. However, it is important to recognise that the incoming caseload in 2016 was significantly higher than 2015, due to approximately 10,000 traffic enforcement cases which were transferred from the Conciliation court in Bethlehem to the district prosecution office there. At the end of 2016, the district office in Bethlehem had 17,000 pending cases, accounting for approximately 39% of all pending cases.

The Justice Sector Strategy, 2017 to 2022 includes an indicator to improve the rates of enforcement of incoming penal sentences to 90%. Available data does not allow for the analysis of the enforcement of criminal cases disaggregated by felony, misdemeanor or whether the case related to a custodial sentence. Greater disaggregation of data will facilitate more accurate tracking of enforcement of the most serious cases in the West Bank.

The lack of access to Area C presents another major challenge to effective enforcement of decisions across the West Bank. In 2016, some district prosecution offices achieved high levels of efficiency with regard to incoming cases, such as Qalqilya, Nablus and Tulkarem. However, some offices experienced particular challenges in executing cases, such as Hebron and Jericho – only 1% of the total caseload in Hebron was executed (27 cases), and 6.6% in Jericho (35

cases). More data is required, including in relation to available resources and 'catchment area' of district offices, to fully understand the

variation in enforcement of district offices and to develop measures to overcome low levels of enforcement.

Figure 51: Enforced criminal cases, by Enforcement Department of Public Prosecution, 2014 to 2016

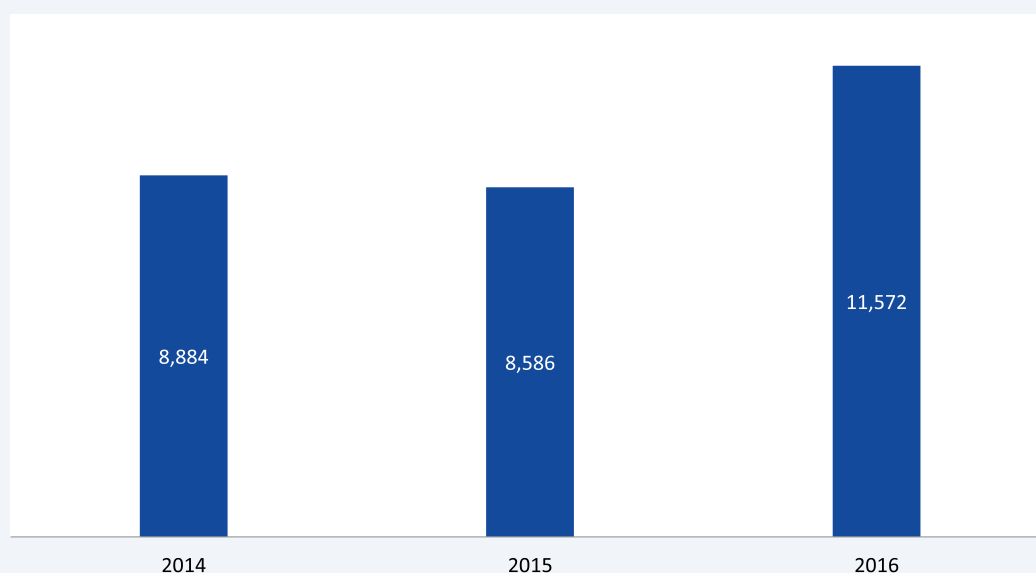


Figure 52: Caseload of Enforcement office of the Public Prosecution, 2015 and 2016

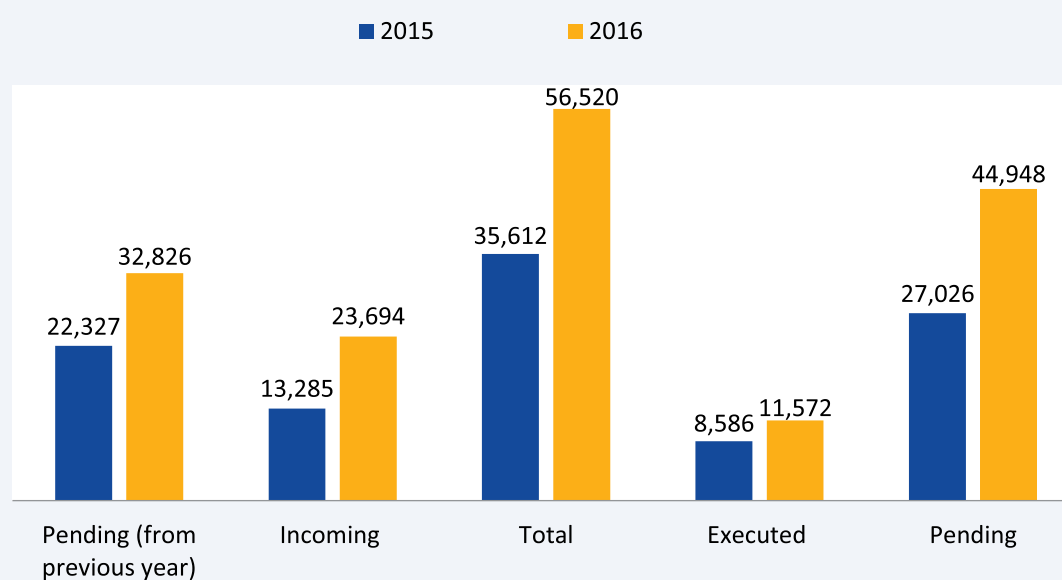


Figure 53: Pending (year end) criminal enforcement cases, by district office, 2016

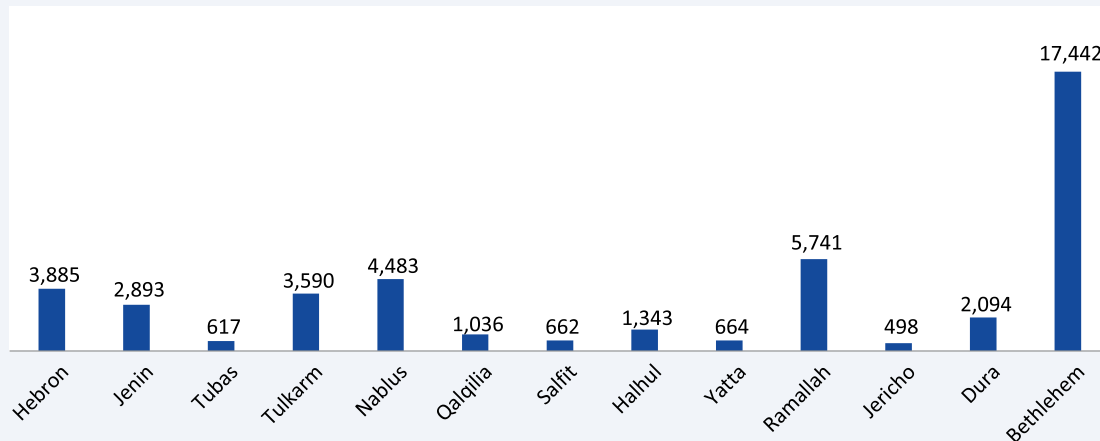
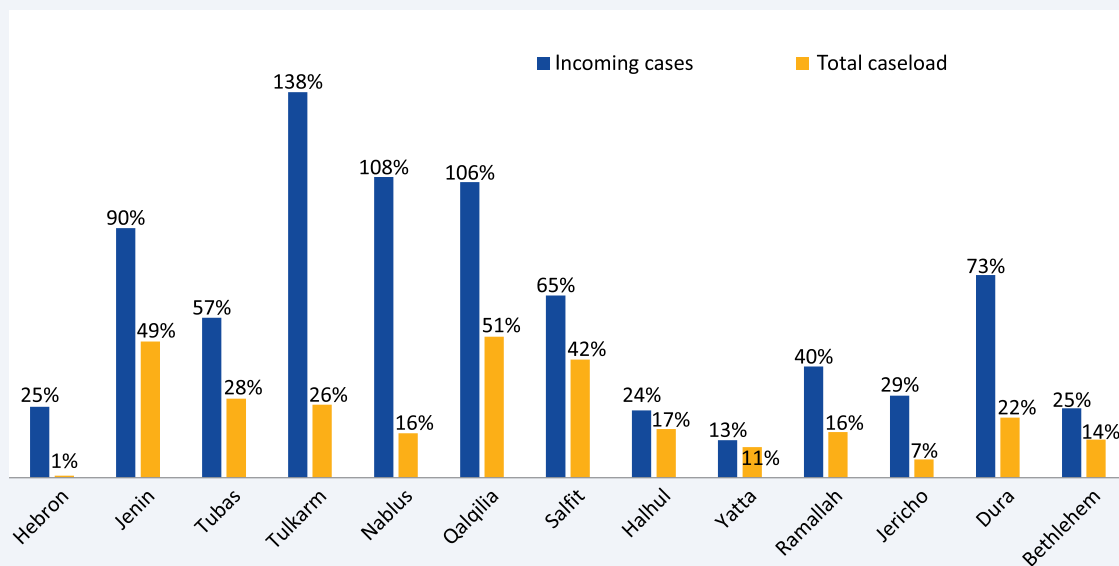


Figure 54: Percentage of Incoming cases enforced, compared to Percentage of total caseload enforced, by District Office, 2016



Enforcement of Civil Cases

Civil cases are implemented by the Civil Enforcement Department of the High Judicial Council. Since 2014 the work of the Department has been fully integrated into the MIZAN electronic case management system.^[61] As a

result, more comprehensive, disaggregated data is available on the implementation of civil cases.

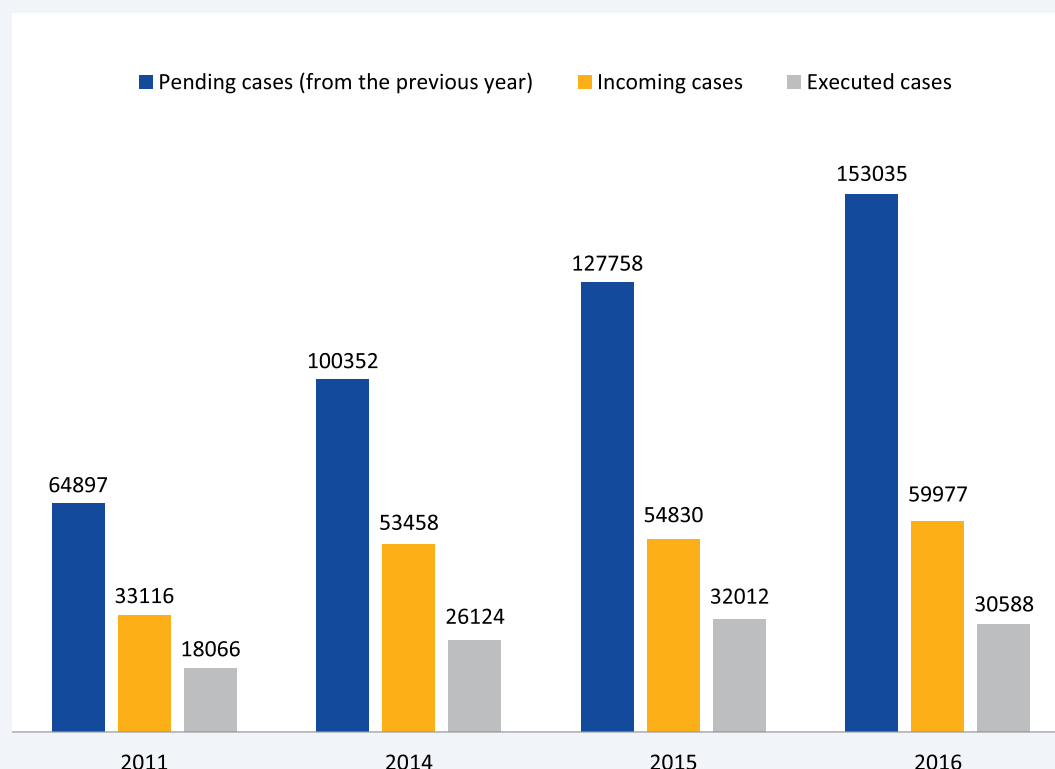
Between 2011 and 2016, the number of cases executed by the Enforcement Department increased by 69%. However, its backlog also increased from approximately 65,000 to 153,000 cases at the beginning of 2016. Only 18% of cases sent to the Enforcement Department in 2016 were enforced in the same year, highlighting a significant delay with the implementation of decisions.

^[61] Trend analysis here goes from 2011 to 2014, as accurate data from MIZAN is only available from 2014 onwards. 2011 data was manually collected for the first Justice and Security Monitor.

The disposition rate for civil enforcement declined from 58% of incoming cases in 2015, to 51% in 2016. When disaggregated by court, it is evident that the largest decline was in the Court of First Instance, which went from 60% to 40% of incoming cases.

collection and financial issues. In 2016, 81% of incoming cases to the Department related to decisions against individuals. Enforcement decisions from the Court of First Instance made up only 4% of the incoming cases, while decisions from the Sharia courts consisted of

Figure 55: Caseload of the Civil Enforcement Department, 2011, and 2014 to 2016



Breakdown of cases within the Enforcement Department^[62]

The vast majority of the caseload of the Enforcement Department related to decisions against individuals, including relating to debt-

5% of incoming cases. The Conciliation Courts represented 10% of incoming cases.

^[62] Since the publication of the first Justice and Security Monitor, the data relating to the work of the Civil Enforcement Department is collected on MIZAN. From 2014 onwards, MIZAN recorded the vast majority of enforcement cases. According to interview with HJC expert this reflects more than 90% of enforcement cases.

Figure 56: Pending, incoming and executed cases, disaggregated by court/decision, Civil Enforcement Department, 2016

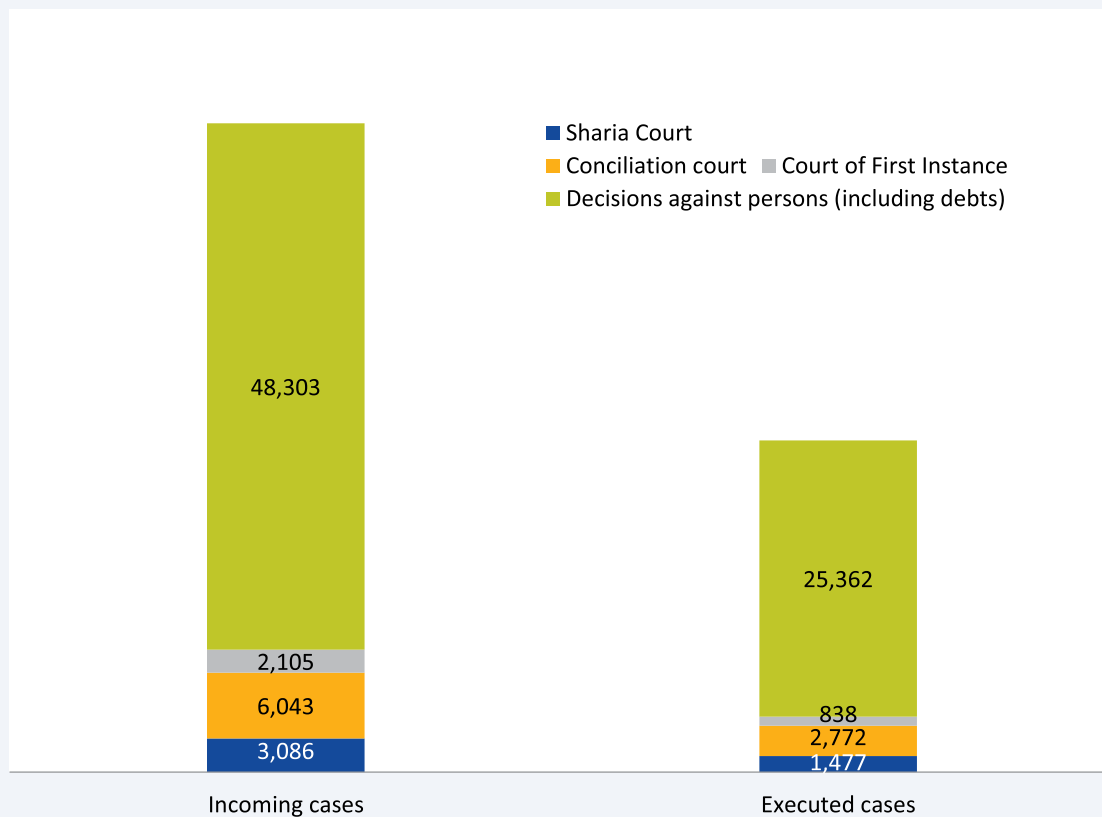
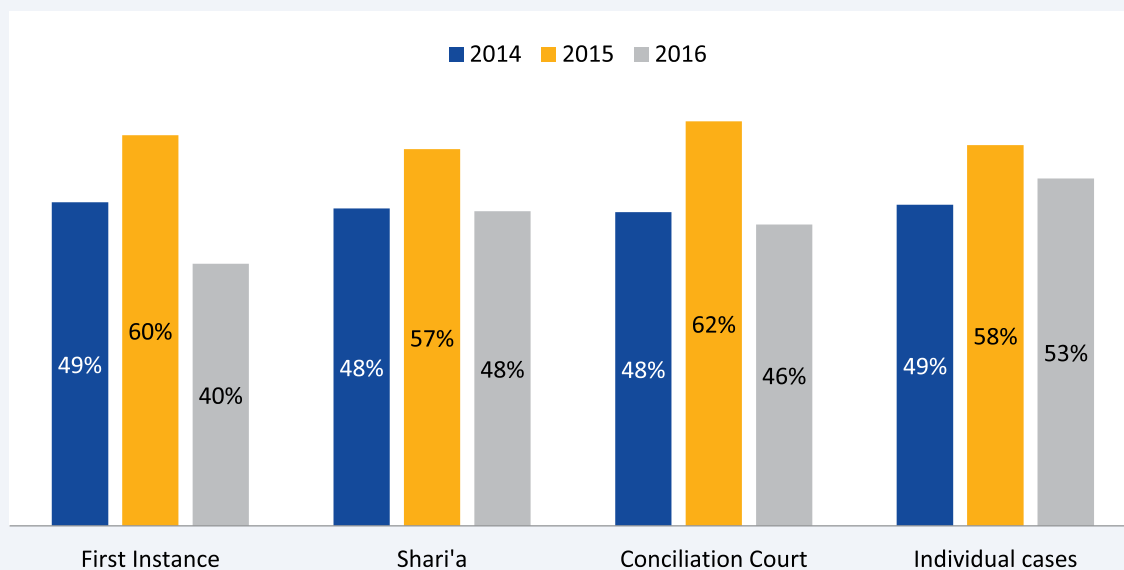


Figure 57: Clearance rate, by court, of the Department of Civil Enforcement, by court, 2014 to 2016



Key Findings

The low rate of enforcement of both criminal and civil decisions represents a major challenge for the overall functioning of the justice system. The lack of access of Palestinian law enforcement to Area C presents a particular challenge for the effective enforcement of judicial decisions in the West Bank.

Despite a 35% increase in the enforcement criminal decisions between 2015 and 2016, there were still over 44,000 pending criminal cases to be enforced at the end of 2016. Data disaggregated by type of case, and whether it related to a custodial sentence, is not available so it is not possible to analyze the rate of enforcement of serious criminal cases. Some district offices experience particular challenges in enforcement. A lack of data on the number of enforcement officers, and the number of decisions requiring enforcement in Area C makes it difficult to further identify the reason for variation in enforcement rates across offices. More disaggregated data on enforcement rates of felonies and decisions relating to custodial sentences would facilitate the measurement of progress in enforcing the decisions relating to the most serious crimes.

With regard to civil cases, the Civil Enforcement Department has achieved a 69% increase in the number of implemented cases since 2011. However, this has not been sufficient to deal with the rising number of cases, and corresponding backlog, which was approximately 153,000 cases at the beginning of 2016. The vast majority of backlogged cases related to decisions against individuals including related to debt, however the Sharia court also had a significant backlog of cases. The disposition rate of civil cases declined in 2016 to about 51% of incoming cases. In 2016, ten new enforcement offices for the Sharia courts

opened and the decline in the implementation may be linked to this transition. In 2016, a new unified warrant system was also established to improve the timely execution of warrants. It is hoped that these steps will result in improved rates of timely enforcement of decisions regarding both criminal and civil cases in 2017.

Recommendations

- Gather more disaggregated data on the criminal and civil enforcement decisions, including type of case, to allow for specific monitoring of the implementation of decisions relating to custodial sentences and serious crimes. Establish policies and procedures that can facilitate the prioritization of the implementation of decisions, focusing on decisions which have significant human rights implications for individuals. Link this work with broader work to review detention practices and procedures in the State of Palestine. (see next chapter).
- Undertake a review of the capacity and operation of both the Criminal and Civil Enforcement Departments and the Judicial Police with a view to addressing capacity gaps, in particular challenges relating to lack of access to Area C, and increasing the rate of enforcement of decisions.
- Invest in the newly opened Sharia Enforcement Departments to ensure they have the necessary resources to increase enforcement rates for Sharia decisions and to quickly address the high backlog of cases for enforcement.

Detention

Introduction

The data in this chapter covers the seven Correction and Rehabilitation Centers (CRCs) in the West Bank managed by the Palestinian Civil Police. The data gathered for this report from 2011 to 2015 inclusive was provided by the Palestinian Civil Police to the Palestinian Central Bureau for Statistics. Data for 2016 is taken directly from the PCP's annual report. The legal framework for the prison service is provided by the 'Rehabilitation Centers 'prisons' Act No. 6 (1998)'.^[63] The seven CRCs managed by the PCP are located in Jenin, Tulkarm, Nablus, Ramallah, Jericho, Bethlehem and Hebron. Specialized juvenile detention facilities are managed by the Ministry of Social Affairs. These are located in Bethlehem (for girls) and Ramallah (for boys).^[64] This chapter does not provide information on persons detained in i) police holding cells, ii) one of the estimated 32 other security-service run detention centers in the West Bank, iii) in Israeli run detention Centers or iv) other facilities.^[65] Human Rights organizations continue to report that arbitrary arrest and detention of Palestinians by other security agencies in Palestine is widespread.^[66] The ICHR reports that the Preventive Security agency manages 17 detention facilities, the General Intelligence agency manages 13 centers and the Military Intelligence manages 2

permanent centers and a number of temporary Centers. Due to lack of space in CRCs in some governorates it has been reported that a large number of persons have been held in Police holding cells for extended periods, sometimes reaching months or years.^[67]

Core Functions

According to the National Strategy for Justice and Rule of Law, 2014 to 2016, the police, Ministry of Justice and the public prosecution each have a role in inspecting detention centers and prisons.^[68] The Strategy committed to ensuring both the infrastructure and systems pertaining to rehabilitation and detention are in line with human rights standards and best practices. With regard to the Correction and Rehabilitation Centers, the 2015 Independent Commission on Human Rights report noted that the Directorate General of Correction and Rehabilitation Centers had made a 'serious and relentless effort... to improve and create adequate living conditions', but despite this 'minimum detention requirements are not available in the majority of centers'.^[69] They also noted that minimum standards are not met with regard to PCP holding cells, and the detention centers of other security agencies.

Under Palestinian Basic law, it is unlawful to arrest, search, imprison, restrict the freedom or prevent the movement of any person, except by judicial order in accordance with

^[63] 'The State of Palestine The National Strategy for Justice and Rule of Law 2014-2016', 2016. pg. 22 and pg. 55.

^[64] Palestinian Central Bureau of Statistics, 'The Status of the Rights of Palestinian Children'.

^[65] Estimated number of detention Centers based on ICHR report, 2015.

^[66] Amnesty International, Amnesty International Report 2016/2017: The State of the World's Human Rights, 2017.

^[67] ICHR, 2015

^[68] 'The State of Palestine The National Strategy for Justice and Rule of Law 2014-2016'. pg. 9, 10

^[69] See pages 400 to 405 of the Status of Human Rights in Palestine Report, ICHR, 2015

the provisions of the law. The Basic law states that the law shall specify the period of pre-arrest detention and provides for the right to be tried without delay.^[70] According to the ICHR, under Palestinian Penal Procedure Law the police or other security agencies vested with judicial duties must bring the persons detained on a criminal charge to the public prosecution within 24 hours, and the prosecution may extend detention for a period of 48 hours. Detention beyond this may only be extended by a decision from the competent court, and combined periods of detention may, under no circumstances exceed 6 months.^[71] Moreover, the recently-established Working Group on the Right to a Fair Trial notes that stipulations regarding i) the right to procedures without undue delay ii) maximum time-limits for police custody and iii) the extension of pre-trial detention are in some places unclear, inconsistent or underdeveloped.^[72] The ICCPR reporting guidelines call for inclusion of comprehensive information on detention.^[73]

^[70] Article 11 and 12, Palestinian Basic Law.

^[71] Pg. 189 The Independent Commission for Human Rights (ICHR) Palestine.

^[72] Working Group on the Right to a Fair Trial, Towards the Full Realization of the Right to a Fair Trial in Palestine: Recommendations of the Working Group the Right to a Fair Trial, 2016. This is an initiative of key stakeholders in the justice and security sector in Palestine, spearheaded by EUPOL COPPS.

^[73] This includes comprehensive information on detention of persons pending trial, and mechanisms to reduce lengthy pre-trial detention, and statistical data on the number of persons held in remand and their percentage in relation to the entire prison population. The UN Standards for the Minimum Rules for the Treatment of Prisoners set out the minimum standards for prisoner file management systems, including recording data on prisoner's time of detention, reasons for detention, date of court hearings among other details. It notes that 'prisoner file management systems shall also be used to generate reliable data about trends relating to and characteristics of the prison population, including occupancy rates, in order to create a basis for evidence based decision making'

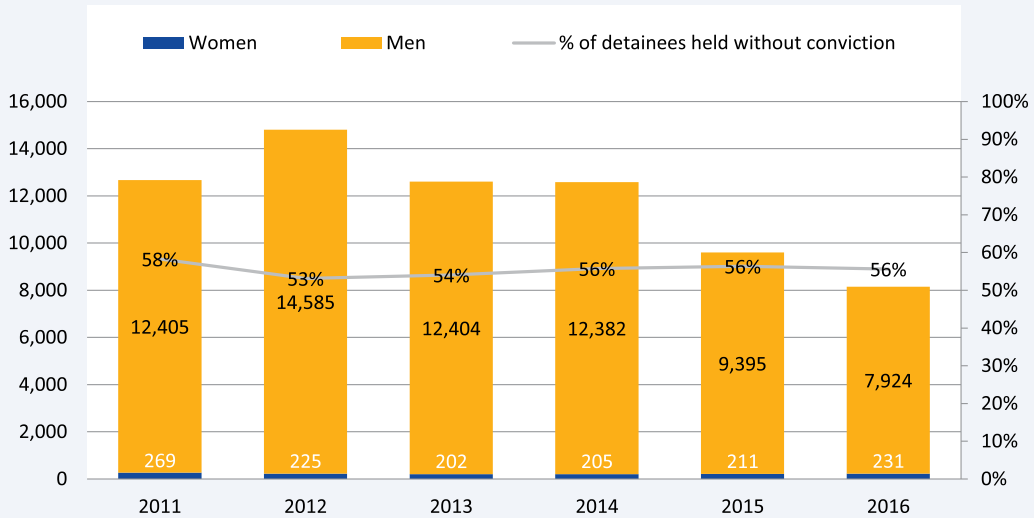
Unconvicted and convicted prisoners detained in Correction and Rehabilitation Centers, West Bank, 2011 to 2016

Since 2011, there has been a 36% decline in the total number of people annually detained in Correction and Rehabilitation Centers (CRCs). In 2016, approximately 8,155 people, including 231 women, were held in CRCs. 56% of all persons detained were detained without a conviction. Of women prisoners, 40% were detained without a conviction.

The proportion of unsentenced detainees as a proportion of the overall prison population is a recognized international indicator for rule of law, and has been selected as an indicator for Goal 16 of the Sustainable Development Goals.^[74] In addition to total annual figures of the number of detainees, the PCP gathers data on the number of detainees on a specific day (31 December each year). Disaggregated data for 2016 was not available, but in 2015 approximately 1,006 prisoners were held in PCP detention facilities on 31 December 2015, and 47.6% of these were unconvicted (479). However, this data excludes information on detainees in approximately 32 other detention centers managed by other security agencies in the West Bank, and detainees in Gaza. Therefore, it is not sufficient to provide an accurate picture of the proportion of unsentenced detainees as a proportion of the overall prison population in Palestine.

^[74] The indicator provides important information on the overall respect for the principle that persons awaiting trial should not be detained in custody unnecessarily. The SDG guidance on measuring this indicator recommends that it be disaggregated by sex and age, as well as length of detention and that it is measured using number of detainees, on a specific day.

Figure 58: Total number of detainees entering Correction and Rehabilitation Centers and percentage held without conviction, 2011 to 2016



Unconvicted Persons detained in Custody

Since 2011, there has been a steady decline in the number of unconvicted persons detained

in CRCs. In 2016, 4,408 people were recorded as detained without conviction; a 17% drop since 2015 and a 39% drop since 2011. In 2016, 138 unconvicted detainees were women, representing 3% of all unconvicted detainees.

Figure 59: Unconvicted Persons entering Correction and Rehabilitation Centers, West Bank, 2011 to 2016

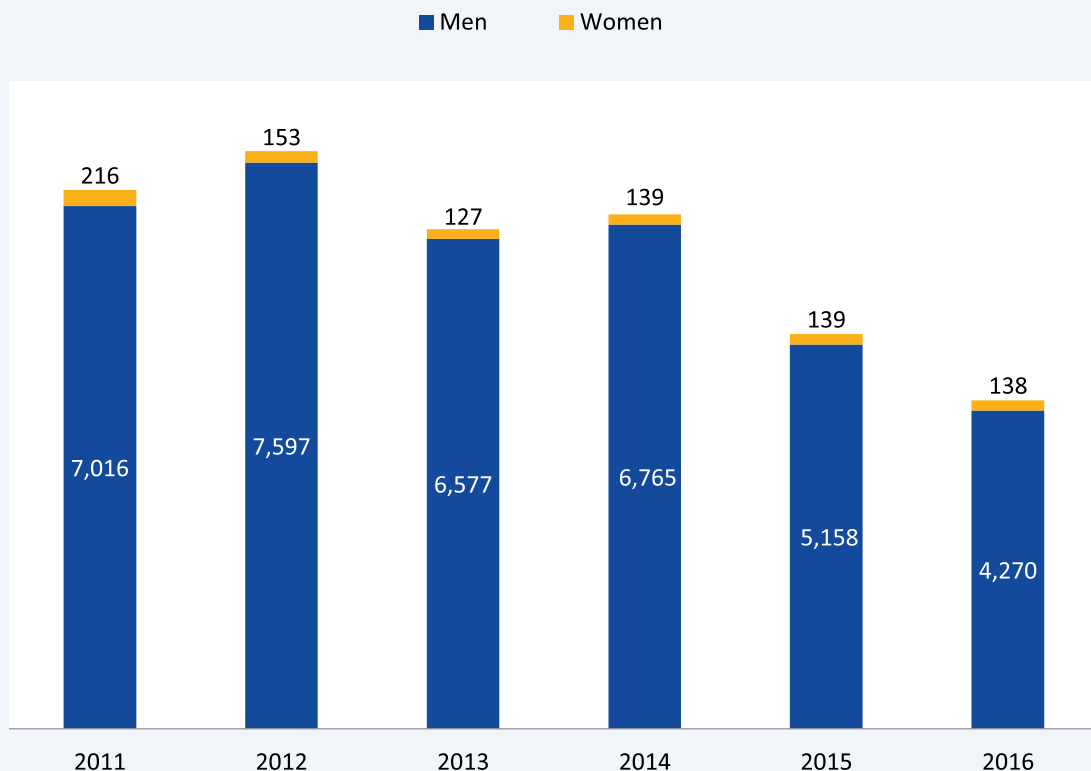
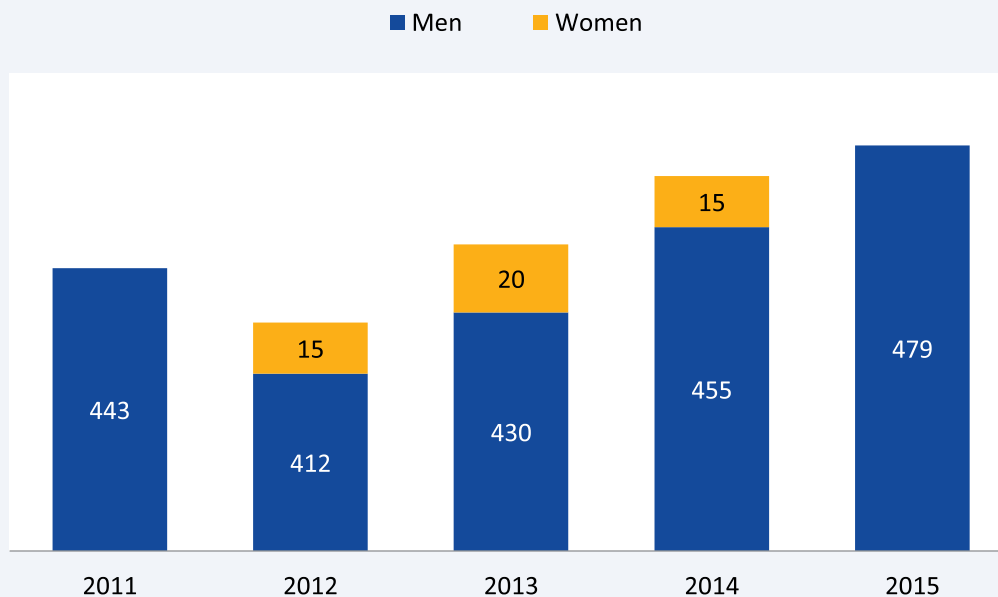


Figure 60: Unconvicted detainees in Correction and Rehabilitation Centers, at year end (31 December), 2011 to 2015

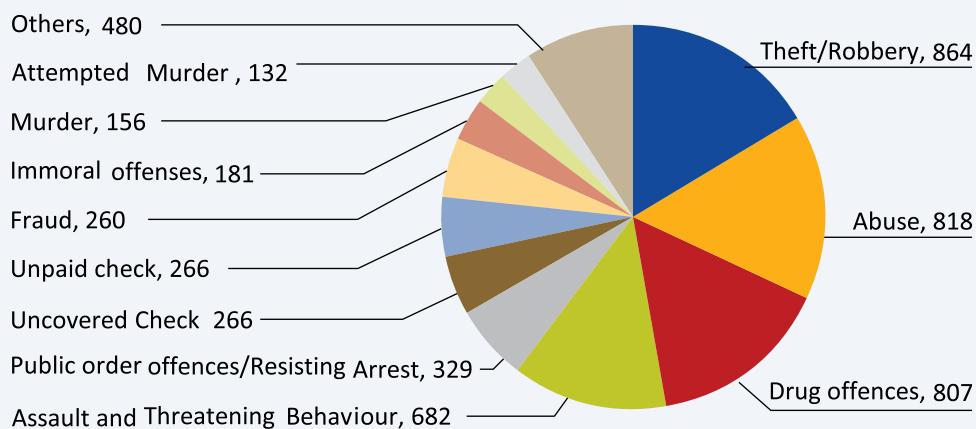


Changes of Unconvicted Prisoners

In 2016, people were detained on approximately 5,241 different charges.^[75] The most common reasons for detention were theft, abuse, assault and threatening behaviour and drug offences.

Approximately 156 people were detained on suspicion of murder, and 132 on suspicion of attempted murder.

Figure 61: Charges of Unconvicted detainees, 2016^[76]



^[75] In some cases, one person was detained on more than one charge

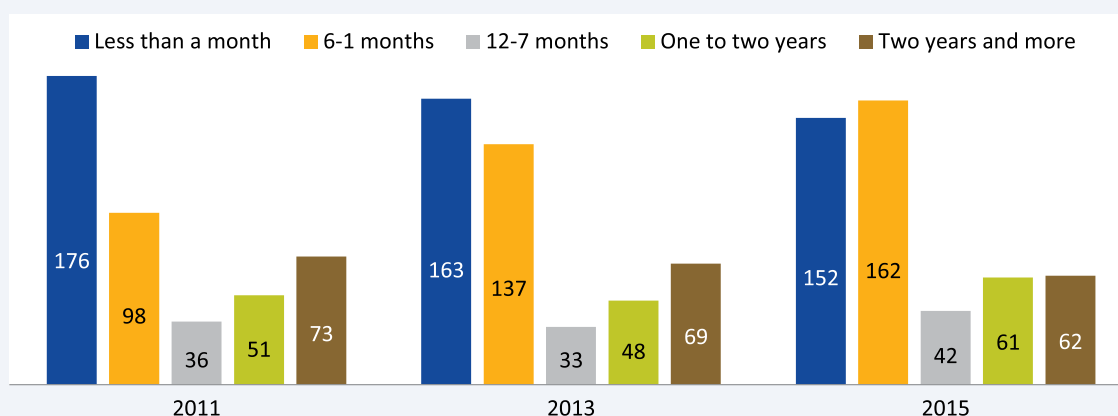
^[76] Others includes crimes categorized as others defined by the PCP (234) and 77 charges of road accidents, 55 charges of treason, 36 charges of breach of trust, 34 charges relating to 'state security', 21 charges relating to corruption, 19 charges relating to kidnapping, and 4 charges relating to 'detention under the custody of the governor'.

Arbitrary Detention, including detention ‘on the orders of the Governor’

The practice of ‘governor ordered detentions’ stems from Jordanian Crime Prevention Law (No. 7 of 1954) and is a practice, which often results in arbitrary incarceration, for sometimes-lengthy periods.^[77] The practice contravenes Article 9 and Article 14 of the ICCPR. Data gathered by the PCP recorded 221 people detained under this order in 2014, 177 in 2015 and only four people in 2016, including three women. This data suggests a continued decline since 2014, leading to a significant drop in the number of people detained under this practice in 2016. Data from the ICHR in relation to this practice recorded an increase in complaints regarding

recommendation in the last Justice and Security Monitor for an urgent investigation. As outlined above, complete data on prolonged detention without trial in Palestine is not available. However, data from Correction and Rehabilitation Centers shows that in 2015, 62 people had been arrested and detained for more than two years, and 61 people for between 1 and 2 years, while 42 people were detained between 7 and 12 months. Prolonged pre-trial detention is a violation of the right to a fair trial and the right to liberty and security of persons. It also important to note that these are ‘year-end’ figures, so they only record those in CRCs at the end of the year. Therefore, the actual number of unconvicted people detained for lengthy periods throughout the year is likely to be higher.

Figure 62: Distribution of unconvicted detainees at year end by Length of detention, 2011, 2013 and 2015



detention under orders of the Governor between 2013 and 2015, however data on complaints in 2016 was not available at the time of writing.^[78]

Prolonged Detention without Trial

The problem of prolonged detention of unconvicted prisoners remains despite the

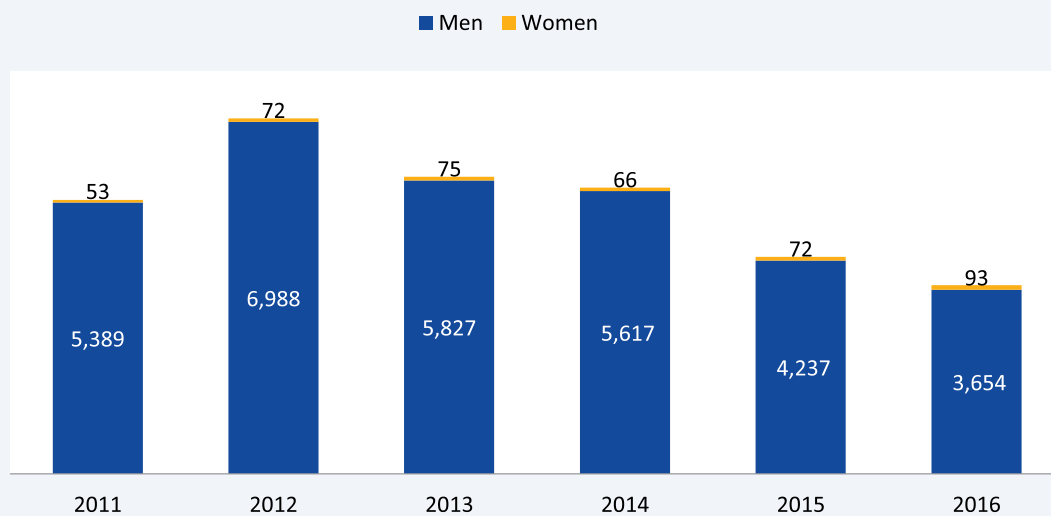
Convicted offenders serving sentences

In 2016, 3,747 persons were recorded as serving a sentence in Correction and Rehabilitation Centers. This represents a 13% drop since 2015. Overall, the number of convicted offenders serving sentences has dropped consistently since 2012. Women represented 2% of convicted detainees (93). The number of women convicted prisoners increased by 75% since 2011 and by 29% between 2015 and 2016.

^[77] Working Group on the Right to a Fair Trial.

^[78] The ICHR recorded 35 complaints in 2013, 93 in 2014 and 116 in 2015.

Figure 63: Convicted persons entering Correction and Rehabilitation Centers, 2011 to 2016

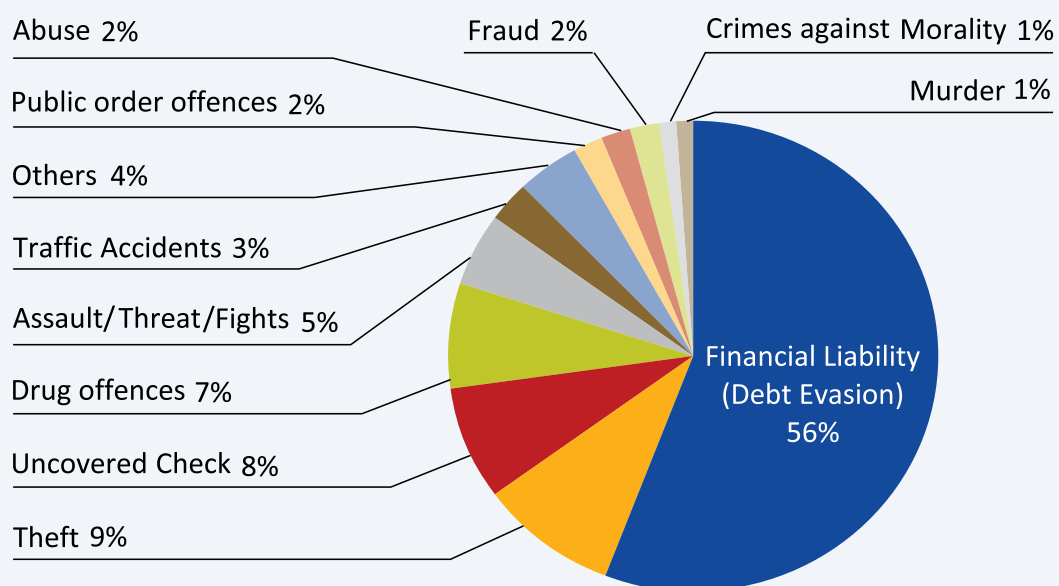


Charges of Convicted Persons

In 2016, approximately 56% of the 4,458 charges of convicted persons related to unpaid debts, while a further 8% were serving sentences for unpaid checks. It is of concern that approximately 64% of the charges of those serving sentences in Palestinian prisons

are for offences relating to failure to pay a debt. Overall, only approximately 8.5% of the charges of convicted prisoners related to violent crimes. 1% of charges of convicted prisoners related to murder, 5% to assault and 2% to abuse.

Figure 64: Charges of convicted persons in Correction and Rehabilitation Centers, 2016



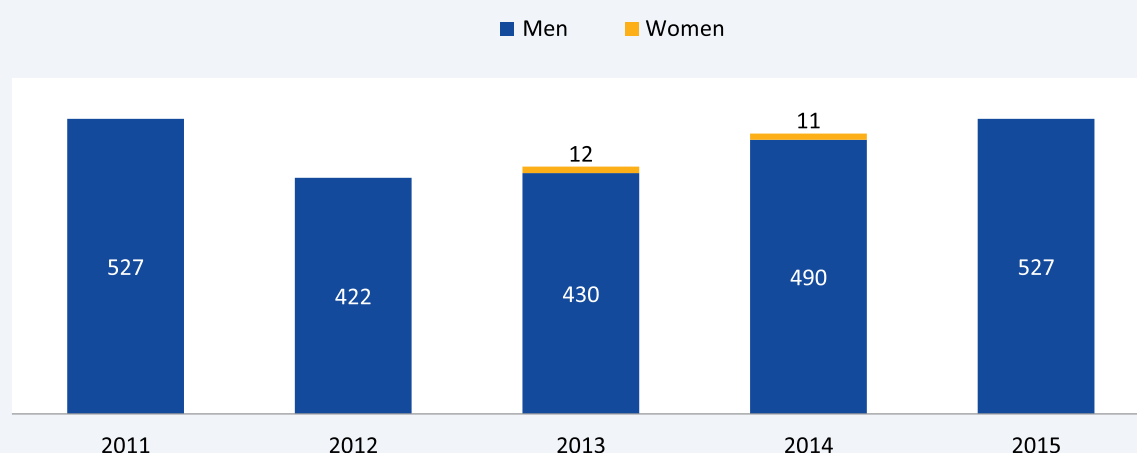
The current methods of recording charges relating to sexual and gender based violence does not allow for the analysis of the number of people serving custodial sentences for these crimes. The PCP's method for recording some crimes relating to sexual and gender based violence, including rape, sexual abuse, sexual harassment and other forms of harassment is to include these crimes in the category of 'crimes against public decency and morality', drawing from their categorization in the Jordanian Penal code (1960). This category also includes offences including adultery, ruining a marriage, inciting debauchery/immoral behaviour, sorcery, public disturbance and shameful acts. In 2016, 1.2% of charges of convicted prisoners related to 'crimes against morality', however it is

standards and allow for the comprehensive tracking of crimes relating to sexual and gender based violence across the criminal justice chain.

Length of Sentence

Comprehensive data on the length of sentence of convicted detainees in 2016 was not available. Data provided by the PCP for 2015 reported that of 527 convicted persons serving sentences at the end of the year, 122 were serving over 10 years, 58 were serving sentences of 5 to 9 years, 142 were serving sentences of 1 to 4 years and 205 were serving sentences of less than a year. This suggests that the majority of convicted prisoners are serving relatively short sentences.

Figure 65: Convicted detainees in Correction and Rehabilitation Centers, at year end (31 December), 2011 to 2015



not possible to ascertain how many of these are serving sentences for crimes related to sexual and gender based violence.

A comprehensive revision of the legislative framework, and corresponding policies and practices, relating to sexual and gender-based violence is required to bring Palestinian legislation, as well as justice and security institutions policies and practices in line with international standards. The finalization of the Family Protection bill will be a welcome step towards addressing the existing problems, however a comprehensive approach is needed to ensure that all aspects of the criminal justice legislation and policies align with international

Detention of Children

In the West Bank, there are two government managed detention Centers designed for the rehabilitation of children. These Centers are managed by the Ministry of Social Affairs. The Dar Al Amal Center for boys is located in Ramallah^[79] and the Center for girls is located in Bethlehem.^[80] Under Palestinian legislation, the

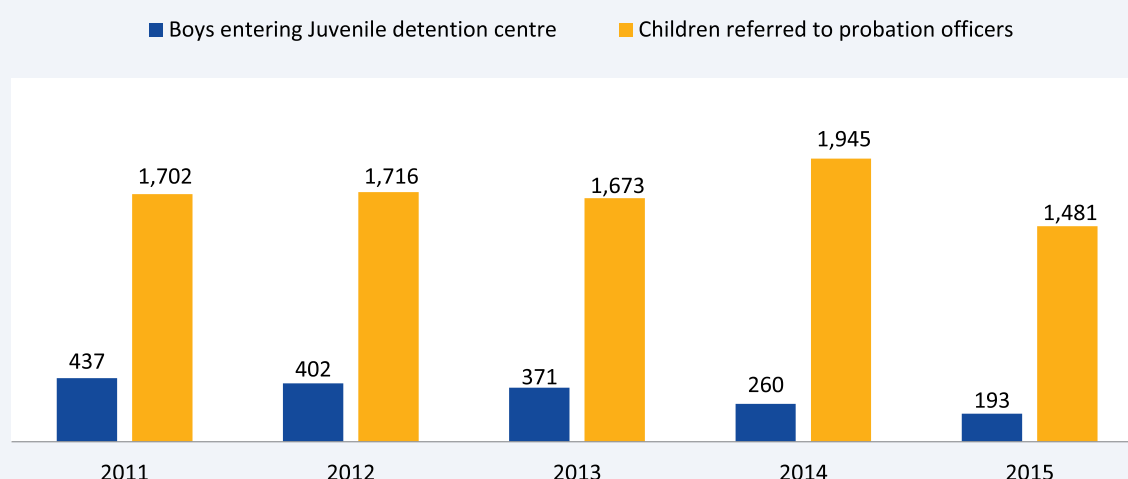
^[79] United Nations Development Programme, Annual Report 2011: Rule of Law & Access to Justice Programme in the oPt, 2011, cmlxxii., pg. 23.

^[80] Palestinian Central Bureau of Statistics, A Review of Palestinian Justice and Security Sector Data. Pg. 29

detention of children in police custody is illegal, according to Article 20 of the Law (by decree) on the Protection of Juveniles (2016).^[81] This succeeded a previous law, the Juvenile Reform Law (1954), which also provided that children placed under arrest should be placed in the custody of the Ministry of Social Affairs.^[82]

involving detention of between seven months and one to two years, while in one case a child had been detained for over two years. The Monitor called for an immediate investigation into illegal child detention. Since 2011 the State of Palestine has taken a number of important steps to improve children's rights protection. Within

Figure 66: Boys admitted to Ministry of Social Development run Rehabilitation Centers, and children referred to Probation officers, in the West Bank, 2011 to 2015



Available data from the Ministry of Social Development regarding the number of children entering the Dar Al Amal rehabilitation centers shows a continuous decline in the number of boys entering the center. Since 2011, the number of children entering has declined by 56% to 193 in 2015. No data was available for 2016 at the time of writing. Data for the number of girls detained in the girls' detention center Bethlehem was not available.

Long term Detention of Children in Police Holding Cells

The last Justice and Security Monitor noted that 740 children were held in police detention facilities, including 24 for between one and six months. Four cases were particularly serious

the PCP, juvenile protection units, established in 2009, were extended to all districts in 2011. In 2016, the juvenile protection law was adopted and a children's court was established.

However, data from 2013 and 2015 suggests that the practice of detaining children in Correction and Rehabilitation Centers and PCP police stations still persists^[83]. In 2013, 23 unconvicted and 2 convicted children were detained. In 2014, 17 unconvicted children and one convicted child were recorded as being detained. In 2015, 20 unconvicted children and one convicted child were detained. No data was available for 2016. There was no available data regarding the reasons for detention, or whether these children were provided with detention facilities separate from adults, or their length of detention.

^[81] State of Palestine, 'Law on the Protection of Juveniles', 2016.

^[82] Palestinian Central Bureau of Statistics, A Review of Palestinian Justice and Security Sector Data.

^[83] One challenge relates to a lack of clarity with regard to the place of detention – including the number of children detained in CRCs, or police holding cells.

Key findings

The 36% decline in the total number of people entering CRCs since 2011 and the progress reported by the ICHR in seeking to improve conditions of detention in CRCs is to be welcomed. However, there remain serious concerns with regard to the situation of detention in Palestine. It is not possible to form an accurate picture of the status of detainees, without comprehensive data on the total numbers of detainees held in all detention centers and other facilities in the State of Palestine and the length of their detention. As outlined in the ICCPR reporting guidelines, information should be provided on all deprivations of liberty provided by law or occurring in practice.^[84] Data should be disaggregated by age and gender, as well as according to detention following arrest, awaiting trial or serving sentence following conviction and should meet recommendations set out in the Minimum Standards for the Treatment of Prisoners.^[85]

The lengthy detention without trial in CRCs, with some detainees being held for two years or more without a conviction is of also major concern. Similarly, the fact that over 60% of convicted detainees are serving relatively short sentences for non-violent offences related to failure to pay a debt or to honour a check, and only 8% of convicted prisoners charges related to violent crime suggests the need for a broader review of sentencing policies and procedures in the State of Palestine. The lack of data on conviction and sentencing rates for crimes relating to sexual and gender based violence hinders the ability to analyze progress being made to strengthen the Justice system's response to these crimes.

With regard to children's detention, the 56% decline in the number of boys entering Dar Al Amal detention Center since 2011, and the 26% drop between 2014 and 2015 is to be welcomed. However, the practice of incarcerating juveniles in both CRCs and PCP holding cells continues. It will be important to investigate this practice, and other instances of inappropriate detention of children as part of the full implementation of the Juvenile Protection act.

Recommendations

- Gather and publish data on all persons detained in the State of Palestine, including all persons detained in Gaza and the West Bank in Correction and Rehabilitation Centers, police holding cells, and the detention centers run by all other security agencies, and other institutions to gain an accurate picture of the number of detainees in the State of Palestine.
- Disaggregate between those arrested and detained without charge, those detained in pre-trial detention following judicial proceedings, and those serving custodial sentences following conviction, or those detained under any other circumstance.
- Develop a policy on Detention and Rehabilitation in the State of Palestine to ensure minimum standards in lawful detention, including eliminating illegal and arbitrary detention; ending excessive and prolonged pre-trial detention; ensuring the rights of women and children in detention including eliminating their illegal or inappropriate detention, as well as ensuring appropriate sentencing policies for those convicted of a crime. This policy should ensure standards set out in the ICCPR and the UN Standard Minimum Rules for the Treatment of Prisoners and other relevant international standards are adhered to. It should also address appropriate sentencing for serious violent crime, and estimating the costs and benefits short-term custodial sentencing, including exploring options for non-

^[84] Human Rights Committee, 'International Covenant on Civil and Political Rights Human Rights Committee Guidelines for the Treaty-Specific Document to Be Submitted by States Parties under Article 40 of the International Covenant on Civil and Political Rights', English, 2010, pp. 1–21.

^[85] United Nations, 'Nelson Mandela Rules: United Nations Standard Minimum Rules for the Treatment of Prisoners', 2015 <https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf>.

custodial sentencing for minor offences.

- Gather and publish complete, disaggregated, data relating the detention of children, boys and girls, and immediately investigate cases of illegal detention of children in PCP holding cells and other inappropriate facilities.
- Improve the legislative and policy framework, and data collection methods, around sexual and gender based violence to align with international standards and allow analysis of rates of conviction and custodial sentencing for sexual and gender based violence.

The Palestinian Bar Association

Introduction

The Palestinian Bar Association (PBA) plays an important role in oversight, providing professional training of the legal profession, and the provision of pro-bono legal aid. The Bar Association is responsible for ensuring that lawyers discharge legal services appropriately, that litigants receive legal representation before the courts, and that the rights and interests of those working in the legal profession are protected.^[86] The legal framework for the provision of legal aid in the State of Palestine outlines that ‘any person accused in a criminal case shall be represented by a lawyer’^[87] and requires the Court to appoint a lawyer for any person, accused of a felony, who is unable to provide their own lawyer. The Law of the Legal Profession (1999) and the Bar Association’s own regulations require that the Association provide legal aid to those charged with felonies that are unable to afford legal representation.^[88] However, historically, the capacity of the Bar Association to provide legal aid has been limited. In general, access to free legal aid for low-income Palestinian households is a challenge. Currently, legal aid services in the West Bank are provided by a range of actors, including civil society organizations, universities, some government bodies and to a limited extent, the Bar Association. The limited availability of legal aid for the poorest Palestinians is of concern, in particular in light of the State of Palestine’s ratification of the ICCPR. Article 14^[89] sets out the minimum guarantees with respect of the right to a fair trial, including the right to

have legal assistance assigned in cases where defendants do not have sufficient means to pay for it.^[90] In recognition of this, the Palestinian Bar Association developed a strategy to strengthen its provision of pro-bono legal aid. The Strategy, which runs from 2016 to 2017, aims to address a number of gaps including strengthening the role of the PBA in providing legal representation and assistance before the courts, and increasing significantly the number of vulnerable people who have access to primary legal aid services, including legal education and awareness, legal advice, mediation and legal documentation or information.^[91] The Bar Association also began its role as co-chair, along with the Ministry of Justice, of the National Legal Aid Committee in 2016. It therefore has a central role in ongoing work to further institutionalize legal aid for marginalized groups in Palestine.

Personnel

Since 2011, the number of registered lawyers in the West Bank has almost doubled – going from 2,084 to 4,020. Between 2015 and 2016 the numbers of lawyers increased by 21% to 4,070. The number of women lawyers increased by 85%. In 2016, women represented 39% of all West Bank registered lawyers. However, there is only one female lawyer, out of 15 in total, on the Board of the Palestinian Bar Association. There were approximately 150 registered lawyers per 100,000 people in the West Bank in 2016.

^[86] Government of Palestine, The State of Palestine: National Strategy for Justice and Rule of Law 2014-2016. pg.13.

^[87] See Palestinian Basic Law, Article 14

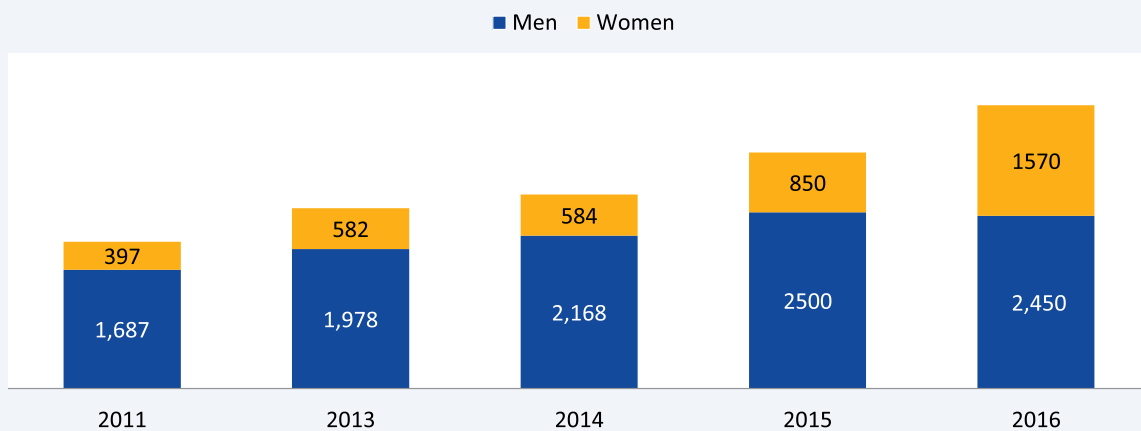
^[88] See Palestinian Bar Association, Palestinian Bar Association

^[89] International Covenant on Civil and Political Rights, UN General Assembly, 1966, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

^[90] ‘legal assistance is a critical part of a functioning justice system, and plays a key role in protecting the civil and political rights of citizens. United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems; 5

^[91] See Palestinian Bar Association, Legal Aid Strategy, 2015 to 2017.

Figure 67: Number of lawyers registered in the Palestinian Bar Association, West Bank, 2011, 2013 to 2016



In 2016, there were 2,200 trainee lawyers in the West Bank; 43% were women. There were 1,241 trainee lawyers in Gaza; 24% were women. In the academic year of 2015/2016, across 12 universities in the State of Palestine, 42% of the graduating law students were women and 41% of the total registered law students were women.

Core functions

Unfortunately, limited data was available to measure the performance of the Bar Association's core functions. According to the PBA's Legal Aid Strategy, in the West Bank pro bono support was provided in only 40 cases in 2014 and 15 cases up to October of 2015.^[92] In 2016, in the West Bank, pro-bono support was provided for 85 cases but this is an extremely low number considering there were almost 1,153 criminal cases received by the First Instance courts in the West Bank in 2016.^[93] In Gaza, in 2016, the PBA supported 789 pro bono cases a drop of 29% since 2015.^[94] An important

aspect of the National Legal Aid Strategy will be improving the provision of legal aid and monitoring legal aid access for defendants in court. In early 2017, discussions between the Palestinian Bar Association and the High Judicial Council led to an agreement to provide the Bar Association's Legal Aid Unit with access to the electronic case management system MIZAN. It was agreed that the High Judicial Council would amend the MIZAN system to require that all cases are registered with an indication of whether free legal aid is provided or not. This will generate data that can allow for the monitoring of the both the availability and quality of legal aid in Palestine. For example, it would allow for the monitoring of conviction rates of legal aid recipients, a key indicator of the right to a fair trial.

Key Findings

Since the publication of the last Monitor some progress has been made. The significant improvement in the gender balance of lawyers in both the West Bank and Gaza is welcome. However, there remain significant gaps. At present, there is no available information on the nature of legal services provided by the Bar Association, including the number of hours invested and outcomes of pro bono cases handled, or complaints received by the Bar Association regarding its members, and the

^[92] UNDP data, 2016

^[93] Presentation by a lawyer in court is only mandatory for felonies, most of which go to the Court of First Instance. In 2016, there were 1,153 incoming criminal cases in the Court of First Instance. Source of data: UNDP 2016 Annual Report.

^[94] UNDP Annual report 2015

outcome of complaints processes. There is also no data on the number of women lawyers across different areas of law. Finally, there is also no available data on legal aid needs more broadly, including the total number of people requesting legal aid, those who are deemed eligible to receive legal aid, those who do receive representation and the support provided and outcome of their cases.

Recommendations

- Collect and publish more data on the situation of women lawyers, including if there is adequate representation across all areas of law, in leadership roles, and in the criminal justice sector.
- Collect data on the professional performance of lawyers, distribution among different areas of law and continuous professional development.
- Gather data on the number of pro bono cases handled by PBA registered lawyers, including hours invested and outcome of cases.
- As part of the National Legal Aid Committee, continue work to improve the data available in relation to legal aid needs in Palestine, including revision of the MIZAN case management system to accurately track the number of defendants requesting free legal assistance, those provided with assistance and the outcome of their cases. Data should be disaggregated by gender and for juvenile cases.
- Improve the system of recording complaints against lawyers in cases of professional misconduct, and collect and publish data on complaints made, how they are investigated and the outcome of any investigation.

Introduction

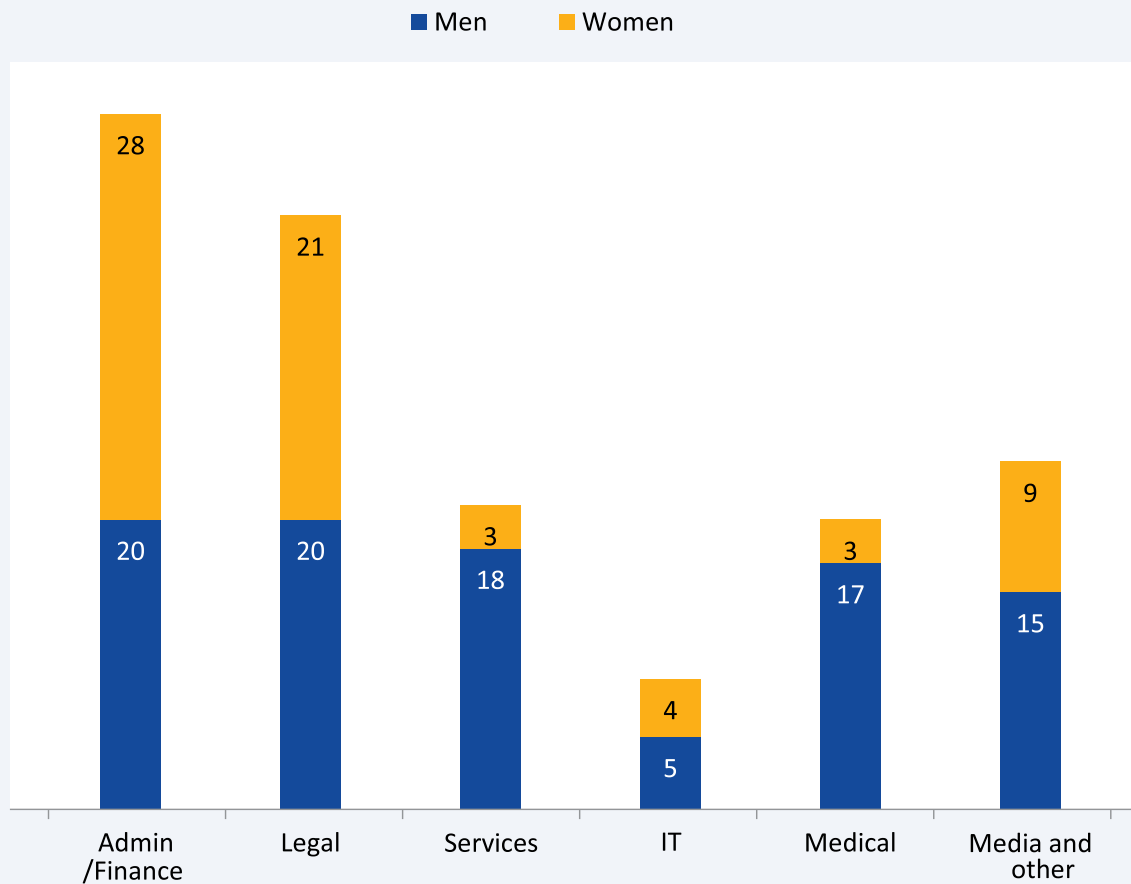
The Palestinian Ministry of Justice (MOJ) was established in 1994 and plays a central role in supporting the justice sector. The National Strategy for Justice and Rule of Law, 2014 to 2016, highlighted the Ministry's role in providing judicial and public services, including forensic services, documentation services, criminal record management and the provision of legal advice and supervision of judicial institutions. In 2016, the Ministry of Justice assumed its role as co-chair of the National Legal Aid Committee. The National Legal Aid Committee is tasked with strengthening the institutional framework for legal aid in Palestine, including improving quality of, and access to legal aid for all Palestinians. The Ministry is also responsible for drafting legislation and coordinating between the Executive and the judiciary. In early 2017, the Ministry of Justice reconvened the Legal Harmonization Committee whose main objective is to take forward the work of legislative harmonization, which has been agreed as a priority area of work in the new National Justice Sector Strategy, 2017 to 2022.

Personnel

In 2015, there were 163 staff including 68 women in the Ministry of Justice in the West Bank. The number of women employed has increased by 33% since 2011, and the overall gender balance went from 38% in 2011 to 42% in 2015. The last Justice and Security Monitor highlighted that women were drastically underrepresented in some sections within the Ministry, including no women staff members in the medical services. Since then the Ministry has recruited three female staff members to the medical department, including one Doctor, however women continue to be under represented in the medical and IT sections. There is no available data on gender representation at senior and management positions.

^[95] At the time of completion of this report no data on the personnel or core functions of the Ministry of Justice was available for 2016.

Figure 68: Distribution of Ministry of Justice staff, by gender and role, 2015



Core Functions

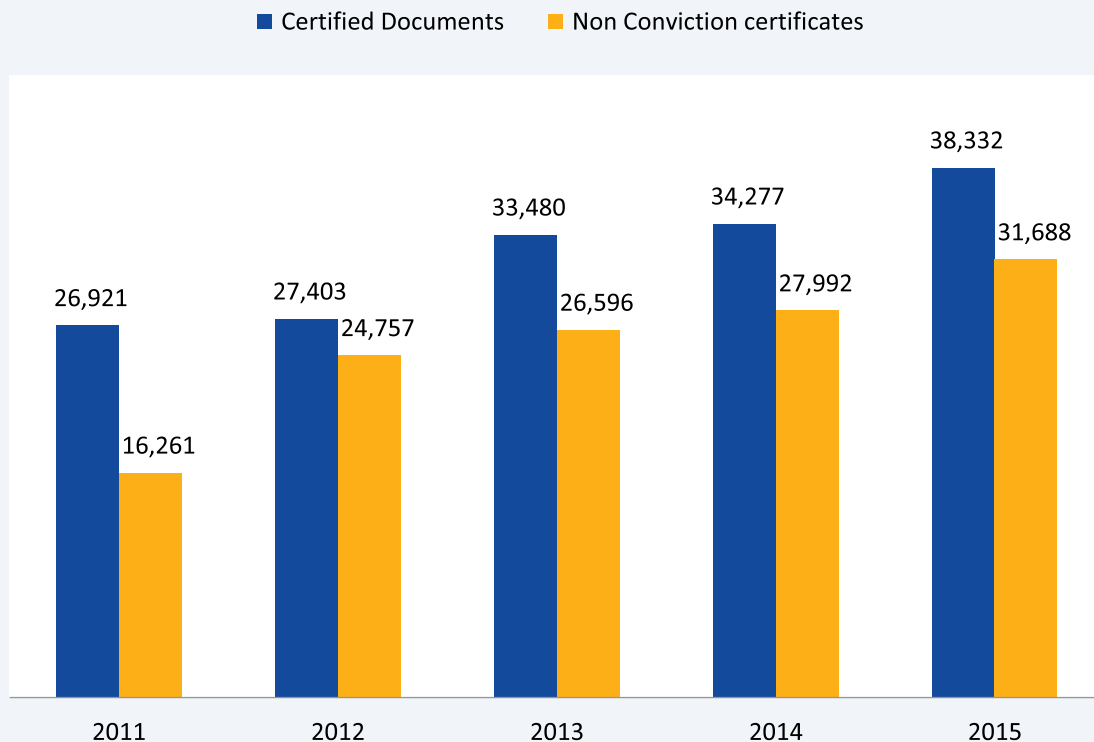
The following data provides an overview of some of the core functions of the Ministry of Justice

Non-conviction certificates

The National Judicial Registry issues non-conviction certificates. These certificates are

required for all public service appointments and many private sector job applications, as well as bank loans and foreign visa applications. This function lies in the Public Services Directorate of the Ministry. Between 2011 and 2015, the number of certified documents issued increased by 42% and the number of non-conviction certificates issued increased by 95%.

Figure 69: Number of Non-Conviction and Certified documents issued, 2011 to 2015



Accredited Arbitrators

Since 2011, the Ministry of Justice has increased the number of arbitrators and raised awareness about the importance of alternative dispute resolution mechanisms in relation to commercial law. The Ministry has responsibility for registering accredited arbitrators. There is no data on the total number of arbitrators registered in the State of Palestine, however in 2015, the Ministry accredited 168 arbitrators in a number of areas of specialization including engineering, finance and banking, real estate, commerce, insurance and intellectual and industrial property. Arbitrators are licensed by three main categories depending on the seriousness of the dispute they are qualified to address. In 2015, 72 arbitrators were granted a Category 1 licenses to deal with disputes over 100,000 Jordanian Dinar, 48 were granted Category 2 licenses for disputes ranging from JD\$ 50,000 to JD\$ 100,000, and 48 were granted Category three licenses.

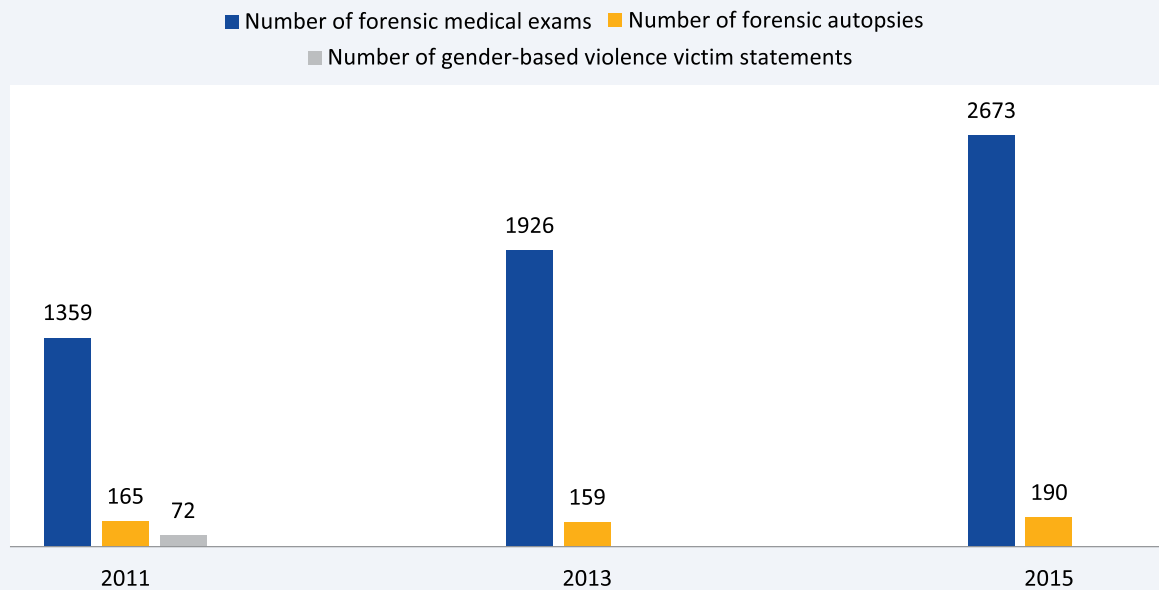
Accredited Translators and Experts

In 2015, the Ministry certified 166 accredited translators including 100 English, 6 French and 60 Hebrew. In 2015, the Ministry registered 15 experts including seven experts specializing in fingerprinting, two experts in hand-writing analysis and six experts in fraud detection.

Access to Forensic Medical Services

In 2011, there were no female forensic medical staff. Since then the Forensic Department has recruited one female doctor, and two additional female staff. In 2015, the Department undertook 190 forensic autopsies, including on 33 women and 7 girls. 40 forensic medical exams were undertaken in cases of sexual assault, including 17 cases related to girls under the age of 18. Between 2011 and 2015 the number of forensic medical exams undertaken increased by 96%.

Figure 70: Data on work of Department of Forensic Medicine, 2011, 2013 and 2015



Key Findings

Between 2011 and 2015, women's representation at the Ministry of Justice increased from 38% to 42%, including the recruitment of female members of the medical service. During that time, there was a 42% increase in the number of certified documents issued and a 95% increase in the number of non-conviction certificates issued. Between 2011 and 2015 the number of forensic medical exams undertaken by the Department of Forensic medicine increased by 96%. However, data on other aspects of the work of the Ministry, such as legislative drafting, legal aid provision and other aspects of its responsibilities under the National Justice Sector Strategy was not available.

Recommendations

- As part of the National Legal Aid Committee, improve the data available in relation to legal aid needs in Palestine.
- Collect more data to enable the assessment of the Ministry's performance of core functions, including its commitments under the National Justice Sector Strategy, 2017 to 2022. This includes the Ministry's work on legislative drafting, legal harmonization, expanding access to and improving the quality of legal aid, and the frequency and quality of legislative impact and cost assessments.
- Improve the system of oversight and monitoring of accredited arbitrators, including gathering data on the total number of arbitrators registered, cases processed and complaints received and the outcome of the investigation.

Justice and Security Institutions Gaza

Introduction

This chapter presents the data from justice and security institutions in Gaza. The data was gathered by the Palestinian Central Bureau of Statistics. Following the division in 2007, the justice system in Gaza suffered from huge gaps in human, financial and technical resources. As a result, while some progress has been made since 2011 in improving data collection in Gaza immense challenges remain. These stem from the lack of modern data collection and storage methods, the lack of formal engagement with the justice system, and the lack of consistent access for the PCBS to gather data from justice and security institutions in Gaza. The majority of the data included in the chapter below is from the court system. The courts in Gaza use MIZAN1, which was initiated in the early 2000s, however since the division it has not been able to upgrade to MIZAN2, which has been rolled out across the West Bank.^[96] There is no available administrative data on the police, crime or the detention of prisoners. The low contact policy with the formal justice sector in Gaza has also hampered seeking additional information regarding the interpretation of this data.

Crime and Policing

There was no data available on police and security personnel in Gaza. In 2015, the Independent Commission for Human Rights reported that there were an estimated 33,775 police personnel or 1,825 per 100,000 people in the Gaza Strip. The reported noted that police and security personnel in Gaza were not on duty based on instructions from the President and that the figures for Gaza did not include

police and security personnel recruited by the Hamas-led Government.^[97] There is also no administrative data relating to crime reporting or the performance of the police service. However, the crime survey conducted by the Palestinian Central Bureau of Statistics in 2016, showed that 1.8 of individuals were exposed to at least one criminal offence in the previous 12 months, declining from 2.3 in 2012.^[98]

In 2016, 71% of victimized persons experienced a theft, 15.5% assault, and 4.2% threatening behaviour. The most remarkable change from 2012 was the drop in the reports of assault or harassment by Israeli soldiers or settlers from 60% to 0.3%. This may be explained by the fact that the 2012 survey was conducted between October and December 2012 during a time of more intense conflict, compared with the 2016 survey which was conducted during a period of relative calm.

The percentage of victimized persons who reported the crime in Gaza increased from 33% to 46% between 2012 and 2016. However, worryingly, the percentage of reported crime that underwent legal proceedings dropped from 29% to 11%. 46% of respondents in Gaza 2016 did not report the crime, as it was deemed not serious enough, while 28% did not want the police to interfere, and 8.5% do not trust authorities. When combining the two categories, these figures remain almost unchanged from 2012 when approximately 36%

^[96] Pierre Charpentier, 'Prospects for Justice Sector Reintegration in the State of Palestine', 2016.

^[97] The Independent Commission for Human Rights (ICHR) Palestine, The Status of Human Rights in Palestine, 2015.

^[98] State Of Palestine, 'A Review of Palestinian Justice and Security Sector Data Palestinian Central Bureau of Statistics', 2013. Palestinian Central Bureau of Statistics, Victimization Survey, 2016, 2017.

of respondents did not report their crime due to dislike/distrust of authorities. Significantly, only 0.8% of people reported going to the tribal judiciary for criminal matters, while qualitative studies have previously suggested that this figure could be much higher.

This survey focuses on crime, rather than violence. Therefore, actual victimization in terms of all acts of violence, including violence within the home is not reflected. The PCBS’s last survey on violence which measures broader experience of violence was conducted in Gaza in 2011. It found that violence within the family is particularly prevalent in Gaza, as 22% of never married women aged 18 to 64, and 26% of never married males aged 18 to 64 reported being exposed to violence by a family member. Of those reporting physical violence 75% (never married women) and 66% (never married men) in Gaza reported that it happened more than three times in

the previous 12 months. 60% of unmarried individuals did not talk about the violence they experienced. Of those who did speak to others, only 0.3% went to a lawyer, 0.3% went to the police and 0.4% went to an organization or center for counseling. 51% of ever-married women in Gaza had been exposed to some form of violence by their husbands in the past 12 months. 88% were exposed to economic violence, 79% were exposed to social violence, 35% were exposed to physical violence and 15% were exposed to sexual violence and 76% were exposed to psychological violence. 66% of these women remained silent regarding the violence, while 0.8% sought advice from an institution or center. Overall the data suggests that actual levels of victimization of violence in Gaza are significantly higher than reported rates of violent crime, and that in 2011 only a tiny minority of victims sought help from formal institutions or criminal justice actors, or non-governmental organization.

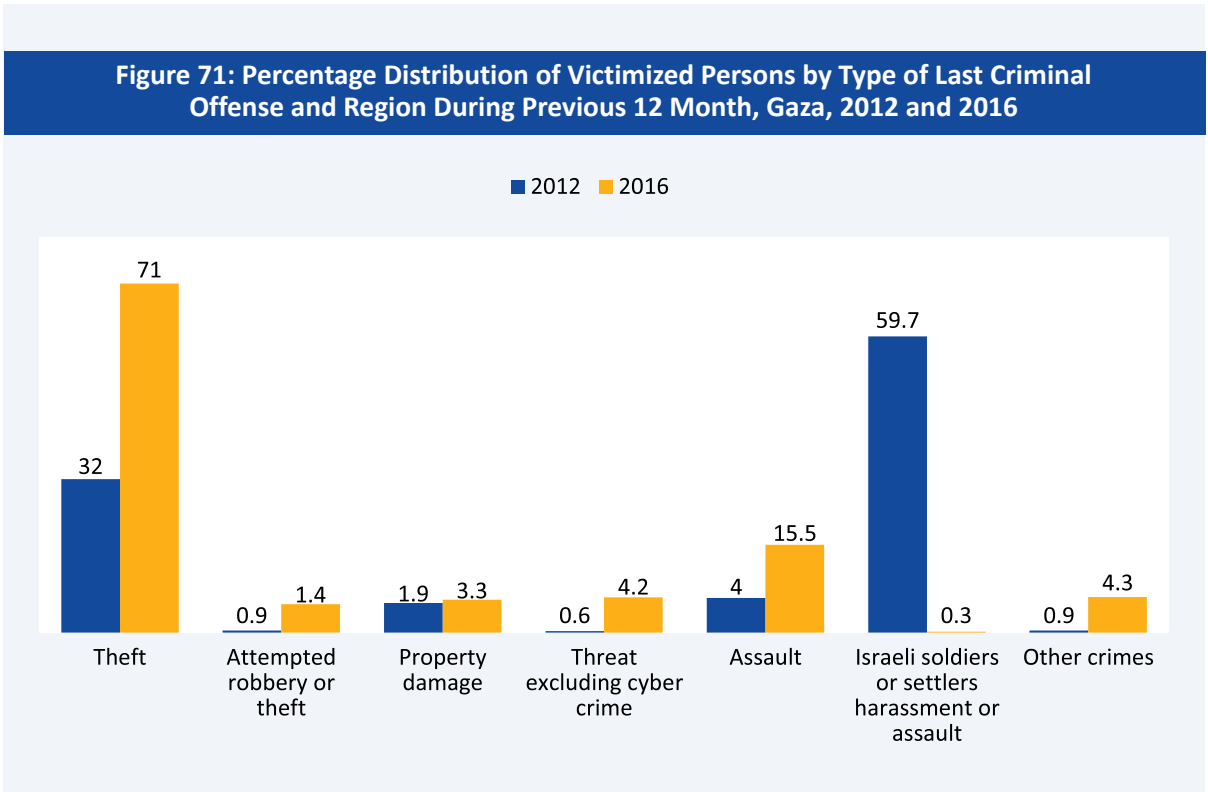


Figure 72: Percentage distribution of Victimized persons, by last crime reporting during the previous 12 months, Gaza, 2012 and 2016

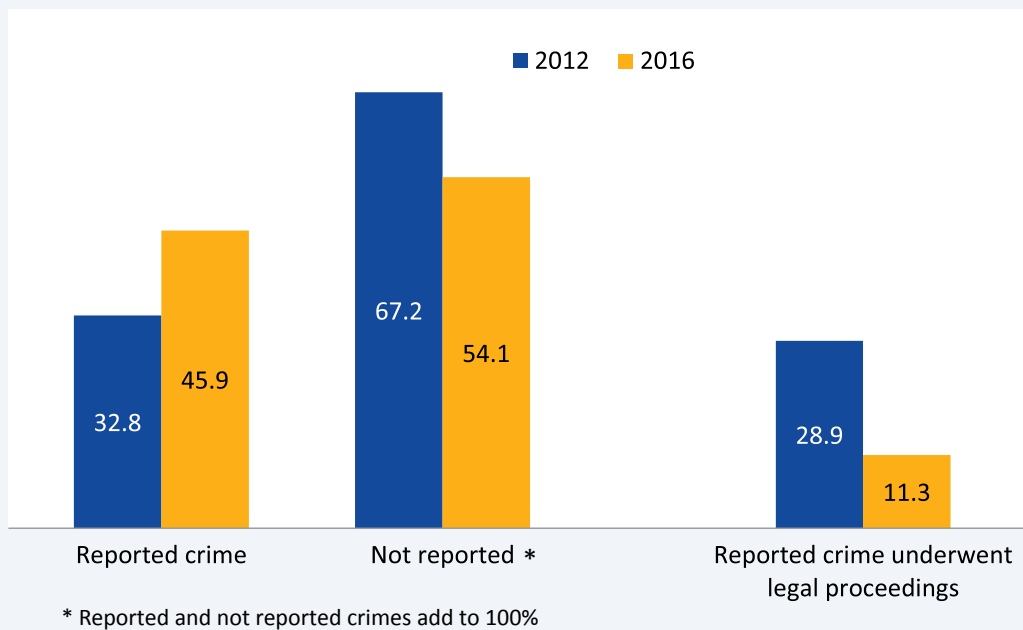
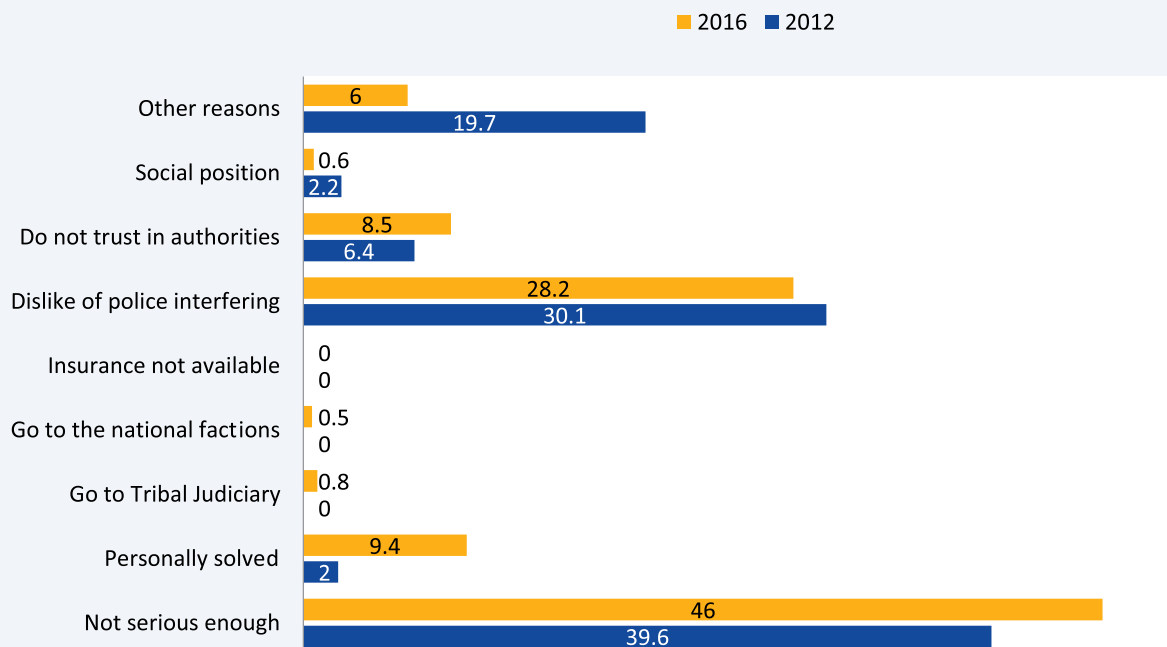


Figure 73: Percentage distribution of victimized persons by reasons for not reporting during previous 12 Months, Gaza, 2012 and 2016

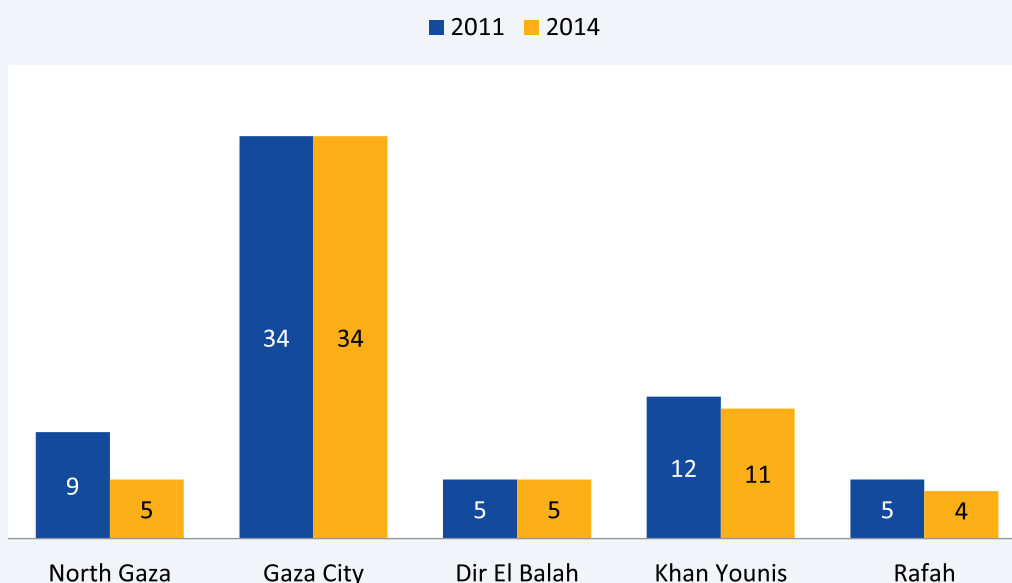


Public Prosecution

Most recent PCBS data available from the Public Prosecution for Gaza dates from 2014. Between 2011 and 2014 the number of prosecutors in Gaza declined by approximately 9%, from 65 to 59. Data from a qualitative study on human resources in Gaza published in late 2016 also lists the number of prosecutors at 59. Only 3% (2) of prosecutors in 2014 were women. There were approximately 3.2 prosecutors per 100,000 people in Gaza in 2014. The age profile of prosecutors in Gaza was relatively young. 41 of 45 prosecutors and senior prosecutors were under 40. They are also comparatively less experienced – 35 prosecutors in Gaza in 2014 had less than 7 years' experience.

At the end of 2014 it had about 32,000 cases pending, with a congestion rate of 231%. 2014 is the only reference year of data provided so it is not possible to compare trends in improved or decreased effectiveness across years. It is also not clear if the Gaza office of the Public Prosecution suffers from the same double counting issues that affect the West Bank offices. The double counting issue relates to the fact that the AGO's office in the West Bank counts incoming cases as both new cases submitted to the District office, and returning cases from the AGO's headquarters. A given district prosecutor may have cases that are either newly submitted, or cases that are returning from the headquarters office of the Attorney General for additional work. Therefore, the caseload figures do not

Figure 74: Number of Prosecutors, Gaza, by district, 2011 and 2014

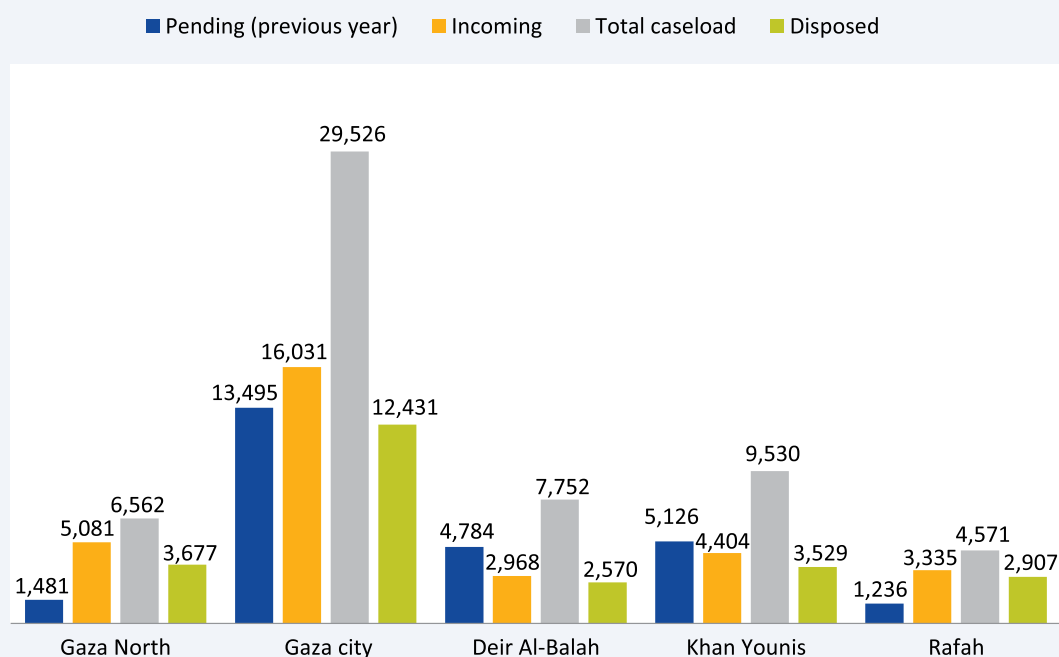


Caseload of the Public Prosecution

In 2014, the Public Prosecution in Gaza received almost 32,000 incoming cases, of which 25,000 were cleared, resulting in a disposition rate of 79%. Despite this relatively high disposition rate, the Public Prosecution still struggles with a high backlog of cases.

represent actual 'new' cases coming into the public prosecution each year. Similarly cleared cases are both those cases that are sent from district offices to central AGO offices for further preparation, as well as cases that are filed at court. Disposed cases, therefore, do not represent only the cases filed at court. It was not possible to ascertain if this is also the case in Gaza.

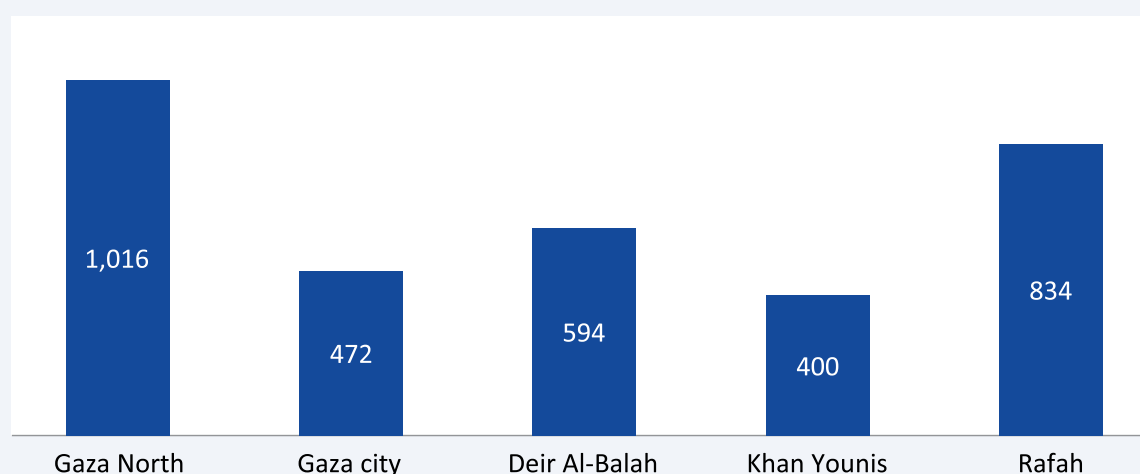
Figure 75: Number of Investigative cases, Public prosecution, Gaza, 2014



In terms of incoming caseload per prosecutor, the offices of Gaza North and Rafah had the highest caseload per prosecutor – at approximately 1,000 and 834. The average incoming caseload per prosecutor was approximately 540. This is

significantly higher than the average incoming caseload per prosecutor in the West Bank, which in 2014 was 394. There is no other data available regarding the work of the public prosecution in Gaza.

Figure 76: Caseload per prosecutor, by district office, Gaza, 2014



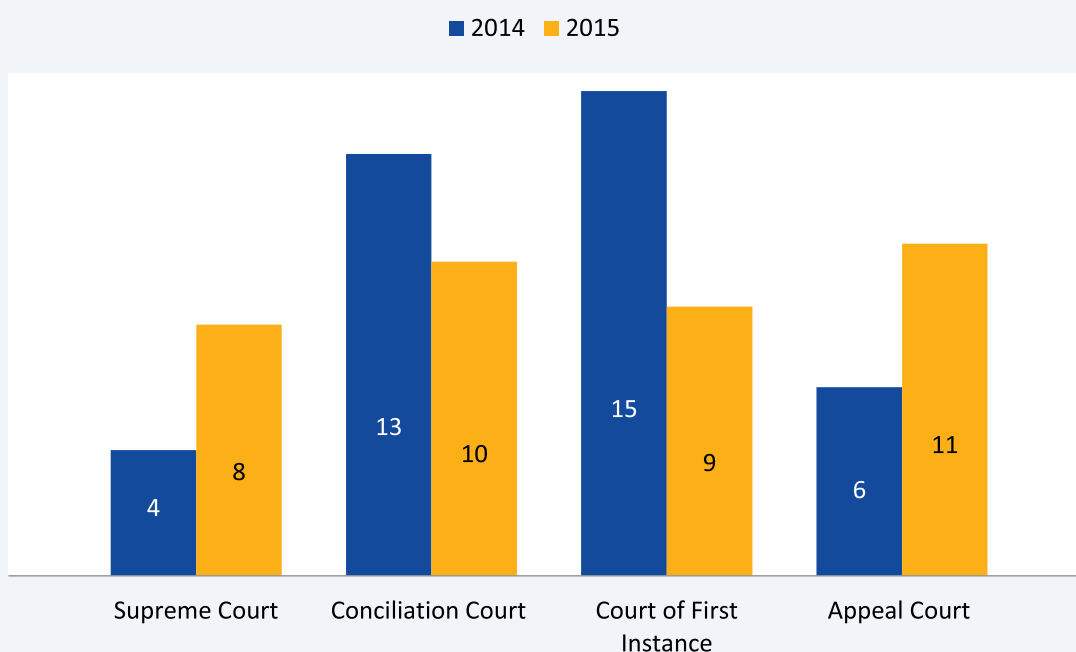
High Judicial Council^[99]

Personnel

Data on the court system in Gaza covers 2011 to 2015, although 2012 data is missing. In 2015, there were 38 judges in Gaza, including four women. The number of judges was 2.09 per 100,000 inhabitants in 2015 which was significantly lower than the ratio in the West Bank in which was approximately 7.38 judges per 100,000 people in 2015 (excluding Sharia). According to the data provided, the Court of First Instance experienced a particular decline in the number of judges, while the Court of Appeal experienced a significant increase between 2014 and 2015.

progress in reducing its backlog between 2014 and 2015. The Conciliation court maintained a very high level of case processing at around 96% of incoming cases even as incoming cases increased from 23,000 to almost 32,000 between 2014 and 2015. However, the Court of First Instance, which deals with the most serious criminal cases, continued to struggle with high congestion rates, at 308% in 2015. Importantly, this decreased from 394% in 2014, as the number of cleared cases increased by about 78% in 2015 (almost 4,000 additional cleared cases). However, this court still has the highest congestion rate of any court in Palestine. There is an extremely low rate of clearance of criminal cases – In 2015, the Court of First Instance

Figure 77: Number of Judges by court, Gaza, 2015



Court Performance

Since 2013, according to the caseload data provided, the court system in Gaza has improved its effectiveness. The Appeal court has made

cleared only 10% of its total criminal caseload of approximately 12,500 cases. With a congestion rate of 990% for criminal cases, it represents a major obstacle to ensuring the right to a fair trial, among a range of other civil and political rights for Palestinians in Gaza. With severely overcrowded detention facilities and reports of lengthy pre-trial detention, it is critical that the courts in Gaza make more progress in addressing the backlog in criminal cases.

^[99] For the purposes of comparison with the West Bank the total caseloads for Gaza exclude listed 'enforcement or implementation cases' for each court.

Figure 78: Disposition rate, by court, Gaza, 2013 to 2015

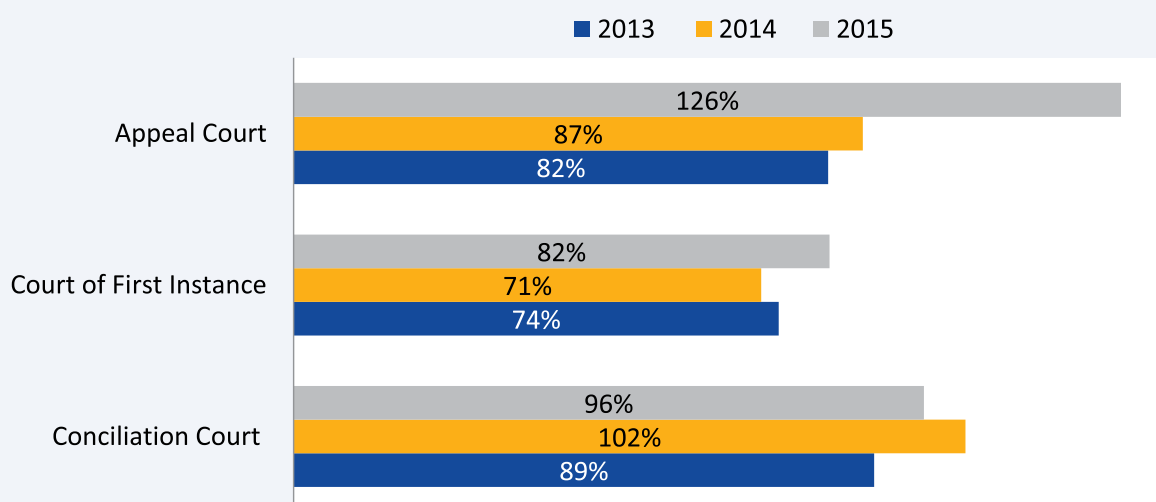
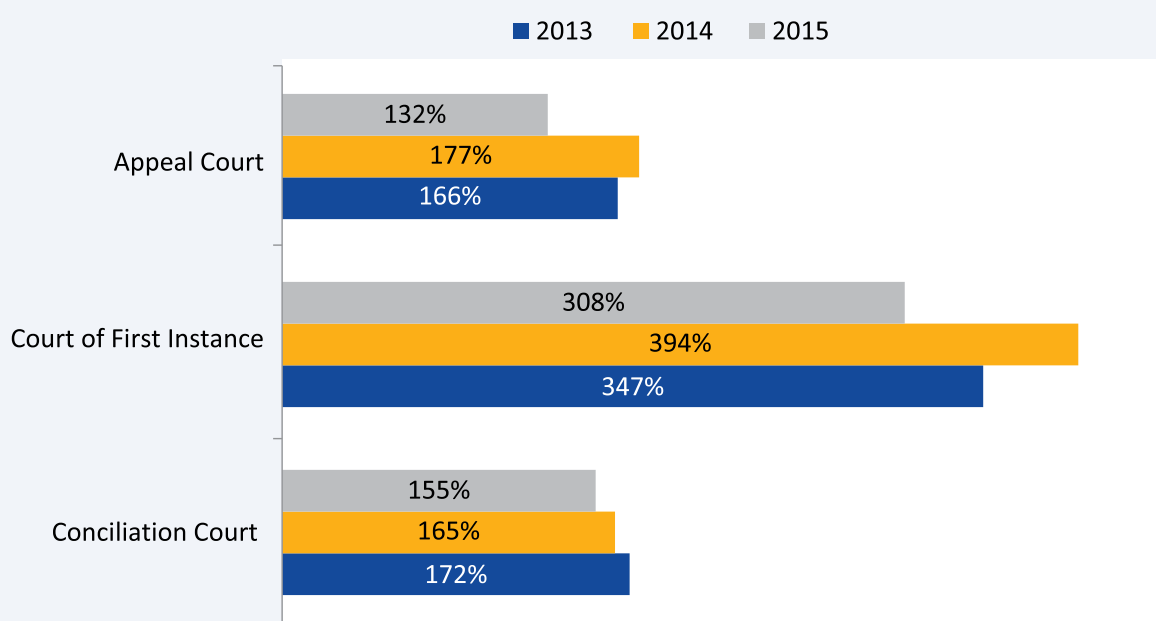


Figure 79: Congestion rate by court, Gaza, 2013 to 2015



Conciliation Court

In 2015, the Conciliation Courts in Gaza had a total caseload of approximately 47,000 cases including 31,872 incoming cases. It cleared 96% of its incoming cases. In contrast with the West Bank, the Conciliation court in Gaza had only 66 traffic cases. The Conciliation court, which deals

with misdemeanors and minor criminal matters also had a significantly higher disposition rate for criminal cases. Approximately 3,700 criminal cases were carried over from 2014 and 11,094 criminal cases were received. In 2015, 11,246 criminal cases were cleared, as the Court made

some inroads in reducing its overall criminal case backlog. Criminal cases represented 37% of all disposed cases. The case type with the largest backlog was civil cases. Between 2014 and 2015, the rate of clearance of the Court's total caseload increased from 61% to 64%.

while cleared cases reached almost 10,000, representing a disposition rate of 82%. This was a significant improvement on 2014 figures, when the court cleared only 71% of cases. Nevertheless, despite the increase in efficiency of the court between 2014 and 2015, it still had

Figure 80: Caseload of Conciliation court, Gaza, 2013 to 2015

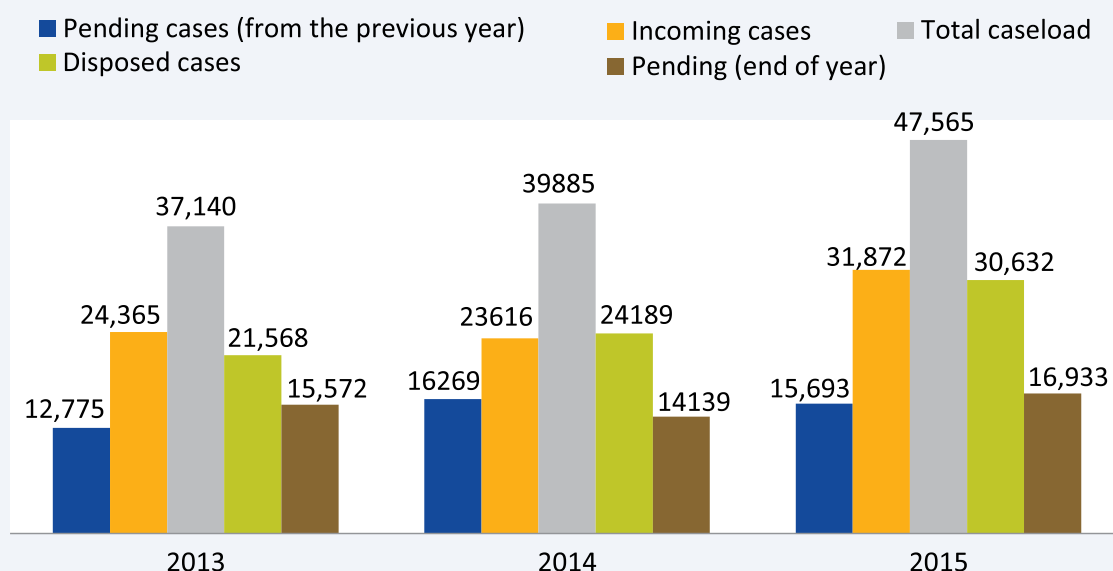
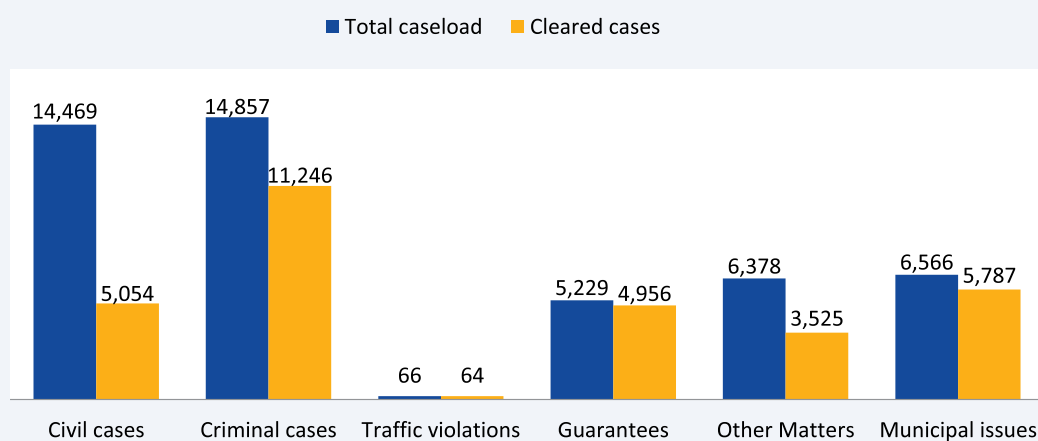


Figure 81: Total caseload and cleared cases, by case type, Conciliation court, Gaza 2015



Court of First Instance

The Court of First Instance has experienced a continuous rise in incoming cases since 2011. In 2015, incoming cases^[100] reached 12,048

a backlog - approximately 20,518 cases at the end of 2015. The Court of First Instance in the West Bank had among the highest congestion rates of any court in the State of Palestine at 394% in 2014 and 308% in 2015.

In 2015, 9,500 criminal cases were carried over

^[100] Excluding data related to Enforcement cases.

from previous years, with approximately 2,900 incoming criminal cases. Only 10% of the total criminal caseload was cleared representing a congestion rate of 990%. This raises serious concerns regarding timely access to justice. Looking across case types the court had higher rates of processing appeal cases (66% of criminal appeals and 43% of civil appeals were decided), while 26% of civil cases were decided out of the total caseload. Between 2014 and 2015, the rate of clearance of total caseload

increased from 25% to 32%.

Since 2013, the Court of First Instance has consistently struggled to deal with its high backlog of criminal cases, as the Court only cleared 749 cases in 2013, and 1,186 in 2014 and 1,255 in 2015. During this time, its pending caseload increased from over 8,300 cases at the end of 2013 to 11,174 cases at the end of 2015. Addressing this significant backlog should be a central priority for the work of the court.

Figure 82: Caseload, Court of First Instance, Gaza, 2013 to 2015

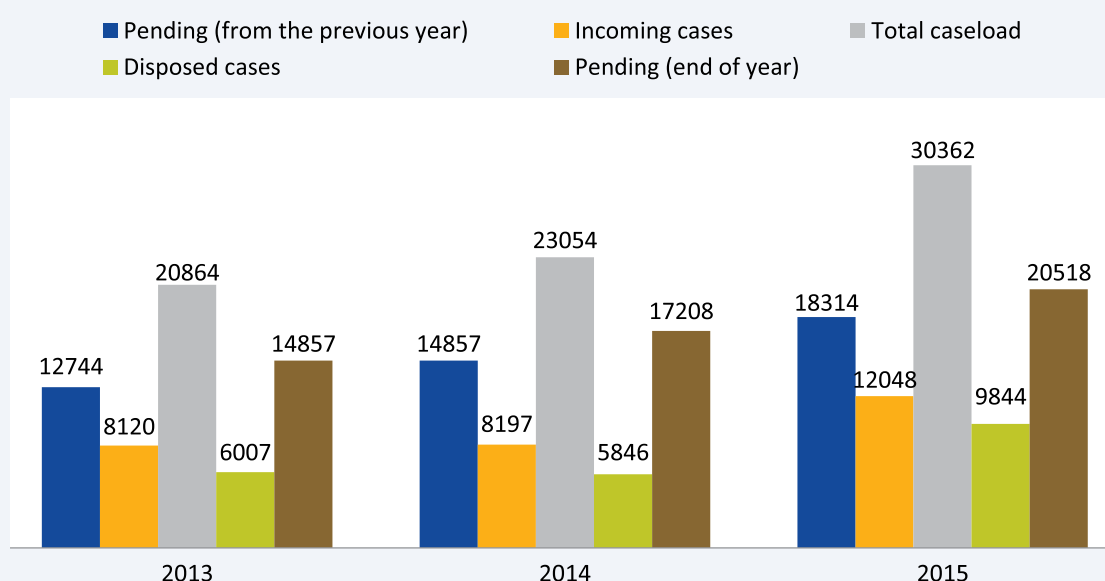


Figure 83: Total caseload and cleared cases, by case type, Court of First Instance, Gaza, 2015

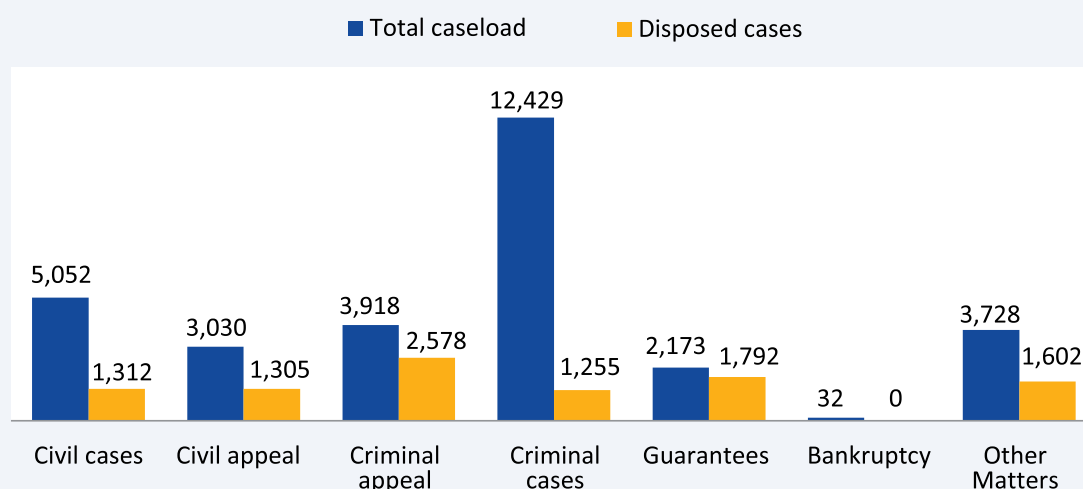
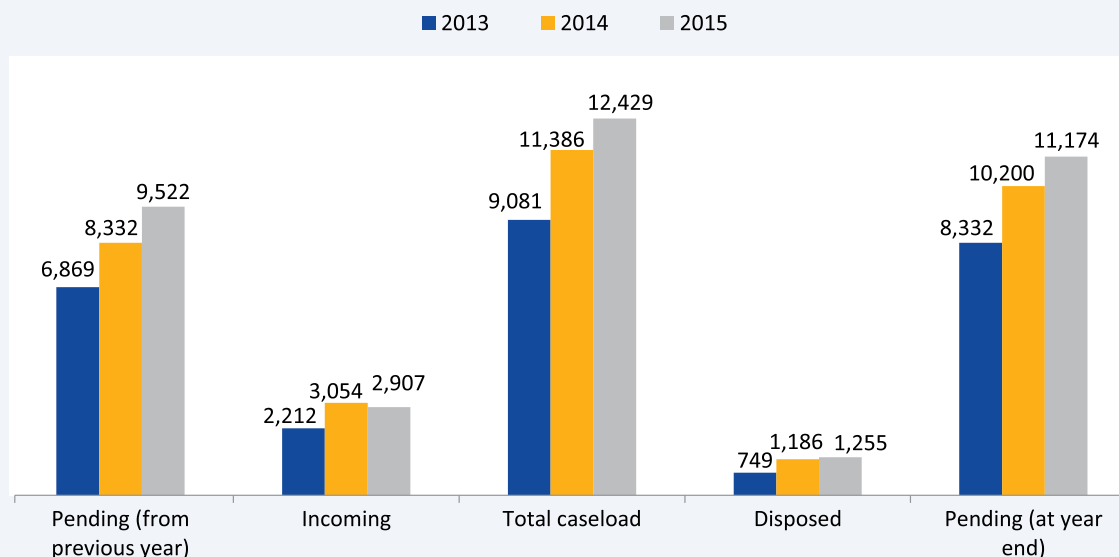


Figure 84: Criminal caseload, Court of First Instance, Gaza, 2013 to 2015

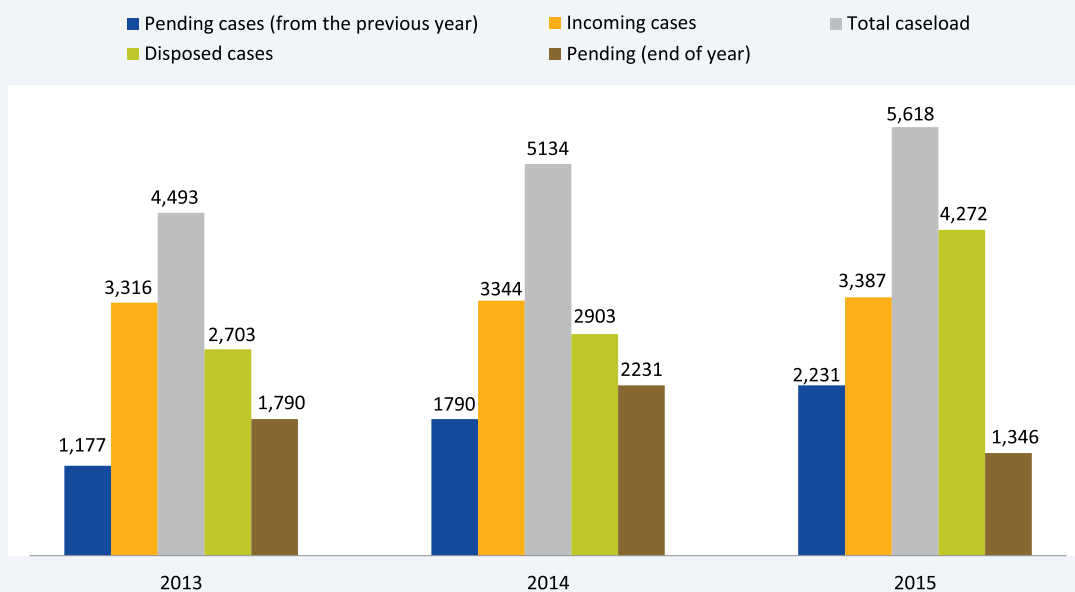


Appeal Court

In 2015, the total caseload of the Appeal court was approximately 5,600 cases. The number of incoming cases has remained largely static since 2013 at approximately 3,300 cases per year. The number of disposed cases increased by 47% in 2015, bringing the disposition rate up to 126% - As a result the Appeal Court's case backlog dropped to 1,346 cases by the end of

the year. The caseload is relatively evenly split between civil cases (29%), criminal cases (31%) and enforcement cases (27%). The disposition rate for criminal cases was 134% and for civil cases was 130% showing the court made good progress against its backlog in these areas. Only 441 criminal appeal cases were pending at the end of 2015.

Figure 85: Caseload of the Appeal court in Gaza, 2013 to 2015



Family (Sharia) Courts in Gaza

Personnel

Since the first Monitor was published, data on the sharia' courts in Gaza has been made available. In 2014, there were approximately 10 sharia' courts in Gaza, with 25 judges. There were no female judges. Approximately 14 judges had Bachelor's degrees, eight had Masters, and two had PhDs. There was no available data on the number of sharia' court prosecutors or clerks.

Court Performance^[101]

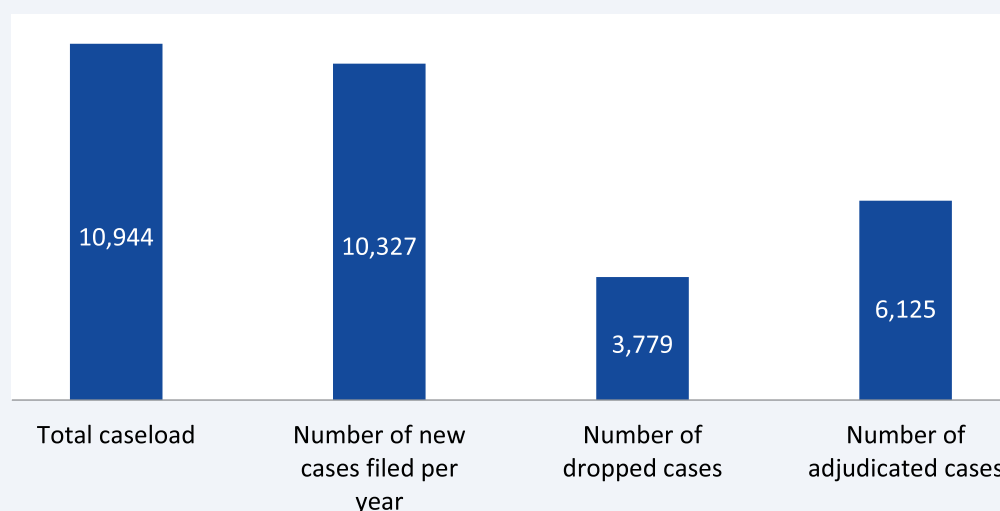
Data from the caseload of the sharia' courts in Gaza suggests it carried a very low backlog into 2014 with only 617 cases. Approximately

in 2014, the congestion rate was 97% and the disposition rate was 111% when both dropped and adjudicated cases are combined. The caseload per judge in the sharia' courts was approximately 410 incoming cases per judge, compared to 200 in the West Bank. Unfortunately, no further data was available for the sharia' courts in Gaza that would allow for a comparison across years.

The Palestinian Bar Association

The only data available for 2016 relating to Gaza is from the Palestinian Bar Association. In 2016, the Gaza branch of the Palestinian Bar Association had 1,350 members, 18% of whom were women. This follows a 98% increase in the number of registered women between 2015 and 2016. Between 2015 and 2016, the total

Figure 86: Caseload of the Sharia courts, Gaza, 2014



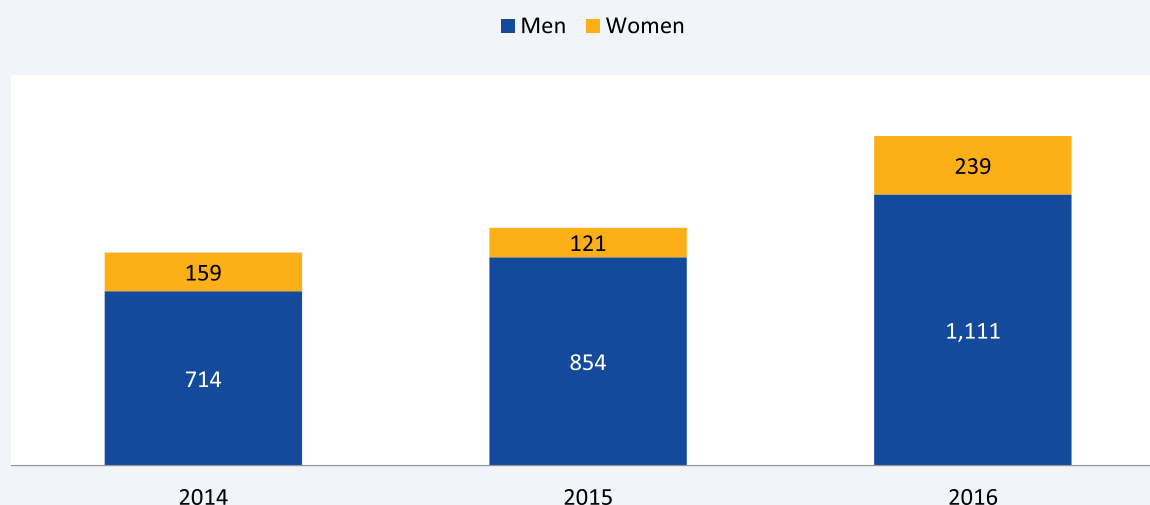
10,223 cases were submitted in 2014, with 104 renewed cases – comprising a total caseload of 10,944. Approximately 56% were decided, 3,779 cases were dropped and 1,040 cases remained pending. In Gaza,

number of lawyers increased by 38%. In Gaza, there was approximately 72 registered lawyers for every 100,000 people. In Gaza, in 2016, the PBA supported 789 pro bono cases a drop of 29% since 2015.^[102]

^[101] Data only available for 2014.

^[102] UNDP Annual report 2015

Figure 87: Number of Lawyers registered in the Palestinian Bar Association, Gaza, 2014 to 2016

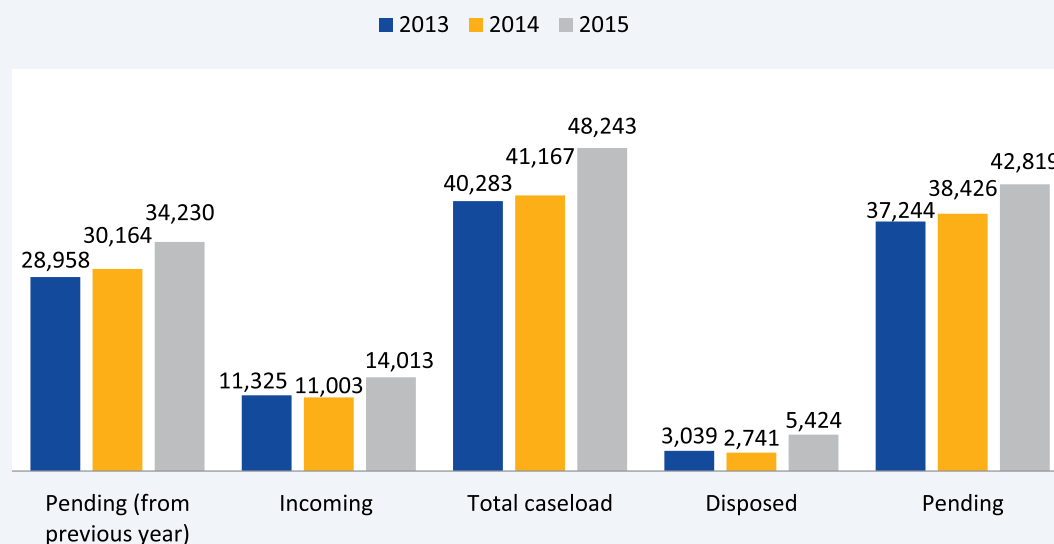


Execution or Enforcement of Decisions

Data provided from Gaza on the enforcement of decisions suggests a very low level of enforcement, of both criminal and civil cases.^[103] In 2015, only

11% of the total caseload of enforcement cases of the Court of First Instance were cleared. While this increased since 2014 when it was 7%, it remains extremely low. No disaggregated data regarding the civil or criminal enforcement

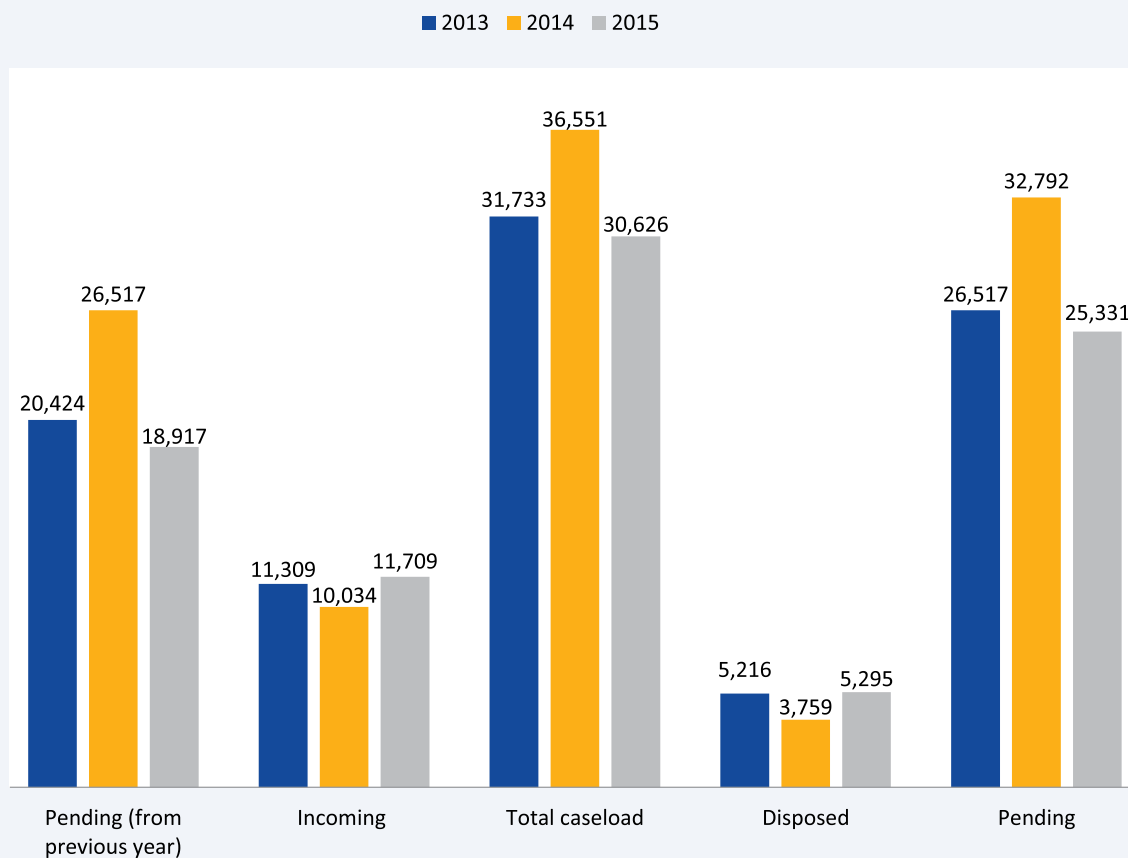
Figure 88: Enforcement cases, Court of First Instance, 2013 to 2015, Gaza



^[103] Interpretation of this data is based on the enforcement process in the West Bank where 'disposed cases' represent those cases actually enforced by the judicial police. It was not possible to get confirmation from Gaza that this is also the case with this data.

cases was available. Enforcement cases related to the Conciliation court had also had low levels of clearance. Only 17% of its total caseload was cleared in 2015, increasing from 10% in 2014.

Figure 89: Enforcement cases in Conciliation court in Gaza, 2013 to 2015, Gaza



Detention

There was no available administrative data on detention of adult prisoners, including proportion of unsentenced prisoners detained. However, reports from the Independent Commission on Human Rights note that problems related to illegal and arbitrary detention, detention without due process and lengthy detention while awaiting trial are serious concerns in Gaza, as is overcrowding in detention facilities. ^[104]

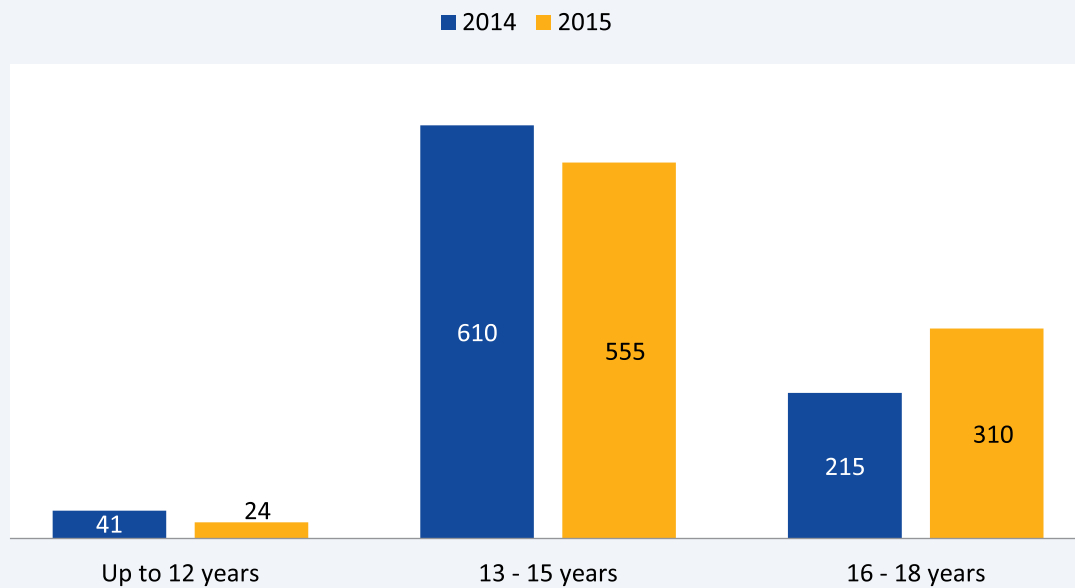
Child Detention

The Ministry of Social Affairs runs the Al

Rabee Rehabilitation Center, which is the only center in Gaza that is authorized to detain children between the ages of 12 and 16. Data from 2014 and 2015 notes a high number of children, including very young children, entering the juvenile detention facility. Data from 2015 shows that 889 children, including 24 who were 12 and under, and 555 children who were under 16 were remanded in the detention center. This is over four times the number of children entering detention centers in the West Bank. Data from 2014 reported that approximately 866 children entered the center. The center houses approximately 40 children at any given time, however due to the high numbers entering the center, it suffers from overcrowding in addition to poor living conditions and does not comply with minimum human rights standards.

^[104] The Independent Commission for Human Rights (ICHR) Palestine. pg. 420

Figure 90: Number of children entering detention Centers in Gaza, disaggregated by age, 2015



Key Findings

Despite gaps in availability and reliability, the data on the justice and security sector in Gaza highlights some of the profound problems facing the justice sector there. This is underscored by the PCBS's recent crime and victimization survey, which shows that the percentage of reported crime of victimized persons that underwent legal proceedings dropped from 29% in 2012 to 11% in 2016. Within the court system, there are severe delays in processing criminal cases. The courts in Gaza suffer from extremely high congestion rates, and low case clearance for criminal cases, hindering access to justice for Palestinians in Gaza, and violating the right to a fair trial, and the right to liberty and the security of person for those detained awaiting trial. There is no available data on adult detention, but qualitative reports suggest high levels of arbitrary detention, overcrowding and severe delays in access to justice for detained people. High numbers of children enter the Ministry of Social Affairs-run children's detention center each year which is of concern. There is a severe shortage of judges, and those judges who are serving suffer from lack of training, lack of accountability measures, direct interference by the highest executive authorities and lack of resources. There is also a severe shortage of

prosecutors. More fundamentally perhaps, the justice system has, at best, a weak basis in law, and the quality of judicial decision-making is poor.

Recommendations

Major investment is required to improve both data availability and the capacity of the justice system in Gaza. The recommendations here focus only on data availability.

- Extend the electronic case management system, MIZAN2 to Gaza to improve the effectiveness of the court system, and the availability of data to monitor progress. This system should also be extended to related institutions such as the Public Prosecutor's office, and the Enforcement Department and Judicial Police to allow for streamlined tracking of cases and the identification of bottlenecks.
- Invest in data to better understand and address the bottlenecks causing the

significant delays in processing criminal cases in the Court of First Instance.

- Collect data on the situation of detained persons, including the detention of children, in Gaza as a matter of priority. This should inform broader efforts to

improve the human rights situation of detained persons and children in conflict with the law.

- Explore options to improve data availability across the criminal justice chain.

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