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Public Sector Transparency and Accountability in Selected Arab Countries: Policies and Practices



United Nations Development Programme
Regional Bureau for Arab States



United Nations
Department of Economic and Social Affairs
Division for Public Administration
and Development Management



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The term “country” as used in the text of this publication also refers, as appropriate, to territories or areas.

The term “dollar” normally refers to the United States dollar (\$).

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FOREWORD

This exploratory study was initiated by the United Nations and the United Nations Development Programme as a response to the increasing public demand for more public sector transparency and accountability around the world, including the Arab Region. This demand is driven by, in part, globalization that provides new opportunities and risks.

It can be argued that, to date, the Arab Region has not benefited from globalization to the same degree as other regions. Since the public sectors in the Region play a pivotal role in defining the development strategy of their countries, it is important that they reform their institutions to better align themselves with the new demands of a globally integrating and competitive economy. One reason for not fully engaging in the global economy may be due to a “governance gap”, in enhancing the inclusiveness of society and demonstrating stronger public sector accountability, between the Arab Region and other regions of the world. To begin addressing this gap in a practical way, this report presents a regional analysis of the state of public sector transparency and accountability in selected countries.

This volume presents comparative policies and practices in financial, human resources and information management in six countries: *Jordan, Lebanon, Morocco, Sudan, Tunisia and Yemen*, that have been compiled into a database and serve as the basis for this report. (See Database, http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp.) It is based on the field work carried out in these countries by national consultants that involved an analysis of relevant policy documents and structured interviews with experts. The volume also contains country case studies in Annex 1, providing information that falls outside of the framework of the regional analysis but as deemed to be important by the national consultants. The identification of good practices and gaps in policies and programmes can assist governments, donors and the wider public in making policy recommendations and funding decisions. Thus this report has attempted to highlight the common public sector management challenges in the region and suggested that a pooling of solutions may also assist individual countries to meet their particular challenges.

For the sake of convenience, this report refers to country-specific information by country rather than by the national consultants who provided the information. In this context, the reader is requested to bear in mind that the country-specific information represents the national consultants' work rather than any official position of the national governments or the United Nations.

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The *Transparency and Accountability in the Public Sector in the Arab Region* project was conceived by staff members of the Division for Public Administration and Development Management of the United Nations Department of Economic and Social Affairs and the Regional Bureau for Arab States of the United Nations Development Programme. Elia Yi Armstrong (Public Administration Officer), Shabbir Cheema (Principal Adviser and Programme Director for Governance) and Adel Abdellatif (Adviser, Programme on Governance in the Arab Region -- POGAR) developed the research proposal, based on a similar study carried out by the Division in 2000 and 2001, namely the Public Service Ethics in Africa.

The Division would like to thank the Project Advisory Group, composed of My Abdelkrim Dounia (Arab Organization of Supreme Audit Institutions -- ARABOSAI), Mohamed At-Twajiri (Arab Administrative Development Organization -- ARADO), Ghalib Ali Gamil (Arab Council for Economic Unity), Salah Eldin Hafez (Federation of Arab Journalists), Salim Nasr (Arab Social Science Research Network), Kamal Al-Deen Sinada (The League of Arab States) and Fouad Shaker (Union of Arab Banks). Under the guidance of this Group, the project has been implemented by Elia Yi Armstrong, with the assistance of Oum-Hani Aloui (Consultant) and Laila Benmellouk (Consultant). Adel Abdellatif has been the focal point for the project in the UNDP Regional Bureau for Arab States. The Division would like to thank the national consultants: Zuhair Abed Al-Kareem Al-Kayed and Okleh Mohammed Mubaidin (Jordan), Randa Antoun (Lebanon), Azeddine Akesbi (Morocco), Abdalla Mohamed Ahmed Kafeel (Sudan), Ahmed Essoussi (Tunisia), Ahmed Mohamed Al-Shami and Mohamed Abdo Saeed Moghram (Yemen). The Division would also like to thank the consultants who contributed concept papers on the substantive themes of the project: Shaden Halazoun, Suresh Shende and Tony Bennett, Ahmed Sakr Ashour, and Fred Schenklaars and Imram Ahmad. Finally, the Division would like to acknowledge the invaluable cooperation and support of the national governments and the UNDP country offices of the participating countries.

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The project outputs have been designed to stimulate policy dialogue and action at the regional and country levels to assist governments and other stakeholders in the Arab region to improve transparency and accountability in public sector institutions. The information presented was collected by independent national consultants who were not employed by or otherwise affiliated with their national governments. Although all efforts were made to consult the national governments, not all the information provided by the project necessarily reflect their views, nor does the project claim to cover exhaustively all information available from them. Despite these limitations, it is hoped that the project outputs will serve as useful tools in disseminating information about the current policies and practices on public sector transparency and accountability in the study countries.

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EXECUTIVE SUMMARY

Introduction

The present exploratory study was initiated as a response to the increasing public demand for more public sector transparency and accountability around the world, including the Arab Region. This demand is driven by, in part, globalization that provides new opportunities and risks through liberalization of trade, foreign investment and capital flows, technological changes and information flows. Given the new global nature of the competition for scarce resources, the private sector and civil society – as investors and consumers of public goods and services – are demanding more information and accountability from the public sector for its performance and use of public resources.

It can be argued that, to date, the Arab Region has not benefited from globalization to the same degree as other regions. In order to benefit more from the advantages of globalization and reduce the risks, the countries in the Region stand to gain from repositioning themselves to face new challenges that globalization brings. Since the public sectors in the Region play a pivotal role in defining the development strategy of their countries, it is important that they reform their institutions to better align themselves with the new demands of a globally integrating and competitive economy. A crucial component of this reform is to enhance the transparency and accountability of the institutions, not only to attract more investment but also to promote more participation from the private sector and civil society to improve the quality of decision-making and a more rational use of public resources.

Transparency and accountability are interrelated and mutually reinforcing concepts. Without *transparency* -- that is unfettered access to timely and reliable information on decisions and performance -- it would be difficult to call public sector entities to account. Unless there is *accountability* -- that is mechanisms to report on the usage of public resources and consequences for failing to meet stated performance objectives -- transparency would be of little value. The existence of both conditions is a prerequisite to effective, efficient and equitable management in public institutions. And as such, both conditions are also necessary in trying to achieve sustainable human development through better governance in an era of globalization. For without a solid base of sound public administration, these final goals would remain elusive.

Most of the countries of the Region now recognize the urgent need to reform their public sectors. Recent reforms introduced were particularly aimed at establishing a modern legal and regulatory framework for property rights and foreign direct investment. What remains is a commensurate level of institutional reforms, not only in

the trade and investment sectors but also in other sectors and in the provision of public services. However, the centralization of power and impediments to public participation constitute an obstacle to transparency and accountability in both the public and private sectors. A “governance gap”, in enhancing inclusiveness of society and demonstrating stronger accountability on the part of the state, between the region and other parts of the world has been noted.¹

Purpose

To begin addressing this gap in a practical way, this report presents a regional analysis of the state of public sector transparency and accountability in selected countries. Comparative policies and practices in financial, human resources and information management for the six countries under study: *Jordan, Lebanon, Morocco, Sudan, Tunisia and Yemen*, have been compiled into a database and serve as the basis for this report. (See Database, http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp.)

Methodology

The study is based on a qualitative analysis of as many pertinent policy documents as possible and over 400 structured interviews with experts (some of the same experts participating in different interviews) about practices. The identification of good practices and gaps in policies and programmes can assist governments, donors and the wider public in making policy recommendations and funding decisions.

Because the participating countries were chosen to be representative, the main findings and policy recommendations may be applicable to other countries in the region. In addition, country-level situations and analyses have been provided. Country case studies in Annex 1 provide information that should be highlighted or fall outside of the framework of the regional analysis but deemed to be important. They also provide specific policy recommendations, targeted to each country in the study. They were drafted by national consultants and circulated to the national governments for comments and feedback.

¹ World Bank 2003, MENA Development Report: *Better Governance for Development in the Middle East and North Africa, Enhancing Inclusiveness and Accountability*

Scope

As the study aims to assist central governments in the participating countries to reinforce and improve public sector transparency and accountability, it begins with the executive branch and pertinent independent oversight agencies. Because the legislative and judicial branches of government are equally important to promoting transparency and accountability, the study also addresses those aspects of the legislative and judicial branches that interface with the agencies under study. Likewise, the need for private sector and civil society involvement is also indispensable in improving public sector transparency and accountability. Thus the study also examines relevant interfaces among these governance partners.

Main Findings

Public Sector Structures

To begin, the *public sector* -- or the core central level government departments and agencies and public enterprises and establishments (for the purposes of the study) - is difficult to demarcate from country to country. Its boundaries, size and composition are also difficult to identify and compare. Nonetheless, an effort was made to collect basic data on the share of general government consumption of the gross domestic product, the number of central level ministries and public sector employment - where possible. Through this effort, the project team discovered that some key statistical information and a breakdown by related variables are often not available or accessible. (The countries in the study, and in the region in general, may gain by investing in systematically collecting, updating and sharing basic public sector data.)

Of the information collected from the study countries, in 2001, general government consumption (covering all levels of government) ranged from 13.9 per cent of GDP in Yemen to 23 per cent in Jordan. Also, in 2003, the number of ministries ranged from 20 in Jordan to 39 in Sudan. The proportions of central level civil servants (including teachers and health workers in public establishments as they are covered by the civil service law in many of the countries in the study) of the population ranged from 0.74 per cent in Sudan in 2000/1 to 3.0 per cent in Tunisia in 2001. Where gender breakdown of these figures were available in four of the study countries, the proportion of female civil servants ranged from 0.2 per cent in Yemen in 1999 to 39.2 per cent in Tunisia in 2002.

Past Initiatives

The information collected on relevant past initiatives on public sector transparency and accountability in the study countries within the past ten years reveals that most of the initiatives involved studies, conferences, public campaigns and administrative reform or modernisation projects. Although many of the initiatives initially focused mainly on public officials within government, of late, others have

been reaching out to a wider audience to raise awareness about transparency, public ethics and anti-corruption. Thus the information collected on the structures of the public sectors and the past initiatives on promoting transparency and accountability indicate the varying conditions and characteristics of the public sector in the countries in the study.

Financial Management

The study also compared policies and practices in financial management frameworks, budgeting, revenue, payroll, procurement, privatisation and service concessions, payments, accounting, internal and external audit. The information submitted for the study countries indicates that, as in all countries, there are gaps between written policies and daily practices.

The legislative and administrative framework for financial transactions seems to be well in place. But, the application of the provisions for general financial control, as indicated by highly visible measures and the attitudes and performance of finance officers, seemed to be viewed as not consistently exercised. In particular, attention to the human factor such as specific training emphasizing accountability could improve the situation. Given the importance of demonstrating commitment to probity in setting the tone for overall financial management, the examples set by the leadership and other specialized finance officers through communicating and implementing measures for general financial control cannot be underestimated.

The study examined the practices of financial transactions from the beginning (implementing budgets) to the end (payments), followed up by ex-post controls (auditing). For specific practices, budgets are perceived to be executed more or less according to existing rules. In revenue collection, although the study countries have taken many measures to improve the transparency and efficiency of tax assessments and payments, the recourse to effective appeals procedures seems to be less satisfactory than other practices.

For payroll, although independent verifications of payroll amounts and reconciliations with previous pay periods seem to take place, more attention should be given to the physical identification of personnel to prevent "ghost workers" and other abuses. However, in countries that have already automated public payroll, the need may be greatly reduced.

For procurement, although the experts indicated that public competitive bidding is required in most large tenders and many sound procedures are in place, they did not see consistent awarding of contracts to the most responsive and qualified bidder with the lowest cost. This finding shows that although public procurement in the study countries generally conforms to international stan-

dards, they do not seem to lead to intended ends. An area of weakness may be the evaluation of bids, with indications that the criteria are not always clearly stated in bidding instructions nor are all records, apart from the final decision, kept. Without clear documentation, it would be difficult to establish whether improper political, personal or other considerations overrode technical merits of certain bids. In addition, there is the perception that the work of contractors is not consistently supervised by independent experts or that change and variation orders are continuously maintained, once a contract has been awarded. Since many abuses, such as the delivery of substandard goods or work, take place after a contract has been awarded, it is important to monitor and document the execution of the contract.

Although privatisations and service concessions are high risk areas for financial irregularities and corruption, the study devoted much less time to these activities than to procurement, given the limitations of time and the slow down of privatisations or service concessions made in the Middle East and North Africa (MENA).

Regarding payments, a majority of the experts indicated that the delivery of goods or services and computations are checked before it is made. However, paying within a reasonable time and over spending seem to be areas needing improvement.

Based on a review of structures and policies, the study findings indicate that auditing, both internal and external, needs to be reinforced. For internal audit, more independence and training of staff would increase the effectiveness of the assigned units. For external audit, measures to increase the independence of the supreme audit institutes, publicising and following up on the reports would give the function more credibility. The issue of independence is complex, however, since it is linked to the independence of resource allocation and operations and the authority to make findings public in a timely fashion. Given the pivotal role of auditing in ensuring transparency and accountability in public management, these are key areas to be targeted for strengthening.

Human Resources Management

To continue, the study compared policies and practices in the human resources management framework, stated official values, codes of conduct, legal restrictions on criminal conduct, the selection process, conflicts-of-interest disclosures, reporting of wrongdoing, investigation and disciplinary procedures.

As in the case of financial management, information collected for human resources management framework indicates that there are civil service and other public sector employment laws and regulations in place in each study country. Officially stated core values -- most frequently defined as *neutrality, legality, fairness* or *equality*

among others -- are enshrined in the constitution, the civil service law or other pertinent texts. However, they are not well communicated or seen to be demonstrated consistently by leaders in the public sector. They seem to be better known by public sector employees than the public they serve, making it difficult for the public to understand the principles underlying public service or judge public sector performance.

In addition, the legal and administrative standards in criminal codes or codes of conduct are not perceived to be followed or enforced systematically. The discrepancy between stated rules and actual practices is common in most parts of the world. As in other countries, the countries under study and others in the region may usefully gain from applying existing standards of conduct in promoting employee accountability and boosting credibility.

For the selection process, the perception is that although the rules are present, few are seen to be consistently practiced. Recruitment and promotions are not seen to be based on the merit principle, and there is a perception of insufficient protection from political interference.

Regarding conflicts-of-interest disclosure requirements, although three of the countries reported existing policies, their actual application seems to be varied in terms of being made public or being verified. Likewise, there are no official policies for having to report wrongdoing or for protecting the "whistle-blowers". The introduction and full implementation of disclosure laws and an official policy of protecting those who report wrongdoing are important to transparency in human resources management, particularly at top levels.

Although investigations by the police are generally perceived to be prompt and fair, (perhaps due to the fact that in most countries the police must conduct criminal investigations), other investigations are not perceived to be carried out by *independent* agencies. Nor are past cases perceived to be documented and analyzed to generate lessons for future work.

Disciplinary measures are set out clearly but are seen not to be consistently taken. In the interest of justice and the deterrence effect, countries need to properly apply and enforce standards.

Again, these observations show that there is a significant gap between policies and practices, particularly for reporting on and investigating wrongdoing. Since these two activities are critical to ensuring accountability, they should also be given prompt attention.

Information Management

Finally, the study compared policies and practices in information management framework, access to information (including the holding of various methods of public

consultations), records management, investigative journalism and the freedom of association of civil society organizations. It defined information management broadly. Thus the study considered not only policies and practices within and pertaining to the public sector but also to relevant information-disseminating entities within society.

The material submitted for managing information in the study countries suggest that this area is less developed than in the other two areas of public management. In comparison to financial or human resources management, the legislative and administrative framework for managing information is in the beginning stages, despite the numerous laws that have been recently introduced or updated. For example, there are no laws on access to information, apart from a bill introduced in Lebanon. In comparison to other developing countries, this finding is not unexpected. Even among the wealthier countries, access to information laws have been relatively recently introduced.

For diffusing public information, in general, the study countries are characterized by few independent and alternative sources of reporting -- with governments dominating the dissemination of public information. However, with the introduction of the satellite dish, access to the internet and other telecommunication services in the region, countries can now receive information from around the globe.

For soliciting information, public consultations have been taking place mainly through the use of advisory groups on government programmes and services over other means. And there has been limited utilisation of new information and communication technologies in disseminating or soliciting information by the government.

Regarding the state of record keeping, it is not perceived to be of high quality. Whether due to resource constraints or other reasons, records management and archiving seem to be given low priority.

Away from the public sector and within society itself, it is important that there be independent sources of information, apart from the government, such as the press and the media. The experts indicated that investigative journalism is underdeveloped, often with limited freedom of the press, despite legal guarantees. Moreover, there is inadequate professional training for investigating journalists, despite the importance of the work.

The role of civil society organizations in having a say and expecting more openness from the government is a major driving force for the call for more transparency and accountability in the public sector. Although civil society organizations in the study countries are generally acknowledged to have the freedom of association, they are seen to have a limited role in civic education or in watching over public sector performance.

Conclusion

In sum, a big picture of public sector management across the participating countries can be drawn from the study findings. This picture can also be drawn for other countries in the region. The picture seems to be dominated by well-developed financial management practices, followed by less well implemented human resources management practices and completed by relatively newly-introduced or attempts to introduce information management practices.

Recommendations

Although all three areas of the functional management are interrelated and important to transparency and accountability, in terms of quick gains and areas for the most impact for reform efforts, the countries in the study should target information management. There is still much to do in introducing and fine tuning legislation that will encourage more openness in government, access to information and public consultations. The countries can also benefit by better implementing legislative provisions that encourage independent sources of information such as the press and media and civil society organizations. These organizations also need to be trained in having an input in public policy formulation as well as having an oversight role on public sector performance.

These efforts can be followed by a re-examination of human resources management practices. Better communication about overall public service values and standards of conduct, more merit-based recruitment and promotion that rewards performance and protection from political interference will set a solid foundation for transparency and accountability. These basic measures should be followed by the introduction of conflicts-of-interest disclosure requirements, an official policy for reporting wrongdoing and proper investigations and disciplinary measures, following wrongdoings.

Then specific aspects of weaknesses in financial management, as identified by this study among others, should be addressed. They start with more emphasis on overall financial controls, especially as illustrated by the leadership and financial officers. The computerization of routine financial transactions such as payroll and payments may eliminate opportunities for corrupt transactions. More transparency and information about the evaluation criteria and process in public procurement may lead to less distortion of the competitive bidding process. And more independence of both internal and external audit, with more reports accessible to the public in the case of the latter, would strengthen ex-post financial controls.

Other Recent Studies

The overall findings of this study seem to echo the find-

ings of recent broader studies of governance in the Arab Region. The *2003 UNDP Arab Human Development Report* identified three deficits in knowledge, freedom and women's empowerment as being development challenges for the Region. Of these, both knowledge and freedom deficits are linked to inadequate information management. Sound information is the foundation for building knowledge. And without freedom, information cannot flow easily.

The *2004 UNDP Arab Human Development Report* further explores the theme of knowledge deficit. The Report recommends "five pillars of the knowledge society," the first being "unleashing and guaranteeing the key freedoms of opinion, speech and assembly through good governance." The findings of this current study indicate that not only should the states implicated improve upon their information management in the public sector but also greatly enlarge their roles in encouraging the free flow of information.

Closely related to better information flows -- or transparency -- are the actions taken as a result of the information -- or accountability. The earlier noted *2003 World Bank MENA Development Report* observes that "Driving the governance gap between MENA and the rest of the world are the striking weaknesses in external accountabilities and in the access to basic political and civic rights. All countries in the region, whatever their income, score well below the world trend ..." ² Conversely, the same *Report* observes, "Most MENA countries do not perform much worse in the quality of their administration than other countries at similar income levels, and several countries do better." ³ Thus it is in the area of accountability to the public that the "governance gap" is noted. The present study also highlights the weak public consultation structures and the limited role of the press and civil society organizations in monitoring public sector performance.

The Way Forward

This report has highlighted common public sector management challenges that are faced by the countries in the region. There seems to be no easy or simple solution. Rather, the study findings suggest that a careful examination of current policies and practices may show certain gaps that can be plugged in to strengthen management in key areas. A common pooling of problems and solutions at the regional level may assist individual countries to better meet their particular challenges.

In order to ensure that the results of the study will be conducive to action, they will be regionally disseminated. It is up to the participating countries themselves to take a lead in changing policies, improving institutions, further developing public management and training public

personnel. By supporting a more transparent and accountable public sector, better decision-making and a more rational use of public resources, the ultimate end of this project is the improvement of the lives of the ordinary people in the Arab Region.

² World Bank 2003, MENA Development Report, p. 62

³ Ibid, p. 58

CHAPTER 1: INTRODUCTION

Project on Transparency and Accountability in the Public Sector in the Arab Region

The project on Transparency and Accountability in the Public Sector in the Arab Region is a technical comparative policy study. The goal of the project, as indicated by the source of its funding, is Support for Policy and Programme Development (SPPD). As such, the study is primarily intended for a technical audience of policy makers and programme managers in the public sector in participating countries. However, its findings may also be of interest and use to other key stakeholders and the general public in the countries as well as to other countries in the region.

The study was carried out by the United Nations Department of Economic and Social Affairs, Division for Public Administration and Development Management (UN DESA DPADM) in 2002 and 2003, in cooperation with the United Nations Development Programme (UNDP), Regional Bureau for the Arab States (RBAS). Participation by the countries in the study has been based on the consent of the national governments. Initially, 11 countries in the Arab region were approached, but the study covers six: Jordan, Lebanon, Morocco, Sudan, Tunisia and Yemen.

The criteria for choosing the initial pool of 11 countries were to sample countries in the Arab Region, reflecting:

- Sub-regional, linguistic and administrative diversity;
- Commitment or interest by the leadership in improving transparency and accountability in the public sector; and
- Existing partners with whom UN DESA and UNDP RBAS have worked successfully in the past.

The study is ultimately aimed at assisting national governments in the participating and other countries in the Arab Region to improve their institutional capacity to promote transparency and accountability in the public sector. It *qualitatively* compares existing policies and practices in financial, human resources and information management to identify good practices and gaps to this end.

A transparent and accountable public sector is crucial for not only Arab but all countries to meet the challenges brought on by globalization. It is hoped that any improvements linked to the study findings that boost the performance of key public sector institutions will, in turn, reinforce investor confidence and build general public trust in State capacity.

The qualitatively comparative information on current policies and practices has been compiled into a database and

serves as the basis for this report. The diagnosis of good practices and gaps in policies and programmes is a prerequisite to improving transparency and accountability in the public sector. It will also assist governments, regional organisations, donors and the wider public in making public policy choices and prioritising resource allocation. It may also be used to stimulate programme development to improve the day-to-day operations in the public sector in the region. The database and other project outputs are available on the project website:

http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp

Context of Globalization

This study is a response to the increasing public demand globally for more transparency and accountability in public sector operations. *Globalization*, or “the increasing and intensified flows between countries of goods, services, capital, ideas, information and people, which produce national cross-border integration of a number of economic, social and cultural activities,”¹ is the greatest driver of change today. It demands complex decision-making processes to take place at sub-national, national and trans-national levels, leading to a multi-layered system of governance. *Governance*, or “the exercise of economic, political and administrative authority to manage a country’s affairs at all levels,”² in this context needs to adapt to these new realities. “Increasingly, the State is called upon to act as a *linking pin* of processes of planning, consultations, negotiation and decision-making, involving diverse players, State and non-State, at different levels of governance.”³ Good governance, then, is a participatory, transparent and accountable exercise of authority that is based on the rule of law and a broad consensus in society.

While globalization has the potential of bringing great advances for humankind by providing new opportunities to countries around the world through liberalization of trade, foreign investments and capital flows, technological change and information flows, markets alone have shown to be inadequate in ensuring that these advances will equitably benefit all members of the global community. This observation can be more readily applied to developing countries, trying to achieve sustainable human development, or “expanding the choices for all

¹ United Nations, *World Public Sector Report 2001*, p. 8

² United Nations Development Programme, *Governance for sustainable human development*, 1997, p. 2

³ United Nations, *World Public Sector Report 2001*, p. 31

⁴ United Nations Development Programme, *Governance for sustainable human development*, 1997, p. 1

people in society... particularly the poor and vulnerable."⁴ The collective vision of sustainable human development, as expressed by the international community in the *United Nations Millennium Declaration*, becomes more difficult for those countries not adequately equipped to face the challenges of globalization. Consequently, its adverse effects have to be mediated by governments with appropriate reforms to governance structures. A key step in this direction is the better institutionalization of a transparent and accountable public sector.

Intergovernmental organizations are increasingly recognizing that globalization offers great opportunities for human advancement but only with good governance. Thus, globalization requires closer monitoring and quicker policy responses at the country, regional and global levels. National governments play a central role in ensuring economic competitiveness and growth, good governance and sustainable human development. But to be truly responsive to a country's specific needs, governments are learning that they need to work better with the private sector and civil society. Such a partnership can be best optimized when the government and other public sector entities operate on principles of *transparency* – by making information available and accessible – and *accountability* – by being answerable for their decisions and actions.

Transparency and accountability are interrelated and mutually reinforcing concepts. Without transparency, that is unfettered access to timely and reliable information on decisions and performance, it would be difficult to call public sector entities to account. Unless there is accountability, that is mechanisms to report on the usage of public resources and consequences for failing to meet stated performance objectives, transparency would be of little value. The existence of both conditions is a prerequisite to an effective, efficient and equitable management in public institutions. And as such, both conditions are also necessary in trying to achieve sustainable human development through better governance in an era of globalization.

Context of the Arab Region

The Arab Region is currently home to a number of geopolitical developments that threaten the stability of the region and impose additional challenges, apart from globalization, for the countries to achieve sustainable human development. These events include the ongoing Israeli-Arab conflict and an externally imposed regime change in Iraq, among others. These events, and the lingering association with the 11 September 2001 attacks, are putting additional pressures on the governments in the region as they seek to better engage in an increasingly integrated world economy.

Public sectors in Arab countries play a pivotal role in planning and implementing their country's development strategy. They are also significant employers of their citizens as well as providers of public goods and services.⁵ As in other

parts of the world, many countries in the Arab region have embarked on reform programs in response to new opportunities brought about by globalization. They have tried to revitalize their economies through the promotion of their private sectors to serve as the main engine of economic growth. Several countries have improved their investment climate and attempted to reduce the regulatory burden in order to attract foreign investors.

Although public sector reform has appeared on the agenda of many Arab countries, the process of implementation has been slow and has manifested problems of its own. And in general, the traditional omnipresent State does not seem to be evolving quickly enough to give a greater role in governance to a weak private sector and civil society. Rather, reforms have emphasized increasing the efficiency and the effectiveness of public sector operations. Thus institutional reforms aim more at establishing a modern information and communication infrastructure as well as streamlining bureaucracies to facilitate economic development.

Given the limited nature of public sector reforms undertaken to date and due to other factors, the Arab Region has not benefited from globalization to the same degree as other regions of the world. While the region has been spared the ravages of recent financial crises, it has also failed to benefit fully from the spreading trend of market liberalization and world economic integration.⁶ As in many other countries in the developing world, Arab countries are characterized by a centralized executive, inadequate institutional checks and balances and an underdeveloped political culture of public participation. Initiatives to promote transparency and accountability in the public sector in those countries can contribute to broadening the scope of public sector reforms to find a new governance equation among State and non-State actors in the development of the region as a whole.

Promotion of Public Sector Transparency and Accountability by the UN System

In response to the emerging international consensus on the current necessity of public sector transparency and accountability, a number of international organizations have undertaken specific initiatives to promote these concepts. The United Nations System has also been forging international consensus and implementing specific activities, highlighting public sector transparency and accountability, especially under the rubric of good governance and sustainable human development.

⁵ United Nations (unpublished concept paper by Shaden Halazoun), *Key Public Sector Institutions in The Arab Region: Responding to Globalization and Promoting Investment*, p. 1

⁶ ESCWA Regional Meeting on Financing for Development, (Beirut, Lebanon 2000), *The Reform of the International Financial System and the Arab Region*

To give expression to the international consensus, the General Assembly has introduced a number of documents, ranging from the *United Nations Millennium Declaration* to the *United Nations Convention against Corruption*. These documents introduce specific provisions for promoting public sector transparency and accountability under other overarching themes. (See Box 1. This is not an exhaustive list but rather selected key documents since 2000.)

At the global level, the Secretariat has recently organized a number of meetings, conducted research and published reports on the topic (see Box 2). The United Nations Department of Economic and Social Affairs promotes a multi-disciplinary approach to sustainable development. Its Division for Public Administration and Development Management supports the United Nations intergovernmental deliberations on the role of governance and public administration in sustainable development. In addition, the Division has, for over fifty years, been assisting United Nations Member States, upon request, to implement reforms in their administrative and financial systems, through capacity-building and technical cooperation. Through its United Nations Online Network on Public Administration and Finance (UNPAN: www.unpan.org) the Division promotes sharing knowledge and best practices throughout the world.

Box 1: United Nations Documents

2000: The United Nations Millennium Declaration (A/RES/55/2)

<http://www.un.org/millennium/summit.htm>

2002: Report of the International Conference on Financing for Development-Monterrey Consensus (A/CONF.198/11)

<http://www.un.org/esa/ffd/aconf198-11.pdf>

2002: Report of the World Summit for Sustainable Development (A/CONF.19/20*)

<http://www.johannesburgsummit.org/>

2003: United Nations Convention Against Corruption (A/58/422)

http://www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf

For specialized funds and agencies, the United Nations Development Programme (UNDP) developed the Programme for Accountability and Transparency (PACT) since 1997. It represents a global initiative supporting selected recipient countries through technical assistance in improving systems of financial accountability and management. Since 2001, PACT developed the *Country Assessment in Accountability and Transparency* (CONTACT), guidelines aimed at assisting governments in conducting self-assessment of their financial management and anti-corruption work. This tool was developed jointly with UN DESA and the World Bank. In addition, the UNDP has established a Democratic Governance Thematic Trust Fund through which it supports technical cooperation in accountability, transparency and integrity. As of 2003, UNDP has identified over 80 projects undertaken by Country Offices in accountability, transparency and integrity.

At the regional level, the UNDP Regional Bureau for Arab States (RBAS) has published two *Arab Human Development Reports* in 2002 and 2003, providing some of the most up-to-date information. Furthermore, UNDP RBAS Programme on Governance in the Arab Region (POGAR) was launched in 2000. POGAR consists of an information portal and other technical cooperation activities, devoted to the promotion of good governance practices in the Arab States. The Programme focuses on participation, the rule of law and transparency and accountability. The information portal presents publications, databases and useful web links for the region on these themes.

The World Bank, in addition to having organized many meetings on the subject, has published a report on *Better Governance for Development in the Middle East and North Africa* in 2003.

Apart from the United Nations System, many regional organizations (especially those involved in the Project Advisory Group listed in Box 3) have also been carrying out activities on various aspects of public sector reform. For example, the Arab Administrative Development

BOX 2: Selected UN DESA Activities on Public Sector Transparency and Accountability

<http://www.unpan.org/dpepa-gpab-ethics.asp>

1999: Transparency and Accountability in Government Financial Management, an on-line Expert Group Meeting, New York, USA

<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan000234.pdf>

1999/2000: Public Service Ethics in Africa, a comparative policy study <http://www.unpan.org/ethics>

2001: Financial Management, Transparency and Accountability, an Expert Group Meeting, Rome, Italy

<http://unpan1.un.org/intradoc/groups/public/documents/un/unpan002250.pdf>

2002: Manual for Online Procedures Enhancement for Civil Applications (OPEN), an on-line manual

<http://www.unpan.org/training-open-manual.asp>

2003: Public Service Professional Ethics for Africa, an on-line training manual

<http://www.unpan.org/guide.asp>

Organization (ARADO) held an international conference on *New Frontiers for Strengthening Administrative Integrity, Transparency and Accountability: Strategic and Institutional Perspectives* in 1999 and published the proceedings in 2001. It also held another conference on *Creative Leadership and Innovation under Transparency and Integrity* in 2002. Moreover, the Lebanese Center for Policy Studies, part of the Arab Social Science Research Network, has also undertaken a regional study on civic education in the Arab region.

BOX 3: Project Advisory Group

- The Arab Organization of Supreme Audit Institutions (ARABOSAI)
- Arab Administrative Development Organization (ARADO)
- Arab Council for Economic Unity
- Federation of Arab Journalists
- Arab Social Science Research Network
- The League of Arab States
- Union of Arab Banks

Project Objectives

Through a comparative study of existing policies and practices in financial, human resources and information management, this project aims to assist central governments in the participating countries to reinforce and improve public sector transparency and accountability. To highlight good practices and policy or operational gaps, this report of a regional analysis and country case studies and a database have been prepared. The data collected by this study is intended to:

- serve as reference for those participating governments interested in improving policies and practices to increase public sector transparency and accountability;
- benefit other countries in the region from the findings, since the participating countries were intended to represent, to the extent possible, the diversity in the Arab region; and
- Assist key stakeholders and the wider public in choosing policy and programme options and the development partners in making resource allocations.

Scope

To complement the work cited above and that carried out by other organizations generally in transparency and accountability, this research study on comparative policy

analysis was launched. In research, much *quantitative* work has been conducted recently at the global level by the World Bank on good governance indicators and Transparency International on corruption perception and bribery propensity indices. These approaches focus on measuring the state of governance or corruption. Other similar quantitative research efforts – supra-national, national and sub-national – have also aimed to identify the causes of corruption and quantify the negative consequences of the phenomenon, particularly on economic performance. This current study aims to *qualitatively* diagnose the capacities of public sector institutions in the Arab region to achieve transparency and accountability, capacities to prevent and combat corruption and maladministration.

Although all branches of government are important in promoting public sector transparency and accountability, the study focuses mainly on the executive branch and pertinent independent oversight agencies. Initially, the project team also made an attempt to collect information on public and mixed enterprises. However, due to their large numbers and their differing regulatory regimes, it was not possible to collect in-depth or comparative information on them.

The legislative and judicial branches of government are central to promoting public sector transparency and accountability. However, since little previous research has been carried out on policies and practices in the region, this current effort begins with the executive branch. Nonetheless, the study also concentrates on those aspects of the legislative and judicial branches that interface with the agencies under study. Likewise, the need for private sector and civil society involvement is also indispensable in improving public sector transparency and accountability -- not to mention within themselves. Accordingly, the study also examines relevant interfaces among these governance partners. The project team wishes to stress that the study is exploratory. Hopefully, it can serve as a pilot that will lead to other studies on the role of the other branches of government and other governance partners in the region.

To carry out its task at hand, the study employs both a regional analysis and country case studies. In the former, individual policies and practices are examined regionally – that is although the data are grouped by country, the unit of analysis are the policies or practices themselves. (The presentation by country is unavoidable since policies, and therefore practices associated with them, exist at a national rather than a regional level.) In the latter, national policies and practices are presented within country-specific contexts. These case studies were written by national consultants, experts on the subject.

In addition, the policies were mainly analysed through a review of policy documents (what is “on the books”) and limited consultations with policy experts. Practices were examined through highly structured and systematic inter-

views with predominantly senior public managers and other experts outside of public sector organizations. These interviews drew upon their familiarity with the daily implementation of the policies and asked for their perceptions. Although the limited numbers of interviewees preclude any statistical analysis, given their privileged knowledge (often by the virtue of their positions within the public sector), their responses are an important indicator for establishing existing practices.

Based on the two axes of analysis and the two sources of information, the study also makes recommendations for improving public sector transparency and accountability in the participating and other countries in the Arab Region. Thus, the findings of the current study can serve as a baseline, against which future findings (if the study is repeated) can allow the participating countries to chart their progress.

Good policies and practices in key public sector institutions serve as one set of indicators of transparency and accountability. Improving policies in content or practices in better implementation are also important as they can do much in securing domestic public confidence in governmental institutions. Moreover, in an age of globalization, foreign investors expect to be assured of accurate information on the performance of not only private sector corporations but also key public sector institutions.

The study is based on the following working definitions of key concepts as agreed upon by the Project Advisory Group:

- public sector: core central level government departments and agencies, public enterprises (including mixed enterprises with 50 per cent or more public investment), public service workers such as teachers and health workers;
- transparency: the availability of and free access to information about governmental political and economic activities, procedures and decisions; and
- Accountability: answerability for choices and actions.

The key issues of inquiry were organized by the following functional areas (see Table 1):

- Financial management,
- Human resources management, and
- Information management.

Although some of the key issues can be viewed as not being strictly within the functional management domain to which they have been assigned, they have been

Table 1: Study Issues

| Functions | Issues |
|----------------------------|---|
| Financial Management | <ul style="list-style-type: none"> • Financial management framework • Budgets • Revenue • Payroll • Procurement • Privatisation and service concessions • Payments • Accounting • Internal audit • External audit |
| Human Resources Management | <ul style="list-style-type: none"> • Human resources management framework • Stated official values • Codes of conduct • Legal restrictions on criminal conduct • Selection process • Conflicts-of-interest disclosures • Whistle-blowing • Investigation • Disciplinary procedures |
| Information Management | <ul style="list-style-type: none"> • Information management framework • Access to information • Records management • Investigative journalism • Civil society organizations |

included because of their importance to the overall theme of the research. Moreover, the functional management areas have been kept to a minimum number to simplify the conceptual framework and to streamline the interview process.

Methodology

As indicated above, the study is based on a qualitative analysis of pertinent documents at the policy level and structured interviews with experts at the practice level. The 'issues' listed in the table above were researched by national consultants, with pertinent expertise in the field, chosen by DESA, in cooperation with UNDP country offices.

The role of the national consultants in data collection and country level analysis was crucial to the quality of the study. They analyzed legal and regulatory texts and carried out interviews of officials and experts, mainly senior public sector managers, about relevant practices. The public sector managers were interviewed in their personal capacities as experts rather than as government representatives. The consultants approached a number of ministries and agencies that deal with statistics, public finance, the civil service, and public information. In many sample countries, the consultants reported that there was a general reluctance by many senior managers to participate in the interviews, despite steps taken to assure confidentiality.⁷

The research process comprised the following steps:

1. UN DESA and UNDP RBAS approached 11 countries in the region, through their respective UNDP Country Offices, to invite their participation in the study. Much effort was made to try to get as a representative country sampling of the region as possible. The agreement of the national governments had to be secured before the research activities could begin on the ground.
2. A Project Advisory Group (PAG) was created, comprised of representative intergovernmental and non-governmental regional organizations. UN DESA and UNDP RBAS served as secretariat. The PAG guided the research process through ensuring the validity and reliability of the data gathered and to increase the participation of regional and national stakeholders. A meeting of the Group took place in Beirut, Lebanon in 30/31 May 2002 to receive endorsement of the research methodology and questionnaire.

⁷ In Tunisia, interviews were mainly conducted with academics and experts outside of the government. One result for responses for the country has been a higher rate of "Don't Know" answers about public management practices under inquiry (see Step 3 below).

3. Key concept papers exploring the main study issues were commissioned from experts:

- *Public Sector Institutions in the Arab Region, Responding to Globalization and Promoting Investment;*
- *Transparency and Accountability in Public Financial Administration;*
- *Integrity, Transparency and Accountability in Government Human Resources Management; and*
- *Access to Information, Transparency and Accountability.*

These papers served to introduce the main issues in each of the domains under inquiry. They also provided the conceptual basis for a desk review of policy documents and the interview guides on practices.

4. Detailed interview guides (questionnaires) in English (see Annex) and translated into French and Arabic were sent out to all participating UNDP offices and national consultants. They were composed of:

- The introduction to the interview guide (instructions);
- The desk review questionnaire (background information on public sector organization and employment as well as key policy information on the three functional management areas);
- Financial management;
- Human resources management; and
- Information management.

To measure practices, the interviewees were asked to rank each one, based on a scale of 1=Always, 2=Frequently, 3=Sometimes, 4=Rarely, 5=Never and D=Don't know. (It is worthy of note that in all interviews in all of the sample countries, no interviewee ever selected 5=Never.)

5. The national consultants also drafted case studies in which they presented a national analysis of the data they collected. In addition, they gave their professional views on the more qualitative information collected outside of the research framework but which they deemed to be important. (See Part 2.) In these case studies, the consultants made country-specific policy recommendations. Each case study has been circulated to the respective UNDP Country Office and government for feedback and comments.

6. A web-based interactive database was constructed upon the questionnaire and made accessible to national consultants for direct, on-line data entry. It was initially placed on a private site to protect the confidentiality of the interviewees. After the reception of all the information required, the database was reviewed and analyzed by the project team in New York, to make comparisons across the six participating countries. Upon completion of this analysis, all information with any potential to identify the interviewees was removed. The database was also modified to preclude any more entries and to prevent any tampering. Then it was placed on a website, created to house the information on the project at:

http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp

7. Eight national consultants were hired to conduct the fieldwork through document analysis and expert interviews. As many pertinent documents as possible were analysed, and 435 expert interviews were carried out. (Expert interviews rather than interviewees were counted since some of the same experts participated in different interviews at different times. Thus the base of actual number of expert interviewees is smaller than the total number of interviews they gave.) Of these, 25 were discarded as they were incomplete or unusable. Of the 410 that were analysed, there were:

- financial management: 141,
- human resources management: 132, and
- information management: 137.

Of these numbers, about 73 per cent of the financial expert interviews were with public sector personnel, 77 per cent of the human resources expert interviews and 66 per cent of the information management expert interviews.

In Jordan and Yemen, there were teams of two consultants each. A training session for the national consultants took place from 9-11 December 2002 in Marrakech, Morocco. This training was to ensure a common understanding of the study and to standardize the interview process.

8. A project team of a coordinator and a research assistant was based in New York to supervise and monitor the fieldwork. It was responsible for both administration and research. The team members prepared documentation for the PAG, organized meetings and generally managed the project. They also undertook background research, drafted the interview guides, coordinated the fieldwork research, drafted the final report, edited the case studies and disseminated the findings.

9. The PAG held a second meeting on 18/19 December 2003, in Beirut, in order to review the outputs of the study, based on the final draft of this report. The Group was joined by the national consultants to clarify their submissions and refine the overall final report. Based on this meeting, the PAG endorsed the final report.

10. Regional and national policy fora for presenting findings will be sought out. The sponsors of the research hope that the results will contribute to the introduction of new and improvements to existing policies and practices to have a direct impact on the state of transparency and accountability in the public sectors in the region.

Outputs and Outcomes

The concept papers, this present report, the on-line interactive database and the project website have been prepared as the outputs of the project. More importantly, a regional network of experts has been created through this work: the members of the PAG and the national consultants. The consultants, in turn, have come to identify a group of national experts in each of the participating countries through this research effort. The linkages of such networks in the region should facilitate the incorporation of the results of this study into other related, ongoing initiatives at the regional level. For instance, a regional network will only gain in importance as more countries in the region sign the United Nations Convention Against Corruption and begin to implement its provisions.

In order to ensure that the results of the study will be conducive to action, the findings will be widely disseminated. It is hoped that the participating countries themselves will undertake national dissemination workshops, leading to concrete policy changes, institutional improvements and managerial developments. For example, improvements to existing legislation and regulation, guidelines to implement them, and training staff to alter practices in public financial, human resources and information management would be desirable outcomes.

The ultimately desired outcome is the improvement of the lives of the ordinary people in the Arab Region. Through more transparency and accountability in the public sector, better decision-making and a more rational use of public resources should contribute to better governance and sustainable human development in the long term. As noted earlier in this chapter, to take advantage of the opportunities of globalization and to reduce its risks, it is important that governments, the private sector and civil society in the region position themselves to face these challenges.

CHAPTER 2: OVERVIEW OF THE ARAB REGION

In this chapter, the study issues identified in Chapter 1 are placed within their geographical, cultural, historical, social, political and economic context. Setting this context will allow for a better understanding of the factors that shape the development of the countries participating in the study as well as the functioning of their public sectors.

The Arab Region

According to the membership of the League of Arab States, the Arab World as a whole includes 22 countries, stretching from Mauritania in the west to Oman in the east¹. The region is generally thought to be constituted of two parts: the Maghreb (North Africa) and the Mashreq (Middle East). The Arabs as an ethnic group, as known for approximately three thousand years, adopted various cultures and religious practices. However, most Arabs have converted to Islam since its emergence.

Throughout history, the word “Arab” was used to define a fluctuating reality. In pre-Islamic times, it referred to the inhabitants of the Arabia peninsula, mainly composed of nomadic tribes. Yet, over the centuries, the expanse of the Arab World has been mostly defined in terms of the use of one common language: Arabic – considered to be at the very heart of Arab identity.

For the purposes of this study, the Arab Region is represented by the six countries, mentioned previously: *Jordan, Lebanon, Morocco, Sudan, Tunisia* and *Yemen*. Approximately 100 million inhabitants, these countries represent more than one-third of the population of the Region. (However, none of the study countries can be counted among the Persian Gulf oil-producing countries, which enjoy high per capita GDP.) They, nevertheless, represent diversity in the Region through different political systems, levels of economic development and social structures. In addition, two of the countries studied belong to North Africa, which is different from the Middle East in many ways.

This chapter does not pretend, in any way, to give exhaustive and comprehensive information about the region under study. Nor does it extensively address the particular circumstances linked to the history and the economic and social development of each country. Its sole purpose is to help better understand the factors that affect public sector transparency and accountability in those countries.

The Region Today

The Region is characterized by relatively high rates of

growth for the population and the labor force but slow economic growth and weak links to the global economy². Consequently, the unemployment rate is among the highest in the world. In addition, the rate of illiteracy is high, particularly for women. In fact, the political and economic participation of Arab women is among the lowest in the world³. As discussed elsewhere in this chapter, the situation of Arab women is one of the major concerns in the region. It has been noted that due to cultural attitudes, even while women may be legally entitled to certain rights, there often exists a clear discrepancy between the law and actual practices. Furthermore, very few women are in decision-making positions.

According to UNDP's *2002 Arab Human Development Report*, the Arab world does better on income indicators than on development indicators, thus making the region richer than it is developed.

In certain respects, globalization may have exacerbated the gap between wealth and development in the region as a whole, by focusing more attention on consumption and promoting a market-oriented culture. This is in line with the realization by many that globalization has led to the widening of the material gap between the North and the South, by not distributing its benefits equitably.

The Cultural and Historical Context

Historically, most of the Arab States were part of the Ottoman Empire, succeeded by French and British colonial powers. Most of these countries started recovering their independence after the Second World War. These events have had such an influence on the Arab societies that the concept of the State and the role of its institutions were marked by the Ottoman and colonial experiences. Consequently, the Arab political and administrative systems were characterized by a lack of transparency, accountability and political choices. As a result, political participation remained very weak.

Table 2: *Modern History of Study Countries* gives a short overview of the colonial history of the countries under study. Jordan, Sudan and Yemen have been under British colonial rule while Lebanon, Morocco and Tunisia experienced French colonial rule. As a result, the study countries now represent legal systems based on Islamic law (with the exception of Lebanon) that predated colonialism, British common law or French civil law, and Ottoman law (in the case of Lebanon and Yemen). In

¹ www.arableagueonline.org

² , IMF March 2003, *Finance & Development*, “The Middle East and North Africa on the Threshold to change” page 10.

³ UNDP, *2002 Arab Human Development Report*.

addition, Morocco is also based on Spanish civil law, given its location and history. And several countries also recognize local customary laws. (See Table 3.)

After gaining independence, the structure of the State in most of the study countries adopted republican or parliamentary forms of government. In Jordan and Morocco, hereditary monarchies persisted.

Upon this initial political and administrative legacy, a sequence of various political ideologies appeared, with corresponding views on the role of the State. As in other parts of the world, the Arab Region has also been recently influenced by the latest wave of neo-liberal views on limiting the role of the State. Coinciding with the rise of globalization, these views have – in some cases – led to a weakening of the socio-economic role of the State, thus

widening the gap between social classes and creating social tensions.

The accumulation of these tensions, together with ongoing conflicts and rapid social changes brought on by globalization, has exacerbated the social tensions in the Region. These tensions have manifested themselves in many forms, ranging from alienated youths to isolated pockets of religious fundamentalism.

Notwithstanding the considerable constraints on economic reforms, many significant developments toward political and economic reform and modernization are taking place, many supported by programmes financed by the United Nations System and initiatives taken within the framework of the Euro-Mediterranean process.

Table 2: Modern History of Study Countries

| | |
|----------------|---|
| Jordan | The day Prince Abdullah Iben al-Hussein arrived in Amman in 1921 is regarded as the beginning of the establishment of a Jordanian state, under the name of the Emirate of Trans-Jordan. The first Jordanian Government was formed in the same year. In 1928, the first Jordanian constitution, the Essential Law of Trans-Jordan, was enacted. It remained in force until 1946, when Trans-Jordan gained independence upon signing the Treaty of London. Prince Abdullah was proclaimed King in 1946. In 1947, a new constitution was declared by the issuance of Law No. (3). In 1951, King Abdullah was assassinated in Jerusalem, and his oldest son, Prince Tall, succeeded the throne. A year after his accession, King Tall stepped down in favor of his son Prince Hussein, who was proclaimed the King. A new constitution was enacted and promulgated. Its first Article stipulates that the Hashemite Kingdom of Jordan is an independent and sovereign Arab state, with a parliamentary and a hereditary monarchy. After the death of late King Hussein in 1999, his son, Prince Abdullah, succeeded the throne. |
| Lebanon | Since independence from France in 1943 until 1976, the history of Lebanon has been dominated by prominent family networks, belonging to sectarian communities. Despite Lebanon's policy of non-involvement in the Arab-Israeli conflict, the October 1973 War deeply affected the country, followed by 16 years of civil war. Since 1991 under the Ta'if Accord, the blueprint for national reconciliation, a more equitable political system was established. It institutionalizes more involvement of the Muslim population in the political process while demarcating sectarian proportions in the Government. In May 2000, Israel withdrew from its security zone in southern Lebanon. Syria maintains its troops, legitimized by the Arab League and the Ta'if Accord. |
| Morocco | The return of the late King Mohammed V from his exile marked the end of the French occupation. In 1956, independence was proclaimed. The internationalized city of Tangier was turned over to the national authorities that same year. During late 1970, Morocco declared Western Sahara part of Morocco. Until today, final resolution on the status of the territory remains unresolved. A UN-administered cease-fire has remained in effect since 1991, but attempts to hold a referendum have failed. After the death of late King Hassan II, his eldest son, Mohammed VI, has taken over, introducing new economic and administrative reforms. |
| Sudan | Military dictatorships with an Islamic-oriented government have dominated Sudan since its independence from the UK in 1956. During the period 1972-82, the country experienced civil war, pitting the Arab Muslim majority in Khartoum against the non-Muslim African rebels in the south. Since 1983, this war has led to more than 2 million deaths because of the fighting and famine and to over 4 million people displaced. Since 1989, some northern Muslim parties have allied with the southern rebels and entered the war as an anti-government alliance. However, both sides of the conflict were on the verge of signing a peace agreement in 2003. |
| Tunisia | After Tunisia gained its independence from France in 1956, President Bourguiba established a strict one-party state. During his term, which lasted 31 years, he strongly repressed fundamentalism and established rights for women, ahead of many other Arab countries. Since 1987, Ben Ali has been the President of Tunisia. He has been re-elected for a third term in 1999. |
| Yemen | North Yemen became independent from the Ottoman Empire in 1918, while South Yemen was under the British Protectorate since the 19th century until 1967. Three years later, the Southern Government adopted a Marxist orientation, leading to a massive exodus toward the North. This development contributed to two decades of hostilities between the two States. The unified Republic of Yemen was formally proclaimed in 1990. In 1994, a southern secessionist movement was quickly subdued. Ali Abdullah Salih has been the president of Yemen since 1990. |

Table 3: Legal Systems and Latest Constitutions

| Country | Legal systems | Original Constitution/ Subsequent Amendments |
|---------|---|--|
| Jordan | Based on Islamic law and French civil law | January 1952 |
| Lebanon | Based on a mixture of Ottoman law, canon law, French civil law | May 1926; modified in 1943 after independence to remove articles referring to French authority and in 1989 to include the National Reconciliation Charter; also in 1949 and 1995 to allow one-time extension of the Presidential term which is limited |
| Morocco | Based on Islamic law and French and Spanish civil law | March 1972; revised on Sept. 1992 and amended on Sept. 1996 |
| Sudan | Based on Islamic law and English common law | June 1998; partially suspended on Dec 1999 by President Bashir |
| Tunisia | Based on Islamic law and French civil law | June 1959; amended in July 1988 |
| Yemen | Based on Islamic law, Ottoman law, English common law and local customary law | May 1991; amended in 1994 and 2001 |

Sources: *The World Fact Book* <http://www.countryreports.org>, 2003 Edition, National Consultants

Socio-Economic Background

The richness of the Arab World lies in the fact that different cultural, social, economic and political dynamics coexist. At the same time, given its history, the region broadly shares a common heritage and core values and faces similar economic and social challenges.

As a whole, the Region has achieved important progress on the social front since the 1970s. Based mainly on state welfare policies and aided by Islamic traditions of charity and family support networks, Arab countries have been able to provide social protection and develop extensive health and education systems. The tradition of solidarity inherent in the Arab culture has led to less dire poverty than in other regions. Nevertheless, the low-income countries in the study (Sudan and Yemen) have difficulties meeting basic health needs, as shown alarming levels of maternal and infant mortality. Table 4 presents key indicators for the study countries.

It highlights the physical, economic and social diversity among the study countries. In terms of sheer size and population, Sudan is the largest with approximately 2.5 million sq. km. and 33 million inhabitants in 2002. Lebanon is the smallest with 10,400 sq. km. and 4.4 million inhabitants. In terms of basic economic indicators, Tunisia had the highest GDP per capita in 2000 with US\$6,363, adjusted for purchasing power parity and Yemen had the lowest with US\$893. The annual GDP per capita growth rate in 1990-2000 was the highest for Sudan with 5.6 per cent and the lowest for Morocco with 0.6 per cent. For basic social indicators, Lebanon exhibited the highest total life expectancy at birth between 1995-2000 with 72.6 years and Sudan with the lowest at 55 years. Overall UNDP Human Development Index for 2002 ranked Lebanon 75, the highest of the study countries, and Yemen 144, the lowest of the study countries.

However, a rapidly growing population, in conjunction with low economic growth and institutional capacity limitations in the countries, has been a challenge to overall socio-economic development. Moreover, situations of political instability impose a constraint to the development of the Region. Public resources are diverted to tackle other problems than setting up the physical and regulatory infrastructure, necessary to attracting investment and wealth creation. And with the State dominating economic activities, private sector development and civil society involvement are often hindered. According to the IMF, the share of the State in the economies of the Arab Region is one of the highest in the world. Furthermore, according to the World Bank, the Region consists of public sector-driven and protected economies, supported by oil, aid and workers remittances. They can no longer generate sufficient growth or jobs, as the experience has shown during the last 20 years.

Moreover, gender inequality is higher than in other regions. With only one-third active in the labour force, women represent an important untapped resource. The gain from their participation in the economy is already evident in some sectors, like the garment and textile industry in Jordan, Morocco and Tunisia⁴.

The education systems, often touted as engines of modernization in other regions, have not been successful in positioning the workforce to meet the labor needs of today nor in stimulating research and development. The 2002 *UNDP Arab Human Development Report* notes that the quality of education in the region has deteriorated, with a corresponding decline in knowledge acquisition and analytical and creative skills. This situation creates a mismatch between the education system and the needs of the labor market. Even as they absorb a higher percentage of the GDP than their counterparts in other developing

⁴ World Bank press release, World Bank Report on Trade, Investment and Development in MENA (Washington D.C.: 26 June 2003).

Table 4: Key indicators

| General Data | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen | |
|---|-----------------|------------------|-------------|--------------------------|-------------|-------------|-----|
| Surface area (sq. km), 2001 | 89,342 | 10,400 | 446,550 | 2,505,813 | 163,610 | 527,968 | 1 |
| Population (millions), 2002 | 5.2 | 4.4 | 29.6 | 32.8 | 9.8 | 18.6 | 2 |
| Population density (people per sq. km), 2001 | 55 ^a | 423 ^a | 65 | 13 | 59 | 36 | 3,1 |
| Urban population (% of total), 2000 | 78.7 | 89.7 | 55.5 | 36.1 | 65.5 | 24.7 | 4 |
| Annual population growth rate (%), 2000-2015 | 2.5 | 1.3 | 1.5 | 2.1 | 1.2 | 3.9 | 4 |
| Capital city | Amman | Beirut | Rabat | Khartoum | Tunis | Sana'a | |
| Economic indicators | | | | | | | |
| GDP per capita (PPP US\$), 2000 | 3,966 | 4,308 | 3,546 | 1,797 | 6,363 | 893 | 4 |
| GDP per capita annual growth rate (%), 1990-2000 | 1.0 | 4.2 | 0.6 | 5.6 | 3 | 2.3 | 4 |
| GDP implicit deflator - average annual growth (%), 1990-2000 | 3.2 | 17.6 | 3.0 | .. | 4.4 | 24.9 | 3 |
| Imports of goods and services (as % of GDP), 2000 | 69 | 38 | 37 | 16 | 48 | 41 | 4 |
| Exports of goods and services (as % of GDP), 2000 | 42 | 13 | 31 | 17 | 44 | 50 | 4 |
| Net foreign direct investment inflows (as % of GDP), 2000 | 6.7 | 1.8 | . | 3.4 | 3.9 | -2.4 | 4 |
| Labour force (millions) | 1.1 (2000) | 1.3 (1997) | 10.3 (1999) | 7.4 (1996) | 3.0 (1997) | 4.4 (1995) | 5 |
| Unemployment rate (%) | 13.2 (2000) | 8.6 (1997) | 11.6 (2002) | 17.0 (1996) ^b | 15.6 (2000) | 11.5 (1999) | 5,6 |
| Net ODA received, 2000: | | | | | | | |
| - Total (US\$ millions) | 552.4 | 196.5 | 419.3 | 225.4 | 222.8 | 265 | 4 |
| - Per capita (US\$) | 112.4 | 56.2 | 14 | 7.2 | 23.5 | 14.4 | 4 |
| - As % of GDP | 6.6 | 1.2 | 1.3 | 2 | 1.1 | 3.1 | 4 |
| Present value of debt (% of GNI) , 2002 | 83 | 102 | 51 | 130 | 65 | 40 | 2 |
| Total debt service (as % of GDP), 2000 | 8.0 | 11.0 | 10.0 | 0.5 | 9.8 | 2.6 | 4 |
| Female economic activity rate (% age 15 and above), 2000 | 26.6 | 29.6 | 41.4 | 34.8 | 36.9 | 30.5 | 4 |
| Social indicators | | | | | | | |
| Life expectancy at birth (years), 1995-2000 | 69.7 | 72.6 | 66.6 | 55.0 | 69.8 | 59.4 | 4 |
| Infant mortality rate (per 1,000 live births) 2000 | 28 | 28 | 41 | 69 | 22 | 85 | 4 |
| Maternal mortality ratio (per 100,000 live births), 1985-1999 | 41 | 100 | 230 | 550 | 70 | 350 | 4 |
| Adult literacy rate (% age 15 and above), 2000 | 89.7 | 86.0 | 48.9 | 57.8 | 71.0 | 46.3 | 4 |
| Human Development Index (rank), 2000 | 99 | 75 | 123 | 139 | 97 | 144 | 4 |
| Gender-related development index (rank), 2000 | 84 | 69 | 102 | 116 | 81 | 128 | 4 |
| Internet users (per 1,000 people), 2002 | 57.7 | 117.1 | 23.6 | 2.6 | 51.7 | 5.1 | 2 |

Sources: 1) United Nations, *Demographic Yearbook*, 2001; 2) World Bank, *World Development Indicators*, 2002; 3) World Bank, *World Development Report*, 2002; 4) United Nations Development Programme, *Human Development Report*, 2002; 5) International Labour Organization, *Key Indicators of the Labour Market*, 2003; 6) United Nations Development Programme, *Arab Human Development Report*, 2002.

Notes: a) Data for Jordan and Lebanon from World Bank; b) Data for Sudan from United Nations Development Programme; (.) less than half the unit shown; (..) no data.

regions, the education systems are considered to be inefficient. One of the main reasons is that they are generally managed by at least three different ministries. This creates competition for resources and a lack of consensus on reforms. In addition, there are significant gender and income gaps in school enrolment and dropout. Women and the poor, especially in rural areas, are more likely to be deprived of an education, especially at higher levels.

As noted above, the public sector constitutes the main source of job creation. To reverse this trend, since the 1980s, many Arab countries have undertaken initiatives to promote stability and increase the role of the private sector – mainly through privatization. Yet, these methods have not proven sufficient. Public enterprises still play a dominant role in the economy because of restrictive trade regimes and administrative and legal obstacles facing the private sector. In some countries, the link between privatization and unemployment has created resistance towards privatization because of the likely increase in lay-offs, especially initially. In addition, privatization has not necessarily raised efficiency. The absence of appropriate regulatory institutions has resulted in higher prices and, in many cases, replaced government monopolies by private ones.

Therefore, most of the countries of the Region now recognize the urgent need to reform their public sectors. Some have made noticeable progress in enhancing the efficiency of public enterprises, increasing the quality and responsiveness of public services and in opening up partnerships with the private sector and civil society. Recent reforms introduced in these countries, were particularly aimed at establishing a modern legal and regulatory framework for property rights and foreign direct investment. Furthermore, they have tried to increase the independence of the judiciary, introduced a more transparent tax system and worked on combating corruption.

Thus, in general, Arab countries are facing tremendous external and internal economic challenges through globalization and domestic reforms, often with adverse effects on health services, education and employment. The *2002 UNDP Arab Human Development Report* stresses that the barrier to better socio-economic development in the Arab Region is not due to a lack of resources. It identifies deeply rooted obstacles in Arab institutional structures. It also stresses that what needs to be addressed is the political will to invest in human capabilities and knowledge, particularly those of Arab women. Thus good governance, through more public participation and accountability, is a pre-requisite to sustainable development.

Transparency and Accountability in the Region

One analysis of the state of weak governance in the Region highlights the lack of or flawed governing institutions.⁵

Without institutions of adequate checks and balances, States can become highly centralized through a single political party or a cult of personality. In such situations, effective accountability, directed to the people, is nearly absent.

Several non-governmental and other civil society organizations have raised the issue of corruption and launched anti-corruption campaigns. However, their initiatives have been impeded due to mitigated freedom of expression and political participation. Even the business community in the Region demonstrated its concern about the effects that corruption might have on foreign direct investment. Yet, the real issue in the region, as in others, is the blurred line between the private and the public sectors, given the existence of networks of families and persons with parallel stakes in both politics and business.

In its 2003 *Global Corruption Report*, Transparency International, an international anti-corruption advocacy group, suggests that the incidence of grand corruption declined in 2001-2002 in Middle East and North Africa. The Report noted that this was due to economic recession and reduced opportunities for “commissions”. However, corruption among senior state officials and politicians is still considered widespread. Transparency International, therefore, observed that current anti-corruption strategies are unlikely to achieve significant results if political reforms are not introduced. Even though a number of corruption cases were brought to light during the same period, they did not signify real structural change. The same *Report* noted that the absence of institutional reforms to accompany economic liberalization programmes and the prevalence of authoritarian rule constitute an important obstacle to transparency and accountability in both the State and private sector.

The six countries under study have also undergone public sector reform, including measures to improve transparency and accountability. For example, some reforms have addressed financial transparency through policy advice and technical assistance programmes launched by the IMF and the World Bank. Specifically, the reforms targeted income taxation administration in both Lebanon and Yemen, expenditure management in Jordan, Tunisia and Sudan, and privatization in all countries, with the exception of Yemen.

As noted previously, the Arab Region now faces a number of political challenges due to geopolitical events which destabilize some countries in the region, economic challenges due to new global conditions being introduced by globalization, and social challenges brought about by a co-existence of new and traditional systems. On the other hand, the Region is also home to a long and rich cultural heritage of shared values and knowledge, having witnessed scientific innovation and a flourishing of the arts during critical periods in the past. The countries in the Region can now draw upon this strength in their efforts to reform their public institutions, improve upon their governance structures and generally encourage sustainable human development.

⁵ Transparency International, the Global Corruption Report 2003, MENA Regional Report.

CHAPTER 3: CONTEXT OF STUDY COUNTRIES

The previous chapter has set the historical, political and socio-economic context of the countries under study. Before examining the policies and practices in public sector transparency and accountability in the study countries, it is helpful to also present an overview of their public sector structures. Based on this premise, the national consultants collected very basic statistical information on the organisation of government and public sector employment. However, the project team discovered that certain statistical information and a breakdown by related variables are often not available or accessible. Where possible, this information was verified against other sources.

In addition, the national consultants also collected information on relevant past initiatives to form a picture of the types of activities undertaken to promote public sector transparency and accountability in the study countries. In this endeavour, the national consultants were asked to report on relevant public sector reforms, studies, public opinion polls, surveys or campaigns that have been carried out within the past five years. Responses indicate that the initiatives include relevant studies, conferences, public campaigns and good governance or administrative modernisation projects. Also, the information received stretched back a decade rather than just the past five years.

Public Sector Structures

The demarcation of the “public” sector differs from country to country and even within a country over time. Given this differentiation, it is a difficult task to describe the boundaries, the size and the composition of a public sector within a country. It is even more difficult to compare the public sectors of several countries, through identifying common or parallel features and functions.

Recently, defining the public sector has become even more complex given the shifts in the relationship between the state and the market that almost all countries are experiencing. Given the trends towards decentralization, alternative service delivery and the incorporation of market-type mechanisms in many traditional public sector organizations, many new types of governmental and quasi-governmental organizations have been spawned. Thus the landscape of the public sectors has diversified to include organizations with varying degrees of government control. On the one hand, there are those organisations fully under government control, such as ministries, agencies, boards and commissions. On the other hand, there are organisations that may receive full

or partial state support but have limited government control as they undertake market activities, such as public enterprises. In between these two extremes, there is a range of organisations with varying degrees of state control and support that function in different economic and social sectors.

For the study countries, the consultants tried to ascertain the public sector landscape through enumerating the number of government statutory bodies such as ministries and agencies and other public or pertinent mixed enterprises. Some of this information is presented in Table 5.

One way to approximate the size of the public sector of a country and its contribution to the economy is by measuring government consumption. Although the unit of analysis of this study is the central government, and the figures for government consumption in Table 5 cover all levels of government, government consumption is nonetheless a useful comparable indicator of the overall size of the public sector. As can be seen, in 2001, government consumption in the study countries ranged from Jordan with 23 per cent of the national Gross Domestic Product (GDP) to Yemen with 13.9 per cent. In terms of the available figures, the public sector contributes 9 per cent more to the economy in Jordan than in Yemen.

Also, to define the core base of the executive branch, the consultants enumerated the ministries at the central government. In 2003, they ranged from 20 in Jordan (after the most recent cabinet formation) to 39 in Sudan. Naturally, this is only the core organisational base of the central governments, as there are also numerous agencies and offices (many of significant sizes and functions) headed by ministers and secretaries of state, ministers without portfolio and other cabinet-level advisors to the chiefs of state and heads of government. In addition, there are other agencies that are independent or attached to ministries as well as councils that are independent or inter-ministerial.

The consultants also attempted to enumerate the number of other public establishments and enterprises (those with 50 per cent or more state ownership, engaging in market activities). However, given the complexity of the public sector composition and the lack of disaggregated data, the task involved full-time research in itself. Although some information has been submitted by the national consultants, it is not presented here because it has been difficult to verify against other sources.

Table 5: Government Consumption and Central Government Ministries

| Country | General Government Consumption in 2001 (as % GDP)* | Number of Ministries in 2003 (national source)** |
|---------|--|--|
| Jordan | 23.0 | 20 (Civil Service Commission, Ministry of Administrative Reform) |
| Lebanon | 18.3 | 22 (Official Gazette Civil Service Board) |
| Morocco | 18.1 | 23 (Budget 2003) |
| Sudan | N/A | 39 (Public Service Department, Cabinet Secretariat) |
| Tunisia | 15.7 | 21 (Official Gazette) |
| Yemen | 13.9 | 32(Official Gazette) |

* These figures include all current spending for purchases of goods and services (including wages and salaries) by *all levels of government*, excluding most government enterprises. It also includes most expenditures on national defense and security. Source: World Bank: *World Development Indicators 2003* at <http://www.worldbank.org/data/countrydata/countrydata.html>;

** These numbers include full-fledged ministries and exclude the offices of ministers without portfolio or secretaries of state. The submitted numbers by the national consultants were verified against the information at CIA: *Chiefs of State website* at: <http://www.cia.gov/cia/publications/chiefs/index.html#J> (see for lists) and in some cases modified

On a practical note and to better facilitate an overview of the government, the consultants tried to determine whether a government-wide organigramme existed and could be accessed. (Government-wide organigrammes, whether covering the major structures of all three branches of government or just the executive branch, are useful tools to present a quick overview of the organisation of government. As such, they serve a useful entry point into the overall public sector structures.) The consultants reported (in the case of Yemen submitted) an organigramme for Jordan for 2001, Tunisia for 2002 and Yemen 2000. The consultant from Sudan reported that the Cabinet Secretariat is currently working on an organigramme.

The size and composition of the public sector depends on not only organizations but also on the numbers and status of employees and the functions that they carry out. However, as in the case of organisations, determining the numbers of public sector employees is also a complicated task.

Generally, collecting the number of central level civil servants is easier than collecting the numbers of other public establishments. However, this number may be misleading about the overall number of employees in the public sector, depending on the extent to which a country is decentralized (shifting personnel to sub-national governments) or has devolved its public services (shifting personnel to quasi-governmental organisations or contracting services out to non-governmental organisations). In addition, the number of civil servants also often does not reflect temporary, seasonal or part-time positions – where they exist. In some countries, due to budget uncertainties or shifting managerial approaches, many public sector employees are hired on short-term

contracts. In instances where they are renewed over an extended period of time, they become de facto long-term employees.

For the study countries, the consultants also collected information about public sector employment. In doing so, the central government was the reference point. They tried to get a breakdown of the number of employees by *employment status* (permanent or contractual), by *gender*, and by *major professions* (core civil service, teachers, health workers, law enforcement, judiciary and those employed by public or mixed enterprises). Of the six study countries, figures for civil service contractual employment status for Lebanon and Yemen were submitted. In addition, consultants from four countries (except Lebanon and Sudan) were able to obtain a gender breakdown, for those professions for which there was information. And all six countries had available a breakdown by profession, with the general exception of law enforcement, employment by public establishments and public or mixed enterprises. Although the figures are not strictly comparable, indicating different times during a span of four years, they give a rough indication of the variation in public sector employment in the countries under study.

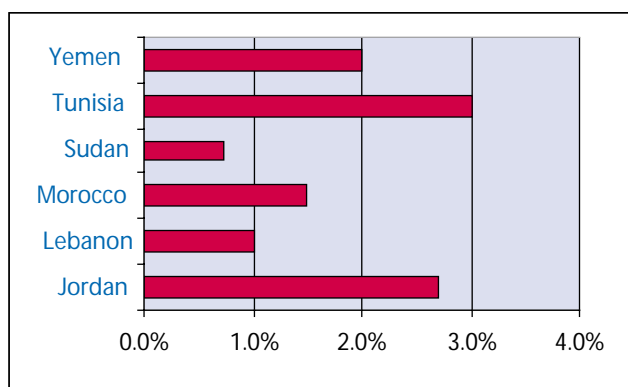
One basis of comparison is each country's permanent civil service employment figures, reflected as a proportion of the population in a given year. In a majority of the study countries, teachers and health workers working for public organisations are considered civil servants. As direct employees of the ministries of education and health, they fall under the civil service law. The figures submitted are as follows:

- Jordan: 140,921 (2002, Civil Service Bureau) out of 5.2 million (2002, World Bank) or 2.7%;

- Lebanon: 38,369 (Civil Service Board, 2001) out of 3.5 million (2001, United Nations) or 1.0%;
- Morocco: 448,328 (2003, General Paymaster of the Kingdom) out of 29.6 million (2002, World Bank) or 1.5%;
- Sudan: 239,494 (2000, Public Service Department + 2000/1 Ministry of Education + 2001 Ministry of Health) out of 32.4 million (2002, World Bank) or 0.74%;
- Tunisia: 287,548 (2001, National Institute of Statistics) out of 9.7 million (2001, United Nations) or 3.0%; and
- Yemen: 342,573 (1999, Ministry of Civil Service) out of 17 million (1999, World Bank) or 2.0%.

Chart 1 compares the numbers of civil servants (including teachers and health workers in public establishments) as a proportion of the population in the countries under study. The proportions range from a high of 3.0 per cent in Tunisia in 2001 to a low of 0.74 per cent in Sudan in 2000/1.

Chart 1: Proportion of Central Permanent Civil Servants* to Population (1999-2002)



* Civil servants in this chart also include teachers and health workers in public establishments.

Data on the gender composition of the civil services and selected professions were also collected. Because the gender breakdown figures by selected professions were sometimes unavailable or unreliable, only information concerning the civil service is presented below. Regarding central permanent civil servants, the following information has been submitted (this information was not available in Lebanon or Sudan):

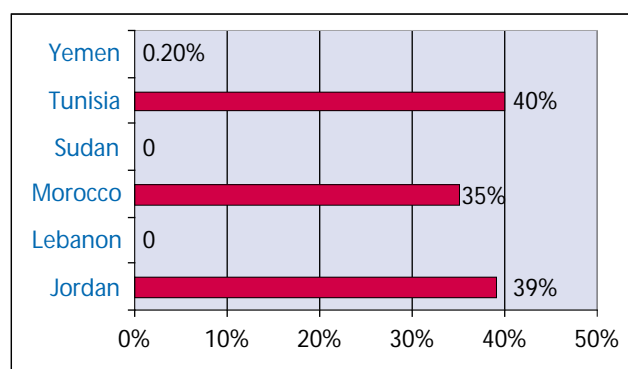
- Jordan: 55,222 females or 39.2% (2002, Civil Service Bureau);

- Morocco: 155,632 females or 34.7% (2003, General Paymaster of the Kingdom);
- Tunisia: 109,053 females or 39.9% (2000, National Institute of Statistics); and
- Yemen: 64,541 females or 0.2% (1999, Ministry of Civil Service).

Again, the figures are not strictly comparable, indicating different times during a span of five years. However, they give a rough indication of the civil service gender breakdown in the countries under study. A comparison of the reported numbers of female civil servants (including teachers and health workers in public establishments) indicate that Tunisia had the highest proportion of female civil servants with 39.9 per cent in 2000, closely followed by Jordan with 39.2 per cent in 2002. Yemen with 0.2 per cent in 1999 had the lowest proportion of female civil servants. This information is presented in Chart 2.

Chapter 2 has already discussed the low rate of female participation in the labour force and the importance of the public sector as a main employer across the region. In this light, the feminization of the civil service is a very important indicator of female participation in the labour markets in the region. However, sheer numbers do not indicate the level of responsibility or seniority of female civil servants. To ensure true representation, the increase in numbers of female employees needs to also be accompanied by an increase in the upper ranks

Chart 2: Proportion of Women in the Central Permanent Civil Service* (1999-2003)



* Civil servants in this chart also include teachers and health workers in public establishments. Gender breakdown figures were not available for Lebanon or Sudan.

Information on the numbers of employees in selected public sector professions was also solicited. The national consultants submitted some very interesting breakdowns, where the data were easily available. However, since the information collected is based on slightly differing

compositions for each profession by country, it is also not presented here. Readers interested in this information are referred to the study database at:

http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp

Past Reform Initiatives

Given that the subjects of public sector transparency and accountability are rapidly gaining interest globally, the consultants were asked to collect information about related recent initiatives. (Despite the work noted in Chapter 1, little information has been gathered systematically on these subjects regionally.) The information is an indication of the recent focus and the types of activities that have been carried out at the national level.

The initiatives submitted can be seen to be falling into several categories (see Table 6):

- Studies: public administration, transparency and anti-corruption (Jordan, Lebanon, Morocco);
- Conferences: integrity in Government and transparency (Jordan, Lebanon);
- Campaigns: public ethics and specific accountability projects (Morocco, Sudan); and
- Overall governance programmes or administrative reforms (Morocco, Sudan, Yemen).

Many initiatives have involved mainly public officials within governments, targeted at studying administrative reforms and carrying out modernization projects. Initiatives in Jordan, Lebanon and Morocco have gone beyond the government to include a wider audience to raise awareness about transparency, public ethics or anti-corruption. Lebanon has tried to hold consultations on a national integrity strategy and Morocco has defined one. To give a flavour of these initiatives, a sample is presented in more detail in Box 4.

Box 4: Results of Transparency Maroc's Study on Integrity

"The households surveyed were invited to express their perceptions related to corruption. Before that, they were asked about the big problems facing the country. In this sense, they indicated that unemployment was at the head, judged very important by 93% of the respondents, followed by the cost of living (76%). Corruption in the public sector, cited by 72% of the interviewees, placed fourth among those most important problems of the country."

See Annex 1: Case Study of Morocco

Thus, this chapter reveals the variations on the structures, employment patterns and the recent initiatives to reinforce transparency and accountability of the public sector in the study countries. However, the attempt to collect basic public sector data also showed that there is a great variance in the availability and quality of up-to-date data. The two *UNDP Arab Human Development Reports* have already observed that there is a paucity of reliable data and statistical information generally in the region.

Decision-makers all over the world recognize the overriding importance of having timely and reliable information in planning and in undertaking any major initiative in the public sector. Therefore, the countries under study, and in the region in general, stand to gain considerably by investing in systematically collecting, updating and sharing basic public sector data. If the countries in the region could harmonize their data collection methodologies and outputs, especially given that they share a common language, regional comparisons and joint planning on co-sponsored activities can be greatly facilitated.

Table 6: Recent Initiatives Related to Public Sector Transparency and Accountability

| Country | Initiatives |
|---------|---|
| Jordan | <ol style="list-style-type: none"> 1. Government of Jordan signed the UN Convention Against Corruption in 2003. 2. A Ministerial Committee for Anti-Corruption, chaired by Deputy Prime Minister, set up in 2002. 3. A National Committee for Combating Corruption and Favouritism set up in 2002. 4. A conference on <i>Towards Jordanian Transparency</i> held in 2000. 5. A study on <i>Strengthening Financial Accountability and Transparency</i> conducted by the Jordanian Public Administration Institute in 1999. 6. A workshop on <i>Integrity in Government</i> held in 1995. |
| Lebanon | <ol style="list-style-type: none"> 1. Several conferences by the Office of the Minister of State for Administrative Development (OMSAD) and NGOs on fighting corruption, transparency and good governance. 2. An agreement signed between the Government of Lebanon and the United Nations Centre for International Crime Prevention (UN CICP) to incorporate transparency and fighting corruption topics in the curriculum of schools, in 2003. 3. Small Transparency and Accountability Grants by USAID and implemented by AMIDEAST, beginning 2000. 4. Following an Agreement signed between the Government of Lebanon and the UN CICP in 2000, a National Integrity Steering Committee (NISC) was established. The NISC was charged with proposing a Strategy and an Action Plan to fight corruption in Lebanon. However these have not been produced until now. 5. <i>Corruption in Lebanon Country Assessment Report</i>, in 2000, compiled by Information International at the request of the United Nations. 6. <i>Lebanon Anti-Corruption Initiative Report</i> in 1999. A study prepared by Information International, commissioned by Kulluna Massoul (an Anti-Corruption NGO that does not exist anymore) and funded by United States Agency for International Development. |
| Morocco | <ol style="list-style-type: none"> 1. <i>Public Ethics Campaign</i> in 2001. Raising awareness on the need for the fight against corruption. 2. Studies on public administration. Studies conducted by the public administration ministry and workshops conducted with international organizations such as the World Bank and UNDP. 3. A study by Transparency-Maroc in partnership with Transparency International (TI) on perceptions about corruption, carried out in 2001. Approximately 400 enterprises and 1000 households were surveyed and 6 focus groups held. 4. National Programme on Governance, supported by UNDP, launched in 1998. 5. A clean up operation directed against drug trafficking and customs fraud in 1996. |
| Sudan | <ol style="list-style-type: none"> 1. Project on Local Governance in Khartoum State, current on-going. 2. A campaign led by some parliamentarians in early 2003, opposing the exemption of some public agencies from requirements of accountability imposed by regulations. 3. Administrative reform programme spearheaded by the Ministry of Labour and Administrative Reform since 2000. 4. <i>The Western Salvation Road Campaign</i> in 1991. An independent initiative by the local press and the national legislature, asking for an accounting of public project funds that had been contributed by the people of Western Sudan and the Government. |
| Tunisia | <ol style="list-style-type: none"> 1. The adoption of a new fiscal code (<i>code des procédures fiscales</i>) increases fiscal transparency -- effective in 2002. This code, which is a formal codification of existing laws, as well as some new laws, enshrines the statutory rights and obligations of the government and taxpayers on matters relating to revenue collection and tax payment 2. Publication of extracts from the reports of the Court of Financial Discipline in the Official Gazette, beginning 2001. |
| Yemen | <ol style="list-style-type: none"> 1. Civil Service Modernization Project started in 2000 and to end in 2005, supported by the World Bank, the Government of Netherlands and the European Union. 2. The National Programme for Governance Capacity and Institutional Reform was signed in 1997 but not implemented to date. 3. A Comprehensive Economic, Financial, and Administrative Reform Programme (EFARP) introduced in 1994. EFARP was supported by the World Bank, the International Monetary Fund (IMF) and the United Nations Development Programme (UNDP). |

CHAPTER 4: FINANCIAL MANAGEMENT

Chapters 1 to 3 of this report provided the background to the study:

- presenting its objectives and methodology,
- describing the Arab regional context for examining public sector transparency and accountability, and
- giving an overview of the public sector structures and past relevant initiatives in the study countries.

Chapters 4 to 6 will deal directly with the three areas of public sector management under study, mentioned in Chapter 1: financial, human resources and information. In this chapter, transparency and accountability in public financial management in the study countries will be reviewed.

Some experts have argued that, globally, there is a renewed emphasis on financial transparency and accountability, which may have a bearing on the Arab region, based on five trends¹:

- An erosion of the credibility of governmental fiscal machinery due to two decades of fiscal turbulence, among other factors;
- A reactive rather than a proactive mode of decision-making by economic policymakers in many developing countries and countries in transition, as a result of the gradual spread of globalization;
- The change in the role of government and its gradual shift from production to regulatory activities, adding to the complexities of financial accountability;
- Fiscal decentralization of central government expenditures, including more transfers to sub-national governments and the private sector; and
- A rapid expansion of the scope of financial accountability to also include fiscal sustainability, flexibility in the use of resources, and reduced financial vulnerability – in addition to the usual answerability for using resources for intended purposes.

Given the need to respond to these trends and the key role of public financial management in wealth generation and public expenditure of a country, the project team devoted much attention to breaking it down into major aspects.

¹ United Nations (unpublished concept paper by Suresh Shende and Tony Bennett), *Transparency and Accountability in Public Financial Administration*, p3

The chapter presents comparisons between policies and practices, where applicable and possible, in:

- Financial Management Framework,
- Budgeting,
- Revenue,
- Payroll,
- Procurement,
- Privatisation and Service Concessions,
- Payments,
- Accounting,
- Internal Audit, and
- External Audit

Given the already lengthy survey and for the practical reason of time, some subjects received more attention than others. Procurement has been given more attention, based on its potential for abuse and risk of corruption. Many interview questions were directed to the practices around procurement. Privatisation and service concessions, though equally open to the risk of abuse and corruption, received less attention. As more countries in the Region transfer state assets, the practices should receive more systematic attention in the future.

As stated previously, information on policies was collected through an analysis of pertinent documents and consultations with experts by the national consultants. Perceptions of practices were gathered through highly structured interviews by national consultants, where interviewees were asked to rank each practice on a scale of 1-5, with 1=Always, 2=Frequently, 3=Sometimes, 4=Rarely, 5=Never and D=Don't Know. In addition, comments were solicited during the interviews. An attempt has been made to present those comments which shed particular light on a subject, giving information beyond the trends of responses.

Because of the detailed nature of the questions asked under each aspect, this and the two following chapters generally highlights only those findings on which there was a high level of agreement among respondents in the countries or which the project team deemed would be of interest to policy makers. The readers are referred to Annex 3 and the study database on the project website: http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp for findings on all questions. In addition, given the subjective nature of the categories, the analysis of the responses added the “always” and “frequently” together as a good indication that a practice is consistently carried out.

Given the limited numbers of expert interviewees available and willing to give information in the countries, the findings on perceived practices should be taken as

only *one relevant indicator*, among others, on the state of transparency and accountability in financial management in the study countries.

A total of 141 public finance expert interviews were carried out in the study countries for this section. Those senior government officials and other experts outside of the government who are familiar with public financial management and practices were identified and approached.

Financial Management Framework

A financial management framework is defined by pertinent laws and regulations. The framework generally stipulates a system for public transparency and accountability² to include:

- Which public officials are directly accountable;
- For what they are accountable;
- To whom they are accountable; and
- How that accountability is discharged.

In the countries under study, the frameworks are defined as described in Table 7: *Financial Management Frameworks*. Though not exhaustive, Table 7 presents the major laws and regulations pertinent to financial transparency and accountability, as submitted by the national consultants. In five countries, with the exception of Lebanon, these laws and regulations have been updated during the past ten years since enactment. In Lebanon, there are two proposals currently in parliament to modify the law. And, based on the texts, Table 7 presents those officials directly responsible for financial management. Generally, they are finance ministry employees, including chief finance officers, public accountants and financial controllers. In

Jordan and Sudan, the executive heads and programme and project managers of line ministries were also identified.

In order to ascertain the degree to which these frameworks are perceived to be effective in exercising general financial control, the national consultants asked a number of questions to mainly government experts, during interviews. The questions addressed the visibility of controls, continued emphasis on probity, good example by senior officers, supervision over opening/operating all bank accounts, systematic training of financial officers on their accountability and rotation/transfer of financial officers.

The responses are presented in split bar charts in Annex 3: General Financial Control Practices. In addition, the responses were analysed for any patterns to indicate agreement or disagreement among the countries that a financial control measure was “always” or “frequently” practised. The results are presented in Table 8. Among the six practices, the interviewees in five countries (except Jordan), ranked the highest or tied for the highest place *supervision over opening/operating all bank accounts*. However, in only two countries (Sudan and Yemen) did more than half of the respondents give this ranking. Conversely, in three countries (Sudan, Tunisia and Yemen), the respondents ranked the *systematic training of financial officers on their accountability* the lowest or tied it for the lowest place among the six practices. Overall, apart from the figures for Jordan, generally less than half of the interviewees have identified the six general financial controls as being consistently practised. Based on these responses, it can be deduced that more attention needs to be given to *consistently* exercising general financial controls.

² *ibid*, p. 2

Table 7: Financial Management Framework

| Country | Laws | Regulations | Directly Responsible Officials |
|---------|--|--|---|
| Jordan | Fiscal System By-Law No. 93 | Fiscal System By-Law and Regulations No. 1 | <ul style="list-style-type: none"> • Executive Heads of Ministries • Chief Finance Officers • Programme and Project Managers |
| Lebanon | Law of Public Accounting | Decrees, internal memos and regulations of application | <ul style="list-style-type: none"> • Financial Controllers • Court of Accounts and Central Inspection Controllers |
| Morocco | <ul style="list-style-type: none"> • Finance Law • Public Accounting Decree • Law on Responsibility of Chief Finance Officers, Public Accountants and Controllers | Guidelines and decrees of application | <ul style="list-style-type: none"> • Chief Finance Officers • Public Accountants • Financial Controllers |
| Sudan | Unified Financial Regulations | Official circulars | <ul style="list-style-type: none"> • Programme and Project Managers |
| Tunisia | Organic Law of the Budget | Various regulatory measures | <ul style="list-style-type: none"> • Chief Finance Officers, • Public Accountants |
| Yemen | Finance Law No. 8 | Various | <ul style="list-style-type: none"> • Chief Financial Officers • Central Organization for Control and Audit Officers |

Table 8: General Financial Control % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|--------|---------|---------|-------|---------|-------|
| Highly visible controls | 83 | 10 | 24 | 45 | 32 | 54 |
| Continued emphasis on probity | 78 | 5 | 33 | 55 | 27 | 51 |
| Good example by senior officers | 67 | 30 | 21 | 35 | 26 | 33 |
| Supervision over opening/operating all bank accounts | 78 | 30 | 27 | 70 | 47 | 54 |
| Systematic training of financial officers on their accountability | 88 | 15 | 18 | 25 | 26 | 24 |
| Rotation/transfer of financial officers | 61 | 10 | 12 | 35 | 31 | 36 |

* For a breakdown of all responses, see bar charts in Annex 3: Financial Management, General Financial Controls.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Selected interviewee comments that focus on the human factor in exercising general financial controls are presented (see Box 5).

Box 5: Interviewee Comments

- “Training is done by specialized new established Institute but some regulations are archaic.”
Lebanon
- “Training is mostly technical, rarely emphasizing accountability.”
Sudan
- “The problem is qualified personnel, not the system.”
Yemen

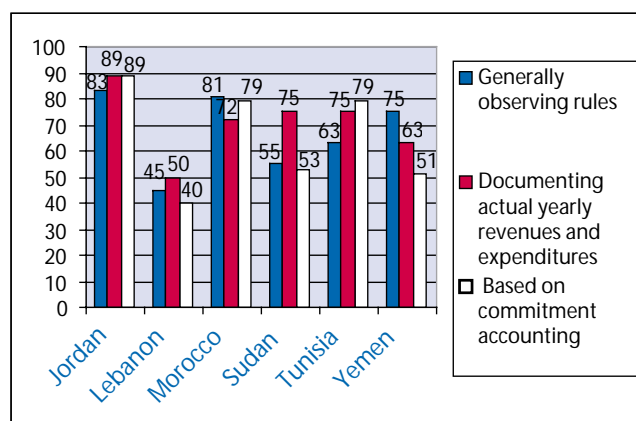
addressed whether budgets were implemented generally observing rules, documenting actual yearly revenues and expenditures, and whether implementation was based on commitment accounting. More than half of the interviewees in five of the six countries (except Lebanon) perceive budgets as being implemented “always” or “frequently” observing rules, documenting actual yearly revenues and expenses and based on commitment accounting. (However, 50% of the respondents in Lebanon acknowledged that budgets are implemented, documenting actual yearly revenues and expenses. See Chart 3. This Chart, and others to follow, allows a regional comparison of practices but also allows an intra-country comparison.) These responses indicate a generally high level of compliance in practice with budgetary rules. Some comments by interviewees shed additional light into budgetary practices (see Box 6).

Budget

Based on an analysis of relevant documents, the national budgets of the study countries cover all public revenues and expenditures of the government. They include current spending, operational budgets and capital investments. (In Jordan, independent public corporations generally have their own budgets but some are covered by the national budget. In Lebanon, loans are not part of the national budget. In Sudan, the states’ budgets are also included in the national budget. In Tunisia, the national budget covers only the state structure and not other public entities.)

As for extra-budgetary funds, they are regulated by laws and usually kept to a minimum. They are controlled by the Minister of Finance (approved by the Council of Ministers) in Jordan, the Council for Development and Reconstruction (with budgetary reserves being handled by the Council of Ministers) in Lebanon, and the Court of Accounts and the General Inspection of Finance in Morocco. In Tunisia, extra-budgetary funds do not exist in law since the reform of the Organic Law in 1996 but exist in administrative practice.

To find out how budgets are implemented, several questions were asked during interviews. The questions

Chart 3: Budget % of Respondents Indicating “Always” and “Frequently” Practised*

* For a breakdown of all responses, see bar charts in Annex 3: Financial Management, Budgets.

Revenue

In order to find out about the legal and regulatory provisions for enhancing transparency and accountability of revenue collection in the countries under study, the

Box 6: Interviewee Comments

- “Recently and because of the economic situation, overspending is being controlled; however, the Parliament adds to the budget proposal prepared by the ministry of finance before approving it, mostly for projects in their constituencies.”
Lebanon
- “The preparation, the execution and the follow-up to the budget remains archaic. There is a need to develop actual and analytic financial assessments.”
Morocco
- “Budget proposals or estimates are often exaggerated by government units, and budget approvals are often the result of economically unfounded negotiations. There is nominal commitment to (curtail) overspending. But overspent amounts, even if not adequately justified, are often met with additional funds rather than with punishment.”
Sudan
- “The budgets are centrally controlled via the Ministry of Finance. All established rules are subject to negotiations and person-to-person bargaining, resulting in an impersonal system with personalized transactions.”
Yemen

consultants were asked to identify measures to increase the accessibility of tax information for the citizens of the study countries. Though not an exhaustive list, the consultants highlighted the following:

- Regulatory provisions for self assessment, adequate notification and simple tax assessments and payment forms (Jordan);
- Mechanization, computerization and detailed reports to justify expenditures for improving collection measures; improving tax assessments and payments schedule is also being considered (Lebanon);
- Notifications/declarations, publications and websites (Morocco);

- Notifications and simple tax forms (Sudan);
- Publication in the Official Journal of all texts related to taxes; (Tunisia); and
- Simple tax assessments and payment forms (Yemen).

To compare these and other provisions against practices to ensure transparency and accountability in revenue collection administration, a number of questions were asked during the interviews. The questions dealt with impartially implemented tax laws, recourse to effective appeals procedures, a separation of key functions, regular and independent reconciliation of revenue cash books with bank statements, a follow-up of differences between cash books and bank statements, up-to-date records of revenue arrears and regular reporting of revenue arrears to the ministry of finance.

Box 7: Interviewee Comments

- “Some of the rules of collecting revenues are followed effectively but others are not.”
Jordan
- “Collecting taxes and fees is the most organized issue in the Ministry of Finance. Booklets are issued, explaining to people how to pay taxes and sometimes people are exempted from fines if they pay their over dues within a certain period of time.”
Lebanon
- “Ethnic bias is not clearly visible, but political interference is. An appeal is usually subject to a down payment of 50% of assessed amount. Unless proper accounts are submitted by the tax payer, tax officers assess freely.”
Sudan
- “Sometimes, the application of the fiscal law is a sanction, a means of pressure or vengeance.”
Tunisia
- “Arrears are not usually taken seriously because it is a cash system, not based on accrual grounds.”
Yemen

Table 9: Revenue Collection % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|------------|-----------|-----------|-----------|-----------|-----------|
| Impartially implemented tax laws | 94 | 30 | 69 | 70 | 48 | 51 |
| Recourse to effective appeals procedures | 72 | 30 | 42 | 45 | 37 | 27 |
| A separation of key functions | 95 | 45 | 63 | 53 | 64 | 51 |
| Regular and independent reconciliation of revenue cash books with bank statements | 100 | 25 | 45 | 40 | 42 | 54 |
| Follow-up of differences between cash books and bank statements | 95 | 25 | 42 | 48 | 47 | 54 |
| Up-to-date records of revenue arrears | 89 | 25 | 30 | 30 | 58 | 45 |
| Regular reporting of revenue arrears to the ministry of finance | 89 | 35 | 39 | 25 | 58 | 45 |

* For a breakdown of all responses, see bar charts in Annex 3: Financial Management, Revenue

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

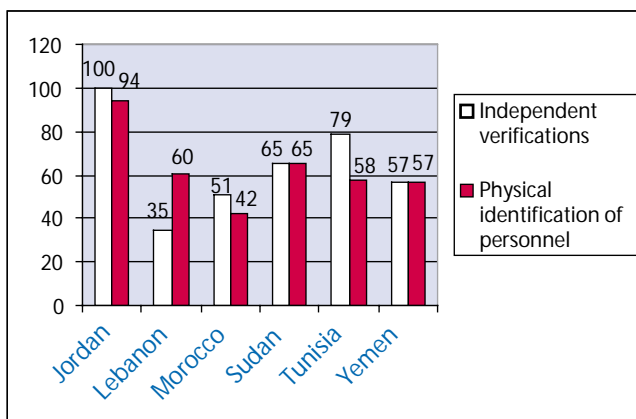
Among these practices, the interviewees in three countries (Jordan, Tunisia and Yemen) ranked the lowest or tied for the lowest place *a recourse to effective appeals procedures*. (See Table 9.) Nevertheless, it should be noted that in Jordan, there was 72 per cent of the interviewees who feel that a recourse to effective appeals is “always” or “frequently” available. Box 7 presents some interviewee comments.

Payroll

Regarding public payroll, policies from all the study countries indicate that there should be a separation of functions between those personnel authorizing and those preparing and disbursing the pay. This separation reduces the chances of unscrupulous individuals abusing the payroll system to create fictitious payees or to make unauthorized payments. (Despite the separation, a problem of fictitious employees was reported for Sudan.) In addition, in five countries, remuneration depends on the number of hours worked, according to the status and rank of the public employee. (The exception is Sudan, where authorization is based mostly on days rather than hours.)

In order to see how policy provisions were translated into practices, questions were also asked during interviews about independent verifications of payroll calculations, amounts and reconciliations with previous periods as well as a physical identification of all personnel on the payroll. Interviewee responses indicate that the existing policy requirements are perceived to be followed in the majority of the countries. More than half of the interviewees indicated that independent verifications of payroll calculations, amounts and reconciliations with previous periods occur “always” or “frequently” in all countries except Lebanon. Also, more than half of the interviewees felt that a physical identification of all personnel on the payroll takes place “always” or “frequently” in all countries except Morocco. (See Chart 4.)

Chart 4: Payroll % of Respondents Indicating “Always” and “Frequently” Practised*



* For a breakdown of all responses, see bar charts in Annex 3: Financial Management, Payroll.

Box 8: Interviewee Comments

- “Payroll is sent from each ministry, based on attendance sheets, to the Ministry of Finance who disburse the cheques.”
Lebanon
- “The payroll does not interest the Ministry of Finance beyond the fiscal plan. Never has a public establishment been the object of salary or recruitment audit. The cases of fictitious civil servants are discovered following scandals or some affair having broken out outside of all control measures.”
Morocco
- “Computerized payroll is not widely used. Payroll is only checked or verified when the fiscal year is closing.”
Sudan
- “If the person is not known to the cashier, he must show his ID – but this is not always followed. Some other means are used to identify the person.”
Yemen

However, it should be noted that with a computerized payroll, such as instituted in Morocco, there is a reduced need for physical verifications. In fact, many countries that have computerized their payroll have reduced “ghost workers” and other fraudulent practices, an experience that may benefit other countries in the region. Box 8 presents some comments by interviewees.

Procurement

Given that public procurement has long been identified as a source of problem in public financial management and a high risk for corruption everywhere, the study asked more in-depth questions in this than in other areas.

At the level of policies, the national consultants indicated that the state of procurement laws and regulations in the study countries vary. In some, such as Morocco, much progress has been made recently in meeting international standards; in others, such as Lebanon, the texts are currently under study for amendments (see Table 10.) In four of the six countries (except Lebanon and Yemen), exceptions to competitive bidding are clearly explained in the texts. For those countries where an estimate was possible, the consultants reported that the proportion of procurement subject to competitive bidding ranged from around 66% to 90%. Also, the typical duration for procurement involved a range of 30 to 60 days.³

At the level of daily operations, the interviewees were asked five detailed questions regarding *overall procurement practices* as well as numerous other questions about

³ Sudan reported the required duration as stated in the regulations rather than the typical duration in practice.

specific aspects. The questions about overall practices included: the adequacy of staffing, the standardization of documents, awarding of contracts by competitive bidding, sufficient time allowed to obtain bids and awarding contracts to the most responsive and qualified bidder. (See Table 11.) These questions served to gauge overall confidence in public procurement in general.

In five of the six countries (except Tunisia), the interviewees ranked the highest or tied for the highest place *contracts awarded by public competitive bidding*, among overall practices “always” or “frequently” occurring. However, in four of the six countries (except Jordan and Morocco), interviewees ranked lowest or tied for the lowest place *awarding contracts to the responsive and qualified bidder with the lowest evaluated cost* and without further negotiation, among practises “always” or “frequently” occurring. (In Jordan and Morocco, they ranked the *experience and skills* in material management and procurement of the staff as being the lowest.)

These responses point to a contradiction in overall procurement practices among the countries under study. Although they systematically carry out public competitive bidding, they are not seen to award contracts to the bidders offering the best value. This observation suggests that open competitive bidding somehow does not lead to the intended end result, seeming to defeat the purpose of the process. Does this mean that somewhere during the procurement stages, the process becomes distorted?

In order to probe deeper, questions about six specific aspects of procurement were also asked: instructions to bidders, record keeping, opening of the bids, evaluations of bids, monitoring the terms of contracts and maintenance of follow-up documents. These questions were intended to identify where good practices and gaps emerge along the continuum of procurement solicitation, evaluation and follow-up stages. (See Annex 1: *Financial Management Survey*, Question 6-11 under *Procurement*. The reader is referred to the split-bar charts in Annex 3: *Financial Management, Procurement* and the study database at: http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp for a more detailed examination of the responses.)

Regarding *instructions to bidders*, more detailed questions were asked about the clarity of: the eligibility requirements, the basis of bids, the language and currency of bids, the source and date of exchange rate to be used, the deadline and place for the receipt of bids and the evaluation criteria. These instructions are critical to assisting potential bidders in preparing responsive bids. Generally, half or more respondents in each country indicated that each category of information was “always” or “frequently” included in the instructions, thus indicating confidence in the government’s assistance in the preparation of responsive bids. The exceptions were for the *source and date of the exchange rates* where half or fewer interviewees in Lebanon,

Sudan and Tunisia indicated that this information was “always” or “frequently” available to bidders. Also, half or fewer interviewees indicated that the *evaluation criteria* were “always” or “frequently” included in the bidding instructions in Lebanon, Tunisia and Yemen.

A good practice that was identified was instructions to bidders about *the deadline and place for the receipt of bids* which was ranked the highest or tied for the highest place in four countries (Lebanon, Morocco, Sudan and Yemen). As mentioned above, the gaps identified were regarding indicating to the bidders the *source and date of the exchange rates*, ranked the lowest or tied for the lowest place in four countries (Jordan, Lebanon, Morocco and Tunisia), and the *evaluation criteria*, ranked the lowest or tied for the lowest place in three countries (Lebanon, Sudan and Yemen). Although *the source and date of the exchange rates* can be seen to be largely technical information that may be of more interest to foreign than domestic bidders, publicising the *evaluation criteria* is crucial for transparency of making decisions in awarding contracts.

For *record keeping*, the interviewees were asked whether the procuring agencies kept copies of: public advertisements, pre-qualification documents, evaluation reports, bidding documents, records of any pre-bid meetings, the bid opening minutes, the final bid evaluation report, signed copies of bids/appeals/final contracts, performance securities issued and any other communications to and from bidders. Good maintenance of records is essential to explaining the decision-making process and justifying choices for audit purposes and especially in the event that awards are contested.

In terms of good record keeping identified, half or more of the interviewees in each country indicated that three of the ten types of records asked about were “always” or “frequently” kept. They are the *bid opening minutes*, the *final bid evaluation reports* and *signed copies of bids/appeals/final contracts*.

In terms of gaps in record keeping, fewer than half of the respondents in five countries (except Morocco with 60%) reported that *evaluation reports* (if any used) were “always” or “frequently” kept. However, this finding must be viewed with caution as it may not be customary for the countries to keep running records of evaluations prior to the final evaluation report. That is, not all records of detailed technical evaluations may be kept but only the report upon which the final award is based. (It may be worthwhile to further explore the evaluation process and the documents generated in a future study.)

Also, less than half of the interviewees in three out of the six countries (Lebanon, Morocco and Tunisia) indicated that *other communications to and from bidders* were “always” or “frequently” kept. Finally, less than half of the interviewees in two countries (Sudan and Tunisia) indicated that *pre-qualification documents and records of any*

pre-bid meetings (Lebanon and Tunisia) were “always” or “frequently” kept.

As for the remaining three types of documents: *public advertisements*, *bidding documents* and *performance securities issued*, only Tunisia reported fewer than half of the respondents indicating that they are “always” or “frequently” kept. However, it was footnoted in Chapter 1 that in Tunisia, interviews were mainly conducted with academics and experts outside of the government. One result for responses for the country has been a higher rate of “don’t know” answers about public management practices under inquiry. This pattern should be borne in mind in interpreting the responses for Tunisia for procurement and other practices.

Referring to *opening of the bids*, the national consultants posed questions on whether: bids were unopened until official opening, opened immediately after the deadline, opened in the attendance of representatives, read aloud, recorded at the time, and rejected if late. The questions regarding these practices serve to indicate openness and access by the public to opening of bids.

The majority of the interviewees responded that these practices “always” or “frequently” existed, with the exception of one country (Tunisia) where fewer responded about whether bids were *opened immediately after the deadline*, *opened in the attendance of representatives*, and *read out loud*. (However, as noted above, there was a higher rate of “don’t know” and “not answered” responses in Tunisia than in other countries about these practices. Therefore, it is not possible to conclude whether the practices do not consistently exist or the respondents simply do not know.) In addition, only 40% of the respondents indicated that *rejecting a bid if late* was “always” or “frequently” practiced in Lebanon.

For *evaluation of bids*, three questions were asked, as to whether the evaluations: are based solely on the stated criteria in the documents, normally completed within the original bid validity period, and documented in a report with a clear description of the evaluation process. Because the evaluation stage within the procurement process depends the most on subjectivity and discretion, these questions are important in establishing impartiality.

These three practices were perceived to “always” or “frequently” to exist in most of the countries. However, less than half of the interviewees reported that evaluations are “always” or “frequently” *completed within the original bid period* in Tunisia. Also, half or fewer of the respondents in Lebanon and Tunisia reported that evaluations were documented in a report with *a clear description of the evaluation process*. Among these three practices, four of the six countries (Lebanon, Morocco, Sudan and Tunisia) ranked the highest or tied for the highest place *evaluation based solely on the stated criteria*, while ranking the lowest documenting the evaluation in a report with *a clear description of the process*. Once a contract has been awarded, ensuring that its terms

are met pre-empt any substandard goods or services being delivered. About *monitoring the terms of the contract* once it has been awarded, questions were asked about: overseeing the delivery of goods and services, verifying the quantity/quality/ timeliness of goods and services, supervising the work by independent engineers, and ensuring the completion of work on schedule and within budget.

Most of the practices were perceived to “always or “frequently” to exist in all countries by half or more of the interviewees. However, in four of the six countries (except Jordan and Yemen), less than half of the respondents reported that there was “always” or “frequently” *supervision of work by independent engineers*. Moreover, this practice was ranked the lowest in all six countries. Since the “don’t know” and “not answered” categories ranged from only 5-11%, it seems reasonable to assume that the countries under study do not consistently supervise, where applicable, the work of the contractors by independent engineers, thus verifying the quality. Given the importance of infrastructural projects and the risks for corruption and substandard work, this area may warrant more study and follow-up.

Finally, *properly maintaining follow-up documents* ensures documentary evidence of the execution of the contract. In the event there are questions regarding any changes to the quality and completion of delivery, they serve as a reference. Regarding follow-up documents, questions were asked about the proper maintenance of: change and variation orders, invoices and payments, progress reports, certificates of inspection, acceptance and completion and records of claims and disputes and their outcomes.

There were more differences of perceptions regarding keeping follow-up documents than for other practices and no clear patterns about ranking that have emerged. However, less than half of the interviewees noted that *change and variation orders* were “always” or “frequently” maintained properly in four countries (Morocco, Sudan and Tunisia and Yemen), thus signaling a gap in practices. It may be of benefit to the study countries to further study and follow up on this practice. In addition, fewer than half of the interviewees indicated that *progress reports* (Lebanon and Sudan), *certificates of inspection* (Lebanon and Morocco) and *records of claims and disputes* (Morocco and Yemen) were “always” or “frequently” maintained.

To conclude, the observations about procurement, the answers to the questions seem to suggest that there is a reasonable degree of confidence in the public competitive bidding and many good practices in the procurement process. However, although open competitive bidding usually takes place, it does not always lead to the intended end of obtaining the best value for public resources. In drilling down to more specific aspects, the evaluation process has demonstrated a few gaps. For instance, the interviewees indicated that the *evaluation criteria* are not consistently provided in instructions to the bidders. Also,

although the final bidding evaluation records are consistently kept, it was not clear that all records of detailed technical evaluations may be kept. Moreover, once a contract has been awarded, the responses seem to indicate that the work of the contractors is not consistently supervised, where applicable, by independent engineers, thus verifying the quality. Finally, there is not always a proper maintenance of change and variation orders, after a contract has been awarded.

It may be worthwhile to address these perceptions with a view to closing these gaps through more detailed studies and suitable follow-up actions. In addition, studies of procurement in the defense sector and arms procurement may also help in providing a complete picture of procurement practices, as they often involve very large and

technical contracts. Experience around the world has shown that they are also areas prone to irregularities. The continuum of the procurement stages, in all sectors, stands to benefit from constant monitoring of the overall process.

Box 9 presents some comments by interviewees on overall procurement procedures.

Privatisation and Service Concessions

No questions were asked during interviews about privatisation and service concession, given that privatisation has slowed down in North Africa and the Middle East in recent years. As was stated earlier, given the lengthy questionnaire, more questions were devoted to procurement this time. Privatisation and concessions may usefully be the subjects of a more in-depth study in the future. This is especially the case as privatisations and awarding concessions, if not conceived and managed properly, may adversely affect overall transparency and accountability in the public sector in the long run.

The information gathered under this section was collected by national consultants through text analysis and consultations with experts. Based on their submissions (see Table 12), the number of state enterprises and assets privatised in the past five years ranged from none (in Lebanon and Sudan) to 82 (in Tunisia). The enterprises and assets included hotels, construction materials companies, tourist units, financial intermediaries, etc. The types of service concessions or licenses awarded in the past five years include mainly highways, telecommunication services and utilities. The transfer of assets and the awarding of concessions are overseen by a number of different mechanisms, ranging from legislative and judicial oversight to reviews by peer companies.

Box 9: Interviewee Comments

- "The most problems come from this (procurement) area."
Jordan
- "If the form (of the procedures) is respected, the risks of deviation are above all upstream: insider trading, regrouping the lots to be purchased, etc."
Morocco
- "Regarding standardized documents, previously yes, presently no. In competitive bidding, actual practice reveals different ways; a contract may start small but subsequently (and gradually) grow large (snowballing). And this is further aggravated by irregularity in payments to contractors, which may subsequently lead to re-pricing. In general, technicalities and rule applications may be resorted to only as camouflage to cover up malpractice. Disclosure of information is also practised."
Sudan

Table 10: Procurement

| Country | Transparency/Accessibility of Laws and Regulations | Exceptions to Competitive Bidding Explained | Estimated % of Procurement Subject to Competitive Bidding | Typical Duration of Procurement |
|---------|---|--|---|---|
| Jordan | Transparent and accessible and rules are simple | Yes | Unavailable | 30 days |
| Lebanon | Old and need amendments (under study); some hinders work | No (Need change) | About 75% of all large procurements | Minimum 30 days |
| Morocco | Texts are precise but loopholes exist; noticeable progress in the Decree on Public Procurement since 1998 | Yes (Follow World Bank and UNCITRAL guidelines) | 66% in 2001 | 21 days for competitive bidding, 15 for acceptance, 20 for submission of bids |
| Sudan | Included in Financial and Accounting Act of 1977 and Regulations of 1978 | Yes (Limited direct "non-competitive" purchasing specified in the regulations) | Currently trying to establish the proportion | Regulations specify the process should not exceed 14 days |
| Tunisia | Decree on public procurement of 2002, modified in 2003 | Yes (Specifies the use of sole source contracts) | About 90% of large procurements | 60 days (may be longer for important bids) |
| Yemen | Transparency exists in texts but not followed | No | About 90% | 30 days |

Table 11: Overall Procurement System % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|--------|---------|---------|-------|---------|-------|
| Staff with adequate experience and skills | 78 | 25 | 36 | 55 | 58 | 45 |
| Standardized documents | 94 | 45 | 51 | 65 | 64 | 60 |
| Contracts awarded by public competitive bidding | 94 | 60 | 76 | 70 | 58 | 66 |
| Sufficient time allowed to prepare bids | 89 | 50 | 72 | 70 | 52 | 63 |
| Contracts awarded to the responsive and qualified bidder with the lowest cost and without negotiation | 89 | 25 | 48 | 19 | 37 | 39 |

* For a breakdown of all responses, see bar charts in Annex 3: Financial Management, Procurement, Overall Procurement System.

Numbers in Bold = highest percentages

Numbers in Red = lowest percentages

Table 12: Privatisation and Service Concessions

| Country | State Enterprises/Assets Sold in past 5 Years | Service Concessions or Licenses Awarded in past 5 Years | Subject to Public Reporting |
|---------|---|---|---|
| Jordan* | N/A | N/A | Independent valuation before evaluation of tenders |
| Lebanon | None (Some, including Electricity being studied by Higher Council for Privatisation) | Mobile network given as Build, Operate and Transfer to 2 private companies in 1994 | Law requires reviews by outside companies |
| Morocco | 62 entities (including 16 hotels; privatisation programme began in 1993) | Highways and utilities (energy, electricity and water but may not be subject to public reporting) | Parliamentary authorization and international bidding |
| Sudan | Most privatisations took place more than five years ago but preparations are being made for other future privatisations | N/A | N/A |
| Tunisia | 82 operations (1997-2002), including construction materials companies, tourist units and financial intermediaries (methods used include liquidation, full privatisation, sale of assets and partial sale of state-owned shares) | Highways, urban parking, telecommunication (phone and other services) | Ministry of Finance, Court of Accounts, Parliament |
| Yemen | More than 43 (telecommunication, oil refineries and cement factories) | Telephone and water | Privatisation Technical Office |

* Although Jordan was one of the leading countries in the region to embark upon privatisations and carried out privatisations in the telecommunications sector recently, information was not submitted in time for inclusion in this table.

Payments

As many financial irregularities can occur after the purchase, questions about checking the delivery of goods or services before payment and overspending were asked during the interviews. Regarding checking the delivery of goods, questions were asked about the delivery status, charged prices, authority for the expense, the arithmetic of the computations, verification of the payee, the proper receipt of goods, yearly total payments against total authority and timely payments.

For the eight questions posed about the checking practices prior to payment, more than half of the

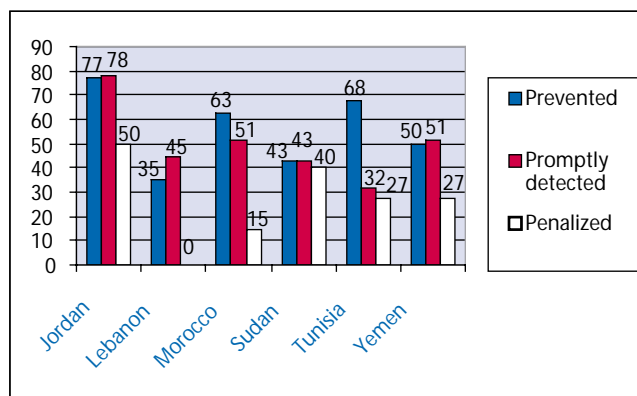
interviewees in all six countries indicated that four practices “always” or “frequently” took place. These consistently good practices are *checking that proper authority has been obtained for the expenditure*, that *the person named in the instrument is entitled to receive the payment*, that *the service specified has been satisfactorily delivered* and that *the total payments for the year to date are within the total authority to incur expenditure*. In fact, for most of the questions, half or more of the interviewees indicated that the practices “always” or “frequently” take place, generally indicating good practices.

The exceptions include, less than half of the interviewees indicating that *payments are “always” or “frequently” made*

within a reasonable time from receipt of the claim (Lebanon, Morocco, Sudan and Yemen), that charged prices accord with approved scales or are fair or the proper receipt of goods were “always” or “frequently” checked in Lebanon and that arithmetic computations were checked in Tunisia. In terms of ranking, *checking the arithmetic computations before payment* (Jordan, Lebanon and Yemen) and *checking that the person named in the instrument is entitled to received the payment* (Jordan, Morocco and Sudan) were placed the highest. Conversely, *payments made within a reasonable time* was ranked the lowest in Lebanon, Morocco and Yemen. This latter practice has been identified as a weakness in payments.

There were far fewer “always” and “frequently” responses when questions were asked about preventing (through central controls), promptly detecting or penalising overspending. (See Chart 5.) In all countries, less than half of the interviewees indicated that overpayment was “always” or “frequently” penalized. Moreover, *penalizing overpayment* was also ranked the lowest among the three practices in all countries, indicating a major gap in controlling overpayments. Some interviewee comments are displayed in Box 10.

Chart 5: Payments: Overspending % of Respondents Indicating “Always” and Frequently” Practised*



* For a breakdown of all responses, see bar charts in Annex 3: Financial Management, Payments.

Accounting

In the interest of time, no questions were asked during interviews about accounting practices. However, consultants were asked to carry out some background research into accounting functions and rules. In all countries, the consultants confirmed that the finance ministry plays a central role in overseeing government-wide budgeting and accounting classification coding schemes. They (in the case of Lebanon the Court of

Box 10: Interviewee Comments

- “Who is to be penalized for overspending?”
Jordan
- “It is necessary here to clarify that it is about ‘real’ overspending and not on budgetary documents. Most administrations, because of a lack of credit in the budgetary morass, use the same technique as an average person on the street who takes out ‘a line of credit’ at the corner grocery store. For the administrations, it is about suppliers who are ready to furnish them while waiting for the allocation of new ‘official’ credit. The money owed is settled most often by vouchers of ‘fictitious’ orders with some contradictory ‘fictitious’ quotes brought by the same supplier. And all these practices open the way to misappropriation and to corruption. The same behaviour is used even when it concerns honest people of all ranks. But without solutions, this is the only way.”
Morocco
- “Bad policies and weak planning are principal factors which are actually helping the spread of corruption.”
Sudan

Accounts and in Tunisia the Prime Minister’s Office) are also involved in pre- and/or post-control of public spending. The rules and standards of accounting are contained in the 1973 Code of Public Accounting in Tunisia while they are contained in the budget rules in Yemen. In addition, these rules or standards are not specified for each fund or agency in Lebanon and Morocco.

The consultants from three countries indicated that they incorporate all donor-financed expenditures into their accounts (including offshore payments and in-kind resources) except for Jordan (where the Ministry of Planning is responsible), Lebanon (who answered “not applicable”) and Sudan (who gave no direct answer). All countries also indicated that there is no one person (in the case of Yemen, no one government “structure”) involved in processing a financial transaction from beginning to end. There is a clear separation between functions: authorizing, having custody of cash and other assets and running operations. (However, information from Jordan indicates that more policies are needed in this area.) Also, the consultant from Tunisia indicated that there is an additional function, expenditure controllers in the Office of the Prime Minister who monitor expenditures ex ante.

In three countries, bank reconciliations are reported to be carried out on a daily basis (Lebanon -- the Central Bank registers ins and outs, Tunisia and Yemen) while in three countries, they are done on a monthly basis (Jordan, Morocco and Sudan). Five out of the six countries (except Lebanon where there is no dealings with private banks) indicated that differences in bank reconciliations from the cash books are investigated in one fashion or another. (There was a comment from Jordan that this is an area where corruption can often occur.)

Internal Audit

Again, in the interest of time, no questions were asked during interviews about internal audit practices. But according to the consultants, the role of the finance ministry in internal audit emphasizes among:

- pre-control through financial controllers (Lebanon where financial inspection belongs to another agency, the Central Inspection Commission, and Tunisia);
- overseeing standards (Jordan and Yemen); and
- general financial inspections (Morocco and Sudan).

All consultants also confirmed that all major public sector agencies have an internal audit or inspection unit. (See Table 13.) Three countries (Sudan, Tunisia and Yemen) indicate that the unit is separate from accounting while the rest indicate a lesser degree of independence. (There was no answer from Jordan.) All the countries (except Jordan which did not answer) reported that staff are trained, although many expressed that there was not enough training.

In reporting irregularities, the finance ministries are involved, except in Jordan and Yemen where the head of the concerned agency receives the report and in the case of the latter, the supreme audit institution is also involved. All countries also reported that the internal audit units are authorized to conduct special investigations or reviews and communicate reports to other investigating units or to external audit agencies.

External Audit

Also for external audit practices, no specific questions were asked during interviews. The information was gathered by the consultants based on documents and consultations with experts. Based on this information, four of the six countries (except Jordan and Yemen) indicated that the supreme audit institute was independent of the executive branch of government, based on its procedures for reporting and appointment of the head. (See Table 14.) Nonetheless, the question of independence is very complicated in reality, a factor of not only appointment and reporting procedures but also independent resource allocation, operational independence of staff and authority to release audit findings to the public. Five countries (except Yemen) reported that all public accounts are subject to audit. (Morocco reported that ministers and designated officials enjoy immunity.) In all six countries, they have unrestricted access to accounts and records. In terms of the types of audits, most of the countries carry out compliance audit, although Tunisia mentioned also value-for-money audits and Lebanon and Sudan mentioned all types of audits.

The consultants from five countries (except Morocco) mention that the external audit reports are examined and reported on by a legislative committee which includes members of the political opposition. In four countries (Lebanon, Morocco, Sudan and Tunisia), the perception seems to be that audited agencies and the finance ministries generally follow up (at least partially) on the recommendations of the legislature. The national consultants from four countries (Lebanon, Morocco, Sudan and Tunisia) report that the supreme audit institute can impose penalties (at least in theory if not always in practice) in cases of irregularities. Finally, in two countries (Jordan and Sudan), the supreme audit institute subjects itself to audit.

Table 13: Internal Audit

| Country | Internal Audit or Inspection Unit in Agencies | Separate from Accounting | Staff Training | Authority to Whom to Report Irregularities | Special Investigations Authorized |
|---------|--|----------------------------------|---------------------------------------|--|---|
| Jordan | Yes (in all agencies) | N/A | N/A | Minister of Concerned Agency | Yes, at the request of the Minister |
| Lebanon | Yes (part of Central Inspection Commission - CICP) | No | Yes (Institute of France) | Ministry of Finance | Yes, at the request of the Minister, CICP has special assignments |
| Morocco | Yes (not small ministries) | No (independence not total) | Rarely | Minister of Concerned Agency | Yes, at the request of the Minister |
| Sudan | Yes | Yes | Yes (internally and abroad) | Ministry of Finance | Yes |
| Tunisia | Yes | Yes | Insufficient Numbers of Trained Staff | Ministers of Finance and Concerned Agency | Yes, at the request of the Minister, Prime Minister or another high authority |
| Yemen | Yes | Yes (attached to head of agency) | Periodically | Minister of Concerned Agency and of COCA | Yes, at the request of the Minister |

An examination in this chapter of the financial management policies and practices of the study countries indicates that, as in all countries, there are good practices but also gaps between written rules and daily operations. In terms of the legislative and administrative framework, financial laws and regulations have been recently updated and improved in most of the study countries. However, in terms of general financial control, the experts viewed that there was a disparity between policies and practices, with good practices not being consistently observed (with the exception of Jordan). Moreover, areas of perceived weaknesses suggest the involvement of “the human factor” such as systematic training on accountability, among other measures.

Regarding more specific aspects of financial management, in general, budgets are perceived to be executed according to existing rules, documenting actual yearly revenues and expenditures and based on commitment accounting. As for revenue collection, the study countries have already taken steps to improve the transparency and efficiency of tax assessments and payments. But the recourse to effective appeals procedures seems to need improvement, and comments from some of the interviewees indicate that discretion in the application of tax laws is abused -- as in many other countries.

For payroll, independent verifications seem to usually occur but the physical identification of personnel (to prevent “ghost” workers) seems to be practised less. However, it was noted that with computerized payrolls, there is a reduced need for physical identifications. The potential reduction in fraudulent practices from automated payrolls, in addition to gained efficiencies, may be worth considering for those countries in the region that have not yet introduced such systems.

For procurement, the experts indicated that public competitive bidding and many sound procedures are in

place. However, they also indicated that the overall process did not consistently lead to awarding contracts to the most responsive and qualified bidder with the lowest evaluation cost. An area of weakness in the overall procurement process seems to be during the evaluation stage. The evaluation criteria are not consistently stated in the instructions nor are all evaluation records (apart from the final report) always kept. In addition, once a contract has been awarded, the work of contractors is not consistently supervised, where applicable, by independent engineers. Finally, there does not seem to be a continuous maintenance of change and variation orders, once a contract has been awarded. Future in-depth studies on procurement may usefully address the defense sector and arms procurement as they involve very large and technical contracts.

Although privatisation and service concessions are other high risk areas for opacity and financial irregularities, given that privatisation has generally slowed down in North Africa and the Middle East in the past five years, no questions were asked during interviews. However, based on an analysis of pertinent documents and consultations with experts, the consultants indicated that there continued to be many transfer of assets from state control in Tunisia and Morocco. Overall in the countries under study, the enterprises and assets transferred included hotels, construction materials companies, tourist units and financial intermediaries among others. Service concessions awarded have been in transport, telecommunications and utilities.

Regarding payments, a majority of the experts indicated that sound practices in checking delivery and computations prior to payment are taking place. However, making payments within a reasonable time and over spending seem to be areas needing improvement. A review of accounting policies (no questions were asked about practices during interviews) indicated that

Table 14: External Audit

| Country | Supreme Audit Institute | Reports to | Head Appointed by | Independent Auditors | Timely Release of Findings to the Public |
|---------|--|--|--|----------------------|--|
| Jordan | The Audit Bureau | National Assembly | Council of Ministers | No | Yes |
| Lebanon | Court of Accounts | President, the Prime Minister and Speaker of the House | Council of Ministers | Yes | Yes |
| Morocco | Court of Accounts | The King | The King | Yes | No |
| Sudan | Auditor-General's Office | President and National Assembly | The President with approval of National Assembly | Yes | Yes |
| Tunisia | Court of Accounts and Financial Disciplinary Court | President, Ministers and Parliament | The President | Yes | No (for Court of Accounts) Yes (for Financial Disciplinary Court) |
| Yemen | COCA | President's Office | The President | No | No |

ministries of finance and other central or independent agencies are instrumental in setting overall standards. In addition, basic controls such as separating financial transactions are institutionalised.

Again in the interest of time, no specific questions were asked about audit practices during interviews. However, a review of structures and policies suggests that both internal audit or inspection and external audit can benefit from reinforcement. More independence and training of staff seem to be needed in internal audit. For external audit, independence of supreme audit institutes and the timely release of findings to the public seem to be areas needing more reinforcement than others. However, the question of independence is complicated, being a factor not only of appointment and reporting procedures but also independence of resource allocation and operations and the authority to make audit findings public. Given the pivotal role of auditing in ensuring transparency and accountability in public management, these are key areas to be targeted for strengthening.

The chapter highlights some of the common financial management challenges that are faced by the countries under study, despite their differing levels of economic development and public sector structures. These common challenges may also be faced by other countries in the region, pointing to the benefits of pooling solutions that can be adapted for the needs of individual countries.

CHAPTER 5: HUMAN RESOURCES MANAGEMENT

The quality of human resources policies and management practices themselves will have an impact on the organizational culture and norms that underpin whether the employees will promote transparency and accountability in carrying out their duties in the public sector. Recently, the issue of ethical conduct of public employees received particular attention from international, regional and national organizations, interested in increasing public trust in and the performance of the public sector. Many of the works point out that professional conduct is determined, among other factors, by incentives, embedded in the design of public sector institutions.

In a review of the literature, one expert has identified the following lessons drawn from international experience in trying to promote transparency and accountability in human resources management that may also serve the countries in the Arab Region¹:

- Human resources management reforms should be integrated within an overall civil service or public sector reform;
- Ethics reform has to be part of a wider (human resources management) reform to install policies and procedures based on competence, merit and professionalism;
- Human resources management reforms must recognize and correspond to the variations among different categories of public officials and occupational groups in each country;
- A balance needs to be achieved among organizational autonomy, decentralization and accountability in human resources management reform;
- There are alternative approaches or options in developing ethics regimes for countries suffering from human resources malpractices or corruption in general; and
- An overall human resources management strategy, defining the goals and the framework within which the civil service and line agencies operate, is critical to the success of a reform.

This chapter presents information on transparency and accountability in human resources management in the public sectors of the study countries. As stated previously,

the information presented is based on an analysis of policies, interviews about practices and comments solicited from interviewees.

As in Chapter 4, only those finding on which there was a high level of agreement or which the project team deemed would be of interest to policy makers will be presented. Furthermore, comments that provide useful insights are again presented. The readers are referred to Annex 3 and the study database on the project website: http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp for a more detailed breakdown of responses in split bar charts. Again, given the limited numbers of experts interviewed, the findings on perceived practices should be taken as only *one relevant indicator*.

A total of 132 interview with human resources experts were carried out for this section. Those senior government officials and other experts outside of the government who are familiar with public sector human resources policies and practices were identified and approached.

Given the importance of human resources management in public sector performance, this chapter presents comparisons between policies and practices, where applicable and possible, in:

- Human resources management framework,
- Stated official values,
- Codes of conduct,
- Legal restrictions on criminal conduct,
- Selection process,
- Conflicts-of-interest disclosures,
- Reporting of wrongdoing,
- Investigation, and
- Disciplinary procedures

Human Resources Management Framework

As in financial management, a human resources management framework for the public sector is defined by pertinent laws and regulations. This framework usually also places transparency and accountability requirements within the relationship between the state as an employer and public sector employees, and between public sector employees as service providers and citizens as clients. In this regard, the framework includes:

- Public sector values and standards to guide the work of the state employees;
- Conditions of state employment;

¹ United Nations (unpublished concept paper by Ahmed Sakr Ashour), Integrity, Transparency and Accountability in Public Sector Human Resources Management, pp. 26-30.

- Rights and responsibilities of public sector employees; and
- Rights and responsibilities of citizens.

Table 15 lists, though not exhaustively, the major laws and regulations pertinent to transparency and accountability in human resources management, as submitted for the countries. Table 15 also presents core values for mainly the national civil service, where officially stated in constitutions and other pertinent laws. These values are to serve as the basic principles for public sector employees to follow in carrying out their official duties. Generally, they included most often *neutrality, legality, fairness* and *equality*, among others more recently introduced.

In addition, the national consultants were asked to collect any “tools” for promoting transparency and accountability in service delivery, apart from traditional reports and evaluations. (In many countries, service standards, citizens’ charters, efficiency units and the like are deployed to ensure that public administrations are responsive to the needs of the citizens. They are also a way to ensure transparency about how services should be delivered and accountability for the performance of public sector employees.) In five of the six countries (except Lebanon), the consultants indicated no existence of such tools. Most of them indicated such standards exist only in the regulations. The consultant from Lebanon mentioned that a citizen’s charter and a code of conduct had been recently approved by the Council of Ministers but merely as guidelines. The consultant from Morocco indicated that

the government is attempting to develop such tools. Regarding how the human resources management framework actually operates, several questions were asked during the interviews about one key area – officially stated core values. Core values serve as the foundation of an organizational culture and need to be actively communicated, discussed and demonstrated by the leadership to contribute to the creation of a professional ethos. As such, they also underpin human resources management. The interviewees were asked whether core values are communicated in writing to public sector employees, included in induction training courses, included in ongoing communications to employees, demonstrated by leaders, known by the employees and known by the public.

In general, the majority of the interviewees do not perceive these practices as being “always” or “frequently” present. Among these practices, interviewees ranked the highest or tied for the highest place *public sector employees knowing the officially stated values* in five countries (except Jordan). (See Table 16.) Conversely, in five countries (except Lebanon), the public knowing the same values was ranked the lowest or tied for the lowest place by the interviewees. This asymmetry of the knowledge of the core values would make it difficult for the public, or those being served, to meaningfully judge the performance of the public sector employees, or those providing public goods and services. Box 11 presents some comments from interviewees about officially stated core values.

Table 15: Human Resources Management Framework

| Country | Laws | Regulations | Officially Stated Values (Introduced) |
|---------|--|--|---|
| Jordan | Civil Service By-Law | - | Neutrality, fairness, efficiency (Constitution, financial and civil service laws) |
| Lebanon | Law 112 on Personnel | Decrees organising the National Institute of Public Administration | Neutrality and fairness (Constitution) |
| Morocco | General Civil Service Statute | Decrees, administrative orders, circulars | Fundamental principles of the civil service, ethical values, transparency, and the pact for good management (General Civil Service Statute, proposed Code of Conduct) |
| Sudan | Public Service Act Public Service Discipline Act | Public Service Regulations | No officially stated values, but principles implicit in the Constitution |
| Tunisia | General Civil Service Statute | Decrees, circulars, administrative court decisions | Neutrality, equality, legality, equity, due process, effectiveness (Constitution, General Civil Service Statute, evaluations), efficiency (in public enterprises) |
| Yemen | Law No. 19 on the Civil Service Law No. 35 on Public Sector Enterprises | By-law No. 122 on the Civil Service | Public service, legality, neutrality, responsibility, competence and integrity (Civil service law and by-law) |

Table 16: Officially Stated Values % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|--------|---------|---------|-------|---------|-------|
| Communicated in writing | 63 | 47 | 16 | 40 | 33 | 41 |
| Included in induction training courses | 47 | 29 | 28 | 50 | 22 | 39 |
| Included in ongoing communications with public sector employees | 47 | 28 | 37 | 45 | 17 | 35 |
| Demonstrated by leaders | 42 | 10 | 16 | 45 | 33 | 42 |
| Known by public sector employees | 32 | 62 | 38 | 60 | 33 | 52 |
| Known by the public | 26 | 38 | 9 | 30 | 6 | 35 |

* For a breakdown of all responses, see bar charts in Annex 3: Human Resources Management, Officially Stated Values.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Box 11: Interviewee Comments

- “The employees of the civil service need training programs to absorb core values.”
Jordan
- “Employees and the public know the core values. This is not the issue. The problem is that they are not being demonstrated by senior officials and politicians.”
Lebanon
- “There is much apathy and indifference about these matters as employees’ status and conditions of service are rather poor. So is the present quality of education.”
Sudan

Codes of Conduct

In addition to explicitly stating values, organizations also need to set standards about professional behaviour, with consequences to ensure that they are followed. The focus of a code of conduct can be aspirational, containing stated values, disciplinary, containing minimum standards, or both. Because human resources management in the public sector is based on a legal and administrative framework, questions were asked during interviews about whether standards were followed for receiving gifts and benefits, use of official property, outside employment, use of official information, involvement in political work, post-employment restrictions, official travel, movement to the private sector and employment and supervision of family members. When asked to identify any other category of standards, *non-sectarianism* was also identified for Lebanon.

Questions about these standards were asked under the generic category of codes of conduct. The consultants generally indicated that these standards, if they exist, are found in the civil service laws and regulations. In Lebanon, a Code of Conduct was recently adopted by the Council of Ministers but more as guidelines. For Morocco, the

comments by interviewees indicate that there is not currently a code of conduct. (However, the government is presently drafting one for the civil service.) In no country were specific codes of conduct reported for particular professions, when asked.

It is interesting to note that there are no clearly visible trends among the responses about the frequency of observing standards of conduct, addressed in the questions. It can be noted that, in general, the majority of the respondents indicated that these standards are not “always” or “frequently” observed. The exceptions to this indication are observing standards about *the use of official information and official travel* in Jordan, *receiving gifts and benefits* in Lebanon, and *involvement in political work* in Tunisia. Even for these responses, slightly more than half of the interviewees indicated that these standards were consistently observed. Some comments by the interviewees have been included in Box 12.

Box 12: Interviewee Comments

- “Although these standards are included in the Civil Service By-Law, they are ignored in application sometimes.”
Jordan
- “All these standards and more are covered in laws and regulations, but they are disregarded and overlooked.”
Lebanon
- “There does not really exist a true code of conduct, explicit and harmonised for the whole of the civil service.”
Morocco
- “Almost all the above mentioned standards were covered in the Civil Service Act of 1958. But none of those standards were at all mentioned in the Public Service Act of 1994. Employment and supervision of relatives is presently rampant.”
Sudan

Legal Restrictions on Criminal Conduct

The more serious misconduct usually prohibited by administrative rules and codes of conduct are also covered by criminal codes. To get a sense of whether enforcement followed any infractions of criminal standards, the interviewees were asked about the extent to which public sector employees were charged and convicted of various forms of corruption. More specifically, they were asked about action against extortion, active corruption (offering bribes), passive corruption (receiving bribes), direct corruption (without intermediaries), indirect corruption (using intermediaries), attempted corruption, bias in official decision-making, abuse of public office or trust and abuse of privileged state information. (In addition to this list, interviewees in Morocco also identified the *non-reporting of fraudulent acts* as an infraction.)

The responses to these questions are presented in Table 18. As in the case of codes of conduct, there are no clearly discernable trends about the enforcement of legal restrictions on criminal conduct. Again, the majority of the respondents indicated that these restrictions are not

Box 13: Interviewee Comments

- "It is not easy to charge public employees with such cases."
Jordan
- "Everyone talks about corruption. They name names, but no one officially charges an employee."
Lebanon
- "...Besides, corruption being difficult to prove legally in view of the fact that the law punishes at the same time the corrupt person and the person obligated to corrupt, it is rare to charge a public employee without setting up a trap."
Morocco

"always" or "frequently" enforced. One exception to this trend can be observed in Jordan where 52 per cent of the interviewees indicated that *laws on extortion are enforced*. For another, in Tunisia, 55 per cent of the interviewees indicated that *laws on receiving bribes* were enforced. Additional interviewee comments are presented in Box 13.

Table 17: Standards of Conduct % of Respondents Indicating "Always" and "Frequently" Observed*

| Standard on | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| Receiving gifts and benefits (fees, payments, entertainment, etc.) | 26 | 52 | 22 | 30 | 44 | 18 |
| Use of official property | 26 | 38 | 37 | 45 | 44 | 26 |
| Work outside of public sector employment | 37 | 47 | 31 | 40 | 28 | 22 |
| Use of official information | 58 | 48 | 22 | 30 | 44 | 13 |
| Involvement in political work | 37 | 38 | 12 | 30 | 56 | 9 |
| Post-employment restrictions | 47 | 29 | 0 | 15 | 28 | 22 |
| Official travel | 58 | 28 | 16 | 35 | 39 | 21 |
| Movement to for-profit sector | 31 | 19 | 16 | 25 | 33 | 17 |
| Employment and supervision of family | 37 | 28 | 3 | 45 | 11 | 40 |

* For a breakdown of all responses, see bar charts in Annex 3: Human Resources Management, Codes of Conduct

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Table 18: Legal Restriction on Criminal Conduct % of Respondents Indicating "Always" and "Frequently" Practised*

| Charged or Convicted for | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| Extortion | 52 | 14 | 25 | 15 | 6 | 39 |
| Active corruption (offering) | 42 | 29 | 6 | 30 | 39 | 35 |
| Passive corruption (receiving) | 42 | 29 | 9 | 20 | 55 | 35 |
| Direct corruption (without intermediary) | 37 | 14 | 9 | 30 | 22 | 30 |
| Indirect corruption (with intermediary) | 31 | 10 | 6 | 25 | 22 | 39 |
| Attempted corruption | 37 | 0 | 3 | 25 | 22 | 26 |
| Bias in official decision-making | 37 | 10 | 9 | 35 | 22 | 26 |
| Abuse of public office or public trust | 31 | 14 | 6 | 40 | 39 | 30 |
| Abuse of privileged state information | 16 | 10 | 6 | 35 | 6 | 13 |

* For a breakdown of all responses, see bar charts in Annex 3: Human Resources Management, Legal Restrictions

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Selection Process

The handling of the selection process is a key determinant of transparency and accountability in human resources management. The process is supposed to ensure that the best person for the job required is selected, thus optimising public sector performance. Interview questions about selection practices, whether for recruitment and promotions, were asked. The questions probed whether the selection process provides adequate rules for recruitment and promotions, is based on publishing such rules, is based on publicising vacant positions, is based on merit, includes integrity in selection, includes integrity in performance appraisal and protects against political interference.

The responses to the questions are presented in Table 19 below. In five countries (with the exception of Lebanon), half or more of the interviewees indicated that there are “always” or “frequently” *adequate rules for recruitment and promotions*. In fact, this practice was ranked the highest among the practices in the five countries. By contrast, in three countries (Jordan, Sudan and Yemen), the interviewees ranked *protection against political interference* the lowest, with less than the majority indicating that the protection “always” or “frequently” existed. Looking at the response patterns, in general, the experts indicate that although the selection rules seem to be adequate, they do not result in selection by merit or integrity nor give adequate protection against political interference. Some of the comments by the interviewees are given in Box 14.

Conflicts of Interest Disclosures

Disclosing potential and actual conflicts of interest is an important transparency measure in human resources management, particularly for senior appointments. By making such information available, public officials making the disclosures allow the removal or containment of conflicting interests or “temptations” through divestments, the placements in blind trusts or other arrangements of their problematic assets. The disclosed information also allows for verification of assets, in case a need

Box 14: Interviewee Comments

- “As response to the last question, I think protection against political interference needs thorough investigation.”
Jordan
- “Performance appraisal is not adopted. Attempts to establish a system are underway.”
Lebanon
- “The selection is often based on political and partisan considerations.”
Tunisia

arises to establish illicit enrichment. As such, the act of disclosure itself can serve as a psychological deterrent.

Questions about declaring personal assets and disclosing financial interests were examined by the consultants at the policy level. Based on the information submitted, three (Lebanon, Morocco and Tunisia) of the six countries require conflicts of interest disclosures on the part of public sector employees or some of them at senior levels. At the policy level, they reported that the requirements cover public sector officials, both elected and appointed. In addition, in Morocco, the requirements are more stringent for judges (see Table 20). In Lebanon, the disclosed information is required upon induction, changing jobs and upon separating from a position, and verified only in the event that charges are brought against a public sector employee. Assets and liabilities, loans and sources and levels of income need to be disclosed. In Morocco, disclosure is required upon induction and changes in assets (except judges are to disclose annually), and the information is not verified. Real estate and securities need to be disclosed. However, because the policy provisions are not being implemented, Transparency Maroc is demanding that legislation be adopted for declaring personal assets. In Tunisia, the members of the government disclose personal assets prior to taking up their office. Certain high-

Table 19: Selection Process % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|--------|---------|---------|-------|---------|-------|
| Adequate rules for recruitment and promotions | 74 | 24 | 56 | 75 | 50 | 52 |
| Publishing those rules | 53 | 19 | 43 | 60 | 44 | 39 |
| Publicising vacant positions | 53 | 43 | 15 | 60 | 50 | 30 |
| Recruitment and promotions on merit | 37 | 10 | 22 | 55 | 28 | 22 |
| Integrity in selection | 47 | 5 | 12 | 50 | 22 | 26 |
| Integrity in performance appraisal | 47 | 14 | 16 | 50 | 22 | 26 |
| Protection against political interference | 37 | 10 | 16 | 15 | 33 | 13 |

* For a breakdown of all responses, see bar charts in Annex 3: Human Resources Management, Selection Process.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Table 20: Conflicts-of-Interest Disclosures

| Country | Occupational Groups | How Often Required/Verified | Items to be Disclosed |
|---------|--|---|---|
| Jordan | Presented to Legislature in 2003 | N/A | N/A |
| Lebanon | Same for all | Required upon induction, changing positions and leaving (verified only when charges brought against an employee) | Assets and liabilities, loans, sources and levels of income |
| Morocco | More stringent for judges | Required upon induction and changes in assets and annually for judges (not verified) | Real estate and securities |
| Sudan | Rules drafted but not implemented | N/A | N/A |
| Tunisia | Council of Ministers Certain Senior Level Public Servants | Required upon taking up office, income (annually), assets (upon acquiring), changing positions, upon demand from the administration | Various levels and types of incomes, etc. |
| Yemen | No disclosure | N/A | N/A |

level public servants are required to periodically provide the various types of assets they own (see Table 20). The information to be disclosed depends upon the obligations of the office but includes the various levels and types of income and the conditions for determining the disclosure.

Reporting of Wrongdoing

The chain of accountability in cases of misconduct begins with credible reports. Therefore, the consultants were also asked to provide information on any *official policy* for exposing wrongdoing or “whistle-blowing.” They all reported that no such official policy exists, nor are employees encouraged to report on wrongdoing. However, the consultant from Tunisia noted that there is the professional obligation of public servants to report criminal acts or irregular operations implicating corruption or malfeasance (such as in procurement). Likewise, consultants from five countries (except Tunisia) did not mention any official policy for protecting whistleblowers. In Tunisia, the consultant noted *anonymity and legal measures* for protecting those people who have made reports. No information was provided regarding statistics about reported cases. However, the consultant from Morocco noted that the press sometimes picks up cases and reports them.

Regarding procedures for handling complaints, four countries provided some information. In Lebanon, a complaint is usually transferred to an inspector and an investigation carried out if found serious. It was noted that complaints departments within most ministries are not really seen to be functioning. In Morocco, the complaints are handled by the institution of Diwan Al Madalim or Ombudsman,

administrative tribunals and offices handling complaints within ministries. In Tunisia, generally two types of procedures are involved. Administrative procedures are carried out to investigate the allegations. Once some facts have been established to support the allegations, judicial processes are also involved. In Yemen, the consultants reported that written complaints go first to the director of an operational unit. All countries reported that supervisors and managers are not trained to handle reports of wrongdoing, and the public is usually not encouraged to report.

Investigation

Continuing along the chain of accountability, questions about investigating practices were asked during interviews. Proper investigations are not only indispensable to either establishing the guilt or innocence of the accused but also for gathering evidence that will hold up in courts, in the event of criminal conduct. The questions addressed the promptness and consistency, follow-up by appropriate action by the head of the agency, independence of investigating agencies, promptness and fairness when handled by the police, the adequacy of resources of investigating units, follow-up prosecutions and documentation and statistical analysis of findings to assist future work.

The answers are presented in Table 21. The responses show that in three countries (Lebanon, Morocco, and Sudan), *investigations “always” or “frequently” being carried out promptly and fairly by the police* ranked first or tied for the first place. Since the police usually have to become involved in investigating criminal acts, this finding is to be expected. Two practices were ranked the last by the respondents in three countries each. *Investigations being*

Table 21: Investigation % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|-----------|-----------|-----------|-----------|-----------|-----------|
| Handled promptly and consistently by ministries receiving the complaint | 47 | 19 | 16 | 60 | 17 | 30 |
| Follow by appropriate action by the head | 58 | 10 | 13 | 50 | 11 | 35 |
| Carried out by independent investigating agencies | 42 | 19 | 6 | 35 | 12 | 17 |
| Carried out promptly and fairly by the police in case of criminal conduct | 47 | 38 | 25 | 75 | 17 | 17 |
| Carried out with sufficient resources | 47 | 19 | 9 | 35 | 17 | 22 |
| Followed by successful prosecution in case of criminal conduct | 47 | 10 | 25 | 65 | 22 | 17 |
| Documented and statistics analysed for future work | 43 | 0 | 13 | 15 | 17 | 13 |

* For a breakdown of all responses, see bar charts in Annex 3: Human Resources Management, Investigation.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Box 15: Interviewee Comments

- “Investigations are sometimes followed by appropriate actions if the employee is not politically backed or is of low level.”
Lebanon
- “The investigation of misconduct is usually carried out by an internal departmental committee, appointed by the head of the department within which the misconduct occurs. The performance of such committees would have been much enhanced if they were made to consist of some trained lawyers as well, and if those lawyers were also entrusted with following up the execution of penalties decided by those committees of investigation.”
Sudan
- “Political membership can serve according to the attenuating and aggravating circumstances.”
Tunisia

carried out by independent investigating agencies where their statutory independence is matched by operational independence was ranked last by Jordan, Morocco and Tunisia (which also placed appropriate action by agency

head as last). *Documenting and analyzing statistics* were ranked last in Lebanon, Sudan and Yemen. Box 15 holds comments by interviewees.

Disciplinary Procedures

The accountability chain ends with disciplinary procedures in the event of misconduct. Questions about disciplinary procedures were posed at the practice level only during interviews. The experts were asked whether disciplinary action is based on set procedures, on training given on implementation, consistently taken, checked by administrative and legal redress and coordinated in terms of administrative, civil and criminal jurisdictions.

The answers indicate that in all six countries, *disciplinary measures* are perceived as being *based on set procedures*, being ranked first by the interviewees. Table 22 demonstrates that half or more of the interviewees indicated this was so “always” or “frequently.” By contrast, in four countries (Jordan, Lebanon, Tunisia and Yemen), *disciplinary procedures being consistently* taken was placed last or tied for last place. Less than half of the interviewees indicated that they were “always” or “frequently” consistently taken. These two trends in the responses indicate that although disciplinary procedures are clearly laid out, they are perceived to be inconsistently applied.

Table 22: Disciplinary Procedures % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|-----------|-----------|-----------|-----------|-----------|-----------|
| Based on set procedures | 74 | 81 | 72 | 80 | 94 | 48 |
| Based on training given on implementation | 53 | 14 | 25 | 25 | 44 | 30 |
| Consistently taken in case of breaches or infractions of legal and administrative standards | 47 | 14 | 22 | 50 | 39 | 17 |
| Checked by administrative and legal redress, where needed | 58 | 24 | 19 | 65 | 44 | 26 |
| Coordinated in terms of administrative, civil or criminal jurisdictions | 63 | 29 | 13 | 55 | 50 | 35 |

* For a breakdown of all responses, see bar charts in Annex 3: Human Resources Management, -Disciplinary Procedures.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Box 16: Interviewee Comments

- “Most often, the level of offence is scaled down, but in rare cases also elevated, depending on the discretion of the designated person. Criminal accusation is culturally discouraged. Traditional and modern attitudes exist side by side.”

Sudan

- “The disciplinary domain is regulated. The administrative tribunal has elaborated a respectable jurisprudence on the subject which has the nature of reinforcing the guarantees of equity. (The administrative tribunal is the highest administrative jurisdiction charged, among others, to oversee that the decisions of the administration are taken according to the law. In short, it is the judge of the administration.)”

Tunisia

Some interviewees' comments in Box 16 shed more light on the subject.

This chapter has shown that a human resources management framework is in place in each study country. In most of the countries, core values for the civil service that underpin its organizational culture and professional ethos have been defined in the constitution, civil service laws or other pertinent texts. Generally, they include most often *neutrality, legality, fairness* and *equality*, among others. However, the officially stated core values are not well communicated or perceived to be demonstrated by leaders in the public sector. And they are better known by the public sector employees than the public, making it difficult for the public to meaningfully judge the performance of the public sector employees.

In addition to officially stated values, there are overall standards about professional conduct, generally found in civil service laws and regulations. Regarding codes of conduct, it was reported that in Lebanon, one was recently adopted by the Council of Ministers and that Morocco is in the process of introducing one for the civil service. Whether found in statutory or regulatory texts or in codes of conduct, standards regulating the use of official property and information as well as outside activities are not perceived, by the expert interviewees, to be consistently followed. The same perception on the part of the interviewees also applies to legal restrictions in criminal codes. The countries under study and other countries in the region may gain from applying existing standards of conduct, particularly at the agency level, in promoting staff accountability.

For the selection process, the experts in five of the countries under study indicated that adequate rules and procedures are present but that few are consistently practised. In general, they do not seem to consistently lead to selection by merit or integrity. Also, the experts in three of the countries also did not perceive protection from political interference.

Regarding conflicts-of-interest disclosure requirements, important transparency measures in public sector human resources management, three countries reported existing policies. However, their implementation seems to be varied. In Lebanon, the disclosures are confidential, verified only when a case is brought against an employee. In Morocco, the requirement does not seem to have statutory force at the moment. It was reported that Transparency Maroc, an NGO, is demanding that legislation be adopted for declaring personal assets. In Tunisia, the disclosures are required for the members of the government as well as senior public servants. The introduction and full implementation of disclosure laws in the countries in the region would enhance transparency of interests, particularly for the leadership, and become an important public confidence-building feature of human resources management.

The chain of staff accountability begins with reporting, in cases of misconduct. There are no official policies for mandatory reporting of wrongdoing. However, there is a professional obligation to report gross misconduct and other criminal behaviour on the part of the public officials. Also, the journalists or the media often expose cases of corruption and criminal conduct. Regarding protecting the “whistle-blowers,” only the consultant from Tunisia reported the existence of anonymity and legal protection.

Regarding investigations, those by the police are perceived to be prompt and fair. This may result from the requirement in most countries for the police to conduct criminal investigations. Investigations falling under other jurisdictions are not perceived to be carried out by *independent* agencies in three of the six countries under study. Nor do the experts in three of the countries perceive that lessons are being learned by systematically documenting and analyzing investigated cases.

Finally, at the end of the accountability chain, disciplinary measures need to be properly applied to enforce standards and also to serve as a deterrent for others who may be engaging in or considering misconduct. Although the experts in all countries under study indicate that there are set disciplinary procedures, in four of the countries, the procedures are seen not to be consistently applied.

As in the previous chapter, the observations in this chapter show that there is a significant gap between policies and practices. These gaps have much bearing on the transparency of managing human resources as well as staff accountability for their actions and performance in the public sector. The countries in the study, as well as others in the region, may benefit from a review of how human resources management policies are implemented as well as from introducing or increasing appropriate ethics and accountability training for public sector employees.

CHAPTER 6: INFORMATION MANAGEMENT

The access to information is a fundamental human right and a precondition to transparency and accountability in the public sector, as some experts in information management have noted.¹ Therefore, governments have an obligation:

- to create an infrastructure and procedures to make available information to individuals and groups, balancing the need for guarding public interest and protecting the privacy of individuals;
- to provide information on their performance and to seek information from the private sector and civil society in formulating public policy and improving service delivery;
- to ensure good management of information through sound keeping of records, whether paper-based or electronic, judiciously utilizing information and communication technologies where useful and feasible; and
- to disseminate to the public information on government decisions and actions and information obtained through consultations, encouraging the freedom of expression, especially through the existence of independent media.

This chapter addresses the importance of information management in achieving transparency and accountability in the public sector. It is based on information gleaned from policies as well as practices and comments solicited during interviews with experts. Given the nature of the questions, many of the experts interviewed for this section were outside of the government.

As in the previous two chapters, only those findings on which there was a high level of agreement or which the project team deemed would be of interest to policy makers are included. Please consult Annex 3 and the study database on the project website: http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp for a more detailed breakdown of responses in split bar charts. The findings on perceived practices should be viewed as *one relevant indicator* of the state of transparency and accountability in public sector information management in the countries under study.

A total of 137 interviews with information management experts were held in the study countries for this chapter. Those senior government officials and other experts outside of the government who are familiar with public information policies and practices were identified and approached.

¹ United Nations (unpublished concept paper by Fred Schenklaars and Imram Ahmad), Access to Information, Transparency and Accountability, pp.13/14

The points in the opening paragraphs of this chapter highlight the critical link between information management and transparency in the public sector. Based on the availability, accessibility and dissemination of information, more accurate calls for and judgments about public sector accountability can be made. What follows is a comparison of policies and practices, where applicable and possible, in:

- Information management framework,
- Access to information (including public consultations),
- Records management,
- Investigative journalism, and
- The freedom of association of civil society organizations.

Information Management Framework

As in the other areas of public management, information management framework is determined by relevant laws and regulations. Since information is key to transparency and the basis for accountability, this study took a broad view of information management, including not only the management of information within public administration but also the various independent and private means to diffuse information about public sector activities. A coherent and complete framework for managing information is essential to measuring the performance of the public sector. Thus, for the purposes of this study, the framework addresses the guidelines and procedures for:

- maintaining high quality records,
- giving access to various levels of that information,
- publicizing basic information in public interest, and
- systematically soliciting information and input from the public on government decisions and actions that will affect the lives of all citizens.

The information frameworks of the study countries are outlined in Table 23. Again, though not exhaustive, these major laws are pertinent to transparency and accountability in information management, both in the provision and diffusion of and soliciting information by the government.

Despite the numerous laws that the Table reflects, information management framework has only recently begun to be developed systematically in the study countries. For example, only in Lebanon has there been an attempt to legislate access to information. Although all the countries have laws regulating the press, observations about the press in the country case studies (see Appendix 2) indicate that the laws, regulations and practices serve, in general, more to restrict rather than encourage responsible freedom of reporting.

Table 23: Information Management Framework

| Country | Laws | Regulations |
|---------|---|----------------------|
| Jordan | Law of Information Press and Publications Law Law on Association and Foundations | N/A |
| Lebanon | Law of Information Bill on Access to Information (proposed in the Citizens' Charter) Press Law Media Law National Constitution Article 13: Freedom of Meetings, Association and the Press | N/A |
| Morocco | Code of the Press Code of Public Liberties | Not specified |
| Sudan | The Press Law | N/A |
| Tunisia | Press Law Other laws concerning the Media and the Internet | Texts of Application |
| Yemen | Law No. 25 for Press and Publication Draft Law on Social and Cultural Associations, etc. Draft Law on Foundations and Associations Journalism Law (proposed) | N/A |

Access to Information

Strictly speaking, access to or the freedom of information allows citizens and other private sector and civil society organizations to request government agencies to provide them with specific information that is collected during the course of their operations. Given national security and privacy concerns, such requests are subject to various rules. The development of procedures to fulfill such requests has tremendously enhanced transparency of public sector decisions and operations, often leading to a call for greater accountability for performance. Due to such impetus, access to information has become a critical pillar of more public sector openness.

For the present study, access to information has been more broadly defined. The concept includes not only any official policies on divulging information upon request but also the various means by which government and other public sector agencies diffuse overall communications.

Questions about access to information were posed both at the policy and practice levels. As can be seen from Table 24, none of the countries have a legal requirement for allowing access to or freedom of information. In Lebanon, however, a bill has been introduced in 2002 but has not been adopted yet.

Furthermore, the governments are reporting on their activities and providing communications through government-controlled T.V. and radio stations, press releases and

conferences, and annual reports. In four countries (Jordan, Lebanon, Morocco and Tunisia), the governments are also turning to the Internet to disseminate information. Apart from Lebanon, the other countries did not submit information on private and independent sources of reporting or disseminating information. However, with the advancement of information and communication technologies and the popularity of satellite dishes, people not only in the countries in the study but in the region are able to access information from independent sources around the globe.

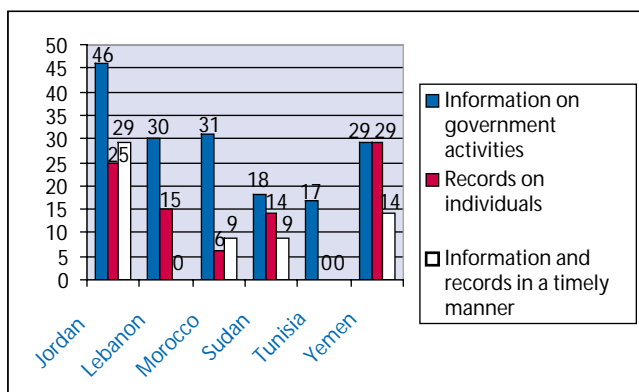
Despite the lack of an official policy on access to information in the countries in the study, interviewees were asked general questions about whether citizens had reasonable access to information on government activities, the records on themselves that public sector entities keep and whether the information and records are provided in a timely manner. The answers have been presented in Chart 6.

For all countries and all categories, less than half of the interviewees felt that practices indicating access to information were "always" or "frequently" present. And, as can be seen from the Chart, generally, the response levels tend to be low. Among these, all countries ranked first *having reasonable access to information on government activities* of the three general questions asked. There were also many responses in the "don't know" category. Some comments on the part of the interviewees illuminate the situation.

Table 24: Access to Information

| Country | Official Policy on Access to Information | Reporting Government Activities | Private Means of Reporting |
|---------|--|---|---|
| Jordan | None | Some ministerial websites, government T.V. and radio stations, press releases and conferences | None |
| Lebanon | None (but proposed in 2002) | Some ministerial websites, government T.V. and radio stations, press releases and conferences, annual reports | Websites, T.V. and radio stations, press |
| Morocco | None | Some ministerial websites, government T.V. and radio stations, press | None (Law on the suppression of monopoly of the government over the media adopted but not yet implemented) |
| Sudan | None | Government T.V. and radio stations, press releases and conferences | None |
| Tunisia | None | Some ministerial websites, government T.V. and radio stations, press releases and conferences | Websites, press |
| Yemen | None | Government T.V. stations, press releases and conferences | None |

Chart 6: Access to Information % of Respondents Indicating "Always" and "Frequently" Practised*



* For a breakdown of all responses, see bar charts in Annex 3: Information Management, Access to Information.

During the interviews on access to information, questions were also asked about actual practices of public consultations or soliciting feedback on policies or services by the governments in the study countries. This type of information reflects the two-way nature of the access: both diffusing communication to and gathering information from the public. Not only is it important for the government to be transparent and accountable by giving information about its activities but also for it to be responsive to the needs of its citizens by getting information from them. By also sharing the results of this collective information-gathering, the public sector reduces its monopoly on information and its privileged status.

Box 17: Interviewee Comments

- "Certain government organizations have developed systems of information, permitting access by the citizens to the information concerned. But, there does not exist any strategy as a whole on the matter."
Morocco
- "Citizens do not expect much from the government in this regard, presently."
Sudan
- "... have access through their parliamentary representatives."
Yemen

The questions addressed whether information was systematically sought from citizens through policy consultations, feedback on service delivery, advisory groups on government programmes and activities and whether new information and communication technologies were used.

As presented in Table 25, the answers illustrate that in all countries, half or fewer of the interviewees indicate that public consultations took place "always" or "frequently" in the described manner. Among them, in three countries (Jordan, Morocco and Yemen), policy consultations was ranked the highest or tied for the highest place. In three other countries (Lebanon, Sudan and Tunisia), consultations through advisory groups placed the highest. However, in four countries (Jordan, Morocco, Sudan and Yemen), the use of ICTs was ranked the lowest or tied for the lowest place. Some comments are presented in Box 18.

Box 18: Interviewee Comments

- “Using information technology is on its way in the government.”
Lebanon
- “The government may sometimes use any one of the above listed means to facilitate its own work within specific organization, but not for ensuring accountability or transparency.”
Sudan
- “It is hard for the public to have access to public information.”
Yemen

Records Management

Systematic record keeping is the first step in overall information management and giving access to information. Without the storage and retrieval of basic records, it is difficult to not only keep track of individual transactions but also to conduct research and analyze trends, provide the paper trail for accountability of important decisions or produce documentary evidence in court, when particular decisions or activities are contested.

The consultants were asked to report on the state of records management in the public sector. Based on some consultations with experts, they indicated in all countries that the situation varies from ministry to ministry. However, in general, records are not systematically kept nor archived in good condition. (However, in Jordan, the consultant reported that the records are stored safely and easily retrieved. In Sudan, the consultant noted that in the past, there was a greater interest in records management and that they were better kept. In Tunisia, the consultant reported an Internet website for the national institute of statistics that disseminates solid statistical information.)

Whether due to a preference for an historical oral tradition or the high costs associated with properly maintaining and digitizing information, record keeping seems to generally

be accorded a low priority in the countries under study. In order to fully participate in a globalizing world economy, based on an information society, the countries under study and others in the region stand to benefit from better information and, ultimately, knowledge management.

Investigative Journalism

Investigative journalism is an effective check on government decisions and actions by the civil society. Through investigating and publicizing substantiated rumours and allegations, journalists are able to expose waste, mismanagement and corruption, thus holding the government and other public sector organizations to account. In many countries around the world, however, journalists are severely restricted and at times threatened when they practice their profession. Therefore, the freedom allowed the press and the media is a good measure of the state of transparency in a given society. Furthermore, journalism itself, as a profession, needs to promote professional standards and hold its members to account in order to be credible and effective.

Questions about investigative journalism were asked during interviews only. The experts were asked to give their opinions on the freedom of the press, journalists exposing scandals and misconduct in government, training, professional codes of conduct for journalists and support of the society-at-large for investigative journalism.

The responses in Table 26 show that clear trends in responses are difficult to see. Again, in all countries, fewer than half of the interviewees indicated good practices “always” or “frequently” for investigative journalism. The response rates were low for these categories. (The exception was in Yemen where 52 per cent of the experts felt that investigative journalism was protected through freedom of the press “always” or “frequently”. However, the interviewees pointed out the discrepancy between the freedom of the press guaranteed in laws and the actual practices.) In three countries (Jordan, Lebanon and Yemen), the interviewees placed first or tied for first place *protection through*

Table 25: Public Consultations % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|--------|---------|---------|-------|---------|-------|
| Through policy consultations (conferences, town halls, surveys, opinion polls, etc.) | 50 | 5 | 19 | 18 | 11 | 33 |
| Through feedback on service delivery (client satisfaction surveys, consumer focus groups, etc.) | 50 | 10 | 6 | 9 | 22 | 24 |
| Through advisory groups on government programmes and activities | 38 | 15 | 9 | 32 | 39 | 24 |
| Through using new ICTs | 38 | 10 | 3 | 5 | 17 | 24 |

* For a breakdown of all responses, see bar charts in Annex 3: Information Management, second part of Access to Information.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Table 26: Investigative Journalism % of Respondents Indicating “Always” and “Frequently” Practised*

| Practice | Jordan | Lebanon | Morocco | Sudan | Tunisia | Yemen |
|---|--------|---------|---------|-------|---------|-------|
| Protected through freedom of the press | 42 | 40 | 31 | 14 | 17 | 52 |
| Involved in exposing scandals or misconduct in government | 21 | 35 | 47 | 9 | 11 | 43 |
| Encouraged through professional training | 42 | 15 | 9 | 9 | 11 | 29 |
| Held responsible through professional codes of conduct | 38 | 15 | 22 | 27 | 22 | 10 |
| Based on support of society-at-large | 21 | 30 | 41 | 18 | 22 | 38 |

* For a breakdown of all responses, see bar charts in Annex 3: Information Management, Investigative Journalism.

Numbers in Bold = highest percentages by country

Numbers in Red = lowest percentages by country

Box 19: Interviewee Comments

- “Press releases are always taken from one or two officials and do not represent all opinions.”
Jordan
- “The government owned TV and radio (stations) are the least watched and listened to in Lebanon.”
Lebanon
- “The absence of journalists specialising in certain domains influences on the development of transparency in these domains.”
Morocco
- “There is presently a measure of press freedom, which is more or less successfully exploited depending on the skills of practising journalists.”
Sudan
- “There does not exist investigative journalism in the full sense of the term.”
Tunisia
- “Journalists in Yemen are free to write about corruption, scandals and misconduct of public officials and the government, along with society, supports them. You can read some Yemeni papers such as *Al Shumo, Al Wahdwi, Sahwa, Yemen Times, etc.*”
Yemen

freedom of the press among the practices for investigative journalism. In four countries (Lebanon, Morocco, Sudan and Tunisia), *investigative journalism encouraged through professional training* was placed the lowest or tied for the last place. In addition, *investigative journalism being involved in exposing scandals and misconduct in government* ranked the lowest or tied for the lowest place in three countries (Jordan, Sudan and Tunisia). Some interviewee comments are presented in Box 19.

Civil Society Organisations (CSOs)

Civil society organizations -- faith or community-based, non-governmental or professional groups – play a critical

role in demanding information and accountability from and monitoring the performance of the public sector. They can serve as a conduit of citizens’ or special interest concerns, give technical input into public policies, mobilize and educate the public on civic issues and independently monitor and evaluate public policies and programmes. Therefore, the freedom of association and participation outside of the state structure is an important indication of the level of transparency and accountability in a society.

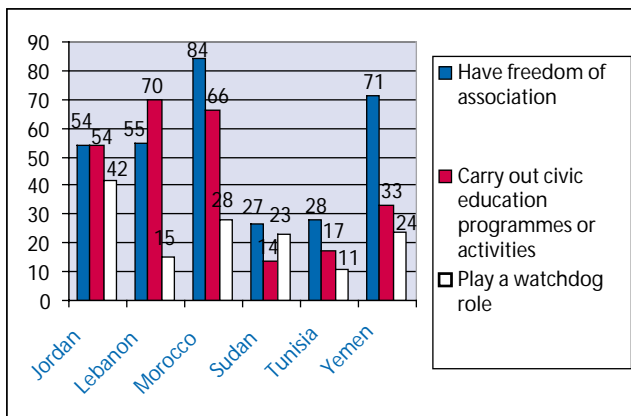
Questions about the role of civil society, in particular NGOs, in public information were also included during the interviews. The questions addressed the freedom of association of CSOs, their role in carrying out civic education programmes or activities and their role as watchdogs of government decisions and activities.

The responses have been presented in Chart 11. In all countries except Lebanon, the interviewees ranked first or tied for first place *freedom of association* as “always” or “frequently” practised. Conversely, in all countries, less than half of the interviewees indicated that CSOs “always” or “frequently” played the *watchdog role*. In fact, in all countries apart from Sudan, this practice was ranked the lowest. (See Chart 7.) Given the importance of independent monitoring and evaluation of public sector performance, the countries in the study and others in the region may find capacity-building of CSOs in this regard to be beneficial. Some interviewee comments are also presented in Box 18.

This chapter has examined information management, broadly defined, in the study countries. Sound information management in the public sector provides the base for more transparency, hopefully leading to more openness and accountability. As more countries shift towards an information society and a knowledge-based economy, information becomes an important resource. Therefore, it is important that the public sector finds effective and efficient ways to not only give and spread information but also to solicit and channel input and feedback from the public.

Despite the numerous laws that have been recently introduced or updated in the countries in the study, a framework for managing information – both giving and receiving -- is only beginning to solidify for full implementation. For example, apart from a bill in Lebanon,

Chart 7: Civil Society Organisations % of Respondents Indicating “Always and Frequently” Practised*



* For a breakdown of all responses, see bar charts in Annex 3: Information Management, Civil Society Organizations.

Box 20: Interviewee Comments

- “Most NGOs are involved in such activities but their roles are ineffective.”
Jordan
- “But they are rarely listened to.”
Lebanon
- “The unions play an important role in training the citizens about rights and obligations, although often more about rights than obligations. The activities of other NGOs such as Transparency Maroc are important in the matter of training and control but sporadic and too often limited to vulnerable sectors and to big cities.”
Morocco
- “NGOs undergo registration procedures and are somewhat restricted by national laws.”
Sudan
- “NGOs do not play the role that they should play, that is to make up the civil society.”
Tunisia
- “Most NGOs look for their own interests only, so they are not effective in building a strong civil society.”
Yemen

there are no laws on access to information within the study countries. This finding is not surprising, given that access to information has only been legislated within the past two decades or so among the economically advanced countries.

In terms of diffusing communications or public information, apart from Lebanon, the other study countries are characterized by government control of the press and media, with few private and independent sources.

(However, it should be noted that with the explosion of new information and communication technologies, the region can also subscribe to satellite dish and other services to receive information from sources around the globe. In addition, with the development of the Internet, it is easier to put up private sites of information.)

In terms of soliciting information or getting feedback, public consultations have been taking place mainly through policy consultations and the use of advisory groups on government programmes and services, over other means. Moreover, the utilisation of new information and communication technologies in disseminating or soliciting information by the government appears to be low.

Although the foundation of information management is good record keeping, its state is not perceived to be of high quality. Whether due to resource constraints or other reasons, record keeping and archiving seem to be given low priority.

Apart from the state making available and disseminating information, it is important that there be independent sources such as the press and the media to professionally assess, verify or contest public information. Furthermore, such sources can also uncover cases of mismanagement and corruption in the public sector, thus playing a valuable role in increasing transparency and accountability. In terms of information gathering and dissemination in civil society, the experts surveyed indicate that the freedom of the press is often limited (at least in practice). They also indicate that investigative journalism seems to be underdeveloped with inadequate professional training, despite the importance of the profession. In some countries under study, investigative journalism was not perceived to have a great role in exposing scandals and misconduct in government.

Finally, the role of civil society organizations in demanding a voice with and openness from the government is fundamental to more public sector transparency and accountability. Generally, civil society organisations are perceived to have the freedom of association in the majority of the countries in the study. However, they are less seen to have an active role in conducting civic education programmes or activities and not really seen to carry out a watchdog role on government performance. Thus strengthening the capacity of civil society organizations may not only increase the voice of citizens and groups but also serve as a check upon public sector performance.

The findings of weaknesses in information management in this chapter are broadly supported by other research (see UNDP, 2003 *Arab Human Development Report*). Given the importance of information and knowledge, especially within the current context of globalization, the countries in the study as well as those in the region generally may profitably improve information management, both within and outside of the public sector. Again, a search for good practices and shared solutions for common problems may save time and effort.

CHAPTER 7: CONCLUSION

The present study was initiated as a response to the increasing public demand for more public sector transparency and accountability around the world, including the Arab Region. This demand is driven by, in part, globalization that provides new opportunities through liberalization of trade, foreign investment and capital flows, technological changes and information flows. Given the new global nature of the competition for scarce resources, the private sector and civil society – as investors and consumers of public goods and services – are demanding more information and accountability from the public sector for its performance and use of public resources.

As has been noted earlier in this report, to date, the Arab Region has not benefited from globalization to the same degree as other regions. In order to benefit more from the advantages of globalization, the countries in the Region stand to gain from repositioning themselves to face new challenges that globalization brings. Since the public sectors in the Region play a pivotal role in defining the development strategy of their countries, it is important that they reform their institutions to better align themselves with the new demands of a globally integrating and competitive economy. A crucial component of this reform is to enhance the transparency and accountability of the institutions, not only to attract more investment but also to promote more participation from the private sector and civil society to improve the quality of decision-making and a more rational use of public resources.

This report presents a regional analysis of the state of public sector transparency and accountability in the Arab Region, based on the country-level data submitted by national consultants. Comparative policies and practices for the six countries under study: *Jordan, Lebanon, Morocco, Sudan, Tunisia and Yemen*, have been compiled into a database and serves as the basis for this report. (See http://www.unpan.org/technical_highlights-Transparency-Arabstates.asp.) Because the participating countries were chosen to be representative, the main findings and policy recommendations may be applicable to other countries in the region.

In addition, country-level situations and analyses have been provided by the national consultants in the case studies in Annex 1. These documents provide information that should be highlighted or fall outside of the framework of the regional analysis but deemed to be important in the professional judgment of the consultants. As such, they also provide specific policy recommendations, targeted to each country.

This study is exploratory, based on a qualitative analysis of pertinent documents at the policy level and structured interviews with experts at the practice level. As many

pertinent documents were analyzed as possible, and 415 interviews were completed with experts about public sector financial, human resources and information management practices. The identification of good practices and gaps in policies and programmes can provide a means to improve transparency and accountability in the public sector in the region and assist governments, donors and the wider public in making policy recommendations and funding decisions.

Regional Context of the Study Countries

The richness of the Arab World lies in the fact that while the countries broadly share a common heritage and core values, they also developed distinct political, economic and social systems. At the same time, the Arab Region is now a home to a number of political challenges – including the Arab-Israeli conflict -- that threaten to destabilize the Region. It faces economic challenges of better integrating into a world economy, brought on by globalization. It also faces social challenges in the transition from traditional to modern societies. Historically, the majority of the Arab States were part of the Ottoman Empire, in general, succeeded by French and British colonial powers. These events have had an influence on the Arab societies such as in their conception of the State and the role of its institutions and a weak political culture of participation.

Currently, the Region witnesses high rates of population and labour growth but slow economic growth. Consequently, the unemployment rates in the region are among the highest in the world. In addition, the rate of illiteracy is high, particularly for women. Nonetheless, Arab countries have achieved important social progress, based on state welfare policies and Islamic traditions of charity and family support networks. The public sector constitutes the main source of job creation. Despite attempts to change the situation, public enterprises still play a dominant role in the economy because of restrictive trade regimes and administrative and legal obstacles facing the private sector.

Most of the countries of the Region now recognize the urgent need to reform their public sectors. Recent reforms introduced were particularly aimed at establishing a modern legal and regulatory framework for property rights and foreign direct investment. They have been carried out because of the tremendous external opportunities of globalization and internal economic challenges of domestic reforms that face Arab countries. For instance, membership in the World Trade Organization (Jordan, Morocco and Tunisia among the study countries have joined) have brought tariffs down and eliminated other trade barriers. Association agreements with the European

Union (Jordan, Lebanon, Morocco and Tunisia have finalized association agreements) increased trade levels and market access. "These partnership agreements require countries to take measures that make their regimes more accountable and transparent."¹

What remains is a commensurate level of institutional reforms, not only in the trade and investment sectors but also in other sectors and in the provision of public services. However, the centralization of power and impediments to public participation constitute an obstacle to transparency and accountability in both the public and private sectors. A "governance gap", in enhancing inclusiveness of society and demonstrating stronger accountability on the part of the state, between the region and other parts of the world has been noted. "Although generalizations are difficult, the quality of governance in MENA (Middle East and North African) tends to increase with incomes, which is consistent with international empirical evidence. But MENA countries consistently have lower-quality governance than would be expected for their incomes. Thus, they have a governance gap with the rest of the world."²

Furthermore, as in many other parts of the world, the existence of networks of families and friends with parallel stakes in both politics and business often cause a blurred line between the public and private sectors. But the experience of the six countries in the study illustrate that many aspects of fiscal transparency have already been and are being addressed. Such reform efforts can greatly improve public sector transparency and accountability by being applied to other key functional areas such as human resources and information management.

Thus, an examination of the regional context of the study countries reveals their similarities and differences, highlighting the coexisting cohesion and diversity of the Arab Region.

Structure of the Public Sector in the Study Countries

In addition to setting the regional context, an attempt was made to gather information on the public sector structures in the study countries. Given the difficulties of

¹ United Nations 2002, *Key Public Sector Institutions in the Arab Region Responding to Globalization and Promoting Investment*, Unpublished concept paper, p. 3

² World Bank 2003, MENA Development Report, p. 37. The Index of Governance Quality (IGQ) aggregates indicators that measure the overall quality of governance processes. They are further subdivided to measure internal accountabilities through the Index of Quality of Administration (IQA) and external accountabilities through the Index of Public Accountability (IPA). The Report concludes that the governance gap is driven in large part by weak external rather than internal accountabilities, in comparison to countries of similar income levels.

demarcating the "public sector" from country to country, it is difficult to identify and compare the boundaries, the size and composition of the public sector of the study countries. Nonetheless, the national consultants collected basic data on the share of general government consumption of the gross domestic product, number of central level ministries and public sector employment -- where possible. Through this effort, the project team discovered that some key statistical information and a breakdown by related variables are often not available or accessible.

Of the information collected from the study countries, in 2001, general government consumption (covering all levels of government) ranged from 13.9 per cent of GDP in Yemen to 23 per cent in Jordan. Also, in 2003, the number of ministries ranged from 20 in Jordan to 39 in Sudan. The proportions of central level civil servants (including teachers and health workers in public establishments) of the population ranged from 0.74 per cent in Sudan in 2000/1 to 3.0 per cent in Tunisia in 2001. Where gender breakdown of these figures were available in four of the study countries, the proportion of female civil servants ranged from 0.2 per cent in Yemen in 1999 to 39.2 per cent in Tunisia in 2002.

The national consultants also collected information on relevant past initiatives on public sector transparency and accountability in the study countries. The information from the past ten years reveals that most of the initiatives undertaken involved relevant studies, conferences, public campaigns and administrative reform or modernisation projects. Although many of the initiatives initially focused mainly on public officials within government, of late, others have been reaching out to a wider audience to raise awareness about transparency, public ethics and anti-corruption.

The information collected on the structures of the public sectors and the past initiatives on promoting transparency and accountability indicate the varying conditions and characteristics of the public sector in the countries in the study.

Financial Management

Around the world, there has been a renewed emphasis on financial transparency and accountability in the public sector. This trend has come about as a result of the erosion of the credibility of governmental fiscal machinery in many countries, a propensity for reactive rather than a proactive decision-making by economic policy makers in many developing countries, the shift in the role of government from production to regulatory activities, fiscal decentralization and a rapid expansion of the scope of financial accountability.

Moreover, particularly in developing countries, the quality of pertinent regulations and the predictability of the actions of the regulatory agencies are important for investment decisions and commercial transactions.

Equally important is transparency about the capacity for financial management and strategic financial transactions in the public sector for multilateral and private financial institutions, making loans. In addition, strong accountability measures against fiscal mismanagement and fraud not only serve to lend credibility to public financial management but also serve as a deterrent to malfeasance.

The study compared policies and practices in financial management frameworks, budgeting, revenue, payroll, procurement, privatisation and service concessions, payments, accounting, internal and external audit. The information submitted for the study countries indicates that, as in all countries, there are gaps between written policies and daily practices.

The legislative and administrative framework for financial transactions seems to be well in place in the study countries. But, the application of the provisions for general financial control, as indicated by highly visible measures and the attitudes and performance of finance officers, seemed to be viewed as not consistently exercised (with the exception of Jordan). In particular, attention to the human factor such as specific training emphasizing accountability could improve the situation. Given the importance of demonstrating commitment to probity in setting the tone for overall financial management, the examples set by the leadership and other specialized finance officers through communicating and implementing measures for general financial control cannot be underestimated.

The study examined the practices of financial transactions from the beginning (implementing budgets) to the end (payments), followed up by ex-post controls (auditing). For specific practices, budgets are perceived to be executed more or less according to existing rules. In revenue collection, although the study countries have taken many measures to improve the transparency and efficiency of tax assessments and payments, the recourse to effective appeals procedures seems to be less satisfactory than other practices.

For payroll, although independent verifications of payroll amounts and reconciliations with previous pay periods seem to take place, more attention should be given to the physical identification of personnel to prevent "ghost workers" and other abuses. However, in countries that have already automated public payroll, such as Morocco, the need may be greatly reduced.

For procurement, although the experts indicated that public competitive bidding is required in large tenders and many sound procedures are in place, they did not see consistent awarding of contracts to the most responsive and qualified bidder with the lowest cost. This finding shows that although public procurement in the study countries generally conforms to international standards, they do not seem to lead to intended ends. An area of weakness may be the evaluation of bids, with indications

that the criteria are not always clearly stated in bidding instructions nor are all records, apart from the final decision, kept. Without clear documentation, it would be difficult to establish whether improper political, personal or other considerations overrode technical merits of certain bids. In addition, there is the perception that the work of contractors is not consistently supervised by independent experts or that change and variation orders are continuously maintained, once a contract has been awarded. Since many abuses, such as the delivery of substandard goods or work, take place after a contract has been awarded, it is important to monitor and document the execution of the contract.

Although privatisations and service concessions are high risk areas for financial irregularities and corruption, the study devoted much less time to these activities than to procurement, given the limitations of time and the slow down of privatisations or service concessions made in MENA. Among the study countries, Tunisia and Morocco have been more active in transferring assets from state control. In all the study countries, the sectors where assets have been primarily transferred include tourism, construction and financial services. Service concessions have been awarded mostly in transportation, telecommunications and utilities.

Regarding payments, a majority of the experts indicated that the delivery of goods or services and computations are checked before it is made. However, paying within a reasonable time and over spending seem to be areas needing improvement. In addition, a review of policies indicated that ministries of finance and other central or independent agencies are instrumental in setting accounting standards and controls.

Finally, based on a review of structures and policies, the study findings indicate that auditing, both internal and external, needs to be reinforced. For internal audit, more independence and training of staff would increase the effectiveness of the assigned units. For external audit, measures to increase the independence of the supreme audit institutes, publicising and following up on the reports would give the function more credibility. However, the issue of independence is complex, dependent on the independence of resource allocation and operations and the authority to make findings public in a timely fashion. Given the pivotal role of auditing in ensuring transparency and accountability in public management, these are key areas to be targeted for strengthening.

The importance of public financial management -- setting, executing and vetting the execution of the budgets -- in the Arab Region has also been noted by the World Bank. It observes, "In terms of the quality of public sector management ... the financial management systems are effective; and the fiscal reporting is timely and accurate -- there is also a wide variation within the region."³

³ World Bank, 2003, MENA Development Report, p. 61

It further states, “performance-oriented budgeting builds on traditional mechanisms of accountability, including competent internal accounting and auditing departments, independent financial audit and oversight agencies, access to government information on budgets and bureaucratic performance, and strong (and public) parliamentary debate.”⁴ It then compares the budgeting systems in MENA countries with countries of comparable income levels such as Brazil, Indonesia and the Republic of Korea. In the comparison, MENA countries “compare well in linking planning and budgeting and managing budgetary flows. But they score considerably lower in the performance orientation of budgeting and the strength of internal accountability.”⁵ However, it notes an interest in modern budget management techniques in a number of countries in the Arab Region (including Jordan and Morocco which are among the study countries) that are in early stages of conception and reform.

Human Resources Management

It has been observed by public administration experts that “the challenge of good State governance is about capacity building through institutions and people. Through their knowledge, know-how and skills, people (are) at the heart of the performance of the State since it (is) people who provid(e) services, ma(k)e innovations and carr(y) out reforms.”⁶ This observation highlights the importance of the human capital as a strategic resource to be managed in public sector performance.

Some lessons distilled from international experience in promoting transparency and accountability in human resources management show that several factors should be considered. Human resources management reforms should be integrated into overall civil service or public sector reforms. Reforms should recognize the varying needs of different categories of public officials and occupational groups. Organizational autonomy, decentralization accountability need to be balanced in human resources management. Promoting ethics should be based on policies to promote merit, competence and professionalism. There are many options in developing ethics regimes to complement different approaches to human resources management. Finally, overall human resources management strategy is critical to the success of reform attempts.

Thus, this study compared policies and practices in the human resources management framework, stated official values, codes of conduct, legal restrictions on criminal conduct, the selection process, conflicts-of-interest disclosures, reporting of wrongdoing, investigation and disciplinary procedures.

⁴ World Bank, 2003, MENA Development Report, p. 128

⁵ World Bank, 2003, MENA Development Report, p. 126

⁶ The UN Committee of Experts on Public Administration, Report on the First Session, 22-26 July 2002, E/2002/84, E/CN.16/2002/8

As in the case of financial management, information collected for human resources management framework indicates that there are civil service and other public sector employment laws and regulations in place in each study country. Officially stated core values -- most frequently defined as *neutrality, legality, fairness* or *equality* among others -- are enshrined in the constitution, the civil service law or other pertinent texts. However, they are not well communicated or seen to be demonstrated consistently by leaders in the public sector. They seem to be better known by public sector employees than the public they serve, making it difficult for the public to understand the principles underlying public service or judge public sector performance.

In addition, the legal and administrative standards in criminal codes or codes of conduct are not perceived to be followed or enforced systematically. The discrepancy between stated rules and actual practices is common in most parts of the world. As in other countries, the countries under study and others in the region may usefully gain from applying existing standards of conduct in promoting employee accountability and boosting credibility.

For the selection process, experts from five of the study countries indicated that although the rules are present, few are perceived to be consistently practiced. Recruitment and promotions are not seen to be based on the merit principle, and there is a perception of insufficient protection from political interference.

Regarding conflicts-of-interest disclosure requirements, although three of the countries reported existing policies, their actual functioning seems to be varied in terms of being made public or being verified. Likewise, there are no official policies for having to report wrongdoing or for protecting the “whistle-blowers”. The introduction and full implementation of disclosure laws and an official policy of protecting those who report wrongdoing are important to transparency in human resources management, particularly at top levels.

Although investigations by the police are generally perceived to be prompt and fair, (perhaps due to the fact that in most countries the police must conduct criminal investigations), other investigations are not perceived to be carried out by independent agencies. Nor are past cases perceived to be documented and analyzed to generate lessons for future work.

Finally, disciplinary measures are based on procedures but are seen not to be consistently taken in four of the six study countries. In the interest of justice and the deterrence of disciplinary measures, countries need to properly apply and enforce standards.

Again, these observations show that there is a significant gap between policies and practices, particularly for reporting on and investigating wrongdoing. Since these two

activities are critical to ensuring accountability, they should also be given prompt attention.

It has been noted in Chapter 2 that the public sector is the main source of job creation in the Region. "In urban labour markets, three types of employment coexist: public administration, formal employment in enterprises which are mainly under public-sector control, and informal private activities."⁷ Given this dominance, human resources management in the public sector and any impact on productivity levels will directly affect the economic development of the countries in the region.

In terms of labour market forecasts, "(p)rospects for the North Africa and Middle East are still clouded ... The dependency on oil prices, the high labour force growth rates which some economies are unable to absorb, the deficits in the quality of the public institutions and the high incidence of poverty in some economies are all threats in improvements in the labour markets."⁸ Thus human resources in the public sector in the study countries and other countries in the Region will continue to require careful attention and judicious management.

Information Management

Because access to information is a fundamental human right and a precondition to transparency and accountability in the public sector, governments have an obligation to create an infrastructure and procedures to make available information to citizens. Furthermore, access to information should be two-way, with governments providing information on their performance and soliciting information from citizens for input into public policy and programmes. To ensure good management of information within the public sector, records need to be kept carefully. In addition, public information on government decisions and activities as well as information gleaned from public consultations need to be disseminated widely to increase accessibility. The verification and investigating roles of an independent media is also critical to not only lend credibility to information disseminated by the public sector but also to expose cases of mismanagement, waste and corruption.

As more countries shift towards an information society and knowledge-based economy, information becomes an important public resource. Thus it is becoming increasingly more important that the public sector find effective and efficient ways to disseminate information and to collect information from the public.

Recognising the importance of quality information to transparency and accountability in the public sector, the study defined information management broadly. It compared policies and practices in information manage-

ment framework, access to information (including the holding of various methods of public consultations), records management, investigative journalism and the freedom of association of civil society organizations. Thus the study considered not only policies and practices within and pertaining to the public sector but also to relevant information-disseminating entities within society.

The material submitted for managing information in the study countries suggest that this area is less developed than in the other two areas of public management. In comparison to financial or human resources management, the legislative and administrative framework for managing information is in the beginning stages, despite the numerous laws that have been recently introduced or updated. For example, there are no laws on access to information, apart from a bill introduced in Lebanon. In comparison to other developing countries, this finding is not unexpected. Even among the wealthier countries, access to information laws have been relatively recently introduced.

For diffusing public information, in general, the study countries are characterized by few independent and alternative sources of reporting -- with governments dominating the dissemination of public information. However, with the introduction of the satellite dish, access to the internet and other telecommunication services in the region, countries can now receive information from around the globe.

For soliciting information, public consultations have been taking place mainly through the use of advisory groups on government programmes and services over other means. And there has been limited utilisation of new information and communication technologies in disseminating or soliciting information by the government. A recent United Nations report observes, "However, Arab and non-Arab countries in the (Western Asia) region ... hav(e) e-government readiness indices above the global mean ...". It then cites Jordan and Lebanon, included in this study's countries, as being among those that "have put tremendous effort into developing their e-government programmes in recent years." It also lists Yemen among those countries as having "a deficient level of e-government readiness, a large part of which is due to their lower level of human/capital and technology infrastructure."⁹

Regarding the state of record keeping, it is not perceived to be of high quality. Whether due to resource constraints or other reasons, records management and archiving seem to be given low priority.

Away from the public sector and within society itself, it is important that there be independent sources of information, apart from the government, such as the press and the media. The experts indicated that investigative journalism

⁷ ILO 2004, Global Employment Trends 2004, p. 19

⁸ ILO, 2004, Global Employment Trends 2004, pp. 3/4

⁹ United Nations 2003, World Public Sector Report 2003: *E-Government at the Crossroads*, p. 157

is underdeveloped, often with limited freedom of the press, despite legal guarantees. Moreover, there is inadequate professional training for investigating journalists, despite the importance of the work.

Finally, the role of civil society organizations in having a say and expecting more openness from the government is a major driving force for the call for more transparency and accountability in the public sector. Although civil society organizations in the study countries are generally acknowledged to be able to have the freedom of association, they are seen to have a limited role in civic education or in watching over public sector performance.

“A knowledge-based society is one where knowledge diffusion, production and application become the organizing principle in all aspects of human activity: culture society, the economy, politics, and private life.”¹⁰ The forces of globalization are making a journey towards a knowledge-society an increasing daily reality for an increasing number of countries. In this journey, the state has a key role to play, not only in setting information policies at the country level but also in managing information in the public sector.

However, “one of the worst consequences of (post September 11) freedom-constraining measures in developed countries is that they gave authorities in some Arab countries another excuse to enact new laws limiting civil and political freedoms. The Arab countries as a group adopted an expanded definition of terrorism, which assumed institutional expression at the regional level in *The Arab Charter against Terrorism*. This *Charter* was criticized in Arab and international human rights circles, because its expanded definition opens the door to abuse. It allows censorship, restricts access to the Internet, and restricts printing and publication.”¹¹ In view of these recent developments, information management – broadly defined – takes on greater importance than ever before in serving as a plank of public sector transparency and accountability.

Outlook

In sum, a big picture of public sector management across the participating countries can be drawn from the study findings. This picture can also be drawn for other countries in the region. The picture seems to be dominated by well-developed financial management practices, followed by less well implemented human resources management practices and completed by relatively newly-introduced or attempts to introduce information management practices.

Although all three areas of the functional management are interrelated and important to transparency and

accountability, in terms of quick gains and areas for the most impact for reform efforts, the countries in the study should target information management. There is still much to do in introducing and fine tuning legislation that will encourage more openness in government, access to information and public consultations. The countries can also benefit by better implementing legislative provisions that encourage independent sources of information such as the press and media and civil society organizations. These organizations also need to be trained in having an input in public policy formulation as well as having an oversight role on public sector performance.

These efforts can be followed by a re-examination of human resources management practices. Better communication about overall public service values and standards of conduct, more merit-based recruitment and promotion that rewards performance and protection from political interference will set a solid foundation for transparency and accountability. These basic measures should be followed by the introduction of conflicts-of-interest disclosure requirements, an official policy for reporting wrongdoing and effective investigations and disciplinary measures, following wrongdoings.

Then specific aspects of weaknesses in financial management, as identified by this study among others, should be addressed. They start with more emphasis on overall financial controls, especially as illustrated by the leadership and financial officers. The computerization of routine financial transactions such as payroll and payments, where needed, may eliminate opportunities for corrupt transactions. More transparency and information about the evaluation criteria and process in public procurement may lead to less distortion of the competitive bidding process. And more independence of both internal and external audit, with more reports accessible to the public in the case of the latter, would strengthen ex-post financial controls.

The overall findings of this study seem to echo the findings of recent broader studies of governance in the Arab Region. UNDP’s first Arab Human Development Report (2003) presented the development challenges for the Region as being the three deficits in knowledge, freedom and women’s empowerment. Since basic information is a prerequisite to building and managing knowledge, clearly there is a link between inadequate information management and a deficit in knowledge. Also, since information flows depend on freedom of expression and association, there is also a link between effective information management and a deficit in freedom.

In the subsequent UNDP Arab Human Development Report (2004), the theme of knowledge deficit is further explored. The Report concludes with recommending the “five pillars of the knowledge society” among which the first being “unleashing and guaranteeing the key freedoms of opinion, speech and assembly through good governance”. Although the recommendation is meant for societies at large in the Arab region, the states have a

¹⁰ UNDP 2003, Arab Human Development Report, p. 2

¹¹ UNDP 2003, Arab Human Development Report, p. 2

particular role to play. The findings of this current study indicate that not only should the governments implicated improve upon their information management in the public sector but also greatly enlarge their role in encouraging and guaranteeing the free flow of information in their countries.

Closely related to better information flows -- or transparency -- are the actions taken as a result of the information -- or accountability. The earlier noted 2003 World Bank MENA Development Report observes that "Driving the governance gap between MENA and the rest of the world are the striking weaknesses in external accountabilities and in the access to basic political and civic rights. All countries in the region, whatever their income, score well below the world trend..."¹² Conversely, the same Report observes, "Most MENA countries do not perform much worse in the quality of their administration than other countries at similar income levels, and several countries do better."¹³ It is in the area of accountability to the public that the "governance gap" is noted. Among the three management areas examined in this present study, information management, that is so important to the interface with the citizenry, has been identified as the weakest. The present study also highlights the weak public consultation structures and the limited role of the press and civil society organizations in monitoring public sector performance.

This report has highlighted common public sector management challenges that are faced by the countries in the region, despite their differing levels of economic development and public sector structures. There seems to be no easy or simple solution. Rather, the study findings suggest that a careful examination of current policies and practices may show certain gaps that can be plugged in to strengthen management in key areas. A common pooling of problems and solutions at the regional level may assist individual countries to better meet their particular challenges.

In this spirit, this report concludes by listing two new initiatives that have been launched by UN agencies and its partners to support the governments in the region to collectively address the many challenges that they face. One new initiative, *Governance and Rule of Law for Development in the Middle East*, is being supported by the UNDP Bureau for Arab States in cooperation with the Organisation for Economic Cooperation and Development (OECD). This initiative was launched in late 2003 with a view to assist countries in the region to gather as much information on the state of governance and the rule of law. It will also encourage technical cooperation between the OECD countries and the countries in the region in their endeavours to improve overall governance and rule of law measures.

The other initiative is the *Programme for Innovation in Public Administration in the Euro-Mediterranean Region (InnovMed)*. The Programme's objective is to contribute to the improvement of governance systems in the countries of the Euro-Mediterranean Region through the exchange of innovative experiences in public administration. Launched in 2003, the Programme is implemented by the Division of Public Administration and Development Management (DPADM) of the United Nations Department of Economic and Social Affairs (UNDESA) with the support of Formez - Training and Study Centre, in line with the objectives of the Centre for Administrative Innovation in the Euro-Mediterranean Region (CAIMED) in Italy. Many Arab countries of North Africa and the Middle East are among the participating countries in this Programme.

As with these initiatives, the results of the study will be regionally disseminated in order to ensure that they will be conducive to action. It is up to the participating countries themselves to take a lead in changing policies, improving institutions, further developing public management and training public personnel. Through a more transparent and accountable public sector, better decision-making and a more rational use of public resources, the ultimate end of this project is the improvement of the lives of the ordinary people in the Arab Region.

¹² World Bank 2003, MENA Development Report, p. 62

¹³ Ibid, p. 58

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ANNEX 1: CASE STUDIES

JORDAN

by Dr. Zuhair Al-Kayed and Dr. Okleh Mohammed Mubaidin¹

Jordan's historical background

2 March 1921, the day Prince Abdullah Iben al-Hussein arrived in Amman, is regarded as the beginning of the establishment of a Jordanian state, under the name of the Emirate of Trans-Jordan. The same year witnessed the formation of the first Jordanian Government, the Council of Chancellors. In 1928, the first Jordanian constitution was enacted, under the title of the *Essential Law of Trans-Jordan*, in order to organize the affairs of the state and its three powers: legislative, executive and judicial. It remained in force until 1946, when Trans-Jordan finally gained independence upon signing the *Treaty of London*. On 25 May 1946, Prince Abdullah was proclaimed King. In 1947, a new constitution was declared by issuance of Law No. (3). On 20 July 1951, King Abdullah was assassinated in Jerusalem, and his oldest son, Prince Tall, succeeded the throne. A year after his accession, King Tall stepped down in favor of his son Prince Hussein, who was proclaimed the King of the Hashemite Kingdom of Jordan. A new constitution was enacted and promulgated. Its first Article stipulates that the Hashemite Kingdom of Jordan is an independent and sovereign Arab state, with a parliamentary and a hereditary monarchy. After the death of late King Hussein in 1999, his son, Prince Abdullah, succeeded the throne.

Introduction

The origin of corruption in modern society is correlated, in part, with rapid economic and social modernization. Although human beings excelled in defining and executing theories, systems and strategies to enforce the principles of justice, integrity and honesty, they -- at the same time -- created mechanisms and methods that enabled them to acquire power, money and influence as well as violate and unjustly acquire others' rights. Ibn Khaldoun has observed that a position and influence in the administration of a state has provided an opportunity for some people to achieve financial benefits and collect enormous wealth without having delivered any true benefits or ventured capital. The abuse of public employment allowed for the emergence of a financial accumulation rather than an accumulation of productivity in some developing countries. This disease, due to more

than one factor, was rapidly transferred to some employees at official departments involved in economic activities. It led to building a broad public sector, without providing active systems to monitor the practices of this sector's employees.

In Jordan, political parties were legalized in 1992. In spite of the official political structure, in practice, the dominance of the executive branch over the other two branches (legislative and Judicial) of Government is conspicuous. The excessive centralization of decision-making within the executive branch defies attempts at change, and more significantly, impedes efforts to effectively address the problem of corruption. Furthermore, many senior managers are not prepared in terms of ethics, technical skills, or overall professional behavior to assume a greater role in the decision-making process. In general, the capacity of the public service is still low, although there is an adequate labour force of educated people in Jordan. Considering the political and economic attributes of the public service, administrative waste and mismanagement as well as lost opportunities remain consistently high, retarding the development and undermining the functioning of public institutions.

However, during the last three years, King Abdullah the II has devoted much of his attention and very serious efforts towards changing and modernizing the society on all fronts. These fronts have included political, judicial and administrative -- including increasing transparency and accountability and the rule of law, among other values representing good governance. In terms of transparency and accountability, the prosecution and conviction of top officials and other persons of high rank are indicators of the attitude towards the need for serious follow-up to mismanagement and corruption. The directive to the government in 2002 to constitute a High-Level Committee for Transparency and Accountability, chaired by the Deputy Prime Minister and the Minister of Justice, to combat corruption is also another indication.

Previous efforts to fight corruption by the Government

Article 3 in the 1952 Constitution

The 1952 Constitution was the basis of the Kingdom's principal effort to fight corruption. Article 55 gave the Parliament the authority to indict government ministers and established the Higher Council that pursued ministers for offences resulting from assuming their duties. *The Law of Prosecution of Ministers No. 35 of 1952* was issued in accordance with Article 3. The Higher Council was given the authority to prosecute ministers who are accused of committing high treason (crimes against state security, external as well as internal as specified by law); abusing

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their authority (bribery, theft, conflict of interest, abuse and misuse of power, etc); and misusing their office (purchase of state property, participation in tenders supervised by a public agency and serving as a company board member or acting as an agent for a company).

Prosecution Law No. 16 of 1960

Article 3 of this law classified crimes against public management, including those of bribery, embezzlement and conflict of interest as well as abuse of authority and misuse of responsibilities.

The National Charter of 1990

The *Charter*, among other factors, established an independent authority called the Council of Grievances (renamed the Bureau of Administrative Control and Inspection) to conduct administrative inspections. In its original form, it monitored the performance of administrative systems and the behavior of public employees and reported its findings to the Parliament and the Council of Ministers. It did so, provided that it did not intrude on the independence and the needs of the court system. In addition, the Charter required the Parliament to approve the budgets of public entities and conduct parliamentary examination of the post-audit budgets of public companies.

The Bureau of Administrative Control and Inspection 1992

The Bureau was established according to *By-Law No. 55 of 1992*. It was designed to produce agency administrative procedures; upgrade agency performance and productivity; and monitor the implementation of applicable laws, by-laws, circulars and decisions. Additionally, the Bureau had the authority to evaluate the implementation of plans and programmes and ensure that internal control units at various agencies perform their duties in accordance with government rules and regulations. However, this Bureau has been merged with the Audit Bureau in 2002.

The Law of Economic Crimes 1993

Article 3 of the *Law of Economic Crimes No. 11 of 1993* delineates crimes considered misuse of public funds, those that harm the economic position of the Kingdom or cause lack of confidence in its economy, national currency, and shares or bonds.

The Higher Procurement Authority 1994

By-Law No. 50 of 1994 created an independent body attached to the Office of the Prime Minister for the purpose of managing the department of supplies, purchases and services. It was also charged with upgrading the efficiency and effectiveness of these departments by strengthening controls over the performance and behavior of their staff, ensuring compliance with applicable legislation, identifying weaknesses in procedures and

providing appropriate remedies. However, this Authority has not been implemented, and it is under consideration for realisation in the near future.

The Anti-Corruption Department 1996

The Anti-Corruption Department was established in mid-1996 by a Royal Decree and is attached to the General Intelligence Department. Its aim is to prevent corrupt activities and take proper corrective procedures. This department performs the following tasks: conducts secret investigations of corruption cases and collects relevant data; disrupts corrupt practices and adopts appropriate measures to deter these practices; and makes referrals to the public prosecutor and eventually to civil courts when sufficient evidence is available. When there is insufficient evidence for court action, the department refers these cases to the relevant department for administrative action. Additionally, the department supports victims' grievances; coordinates and cooperates with other security agencies to reduce illegal practices; and encourages cooperation and coordination with concerned department officials and authorities in order to reduce incidences of administrative inefficiencies and abuse.

The Higher Committee for Transparency and Accountability 2002

This Committee has been established in 2002 and is chaired by the Deputy Prime Minister. It was recently reformed under the new government in October 2003 to look at cases of corruption at higher levels in society and to refer them to specialized institutions for processing and taking corrective action.

The National Committee for Combating Corruption and Favoritism

The National Committee was formed in accordance to a royal directive and upon the assignment of the Prime Minister. It was set up in order to implement the directions and recommendations included in Jordan First, to contribute to the development process and to face the challenges of a modern Jordanian State. Building a national system for integrity and dealing with the various aspects of corruption and favoritism are considered fundamental to enhance justice, achieve equity, build a state of laws and institutions and adhere to transparency. In addition, they are seen as preserving Jordanian Arab Islamic values which constitute the base of social relations and are the source of national pride. The Committee, which was constituted for these purposes, aspired to present a comprehensive national vision to deal with corruption and favoritism in all public and private sectors. It oversees seven major domains, namely:

- Corruption (concept, causes, aspects and results);
- Legislation;
- Monitoring systems and their role in combating corruption;

- Transparency and availability of data;
- Finance and administration;
- Criteria for administrative performance monitoring; and
- A national system of values and integrity.

Transparency and accountability in financial management

Corruption has several aspects such as financial, administrative, political and legal. In any form, corruption can be complicated due to its negative impact on the national economy. Corruption leads to a bad distribution of government services and deforms the economy through misallocation and a waste of resources. In cases where public services are funded by foreign bodies or loans, corruption increases the burden of the country's foreign debt, in addition to its other negative consequences.

There are many reasons for financial and administrative corruption. In terms of revenues, Jordan has many tax statutes and regulations where each needs to be examined and analyzed in order to improve the process of application. The tax statutes and regulations, as a rule, are transparent and accessible. They include transparent procedures for assessment and payment, clear forms and adequate notifications and simple tax assessment and payment. According to ordinary citizens, however, they are not transparent and accessible during application.

Also, the statutes and regulations pertaining to public procurement are transparent and accessible; the rules are very simple and clear. However, when it comes to implementation, the process depends on staff. This is where there is a need to choose staff more carefully and to train them well.

In terms of privatization, Jordan established a special unit, connected to the Prime Minister's Office. Different methods were used to privatize state enterprises and other major public or mixed assets. There is a law on privatization which applies in privatizing any publicly owned assets.

In terms of external audit, the Audit Bureau in Jordan does not perform its functions independently of the executive branch of government, despite the fact that it is legally independent. The only power of the Audit Bureau is its annual report. Although it reports to the National Assembly, the Audit Bureau is a part of the executive branch. It has no independent budget, and its president is appointed by the Cabinet. It introduces its annual report to the legislature, the legal committee. The recommendations of the legislature are not necessarily executed after that. No penalties are imposed in cases of irregularity, and no judicial decision is enforced. To impose penalties, the Audit Bureau has to write to the minister, who only has the authority to impose penalties.

Transparency and accountability in human resources management

Because corruption is the misuse of public office or public resources to obtain personal benefits, combating this phenomenon should be done through increasing transparency and accountability. However, this process requires the supervision, monitoring and evaluation of the performance of public sector organizations and their human resources. It also requires better application of laws and regulations, achieving justice and adhering to the national values of integrity and the code of ethic in the civil service.

There is no doubt that above all, fighting corruption depends on the good example of senior leaders. It ultimately depends on the executive authority and the mechanism of selecting the leadership. Therefore, a fair and just system of selection and promotion of human resources at all levels is indispensable.

The Civil Service By-Law directly pertains to human resources management in the public service. However, some departments are excluded from its staffing procedures and rules. Many people in Jordan feel that *wasta* (mediation) is the real standard for selection when they see relatives of influential people getting high salaries and top positions. Ordinary citizens feel that they have to wait for many years to get a public sector job, even with a low salary. Needless to say, they feel that they have to stay for at least 20 years to even reach a high position.

Regarding service delivery, the only tool to promote transparency and accountability is to enforce rules and regulations, instead of tolerating favoritisms, nepotism, *wasta* and corruption. One can see more risks of corruption in certain areas such as revenue collection, public procurement and recruitment. The disclosure and declaration of personal assets, incomes, financial interests, etc. is not required in public sector agencies. Although a law has been drafted, it is not yet been approved by the legislature.

It is worth mentioning that Jordan's public sector consists of ministries (20 now), central agencies, corporations and public companies. All ministries, central agencies and some corporations are under the umbrella of the civil service. However, in the present government, formed 25 October 2003, some ministries have been abolished, such as Culture and Information, and others merged under one minister.

Transparency and accountability in information management

Without the availability of information, both private and public sectors cannot be transparent or accountable to any party. Information which document facts and are published by institutions are considered to be the basic tools for transparency in decision-taking. Other fundamental elements

to support accountability are the availability of independent professional associations (aiming at commitment to professional ethics), monitoring of legislative authorities as well as the presence of a free press and an audible public opinion. Moreover, there is a great need for a true change in attitudes towards official secrecy and the limited circulation of information to people in positions of authority in the public sector. These attitudes were introduced in previous times under conditions that are not applicable in this present era.

The media plays an important role in providing transparency and allowing individuals and the society-at-large to access information and understand government procedures, and they contribute to social safety, justice and integrity. They are also responsible for revealing the violations of the law, waste of public resources and in exposing and combating corruption. Adherence to public and private corporate safety, protecting the reputation of individuals in positions of authority, and the prevention of undue character assassination are as important as preventing corruption. But these efforts should not in any way affect transparency and the freedom to access and publish information. They should not also prevent protecting journalists in their monitoring role in exposing corrupt practices. Therefore, developing and amending legislation and systems to enhance transparency, to facilitate the access to and publish information, and developing procedures to achieve openness and transparency are important preventive measures against corruption.

In Jordan, people do not have access to information despite the fact that there is a new law for information. The introduction of e-Government is still in early stage. Therefore, information on government activities is reported through government-sponsored web sites, annual reports, television and radio stations, and press releases and conferences. It is rarely to find independent alternative sources of information or analysis except in certain universities' research activities and studies.

Conclusion

All countries around the world suffer from corruption, in one way or another, and Jordan is not an exception. However, the most important question facing public management is "What should be done to ensure transparency and to strengthen financial accountability to fight corruption?" This regional study, including the case study for Jordan, is one endeavor in answering the above question. In fact, the wide-spread corruption, in Jordanian society during the past decades, and the growth of its circles and linkages have led to the necessary and real action to stop this phenomenon and to treat all its negative impacts. The political leadership in Jordan is raising the flag of action high to combat corruption through having a transparent and accountable government. In the letter of appointment to the new Prime Minister on 25 October 2003, King Abdullah II stated that:

"The government which I want comprises of a prime

minister and ministers who act with transparency and responds with broad-mindedness to the press. ... ministers should respect accountability and appreciate responsibility ... This necessitates that government decisions are made in a clear, institutionalized and transparent manner through all the necessary channels."

From the Government side, the Prime Minister, in his response to the Lower House members in the "vote of confidence" of 23 December 2003, maintained that the government had reshaped the Anti-Corruption High-Level Committee. Headed by the Deputy Prime Minister, it will be both empowered and activated. He called upon any person with accurately documented facts to report cases of corrupt officials to the government. He stated also that closer monitoring mechanisms of companies, banks, insurance firms, tenders and the Audit Bureau will also be applied to safeguard both investors' and public funds.

Hence, the political leadership and the government are highly aware and concerned about the need for more transparency and accountability in society. This political will needs only to be followed by specific workable mechanisms and procedures. Combating corruption in developing countries, where Jordan is not an exception, needs the full support of the political leadership.

Therefore, the first step in combating corruption is to identify major areas in which corruption in the government is likely to exist. Some of these areas can be identified in Jordan as the following:

- Government procurement, such as:
 - Listing specifications and requirement which are tailored to serve a certain vendor or supplier;
 - Buying materials or implementing projects which are not needed or serve certain people or groups rather than the public interest; and
 - Specifying certain sources for procurement or borrowing which will increase the cost of materials purchased or loans.
 - Using public sources to attain personal interest.
 - Discarding illegal practices.
 - Implementing public projects in certain areas where projects could be more beneficial if they are implemented in different locations.
 - Buying materials/services without public tenders.
 - Employing certain people or giving undue raises or incentives that are not connected to actual need and/or productivity.
- Taxes and customs:

- Giving custom estimators complete freedom to levy customs/taxes in return for personal benefits;
 - Laws and regulation can be interpreted in many different ways; and
 - Complications and unnecessary lengthy procedures. Corruption will help to cut-short such procedures.
 - Favoritism in giving licenses and permits for certain businesses.
 - Using government owned real estates without paying for it or paying below market prices.
 - Taking sides, or engaging in differential or biased behavior without violating or breaking the laws, such as assisting a friend or relative by giving him or her priority in completing his or her dealings with the Government or allowing him or her to benefit from Government services before other citizens.
 - institutionalized and fostered in Jordan. The behavior of those in positions of authority, especially the leaders, should serve as a model for people in terms of integrity and honesty. There should be specific mechanisms to encourage high standards and their applications.
 - The adoption of public sector reform to maintain good governance and promoting the values of participation, partnership, transparency, accountability, decentralization and the rule of law among others, with the aim of serving and responding to the citizens' needs.
 - External and internal audit institutions, mechanisms and methodologies that combat corruption and favoritism should be enhanced.
- In conclusion, Jordan is making many efforts to modernize its public sector and the society-at-large. Transparency and accountability are very valuable and decisive concepts in this endeavor. The citizens in Jordan are looking to these modernization efforts for improvements in their life, to enjoy more justice, fairness and security.

As can be concluded from the interviews and discussions:

- Jordan has a very good legal framework and political support to deal with the subject matter. However two weaknesses appears:
 - Jordan does not have financial disclosure requirements although a bill has been sent to the Parliament in 2003; and
 - Citizens do not have legal access to government records.
- Jordan, as an Arab Islamic culture with the heritage of its civilization, has a rich source of moral values such as honesty, integrity and justice. They constitute the basis for social evaluation of an individual and serve as a source of national and social pride and honor. These traits can be utilized by Islamic tutors who are capable of propagating religious awareness of such values and deepening them within the curriculum of education, cultural seminars and lessons at mosques.
- The Government is seriously pursuing cases of corruption.
- The lack of training in the areas of combating corruption and fostering transparency in financial management for public employees has to be remedied.
- More effort should be made to encourage free press and to enhance transparency.
- More efforts should be made to encourage the participation of civil society.
- The institution of independent councils should be

LEBANON

By Dr. Randa Antoun²

Introduction

The Republic of Lebanon gained independence from the League of Nations under French Mandate on 22 November 1943. Lebanon's capital city is Beirut.

The Head of State is the President of the Republic. He or she is elected by the parliament for a 6-year term, presides over the Higher Defense Council, the Council of Ministers and is the head of the armed forces. The President appoints the Prime Minister, in consultation with the parliament. Draft laws, presented by the Council of Ministers, are transmitted by the President to the parliament.

The Council of Ministers is the Executive Branch. The Prime Minister or the ministers concerned should counter-sign each of the decrees of the President, with the exception of the decree appointing the Prime Minister and the decree accepting the resignation of the government. If the President negotiates or ratifies international treaties, the signature of the Prime Minister is required.

The Legislative Branch is the parliament, a unicameral National Assembly. There are 128 parliament members elected for a four-year term. The National Assembly is elected by adult suffrage (age 21) based on a system of proportional representation for the various confessional groups. Most deputies do not represent political parties as they are known in the West, nor do they form Western-style groups in the assembly. Political blocs are usually based on confessional and local interests or on personal/family allegiance rather than on political affinities.

According to the constitution, direct elections must be held for the parliament every 4 years. Parliament, in turn, elects a president every 6 years.

Lebanon's judicial system is mostly based on the Napoleonic Code. Juries are not used in trials. The Lebanese court system has three levels--courts of first instance, courts of appeal, and the court of cassation. These courts are divided into criminal departments and civil departments. There is also a system of religious courts having jurisdiction over personal status matters within their own communities, e.g., rules on such matters as marriage, divorce, and inheritance.

The ten-member Constitutional Council, created in 1990, judges the constitutionality of governmental acts and also adjudicates, in the event of litigation, during municipal, parliamentary and presidential elections. The Council of State, established in 1924, is empowered to try cases relating to disputes between individuals and the State.

Even though the three branches are separate, there exists a relationship between the executive, legislative, and

judicial branches. The President of the Republic promulgates laws within one month following the communication to the government of the law passed. He also issues decrees and requests their publication. The President has the right to review the decisions taken by the Council of Ministers. The President might also request a new debate regarding a law. The cabinet is chosen by the Prime Minister in consultation with the President and members of parliament.

The 1943 national pact, an unwritten agreement that established the political foundations of modern Lebanon, allocated political power on an essentially confessional system based on the 1932 census. Until 1990, seats in parliament were divided on a 6-to-5 ratio of Christians to Muslims, when the ratio changed 50/50. Positions in the government bureaucracy are allocated on a similar basis. In fact, gaining political office is virtually impossible without the backing of a particular religious or confessional group. The pact also allocated public offices along religious lines, with the top three positions in the ruling "troika" distributed as follows:

- The presidency is reserved for a Maronite Christian;
- The prime minister, a Sunni Muslim, and
- The president of the National Assembly, a Shi'a Muslim.

Background to Public Sector Transparency and Accountability

In examining public sector transparency and accountability in Lebanon, the historical background and the political situation must be taken into account. As in many other countries, inadequate levels of transparency and accountability have led to the problem of corruption. Corruption in Lebanon is complex and longstanding and has plagued the country since independence. Although there have been persistent complaints of corruption and bribery even before independence in 1943, they have been exacerbated by an absence of strong state institutions. This absence, which led to the aggravation of corruption and inefficiency in the country, has been exacerbated by political and religious interferences. The deeply rooted problems of corruption, chaos and disrespect for the law became complicated during the civil war. Low salaries of public sector employees, political influences, confessionalism, inefficiency of control bodies, and the absence of strong civic education have combined to worsen the situation.

In one attempt to document the phenomenon, the results from the Benchmark Polls on Corruption in Lebanon, conducted by Information International in 1999, showed a high level of awareness on the different manifestations and practices of corruption. A significant percentage of the Lebanese population, ranging between 46% and 72%, strongly agreed that corruption entails the following: bribery, kickbacks, acceptance of gifts, nepotism, tax evasion, abuse of power for self-illegitimate (private)

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profit, adopting legislation to serve the people in power positions, mismanagement of public funds, extortion, multiplicity of laws, leniency, discrimination, opaque (non-transparent behavior), illegal tendering of contracts, and expropriation of public properties.

The population attributed corruption to the following causes:

- 64% to the inefficiency of controlling and inspection mechanisms;
- 55.3% to the non-existence of citizen protection laws;
- 58.8% to the weakness of civic education;
- 56.6% to leniency in law enforcement;
- 65% to foreign interference, 64.8% to political feudalism,
- 54.3% to the non-independence of the judiciary;
- 63.5% to the non-existence of a clear and continuous program for administrative reform;
- 51.4% to the low wages of public employees;
- 57.6% to the devastating effects of war on Lebanese society; and
- 52.8% to the reluctance of Lebanese citizens in denouncing and reporting on cases of corruption.

Such statistical indices demonstrate that the Lebanese people, in general, associate corruption with a weak sense of civic duty, the lack of suitable enforcement laws, the non-existence of transparency mechanisms, the sporadic nature of administrative reform, the negative effects of war and foreign interference and the low wages of civil servants.

Corruption has had a major impact on the country. It has diminished the citizens' confidence in the government, led to the misappropriation and mismanagement of public funds and human resources. To reverse these negative effects, it is instructive to closely examine existing policies and practices in the key areas of public management to see where improvements can be made.

Financial management

The main role of the Ministry of Finance is to manage and keep public funds and to be responsible for the budget, treasury, customs, real estate and cadastral affairs and national lottery, as well as any other matters that might be entrusted to it by existing laws and regulations. There is no doubt that the Ministry of Finance is one of the most important ministries in Lebanon. It has a central role in collecting revenues to finance public needs, in preparing the budget and in monitoring all public expenditures. All decrees by the Council of Ministers that involve financial obligations have to be countersigned by the Minister of Finance in addition to the signature of the President and the Prime Minister.

The responsibility of the Ministry of Finance is not limited to ensuring compliance of all government expenditures with budget requirements but also includes compliance of such expenditures with all existing laws and regulations.

The control role of the Ministry is exercised during the budget implementation phase through checks, which are intended to prevent illegal expenditures before they actually occur.

In Lebanon, the government follows a policy of financial control in autonomous agencies, which differs from and even contradicts the policies applied in ministries. At present, only three out of the 66 existing autonomous agencies are subject to the pre-audit of the Ministry of Finance. As an example, the Council for Development and Reconstruction, responsible for the execution of most of the important capital projects, is exempt from such pre-audit and conducts its own internal financial pre-audit. This is true of other autonomous agencies, which are in charge of the execution of the vast majority of capital and development projects in the country.

The Court of Accounts (COA -- the supreme audit institution) was intended as an important watchdog of the financial operations of the Government. According to Article 1 of Decree Law No. 132, the Court of Accounts is an administrative court, with financial and judicial functions, responsible for watching over public funds and those deposited in the Treasury. The Court is responsible for checking the use of public funds and its compliance with existing laws and regulations and for prosecuting all government employees accused of violating laws and regulations governing the administration of public funds. The Court discharges its functions through three main activities: a pre-audit of government expenditures, a post-audit of government accounts, and the judicial prosecution of offending employees. Currently reforms are underway in the COA to streamline and modernize administrative procedures.

There are no legal restrictions for operating private businesses in Lebanon. In May 2000, the Parliament adopted a privatization law, which serves as a framework for the privatization of state owned enterprises. This law paved the way for anticipated sectoral laws in telecommunications, electricity and water. The government initiated privatization during 2002, starting with telecommunications (two 20-year Global Systems for Mobile communications -- GSM -- licenses and a third GSM license linked to the new entity called Liban Telecom), but due to many political interferences, the process is being delayed. Next in line for privatization is Electricite du Liban (EDL), Lebanon's national power company, and later, the regional water authorities.

In order to encourage investments, the Investment Development Authority of Lebanon (IDAL) -- a public agency under the Prime Ministry -- set up in March 2000 a "One-Stop-Shop" to provide all assistance to investors in terms of permits, licensing and business information. In early 2001, the United Nations' Economic and Social Council for East Asia (ESCWA) surveyed 50 foreign investors in Lebanon to identify major difficulties encountered by them. The study revealed that the main obstacles are: bureaucratic and administrative red tape, lack of transparency, corruption, slow customs procedures and

the level of custom duties, work ethics, unexpected changes in economic policies (especially with the change in government), infrastructure and tax regulations.

The Ministry of Finance is using Information and Communications Technology (ICT) to modernize and automate. The Ministry has automated the General Directorate of Customs and the Land Registry, and has also streamlined the public sector payments and tax systems to reform fiscal administration and improve public services. UNDP is among the partners providing technical support.

The goal of the Cadastral Operations Modernization and Automation Project (COMAP) is to plan, develop and implement a cost effective and responsive system of administering land records in Lebanon, while preserving existing, reconstructed missing, completing incomplete, and creating unavailable records of ownership.

Another project concerning the customs. NAJM is Customs Clearance Automated Information System. It started in 1997 and its objective is to facilitate Lebanon's international trade while maintaining adequate compliance with national laws and regulations and reducing the cost and time of clearance procedures.

NAJM was followed by another project in 2001, NOOR (NAJM On line Operations). It is an introduction to electronic delivery of customs services. It provides traders and customs brokers with direct access to NAJM in order to enter and track customs declarations. It is still in its first stage where the customer can store and track declarations. In later stages, customers will be able to register, assess and pay declarations from their bank accounts.

There is no one specific law regulating all aspects of government procurement in Lebanon, and transparency has never been strong. The government does not always establish "clear rules of the game," and often there is political interference in contract awards. It is widely believed that investors routinely pay bribes to win contracts. According to the study cited above, only 2.4% of the \$6 billion worth of projects contracted by various government bodies was formally awarded by the Administration of Tenders. The rest of these contracts were perceived to be awarded not to the most qualified applicant, but to the company willing to pay the highest bribe. Hence, it is not surprising that the report finds that over 43% of companies in Lebanon "always or very frequently" pay bribes and another 40 percent "sometimes" do.

In Lebanon although there are clear rules on financial responsibilities, based on laws and executive directives, in many cases they are not applied rigorously. Financial controls are also not applied consistently. The main instruments of financial accountability are government budgets, periodically published data on public finances, annual accounts and the investigative and other general reports prepared by independent agencies. Since annual budgets are typically legal authority for spending public funds, the entire budgetary process becomes relevant for fiscal

management, and financial accountability and control. However, transparency in government operations requires the provision of reliable information on the government's fiscal policy intentions and forecasts, areas that Lebanon would profit from improving. Also detailed data and information required on government operations, including the publication of budget documents that contain properly classified accounts for the government, are not always accurate. Although there are established conflict-of-interests rules for elected and appointed officials, they are complicated and not implemented. Access to information requirements, a transparent regulatory framework, and open public procurement and employment practices are deemed to be not found by the public.

If improved significantly, these are the main areas in financial management that would benefit from an increase in public confidence. Before significant investments or loans are made to a country, they constitute the financial fundamental practices that are scrutinized.

Human Resources Management

The public service is losing its competitive employment edge due to allegations of nepotism, corruption, incompetence, and red tape, but still many seek to work for the government. Holding a public position in Lebanon is thought to be helpful in gaining higher access to economic benefits. There are attractive economic features that go beyond necessarily legitimate earnings. Such illegitimate earnings are from tips or presents, bribery or working in other part-time jobs. Therefore, the concept of accountability and control of civil servants becomes essential in the administration.

The Personnel Law provides for general obligations that employees have to observe. They include serving the public interest and implementing laws and regulations; executing superiors' instructions, unless the instructions violate the law; and processing transactions without delay and to the fullest degree. If these obligations and duties are not followed, the employee would face disciplinary measures. According to the Lebanese law, it is a criminal act to give or accept bribes. The penalty is imprisonment for up to three years, with hard labor in some cases, plus a fine equal to at least three times the value of the bribe. Bribing a government official is also a criminal act. The Central Inspection Commission is responsible for combating corruption in the public sector while the public prosecutor is responsible for the private sector.

There are three control agencies in Lebanon:

Civil Service Council

The main functions assigned to the Council are:

- Determining personnel needs for all government departments and helping in the preparation of the personnel budget;
- Conducting examinations and approving lists of eligible candidates for all civil service jobs;
- Supervising and approving promotions and transfers in the civil service;

- Maintaining personnel records and files for all civil servants;
- Designing and implementing a system of performance appraisal;
- Dismissing civil servants whose performance is considered unsatisfactory;
- Submitting recommendations for the improvement of personnel policies and regulations;
- Developing a system of position classification;
- Approving allowances for civil servants;
- Advising the government on the organizational structure of various departments and agencies; and
- Pre- and post-entry training of all government employees.

The Council, which was established in 1959, is often criticized as limiting itself to the basic functions of keeping records and conducting exams. Vacant positions are not well advertised, and few people know about openings. The selection process is perceived to be considerably affected by political and religious interferences.

Central Inspection Commission

Decree Law 115 of June 1959 created the Central Inspection Commission (CIC), attached to the Office of the Prime Minister. The Commission is entrusted with conducting inspections and investigations throughout the public service and imposing disciplinary punishments of a limited nature on offending employees. Another important function of the Commission is advising various government departments on the improvement of their organizational structure, work methods and procedures, and the standardization of office space and equipment. The Commission also checks and supervises public tenders for works commissioned by all public agencies, with the exception of the army and public and internal security forces.

On the basis of its inspections and investigations, the Commission can impose disciplinary penalties that include reprimands, salary deduction, salary postponement, suspension without pay and step demotion within the same grade. In addition, the Commission may refer offending employees to the Court of Accounts, the General Disciplinary Council or the regular courts of law for further prosecution. However, civil servants are rarely charged with corrupt practices. The annual reports of the CIC mention, year after year, the problems that hinder its work: the shortage of staff and the political interference.

The General Disciplinary Council

The General Disciplinary Council is probably the most important institution for ensuring proper conduct by public officials through the prosecution and punishment of offending employees. The Council is an independent body responsible for trying government employees accused of violating existing laws and regulations and imposing appropriate penalties. The Council is empowered to impose any administrative penalty it sees fit, including dismissal from the service.

In November 2003, the head of the Council presented the annual report to the prime minister in which he condemns

the lack of monitoring and nepotism in government. The report mentions that state bureaucracy should be modernized, developed and transformed into a transparent and efficient administration. The report stated that the administration's performance prompted complaints from several officials, monitoring organizations and citizens. The report argued that officials should assume their responsibilities and take punitive measures within their units and not wait for the implementation of a comprehensive reform process.

In addition to the control agencies, the applicable laws relating to corruption in Lebanon are:

The Penal Code which oversees fighting corruption, bribery, influences peddling, embezzlement and the misuse of power under the section relevant to crimes committed against the public administration;

The Law on Illicit Wealth which defines "illicit wealth" as gains by a public official through performing one of the following actions:

- If he accepts bribery, commits influence peddling, embezzlement or misuse of power as defined in articles 351 to 366 of the Penal Code, or
- If he gets enriched by any fraudulent means although not constituting a criminal act, or
- If he benefits from expropriation, import-export licenses and/or in general from any other privilege secured by illicit means, or
- If he gets or breaches a contracting agreement, license and/ or privilege through illicit means; and

The Code of Civil Service

Laws, regulations and codes of conduct are insufficient on their own. Their observance has to be monitored and corrective and deterring steps taken. Monitoring should be through internal controls exercised by the executive and by external control exercised by oversight (watchdog) agencies.

Information management

A good administration is one that serves the citizens, improves conditions for hearing their complaints and gives due care to handling their applications and formalities. A Central Office for Administrative Information was established as a step towards improving performance of the public administrations and agencies in Lebanon. The administrations and agencies were considered to be the principle mean of ameliorating the quality of the service offered to citizens. This center provides citizens with the guidelines and information related to the administration via the telephone or the Internet. A visitor to the Central Office expects to find the following:

- Documents to be submitted by citizens in relation to a certain formality;
- Processing mechanisms of formalities, duration for completion and fees due;

- Forms to be filled by those concerned;
- General information on public administrations, agencies and their addresses; and
- Electronic mail that facilitates interaction with the public.

In addition, a website has been established where the citizen can obtain information on the Lebanese administration, particularly the steps needed for completion of formalities in various agencies and departments. This site provides information and guides citizens to concerned central or regional departments where he or she can submit applications. This information would save the citizen time, effort and fruitless tracing of formalities. It also eliminates loopholes through which both employees and citizens can infiltrate to reap personal benefits at the expense of the law and the time of other citizens.

The Central Office for Administrative Information was seen by the Office of the Minister of State for Administrative Development (OMSAD) as a step towards more "transparent administration". However, there has been no evaluation of the work of this Office and whether citizens are aware of it or to what extent its work is making the administration more transparent.

An E-government initiative has been proposed to benefit various entities, mainly the Government, the citizen, the business inside and outside Lebanon, the government employees as well as the international organizations and educational institutions.

UNDP is assisting OMSAR to prepare the national e-strategy. The first phase, an e-readiness assessment – based on consultations with government, private sector, the ICT industry, academia and civil society – was published.

According to OMSAD, the E-government initiative views the citizen as the customer and the government as the provider. Therefore, the following goals target customer satisfaction:

- Less time in doing government transactions;
- Accessibility to different government transactions;
- Updating of vital statistics (such as change of marital status, change of address, etc.) in one place;
- Carrying personal data and benefits offered by the government through a smart card that will be distributed by the government, hence reducing the time spent in getting the right forms filled;
- Reduced number of visits to government office, hence decreased queuing time resulting in enhanced personal and national productivity; and
- Accessible channels offered by the government related to information distribution, service offerings, citizen information updates and available transactions.

The introduction of local and global computer networks, connected through the Internet, highlights the role of information and communication technologies in combating corruption and introducing transparency. Citizens with a guaranteed right of access to information would be able to follow transactions and receive pre-programmed responses to their queries, thus eliminating the need to

approach a specific employee. Equality among citizens is ensured through equal treatment in the processing of transactions. Citizens will have confidence in the public administration and will not rely on bargaining or interference of any sort to achieve results. This project is still in its early stages.

The government has also realized the importance of the administration-citizen relationship. It has incorporated its vision within a document, *A Strategy for the Development and Improvement of the Public Administration*, presented by the Minister of State for Administrative Development and approved by the Council of Ministers in September 2001. This document considers that the responsiveness of the public administration to the citizen's needs is one of the fundamental principles of a modern public administration. It also asserts "the principle of compliance with the citizen's needs demands a transition from a bureaucratic system to an open one. In view of this, the compliance of the public administration should observe the principle of association between the administration and the citizen in the aim of providing better services, facilitating the access to information and adopting transparency". (*OMSAR Annual Report*).

In December 2001, the Council of Ministers approved the text of a *Citizen's Charter*. The *Citizen's Charter* constitutes a frame for the administration-citizen relationship in general. Other specialized charters cover various administrative sectors, especially education and health. The *Citizen's Charter* covers the following:

- Transactions: simplicity and speed;
- Public service code of ethics;
- Citizenship code of ethics;
- Right to access: transparency and combating corruption; and
- Accountability and participation.

The need for such a charter is more insistent in a country like Lebanon, due to the deterioration of the administration's conditions and the large gap between the public administration and the citizen. The deterioration is a result of many factors, according to OMSAD, the most important of which are:

- The mentality, that has prevailed since the period of the French mandate and to a large extent during the independence period, of a 'ruling administration' rather than a 'serving administration';
- Political interference, often marked by a sectarian dimension, which had subsided during the independence period but has intensified after the civil war. The politicians have heavily seized and abused the administration for their personal interests. Consequently, public administration became, to a certain extent, a tool for serving its own interests and the interests of politicians and a few other influential financial and economic groups; and
- The outdated, arduous and complicated work procedures that are, as all admit, one of the main complaints of the citizens and one of the main reasons for the lack of confidence in the administration's capability or

willingness to serve. Simplifying administrative procedures and facilitating the citizens' transactions constitute an important means of overcoming the citizens' frustrations and recovering their trust in the administration or the State.

Concerning access to information, transparency and combating corruption, the document mentions that citizens are entitled to:

- Transparency in all that is related to public expenditures through the implementation of provisions related to transparency, and through publicizing ways of expenditure in the various media outlets;
- Access, at the site of the concerned administration, information of a public nature related to the work of the administration under the existing laws and regulations, provided that such information are not subject legally to the principle of confidentiality. Besides, any physical or moral person is eligible to copy and publish these documents, wholly or partly, at his or her own responsibility, provided that such does not cause damage to the personal and private rights and freedoms of the individual;
- Access information and data on information networks, comment on and discuss it. Citizens are also eligible to object to, correct or refuse the publication of any information related to themselves on the networks provided they exhibit valid justification. Besides, public administrations and agencies are prohibited from including in their database any data of personal or private nature without the consent of the person concerned;
- Access the budget of public administrations and agencies and municipalities after fifteen days of approval and publication. The closing account of the past year together with a list of individuals and establishments that have benefited from it and an inventory of its assets shall be attached to the budget. Such information shall be issued in a bulletin format or as a poster on the billboard of the concerned administration/agency/municipality; and
- Object to any levied taxes or fees if he or she finds it to be erroneous, or misleading. The citizen is eligible for an answer to his or her objection without any delay and within the time limit stipulated by the law. The objecting citizen shall be notified of all summons, notices, communications, decisions, etc. through the proper administrative channels and information and communications technologies.

In addition, the Administration shall:

- Announce the executed public projects where the cost exceeds 50 times the minimum wage, and place a billboard at the site of the project which includes all basic information and data pertaining to the same, as well as depositing the original documents related to a project at the headquarters of the concerned administration to enable citizens to access them;
- Respect the rights of the consumers to benefit from public services (water, electricity, telephones, hospitals,

schools, etc.), provided that those consumers are represented in societies or committees where they express their opinion about the quality of the provided services;

- Inform citizens who submit justified requests about public works through official channels, especially available statistical data within the limitation of existing laws and regulations, provided that such data is not classified;
- Provide courts with all necessary information pertaining to litigants, cooperate with the judiciary and do not impede its work;
- Publish annual reports and information bulletins about the work of ministries and public administrations and their achievements;
- Maintain confidentiality of private information pertaining to citizens that a civil servant obtains in the course of his or her duty, and shall not utilize it for personal purposes; and
- Establish a system allowing employees, as well as citizens, to submit suggestions related to improving and developing administrative work in the various administrations.

Concerning accountability and participation, the Administration shall:

- Ensure the access of citizens, within acceptable durations and without any impediments, to authorities entrusted with receiving and examining complaints, and those authorities shall provide all necessary information about ways of submitting complaints, the name, address and telephone number of the employee entrusted with receiving the same, and shall deal with the citizen in a serious manner, without discrimination or bias. Besides, the administration shall admit the right of the citizen in his or her endeavor to attain his or her rights to refer to the authorities entrusted with the receipt of complaints, members of the parliament, various bodies of the civil society, media outlets and in extreme cases, to courts;
- Respond promptly to the questions and /or postal or electronic mails of citizens and their telephone queries in a clear and simple language;
- Conduct annual polls and collect statistics that exhibit the satisfaction or dissatisfaction of citizens as regards the standard of performance and services of the administrations;
- Admit the right of employees to demonstrate their professional expertise and to communicate with the society through various means within the framework of the existing legal and organizational stipulations;
- Facilitate and support the participation of competent employees of all categories in all scientific and training events that contribute to a better relationship between the administration and citizens, as well as in the various publication activities that contribute to the development of this relationship;
- Ensure the prompt execution of the rulings of administrative judiciary for the benefit of citizens;
- Enhance the positive image of those responsible for public services, and avoid, through adherence to the

evidence of innocence, any primitive measures, whether judicial or administrative, that surpass administrative conduct accountability or responsibility for public funds. The aim behind that is to avoid any action that causes damage to the dignity of an employee and the stature of the public service;

- Establish traditions and mechanisms to honor employees who served in the public administration or have been retired in order to keep up the reputation of the public service and its stature so that it wins the respect of citizens and attracts into the service young and competent people with high moral standards;
- Enhance the accountability and disciplinary systems to realize the concept of responsibility in the public service;
- Develop a code of conduct for the civil servants that define clearly the ethical rules that are to be adopted;
- Protect 'whistleblowers' against harassment or acts of vengeance that they may be subject to from citizens and employees due to uncovering certain violations;
- Allow the participation of the bodies of the civil society in discussing the policies of the public administration pertaining to those bodies before they are adopted in their final form; and
- Establish a system for granting annual rewards for a limited number of employees, distinguished in their dealing with citizens.

However, it can be safely stated that few of these statements have been implemented yet. In fact, the Council of Ministers approved the text but did not make it binding upon civil servants. Producing a lot of promotional material is not enough to strengthen government-citizen relations. The state of government's relations with citizens cannot be measured by the number of documents that a government produces. The main question is "what happens to these documents?"

The civil society, the media and different international players have also played a part in attempting to introduce change. Among the instruments of promoting greater degrees of transparency and accountability are the media, which is fairly free and protected by laws, and the NGOs. Local newspapers have been leading the call for reform and curbing corruption by exposing scandals by public officials. Leading newspapers have published a lot on scandals and specific cases and gathered information on corrupt practices. Moreover, NGOs are spreading awareness on the cost of corruption on the country and trying to unite their efforts to fight corruption.

Conclusion

Lebanon has laws and regulations to require transparency and accountability in public management. These legal provisions are also to combat corruption, but historically they have not been enforced. Currently, Lebanon is not a signatory to the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*.

UNDP is supporting a range of reforms in the financial and administrative areas including capacity building, aiming at

improving efficiency in the Lebanese administration.

In addition, the United Nations has established, in 1998, an anti-corruption project office to work with the Lebanese government in elaborating laws and regulations to punish illicit enrichment while in office. Due to various factors, progress has been slow. Within the framework of the Global Programme Against Corruption, the project on Support to the National Anti-Corruption Strategy in Lebanon was started in early 2000. It was to include: (a) a country assessment of the extent, levels, distribution, causes and nature of corruption; (b) a national integrity meeting to recommend a national integrity strategy and an anti-corruption action plan; and (c) a donor meeting. The project has been inconclusive.

The preliminary unofficial findings of the above-mentioned assessment illustrate the scale of corruption in the Lebanese political system and its damaging impact on the Lebanese economy and administration. The researchers estimated that over \$1.5 billion per year are squandered as a result of pervasive corruption at all levels of government. The findings suggest that the misallocation of funds and human resources in many public offices, a lack of transparency and accountability and impunity allow corruption to continue, seriously undermining civic consciousness.

In 1998, the *Annahar*, an Arabic daily newspaper, commissioned an opinion poll to determine people's views on corruption and the best approaches to counter it. The results showed the government to be perceived as the chief agent responsible for an aggravated state of corruption in Lebanon. The results of the polls were the first written indications of the way people think about corruption. There were direct accusations of officials being corrupt by taking bribes, and the respondents lamented the absence of transparency and accountability in not only the administrative but also the legal system.

Until now, it is difficult to discern a carefully crafted plan or a long-term goal, set by society and led by the government. The reforms that have been instituted in the administrative system and practices have followed the archaic practice of purging some employees and changing a few clauses in existing laws. They can be better implemented through introducing creative attempts to really reform the administration.

The following are some global policy recommendations to this end:

- Design and implement clear mechanisms for the effective implementation of laws;
- Encourage people and the civil society organizations to report cases of corruption and mal practices;
- Protect whistleblowers;
- Facilitate procedures, downsizing and streamlining government departments;
- Improve the merit-based system in the administration;
- Restructure control agencies to allow more efficient functioning;
- Enforce a code of conduct; and
- Approve a Freedom of Information Act.

MOROCCO

by Dr. Azeddine Akesbi³

Introduction

The Kingdom of Morocco is located in Northwest Africa, bordering the North Atlantic Ocean and the Mediterranean Sea with a coastline of about 3000 km. Its land borders include Algeria on the East and Mauritania in the South. Its area which reaches 710,850 sq. km is largely covered with mountains. Morocco is divided into 16 regions, which are subdivided into 45 provinces and 26 prefectures. Morocco has a bicameral parliamentary structure¹.

The population of Morocco reached 29.6 million as of 2002; 56.6% of which live in the urban areas.

After a 6.3% growth rate registered in 2001, the GDP at constant prices witnessed a growth of 3.2% in 2002. The primary sector accounted for about 25% of the GDP. Price increase was contained both at the consumption and production levels. The cost-of-living indicator increased by 2.8% in 2002.

At the end of December 2002, the internal debt reached 197 billion MAD, showing an annual growth of 8.2%, and accounting for about 68% of the total direct public debt. External debt is of 92.8 billion MAD (9.1 billion dollars). Exports covered imports at a rate of 66.5% and the budgetary deficit was of 4.3% in 2002, a figure which remains high in spite of the important budgetary resources which have flown in over the past years. In fact, as part of Morocco's privatization policy, the sale of the second mobile telephone license in 1999 brought in 11.5 billion MAD. In 2001, the partial privatization (36%) of the state-owned telecommunications company Maroc Telecom yielded 23.34 billion MAD and the more recent one of the Régie des Tabacs yielded 14.08 billion MAD to the public treasury.

This report is organized in two parts.

The first part consists of a brief presentation of the objectives and methodology, and a review of the information on the public sector and the privatization policy.

The second part deals with the general framework of public finance and how it is controlled, the Court of Accounts and the dispositions of the financial jurisdiction code. A review of the literature will present and analyze the dispositions which organize public procurements, their control and their limits. This part also includes a general presentation of the current situation, the judicial dispositions related to fighting against corruption in Morocco and the reform projects that the Moroccan government intends to put into place.

This report is concluded by a series of recommendations.

Methodology

The target group is composed of experts and high-level professionals, who are all well-acquainted with the subjects at hand. The months of February and March 2003 were spent on identifying experts and resource persons and collecting basic information. At the end of this phase, the questionnaires were tested. The actual survey was conducted between April 15th and the end of June. In many instances, for each participant, several discussions, email exchange and face-to-face meetings were necessary in order to complete the questionnaire.

Importance of the public sector

Since the early 1990's, the State has adopted a disengagement policy in favor of private operators. This policy has led to several privatization actions and the conclusion of delegated management contracts for both infrastructures and services. However, in spite of this policy, the public sector remains important. It actually represents 11.8% of the GDP and its investment 5% of the GDP, which equals 89% of the state budget investment. The public sector currently has 156,962 permanent employees and 26,443 temporary.

The public sector is very dynamic. Since the early 1990's it has not only witnessed a strong movement towards privatization, but also the creation of new entities.

Privatizations and concessions

The privatization program was launched in 1993, involving 62 entities, 36 companies and 26 hotels, producing a result of MAD 39,915 million. So far 70% of the privatization program has been achieved. 69% of the operations were accomplished through competitive bids. 50% of the companies and 20% of the hotels were sold to foreign investors. The three most recent operations include the second mobile telephone license, Maroc Telecom (2001) and the Régie des Tabacs (2003).

The disengagement of the state from the public sector was also achieved through concessions. Some important contracts have been signed in the field of energy distribution and production (ABB-CMS merger in 1998, LYDEC in 1997, REDAL in 1999), highway management, collecting domestic waste, etc.

After this brief overview of the public service scope and recent evolution, the following section will be devoted to the general organization of public finance and their control.

General organization of public finance and their control

The Constitution and the organic budget law

The Moroccan Constitution contains a definition of the main principles which organize public finance². It stipulates, in Article 17, that "all support, according to their contributive capacity, public costs, which only the law, in

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the conditions stipulated by this constitution, can create and distribute.³ⁿ

On the other hand, the organic budget law⁴ clearly explains the basic rules which regulate public finance in Morocco. There are three types of budget laws: the year's budget law, the amended budget law, and the regulation law (Article 2). Only amended budget laws could, at some point during a given year, modify the initial budget law (article 4). In general, all public incomes and expenditures are assigned to the general state budget. However, some can be assigned to certain expenditures in the case of autonomously managed state service budgets (SEGMA), special treasury accounts (CST) or special accounting procedures (article 9). The activity of SEGMA has to induce the production of goods or services resulting in remuneration (article 16 b). CSTs aim at describing operations which cannot be included in the general budget (because of their specificity or because of some cause-effect relationship between income and expenditure) (article 17).

In general, expenditures can only be engaged, ordered and paid within the limit of the open credits. A few exceptions to this rule are listed in article 41 of the organic budget law. The latter provides for the regulation law which "... takes note of the amount of income and expenditures of the same fiscal year and establishes the result for that year."

The regulation law is accompanied with 1) a report to the Court of Accounts (Supreme Audit Institute) on the execution of the budget law and 2) the compliance report (between accountants' individual bills and the country's general accounts (article 47). In fact the regulation law is presently a simple formality which takes place with a delay of 5 to 8 years.

Organization of financial and budgetary control

The general control of the State's commitments and expenditures (CED)

There are various types and institutions of control. There are a priori and a posteriori control. A posteriori control takes place in the case of the regulation law, and is carried out by inspection agencies of the finance ministry or general inspectors from other ministries, and by the Court of Accounts. In Morocco, the type of control which is usually carried out is a priori control. It is done through the overall verification of the State's commitments and expenditures. There are 50 regional and provincial⁵ inspectors.

The CED is often criticized for being too formal and too fastidious. Moreover, despite the highly impressive size of the control apparatus, the press frequently discloses various anomalies in the management of public money, flagrant corruption cases, cases of abnormal overlapping between public and private interests, e.g. Cases when one person simultaneously occupies a position in a public institution and a private company, cases when a person occupies several positions resulting in conflict of interest,

etc... Also important, the lack of a constraining control system over the State senior officials⁶.

The Court of Accounts and the financial jurisdiction codes

Under the protectorate, jurisdictional control was exercised by the French Court of Accounts. The Moroccan Local Accounts Commission had been created on January 21st 1932⁷, but apparently, this structure was never operational.

Morocco's Court of Accounts was founded in 1979, but for both external and internal⁸ reasons, also remained almost frozen. In Article 96 of the constitution, it is stated that the Court of Accounts' mission is to insure supreme control over the execution of the budget law and issue sanctions when necessary. Its role is also to provide assistance, within its area of competence, to both the parliament and the government. It is accountable to the King for all its activities (Article 97). The 1996 revised constitution introduced regional courts of accounts, in charge of the surveillance and management of the accounts of municipalities and their related branches (Article 98).

The recent adoption of the financial jurisdiction⁹ code has brought some novelty to this area, making it possible to reinforce the role of this institution. This code¹⁰ seems to carry a global vision of the supreme control of public finance. It clearly states the different types of control exercised by the Court of Accounts:

- Total control over the management of public services, local authorities and their branches, as well as over other institutions where the State detains the majority either in terms of capital or of decision making;
- Control over public funds managed by organizations which benefit from state grants, or where public participation is not as important;
- Control over the use of public funds raised through calls for people's generosity.

The Court of Accounts' new assistance mission to the parliament and the government and its operating process are clearly explained.

The Court of Accounts has a unique budget listed in the State's master budget. It is managed and supervised by the court's first president who is also the administrator. He can delegate his signing authority and appoint the presidents of the regional courts of accounts as managing directors.

Control over the management of the court budget is an a posteriori control, operated by a commission headed by the Inspector General of the Ministry of Finance, and composed, among others, of the general inspector of commitments and expenditures. Some experts are questioning the compatibility of this set-up with the independence of the Court of Accounts.

Eight regional Courts of Accounts are currently being established.¹¹ Their area of competence is broad enough to cover local authorities and their affiliated public institutions, local statutory undertakers, and companies where the capital is subscribed by local authorities and affiliated public institutions.

Upon request from the Prime Minister, the Court of Accounts can undertake evaluation missions of public projects and management control missions of any of the organizations under its control. Control of the use of public funds raised through calls for people's generosity is also operated upon request from the Prime Minister.

Responsibility of the budget administrators and accountants

The new code of financial jurisdictions also engages the responsibility of budget administrators. It can be disciplinary, civil or penal. They can also be sanctioned by the court of accounts or the regional courts of accounts. Based on the reports submitted upon legislated control operations, the minister of finance can declare a public accountant debtor for the amount of cash shortage, for missing assets, for omission to recover a public debt, or for irregular payment of a public expenditure.

Public Procurement

Public activities also include public procurement. In Morocco, public procurement represent 15 to 16% of the GDP and play a significant role in the country's economy.

The 1998 decree provides a definition of the rules of entry into contract and management of public procurement. It has made it compulsory for the administration to make public, during the first trimester of each fiscal year, the program which it intends to operate during that same fiscal year. Every open call for tenders needs to be advertised in two national newspapers (one of them in Arabic) 21 days before the deadline set for the submission of bids.

All selected bidders receive a registered letter at least 15 days before the deadline for submission.

Procurement documents should be made available upon the first publication of the offer and until the deadline for submitting the bids.

All bidders have the right to request clarification or further information about the procurement. The same information must then be communicated to all bidders and in the same conditions.

Seven days after reception of rejection letters, eliminated bidders can request, in writing, the reasons for the rejection of their offers. The administration must respond with 15 days following the reception of the request.

The 1998 decree also foresees some particular cases such as invitation for proposal, use of bonds, negotiated contracts, etc.

Generally speaking, the regulations and procedures related to public procurement in Morocco are considered to be precise and of good quality.

Limitations of public procurement and financial control

In an article based on interviews with some experienced professionals in the field of public markets, Nouredine El Aoufi¹² explains that the 1998 decree on public procurement has, to some extent, improved the situation. However, his survey has also shown a huge gap between regulations and practice. A wide variety of techniques are used to bypass regulations. The author states that it is possible to favor a bidder by:

- a) Establishing an evaluation chart to privilege one particular candidate's technical offer;
- b) Postponing, with the help of the secretariat, the delivery of the procurement documents to some bidders, using excuses such as out-of-service photocopier, computer, typewriter, etc);
- c) Discarding a candidate, during the selection meeting, by being too demanding when examining the administrative documents, and by requesting special certification on some relatively unimportant documents, etc.;
- d) Using the "salami method" for public procurement to avoid bidding;
- e) At the payment phase, it is sometimes "necessary" to pay the administrator to obtain certificate of delivery, or pay the accountant or paymaster, to get them to activate payment of the due amounts.

The obligation of going through public procurement procedures can be bypassed by over-using some authorized procedures such as:

Direct contracts: The budget administrator needs to certify, by means of an administrative document, his decision to select one particular company either to protect confidentiality, or because he trusts their products or services, or for some particular technical benefit.

Standing order: for regular purchase of certain supplies (e.g. fuel, office supplies). In this case the administrator emphasizes the supplier's ability to respect delivery schedules and quality of service. He then has total control over the decision-making in selecting the supplier.

On the other hand, the interviewed professionals think that the weaknesses noticed in public procurement are linked to the weakness of the management skills both in administration and in the private sector. They are also linked to imperfections in planning and execution.

Fighting against corruption in Morocco: the scope and the measures

Findings of the Integrity Survey

Corruption is widely spread in public markets and also present all over the administrative branches and

economic activities. This stands for a concluding statement after the press review¹³, official statements and integrity surveys conducted by Transparency-Maroc.

The Integrity surveys followed both quantitative and qualitative approaches. The household survey was carried out on a sample of 1000 units. The survey on the enterprises¹⁴ perceptions of corruption was carried out on 320 enterprises from the formal sector and 80 from the informal sector.

The surveyed households were asked to express their perceptions of the phenomenon of corruption. Previous questions concerned their opinion on important issues for the country. Unemployment is on top of their concerns, with 93%, followed by the high cost of living, important for 76% of the interviewees. *Corruption in the public sector* was mentioned by 72% of the respondents, coming as the fourth most important problem faced in the country;

Table: Problems perceived as the most important in Morocco

| Problems | Very Important | Important | Not very Important | Not at all Important |
|---|----------------|-----------|--------------------|----------------------|
| 1. Unemployment | 93% | 5% | 1% | 1% |
| 2. High cost of living | 76% | 16% | 6% | 2% |
| 3. Problems related to domestic waste, cleanness of public spaces and pollution | 74% | 17% | 5% | 3% |
| 4. Corruption in the public sector | 72% | 15% | 4% | 2% |
| 5. Corruption at the level of politicians | 54% | 17% | 5% | 4% |
| 6. Corruption in the private sector | 50% | 18% | 1% | 8% |

Source : Households Survey - Transparency-Maroc

As far as the enterprises survey is concerned, the interviewed Moroccan managers also brought up the existence of corruption at a high scale and in most sectors. The majority consider the progression of corruption as preoccupying. It has witnessed a rapid and significant progression during the 3 years preceding the survey, which confirms the findings of the household survey.

*Judicial set-up in the fight against corruption*¹⁵

The Moroccan penal code distinguishes different types of behaviors associated with corruption. In addition to corruption, we also find extortion, influence peddling, embezzlement, and illegal appropriation of interests¹⁶. It also distinguishes between passive corruption (the fact of receiving) and active corruption (the act of paying). A uniform penalty is applied to both cases. Corruption is often associated with the behavior of public servants. It is considered to take place as soon as a given position is used towards private interests. In fact, the Moroccan penal code deals with the penalization of civil servants (article

248) and also employees of the private sector (article 249). On a different level, the voting law reprimands the purchase of voices during electoral campaigns.

Misconducts are generally tried by ordinary courts. However, some persons or misconducts "escape" the ordinary courts and are tried in exception courts. In the case of public servants, when the received amount equals or exceeds 25000 MAD, the case is tried by the Special Court of Justice.

The Special Court of Justice was created in 1965 and restructured in 1972 but was suppressed in 2004. During its operations, this institution was subjected to a great deal of criticism¹⁷. Many experts and civil society representatives referred to it as an "exception" judicial institution. The sentences were much heavier than those of the ordinary courts.

One of many criticisms targeted towards the law in respect of corruption is the fact that there is no difference between big and small corruption cases, nor between the one who pays for what is supposed to be his right as a citizen and the one who seeks privileges. In both instances, there is no victim, but the two are guilty and are subject to sanctions.¹⁸

In addition, the lawsuits tried by the special court are left to the discretion of the minister of justice. Only public administrations, agencies and organizations placed under the total control of the public sector can be on the plaintiff side. Only institutions, and never individuals, can complain from a wrongdoing.

Also, at no point can the special Court grant reprieve to a sentence¹⁹ (article 26 of the Dahir). The present Minister of Justice shares this opinion. He actually states that only the Minister of Justice has the authority to try a public lawsuit in the special court: "It is definitely this exclusiveness which reinforces the exceptional character of this court."

Therefore, the concept of reform of some of the legislations and of the Special Court of Justice is well-accepted. This issue is re-emphasized in Michele Zirari's conclusion. The author thinks that the judicial apparatus in charge of fighting against corruption is important and that the reforms aiming at improving it can be much appreciated. But what is really crucial, according to Zirari, is to insure the independence of the judiciary and put the legislations into practice: "do, re-do, amend and modify the laws is not always pointless, but more important is to put them in practice."

Reform Projects

Projects of administrative Reform

The current government has set up an inter-ministry commission for the modernization of the administration. The government projects fall into four main categories: de-concentration, simplification of procedures, fighting against corruption and readjusting the administration.²⁰

Moralization of the public life is planned through:

- Installing ethical values in the administration;
- Reinforcing transparency in management;
- Eliminating all forms of illegal acquisition of wealth.

The proposed measures can lead to the construction of a national system for integrity. They can be listed as follows:

1. The promulgation of an 'anti-corruption law'.
2. The activation of the law regarding the declaration of property and shares²¹ by public servants, local authorities and public agencies personnel.
3. Putting into effect Article 16 of the general statute of public service, which forbids public servants from having an illegitimate interest in their administrations' financial operations. It is supposed to limit cases of conflict of interest.
4. The preparation of a code of ethics by the Ministry of Modernization of the Public Sector. It would serve as a basis for agreement on and engagement in the respect of ethics in this ministry. This proposal also suggests the elaboration of codes of ethics in other departments.
5. The application of the law which makes each administration explain negative decisions (refusal, rejection, etc.) in order to guarantee each citizen his right to receive written explanations of this type of decisions.
6. The reinforcement of the citizens' right to access information, documents and administrative files.
7. Obliging the administration to consider, follow-up and respond on time to written claims and requests –received from known sources.
8. Execution of sentences and judicial decisions by administrations, local authorities and public agencies. Also the elaboration of the necessary tools to achieve this objective.
9. Evaluation of the performance of public agencies and adoption of an action plan in each department to establish cost-advantage analyses, institutional analyses, and providing information to the public about the results of the management of public money.
10. The creation of a practical and efficient tool for managing, controlling and following-up on public money.

According to the Minister of Modernization of the Public Sector, these measures would be feasible in the context of an approach based on dialogue among a network of working groups, including central services, representatives from de-concentrated services, representatives from the parliament and representatives from the service users.

The reform of the administration is pictures in a context where priority is given to efficiency and quality of service. The management of public affairs would be directed by the search for performance and the implementation of accountability. This orientation would be possible through:

- Preparation and adoption of a specification manual for public services offered to citizens and users;
- Making ID badges required for all State personnel;
- Allowing the citizens access to a toll-free number in order to respond to requests regarding legislations, administrative procedures, and listen to their complaints;
- Setting up clear procedures for the prosecution of high officials;
- Promotion of organizations or agencies of audit and a posteriori control;
- Development of e-administration in order to facilitate the citizens' access to services (activation and launching of E-Maroc and Adminet);
- Enlarging the area of competence of the central commission for public procurement, to include control, monitoring of results, markets audits and treatment of claims.

The official strategy which has been opted for consists of the adoption of concrete short-term measures. They cover the administrative procedures most frequently used by the Moroccan citizens. The Ministry of Modernization of the Public Sector has listed 512 procedures and started some reform actions on some of them. Priority has been given to some common documents such as passports²², identity cards²³, etc. A campaign to explain and raise awareness about Law 03-01 on motives behind administrative decisions has also been scheduled²⁴.

Restructuring and reform of the State's financial control over public enterprises and establishments

The reform initiatives programmed at the level of the public sector can be classified in three main categories:

- a Strategic, operational and financial restructuring;
- b Improving governance;
- c The State's disengagement from activities which can be carried out by the private sector.

Within the first category, it is important to note some scheduled activities such as the liberalization of several sectors like transportation, tourism, and audiovisual broadcasting (this one in particular was initiated by the adoption of a bill which puts an end to the monopoly of the State over this sector –this initiative should be followed by the creation of an organism of control.²⁵)

A harmonization of the statute of public enterprises and establishments and that of stock companies is in process. Public enterprises which work in highly competitive (or

soon-to-be competitive) sectors will have a board of trustees headed by a CEO.

Public sector officials are trying to shift from control of compliance to a type of control which favors good management, optimal use of the resources, and most of all the evaluation of results and performance.

Autonomously managed state agencies

In the context of the modernization of public administration (adoption of the 2002 budget law), several budgetary provisions have been introduced, focusing on results and applicable to the State's autonomously managed agencies (SEGMA26). They include concepts such as credit globalization, establishment of contracts between central administrations and their de-concentrated agencies... In order to benefit from these measures, also applied in other ministry departments, SEGMA need to meet three conditions:

- Restructuring the budgetary mass;
- Defining indicators of target achievement, linking credits, programmed projects and activities, and target results;
- Evaluate the results.

Another measure which needs to be mentioned deals with the simplification of financial management procedures, and the improvement of the programming process of credit reporting, introduced by the amendment of article 23 b of Decree N°2-98-401, dated April 26th, 1999, on the elaboration and execution of the budget law.

Reform of the judiciary

The project of reform of the judiciary has been discussed for several years. According to the minister of justice Mohamed Bouzoubaâ, the main objective in terms of reform is to re-establish confidence between the central administration and the entire judicial system. Second, the judiciary personnel needs to be mobilized and convinced that reform is necessary²⁷. Progress in this area is an essential condition to re-create a balanced relationship between the State and the citizens, and achieve more transparency in the management of public affairs. The fight against corruption and embezzlement of public money require the reform of the special court of justice.

National Program on Governance

The National Program on Governance (PND) was launched in 1998, as a result of a partnership between the Moroccan government and UNDP. In 1997, their collaboration had started with 6 sectoral pilot governance projects (the court of accounts, the supreme court, the parliament, decentralized management of a rural commune...). Soon after that, the lack of a national strategy for governance made it necessary to devote a specific program to the definition of this strategy (PND). According to the director of planning at the department of economic forecasting, the strategy is being elaborated along with the 5 poles of readjustment²⁸ which are supervised by the ministry of

general affairs and economic readjustment and the ministry of modernization of the public sector.

What needs to be done is make use of the existing potential, and set up a transparent and coherent decision-making process in order to implement operational measures at various levels. However, according to many interviewees, what really seems to be problematic is the administration's capacity for application of programmed actions.

Conclusion

The desk-review and the direct interviews show that Morocco has an important and often sophisticated legislation, in the area of public finance, budget, management of public markets, fighting against corruption... This does not seem to limit the extent of corruption²⁹ in many sectors, or resolve some of the weaknesses of the administrative apparatus and judicial system.

For several years the Moroccan government has been aware of these problems and the need to reform the administration, the judicial system, and governance at a more global level. It is now working on the conception and elaboration of many ambitious projects in these areas.

The primary recommendation that this case study can make to the Moroccan public authorities would be to work on the reinforcement and application of the existing dispositions and regulations (on public markets, anti-corruption rules, explanation of administrative decisions...). As an example, the regulation law which is issued within the organic budget law is prepared and registered with much delay (5 to 8 years after its execution³⁰), which gives the legislative body less control over the executive body in general and public finance in particular. Therefore it is crucial to change this type of practice, incompatible with the concept of accountability.

The effectiveness of the laws and regulations calls for a reform of the judiciary

Resolving cases of impunity and reforming governance in order to establish a balanced relationship between the public authorities and the citizens, based on respect of the legislations and accountability. In practice, it involves the promotion of the independence of the judiciary, the reform or elimination of the Special Court of Justice, the improvement of the working conditions in courts, and acceleration in the application of sentences.

The Moroccan government has several reform projects on the administration, citizens' access to information –using the new information technology, simplification of procedures... *All these projects must be encouraged, carried out, and scheduled in the framework of a global and well-coordinated strategy involving ministry departments, the private sector, civil society and specialized NGOs.*

In order to ensure the sustainability of these initiatives, it is vital to build partnerships and work in collaboration with

various sectors. The adopted measures should be accompanied, in their application, by the appropriate means in terms of financial and human resources as well as awareness-raising and training.

Some substantial efforts have been made towards more efficiency and transparency in public markets and procurements. However, many difficulties have come up during their application, and are now being reviewed by a commission composed of representatives from the administration and the private sector. They are trying to overcome some problematic issues such as terms of payment, deferred interests³¹, etc.. This partnership should be enlarged to include some specialized NGOs such as professional associations, Transparency Maroc, etc.

The amendment of the law-decree on the conditions of public contracting should take into account the large number of bidders eliminated after the examination of the administrative data. They should be allowed more time to complete the missing information.

In the area of control, it is proposed to:

- Broaden the area of competence of tendering boards to make them also responsible for controlling the results and setting up purchasing norms;
- Define, although briefly, audit and evaluation procedures;
- Apply the disposition which requires auditing of contracts who exceeding 5 million MAD;
- Consolidate and increase the number of flexible control procedures;
- Reinforce and develop internal financial control in the administration;
- Develop updated and analytical financial statements;
- Review the competence of the general inspectors of the ministries to make them less dependent upon the hierarchy.

In the area of fighting against corruption and promoting ethics, it is recommended to elaborate and issue an anti-corruption law which can provide solutions to some issues especially the protection of the victims of corruption.

Given the variety of causes which lead to corruption (e.g. Lack of professional dedication, tendency to favor personal interests, leniency in law application,) it is also important to develop preventive measures such as codes of good behavior and codes of ethics, and follow up on their application.

Preventive measures can also include the amendment of the law on the declaration of property and the elaboration

of some mechanisms which would make it a means for dissuasion and surveillance of illegally appropriated wealth.

At last, communication is a powerful tool to guarantee more transparency in public affairs and make access to information easier for the citizen. This could be achieved through:

- Clear formulation of the rights of citizens in terms of access to information;
- Insure plurality and independence of the press and the media in general;
- Support the efforts of NGOs and human rights associations in this area;
- Launch a national website specialized in information to the citizen;
- Develop a website which centralizes public markets calls for bids made by the administration.

Endnotes

¹ The present government is headed by Prime Minister Driss Jettou, who was appointed in November 2002. It has 38 members including 4 secretaries of state. The government is composed of a coalition of 6 political parties, USFP (8), Istiqlal (8), RNI(6), MP (3), PPS (2), MNP (2), in addition to non-partisan or "sovereignty" ministers.

² From the Constitution of the Kingdom of Morocco, revised after the September 13th 1996 referendum.

³ Publications of the Moroccan Journal of Local Administration and Development, Collection "Management Guide", 12, 2002. The State Budget: Preparation, Execution and Control. Documents compiled and coordinated by Mohamed Benyahya.

⁴ Dahir N° 1-98-138 dated November 26th 1998 referring to the promulgation of Organic Law N° 7-98 in respect of Budget Law, BO n° 4644 dated December 3rd 1998.

⁵ From Decree N°2-75-839 dated September 30th 1997, referring to control of the State's commitments and expenditures (CED), BO N° 3297 dated January 7th 1976. CED aims at:

1° control the regularity of expenditure proposals along the dispositions in article 11; 2° inform the minister of finance about the budget execution; 3° provide assistance to some management departments such as markets services (article 3).

⁶ Driss Ksikes et Laetia Grotti, Magazine Tel Quel, n° 56, December 14-20, 2002 : "Ministers, Governors, Elected officials... The Power and the Money".

⁷ L'Economiste : "Overview of the Impact and Perspectives of Supreme Control of Public Finance". By Dr. Ahmiddouch Madani, Expert in Financial Jurisdiction.

⁸ A total of 63 judges recruited between 1982 and 1991, 28 of which have left the court

⁹ In three volumes : one on the court of accounts, the second in the regional courts of accounts and the third one about the statute of the judges of the financial jurisdictions (a unique entity)

¹⁰ Presentation note on Law N°62-99 related to the financial jurisdiction code, Publications of the Moroccan Review of Administration and Development. Texts and Documents. Financial Jurisdictions of Morocco. Court of accounts, Regional Courts of Accounts in the Light of Comparative Law. N°62/ First Edition, 2002.

¹¹ Agadir, Marrakech, Settat, Casablanca, Rabat, Fes, Tangier, Oujda. In addition to these, one will probably be created in the south, at Laayoune.

¹² N. El Aoufi. Corruption and Public Markets, in Training in the Area of Fighting Against Corruption, Texts and Documents, 2001

¹³ During 2001-2002 Transparency-Maroc set up a corruption observatory through a systematic follow-up of the cases disclosed in the press. The observatory has published around ten issues of « Press Review » which compile press-covered cases of corruption and misuse of public money.

¹⁴ Transparency-Maroc, 2001, "National Survey on Integrity: Households Survey."

¹⁵ This section is a summary of an article by Michèle Zirari where she presents and analyzes the judicial dispositions, the types of corruption, and the types of penalties provided by the law : Transparency Maroc (2001), Collective publication : Training in the Area of Fighting Against Corruption. Texts and Documents. Judicial Aspects of Corruption.

¹⁶ The penal code also deals with abuse of power (article 250), extortion (article 243), embezzlements (article 241) and illegal appropriation of interests (articles 245 and 246).

¹⁷ Abderrahim Berrada, Lawyer in Casablanca, is the author of an analytical criticism of this institution. An abstract of his article has been published in the weekly newspaper "Le Journal" (The original text was given to Transparency-Maroc). In this article "the Special Court of Justice, a Violation of Justice", the author believes that this institution is under total control of the political power, that it is totally inefficient and cannot guarantee fair judgements.

¹⁸ La Vie Economique, interview with Mohamed Bouzoubâa, Minister of Justice.

¹⁹ "reprieval" (fr. sursis) is an exemption from the execution of a sentence. A person in on probation for 5 years, after which, the exemption becomes final.

²⁰ Najib Zerouali, previous reference : "Let me remind the honorable audience that the efforts and initiatives undertaken towards reform are far below the expectations of the citizens and do not meet the demands of a global and effective readjustment of the administration." (p.4)

²¹ Shares owned by them or their teenage children. The government project wants this declaration to be required from more employees. It will become required during the recruitment phase and after termination of contract.

²² La Vie Economique, Friday April 25th 2003. Project of reform of the administration : Administration, What Will Change : Najib Zerouali working on three areas

²³ For the passport, the simplification of the procedure means to do without certain documents such as the certificate of residency, police records... Only photos, ID cards, an electricity/water bill, and a specific form should be required. The passport should be delivered within three weeks.

²⁴ This law was promulgated in August 2002 and has been effective since February 2003.

²⁵ Its members were appointed in December 2003.

²⁶ Finance bill for fiscal year 2003. Autonomously managed state services.

²⁷ The government has programmed a budget of 50 million MAD for the reform and 60 million MAD for improving the terrible situation in prisons. La Vie Economique, interview with Mohamed Bouzoubâa, minister of justice

²⁸ According to Monquid Mestassi, member of the cabinet of the minister of general affairs and economic readjustment, the 5 poles are: reform of the administration, readjustment at the enterprise level, readjustment at market level (more transparency and elimination of the risk of corruption or misbehavior), the macro-economic framework to increase productivity both internally and externally, and the fifth pole which deals with the development of infrastructures in the area of NITs.

²⁹ "Corruption grows in the shadow; this is why it cannot be quantified in figures and statistics, but it does exist. Everyone talks about it. Various sources, facts testimonials of citizens confirm its presence", p.6.

"Corruption has taken away the country's opportunity for progress and development; it has thrown it in a continuous cycle of underdevelopment: the fight against corruption has become a real challenge in order to save the economy from disaster and to reestablish legitimacy of the administration," p. 7.

Statement by Najib Zerouali, Minister of modernization of the public sectors during the working session organized by the college of inspectors and Transparency-Maroc.

³⁰ The observed delay in the effectiveness of the regulation law results in the loss of the attributions of the Court of accounts.

³¹ There is an agreement on a measure matrix.

SUDAN

by Dr. Abdalla Mohamed Ahmed Kafeel⁴

This report conveys the findings of an investigation carried out by the above author during February through July 2003. The principal purpose of the report is to reflect the presently existing situation and practice regarding transparency and accountability in the public sector of Sudan. To set the scene for appreciating that situation, the report initially provides a brief account of the development of the country's public service (including the attendant political and economic context) since its Independence in 1956. Then it explains the structure of the country's public sector presently and retrospectively. The data utilized for the preparation of the report have come from a variety of sources. These have consisted of relevant official documents (including legal texts and policy statements), recent research material on the subject of the study regarding Sudan (which in fact is still rather scanty), and some current news items and comments featured in the national (Sudanese) press. Further, and more importantly, the report has also benefited from facts and views generously offered by many individual respondents whom the author interviewed. Those interviews were conducted using the standard Desk Review Questionnaire and the three thematic survey questionnaires (on each of financial management, human resources management and information management) provided by the coordination office of Project RAB/01/006. The author would like to express his deepest appreciation to all those (individuals and organizations) who assisted him so kindly and sincerely in this effort. However, the author would also like to maintain his own responsibility for any shortcomings exhibited by this report.

Background

At Independence (1956), Sudan's public service was acknowledged as being one of the best in Africa and the Arab region. Since then, however, a variety of factors have acted to create a trend of gradual deterioration in the structure and performance of that once highly effective and efficient machinery. Those factors, consisting of a complex set of social, economic and political developments, may be summarized in the following facts.

The first of those factors was the hasty completion of "Sudanization" (i.e., the post-colonial localization) of the key positions in the public service. That process was carried through in less than two years (following Independence), instead of the much longer period of twelve years originally intended by the Condominium (i.e. colonial) Government. Despite an immediate enthusiasm with that hasty transition (then) on the part of the Sudanese people and their political leaders, they all subsequently came to realize that the enthusiasm was in fact rather mistaken and pre-mature. For by the time when those originally well -trained (national) public servants

bequeathed by the colonial regime were being phased out by retirement, the professional ethics and skills they embodied started to gradually fade away. Therefore, the succeeding generation of public servants, faced with an increasingly more complex environment and more demanding tasks (including those related to social and economic development as well, apart from those of conventional government), proved to be less able to maintain the high standards of integrity and performance previously established.¹

The second factor is political instability in the post- independence era (up-to-now), as evidenced by the vicious circle of recurring military coups (1958, 1969, and 1989). Not only has that extent of political instability undermined sustained growth of political participation (to which the Sudanese people are in fact highly inclined by virtue of tradition and culture). But it has also correspondingly interrupted the stability and smooth transition of the public service itself; (and additionally resulted in an endemic pattern of discontinuity in national development endeavours). Especially so in view of successive ideological swings that characterized certain significant stages of the country's political path since Independence, resulting in massive replacements of existing public servants on alleged grounds of " public interest". Much grievance was created each time such replacements took place. And the public services suffered structural distortions as well as the loss of already trained and experienced employees, a situation that inevitably perpetuated lower morale and lower performance.

The third factor consisted in economic stagnation (and indeed serious deterioration at certain stages) in the country since Independence. Two main reasons have been responsible for the poor performance of Sudan's economy thus far. One such factor has been the general weakness (and particularly discontinuity) of macro-economic policy and management. The other reason has been the persistent and prolonged civil conflict in the south of the county, which (first erupted in 1954, just before Independence, and) has continued escalating up to the present. That is, with the exception of only 10 years of peace that followed the Addis Ababa agreement concluded in 1973. The exigencies of these two factors have been particularly devastating to the country's economy, and have obviously further compounded the country's political predicament.

Fourthly, in recent years, Sudan has also been severely affected by ensuing drought and desertification. And the effect of that has been further aggravated by inadequate policy and action in the field of rural development (especially regarding the provision of basic infrastructure and social services to rural communities). This situation has led to a massive and rapidly escalating rural- to-urban migration, mostly to the national capital (the ratio of the urban population to the total population of the country – which is 32,769,000 as in 2002-stood at 34.5% in 2001²). And this latter phenomenon is in turn already producing (and threatening more) serious consequences, especially in

⁴ Dr. Abdalla Mohamed Ahmed Kafeel, Institute for the Study of Public Administration and Federalism, Khartoum.

view of the still basically agrarian characteristics of the country's economy. The relevance of the latter situation to the present context has mainly consisted in the resulting deterioration of gainful employment (whether in the public or private sector). And that is particularly true for younger people; since the population growth in Sudan is still rather fast, with an annual rate of 2.63% (as calculated for the years 1998-2003), and the proportion of people within the age bracket 6-23 to total population is as high as 45.11%.³

A further development that has adversely impacted public services in several ways is the state of education in the country. The capacity of the educational system was still limited in terms of quantity of output (i.e. numbers educated) at Independence, and for over two more decades (or so) since then. But the quality of education used to be fairly high. Although that numerical capacity has significantly expanded since then, the resulting expansion has not been sufficiently geared to producing the types and quality of skilled manpower really demanded by the country's economy. That situation has also been further compounded by exodus of many highly educated and trained Sudanese nationals for employment abroad, notably in the Arab Gulf states. Unless the situation regarding the quality of education is quickly and effectively ameliorated, its negative impact on staffing (and hence on performance) in the public (as well as private) sector of the country -which in fact is already clearly discernible- is bound to grow even worse.

The organization of government

The organizational structure of government in Sudan could have hardly escaped the extent of turbulence and instability that beset the entire public life in the post-independence history of the country (as summarized above). Corresponding to that instability, the government's organizational set up has also been subjected to rather frequent, and sometimes quite unnecessary, changes. Indeed, some of the occurring changes were clearly in response to specific (i.e., real) or timely political and/or economic justifications. However, such changes also occasionally took place for only immediate political expediency or similarly inadequate other reasons.

The principal, and more serious, changes in the country's governmental (administrative) structure took place consequent to a few major political events (but less so for economic reasons or necessity). The first such event consisted in a wave of nationalization (and in some cases outright confiscation) of private businesses that took place under the then (albeit only temporarily) socialist inclined military government in 1970. Aside from its economic and political consequences, that event resulted in abruptly and vastly expanding the size of the country's public sector in an unprecedented scale. And, more or less simultaneously, many public employees (who were mostly experienced ones) were summarily laid out of work, ostensibly for ideological reasons (but their exact number was never officially reported). The latter policy was subse-

quently reversed (in the late 1970s, when the same political regime once more radically changed course). However, it nevertheless did bequeath a lasting (and mostly negative) impact on the structure, performance and employee morale of the public service at large. That is, not to mention the devastating damage that it inflicted on the private sector of the country's economy as well.

Yet the latter described event (regarding political dismissal of public employees) was not the first or last of its kind in Sudan. It initially occurred during the first military regime (1958-1964). Although the latter regime is retrospectively much acknowledged for its reasonably moderate and pragmatic policies, as well as for a good deal of economic achievements, it nevertheless witnessed the dismissal of 51 senior civil servants, also mainly for political reasons.⁴ However, the succeeding government (which was a non-elected national coalition government representing virtually all-political forces in the country) itself immediately dismissed 87 other civil servants of the same calibre.⁵ For a country that was then barely 10 years past Independence, the magnitude of that loss of human capacity to the public sector was clearly huge. And similarly unfortunate was the sadly reduced opportunity for the potential transmission of skills and experience to subsequent generations of public servants.

More recently, and in particular from 1989 onward and through most of the first half of the decade that followed, Sudan witnessed even greater political influence over its public service establishment. That influence permeated not only the stability of public employees, but also the procedures of selection, placement and promotion in the entire public sector. The result was an extensive process of politicization that characteristically bred unlimited favouritism, and therefore inevitably led to a near complete absence of accountability and transparency. Especially that the same period (as specified above) also witnessed little press freedom in the country. Although the margin for civil rights in general, and for press freedom in particular, has been significantly and steadily expanding in the country recently (roughly since 1999), little of the public service as originally known in Sudan would seem to have remained intact. Its original operating systems came to be largely dismantled, although the structure itself still partly (and in many ways only superficially) continues to exist.

However, the present structure of the public sector in Sudan has also been profoundly affected by three more recent developments. For once, the public service isn't any more a single and unified entity. Instead, it presently consists of a two-tier structure, since a federal system of government was introduced (in 1992) whereby the country is divided into 26 states (including the state of Khartoum where the capital city is). Since then there has been a federal (i.e., central) public service as well as a local public service set up in each state. Although the federal system was adopted as a long overdue solution to many of the country's political and economic problems (i.e., by promoting grassroots participation and local develop-

ment), that objective is not yet being successfully fulfilled. The reason for that failure resides in a deeply entrenched central bureaucratic resistance to sufficiently devolving constitutionally agreed powers and transferring necessary resources to the recently established states. And, as a result, most of the states (especially the geographically remoter and relatively less developed ones) still remain stagnant and rather impoverished, even lacking adequately trained and experienced employees; while most of the country's population (and therefore wealth) continue to be sucked in by the state of Khartoum.⁶ A fairly recent study indicates that in 1994, federal (i.e., central) financial support to all the country's states (with the exception of Khartoum state which is the only fully self supporting one) amounted to 6.5% of the total national budget and 0.7% of the country's GDP. And it further points out that the persistence of the latter situation only further helps maintain an originally very skewed distribution of wealth in the country where 30% of the population have enjoyed 70% of the national income.⁷

The second noteworthy development is an ensuing laxity in the previously strict and firm control of the country's central finance authority (i.e., the Ministry of Finance and National Economy, as presently named) over the entire public revenue and expenditure. It is widely admitted (even by some proximate personnel in charge of public finances) that some significant amounts of money are nowadays routinely collected and spent by many public entities without the knowledge of the central finance authority; i.e., outside the overall public budget. Such funds are generated mainly from extra fees imposed on service seeking citizens, but also in some cases from investments run by public agencies (which may not be intrinsically either wrong or bad); all generally perceived as depending on relative political access or influence enjoyed by agency chiefs. However, the impact of that trend (of extra-budgetary dealings) is widely considered to be seriously distorting to the country's public finances, and more importantly also as undermining the effectiveness of policy making and administration concerning overall resource allocation. So is the frequently occurring problem of overspending practiced in many public organizations, a matter that is strongly detested in a book recently authored by an eminent Sudanese economist and seasoned ex-civil servant who also previously served as minister of finance (during the second half of the 1990s)⁸. Yet all efforts made by the government to curb that phenomenon thus far seem to have proved largely futile. Especially that the extra-budgetary funds in question are perceived to be mostly spent on perquisites to senior employees in the government organizations involved in such practice. This latter fact is also considered to largely explain the prevalence of some visible variations in total remuneration commonly observed with respect to personnel of similar levels in different public organizations. However, the principal implication of the latter phenomenon is an attendant trend of fragmentation and class stratification that is gradually taking place within the country's public sector. If allowed to grow unchecked, that

trend is also going to engender even more obscurity, perceived inequity (within the federal level as well as between it and state level services) and envy among public employees; thus causing further erosion of existing levels of accountability and transparency. And, perhaps more alarmingly, that development may also be seriously undermining the ethical foundation that has traditionally kept the country's public service fairly steady and intact.

The third important development affecting the structure of the public sector in Sudan is the advent of privatization. To date, 17 previously public owned enterprises have been fully privatized (i.e., completely sold out to the private sector) since 1992. These have consisted of enterprises in the fields of agriculture, mining, leather tanning, cotton ginning, small-scale food processing, and hotels and tourism. Three other enterprises were only partly privatized, the largest of which is Sudan Telecommunications Company (in which the government has maintained the ownership of 60% of shares). Four more enterprises consisting of two hotels and two subsistence-farming undertakings were also rented out to the private sector (under certain agreed conditions in each case). Further, an assortment of 30 enterprises comprising mainly public utilities, real estate, farming corporations and dairy farms, and chemical industry plants were freely transferred –some of them even without valuation– to states (where they happen to be located) or else to other (mainly community-based) organizations. Yet another seven, mainly agricultural (i.e. farming), organizations were completely liquidated. And further other four undertakings are already being restructured for possible divestiture. As such, the ongoing process of privatization (as described in this paragraph) will already have substantially reduced the size of the public sector (particularly at the federal level)⁹ But, considering the newly emerging version of public businesses represented in investments being made by some public agencies (as referred to in the preceding paragraph), surely quite a paradoxical situation would appear to be currently developing within the public sector, even if the latter phenomenon is not yet formally recognized.

Background information on the public sector transparency and accountability initiatives

Indeed, as in many other (developing as well as advanced) countries today, the twin questions of accountability and transparency in the public sector do rank high among the variety of challenges facing government and public administration in Sudan. And certainly some effort is presently being made for restoring (and further promoting) accountability and transparency.¹⁰ Part of that effort is embodied in a complex reform programme spearheaded by the Ministry of Labour and Administrative Reform (since the year 2000), in which the restoration of public accountability and transparency (previously much prevalent) is a major objective. But although this objective is visibly present in the script of the reform programme,

yet that (otherwise quite unmistakable) concern for accountability and transparency would need to be even more sharply and explicitly projected (in the reform document itself).¹¹

However, worries about public accountability and transparency in Sudan have always transcended official concern to general public concern. Alleged misdeeds in the public domain (whether true or false) are often a favourite subject for gossip in social occasions. Although news circulating in purely informal settings may not normally be taken much seriously elsewhere, the rather exceptional strength of the social fabric (and therefore the prevalence of closer social interaction and –hence–lower level of personal anonymity) in Sudan renders it relatively more genuine as indicative of truth. Thus social grapevine constitutes an important institution that imposes some degree of transparency and some sense of accountability. But even more noteworthy in this respect are recurrent reports and commentaries on matters directly pertaining to questions of accountability and transparency featured in the country's national press. For example, *Al-Ray Al-Aam* is one of the most widely circulating (Arabic language) daily newspapers in the country. Quoting the annual report of the Auditor General 2002, the newspaper revealed that the total public funds reported as misused (mainly embezzled) over the past year in federal agencies and banks alone amounted to 813 million Sudanese Dinars (roughly equivalent to 31 million US\$¹²). It also further stated that as many as 105 public agencies had not been audited for the preceding year.¹³ Then, commenting on the same theme, the newspaper strongly urged the government to confer greater authority on the Auditor General. So as to counteract (what the newspaper perceived as) misguided views (*ostensibly in government circles*¹⁴) that construe any disclosure of poor performance and active corruption (in the public sector) simply as vicious attempts intended to tarnish the image of the government. It then went on to argue for greater accountability, more persistent disclosure of corrupt behaviour and the full enforcement of law as absolutely indispensable elements for the maintenance of the credibility of the government itself.¹⁵

More recently, and in response to increasing public and official concern over the safety of public funds, the National Assembly (which is the country's federal parliament) has also been more active in imposing greater accountability and transparency in the management of public funds. Enacting a new law for autonomous public agencies last June, the Assembly strongly rejected an article in the draft law that was intended to exempt those agencies from certain requirements of accountability established by the government's Finance and Accounting Regulations. Instead, the new legislation definitively conferred on the (federal) Ministry of Finance and National Economy the final authority to approve the annual budgets of those agencies and to exercise full discretion on the utilization of their surplus funds. Accordingly, the Ministry of Finance is also allowed the right to request any infor-

mation it deems necessary from the agencies in question to ensure the prevalence of financial discipline and control. And the new law additionally empowered the Minister of Finance to suspend the chief executive or any other employee of such an agency for investigation and disciplinary action if any attempt is made by them to conceal any information so requested. Further, the chief executive is also obligated by the new law to promptly report (to the ministry of finance) any action that takes place (in his own agency) that is contrary to the government's financial and accounting regulations. Similarly he/she has to fully comply with the requirement to annually close the agency accounts no later than three months beyond the end of the fiscal year, and to timely submit the accounts to the ministry of finance and the Auditor General.¹⁶

Presently the weakness in law enforcement and punitive measures in curbing corruption and reducing the incidence of mishandling public funds is commonly recognized in Sudan. So is the direct correlation between corruption on the one hand and the lack of transparency and accountability on the other hand. But the root cause of the present increase in that incidence in Sudan is interpreted (by many astute observers) mainly in terms of a rapid erosion in ethical standards which is affecting the attitudes and behaviour of public (and in many ways also the private) sector employees. And that this (in turn) is due mainly to low pay, poor supervision and bad example (as often demonstrated by some employees in positions of leadership to their own subordinates).

Therefore, and according to the latter analysis, the way to address the question for enhancing accountability and transparency with any degree of seriousness would entail substantial modifications in broader public policy and in the existing pattern of governance. As things presently stand, however, the scope for improvement in transparency and accountability remain rather limited. That is because the country is still facing huge challenges with respect to (a) internal peacemaking (which is contingent on the outcome of political efforts – i.e., negotiations to settle the internal conflict - currently underway, and (b) achieving wider and more equitable political and economic participation at the national level. Yet even under these circumstance, and in anticipation of any possible decisive solutions to the latter difficulties, all attempts to increase the margins of accountability and transparency would still be worthwhile and greatly helpful. Particularly so with respect to the critical need for capacity strengthening and renewal, by such means as training and awareness raising, encouraging and enabling networking, and assisting with the renovation and/or creation of the institutional infrastructure necessary to realize the latter objectives. Fundamental to all that, however, is arriving at more precise knowledge and understanding of the state of the twin categories in question (i.e., transparency and accountability) as addressed through consistent, empirically based, study and research. Currently, little effort in the latter direction is discernible in Sudan.

Transparency and accountability in financial management

The state of financial management in the public sector of Sudan exhibits a variety of problems concerning transparency and accountability (as revealed by the survey concluded by the present author and) as listed below.

1- Most of the financial laws, rules and regulations have been in place for a long time, and have actually undergone several revisions intended to cope with changing conditions and requirements.¹⁷ Yet a yawning gap has been gradually developing between what those legal instruments require and the empirical reality concerning accountability and transparency. And the reality (obtaining in actual practice) is relatively far below the standards legally set (as repeatedly stated by many respondents in the survey referred to above).

2- An adequately elaborate (and a long standing) institutional structure has existed in Sudan to ensure a sound management and control of public finances. Those institutions have also been sufficiently empowered, and have been allowed the necessary mandate to carry out their duties throughout the public sector (the Auditor General's Chamber being the most important of those institutions)¹⁸. But, apparently, as the scale of operations have significantly increased in conjunction with expansion in the public sector at large, the technical and managerial capacity of those institutions to match that expanded span of control have generally lagged behind. This is particularly so in terms of staff quality (even where their numbers are enough) as well as in terms of the availability of more advanced office technologies and their successful utilization.

3- Of late, the (standing) Committee on Labour, Administration and Public Complaints at the National Assembly has become more active than ever before (under the present political regime) in pursuing financial irregularities reported in the public sector. Most recently (during the first half of this year) the latter committee investigated a number of public banks for reluctance and delay in closing their respective annual accounts for public audit. And the banks in question eventually complied with the instructions of the (aforementioned) committee which (as its Chairman informed the present author) have also already had a few additional such cases in other public organizations that waited facing similar procedures.¹⁹ If continued consistently, this particular development may be regarded as an encouragingly positive and noteworthy example in upholding the principles of accountability and transparency within the rather complex circumstances presently obtaining in the country.

4- Otherwise, the enforcement of law in offenses involving public funds (and especially the inflicting of legally determined punishments) is generally weak in Sudan. Even court convictions of this kind may go without being implemented in many cases. And this state of affairs is publicly considered as constituting a serious menace to the rule of law in the country, as it is suspected to encourage further proliferation of financial fraud and criminality, especially amongst senior public employees who may be

able to cover up their own misdeeds. Or else even by those who may simply feel to be politically protected. More alarmingly, however, the leniency prevailing in this respect also has much to do with the social culture of the Sudanese people, which essentially is concerned with face saving at any cost. And accordingly much social pressure (e. g. informal mediation) is frequently exerted to avoid possible conviction and punishment of friends and relatives. Obviously no quick or decisive solution can ever be found for such a socially deep-rooted problem.

5- Public procurement remains to be one of the most critical points of weakness in accountability and transparency in the country. For previously there existed a central department (within the ministry of finance) that effectively supervised and controlled public purchases, but it was disbanded and replaced with a much smaller and insufficiently equipped unit (also within the ministry of finance) since the early 1990s. And probably the most salient weakness in the present arrangement in that respect is that the legal provisions governing public procurement are (curiously) void of any punitive clause.²⁰

6- The process of privatization has already been active in Sudan since 1992. Initially, it was faced with much suspicion and criticism, as lacking in transparency (and hence in accountability as well), both by the general public as well as by some leading officials within the government itself.²¹ However, more recently the overall management of that process has clearly become better institutionalized (i.e., equipped with an efficient office, and an astonishingly outspoken staff ready with neatly prepared reports). Upon interviewing pertinent experts, this author could only feel optimistic about the potential for continued transparency (and hopefully greater accountability) that appear to exist in the privatization process.²²

7- However, no account on the quest for more accountability and transparency in Sudan, particularly concerning the management of public funds, would be fairly adequate without a reference to role played by the local press. And a similar reference is also due with reference to the role of society at large (as already indicated in paragraph 3 in the preceding section of this report). Often press reports and journalistic investigations have drawn public, as well as official, attention to signs of irregularity, negligence and incompetence in the public domain. That is, even during previous periods of more strict governmental control. Presently, such control is relatively more relaxed than before, especially since the new Press Act 1999 was passed, stipulating the rights and duties of journalists in terms that are generally considered to allow them greater professional freedom and protection than they enjoyed in the early 1990s.²³

Transparency and accountability in human resource management

As indicated earlier in this report, much of the current problems that complicate the achievement of greater accountability and transparency in Sudan are embedded in the state of human resource policy and management. And (based on the findings of the present author), the

following points express the most pertinent factors affecting the current situation regarding transparency and accountability in the latter theme.

1-It is hardly possible to expect the situation regarding transparency and accountability in this field to be any better compared to that observed in the field of financial management, considering the historical developments and current situation (as already depicted in section 1 of this report). Indeed, the same discrepancy between the standards set by the relevant laws and regulations, and the actual status and practice considered to prevail in the latter domain is also seen in human resource management (according to the opinion of most respondents surveyed). But as it is people (i.e., public employees) who naturally take primacy in this respect, it would seem quite safe to assume that the generally poor state of transparency and accountability obtaining in this area is inevitably being transmitted to other facets in the public sector (including financial management).

2-The weakness in transparency and accountability in this area is considered (by most interviewees consulted by this author) to have been caused by three principal factors that may be expressed as follows. (a) The widespread practice of political favouritism witnessed in recent years (and continuing up to the present), particularly in appointments to senior public sector posts, and (rather indirectly) in the case of junior (entry) posts where competitive procedures are followed only in form. And the effect of that in further encouraging the same pattern of behaviour downstream. (b) The gradual erosion in living conditions for the majority of public employees, due to steady deterioration in the general level of pay and (in many cases) the existence of (often undeclared yet tacitly known) indefensible and therefore invidious pay differences. And (c) The general neglect of careful supervision, training and discipline. These factors have collectively created an environment that is in many ways conducive to deviance, secrecy and introversion; and hence inimical to accountability and transparency.

3-In addition to all that, and due to ensuing fragmentation in the structure of the public sector, an ultimate control (in any meaningful degree) by a single central (governmental) authority on the totality of human resources employed in the public service is increasingly becoming unrealizable. And it is growing immensely difficult to find readily available information on many aspects of the public sector set-up.

4-Nevertheless, certain positive elements may still remain identifiably in the middle of that mostly awkward situation. Perhaps the most notable such element is seen in the role being played by a quasi-judicial entity, named The Federal Justice Bureau for Public Employees. The latter entity (which came into being in accordance with Article 127A of the country's latest constitution in 1998) is basically composed of a council consisting of three members possessing adequate legal experience (all appointed by the country's president). And it is further supported by three subordinate circuits (i.e., panels, each specializing in investigating a specific category of complaints). The bureau reports its

findings and verdicts directly to the president (of the republic). And (according to the secretary-general of the bureau), in most cases the president's office would immediately direct the public entity (against which the complaint is made) to promptly implement the decision of the bureau. Especially so if the verdict is in favour of the complaining employee.²⁴ Certainly, the extent to which the latter system ensures justice can only be assessed by empirical verification of numbers of complaints actually redressed (which is not attempted in the present context). However, the clear procedures followed by the bureau and the access to the highest office (in the country) enabled by those procedures would at least seem to reflect a fairly encouraging degree of keenness to enforce more accountability and transparency toward protecting the basic rights of public employees.

5-Similar to the above example is another complaint channel available to the public at large (modeled after the Swedish Ombudsman), and named The Public Grievances and Corrections Board. But the attention of the board (in this case) is focused more on frequently recurring complaints rather than on isolated ones that concern individuals, thus favouring group interests more than those of individual complainants. As such the board may look more like performing a purely political function than as redressing grievances to establish fundamental equity and justice. And this shortcoming is not found to be fully justifiable even by the board's own secretary-general.²⁵ Yet apart from dealing with public complaints, the board also pro-actively initiates investigations of its own sometimes (as explained by the latter). In early July 2003, it already had started investigating a fire incident that had partly damaged an electricity plant in the city of Khartoum a month earlier. And it was just about to start two other new investigations: one concerned with the importation of eggs that proved unfit for consumption; and another involving a catastrophic crash of an aircraft (belonging to the publicly owned Sudan Airways company) at Port Sudan Airport, killing all (116) passengers last June. However, the office facilities available to the board seem to be too weak for its highly ambitious mission, and for the great enthusiasm and seriousness with which its present secretary-general seems to take on that mission.

Non-government actors

Presently in Sudan, non-governmental entities and civil society organizations in general are slowly re-emerging (and therefore gradually asserting themselves) after having lived for nearly a decade under governmental hegemony. But as civil society in the country has traditionally been stronger than government (two military regimes were ousted from power by means of civil disobedience and popular upheaval since Independence). Therefore, there exists a great potential for the role that non-government actors (including the national press, trades unions and political parties) stand to play in the near future for the restoration of public accountability and transparency. Especially that the country itself is already moving in the direction of concluding a negotiated political settlement to

the long standing civil conflict in the south (of Sudan), and the country's government is increasingly (but slowly) allowing greater political participation by civil society and non-governmental organizations. However, for the latter entities to be able to adequately benefit from the presently increasing potential for political participation, they all need to strengthen their own (respective) institutional capacity. That is because the non-government sector in Sudan has generally suffered extended spells of hardship in the recent past, and as a result has lost much of its original acknowledged strength and stamina. However, several NGOs (both national and international) have also for long been quite active in such fields as relief and rehabilitation for drought victims, internally displaced and similar other disadvantaged groups; and in training (including literacy training, gender education and the dissemination of peace culture). As well as in the empowerment of poorer communities (particularly in remote and isolated rural areas), including the latter mentioned categories. And, last but not least, in the provision of safe drinking water and some other necessary social services to needy groups (as described in the preceding sentence).

Conclusion

The above account has endeavoured to present, as accurately as found possible, the current state of transparency and accountability in the public Sector of Sudan. Accordingly, the following conclusions (accompanied with some rather tentative recommendations) may be drawn.

a) The present state of transparency and accountability in the country's public sector is weaker than it ever was since the country's Independence (1956). And the factors and circumstances that led to the later situation have been mainly associated with the country's protracted political instability and poor economic performance.

b) The existing laws and regulations pertaining to transparency and accountability are generally adequate, although there may still be more scope for their further improvement. But there exists a visible discrepancy between those legal provisions and the actual practice. Law enforcement is rather weak in the realm of preserving accountability and transparency, especially when it comes to the application of penalties whenever a public official is convicted with conduct contrary to the latter considerations. This phenomenon is mainly attributable to social pressure that draws from the country's traditions and culture, and is only amenable to change through an inevitably long-term process of (democratic) transformation.

c) However, there is yet a positive dimension to the Sudanese social structure and culture that is in fact favourable to the prevalence of greater accountability and transparency in society at large, as well as in the public sector. But in this latter case, that potential is also contingent on the scope for actual political participation, and the freedom of expression available to the general public. And, it seems, the exceptionally close knit social fabric in the country does in fact manage to discourage deviant behaviour as a preventive mechanism that countervails the kind of social pressure exerted against disgracing and punishment (as

already referred to in the preceding point b. above).

d) These (foregoing, primarily contextual) factors notwithstanding, empirical details (acquired for the purposes of this report) also reveal that the public sector generally suffers serious staff weaknesses that inevitably impact overall performance as well as the prevalence of adequate transparency and accountability. The factors behind this situation are multiple and pretty complex. These include low pay for most employees (particularly at lower ranks) and perceived inequity in pay comparison (employees in certain sub-sectors, especially income generating ones, tend to be paid higher), which together tend to engender indifference, negligence and low morale. Especially in the absence of close and effective supervision of staff by their own senior colleagues and departmental chief executives, a situation which is widely prevalent in the public sector. Additionally, those factors also include a rather poor and inequitable employee selection process (despite the existence of an essentially persuasive set of regulations and procedures in this respect). The negative outcome of that process is primarily caused by attendant social and political bias. Further, the factors in question similarly include inadequate technical and linguistic skills on the part of many junior (and even some senior) employees, and their generally insufficient knowledge or appreciation of the ultimate ethical standards and values embodied in public service. The latter situation implies the need for education, awareness raising and additional training in those fields.

e) There is a clear lack of readily available official data in many public organizations (e.g. the total number of public employees and that of public sector enterprises are virtually unknown). Indeed some public entities such as the National Bureau of Statistics, the Ministry of Cabinet Affairs, the (federal) Ministry of Health and the national Police are already trying hard to bridge that gap. Yet the problem public sector-wide still needs greater attention.²⁶ That is, as the availability of information is so fundamental to establishing both transparency and accountability.

f) Extra-budgetary dealing in public funds is illicitly practiced by some public agencies. Although the public budget authority has been constantly critical of the latter practice (ever since it came to be known), there seem to be little that can be done about it. Under the circumstance, that practice would likely spread even more. The causes and consequences of this phenomenon do merit close investigation; both as matters of direct concern to accountability and transparency in the public sector, and for the obvious need to safeguard against any real damage it may possibly be inflicting on the country's economy.

g) There are a few agencies, within and outside government, which have been taking appreciable initiatives and launching campaigns to safeguard accountability and transparency in the public sector (and in some cases beyond it). These include such agencies as the National Assembly (the country's parliament), two complaint offices (directly reporting their findings to the office of the public the President of the Republic), and the Ministry of labour and Administrative Reform. They also include the public accounting and internal audit departments (both serving the entire public sector) within the Ministry of Finance and

National Economy, the Auditor General Chamber, and various entities in charge of law enforcement and the administration of justice (most notable among them being the country's police force). Other, non-governmental actors in the same field include newspapers and individual journalists, researchers and politicians, and some other entities in the private sector and civil society. These and relevant other partners may well be further encouraged

(and enabled, through such means as joint training) to form closer partnership (i.e. network) to protect and enhance accountability and transparency nationally, within the public sector (at all federal, state and local levels) as well as elsewhere in the country. And the long-term administrative reform strategy currently adopted by the country's government may still need to focus more sharply and unequivocally on the latter theme.

Notes and references

¹ The Republic of Sudan, Report of the Commission on Civil Service Organization, Vol. 1, The Government Press, Khartoum, May 1968, PP 39-40.

² & ³ The Republic of Sudan, Central Bureau of Statistics, Sudan in Figures 1997-2001, Khartoum, February 2003, PP 1, 3.

⁴ & ⁵ The Republic of Sudan, Report of the Commission on Civil Service Organization, Vol. 2, Appendix 3, The Government Press, Khartoum, May 1968, PP 16-21.

⁶ According to the year 2002 estimate, the population of Khartoum State (which is the most populous of all 26 states of the country) is 15.7% of Sudan's total population (see Central Bureau of Statistics, loc. cit., P2). But that may well be a very conservative estimate, as the statistics themselves are still too crudely collected as to correctly capture the continuing population influx into Khartoum State.

⁷ Awad Al Seed Al Karsani, Federalism and Resource Distribution Between the Federal Government and the States; in Awad Al Seed Al Karsani (ed.), Studies in the Federal Experience of Sudan, Khartoum University Press, 2001, P. 123.

⁸ Abdel Wahab Osman Sheikh Musa, The Approach to Economic Reform in Sudan 1970-2000 (in Arabic), Khartoum, Sudan Currency Printing Company, September 2001, PP. 86, 88.

⁹ The Republic of Sudan, Ministry of Finance and National Economy, Committee on Divestiture of Public Sector Entities, An Evaluation of the Divestiture of Public Sector Entities in Sudan (in Arabic), Khartoum, February 2000, PP. 1-9.

¹⁰ This point was clearly emphasized by an expert who was interviewed.

¹¹ The Republic of Sudan, Ministry of Labour and Administrative Reform, A Proposal Strategy for Public Service Development and Re-organization (2002-2026), Khartoum, May 2001, PP. 142.

¹² & ¹⁴ Interpretations in italics are this author's own.

¹³ & ¹⁵ Al-Ray Al Aam, a daily (Arabic language) newspaper published in Khartoum, 28 November 2002, P.1 & 29 November 2002, P.3, respectively.

¹⁶ Ibid., 11 June 2003, PP. 1, 2.

¹⁷ For instance, the (very first) Audit Ordinance 1925 was later repealed and re-enacted in 1955 (the year preceding Independence), making it a separate Department under the Auditor-General who should be responsible to the Council of Ministers (as no legislative assembly existed as yet). See: The Laws of the Sudan, Vol. 3 (Titles X-X11), PP. 23-26. And ever since, there have been numerous successive revisions to virtually all laws and regulations related to accountability and transparency (the latest such revisions being represented in a legal code named the Unified Financial Regulations 1995 and in the Auditor-General's Chamber Act 1999). But those revisions might not necessarily have been intended for (or else may actually have been resulting in) any greater realization of transparency and accountability.

¹⁸ This view was confirmed by three key officials interviewed in July 2003.

¹⁹ Interview with an expert, 29 May 2003.

²⁰ The Public Procurement Code currently in force forms part of the Unified Financial Regulations 1995. According to a procurement expert interviewed on 17 July 2003, a government unit is currently carrying out a market survey, jointly with the National Bureau of Statistics. The purpose of that survey is to establish indicators reflecting current wholesale and retail prices for items which are most frequently purchased by public agencies (e.g., vehicles and their spare-parts). Indicators so established are then expected to provide guidance to finance authorities in the verification of bids and invoices, and in the early tracking of attempts at corrupt dealings.

²¹ One expert reported strong resistance to the (then ongoing) trend of dismissal of public employees in the name of "public interest"; and that of political alienation of perceived opponents by those in power. He reported that a National Assembly committee also challenged the procedural propriety of the earliest four cases of privatization, raising the following four criticisms: (1) that there was no open competitive bidding in those cases. (2) That the assets were swapped for debts, and were priced at no more than 50% of their real value, and (3) that the privatization of all the entities took place only two months prior to the change of the country's currency (thus rendering the time unsuitable). The expert believes that those initiatives were quite successful in strengthening the political will to combat financial corruption, in encouraging citizen involvement therein and in mobilizing the civil society (including the local press) against perceived corruption and mismanagement in the public sector.

²² Interviewed by this author were government experts (July 2003).

²³ Nevertheless, the principal weakness in the Press Act 1999 is a degree of vagueness that characterizes the text defining the rights and protection accorded to Journalists, as stipulated in sub-section 24 (1) of the Act, P.10. Thus allowing too wide a margin of discretion to law enforcing agencies. And, therefore, frequently journalists have to live with a measure of uncertainty as to where they stand relative to the law in practicing their profession.

²⁴ Interview with an expert, Khartoum, 16 May 2003.

²⁵ Interview with an expert, Khartoum, 10 July 2003.

²⁶ Quite exemplary annual reports are published by each of the (federal) Ministry of Health and the Crime Control Department of the national Police. For instance, the report of the latter department (for the year 2000, P.57) identified the reasons behind increase in financial crimes (as observed from their own statistics) as including (among other factors) increase in rural-urban migration and income inequality among individuals. As well as increase in the incidence of administrative corruption to an extent that is even obstructive to the capacity of Police itself for controlling such criminal behaviour.

TUNISIA

by Dr. Ahmed Essoussi⁵

The present study examines what is meant by transparency and accountability. More precisely, it examines what is meant by accountability for public policies in terms of public finance.

Prior to our attempt to clarify what is intended by accountability, here are some methodological observations.

The issue of transparency is associated with the fact of looking into the conditions in which public policies -- those involving the society -- are prepared, carried out and analyzed by the public institutions or persons. This concept is not a recent innovation. Historically, achieving transparency and accountability can be linked to the period when public policies were put under the scrutiny and evaluation of representatives from the Nation. This is not a recent concept but it is definitely a present-day issue.

The search for transparency was undertaken by many judicial systems at the time when political power was identified as a democratic power. To account for public policies means to be under the control of the supreme power which after all, stands for political power. Financial accountability is, then, the result of the application of political, administrative, and economic authority.

Guaranteeing accountability and transparency has become a global objective. Most of economically developed countries have opted for this orientation and have tried to apply and generalize it to all mechanisms in order to insure a maximum of transparency and integrity at the level of public accounts.

What should be kept in mind is that searching for absolute transparency would be rather unrealistic, because a part of the reality must remain unknown to the public since it protects the security of States and communities. Accounting for actions and working in a transparent environment does not necessarily imply the disclosure of all the confidentiality of public affairs because this would "disarm" the public authority. Secrecy is also a means for protection and freedom. Therefore a certain balance between the demands of transparency and those of the state power would be highly appreciated.

In the light of the above observations, a definition of transparency and accountability is necessary in order to evaluate, from our point of view, what has been accomplished so far and what still needs to be achieved in Tunisia.

1. The principles of transparency and accountability in terms of public finance

Based on the realities observed in some advanced countries, the main judicial texts (constitutions, fundamental laws, various legislations) and the financial doctrine all consider certain fundamental principles as the necessary

and sufficient ingredients to guarantee accountability and transparency in public finance are:

- A clear definition of the area of competence of public administrations and personnel,
- The examination of the conditions where such competences are put into effect,
- The necessary evaluation of the results of the adopted policies, and
- Providing information to the citizens and their representatives about these policies and their efficiency, and about the control and evaluation of the various actions and operations.

1. Transparency in public finance implies the establishment of a set of rules to determine the area of competence of each person or administration of the public sector. It is also important to determine the financial relationships -- in terms of revenue and expenditures, between the different institutions.

This means that there is a set of judicial dispositions which determine the area of competence for each public organization or person, and the conditions in which their financial activities are carried out. In other words, the primary texts pertaining to public finance such as constitutions, organic laws, etc. clearly describe the prerogatives of the various public administrations and the regulations which organize all their financial activities. These texts also specify the exact nature of the relationships between all public administrations, and also their position in the country.

2. Secondly, financial transparency and accountability involve a prior definition and application of clearly established regulations on public finance procedures such as: the condition in which financial policies are prepared, the targeted objectives, the measures which need to be taken, and the resources and conditions for carrying out defined, amended or adapted policies. Financial accountability and transparency also involve the preparation of reports (financial or other) on the execution of these procedures.

3. Thirdly, transparency means the organization of financial information into a precise, methodical and comprehensive resource, according to principles which guarantee its credibility and integrity. This implies that this information should be general (relative to all public administration agencies), consolidated, and arranged in a way that allows for a thorough understanding of some very complex realities, but also an accurate perception of public finance activities.

4. Last but not least, the collected information should be communicated to the public. Information on past, future and forecast activities should be conveyed to the public, including the relevant control agencies and common users of public service. This may imply jeopardizing some of the confidentiality around the financial assets of public persons (revealing them to the public authorities).

⁵ Dr. Ahmed Essoussi, Professeur de droit public de Sousse, Sousse, Tunisia.

II. From principles to the Tunisian reality.

The four points described above will be considered as the founding principles to guarantee transparency and accountability in public accounts.

1. The first one consists of considering public persons and organizations as entities with specific areas of competence. From this perspective, the entire set of judicial texts such as the Constitution, organic laws issued along the application of the 1959 Tunisian Constitution, and other judicial dispositions, such as laws, decrees, and by-laws, identify the public personnel in charge of public finance management, describe their working conditions, their competence and the various interconnections which characterize their work in the area of public finance.

According to the legislation, there is a clear separation between public sector personnel with a political vocation and those with an administrative one, namely the State and local public authorities. There is also a separation between those working in the industrial, agricultural or trading sector and those with a social orientation. The mission and assignments of public servants are clearly described in the legislation, making any confusion in their statutes and assignments difficult.

At the level of public finance, each public servant functions according to a specific set of rules relative to making decisions, applying them and submitting them to the controlling authorities. These rules also specify the type of relationship between the different agents.

As a result, Tunisia is considered to be generally respectful of the first principle of good conduct.

2. Several observations can be formulated on the second aspect, which deals with the conditions of preparation, adoption and execution of public policies and the recording of transparent financial information. They pertain to the definition of budgetary policies, their economic framework, and the context in which they are adopted, voted for and executed.

a) *The definitions of budgetary policies* which the public authorities would like to implement can be found in several texts such as medium term economic development plans (on a five-year period), annual economic budgets, and also the arguments presented by the executive power to back the budgetary policy of a particular fiscal year.

However, neither economic development plans, annual economic budgets, nor the arguments backing budgetary policies seems sufficient for a general evaluation of the public servants' courses of action, especially those working in financial services of decentralized public agencies, or organizations for the management of social welfare programmes. A thorough understanding of the different mechanisms would enable for the identification of the content of budgetary policies in general, since after all,

awareness of the financial situation of public servants allows for a better understanding of public finance.

b) *The economic framework* within which budgetary policies and orientations are adopted is subject to particular attention on the long, medium and short term. On the long term, economic perspectives reflect the general economic and social tendency of the country. On the medium term, since 1962, development plans have reflected the economic and social orientations. Although the dispositions of development plans are not very constraining for the economic sector representatives, they still stand as a good indicator of the medium term objectives of the public authorities. They also anticipate the measures required to motivate the various economic agents, especially enterprises, to participate in the achievement of some of the objectives targeted by the public authority.

On the short term, it is the yearly economic budget which reflects the economic policy intended during that particular year and which determines the framework of the State's budgetary policy.

c) As for the context in which *budgetary policies are prepared, voted for and executed*, we need to distinguish the following issues:

■ First of all, the present status of budgetary law assigns the *preparation of the budget bill* to the executive body exclusively. This decision is argued for using the technical aspect of the issues at hand, and also the fact that a possible involvement of the legislative body in the elaboration (rather than amendment only) of budgetary policies might, to some extent, stand against the achievement of a balanced relationship between the two bodies. The argument is not very convincing because there is no particular reason why parliamentarians should be prevented from participating in the elaboration of the content of the budget bill. There is also no law which forbids a preliminary study of the budget bill. On the contrary, issuing a final version without prior discussion makes any questioning somewhat irrelevant.

■ Secondly, *the budget bill, which is presented by the executive power as the government's orientations and goals for the following year, needs to provide detailed and comprehensive information on the State's financial policies.* The revenue-expenditure balance should be explained thoroughly, making it straightforward for an analyst or parliamentarian to read and understand expenditure and revenue entries. General statements, even when accompanied by explanatory documents, do not allow for a good understanding of public resources and expenditures. Clarity is an essential ingredient to guarantee credibility of the financial information provided by the executive body.

Along this logic, it seems necessary to attach to the main budget bill, special reports explaining in detail some out-of-budget operations such as *treasury funds* and

contribution funds. Global presentation of the resources and expenditures for each special fund does not seem sufficient for a good understanding of some budgetary policies. In fact, some operations are subject to more flexible regulations, making their control more difficult. Moreover, deciding for the total omission of contribution funds from the budget bill does not seem logical, given the necessity of a serious debate or at least more information on the importance and existence of contribution funds.

■ The third issue deals with the need for special reports on the State's financial situation. These reports should be presented to the parliament, and should include information on the various economic operations of the public sector. Recently, the public sector has been witnessing a decrease in volume, due to privatization operations such as the sale of industrial or trading companies or the State's share of businesses and enterprises. This implies that the State's financial situation can be influenced by the public sector financial situation. The State participates in the ownership, lends capital, accords subsidies and also gives financial guarantees according to the public sector loans. It is therefore essential to have a clear picture of the engagement of both sides, and the financial implications for the future, independently from the important role played by enterprises in production, investment, exports or foreign currency input.

Consequently, given the importance of the economic public sector in establishing and maintaining financial and economic stability, the budget bill, which determines the general budgetary trends, should be accompanied by a report on the situation of the economic public sector.

■ The fourth aspect deals with *the necessity for the parliament to be perfectly informed about the evolution of indebtedness, be it past, present, or future*. The public revenue is usually not able to cover the expenditure, which often leads the state to apply for loans in order to complete the deficit. The details of this type of indebtedness are not made available, although information concerning external debt is currently and systematically communicated. A positive initiative would be to provide accurate and precise information on the evolution of the public debt, including servicing costs, the risks involved in terms of state guarantees or the indebtedness of other public entities, especially economic public sector enterprises.

■ The last issue deals with public service expenditure in terms of salaries. Given their importance in public finance, it appears necessary to provide a complete picture of past, present and future payroll charges. Although information on this area is becoming more easily accessible and some of it has actually been published, we believe that it has become crucial to know the evolution of the number of employees and the financial repercussions that may emerge in the future. Special attention should then be paid to the importance of the public service, its characteristics, and implications at all levels, in order to clear the debate on the reduction, increase or steadiness of the

workforce, especially in respect of the State's willingness to continue the direct management of some administrations, or indirect management through other public entities, local authorities, public administrative offices such as health, education, or others.

d) As far as the execution of budgetary transactions is concerned, it is relevant to mention that the legislation in force can ensure the transparency and guarantee accountability thanks to the separation of the tasks and responsibilities of the budget manager and the public accountant. These two agents engage their own responsibility in the case of irregular actions. It is also important to note that some regulations have undergone several amendments to make them more adapted to the principles of competition and the transparency of the conditions in which public procurements usually take place. However, an even more tangible proof of transparency consists of publishing all public tenders in an official document, such as a special edition of the official Journal or an official bulletin, in addition to other publications. The main objective is to guarantee a maximum of transparency at the level of public procurement, and make sure that the various public institutions are easily identified by enterprises and bidders.

The second proposal consists of setting up a structure which would be independent or autonomous from the administration. Its mission would be to monitor, study, and report its conclusions to the public authority with the purpose of improving the conditions in which public procurements are realized, by trying to reduce their costs using some techniques such as group purchasing, and the creation of trading groups. This would require a better coordination among public procurement services without resulting in delays in the execution of the operations.

3. Control and evaluation of public policies.

According to the currently applied budget law, public policies which result in expenditures or revenue are subject to several types of control, carried out by different administrative, judicial, or political institutions which are absolutely vital when it comes to insuring the lawfulness of the transactions and the integrity of public money. What needs to be researched is whether the difficulty lies in the controls themselves or in accountability and information, assuming that information does exist, although most of the times only partially and insufficiently. The second concern goes back to the whole culture of public policies evaluation, including the financial aspect of it.

a) When it comes to the control of financial or budgetary operations, Tunisian legislation is well-supplied in terms of organizations and control methods. There is also administrative control, jurisdictional control and political control.

Administrative control is carried out by either administrative services or internal audit missions. The findings remain within the administrations or organizations of the executive. The information published in this case is limited

due to the high degree of confidentiality which characterise this type of control. Still, in our opinion, it seems even more appropriate to increase the level of publicity around this type of operations. This would increase the efficiency of public authorities and their impact on the population, and also show transparency and guarantee even more confidentiality. A good example to illustrate this point is the multiplicity of experiences in many countries, including some developing countries, where communicating information is a well-respected principle in public administrations.

Jurisdictional control is done by institutions where judges are completely independent. The quality of their missions cannot really be evaluated because the findings are partially confidential. Several issues can be raised regarding this idea. The undertaken missions cover the accounts of all public entities, both directly and indirectly, and include both audit at the level of budget administrators and public accountants (budget administrators are under the jurisdiction of the Disciplinary Court, and the public accountants under that of the Court of Accounts). The statute of the judges is more neutral than the one proposed by the IMF, which attaches financial judges to the Parliament. In fact the Tunisian judicial system goes by the principle of separation of power and independence of the judiciary.

Political control, on the other hand, is carried out by political authorities from the executive on actions taken by administrators or accountants. It is more evident when it comes to control by the Parliament, through the regulation law, i.e. the law which sets the final execution accounts.

The description of these types of control raises several important issues.

First, as mentioned previously, reports on administrative control of budgetary policies are not published. This needs to become a requirement in order to inform the citizens about these policies.

Second, and oddly enough, while the annual report of the court which handles the cases of budget administrator is published systematically, and it has been for many years, the one by the Court of Accounts, which is the basis for the regulation law, remains totally confidential. In fact, it does not contain any information likely to disturb the public order. On the contrary, it is the reference for a large amount of legislative, regulatory, and political amendments, meant to increase the performance of public administrations. Its full publication, or at least the part relative to general observations, is definitely a means to improve the action of public services and give the citizens and public service users a more positive image about the political action of public services.

The last point is that the regulation law, which sets the final accounts of the execution of budgetary transactions, is not as detailed as the budget law. The financial data

which is presented in the regulation law are far less precise and much more general, making the comparison between achievements and forecasts difficult and not very accurate. Therefore, it is highly recommended for the content of both law projects –budget and regulation, to have an identical structure. This process will avoid the publication of unreadable or unusable budgetary data, make possible the required comparison and contrasting and facilitate the reconstitution, at least for the State, of budgetary or financial patterns.

The other culture which, in our opinion, needs to be introduced and developed has to do with the evaluation of all public policies. They include policies regarding all public revenue and all public expenditure. We can identify numerous policies where evaluation needs to be carried out. For instance tax revenue evaluation involves an analysis of the tax policy, the instruments employed, the obtained results and their efficacy or efficiency with reference to the public authority's target objectives. Another example is the examination of other resources and means through which the sustainability of public revenue can be guaranteed.

The same form of evaluation should be done at the level of all public policies implemented by the public authorities. These policies may be linked to the issue of sovereignty of the State, or another economic or social aspect.

Although dialogue between the executive and the legislative bodies often takes place during public or budgetary debates on legislative policies, this does not seem sufficient to give a global perception of the policies which are put into action. What should be looked for through the evaluation of public policies (no matter what their size or scope), done at the level of public administration is to make them public, and make sure that they cover a wide range of public activities, both direct and indirect. This may sound like a new perception, but it is of high necessity if we want to understand the different policies of the public authorities. There are social, educational, agricultural, and industrial policies. There are also policies related to trade, employment, export, etc. They are all adopted by the public authorities and implemented by administrations or agencies, partly using public funds. They are subject to evaluations which need to be generalized and published systematically. This is the only approach to let go of the culture of secrecy, and an approach which has become necessary to promote the culture of transparency.

Once the principle of transparency is adopted, the question which will inevitably arise deals with the authorities in charge of carrying out these evaluations. If the public services or administrations have the necessary means to carry out evaluations (this is already the case), it may also be interesting to have them carried out by some independent organizations. There is no regulation which prevents the parliament from setting up procedures for the direct evaluation of public policies unless it (the parliament) has the possibility to seek technical assistance

from some independent organization, including control and audit institutions such as the court of accounts.

4. Transparency and public entities other than the State.

Due to the importance of the financial capacities of local public authorities and social security organizations, it seems rather improbable to expose public authority accounts to audit or evaluation. The agreed upon principle consists in a global examination, accompanied by a consolidated and synthesized presentation of public accounts.

This is the principle which we believe can ensure the sincerity and transparency of public accounts.

Local public authorities and social security organizations benefit from judicial and financial autonomy to cover their expenditure. These means and resources have an unquestionable public dimension both at the level of raising resources and that of spending them. In addition, the financial relationships between local public authorities and social security organizations on one side, and the State on the other side are rather significant. The State can sometimes become financially indebted in order to counterbalance the accounts of local public authorities and social security organizations, in spite of their autonomy and independent resources.

With this form of transactions (mobilizing resources, spending funds, etc.) local public authorities and social organizations also implement policies, manage contracts and are subject to inspection and audit by state entities, such as administrative inspectorates and the court of account whose mission is to make observations and evaluate the implemented policies and their repercussions on the State's financial situation. It then seems logical for such evaluations to be made public.

By all means, transparency of these accounts and the need to prepare and present a consolidated financial statement for all public entities should be reflected in the publication of the relevant financial information.

Prior to this initiative, it may seem appropriate to start with public debates on public policies, especially those related to social security. These debates can take place at the parliament every year, as it is the case for the budget law project.

This is an ambitious project which will need some time before becoming a reality. Yet it is an aspect of public accounts transparency that we should not fail to notice.

5. Financial Transparency and Political Life.

The last aspect which deserves some of our attention is political life, the necessary financial resources and their transparency.

It would be paradoxical to take for granted transparency in public finance while the financial support of political life (parties, associations, politicians, etc.) is managed otherwise.

The Tunisian law submits political activity to special regulations and imposes control over the funding of political activities, including the evolution of personal property of the political staff and high public administration officials.

It would be highly appreciated to generalize the declaration of property to all categories of persons responsible for the management of public money, regardless of their position, and making sure that the findings of evaluations and control are published.

III. Transparency and human resources management: The principles and the future

Several comments can be made on the improvement of the general framework of human resources management.

1. In terms of the juridical framework, it clearly appears that public service benefits from a set of regulatory and judicial texts which determine the rights and obligations of officials and public servants. These texts are systematically published and made available in order for all public service employees to be perfectly aware of the rules which regulate their status.

On the other hand statistical information about the various bodies of public service is not systematically made available, even if the legislation provides for the publication of skeleton laws which determine, for each administration, the different categories of public servants, whether within the State, or at the level of local public authorities. The information exists but is not subject to systematic and timely publication.

This is also the case when it comes to public servants working under special contracts. Although this type of contracts is not widespread, the information is of enough importance to be made available to the parliament and the public.

As for public enterprises' personnel, which fall under particular sets of regulations (staff regulations or even contractual relationships), the rules are made public but statistical information is not published systematically. It is worth mentioning the significant decrease in the number of public servants because of privatisation. This process, which has been going on for many years, has led to the transfer of personnel into the private sector, making them subject to common law regulations (labour code: basis for private sector employer-employee contractual relationships).

2. In terms of **the fundamental principles which regulate public service**, the existing laws insure the respect of the **principles of neutrality and equity**. The

main question which remains problematic concerns the **efficiency** of administrative management. In this respect, it clearly appears that the concept of efficiency is an important component of the activity of both the administration and other public sectors. Yet, in our view, it is not subjected to enough 'marketing' in order to appreciate the quality of services. When surveys on profitability of public services are conducted, the conclusions and observations are not usually published. However, during scientific or academic meetings and colloquia, for example those held at some institutions close to the administrations (for example the National School of Administration and its research centre), a great amount of information is published. This also applies to the information disclosed to the parliament by government members during public hearings and meetings with the press (both written and audio-visual)

In sum, if much of the available information is communicated, its systematic publication is worthwhile. In this respect, we recommend *generalized publication of the major administrative reports on the evaluation of public services*.

3. In terms of the tools which tend to promote accountability in terms of services, we can observe that administrative public services are accountable through the evaluation of the policies undertaken by the public authorities and through administrative and financial information. The other services, such as the industrial and commercial ones, largely abide by the accounts regulations, providing clear and relatively accessible financial information, even if the undertaken surveys are not published systematically. Although the entities in charge of control are responsible for presenting the most significant observations, it would be even more appreciated that economic or financial studies be subject to more systematic and detailed publication.

4. The fight against corruption draws for particular attention. Although the Tunisian legislation is applied and the actual sanctions imposed on persons found guilty of corruption (for instance resulting in their dismissal from the public service or lawsuits against them) this issue does not seem to be a top priority in the sense that it is not part of the information policy. In other words, any surveys concerning this phenomenon remain confidential. The public authorities' policy regarding this issue needs to be made public. Still, at several instances, the public authorities at its highest levels have expressed their clear position against corruption and their willingness to fight it.

While it is necessary to preserve the confidentiality which persons are entitled to in respect of public freedoms, it would still be valuable to speak more about this issue in respect of integrity and public morality.

Some other factors which can contribute to reinforcing integrity are the various dispositions which should be set to allow for the disclosure of wrongdoings, their follow-up and their sanction.

5. Another possible means to preserve the rules of good behavior in public affairs consists of making *the declaration of property and assets compulsory* at all levels of the public service scale, including those responsible for the management of public monies, as well as high officials in charge of public services or enterprises. *This declaration should be made both at the beginning and at the end of their assignment/nomination*. This would provide additional guarantee on the fight against corruption.

IV. Information management and transparency.

Good information management is undoubtedly a valuable means to contribute to increasing the level of transparency and accountability. What requires special focus are the conditions and consequences.

1. At the level of the literature, the issue is not really problematic. However, particular attention should be paid to **the various aspects of information policy**. In fact, although there are both public and private information media, the audio-visual press service is still entirely public. In parallel, access to the international press is easy and possible through television and the new technology.

This situation leads us to examine the possibility of launching private sector initiatives in terms of television broadcasting.

2. The second and even more interesting issue deals with the distribution of and access to public information. The regulations require even more preciseness in order for the available information to be either published or accessible in all its currently available formats and versions.

It is only by guaranteeing this condition that accountability will be fully achieved.

In our opinion the information area is the one where most progress seems necessary.

RECOMMENDATIONS:

In conclusion, and based on the various observations that have emanated from this study, achieving financial transparency and accountability in the public sector in Tunisia implies taking into consideration the following recommendations:

I. ON KNOWLEDGE ABOUT THE FINANCIAL SITUATION

1. Making financial information available to all public sector employees (the state, local public authorities, social security agencies).

2. A more effective participation of the parliament in the making of the budget, achieved through a better understanding of the financial policy and its implications at the

economic and social levels. Financial information should include more details than simple explanatory slides.

3. Presentation to the Parliament of special reports on some types of public expenditures, such as treasury funds and contribution funds, the general economic situation of the public sector, the various financial commitments relative to public indebtedness including those towards the local agencies or public institutions, and complete information on public sector remunerations.

4. In terms of public procurements, the publication in an official bulletin, of all public procurements in order to guarantee both transparency and respect of the competition rules.

5. Encouraging the establishment of independent entities responsible for the evaluation of public policies in terms of public procurements in order to rationalize and optimize the costs.

6. Publishing all reports relative to the execution of budget policies (both financial and tax policies) ; i.e. the Court of Accounts reports.

7. Introducing the notion and culture of public policy evaluation both at the level of public agencies and oversight/audit organizations, and publishing at least the most significant information.

8. Preparing regulation and ratification bills in the same format as the budget bill.

9. Consolidation of all public accounts (state, local agencies, public sector offices and entities, and social security agencies).

10. As for social security policy, adopting the principles of a social budget in the light of the budget bill, in order to determine the conditions of adjustment of the social security policy.

II. ON TRANSPARENCY AND HUMAN RESSOURCES MANAGEMENT:

1. Better information about public service, based on a review of the structure, the regulations, the evolution of the population, salaries, etc.

2. Publication of the evaluation reports on public agencies in terms of efficacy, efficiency, competence, and capacity to implement policies determined by the public authorities.

3. Increasing the number of economic, social and financial studies on employment in the public agencies and enterprises.

4. Generalization of the declaration on personal property and assets to employees in charge of the management of public funds, and control of these declarations by an independent and autonomous service or entity.

III. ON TRANSPARENCY AND INFORMATION MANAGEMENT:

1. Generalization of the financial information distribution using all possible media including internet.

2. Less restrictions on access to information and more distribution by the information centers and agencies.

YEMEN

by Dr. Mohamed Abdo Saeed Moghram⁶

I - Introduction

Transparency and accountability are fundamental characteristics of good governance. They are interrelated and mutually reinforcing concepts. Transparency in the public sector refers to the availability of information about a government's political and economic activities, policies, procedures, processes and decisions and the free circulation of that information to citizens. Accountability refers to the spectrum of approaches, mechanisms and practices by public organizations at all levels to ensure that their activities and outputs meet intended goals and standards. Transparency and accountability ensure that the practices and actions of public organizations and officers are made in the public interest as well as comply with laws, regulations and management procedures.

Transparency and accountability are new concepts for the Yemeni public sector. Both concepts were introduced to the Yemeni administration in November 1994, when the Yemeni government embarked on a comprehensive economic, financial and administrative reform programme (EFARP) which was supported by the World Bank, the International Monetary Fund (IMF), the United Nations Development Programme (UNDP) and other partners. This case study assesses the current practices and recent progress toward transparency and accountability in financial, human resource and information management through reviewing relevant laws, regulations, processes and procedures and interviewing some public officials and specialists.

II - Background on Yemen

In May 1990, the Republic of Yemen was formed by merging the Arab Republic of Yemen (North Yemen) and the People's Democratic Republic of Yemen (South Yemen). Prior to unification, both countries had developed different administrative systems. In the former South Yemen, a centralized system was built on the foundation of a British colonial administration, while the former North Yemen system was based on Ottoman and Egyptian traditions. After unification, the new state (Republic of Yemen) witnessed sharp economic, financial, and administrative imbalances such as stagnant economic growth, budget deficits, high inflation, and administrative problems.

To resolve such problems, the government undertook serious attempts at reforms. The first attempt was intensifying economic, financial, and administrative reform programmes and signing two agreements with the IMF and World Bank in early 1994. This cooperation aimed at determining the content, design and implementation of a civil service modernization strategy to serve as the basis of the reforms. The implementation of the strategy started in 1997 and achieved some successes.

Other reform attempts have included reviewing and revising some economic, financial and administrative legislations and restructuring administrative processes in order to improve the effectiveness and efficiency of Yemeni public sector organizations. On the financial side, for example, a number of financial legislation and administrative procedures have been revised and issued to allow for more transparency and discipline in financial organizations. Also, some training programs have been provided to improve the performance of staff. In human resources management, a census of the civil service has been completed, a computerized data base of civil servants established, restructuring plans in nine pilot ministries and agencies launched, and the Civil Service Fund set up. In information management, more freedom has been given to the press.

III- Transparency and accountability in financial management

This part presents an overview of the financial legislation, regulations and control system to examine the current situation and government efforts towards improving transparency and accountability in internal controls, external audit, budgeting, revenues, privatization, payroll and public procurement.

Internal financial control

A review of the Financial Act No.8 of 1991 (amended in 1999), other pertinent laws and regulations and the current internal financial control system identifies the Ministry of Finance as being charged with the general supervision and implementation of the provisions. It is held responsible for preparing the required books, records, forms, statements, models, checklists, etc, for financial control. To meet its responsibilities, the Ministry of Finance appoints and posts all financial directors in all government organizations. The financial directors approve each payment made by the concerned organization and carry out financial inspection and control for all financial transactions before and after spending.

Consultations with financial experts reveal that there have been several attempts to improve and modernize the financial control system. To overcome some shortcomings and improve transparency and accountability in internal control, the Government, represented by the Ministry of Finance with IMF support, has prepared a draft amendment of the existing financial regulations and internal control. The new amendment contains the necessary procedures to monitor compliance with applicable regulations. It is expected that internal financial control will be improved over time.

We believe that an important aspect of the internal control system is the existence of clear and explicit procedures to ensure compliance with applicable laws and regulations. Therefore, specifying legal requirements for an adequate and transparent internal control system is necessary, including standards of conduct for preventing corruption and detecting bribery and wrongdoing.

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External audit

A review of the 1992 Act No. 39 of the Central Organization for Control and Audit (COCA) shows that COCA is the supreme audit institution for Yemen. It is an independent body directly reporting to the President of Yemen. The head of COCA has similar legal powers as those entrusted to both the ministers of finance and the civil service with regard to the expenditure of funds indicated in COCA's annual budget and management of its internal affairs and staffing. The primary role of COCA is carrying out an annual audit on every government organization. Its mandate is to exercise control over public funds, enhance the performance of public sector entities and improve accounting and auditing practices and profession in the country. The Constitution and Act. No. 39 require COCA to submit its audit report of the government final accounts to the parliament.

Despite its comprehensive mandate and wide-ranging powers, in practice, however, COCA's mandate is too broad for its resources to give it full effect; and the real impact of its efforts on government transparency and accountability has not been measured. Its focus tends to be traditional - that of conducting an annual audit on government organizations. It writes its reports based on the audit results and sends it to the President's Office, the Parliament and the concerned organization.

Considerable progress has been made recently in developing procedures, training staff and in the volume of audit reports. However, discussions with some audit experts reveal that COCA currently faces many challenges, including diffuse management directions; insufficient qualified and trained staff; a traditional accounting and auditing focus on transactions; and a need to upgrade audit standards, procedures and techniques. These challenges make it difficult for COCA to fully meet its responsibilities and the objectives spelled out in its law. They hinder the enforcement of its regulations and the impact of its efforts on promoting transparency and accountability in the public sector.

Big improvements are needed in upgrading management practices. Audit standards, procedures, techniques and guidance for financial and compliance audits need to be carefully implemented with a view to establishing a mechanism to allow for continuous upgrading as living documents, and staff need to be trained in related skills. Performance auditing as a new area has yet to be tackled in a serious way. Notions of strategic planning, effectiveness measurement, effective communications with stakeholders and oversight -- comprised of quality assurance, practice review and internal audit -- need further attention. The government is open to foreign technical assistance in this regard. There has been explicit support by the President and the Parliament to further activate the role of COCA and improve its performance and its impact on promoting and enhancing transparency and accountability in the public sector.

Budgeting

Chapters 2 and 3 of the financial legislation discuss the budget processes. While Chapter 2 discusses the budget

structure and preparation, Chapter 3 covers the procedures for implementing the national budget.

Reviewing financial legislation, fiscal instructions and interviewing some financial experts in government reveal that budgeting has undergone great changes. Several efforts have been undertaken by the Yemeni Government towards improving fiscal and financial operations. Starting November 1994, the Yemeni Government adopted a comprehensive economic, financial and administrative reform programme, which was supported by the World Bank, the IMF, UNDP and others international agencies and donors. In 1997, the Yemeni Government secured a three-year IMF Enhanced Structural Adjustment Facility (ESAF). In September 1998, a UNDP-supported and IMF-executed project aimed to simplify administrative procedures in tax and customs authorities. From the fiscal year of 2003, the Ministry of Finance has classified the budget according to the functions of the government (education, defense, health, etc.) instead of line-item or cash-based budgeting. These methods had been used for the last thirty years. This new classification will make the preparation and implementation of the budget compatible with IMF standards. Finally, an integrated and computerized budgeting and accounting system has been designed to replace the present manual system. It is scheduled to be implemented in fiscal year 2004. All these efforts aimed to strengthen fiscal operations and procedures relevant to transparency and accountability. They have allowed a clear examination of the government's fiscal position and led to significant improvements in the capacity of the government to produce reasonably comprehensive, timely and analytical fiscal reports.

Despite this significant progress, much is still required to strengthen transparency and accountability in budgeting. We believe there are other actions needed to represent a significant commitment to fiscal transparency and accountability and to consolidate efforts and progress made so far. They include:

- Achieving a higher level of fiscal transparency in the preparation of the budget;
- Making analytical fiscal reports available to the public and external agencies;
- Improving data to allow public dissemination of the budget and final accounts on time, although progress has begun in this regard;
- Reallocating spending within local authorities; and
- Assigning accountability to organizations and individuals to ensure that public spending is in line with approved resources and comply with laws and regulations.

We expect that it will be difficult to achieve all of the requirements of fiscal transparency and accountability over the next few years. We recommend that a series of steps should be identified and implemented over the longer term. They include:

- Ensuring an effective process for prioritizing public spending;
- Giving local authority more freedom in preparing and implementing their budgets and continuing with the

capacity-building at the local level that the Ministry of Finance has already begun;

- Assigning accountability procedures to units and individuals; and
- Making analytical fiscal report available to external agencies.

Privatization

Privatization in Yemen has not contributed significantly to private sector growth since most of the candidate public enterprises for privatization are bankrupt or outdated technologically and will most likely be liquidated. Despite the Government's issuance of the necessary legislation and institutional set up to supervise the privatization process, which has been progressing since 2002, the response of the private sector has not been encouraging for the reason cited previously. The public sector still plays the leading role for most economic activities and still carries a huge financial and administrative burden.

The Yemeni Government provided some incentives to foster greater collaboration with the private sector. They include passing regulatory and executive procedures for privatization (1995), the Privatization Law No. 1 of 2000 and accelerating and expanding the privatization programme to cover projects in public infrastructure (utilities and transport sectors) and services (education and training, health services and research and development).

In addition, to encourage the private sector to take a more prominent role in the economy as a growth engine, the Government has actively encouraged private investment by enacting the Investment Law and establishing the General Investment Authority. Further efforts -- such as reducing red tape, streamlining administrative procedures, reducing overlaps and duplication and improving the rule of law -- would greatly enhance the investment climate.

Discussions with experts in the public and private sectors reveal that there are several reasons why the private sector is not responding to Government incentives. They include the need to:

- Further improve the climate for private sector growth;
- Continue building an active relationship between the Government and the private sector to secure the confidence of investors and entrepreneurs;
- Fight corruption in the public sector and prevent illegal acts; and
- Place own interests within the context of national interests on the part of the private sector.

We recommend that the Government should first improve the efficiency and productivity of suitable candidate public enterprises for privatization, ensure the implementation of effective and transparent procedures to monitor the privatization process and improve the level of confidence between the public and private sectors for better collaboration and participation.

Revenues

The Government of Yemen has been heavily reliant on three sources of revenue. The government share of oil revenues made up over 60 percent of total revenue in 2002. Tax revenues made up about 25 percent, and other

revenues, including current grants, made up 15 percent. Despite the slow progress on improving non-oil revenues, the Government is fully committed to this objective through engaging with the support of the IMF on continuing the implementation of a comprehensive reform package.

Currently, all revenues are governed by the Financial Act No. 8, the Income Tax Act No. 31 of 1991 and other regulations relevant to government revenues. Reviewing the financial act, regulations and the reform programme to assess the recent efforts in the revenues authorities (particularly customs, tax and business licensing), some progress towards transparency and accountability can be discerned. A UNDP-supported IMF-executed project aimed at a number of improvements. They include:

- Completing and submitting to Parliament for approval the draft of a sales tax bill;
- Establishing and transferring pertinent files (tax on consumption, production and services, employee withholding tax and income tax) to a large taxpayers unit;
- Establishing modern collection procedures to reduce the number of approvals; and
- Improving the remuneration for tax and customs officers, etc.

Despite these improvements, much remains to be done. We believe that the priority in and focus of improvements in the future in revenues organizations should be the following areas:

- Obtaining a sound, basic, accurate and timely internal control and reporting system to promote compliance with applicable laws and prevent any illegal acts and wrongdoing;
- Designing explicit procedures to determine the accountability of the Government, individual public officials and donor agencies and ensure that each party understands its role and the role of one another in complying with applicable laws and regulations;
- Adopting codes of conduct to provide sufficient punishment for lawbreakers, discouraging others from wrongdoing and minimizing fraud and corruption; and
- Designing and implementing an effective training programme for public officials at all levels.

Payroll

The public payroll -- including employees' names, place of work, pay rate earning, various deductions and net pay calculations in all government units -- is prepared by the human resources department. It is then sent to the finance department not later than the 18th of each month for calculation, reconciliation with the previous month and approval of the expenditure. The separation between the human resources and finance departments exists. While the Director-General of Finance is a Ministry of Finance officer posted to the spending organizations, the Director-General of Human Resources is a Ministry of Civil Service officer, posted to government organizations for implementing the civil service act and regulations. Then each sector or unit within each organization has representatives responsible for receiving and delivering the employees' earnings for his or her unit under the supervision of the unit head, who is responsible for a physical identification of all personnel working in the unit.

Although the separation exists, several steps which should lead to improvements in transparency and accountability include:

- Continuing the implementation of procedures to identify double dippers and ghost employees to remove and prevent them from the payroll;
- Strengthening the enforcement of civil services laws and regulations; and
- Adopting international standards for evaluating the organization's and employees' performance in all government organization.

Procurement

The Procurement Act No.3 of 1997 and the Prime Minister's Decree No.234 of 1997 (procurement regulations) and interviews with procurement experts reveal fairly transparent procedures for announcing, opening and evaluating bids and awarding contracts. The Act and regulations as well as procurement procedures are well designed and written. However, as elsewhere, a gap exists between written rules and actual practices. Consultation with some procurement experts reveal that the Act and regulations are often not followed. There are some fraudulent practices in some government organizations such as:

- Awarding the contract to a bidder who has not met the standards;
- Changing procurement methods by dividing the quantities of the required items;
- Accepting three or four bids from the same source under different names; and
- Receiving bribes to influence officials in the procurement process or contract execution.

The principal defect of the procurement act and regulations is that accountability is not assigned to the procuring department and public officials. This is compounded by an absence of effective procedures to ensure that actual spending for required items or public works is in line with the budget and comply with procurement processes and procedures. Currently, a British consulting firm has been awarded a contract to revise, review and identify the shortcomings in the current procurement act, regulation and procedures.

Overall assessment of financial management

The overall Government efforts towards improving transparency and accountability have been continuous. During the last seven years, the Government undertook several attempts to reform and enhance transparency and accountability in financial management such as revising financial acts and regulations, improving the fiscal system and operation, increasing the capacity of public officials in financial organizations and trying to simplify revenues collection procedures. However, fewer efforts in areas relevant to transparency and accountability in procurement have been made, although this is now currently being addressed.

Based on these finding, we suggest several actions that should be taken to enhance transparency and accountability in financial management including:

- Improving budgetary data;

- Increasing the transparency of data and information flows;
- Making relatively reliable forecasts for revenues;
- Ensuring effective procedures for prioritizing public expenditures;
- Adapting new approaches to financial management;
- Activating the role of COCA in public audit and its impact in promoting accountability;
- Increasing the capabilities, honesty and loyalty of financial employees;
- Reviewing and revising procurement regulations and procedures;
- Developing effective procedures to assign accountability to units and individuals; and
- Fighting corruption and wrongdoing of public officials at all levels in public sector organizations.

IV - Transparency and accountability in human resource management

This section gives an overview of the civil service legislation provisions, regulations and control procedures for transparency and accountability in human resources management. It examines stated official values of the public service, codes of conduct, legal restrictions on criminal conduct, the selection process, investigations of wrongdoing and disciplinary procedures.

Human resources management framework

The human resources management framework in Yemen consists of two aspects: legal and institutional. The legal framework is based on the following laws and by-laws:

- Act No.19 of 1991 for the civil service;
- By-law No.122 of 1992 for the civil service;
- Act No.35 of 1991 and its amendment No.7 of 1979 for public sector enterprises;
- Act No.12 of 1994 for penal and criminal law; and
- Act No.39 of 1992 for Central Organization Control and Audit (COCA).

The main law and regulations governing the public sector employee are the civil service law and its by-laws. However, these provisions do not sufficiently elaborate on the concept of transparency, nor do they clearly address the accountability of the various levels of administration toward the public sector employees and the public. Even when the law mentions the duties and prohibitions of the employees, they are general and could be interpreted in different ways that opens them for abuse. The by-laws also mention duties, restrictions, administrative violations and punishments. They also refer to the penal and criminal law for any serious crimes committed by the employee. However, transparency and accountability were relatively new goals to the Yemeni legislators during the promulgation of these laws. Discussions about corruption started in mid-96 with the announcement of the reform programme and with freedom of speech granted by the Declaration of Unity in May 1990.

The institutional framework for human resource management in the Yemeni public sector contains 123 administrative units, among 28 ministries and 95 public corporations,

companies, banks, and mixed enterprises. In recent years, the Yemeni public service has witnessed a crisis of responsibility. Due to excessive centralization and hierarchy, the public service has had problems apportioning responsibility at the various levels. In addition, this framework faces many obstacles and a lack of transparency and accountability in its structure and levels of administration.

Building a transparent and accountable public sector is a fundamental starting point for developing good governance in Yemen. However, as in many other developing countries, this study found that unclear structures, overlapping responsibilities of managers, unclear management lines and weak supervision lead to corruption and over employment in many of these institutions. In sum, human resource management in the Government is weak at all levels. This situation is due, among other reasons, to insufficient training, poor salaries, and a lack of correspondence between training and job performance on the one hand and promotion and pay on the other hand.

Stated core values of public service

The values of the public service are not widely communicated in writing to public sector employees through pamphlets, employment contracts, speeches, or ongoing training courses. Nor are they seen to be consistently demonstrated by senior public sector leaders. Nevertheless, these core values are stated in the Civil Service Act No. 19 of 1991 and its By-Law No.122 of 1992. The essential values of the public service can be summarized as follows:

- Public service: public servants must carry out their nationally important public function in the sole interest of their fellow citizens, to the exclusion of any other interest;
- Legality: public servants should act in accordance with the law and comply with legitimate instructions in order to attain the objectives intended by lawmakers;
- Neutrality: public servants must remain impartial in their actions and in their judgments and opinions, respect the equality of all citizens before the law and maintain strict neutrality vis-à-vis all political and economic interests;
- Responsibility: public servants must enhance the prestige of the institution they serve and be reserved and discreet, so as not to compromise the action of their respective departments;
- Competence: public servants must exhibit an exemplary level of self-imposed professionalism and quality; and
- Integrity: public servants must neither solicit nor accept anything from their fellow citizens to perform their duties, thus creating a climate of confidence in themselves and in the public service as a whole.

The civil service law seeks to reinforce and to highlight fundamental values and show specifically how to apply them to each of these domains. However, these values are not published and are not well known by public sector employees or the public. Too many public officials in Yemen seem to be unaware of his or her rights, duties, obligations and the limitations. Such a trend can result in frequent offences and violations of laws.

Codes of conduct

There is an absence of a code of conduct as a separate document and, at times, also a serious problem with a lack of ethics in the public service and corruption in state institutions. Where there has been evidence of unethical conduct, there have not been consistent responses by the authorities. The responses tend to be ad-hoc, with little connection or follow-up in the offices concerned.

Most of the interventions, taking the form of legal provisions and standards, were carried out in the hope that public servants would embrace them spontaneously, on their own initiative. The officially stated values and standards in the legal human resources management framework were passed along as a matter of course, with little regard for publicity and training. Such standards of integrity, conduct and professional ethics would have reduced the need for internal or external controls if they had been observed. But these values have not been supported by practices in Yemen.

Thus, there is a need for a clear and publicized code of conduct to reinforce and highlight officially espoused values and show specifically how to apply them to each ministry and public service unit. Once it is formally adopted, a code must be publicized through activities such as distribution throughout the public service and the posting of promotional information in all public service locations.

As mentioned earlier, the general regulations on the civil service do not provide a detailed code of professional ethics. However, receiving gifts and benefits such as fees, payments, unauthorized use of official property/facilities, work outside the public service, use of official information, and involvement in political work are restricted by law.

Legal restrictions on criminal conduct

As in most countries, public sector employees are infrequently charged with and rarely convicted of corrupt acts. The current administrative system faces a number of charges of favoritism, corruption and laxity in administering and executing justice. The Civil Service Law lists the limitations imposed on public officials. These include:

- Indulging in any work which violates the constitution, laws and regulations;
- Undertaking a commercial, industrial or any other paid outside employment, unless specifically permitted by law;
- Soliciting or accepting, directly or indirectly, in the course of their official positions, gifts, bonuses or donations of any kind; and
- Divulging information which they have acquired in performing their duties, even after retirement, without written permission from the ministry which employed them.

In addition to limitations imposed, there are general obligations which employees have to observe. These include:

- Serving the public interest and implementing laws and regulations without violation or negligence;
- Executing superiors' instructions, unless the instructions clearly violate the law (in such cases the subordinate should draw the superior's attention and

refuse to execute the instructions unless confirmed in writing);

- Being personally accountable for the orders and instructions which they receive from their superiors; and
- Fully processing transactions without delay.

Selection process

The human resources selection process is not well established in the structures of the laws and regulations. Therefore, the Yemeni bureaucracy is influenced by at least three informal structures: kinship, friendship and patron-client relations. These attributes cling to the formal structure and inhibit rational behavior, exerting a negative influence on the selection process. The impact of these forces is felt at all levels and stages of the selection process.

Announcing vacancies is generally not practiced in Yemen, except in some public enterprises. However, in some cases, they do so just to meet formal requirements. In reality, they select according to the above-mentioned informal criteria.

A job classification system does not exist, even though the Ministry of Civil Service tried to introduce such a system several times. Recruitment and promotions have not been based on merit. However, there has been much improvement in the recruitment system adopted by the Ministry of Civil Service in the past two years. Political interference in the civil service exists, especially during elections. There are many who have been transferred from their posts because of political ties with the non-ruling party.

Investigation

As in the case of many countries, investigations are often not handled promptly and fairly by the ministries and agencies that have received a complaint of wrongdoing or misconduct. Neither are they followed up by appropriate action by the head of the agency in some cases. Many, whom the public believes to be worse than those discharged, are tolerated for their unprofessional and unethical behaviour. For this reason, there is no substitute for a permanent, powerful and effective disciplinary system, if permanent and drastic changes in bureaucratic behaviour are desired.

In some cases, an investigation is not carried out by an independent investigator. In the Yemeni public service, there is a need to establish a disciplinary system which can guarantee both a fair hearing and disciplining of public officials, and the development of a civil service which embodies high standards of integrity and conduct.

Disciplinary procedures

Disciplinary procedures exist in every public organization in Yemen. In theory, they are essential to the public service for ensuring its proper functioning, maintaining integrity, and protecting citizens' rights. But in practice, the disciplining system is weak, as in many other countries. The sanctions stated by the civil service law and by-laws have various degrees of penalties. These penalties are divided into two broad categories: first degree, relatively mild, and second degree, which includes immediate discharge. The disciplinary penalties are as follows.

First degree:

- Reprimand;
- Deduction of salary for a maximum of 20% for one time; and
- Deferment of an increment within the grade for a maximum of six months.

Second degree

- Deferment of an increment within the grade for a maximum of thirty months;
- Forfeiture of one or more increments within the grade;
- Demotion on salary, not exceeding 3 increments within the grade; and
- Dismissal without suspension of pension rights.

The types of sanctions applied by each disciplinary authority are accordingly detailed in Article 191 of the Civil Service By-Laws. The organizational structure of the disciplinary mechanism does not take into account, among other things, the existence of patron-client relationship. As a result, superiors are usually hesitant to penalize subordinates. When they do, the sanctions tend to be mild.

V -Transparency and accountability in information management

Globalization has highlighted the need for and renewed the importance of transparency and accountability. When responding to globalization, transparency and accountability become necessary to every country and to their people wishing to take advantage of its opportunities to integrate into a changing world. Thus, transparency and accountability are the most important prerequisites for responding to globalization on the one hand. On the other hand, these conditions should always exist to avoid corruption, personalization, misuse of laws and abuse of power which are harmful to a society and economic growth of a nation. To achieve transparency, encourage the expression of opinions and the access to information, a county should have an enabling legal and institutional framework.

This section looks at legislation, regulation and processes to manage information, both within government and between government agencies and their constituencies. Among the many issues in these domains, the section focuses on information management framework, access to information, investigative journalism and non-governmental organizations.

Framework for information management

Accessible information allows more transparency which also means openness between a government and its people. A good government has nothing to hide – within the limits of national security and respecting the privacy rights of its citizens. Therefore, responsive public institutions must be transparent and function according to the rule of law. The media play an increasingly active role in this connection, for example, in revealing illegalities, and also by reporting about government performance and policies.

Concerning the framework for information management in Yemen, we can say that despite the long period in establishing the state apparatus, it is still not complete. The framework for information management in Yemen is based on constitutional provisions and the Press and Publications Act No.25 of 1990 and its by-laws.

The Yemeni constitution tackled many issues related to the freedom of expression, the press, information and opinion. The Law of Press and Publications governs all relations concerning journalism, news agencies, printing press, publishing houses and legal repositories. This law contains 116 articles divided into five chapters as follows:

- Definition and general principles;
- Terms and condition for work of Yemeni and foreign journalists;
- Organizing activities of newspapers and magazines;
- Provisions governing printing press, publications and legal repository; and
- Prohibitions on publications and penal provisions.

In terms of freedom of the press, the law permits the publication of private dailies, weeklies and political parties' newspapers which perform the role of monitoring the performance of the government and expressing leading public opinions.

However, Yemen needs a more fundamental legal framework for establishing information management, including the access to information, telecommunication services, disclosure of government information, access to government documents and laws on protecting state documents and secrets. It also needs many legal and regulatory provisions that protect the right to and duty of providing information to its citizens.

In Yemen, the actual freedom of the media is limited, whether by law or by political interference. The Government currently owns all radio and TV stations. Corrupt public officials are afraid of transparency and accountability. This may be because transparency, access to information and freedom of the media are first steps towards combating corruption and exposing misuse of power. The Government can demonstrate its commitment to transparency by reducing corruption, abolishing defamation laws and making documents and public accounts available to journalists and the civil society.

Access to information

The freedom of the press and access to information laws are essential for the media to serve as a true watchdog institution and essential for the public to monitor government policies and programmes. In a transparent environment, the government has the duty to provide access to information to its citizens. In Yemen, as in many other countries, the Government has not yet promulgated any laws or regulation on access to information. Frequently, or sometimes in some programmes, it uses a survey or conference to solicit the views of its citizens. Despite some good provisions of the *Law of the Press and Publications*, some Government practices constrain the freedom of the press and information. There are also some defamation provisions that can result in imprisonment for journalists, if convicted of criticizing government officials.

Investigative journalism

According to the *Constitution* and the *Law of the Press and Publications*, journalists can freely conduct investigations on issues relating to public affairs and government officials involved in corruption. But in many cases, they are subject to prosecution and imprisonment. As elsewhere, there is a gap between the law and reality. In fact, poor implementation and enforcement have been the bane of many a good law and policy. Thus, it is recommended that the Government should do more in supporting coordination of information on anti-corruption work and backing media networks for investigative journalism. A free press could uncompromisingly probe into any suspected shady deals and make the war against corruption more effective.

Civil society organizations

According to *Act No. 1 of 2001 for Civil Society Organizations*, these organizations have the right to freedom of association. Yemeni civil society organizations are not capable of performing their role for many reasons, including but not limited to weak structures, a lack of attention from the government, a lack of transparency, and an absence of democracy in their leadership. However, some associations of civil society are working freely and concentrating on issues relating to human rights and development. Until now, civil society has not focused much on transparency, and its work on corruption has been limited.

Civil society participation in public policy formulation in Yemen could work effectively, utilizing consultations, client surveys, telephone hot lines or call-in radio shows, citizens' bodies to oversee public agencies, databases that make government procurement public and disclosing the assets of political candidates. Public education programs that raise awareness of the economic and social costs of corruption are often more credible, and therefore more effective, if they come from civil society rather than government.

The private sector, academic organizations, the media and NGOs at the present time have little impact and a very limited role in economic development. They can enhance government efforts toward transparency and accountability through fostering greater collaboration between public and private sectors, creating public awareness, calling for exhaustive investigation, and stepping up pressure on the Government to increase transparency and accountability in the public sector. The Government is responsible and accountable for leading the realization of the goals of societies and citizens. It should pay more attention to transparency and accountability in all laws, regulations and management system.

VI - Conclusion

Building a transparent and accountable public sector is a fundamental starting point for developing good governance in Yemen. Despite the initiatives that have been made by the Government, we found that unclear structures, overlapping responsibilities of managers, unclear management lines and weak supervision lead to corruption and over employment in all sectors financial, human resources, and information managements. The state of transparency and accountability in the Yemeni public sector is still weak.

In terms of financial management, the study found that financial and procurement laws, regulations and procedures reveal that they lack explicit procedure to assign accountability to sectors, units and individuals. As in other developing countries, legal requirements for information disclosures to assure the compliance of actual practices with applicable regulations and do not define sufficient punishment for non-compliance and wrongdoing. We believe also that it will be difficult to achieve minimum standards of transparency and accountability in Yemeni public sector management over the short term, especially if the current reform programmes do not receive the full backing of all government agencies and the strong support of NGOs.

In terms of human resources management, the study found a lack of clarity in the roles and functions of state agencies and a lack of job descriptions for their personnel. This lack causes a corresponding absence of clarity for making public agencies and officials accountable. As highlighted above, the study also found that human resource management in the Government is weak at all levels due to many factors. There is no link between training and job performance on the one hand and promotion and pay on the other hand, leading to unsatisfactory performance and a spread of corrupt acts in government institutions and agencies.

In terms of information management, we found that the public reporting and checking function of the media are not encouraged. We also found that the law of the freedom of press and its by-laws are not implemented fully. Therefore, there is a need to ensure that Government communications do not become mere propaganda but checked by independent media. As in many other countries, our findings indicate that the press is still not entirely free to express its views or operate without political interference. At the same time, the press itself often does not demonstrate a sense of professional responsibility to inform the public without undue bias.

Based on the above findings, we suggest the following recommendations that can be useful for the government:

- For financial management, public procurement is seen as being vulnerable to corruption; therefore, the government can protect the bidding system by introducing and requiring bidders to sign an undertaking that they will not offer a bribe in order to win a contract. The Government for its part could issue a warning in writing to the effect that it would not tolerate corruption in any shape or form and those in breach will be severely punished. The implementation of these requirements would be closely monitored not only by the Government but also by special representatives of civil society groups and NGOs.
- For human resources management, there is a need for a clear and publicized code of conduct to reinforce and highlight officially stated values and show specifically how to apply them to each ministry and public service unit.
- There is a need to implement a disciplinary system which can guarantee both a fair hearing and disciplining of public officials, and the development of a civil service which embodies high standards of integrity and conduct.
- There is a need for a job classification system, and the

Government should improve recruitment and promotions based on merit and prevent political interference in the civil service.

- For information management, Yemen needs a more fundamental legal framework, including facilitating the access to information, telecommunication services, disclosure of government information, access to government documents and laws on protecting state documents and secrets. It also needs many legal and regulatory provisions that protect the right to and duty of providing information to its citizens.
- Sharing information is necessary for the Yemeni Government and should be adopted to ensure transparency and accountability. Technical assistance can be sought from donors and other countries where workable systems have been introduced.
- Overall, a high degree of public awareness is essential in developing and strengthening a national integrity system and establishing transparency and accountability. The whole-hearted support of the community working in close partnership with the government is necessary.
- As part of ensuring such an integrity system, we recommend that the Government take early steps, among other essential measures, to establish an independent commission against corruption or designate another agency to combat corruption, accountable to an independent authority.
- The promulgation of a law requiring all members of the cabinet – including the prime minister, ministers, members of state executive council – and senior public servants to declare their assets and those of their families would greatly promote public trust in Government.

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Annex 2: INTERVIEW GUIDE

Project RAB/01/006: TRANSPARENCY AND ACCOUNTABILITY IN THE PUBLIC SECTOR IN THE ARAB REGION Introduction to the Interview Guide

I. Project Objective

In 2002, the United Nations Department of Economic and Social Affairs (UN DESA), Division for Public Economics and Public Administration (DPEPA), in cooperation with the United Nations Development Programme (UNDP), Regional Bureau for Arab States (RBAS) started work on a comparative study of *Transparency and Accountability in the Public Sector in the Arab Region*. The study covers six countries: Jordan, Lebanon, Morocco, Sudan, Tunisia, and Yemen

Through comparing existing practices in financial, human resources and information management, this project aims to assist central governments in the participating countries to improve transparency and accountability in the public sector. Because these countries have been targeted to represent the diversity of the Arab region, other countries in the region can also benefit from the study findings. To highlight good practices and gaps, a comparative report and a database of regional issues and practices as well as country case studies will be prepared. These are intended to serve as a reference point for those governments interested in improving practices (and policies where necessary) to increase public sector transparency and accountability. They would also be available to assist the wider public in making policy and programme recommendations and the development partners in making funding decisions.

II. Scope of the Study

The central question of the study is “What practices are there to ensure public sector transparency and accountability in the study countries?” Based on the answers, one indirect aim of the study is to address, “How can transparency and accountability in the public sector be improved to meet the challenges of globalization in the Arab States?” Good policies and practices in key public sector institutions can serve as one set of indicators of transparency and accountability in the public sector. They can do much in securing domestic public confidence in governmental institutions. Moreover, in an age of globalization, foreign investors expect to be assured of accurate information on the performance of not only private sector corporations but also key public sector institutions.

Although all branches of government are important in

promoting transparency and accountability in the public sector, the study will concentrate mainly on the executive branch, public enterprises and pertinent independent oversight agencies, to make the task at hand more manageable. The study will focus on those aspects of the legislative and judicial branches that interface with the agencies under study. Likewise, the need for private sector and civil society involvement in promoting transparency and accountability in the public sector, not to mention within themselves, is also indispensable. Again, the study will examine relevant interfaces between these governance partners and the public sector.

To answer the central study question, DESA recruited national consultants who are experts in the field. Based on a desk review, they will begin by providing some background information on the organization of government, recent public sector transparency and accountability initiatives, and overall frameworks and procedures in financial, human resources and information management. Due to the breadth of the inquiry at hand, more prominence will be given to the financial management than the other two. Then, they will carry out interviews of experts about relevant practices and in some cases clarification of policies. The experts to be interviewed will be mainly senior public sector managers but may also include key, relevant private sector and civil society informants. A summary of the issues for study is presented in the table below. Finally, the national consultants will write a short country case study that synthesizes and complements the desk review of documents and interviews. These case studies will focus more on the qualitative professional analysis and recommendations of the national consultants, based on their research.

The study is based on the following working definitions of key concepts:

public sector: core central level government departments and agencies, public enterprises (including mixed enterprises), public service workers such as teachers and health workers

transparency: the availability of and free access to information about governmental political and economic activities, procedures and decisions

accountability: answerability for choices and actions
There will be guidelines prepared for the desk review and

for drafting the country case studies. In addition, there will also be three interview guides, each also including information on the interviewed experts and any comments they may have at the end of the interview:

- I. Financial Management
- II. Human Resources Management
- III. Information Management

| Table of Study Issues | |
|----------------------------|---|
| Guide | Issues |
| Financial Management | <ul style="list-style-type: none"> • financial management framework • budgets • revenue • payroll • procurement • privatisation and service concessions • payments • accounting • internal audit • external audit |
| Human Resources Management | <ul style="list-style-type: none"> • human resources management framework • stated official values • codes of conduct • legal restrictions on criminal conduct • selection process • conflicts-of-interest disclosures • whistle-blowing • investigation • disciplinary procedures |
| Information Management | <ul style="list-style-type: none"> • information management framework • access to information • records management • investigative journalism • non-governmental organizations |

III. Information Sources

As indicated in the interview guide itself, the sources of information will be varied. The national consultants will need to carry out a desk review of pertinent documents and conduct interviews with experts. Regarding the latter, most likely, there will be a relatively small number of people who are knowledgeable about the practices addressed by the questions. Therefore, they will constitute a non-probability sample, identified through snowball sampling. Nonetheless, the national consultants will make an attempt to identify and interview as many experts as possible, aiming for at least 20 per each area.

They will have to approach a number of ministries or agencies that deal with statistics, public finance, the civil service, and public information. In addition, they may also have to approach private sector organisations such as the chamber of commerce and civil society organizations such

as professional associations or trade unions and other non-governmental watchdog organizations.

IV. Inputting Data into the Database:

The interview guides are in an electronic format and integrated into a database, available on the aforementioned Internet site. This is for easy access and direct entry of data by the national consultants. The site is in its first test phase so errors are expected and should be reported as discovered. The database structure and all the major functions have been completed and are available.

There are four electronic interview guides in the database. First, there are administrative questions about the interviewees. The rest are composed of substantive questions in the areas of financial, human resources and information management, respectively. In addition, the database lists all interviews that have been carried out, with information about the interviewers and the interviewees. The database also allows for retrieval and editing of the completed interview guides, thus facilitating the accuracy of information captured.

As you enter the site, you will be presented with a list of all the surveys, ordered by their dates. At the right, near the top, you will find all the buttons to navigate through the list of the interviews. The top line will also show you general links of the project. Then, by clicking on the "Record #" desired, you will be able to see the administrative information about the interview. At the bottom, you will have the possibility to "View" or "Edit" the completed interview guides. (Note: The "View" function is programmed in such a way that an unanswered question is not displayed. Therefore, you will see only those questions that have been actually answered.)

To fill out a new interview guide, please click at the top of the window on "New Interview." You will be prompted to insert the administrative details of the interview. When finished, please click the "Save" button. (For now, there are no compulsory fields, but please enter all fields.) Dates should be inserted as month/day/year. For clarity, please enter the month in the 3-letter form, i.e. Dec/12/2002. After saving, please click on "View Modified Record," when prompted. Now the inserted record will be displayed. If you want to make any changes, please click on "Edit" at the top center. After you have inserted all the administrative data, please click on "Insert New Survey Results" at the bottom left. You can now insert all the survey information. When finished, please press "Save" at the bottom of the page. You can now click on "View Modified Record" to review changes. Now click on the "List Interviews" at the top of the pages to go back to the list of all interviews. You will see the new record inserted, and please click on it to review it.

V. Assistance to National Consultants

If you need assistance, further information or advice in gathering information for the interview guide, please contact:

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*Project RAB/01/006:***TRANSPARENCY AND
ACCOUNTABILITY IN THE PUBLIC
SECTOR IN THE ARAB REGION****Desk Review Questionnaire***Country Name:***I. ORGANIZATION OF GOVERNMENT**

Information for this section can be found in government statistical offices, civil service and other public sector employment commissions, central government management agencies, etc. If exact figures are unavailable, please give estimates and justify them in the "comments" fields.

1. How many ministries and statutory bodies (e.g. departments, agencies, public or mixed enterprises with more than 50% public ownership) are there?
 - a) according to most recent data b) what year?
 - c) source?
 comments:

2. Is there a current government-wide (e.g. for all of government rather than by department) organisation chart or organigramme?
 - a) yes b) no c) if yes: what year?
 (please attach a copy)
 comments:

3. What is the number of the following categories of public sector personnel? What proportion or percentage are contractual?
 - a) civil service:
 - i) number of permanent ii) what year? iii) source?
 - iv) number of contractual v) what year? vi) source?
 - b) teachers:

- i) number of permanent ii) what year? iii) source?
- iv) number of contractual v) what year? vi) source?
- c) health workers:
 - i) number of permanent ii) what year? iii) source?
 - iv) number of contractual v) what year? vi) source?
- d) law enforcement:
 - i) number of permanent i) what year? iii) source?
 - iv) number of contractual v) what year? vi) source?
- e) judiciary:
 - i) number of permanent ii) what year? iii) source?
 - iv) number of contractual v) what year? vi) source?
- f) public and mixed enterprises with more than 50% public ownership:
 - i) number of permanent ii) what year? iii) source?
 - iv) number of contractual v) what year? vi) source?
 comments:

4. What is the total number of females in each category?
 - a) civil service:
 - i) Number of Females ii) what year? iii) source?
 - b) teachers:
 - i) Number of Females ii) what year? iii) source?
 - c) health workers:
 - i) Number of Females ii) what year? iii) source?
 - d) law enforcement:
 - i) Number of Females ii) what year? iii) source?
 - e) judiciary:
 - i) Number of Females ii) what year? iii) source?
 - f) public and mixed enterprises with more than 50% public ownership:
 - i) Number of Females ii) what year? iii) source?
 comments:

**II. PUBLIC SECTOR TRANSPARENCY AND
ACCOUNTABILITY INITIATIVES**

Information for this section may be found in the secretariats to the cabinet or council of ministers, offices of the president or prime minister, communication ministries, and public management experts outside of government.

5. What initiatives on public sector transparency and/or accountability (e.g. studies, public opinion polls, surveys or campaigns) have been carried out within the past 5 years?

Briefly describe the most important in terms of their sponsors, methodology, precipitating events or factors, and findings. Attach any relevant and useful documents.

- a) Study or campaign 1: title, publications
- b) Study or campaign 1: short description
- c) Study or campaign 2: title, publications
- d) Study or campaign 2: short description
- e) Study or campaign 3: title, publications
- f) Study or campaign 3: short description
- g) Study or campaign 4: title, publications
- h) Study or campaign 4: short description
- i) Study or campaign 5: title, publications
- j) Study or campaign 5: short description

III. FINANCIAL MANAGEMENT

Information for this section may be found in the finance ministry or the treasury, public procurement or tendering boards, privatisation agencies, the supreme audit institution, and other public finance or audit experts.

Financial Management Framework

6. Which laws directly pertain to financial management? When were they last modified?
 - a) (please attach a copy of the most recent versions)
 - b) what year?
 comments:
7. What, if any, regulations and/or guidelines accompany the legislation mentioned above? When were they last modified?
 - a) (please attach a copy of the most recent versions)
 - b) what year?
 comments:
8. According to these texts and by practice, who can be held personally responsible for the integrity of financial management (e.g. the executive heads of the finance and line ministries, the chief financial officers of line ministries, programme and project managers, etc.)?
 - a)
 comments:

Budget

9. What activities and funds does the budget for the national government cover?
 - a)
 comments:
10. How are extra-budgetary funds handled (e.g. defined by law, kept to a minimum, controlled by whom, etc.)?
 - a)
 comments:

Revenue

11. What measures are used to increase the transparency and accessibility provisions in the tax statutes and regulations (e.g. adequate notifications, simple tax assessment and payment forms, direct consultations with tax administrators etc.?)
 - a)
 comments:

Payroll

12. Is there a separation of functions in preparing the public payroll (e.g. authorizing personnel changes, preparing the payroll and disbursing the pay)?

a)
comments:

13. How is remuneration handled (e.g. required authorization to work, hours worked – including overtime, wage and commission rates, withholdings such as pension and insurance contributions, and payment itself)?
 - a)
 comments:

Procurement

14. How transparent and accessible are the statutes and regulations pertaining to public procurement?
 - a)
 comments:
15. Do these texts clearly explain exceptions to open competitive bidding?
 - a)
 comments:
16. What proportion of total procurement is subject to open competitive bidding? (Please give latest statistics.)
 - a)
 comments:
17. What is the typical duration of the procurement process from bid advertisement to award (in days)?
 - a) Are there any assessments or evaluations of this process?
 comments:

Privatizations and Service Concessions

18. Within the past five years, which state enterprises or other major assets have been sold? Give details of name of enterprise/asset, objectives of the sale, method of sale, date of sale agreement, name of buyer, amount received/to be received on sale of equity, etc..
 - a)
 comments:
19. Within the past five years, which service concessions or licenses (e.g. to provide roads, ports, electricity, telephone and water) have been awarded to private (or mixed public-private) interests? Give details as outlined in the question above.
 - a)
 comments:
20. How are privatisations, concessions and licenses subject to public reporting (e.g. an independent valuation before evaluation of tenders and/or an independent review by the national audit body)?
 - a)
 comments:

Accounting

21. What role does the finance ministry play in overseeing a government-wide budgeting and accounting classification or coding schemes (excluding public enterprises)?
a)
comments:
22. a) What rules or standards does the overall government-wide accounting system prescribe for each fund or agency?
b) Does it incorporate all donor-financed expenditure into the accounts (including offshore payments and in-kind resources by donors)?
comments:
23. How are key functions separated (e.g. different officers authorize transactions, have custody of cash and other assets, maintain records, and run operations)?
a)
comments:
24. a) How are bank reconciliations carried out (e.g. prepared at least monthly, supervised by an officer other than the cashier, etc.)?
b) Are differences in bank reconciliations from the cash book investigated?
comments:
- 28 bis. a) Are all public accounts (e.g. the president's office, military and security agencies, parastatal bodies, government accounts maintained by the central bank, etc.) subject to audit by the supreme audit institute, a specialized body outside the executive branch of government?
b) Does the supreme audit institute have unrestricted access to accounts and records?
comments:
29. What types of audits are carried out (e.g. compliance audit, systems audit, performance – value for money audit, comprehensive audit, or pre-approval of large contracts, and pre-audit of payments)?
b) Does it plan, supervise and review its audits for quality (e.g. in accordance with appropriate field standards such as those of INTOSAI)?
comments:
30. a) Does the supreme audit institute perform its functions independently of the executive branch of government?
b) Are its audit staff entirely independent of the agencies they audit and their staff?
c) Does it publish audit findings critical of any agency, including the finance ministry, without fear of consequences?
comments:
31. a) Does the supreme audit institute have its reports examined and reported on by a legislative committee (e.g. a Public Accounts Committee, which includes members of the political opposition)?
b) Does it find that the audited agencies and finance ministry follow up on the recommendations of the legislature?
c) Does it impose penalties in cases of irregularity, if it has a judicial function (e.g. Court of Accounts)?
comments:

Internal Audit

25. What is the role of the finance ministry in overseeing internal audit standards throughout its jurisdiction?
a)
comments:
26. a) Is there an internal audit or inspection unit in each public agency of significant size?
b) Is this unit completely separated from line accounting functions?
c) Are the staff specially trained?
comments:
27. a) To whom does this unit directly report irregularities (e.g. to the head of an agency, to the finance ministry representative, etc.)?
b) Is it authorized to undertake special investigations or reviews apart from routine audits or inspections, at the request of the head of the agency?
comments:

External Audit

28. a) How is the independence of the supreme audit institution guaranteed?
b) To whom does this body report?
c) How is the head of this body appointed?
comments:

IV. HUMAN RESOURCES MANAGEMENT

Information for this section may be found in public service ministries and commissions, central agency units in charge of human resources policies, public management training institutes, ethics and anti-corruption units, independent investigating agencies such as the Ombudsman and public prosecution office.

Human Resources Management Framework

33. Which laws directly pertain to human resources management in the public sector? When were they last modified?
a) (please attach a copy of the most recent versions)

b) what year?
comments:

34. What regulations and/or guidelines accompany the legislation mentioned above? When were they last modified?
a) (please attach a copy of the most recent versions)
b) what year?
comments:

35. Have core values been introduced for the civil service and/or other public sector entities (e.g. neutrality, fairness, efficiency, etc. in the constitution, civil service laws, ministerial mission statements, etc.)? If yes, when were they introduced?
a) (please list values by groups to which they apply and state the source and year of introduction)
comments:

36. What tools are used to promote transparency and accountability in service delivery (e.g. service standards, citizens' charters, efficiency units, etc.)?
a) If so, please attach
comments:

Codes of Conduct

37. Are there specific codes of conduct or guidelines in addition to the general codes of conduct for certain occupational groups more at risk of corruption (e.g. the police, employees in revenue collection, officers controlling extra budgetary funds, public procurement officers, legal counsels, recruitment officers, etc.)?
a) If so, please attach
comments:

Conflicts-of-Interest Disclosure

38. a) Is the disclosure of declaration of personal assets, income, financial interests, etc. required in public sector agencies?
b) Do the requirements adequately cover public sector officials (e.g. elected and appointed officials, fixed-term personnel, etc.)?
c) Are the disclosures more stringent for certain occupational groups more at risk of corruption (e.g. the police, employees in revenue collection, officers controlling extra budgetary funds, public procurement officers, legal counsels, recruitment officers, etc.)?
comments:
39. a) How often are disclosures required (e.g. upon induction, annual or biennial, upon changing positions, upon leaving the agency, etc.)?
b) How are they verified?
comments:
40. a) What information is required to be disclosed (e.g. assets and liabilities, loans, sources and levels of

income, outside positions, previous employment, gifts, etc.)?
comments:

Reporting of Wrongdoing

41. a) Is there any official policy on "whistle-blowing" or exposing wrongdoing?
b) Is it required or encouraged on the part of public sector employees?
c) How often do public sector employees report wrongdoing, particularly in case of gross misconduct or corruption?
If there is any documentation on policy and statistics, please provide.
comments:
42. a) What are the procedures for handling complaints?
b) Are supervisors and managers trained on handling "whistle-blowing"?
c) Is the public encouraged to report wrongdoing?
comments:
43. How are those individuals who expose wrongdoing protected or safeguarded?
a)
comments:

V. INFORMATION MANAGEMENT

Information for this section can be found in communication ministries or agencies, any agency responsible for access to information policy or programme, or journalism association or training institutes.

Information Management Framework

44. Which laws directly pertain to information management? When were they last modified?
a) (please attach a copy of the most recent versions)
b) what year?
comments:
45. What regulations and/or guidelines accompany the legislation mentioned above? When were they last modified?
a) (please attach a copy of the most recent versions)
b) what year?
comments:

Access to Information

46. Do these texts allow for and regulate the access of information by the public of government activities and government records on citizens?
comments:
47. a) How is the information on government activities

reported (e.g. through government-sponsored web sites, T.V. stations, radio, press, bookshops, press releases and conferences, etc.)?

b) Are there privately owned and non-government affiliated sources of information? (e.g. legislature, privately-sponsored web sites, T.V. stations, radio, press, bookshops, etc.)?

comments:

Records Management

48. a) How are records in the public sector managed (e.g. up-to-date, easy to retrieve, stored safely, archived, protected from tampering, etc.)?

b) How are they made available to the public (e.g. in government records office, on-line, other etc.)
comments:

Project RAB/01/006:

TRANSPARENCY AND ACCOUNTABILITY IN THE PUBLIC SECTOR IN THE ARAB REGION

Financial Management Survey

Country Name:

Please answer the following from a scale of 1 – 5 where:
1 = always 2 = frequently 3 = sometimes 4 = rarely 5 = never or "Don't Know."

TRANSPARENCY AND ACCOUNTABILITY IN FINANCIAL MANAGEMENT

Information for this section should be available from the finance ministry or the treasury, public procurement or tendering boards, and other public finance or procurement experts.

General Financial Controls

- Are financial controls exercised through:
 - high visibility? 1 2 3 4 5 Don't Know
 - continued emphasis on probity? 1 2 3 4 5 Don't Know
 - good example set by senior officers? 1 2 3 4 5 Don't Know
 - supervision over the opening and operation of

- all bank accounts? 1 2 3 4 5 Don't Know
 - systematic training of financial officers on their accountability? 1 2 3 4 5 Don't Know
 - rotation or transfer of financial officers? 1 2 3 4 5 Don't Know
 - other means (please specify)? 1 2 3 4 5 Don't Know
- comments on any of the above:

Budgets

- Are overall government budgets followed:
 - generally observing rules? (e.g. on supplementary appropriations, transfers, etc.) 1 2 3 4 5 Don't Know
 - by documenting yearly the actual revenues and expenditures (after authorized revisions) at each level of responsibility? 1 2 3 4 5 Don't Know
 - based on commitment accounting to ensure expenditures do not exceed budgets? 1 2 3 4 5 Don't Know
- comments on any of the above:

Revenue

- Is revenue collection based on:
 - impartially implemented tax laws? (e.g. without political interference, ethnic bias, kinship etc.) 1 2 3 4 5 Don't Know
 - recourse to effective appeals procedures? (e.g. adjudicated fairly and without delay) 1 2 3 4 5 Don't Know
 - a separation of key functions? (e.g. assessment, collection and accounting) 1 2 3 4 5 Don't Know
 - a regular independent reconciliation of revenue cash books with bank statements? 1 2 3 4 5 Don't Know
 - a follow-up of differences between cash books and bank statements? 1 2 3 4 5 Don't Know
 - up-to-date records of revenue arrears? 1 2 3 4 5 Don't Know
 - regular reporting of revenue arrears to the ministry of finance? 1 2 3 4 5 Don't Know
- comments on any of the above:

Payroll

- Does the payroll require:
 - independent verifications? (e.g. payroll calculations, amounts and reconciliation with the previous period) 1 2 3 4 5 Don't Know
 - a physical identification of all personnel on the payroll? (e.g. by supervisors where payments are made in cash, or by controls over employee

identification numbers in a computerized system)
1 2 3 4 5 Don't Know
comments on any of the above:

Procurement

5. Overall, is procurement based on:
- staff with adequate experience and skills in materials management and procurement?
1 2 3 4 5 Don't Know
 - standardized documents? (e.g. contracts for goods and services and purchase orders for shopping)
1 2 3 4 5 Don't Know
 - contracts awarded by public competitive bidding?
1 2 3 4 5 Don't Know
 - sufficient time allowed to obtain documents, prepare and submit bids?
1 2 3 4 5 Don't Know
 - contracts awarded to the responsive and qualified bidder with the lowest evaluated cost and without further negotiation?
1 2 3 4 5 Don't Know
- comments on any of the above:

6. To assist in the preparation of responsive bids, do instructions to bidders include:
- eligibility requirements?
1 2 3 4 5 Don't Know
 - the basis of bid?
1 2 3 4 5 Don't Know
 - the language and currency of bid?
1 2 3 4 5 Don't Know
 - the source and date of the exchange rate to be used?
1 2 3 4 5 Don't Know
 - the deadline and place for the receipt of bids and the opening of bids?
1 2 3 4 5 Don't Know
 - the evaluation criteria?
1 2 3 4 5 Don't Know
- comments on any of the above:

7. Do procuring agencies keep:
- public advertisements?
1 2 3 4 5 Don't Know
 - pre-qualification documents?
1 2 3 4 5 Don't Know
 - evaluation reports (if used)?
1 2 3 4 5 Don't Know
 - bidding documents and addenda?
1 2 3 4 5 Don't Know
 - record of any pre-bid meetings?
1 2 3 4 5 Don't Know
 - the bid opening minutes?
1 2 3 4 5 Don't Know
 - the final bid evaluation report?
1 2 3 4 5 Don't Know
 - copies of bids, appeals, signed final contracts?
1 2 3 4 5 Don't Know
 - performance securities issued?
1 2 3 4 5 Don't Know
 - any other communications to and from bidders?
1 2 3 4 5 Don't Know
- comments on any of the above:

8. Are bids:
- kept unopened until the official opening?
1 2 3 4 5 Don't Know
 - opened immediately after the deadline?
1 2 3 4 5 Don't Know
 - opened in the attendance of representatives?
1 2 3 4 5 Don't Know
 - read aloud?
1 2 3 4 5 Don't Know
 - recorded at the time?
1 2 3 4 5 Don't Know
 - rejected if late?
1 2 3 4 5 Don't Know
- comments on any of the above:

9. Are the evaluation of bids:
- based solely on the criteria stated in the documents?
1 2 3 4 5 Don't Know
 - normally completed within the original bid validity period?
1 2 3 4 5 Don't Know
 - documented in reports containing a clear description of the evaluation process (e.g. the reasons for rejecting any bid as 'non-responsive', how the evaluation criteria were applied, and how the successful bidder's qualifications were verified)?
1 2 3 4 5 Don't Know
- comments on any of the above:

10. Once a contract has been awarded, is there monitoring to:
- oversee the delivery of goods and services?
1 2 3 4 5 Don't Know
 - verify quantity, quality and timeliness?
1 2 3 4 5 Don't Know
 - supervise the work by independent engineers?
1 2 3 4 5 Don't Know
 - ensure completion of work on schedule and within the originally approved contract price?
1 2 3 4 5 Don't Know
 - handle disputes in accordance with contract conditions?
1 2 3 4 5 Don't Know
- comments on any of the above:

11. Is there proper maintenance of:
- change and variation orders?
1 2 3 4 5 Don't Know
 - invoices and payments?
1 2 3 4 5 Don't Know
 - progress reports?
1 2 3 4 5 Don't Know
 - certificates of inspection?
1 2 3 4 5 Don't Know
 - acceptance and completion?
1 2 3 4 5 Don't Know
 - records of claims and disputes and their outcome?
1 2 3 4 5 Don't Know
- comments on any of the above:

Payments

12. Before payments are made, is there a check that:
- the service specified has been satisfactorily

- delivered? 1 2 3 4 5 Don't Know
 - prices charged either accord with approved scales or are fair? 1 2 3 4 5 Don't Know
 - proper authority has been obtained for the expenditure? 1 2 3 4 5 Don't Know
 - computations and costings have been verified and are arithmetically correct? 1 2 3 4 5 Don't Know
 - the person named in the instrument is entitled to receive payment? 1 2 3 4 5 Don't Know
 - stores purchased have been correctly received and put to use or taken on charge? 1 2 3 4 5 Don't Know
 - total payments for the year to date are within the total authority to incur expenditure? 1 2 3 4 5 Don't Know
 - made within a reasonable time from receipt of the claim? 1 2 3 4 5 Don't Know
- comments on any of the above:

13. Is overspending:

- prevented (e.g. by central controls)? 1 2 3 4 5 Don't Know
 - promptly detected? 1 2 3 4 5 Don't Know
 - penalized? 1 2 3 4 5 Don't Know
- comments on any of the above:

PROJECTRAB/01/006:

TRANSPARENCY AND ACCOUNTABILITY IN THE PUBLIC SECTOR IN THE ARAB REGION

Human Resources Management Survey

Country Name:

Please answer the following from a scale of 1 – 5 where:
1 = always 2 = frequently 3 = sometimes 4 = rarely
5 = never or "Don't Know".

TRANSPARENCY AND ACCOUNTABILITY IN HUMAN RESOURCES MANAGEMENT

Information for this section may be found in public service ministries or commissions, central agency units that deal with human resources policies, public management training institutes, and ethics and anti-corruption units.

Human Resources Management Framework

1. Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service:
 - communicated in writing to public sector employees? (e.g. pamphlets, employment contracts, etc.) 1 2 3 4 5 Don't Know
 - included in induction training courses for the public service and/or at the agency level? 1 2 3 4 5 Don't Know
 - included in ongoing communications to public sector employees? (e.g. through speeches, ongoing training courses, etc.) 1 2 3 4 5 Don't Know
 - demonstrated by senior public sector leaders? 1 2 3 4 5 Don't Know
 - known by public sector employees? 1 2 3 4 5 Don't Know
 - known by the public? 1 2 3 4 5 Don't Know

comments on any of the above:

Codes of Conduct

2. Are the following standards covered by codes of conduct followed by public sector employees?
 - receiving gifts and benefits such as fees, payments, entertainment 1 2 3 4 5 Don't Know
 - unauthorized use of official property/facilities 1 2 3 4 5 Don't Know
 - work outside the public service 1 2 3 4 5 Don't Know
 - use of official information 1 2 3 4 5 Don't Know
 - involvement in political work 1 2 3 4 5 Don't Know
 - restrictions on post-employment 1 2 3 4 5 Don't Know
 - use of official travel 1 2 3 4 5 Don't Know
 - special conditions/permissions on movement to the for-profit sector 1 2 3 4 5 Don't Know
 - employment and/or supervision of family members and relatives 1 2 3 4 5 Don't Know
 - other (please specify) 1 2 3 4 5 Don't Know

comments on any of the above:

Legal Restrictions on Criminal Conduct

3. To what extent are public sector employees charged with and/or convicted of:
 - extortion? 1 2 3 4 5 Don't Know
 - active corruption (offering)? 1 2 3 4 5 Don't Know
 - passive corruption (accepting)? 1 2 3 4 5 Don't Know
 - direct corruption (immediately, without intermediary)? 1 2 3 4 5 Don't Know

- indirect corruption (using intermediary)?
1 2 3 4 5 Don't Know
- attempted corruption (intended)?
1 2 3 4 5 Don't Know
- bias in official decision-making?
1 2 3 4 5 Don't Know
- abuse of public office or public trust?
1 2 3 4 5 Don't Know
- abuse of privileged state information by public officials?
1 2 3 4 5 Don't Know
- other offense, please specify? _____
1 2 3 4 5 Don't Know

comments on any of the above:

Selection Process

4. Does the human resources selection process:
- provide adequate rules/guidelines/policies for recruitment and promotion procedures?
1 2 3 4 5 Don't Know
 - engage in publishing the recruitment rules/ guidelines / policies?
1 2 3 4 5 Don't Know
 - engage in publicising vacant positions?
1 2 3 4 5 Don't Know
 - base recruitment and promotion on merit?
1 2 3 4 5 Don't Know
 - include integrity as a criterion in the selection process
1 2 3 4 5 Don't Know
 - include integrity as part of performance appraisal?
1 2 3 4 5 Don't Know
 - protect against political interference?
1 2 3 4 5 Don't Know

comments on any of the above:

Investigation

5. Are investigations:
- handled promptly and consistently by the ministries or agencies that have received a complaint or wrongdoing or misconduct?
1 2 3 4 5 Don't Know
 - followed by appropriate action by the head of the agency?
1 2 3 4 5 Don't Know
 - carried out by independent investigating agencies? (e.g. where the independence is guaranteed by the terms of appointment for staff, reporting obligations, budgeting, etc.)
1 2 3 4 5 Don't Know
 - carried out promptly and fairly by the police, in case of criminal conduct?
1 2 3 4 5 Don't Know
 - carried out with sufficient resources? (e.g. budget, competent personnel, adequate equipment, etc.)
1 2 3 4 5 Don't Know
 - followed by successful prosecution, in case of criminal conduct?
1 2 3 4 5 Don't Know
 - documented and statistics analyzed for future work?
1 2 3 4 5 Don't Know

comments on any of the above:

Disciplinary Procedures

6. Is disciplinary action:
- based on set procedures?
1 2 3 4 5 Don't Know
 - based on training given on implementing these procedures?
1 2 3 4 5 Don't Know
 - consistently taken in case of a breach of code of conduct or legal restrictions for criminal conduct?
1 2 3 4 5 Don't Know
 - checked by available administrative and legal redress, where needed?
1 2 3 4 5 Don't Know
 - coordinated in terms of administrative, civil and criminal jurisdictions?
1 2 3 4 5 Don't Know

comments on any of the above:

Project RAB/01/006:

TRANSPARENCY AND ACCOUNTABILITY IN THE PUBLIC SECTOR IN THE ARAB REGION

Information Management Survey

Please answer the following from a scale of 1 – 5 where:
1 = always 2 = frequently 3 = sometimes
4 = rarely 5 = never or "Don't Know".

TRANSPARENCY AND ACCOUNTABILITY IN INFORMATION MANAGEMENT

Information for this section can be found in communication ministries or agencies, any agency responsible for access to information policy or programme, journalism association or training institutes and appropriate NGOs.

Access to Information

1. Is information from the citizens solicited by government:
- through policy consultations (e.g. conferences, townhalls, surveys, opinion polls, etc.)
1 2 3 4 5 Don't Know
 - through feedback on service delivery (e.g. client satisfaction surveys, consumer focus groups, etc.)
1 2 3 4 5 Don't Know
 - through advisory groups on government programmes and activities?
1 2 3 4 5 Don't Know

- through using new information and communication technologies? (e.g. introducing e-government measures, utilizing the internet for reaching citizens, etc.) 1 2 3 4 5 Don't Know
- comments on any of the above:

2. Do citizens have reasonable access to:
- information on government activities? 1 2 3 4 5 Don't Know
 - the records on individuals that public sector entities keep on them? 1 2 3 4 5 Don't Know
 - information and records in a timely manner? 1 2 3 4 5 Don't Know

comments on any of the above:

Investigative Journalism

3. Is investigative journalism:
- protected through freedom of the press? 1 2 3 4 5 Don't Know
 - involved in exposing incidents of scandals and misconduct in government? 1 2 3 4 5 Don't Know
 - encouraged and made more professional through training? 1 2 3 4 5 Don't Know
 - held responsible through a professional code of conduct? 1 2 3 4 5 Don't Know
 - based on the support of the society at large? 1 2 3 4 5 Don't Know

comments on any of the above:

Non-Governmental Organisations

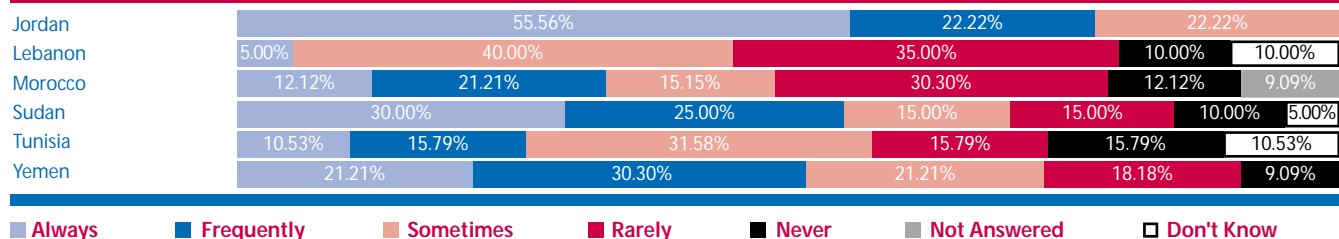
4. Do civil society organisations or institutions (e.g. religious institutions, non-governmental organizations such as Transparency International, professional organizations, etc.):
- have freedom of association? 1 2 3 4 5 Don't Know
 - carry out civic education programmes or activities? (e.g. on citizens' rights and responsibilities, democracy, public interest, transparency and accountability of governments, etc.) 1 2 3 4 5 Don't Know
 - play a watchdog role on government decisions and activities? 1 2 3 4 5 Don't Know

comments on any of the above:

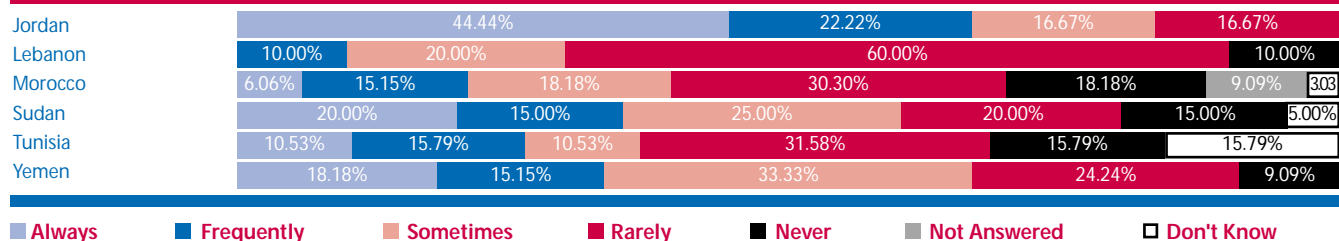
Annex 3: Financial Management Survey

1 General Financial Controls

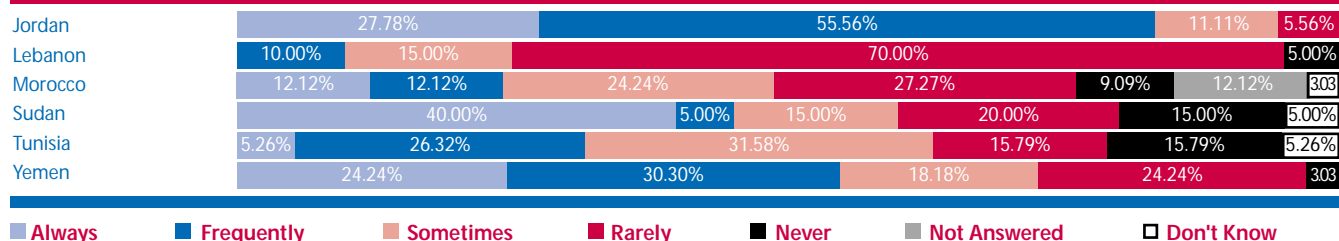
Are financial controls exercised through: continued emphasis on probity?



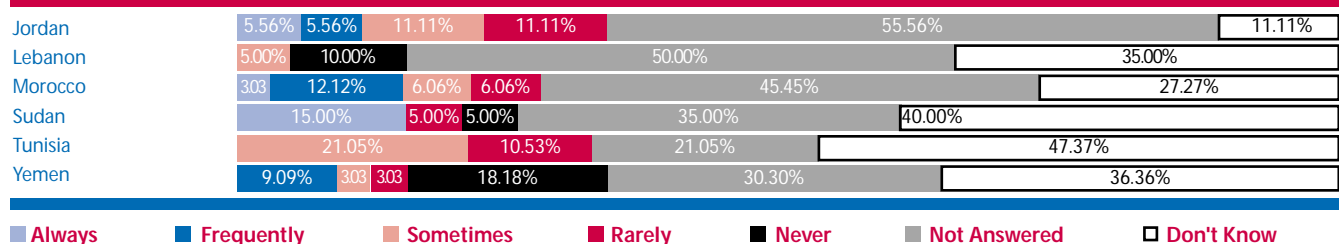
Are financial controls exercised through: good example set by senior officers?



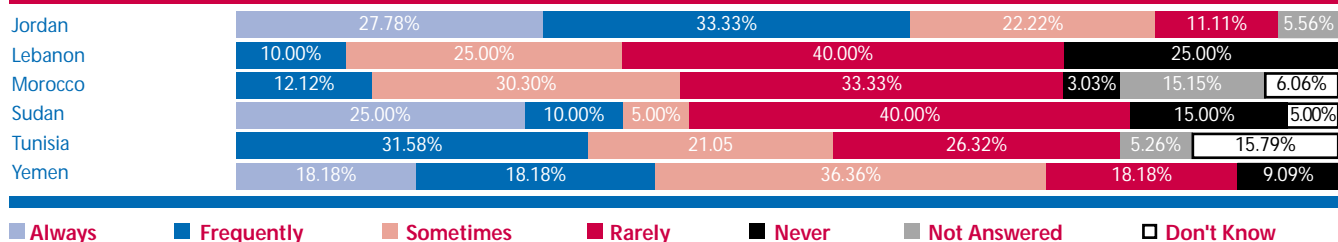
Are financial controls exercised through: high visibility?



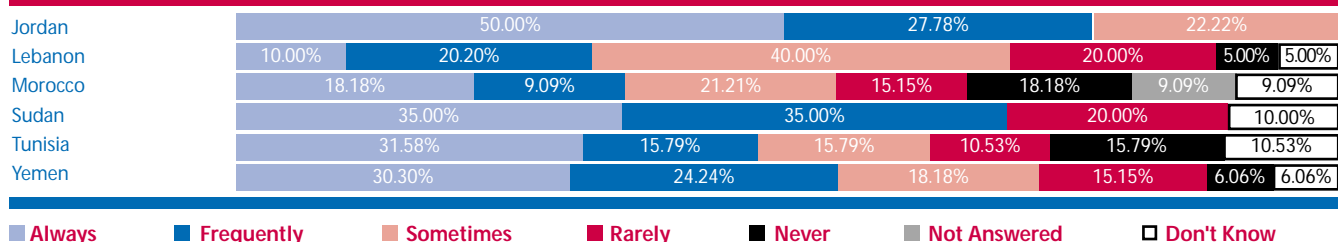
Are financial controls exercised through: other means (please specify)?



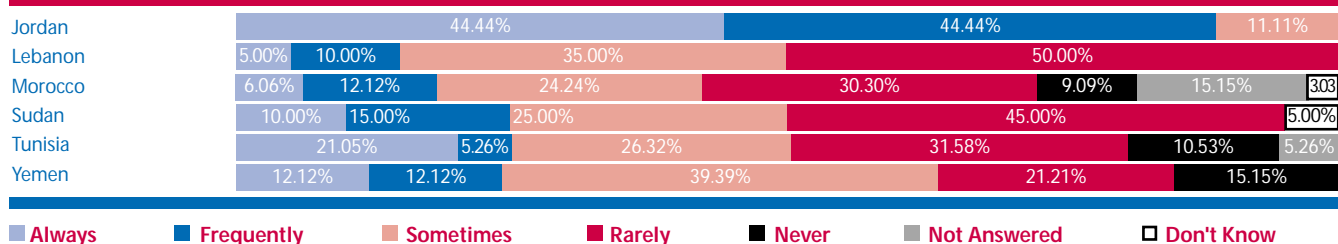
Are financial controls exercised through: rotation or transfer of financial officers?



Are financial controls exercised through: supervision over the opening and operation of all bank accounts?

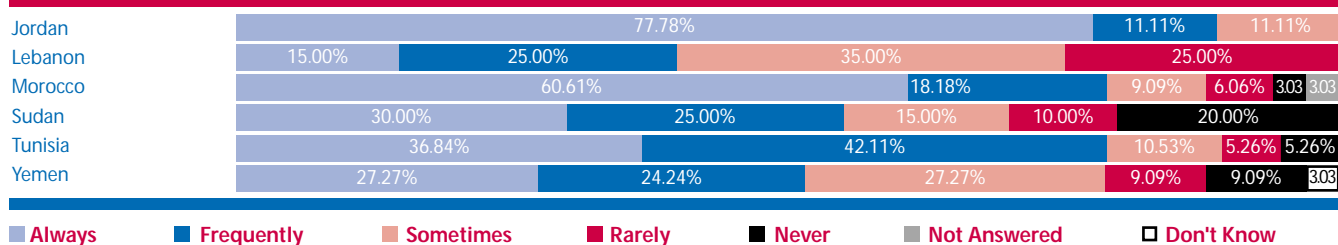


Are financial controls exercised through: systematic training of financial officers on their accountability?

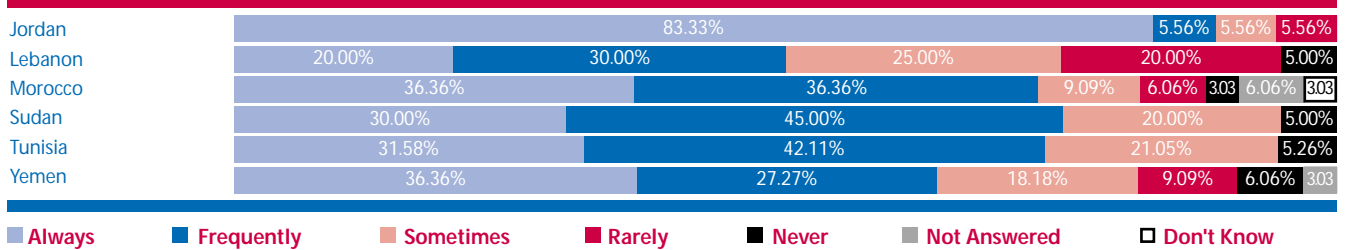


2 Budgets

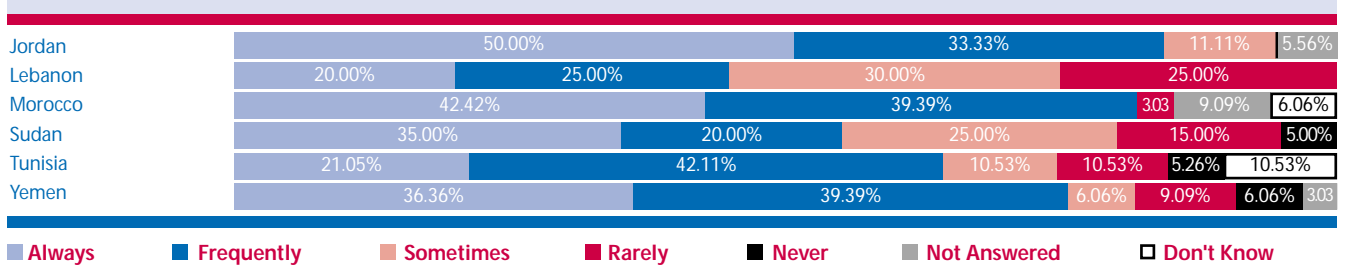
Are overall government budgets followed: based on commitment accounting to ensure expenditures do not exceed budgets?



Are overall government budgets followed: by documenting yearly the actual revenues and expenditures (after authorized revisions) at each level of responsibility?

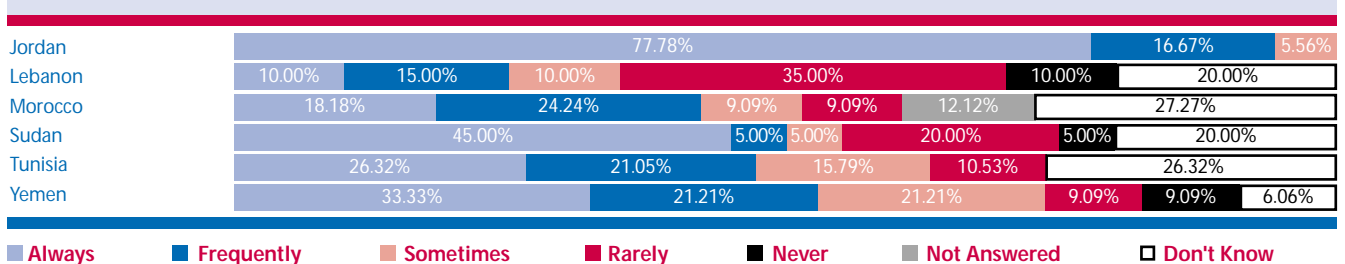


Are overall government budgets followed: generally observing rules? (e.g. on supplementary appropriations, transfers, virements, etc.)

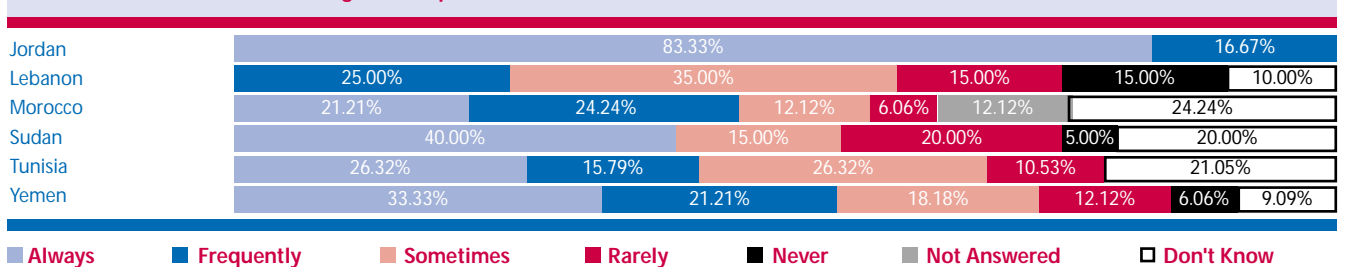


3 Revenue

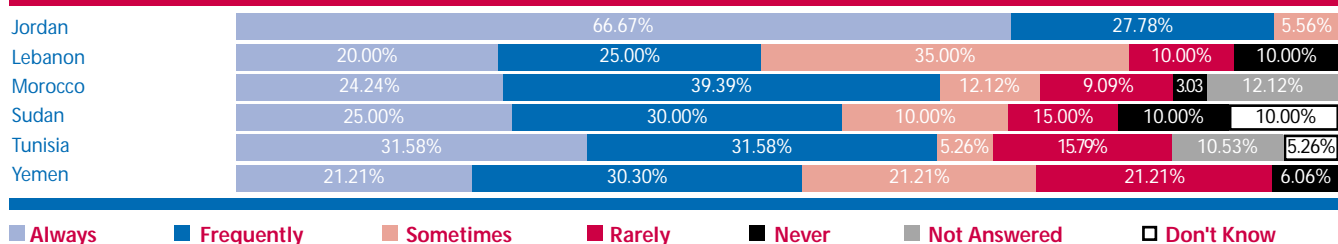
Is revenue collection based on: a follow-up of differences between cash books and bank statements?



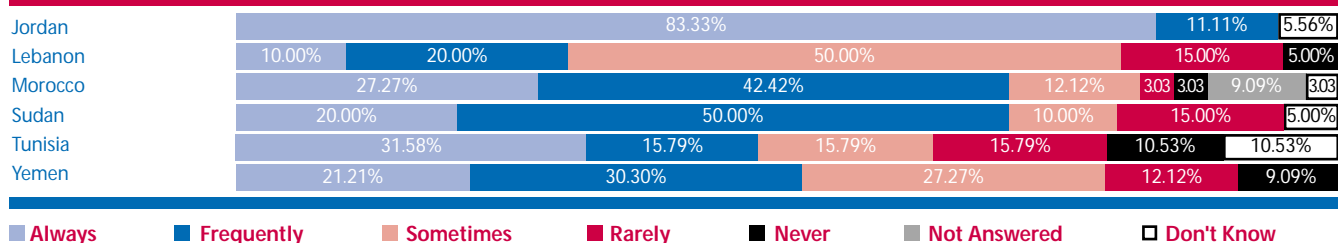
Is revenue collection based on: a regular independent reconciliation of revenue cash books with bank statements?



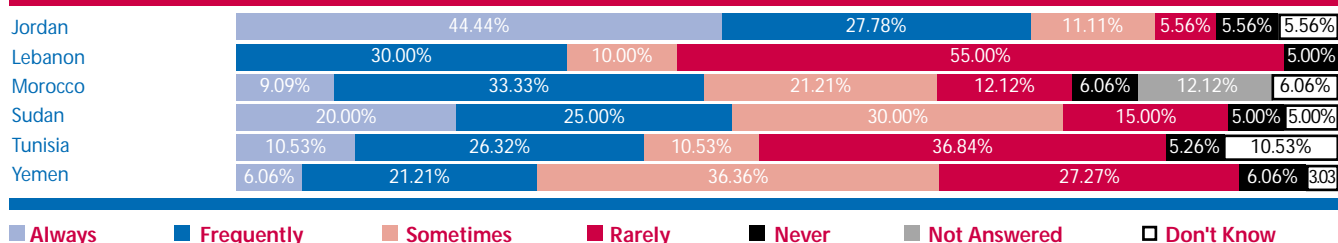
Is revenue collection based on: a separation of key functions (e.g. assessment, collection and accounting)?



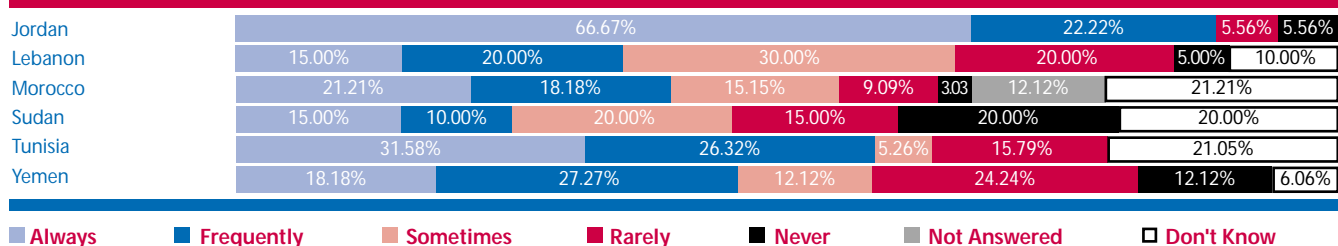
Is revenue collection based on: impartially implemented tax laws (e.g. without political interference, ethnic bias, kinship etc.)?

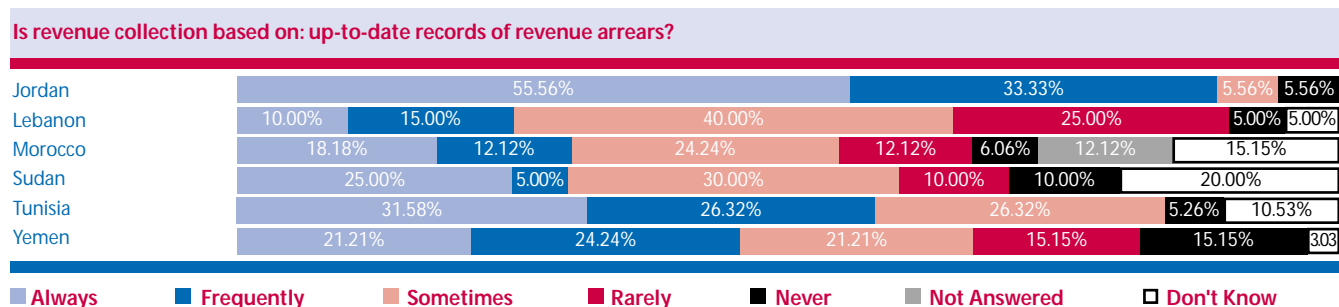


Is revenue collection based on: recourse to effective appeals procedures (e.g. adjudicated fairly and without delay)?



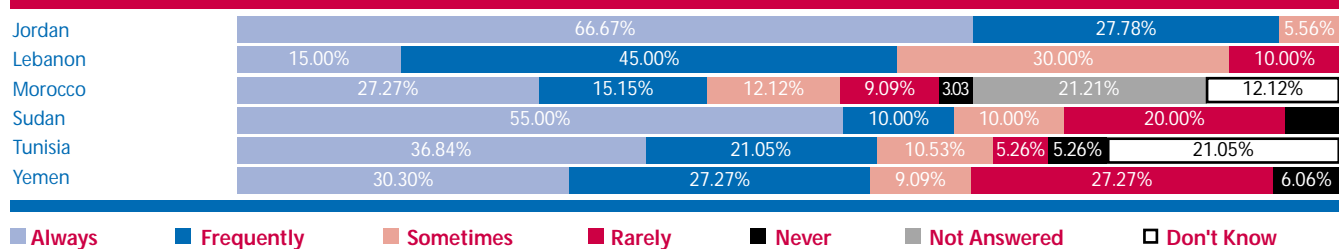
Is revenue collection based on: regular reporting of revenue arrears to the ministry of finance?



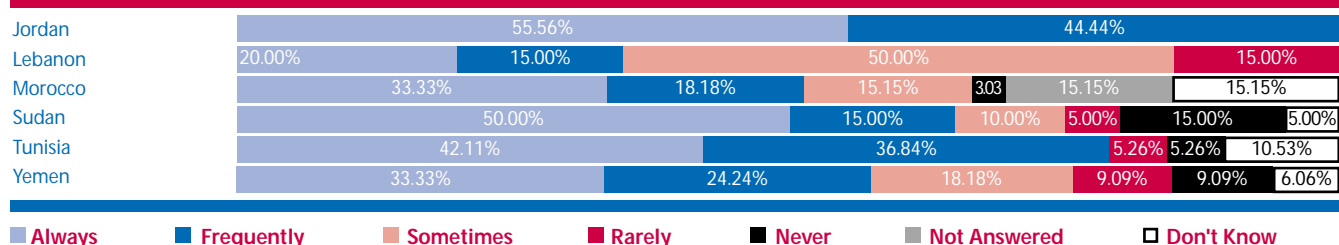


4 Payroll

Does the payroll require: a physical identification of all personnel on the payroll? (e.g. by supervisors where payments are made in cash, or by controls over employee identification numbers in a computerized cheque system)

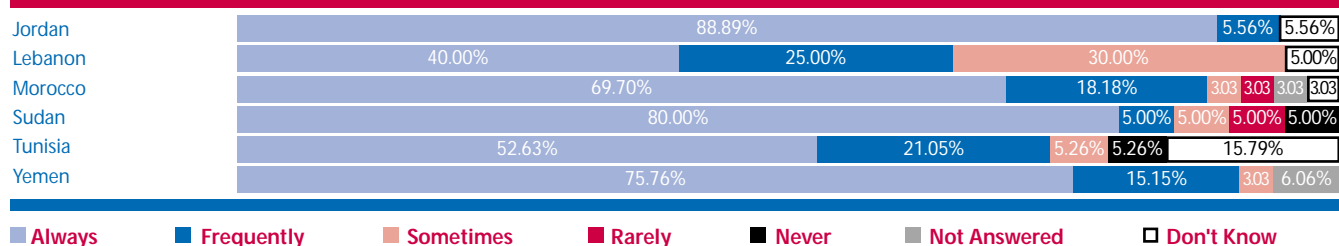


Does the payroll require: independent verifications? (e.g. payroll calculations, amounts and reconciliation with the previous period)

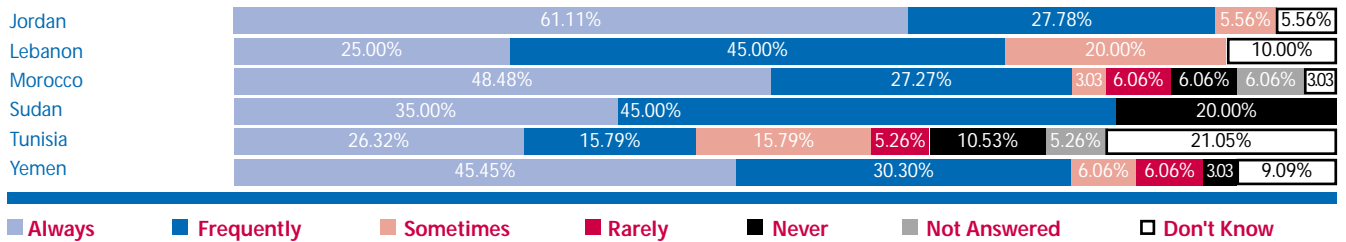


5 Procurement

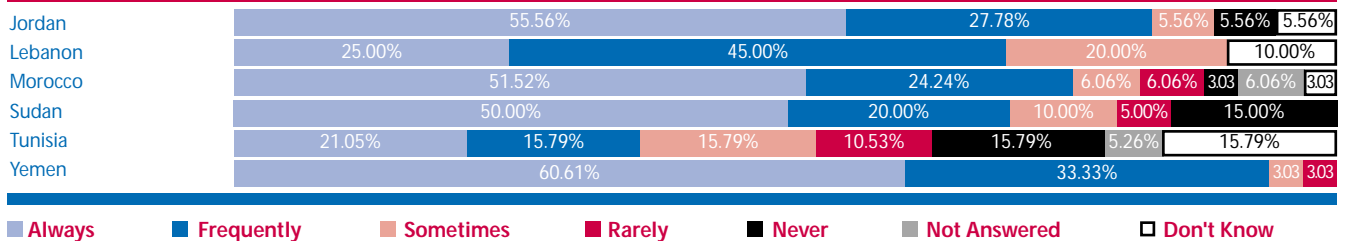
Are bids: kept unopened until the official opening?



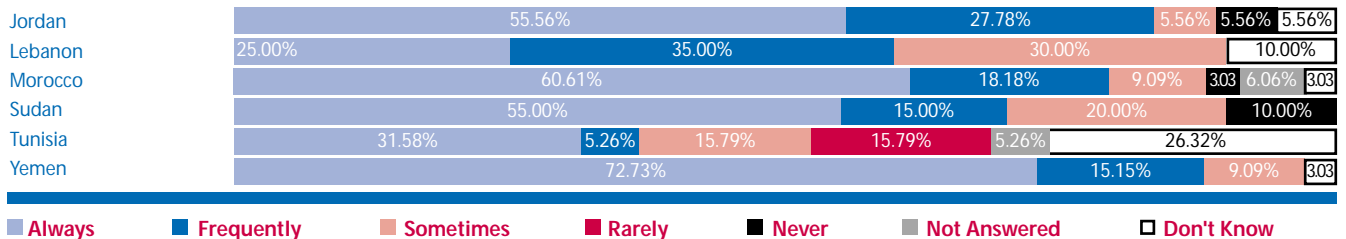
Are bids: opened immediately after the deadline?



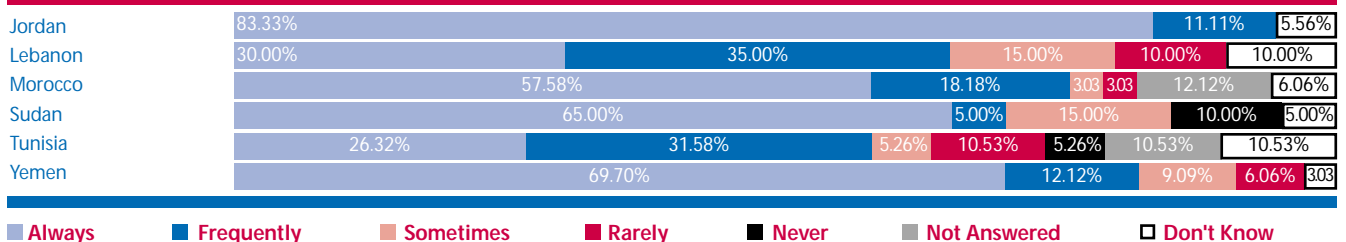
Are bids: opened in the attendance of representatives?

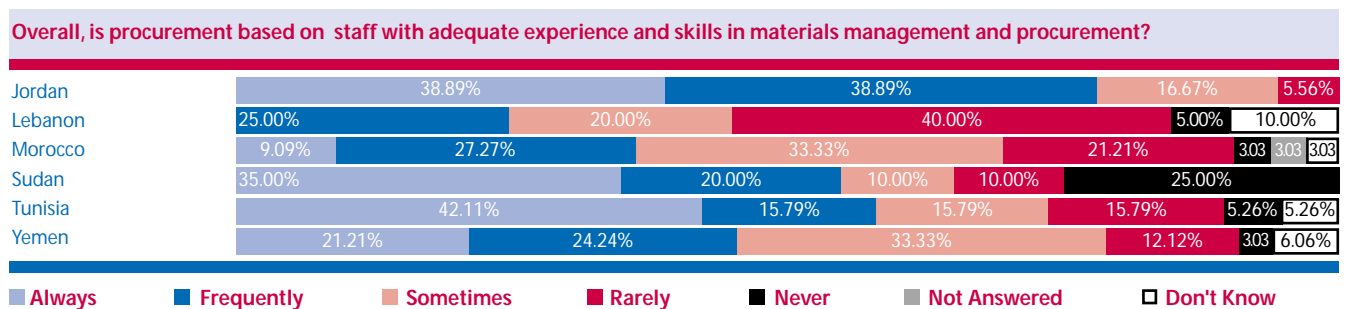
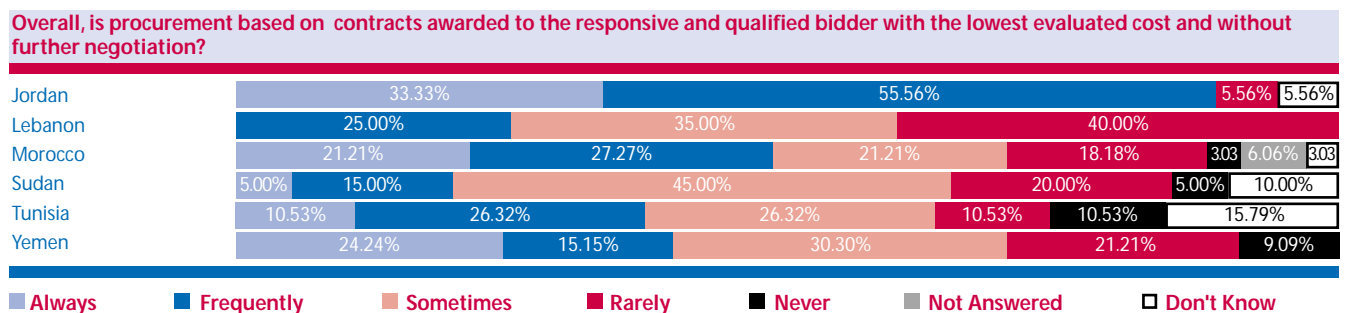
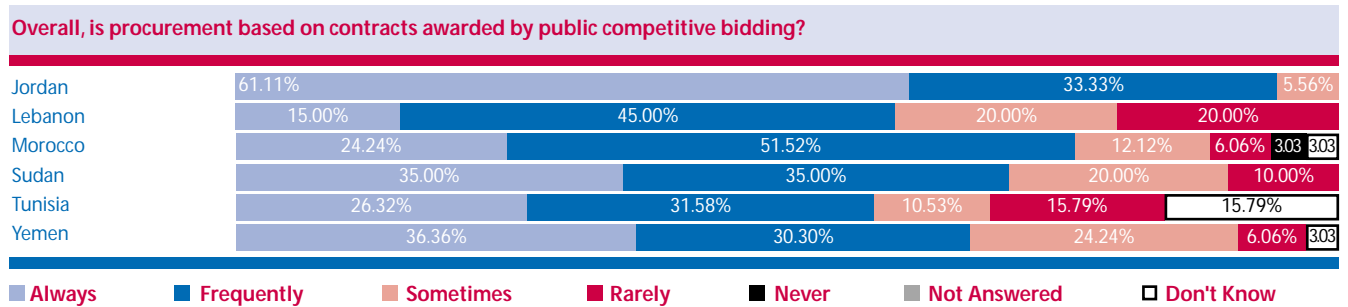
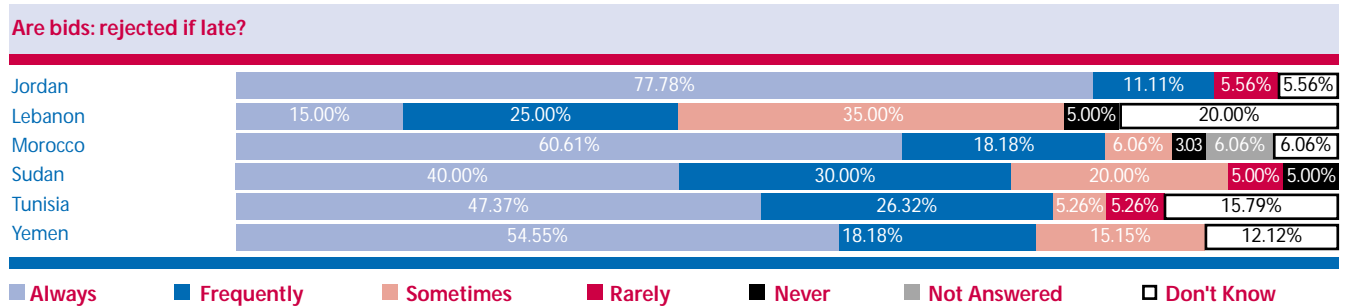


Are bids: read aloud?

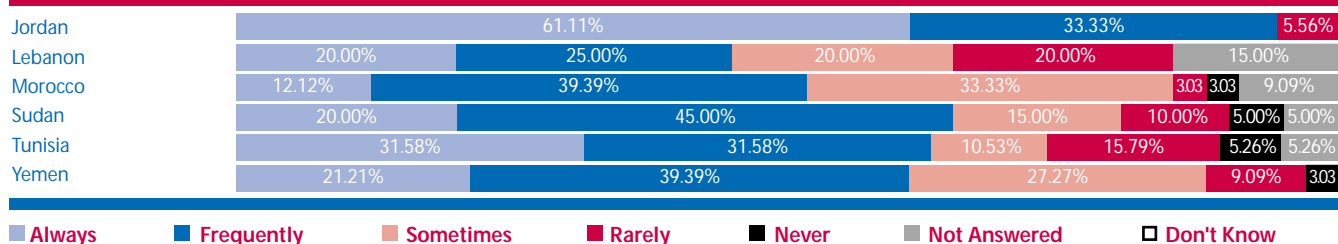


Are bids: recorded at the time?

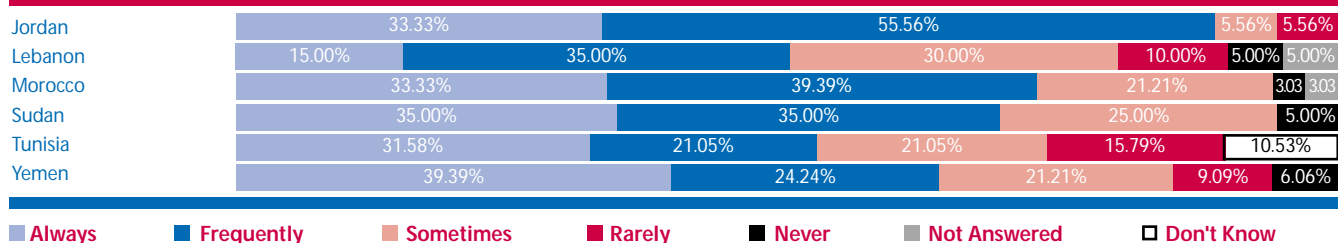




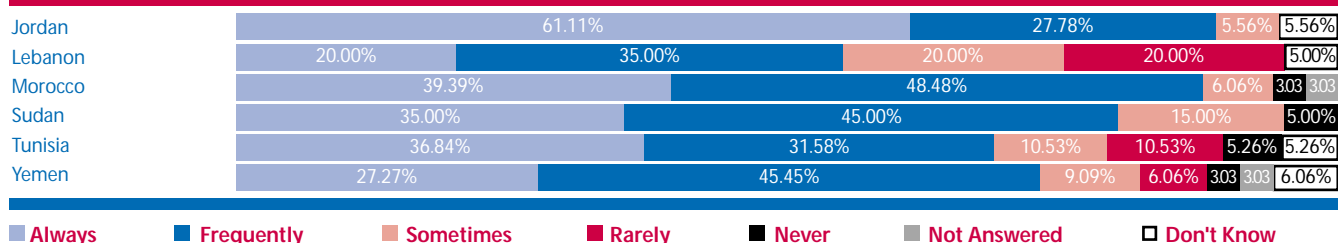
Overall, is procurement based on: standardized documents? (e.g. contracts for goods and services and purchase orders for shopping)



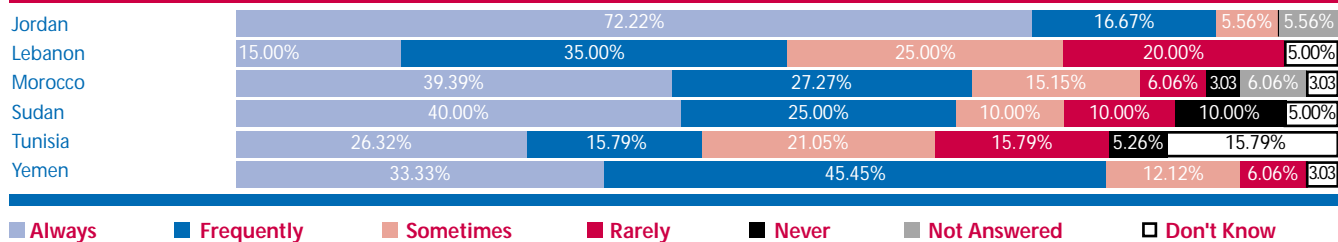
Overall, is procurement based on: sufficient time allowed to obtain documents, prepare and submit bids?

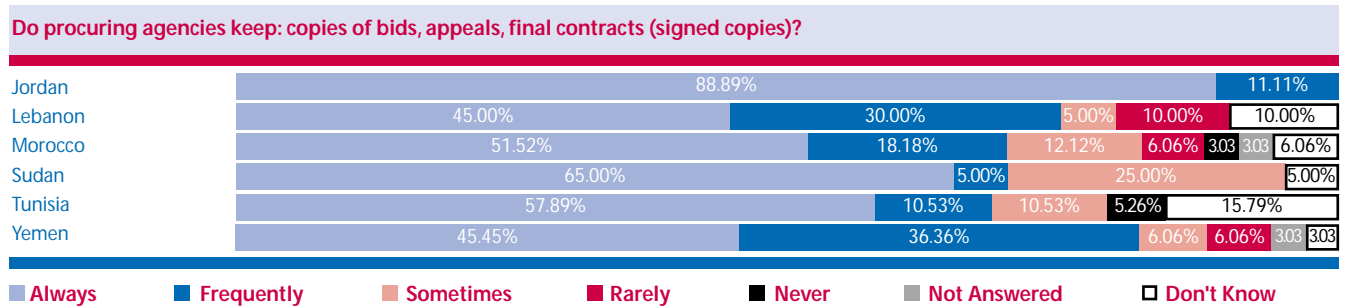
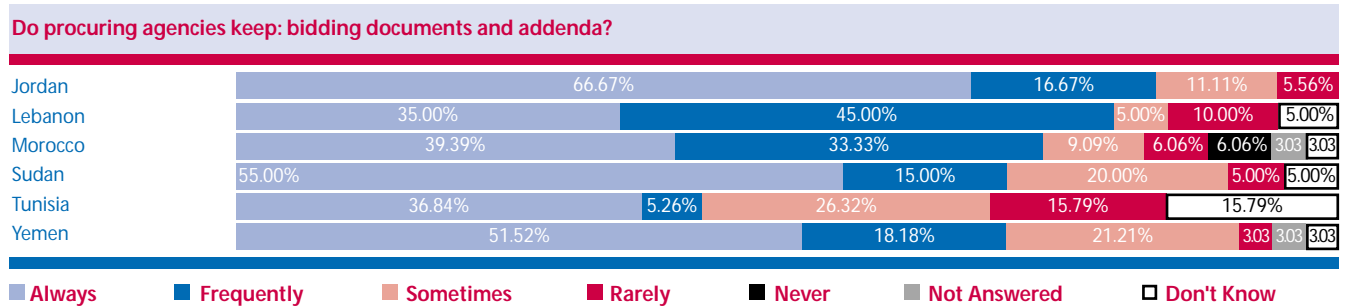
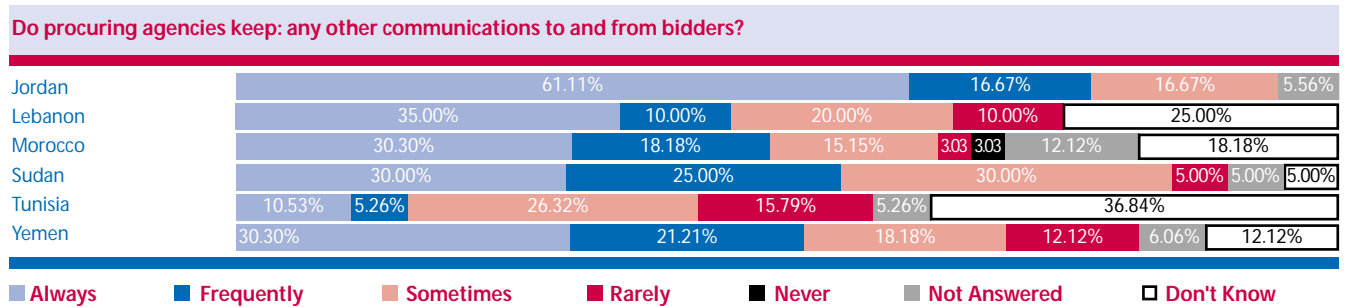
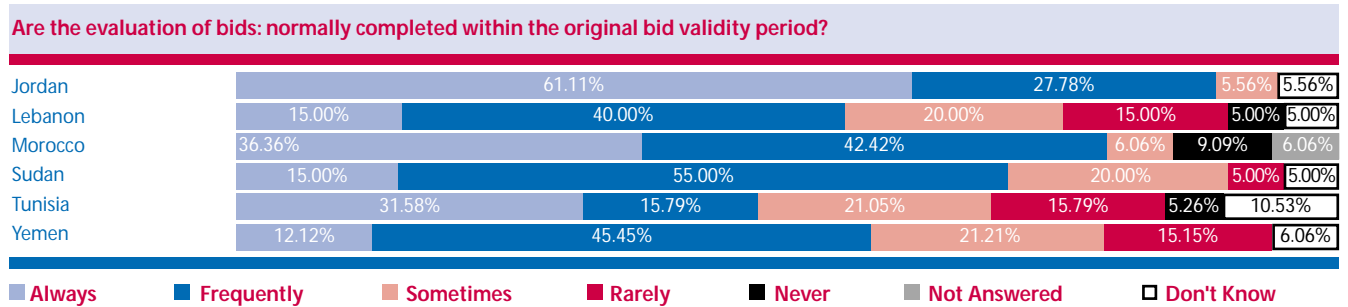


Are the evaluation of bids: based solely on the criteria stated in the documents?

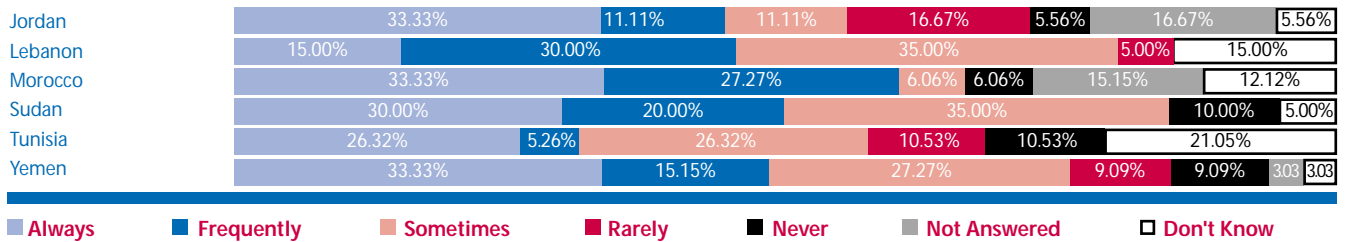


Are the evaluation of bids: documented in reports containing a clear description of the evaluation process? (e.g. the reasons for rejecting any bid as 'non-responsive', how the evaluation criteria were applied, and how the successful bidder's qualifications were verified)

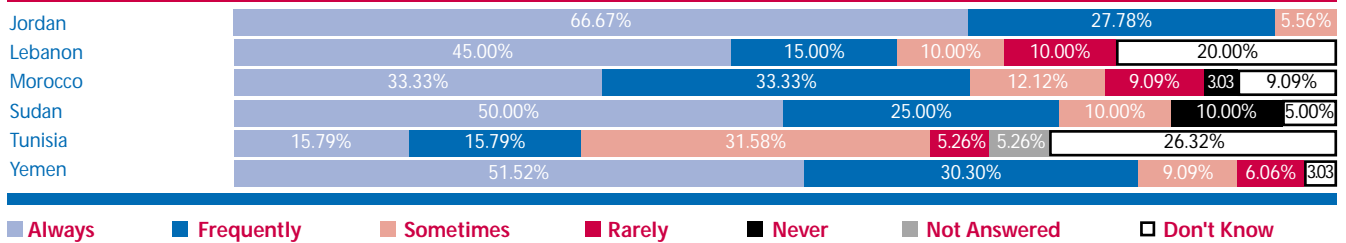




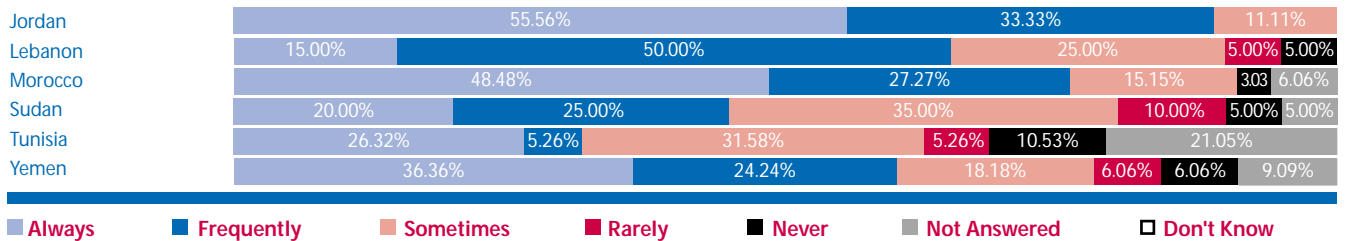
Do procuring agencies keep: evaluation reports (if used)?



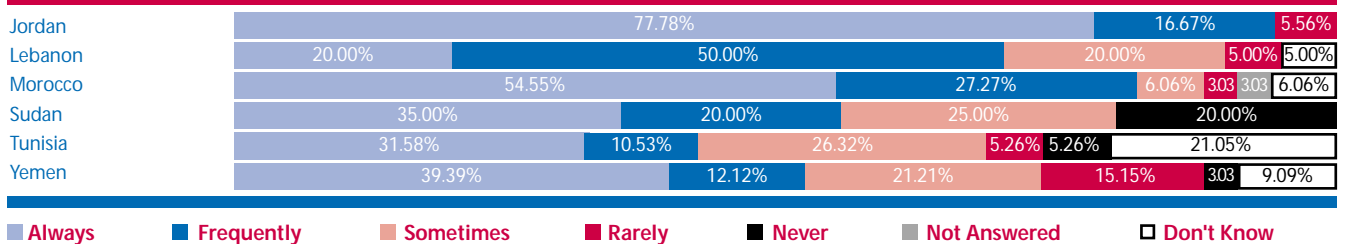
Do procuring agencies keep: performance securities issued?

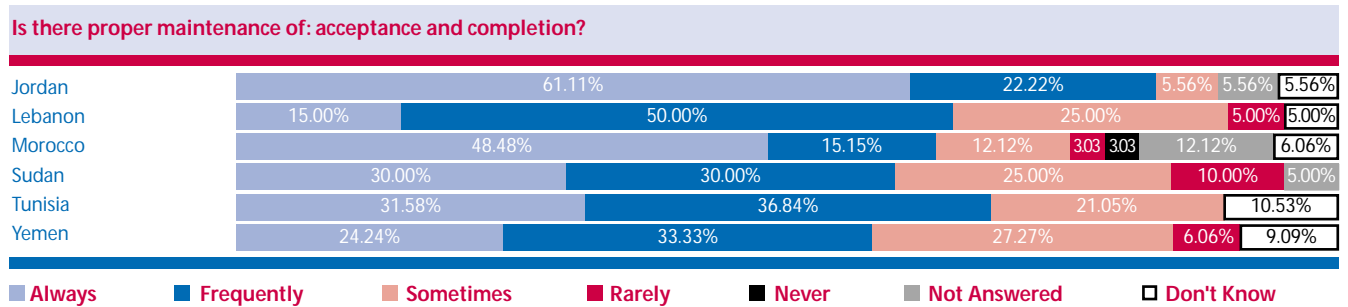
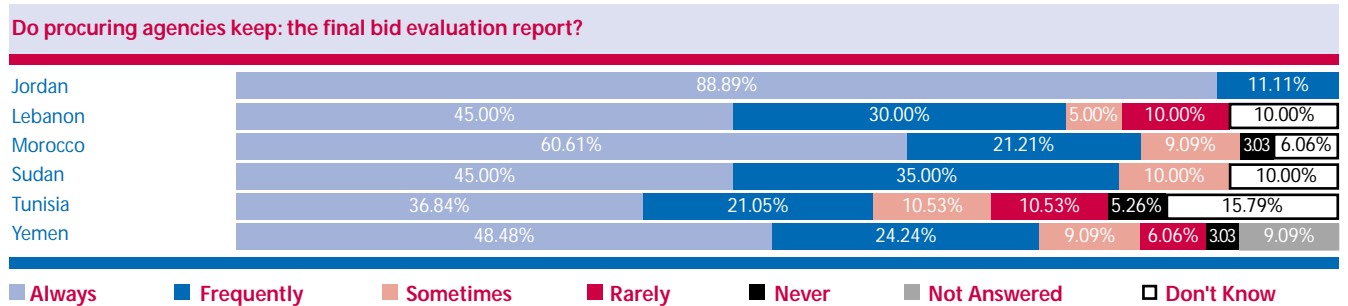
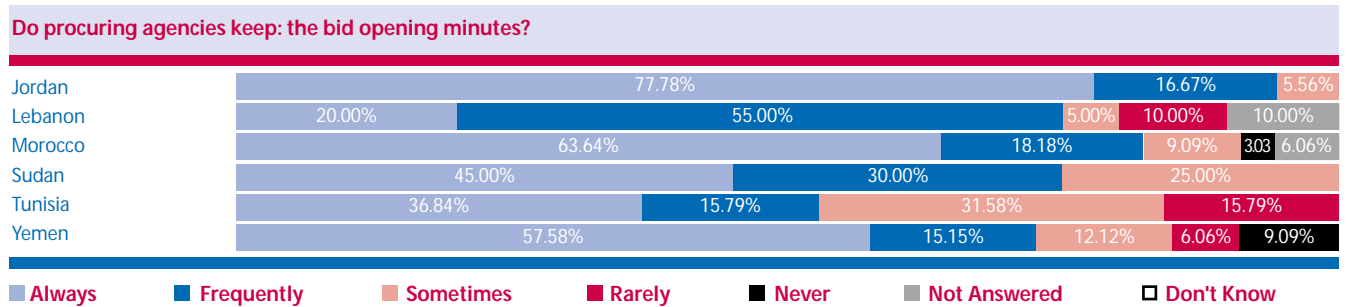
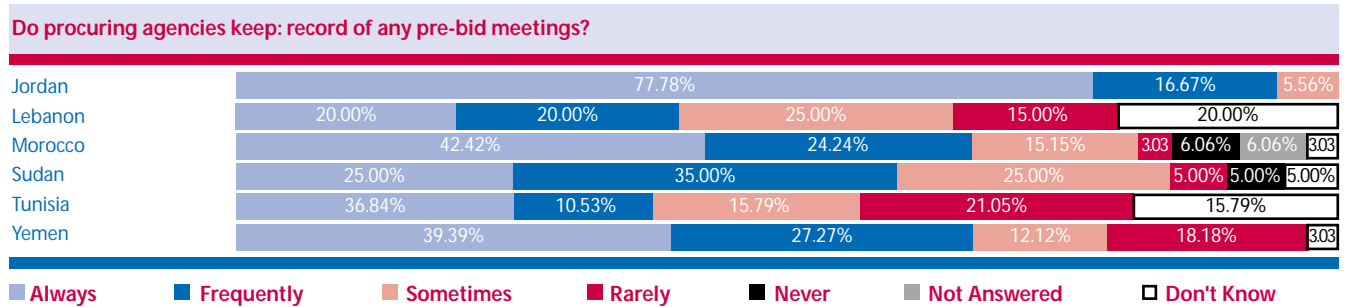


Do procuring agencies keep: pre-qualification documents?

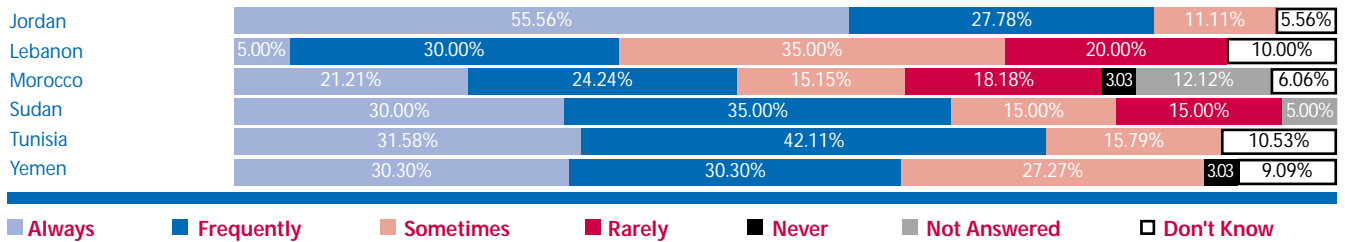


Do procuring agencies keep: public advertisements?

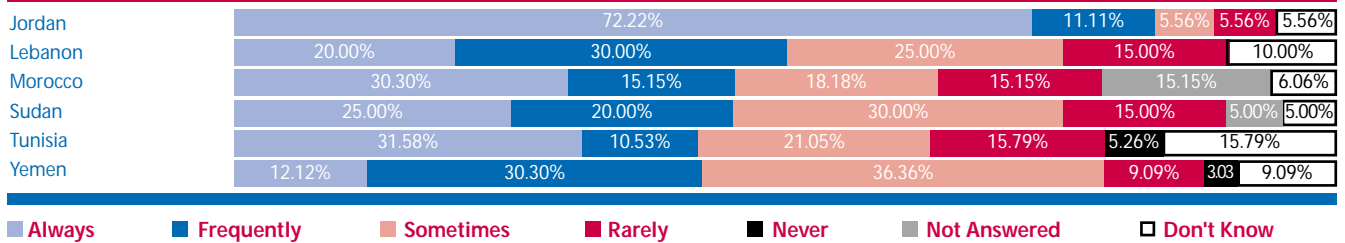




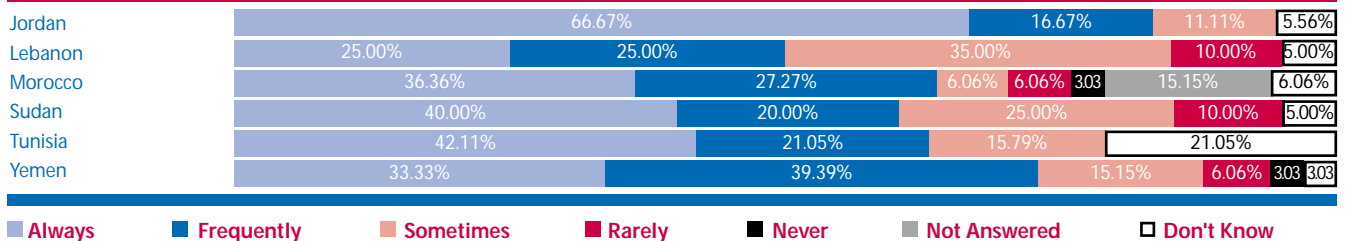
Is there proper maintenance of: certificates of inspection?



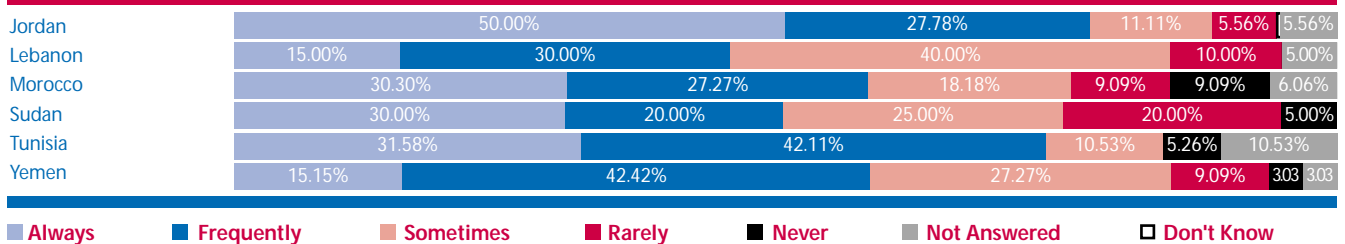
Is there proper maintenance of: change and variation orders?

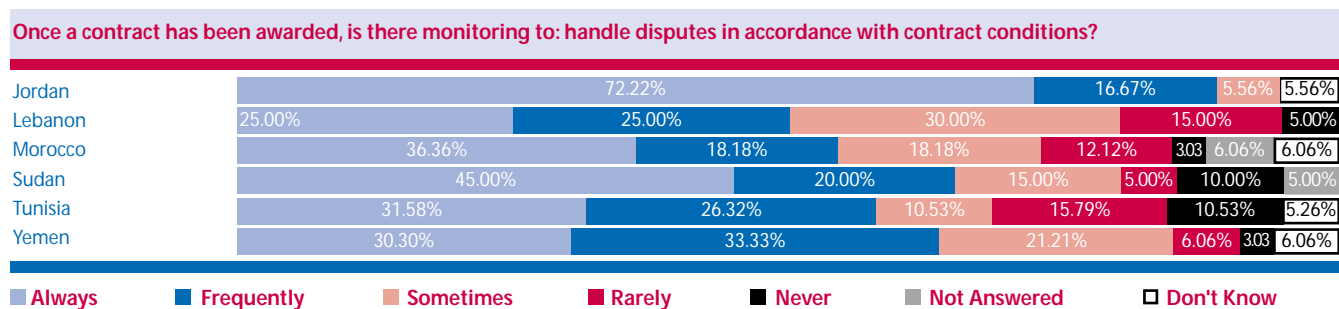
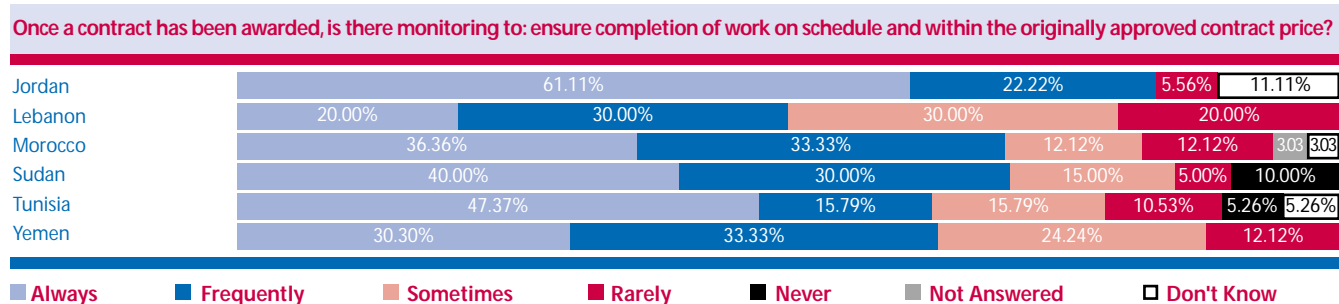
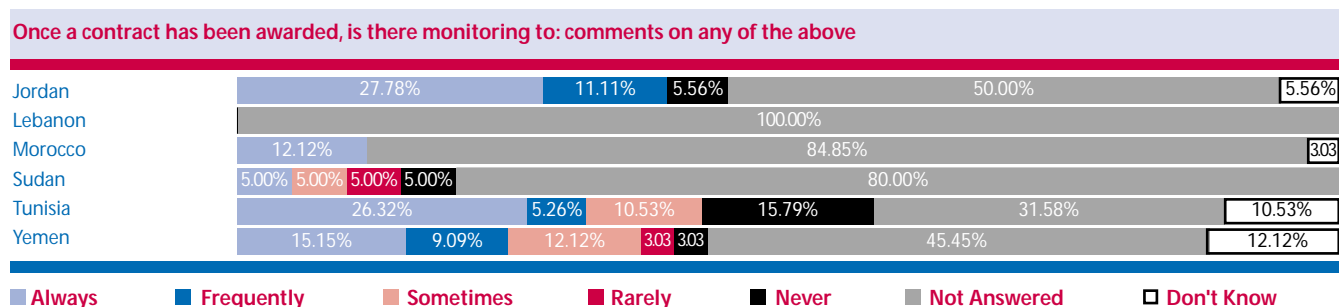
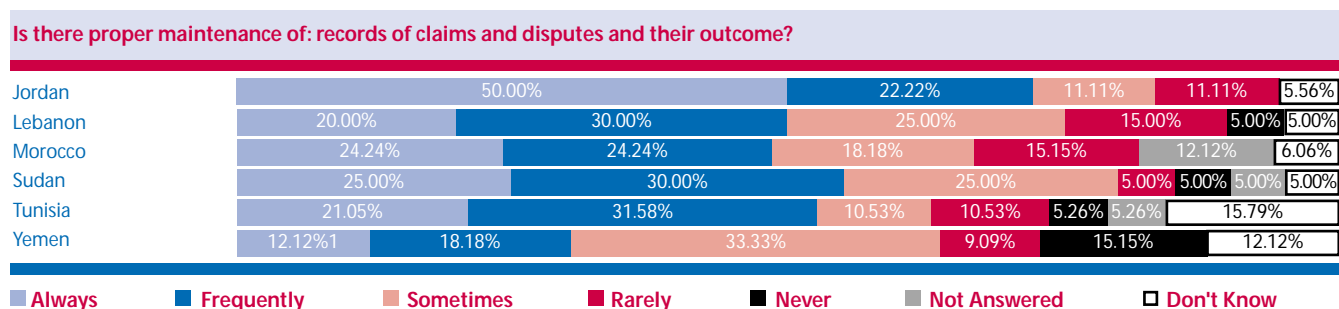


Is there proper maintenance of: invoices and payments?

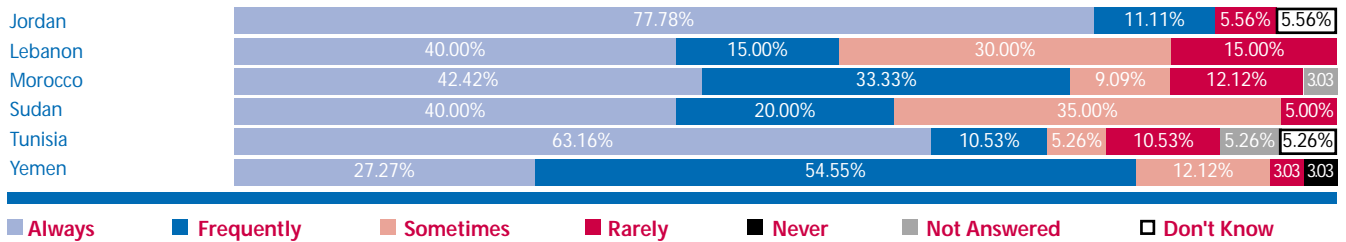


Is there proper maintenance of: progress reports?

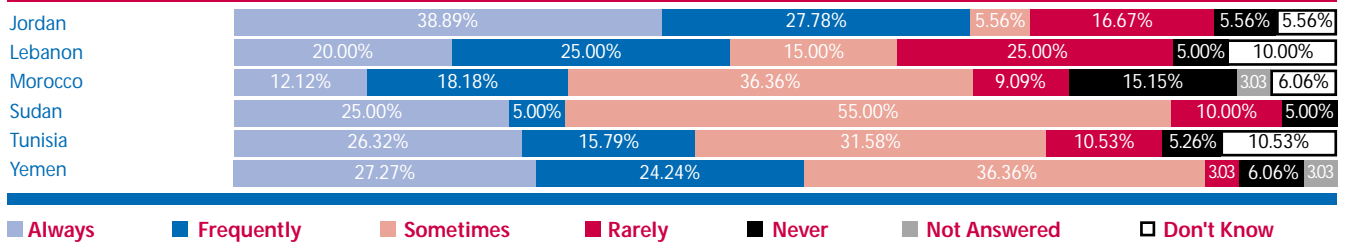




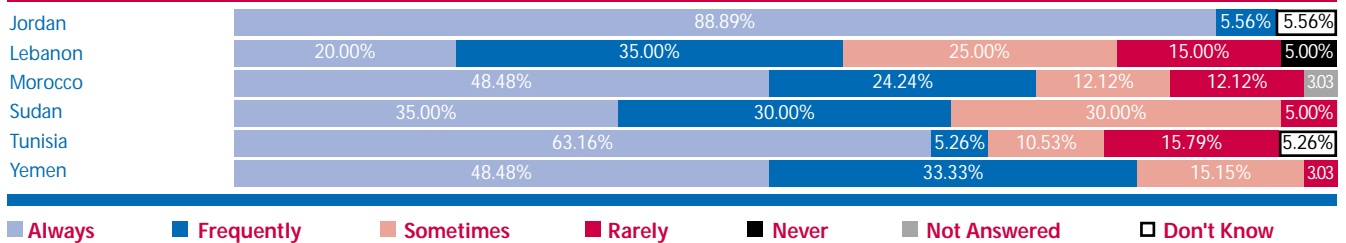
Once a contract has been awarded, is there monitoring to: oversee the delivery of goods and services?



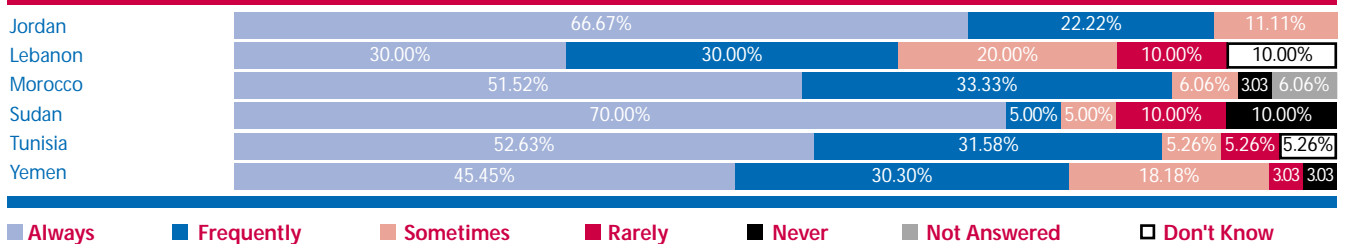
Once a contract has been awarded, is there monitoring to: supervise the work by independent engineers?

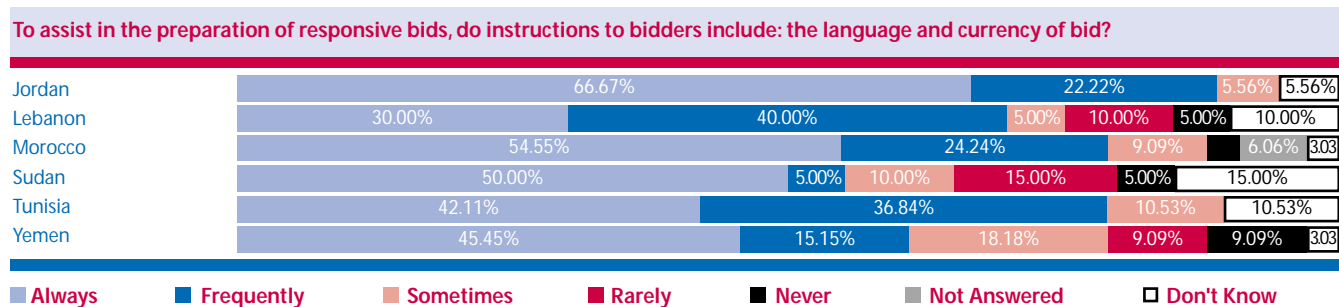
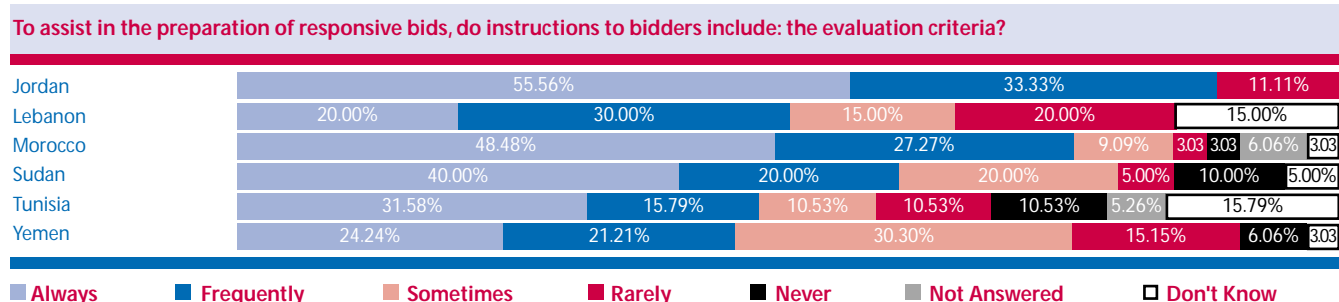
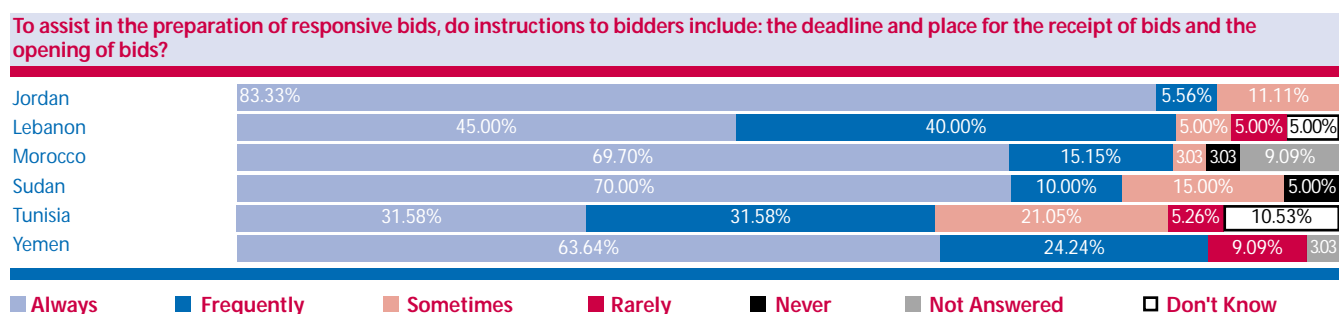
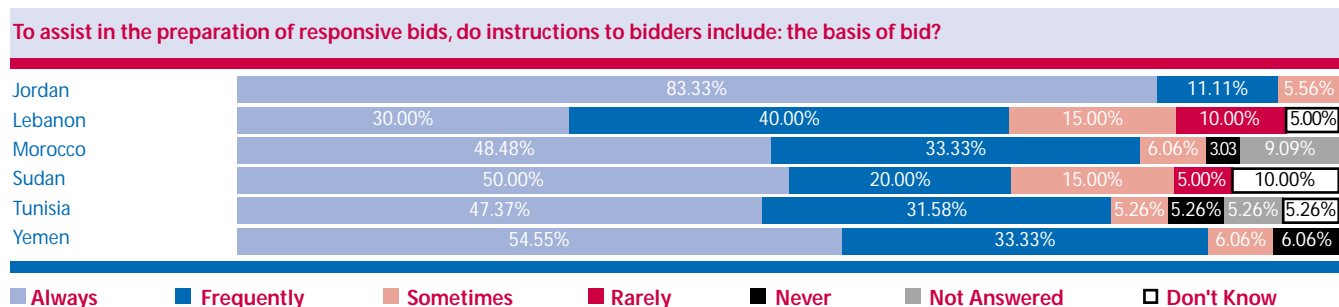


Once a contract has been awarded, is there monitoring to: verify quantity, quality and timeliness?

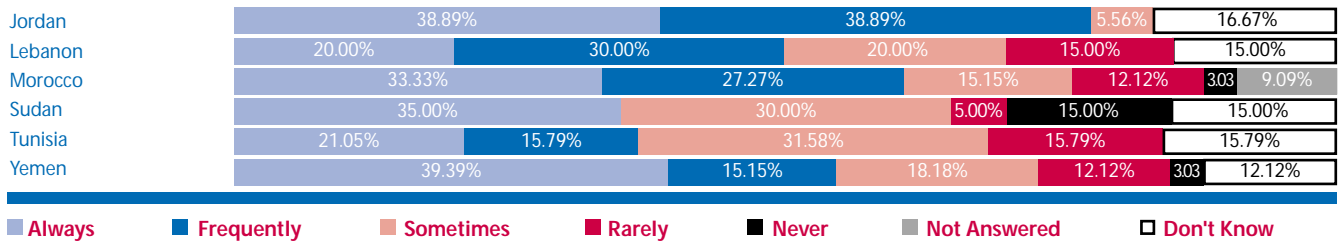


To assist in the preparation of responsive bids, do instructions to bidders include: eligibility requirements?



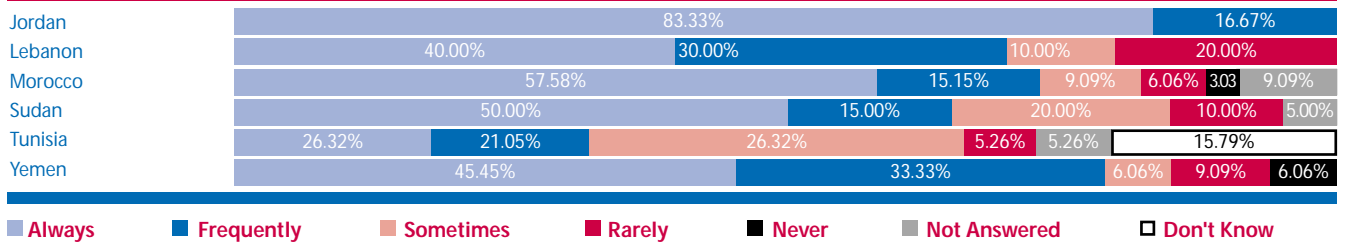


To assist in the preparation of responsive bids, do instructions to bidders include: the source and date of the exchange rate to be used?

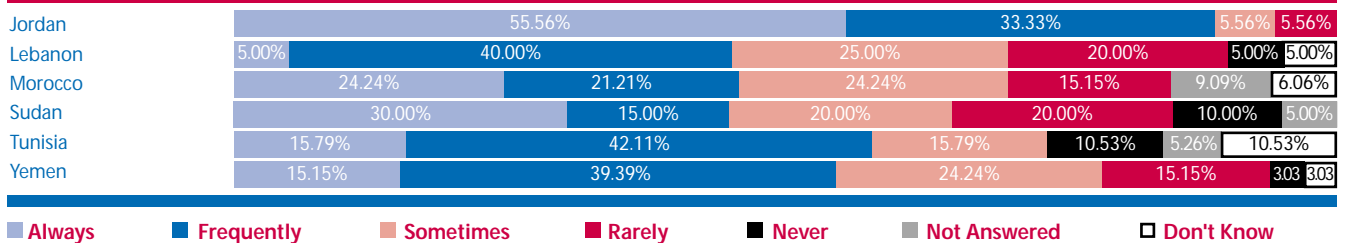


6 Payments

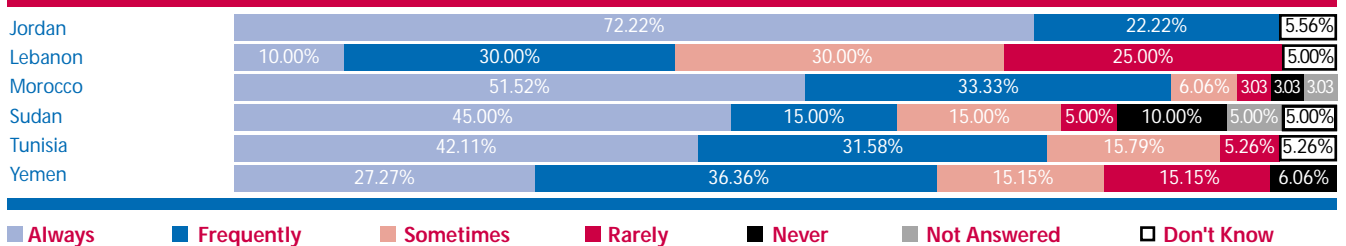
Before payments are made, is there a check that: computations and costings have been verified and are arithmetically correct?

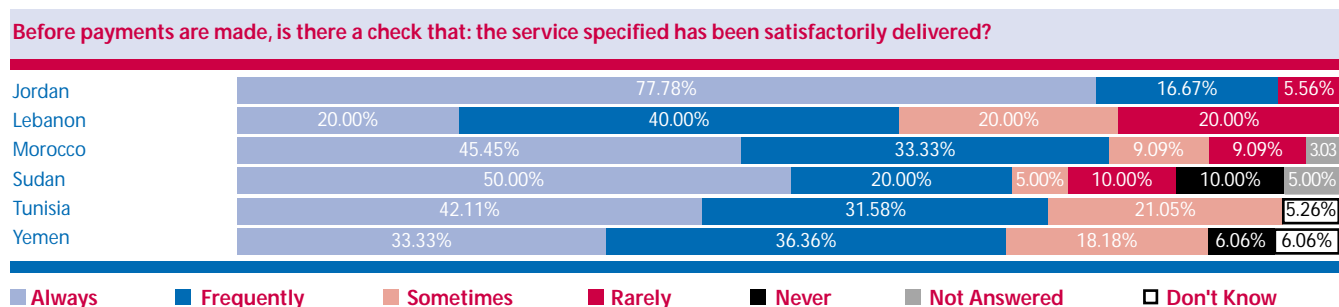
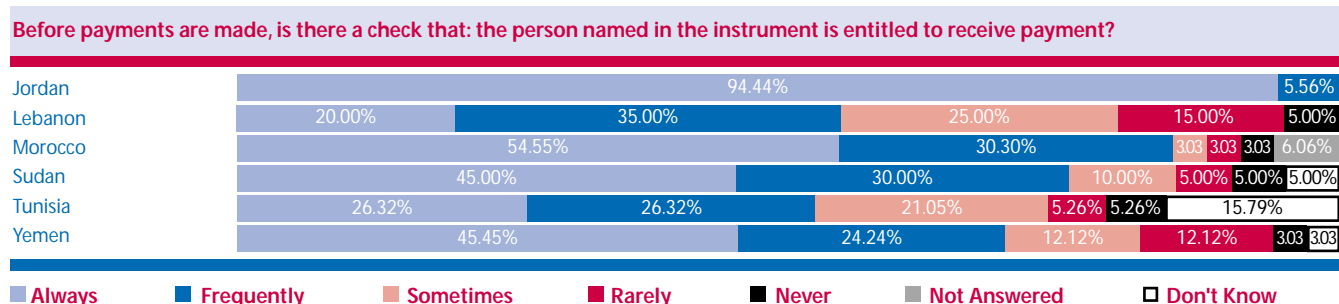
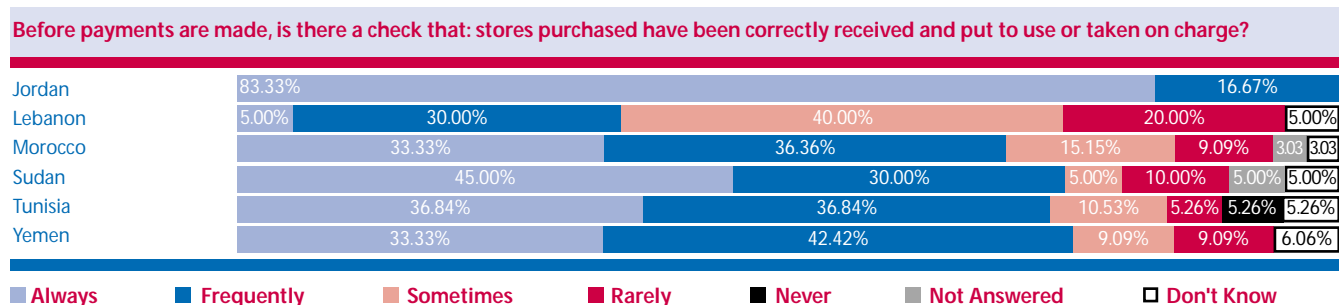
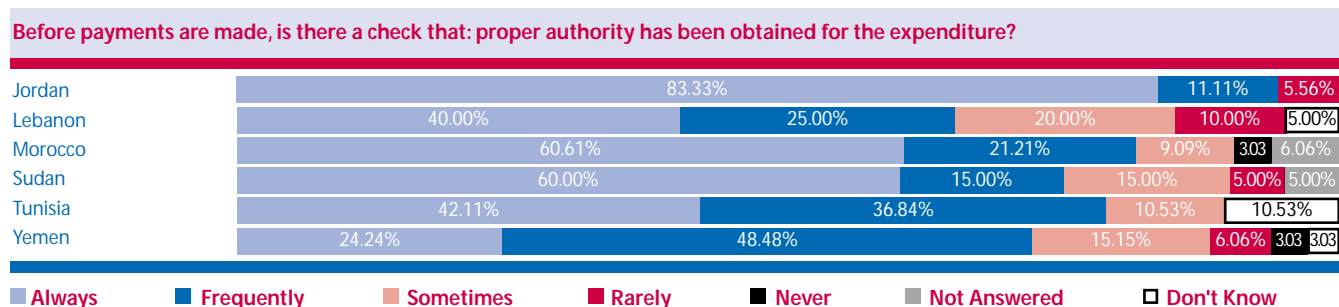


Before payments are made, is there a check that: made within a reasonable time from receipt of the claim?

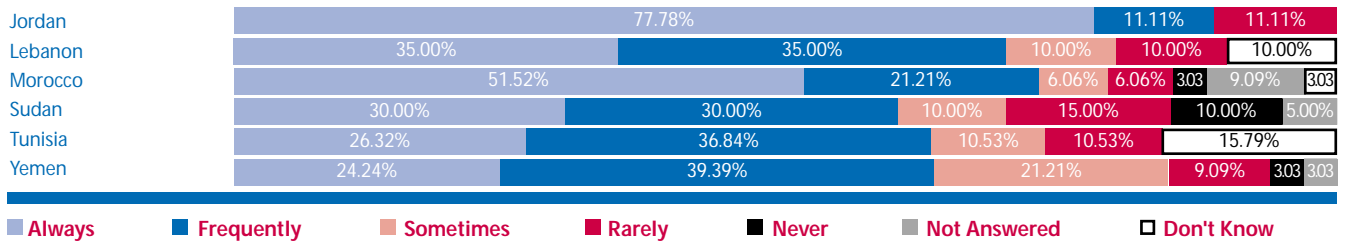


Before payments are made, is there a check that: prices charged either accord with approved scales or are fair?

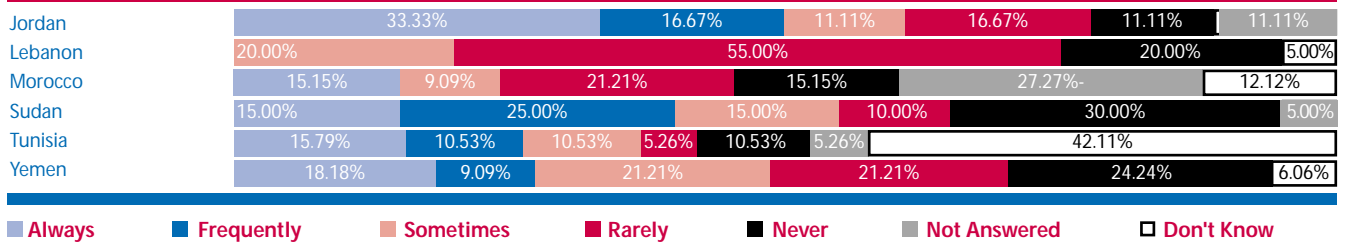




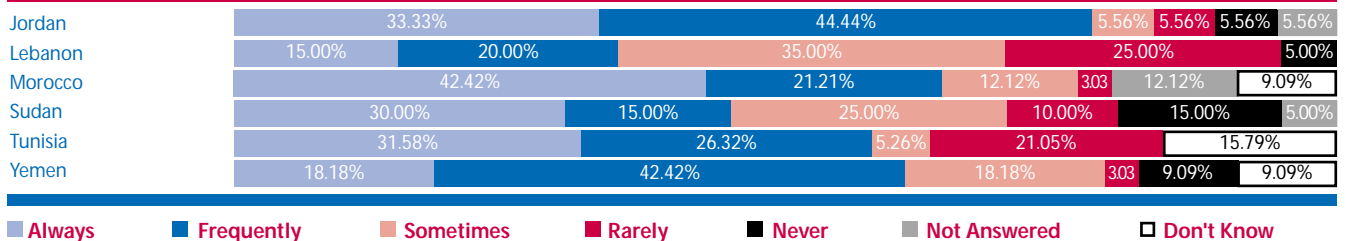
Before payments are made, is there a check that: total payments for the year to date are within the total authority to incur expenditure?



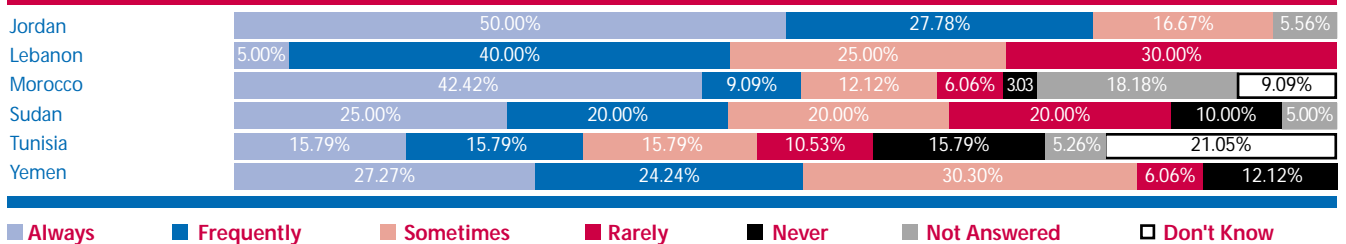
Is overspending: penalized?



Is overspending: prevented? (e.g. by central controls)



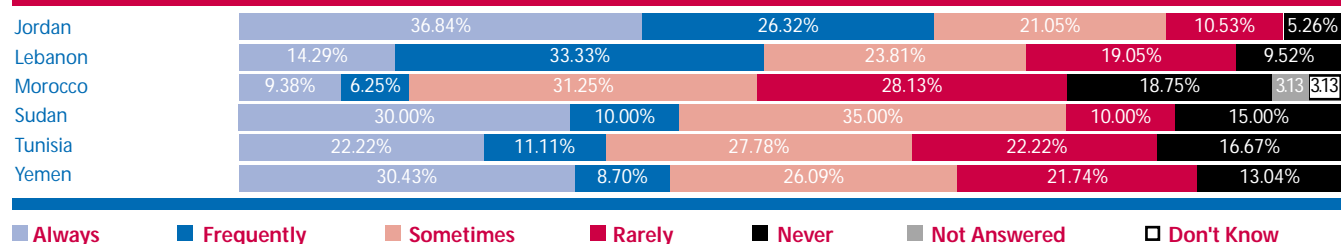
Is overspending: promptly detected?



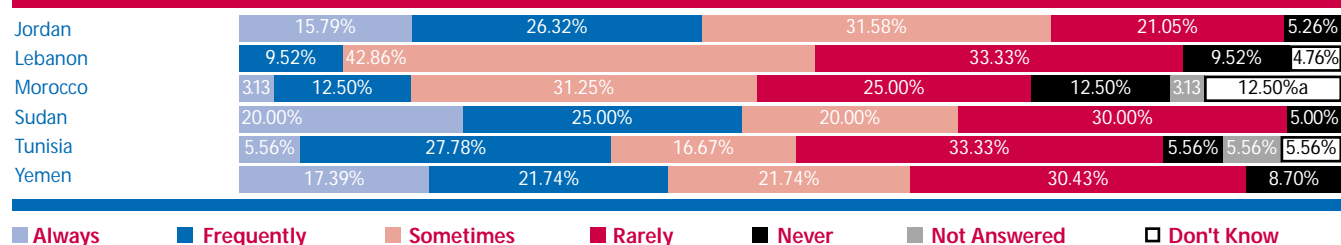
Annex 3: Human Resources Management Survey

1 Human Resources Management Framework

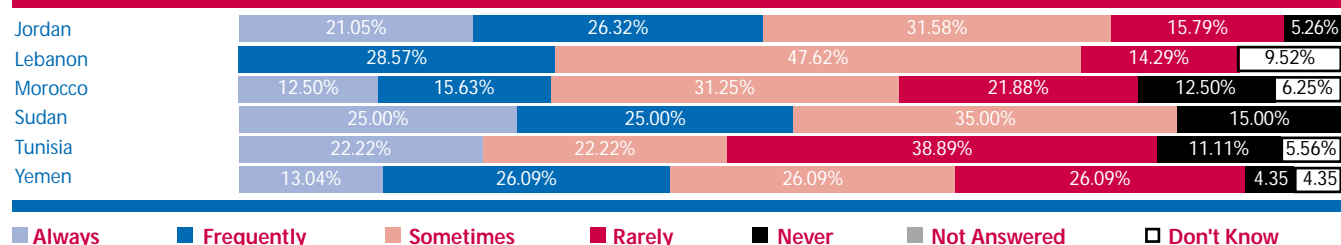
Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service: communicated in writing to public sector employees? (e.g. pamphlets, employment contracts, etc.)



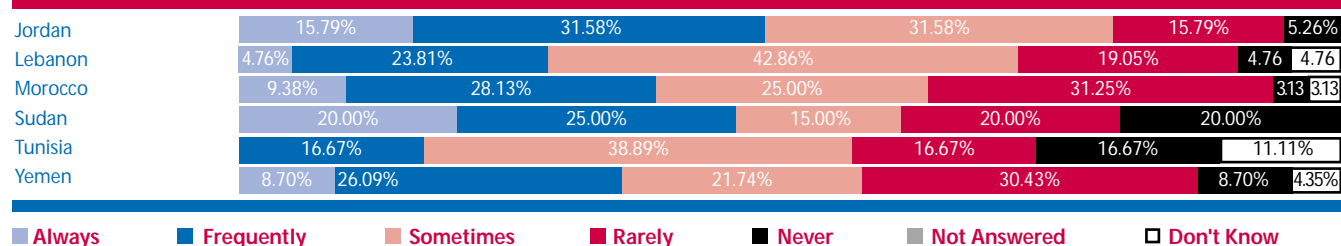
Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service: demonstrated by senior public sector leaders?



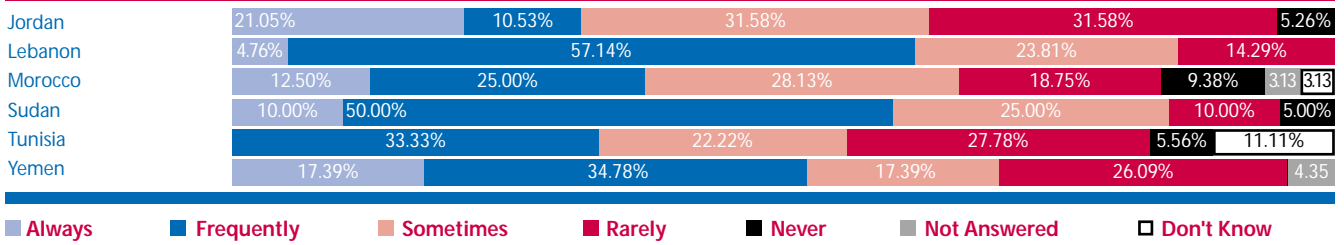
Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service: included in induction training courses for the public service and/or at the agency level?



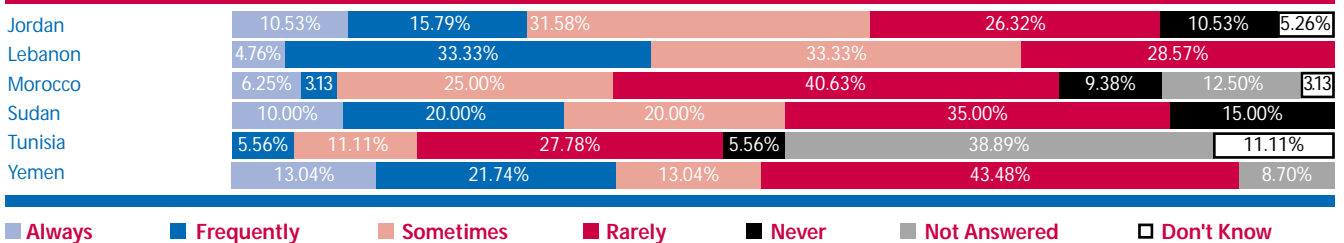
Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service: included in ongoing communications to public sector employees? (e.g. through speeches, ongoing training courses, etc.)



Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service: known by public sector employees?

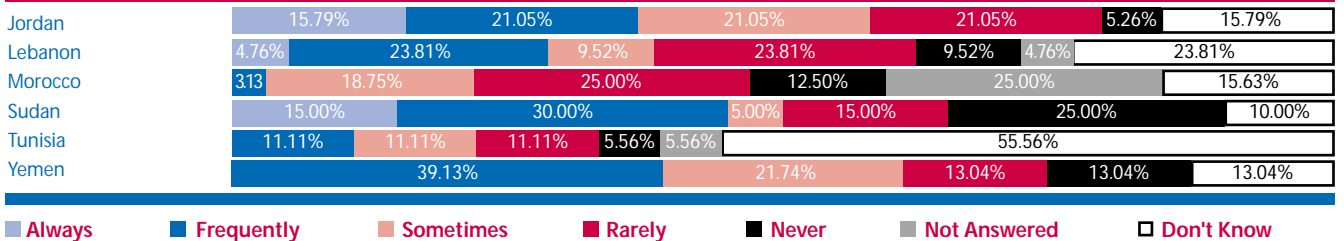


Are stated core values (e.g. neutrality, fairness, efficiency, etc.) for the national or central level public service: known by the public?

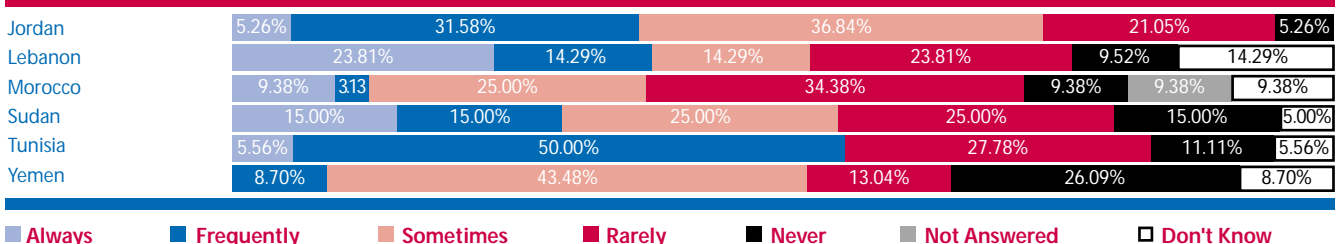


2 Codes of Conduct

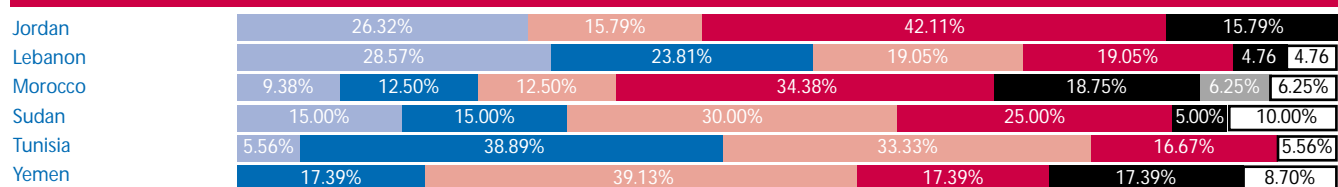
Are the following standards covered by codes of conduct followed by public sector employees? employment and/or supervision of family members and relatives



Are the following standards covered by codes of conduct followed by public sector employees? involvement in political work

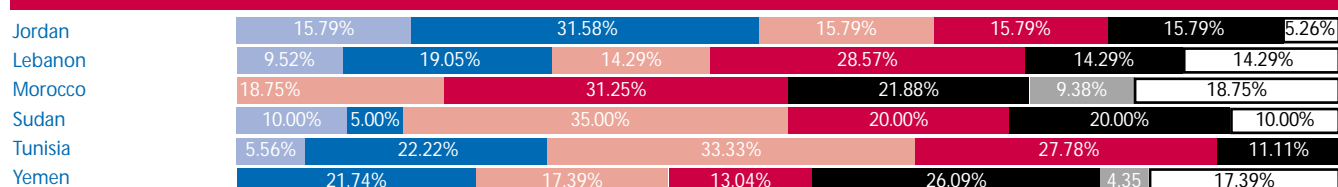


Are the following standards covered by codes of conduct followed by public sector employees? receiving gifts and benefits such as fees, payments, entertainment



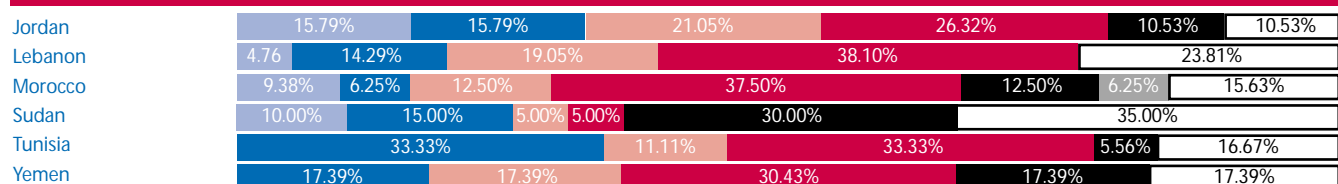
Always Frequently Sometimes Rarely Never Not Answered Don't Know

Are the following standards covered by codes of conduct followed by public sector employees? restrictions on post-employment



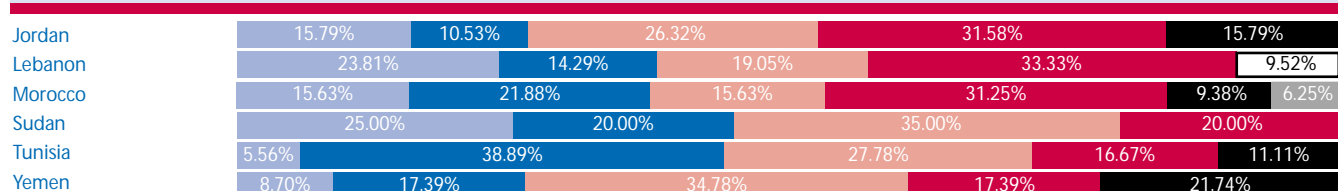
Always Frequently Sometimes Rarely Never Not Answered Don't Know

Are the following standards covered by codes of conduct followed by public sector employees? special conditions/permissions on movement to the for-profit sector



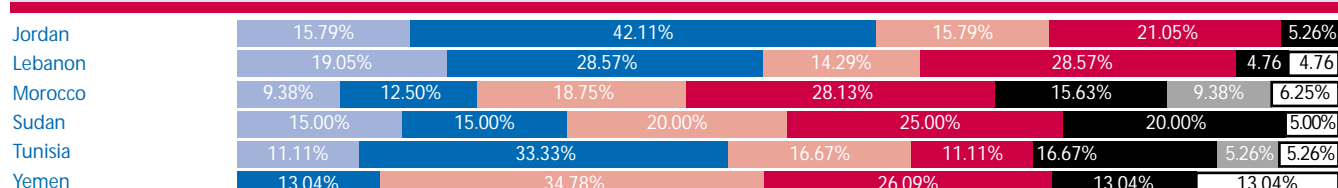
Always Frequently Sometimes Rarely Never Not Answered Don't Know

Are the following standards covered by codes of conduct followed by public sector employees? unauthorized use of official property/facilities



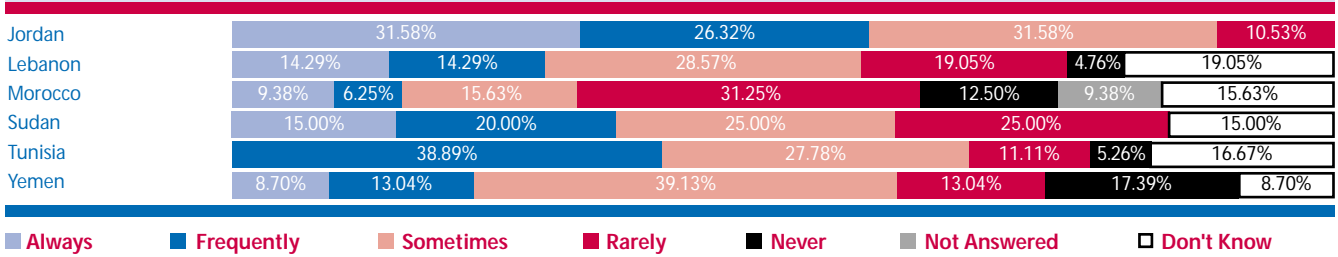
Always Frequently Sometimes Rarely Never Not Answered Don't Know

Are the following standards covered by codes of conduct followed by public sector employees? use of official information

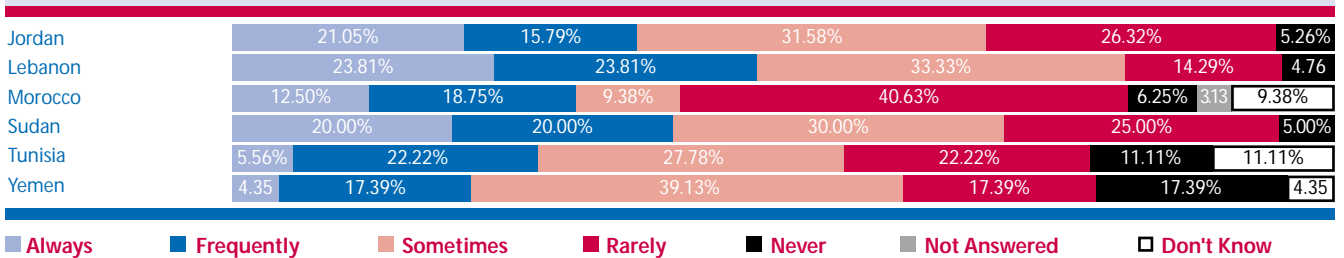


Always Frequently Sometimes Rarely Never Not Answered Don't Know

Are the following standards covered by codes of conduct followed by public sector employees? use of official travel

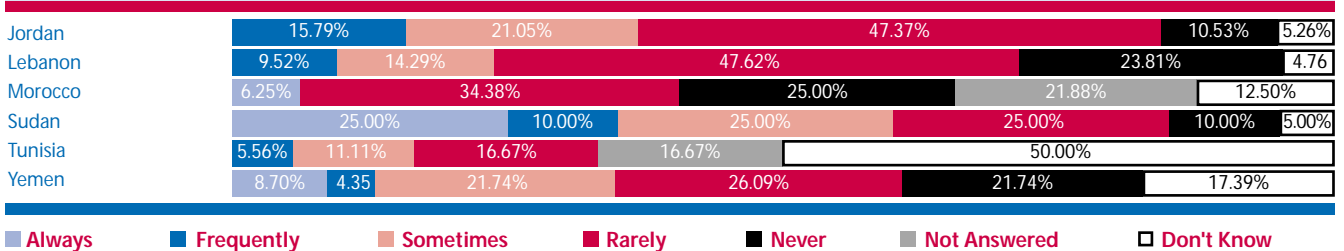


Are the following standards covered by codes of conduct followed by public sector employees? work outside the public service

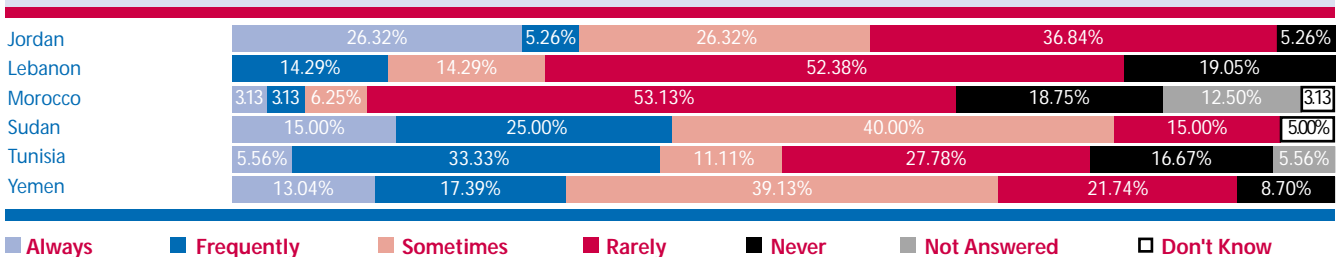


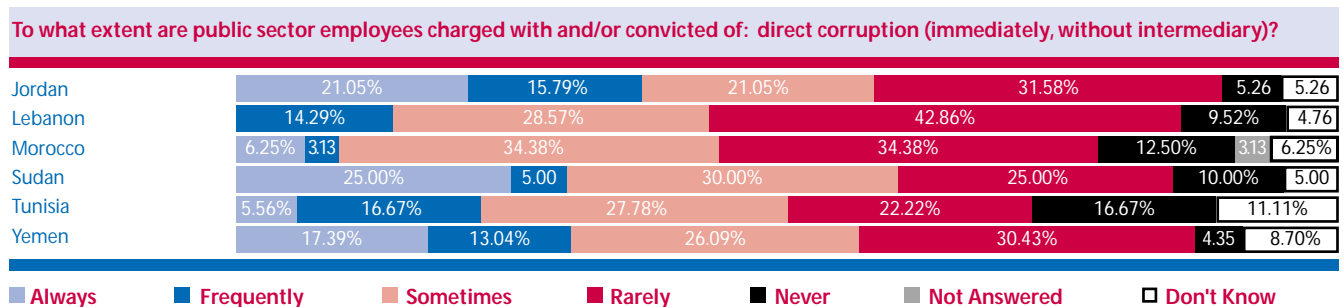
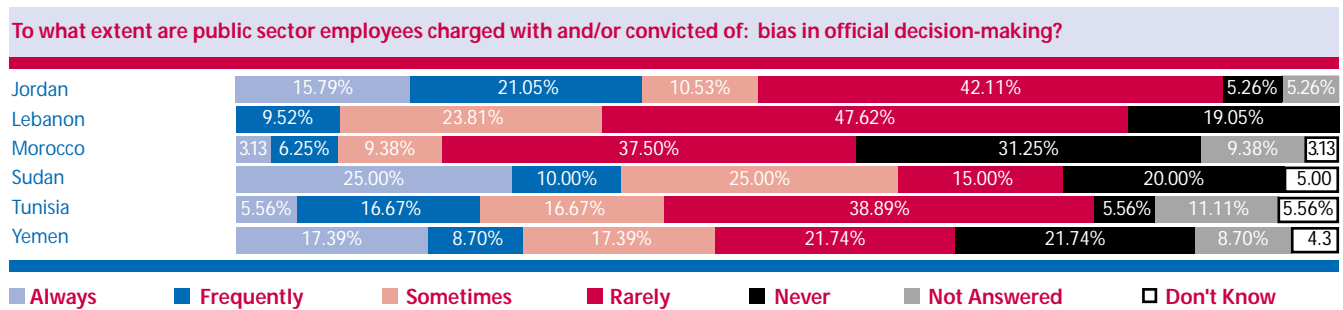
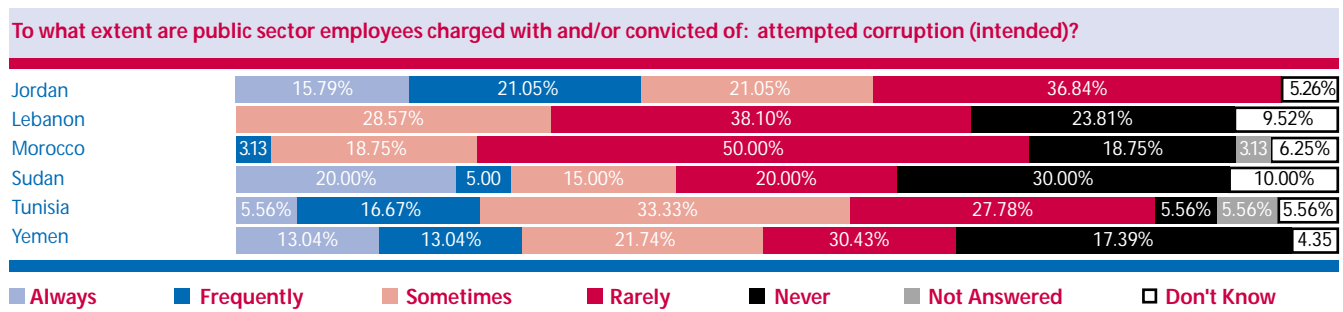
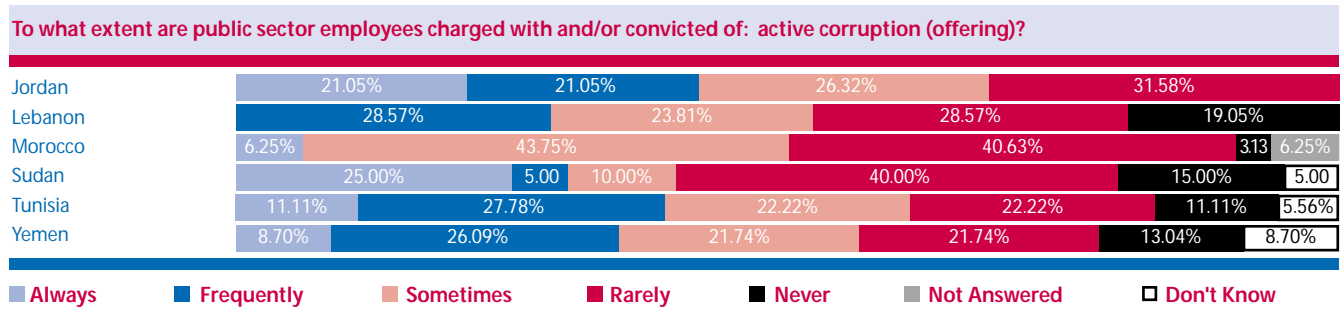
3 Legal Restrictions on Criminal Conduct

To what extent are public sector employees charged with and/or convicted of: abuse of privileged state information by public officials?

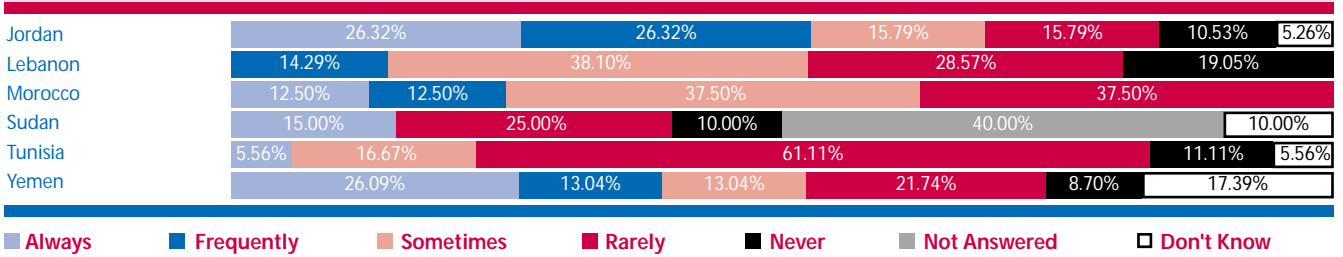


To what extent are public sector employees charged with and/or convicted of: abuse of public office or public trust?

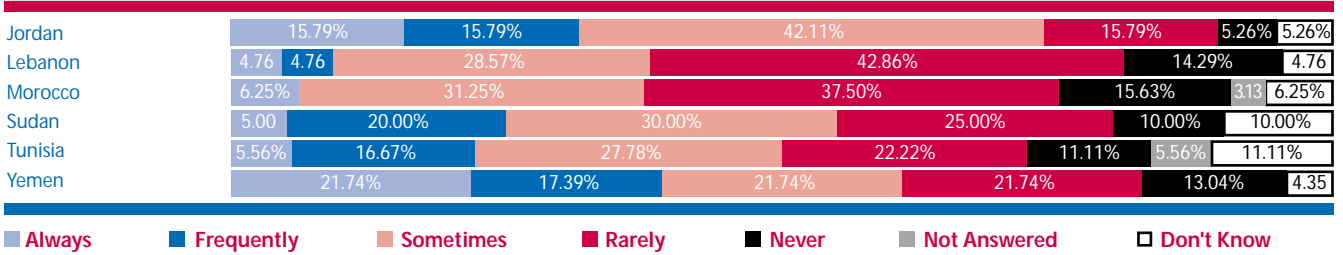




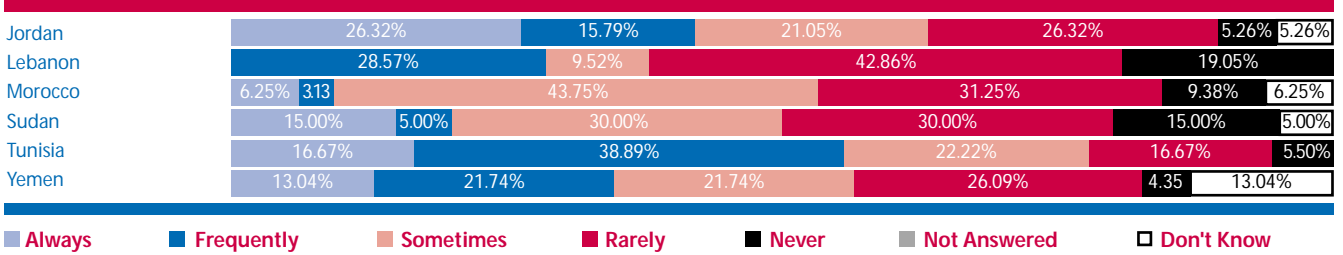
To what extent are public sector employees charged with and/or convicted of: extortion?



To what extent are public sector employees charged with and/or convicted of: indirect corruption (using intermediary)?

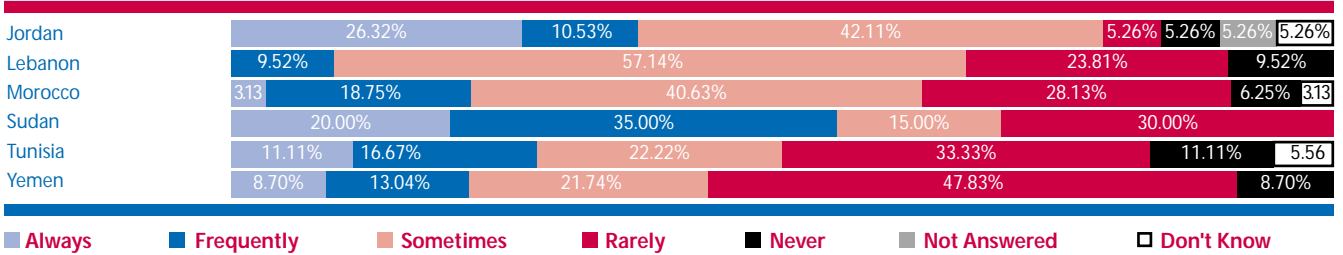


To what extent are public sector employees charged with and/or convicted of: passive corruption (accepting)?

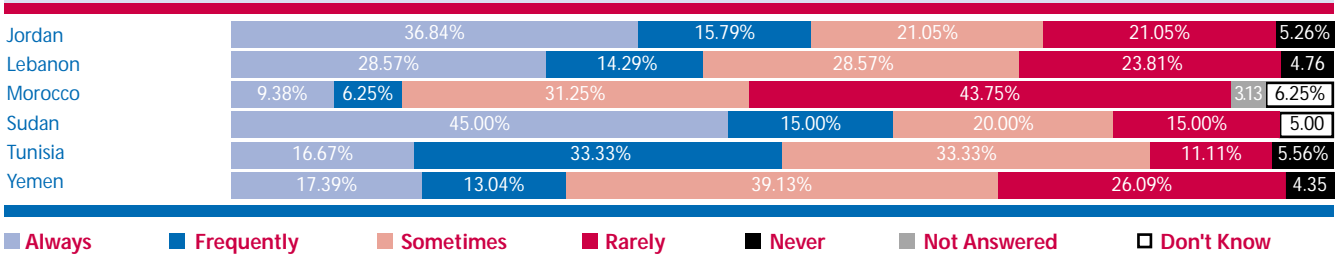


4 Selection Process

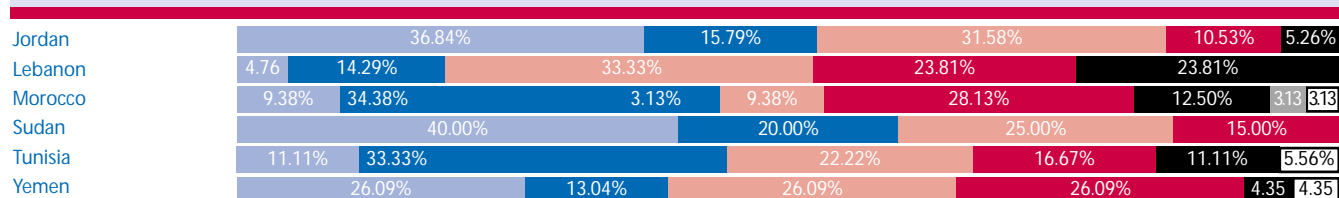
Does the human resources selection process: base recruitment and promotion on merit?



Does the human resources selection process: engage in publicising vacant positions?

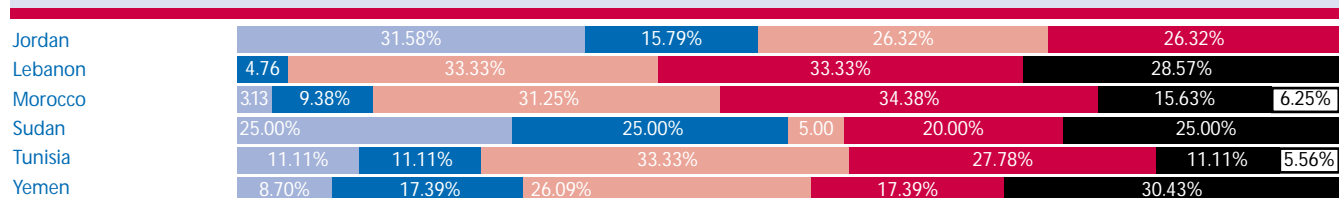


Does the human resources selection process: engage in publishing the recruitment rules/guidelines/policies?



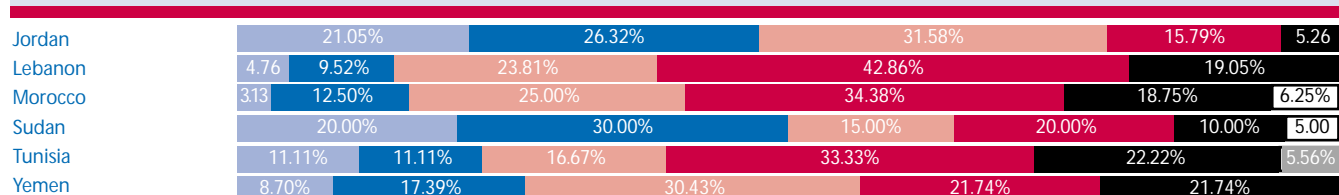
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

Does the human resources selection process: include integrity as a criterion in the selection process?



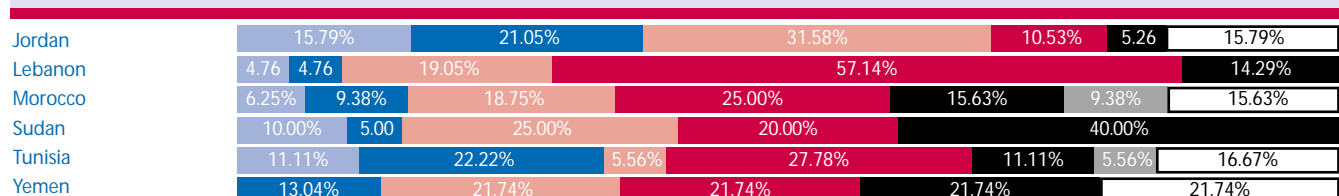
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

Does the human resources selection process: include integrity as part of performance appraisal?



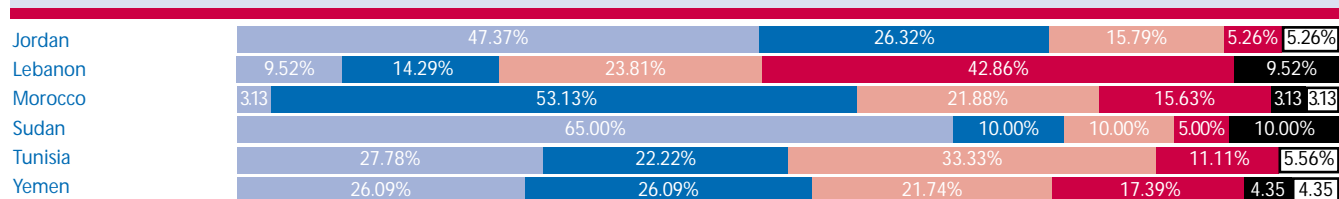
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

Does the human resources selection process: protect against political interference?



■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

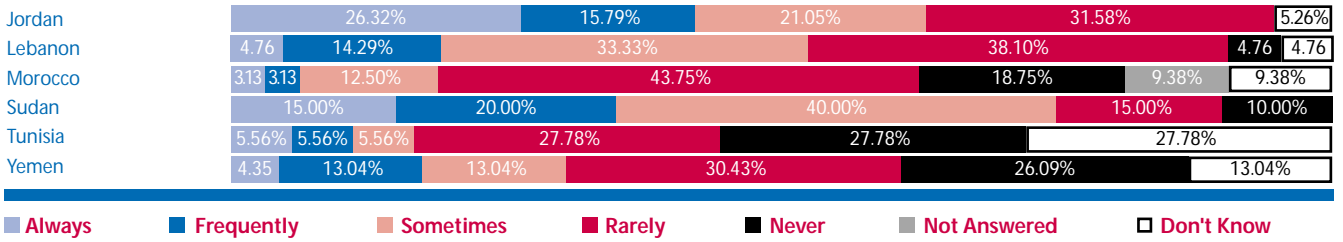
Does the human resources selection process: provide adequate rules/guidelines/policies for recruitment and promotion procedures?



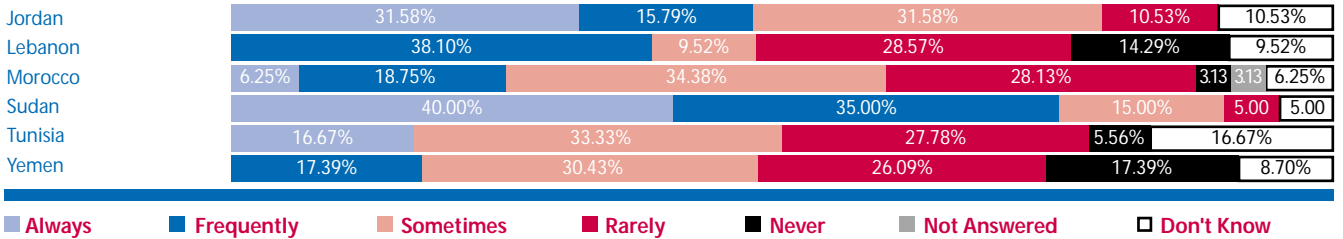
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

5 Investigation

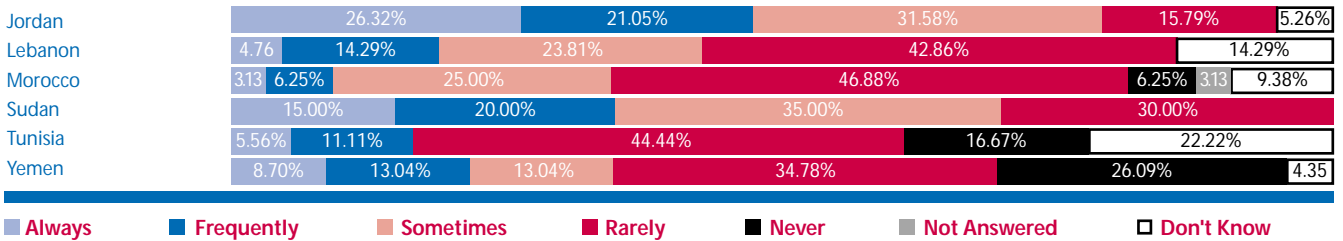
Are investigations: carried out by independent investigating agencies? (e.g. where the independence is guaranteed by the terms of appointment for staff, reporting obligations, budgeting, etc.)



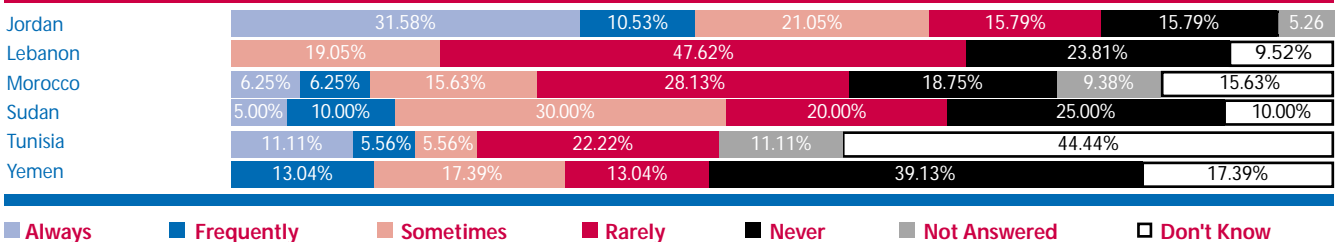
Are investigations: carried out promptly and fairly by the police, in case of criminal conduct?



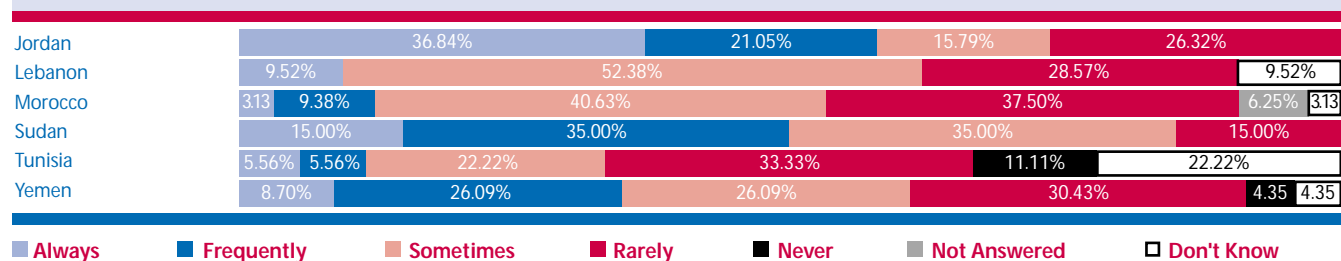
Are investigations: carried out with sufficient resources? (e.g. budget, competent personnel, adequate equipment, etc.)



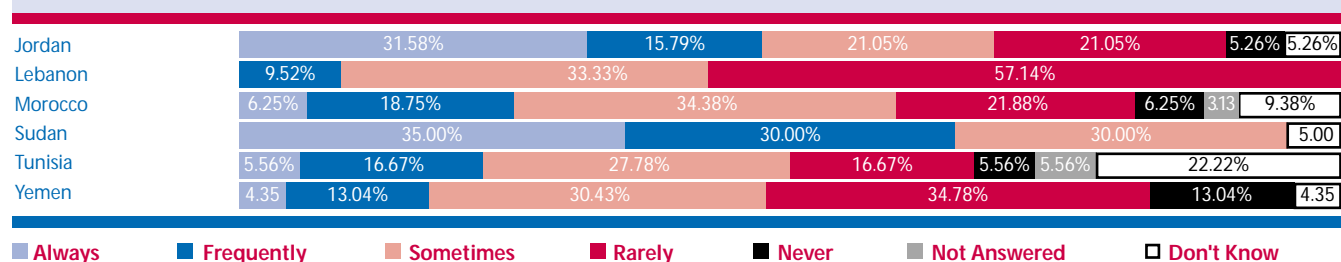
Are investigations: documented and statistics analyzed for future work?



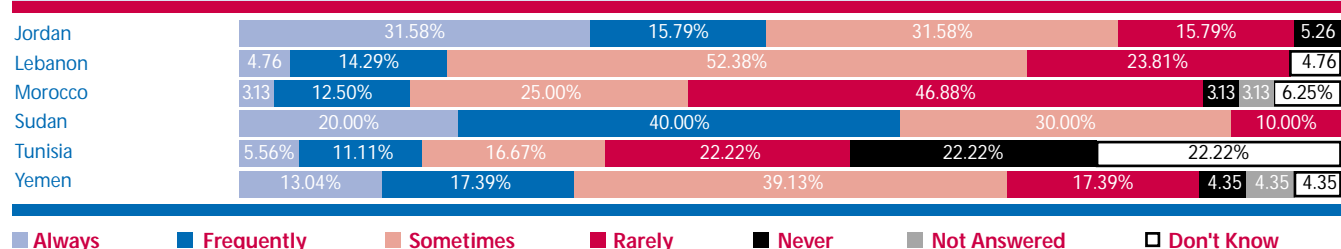
Are investigations: followed by appropriate action by the head of the agency?



Are investigations: followed by successful prosecution, in case of criminal conduct?

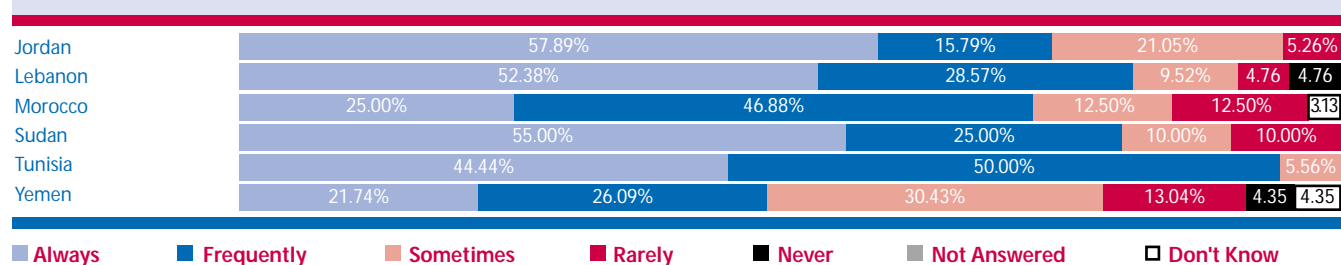


Are investigations: handled promptly and consistently by the ministries or agencies that have received a complaint or wrongdoing or misconduct?

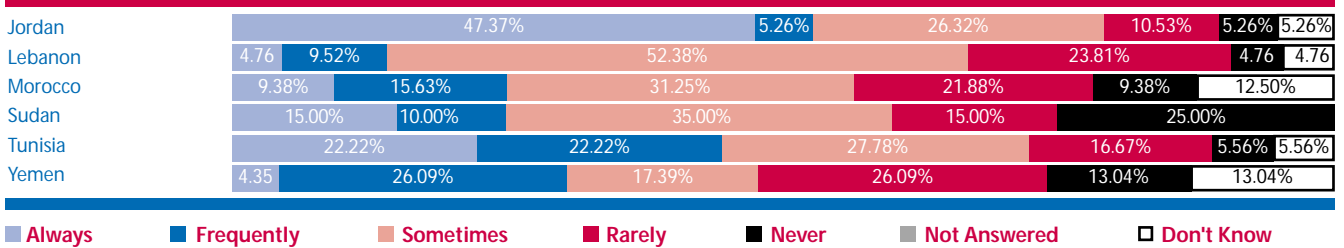


6 Disciplinary Procedures

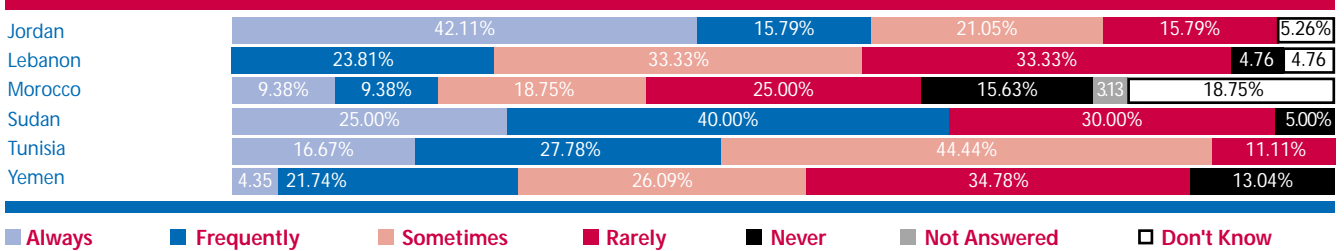
Is disciplinary action: based on set procedures?



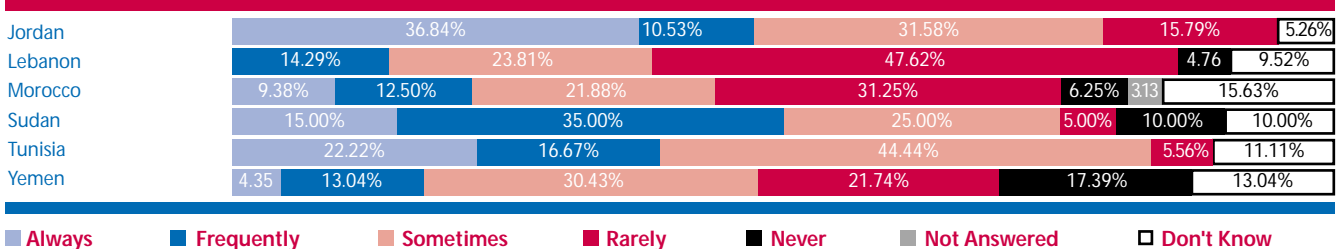
Is disciplinary action: based on training given on implementing these procedures?



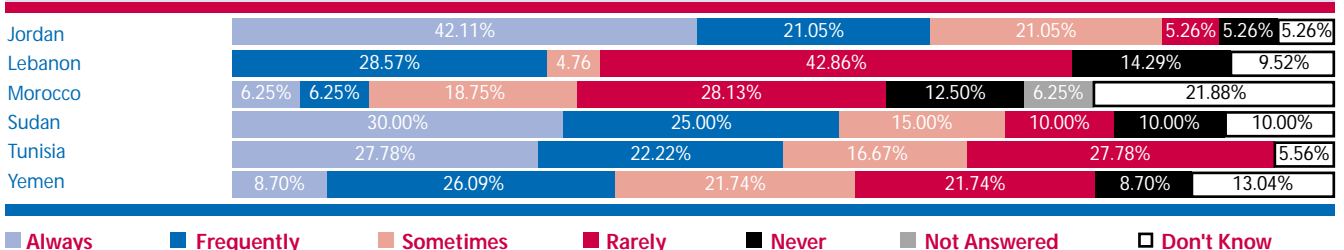
Is disciplinary action: checked by available administrative and legal redress, where needed?



Is disciplinary action: consistently taken in case of a breach of code of conduct or legal restrictions for criminal conduct?



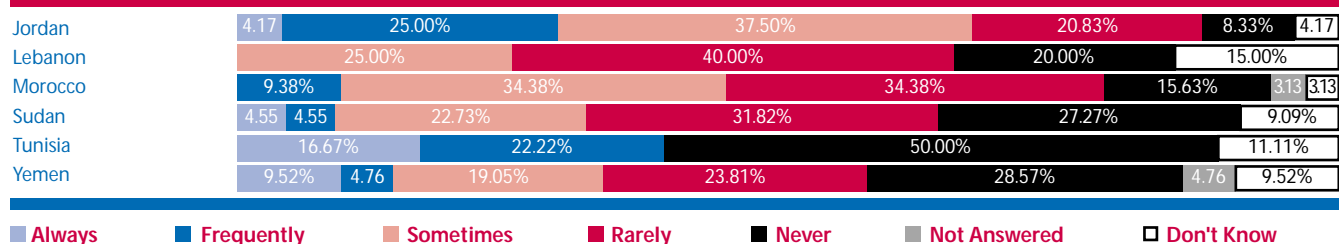
Is disciplinary action: coordinated in terms of administrative, civil and criminal jurisdictions?



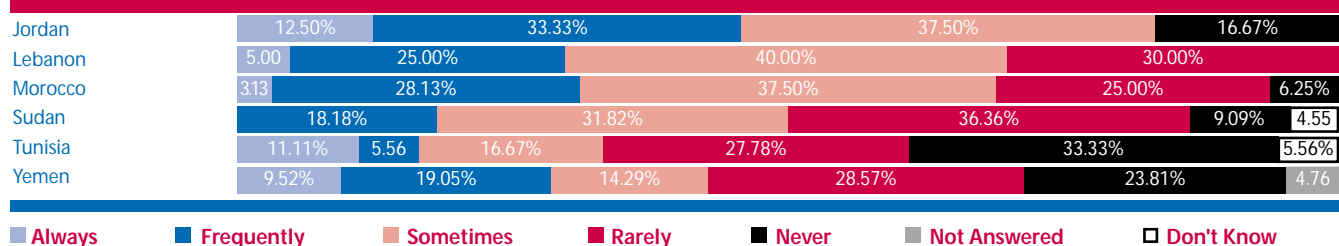
Annex 3: Information Management Survey

1 Access to Information

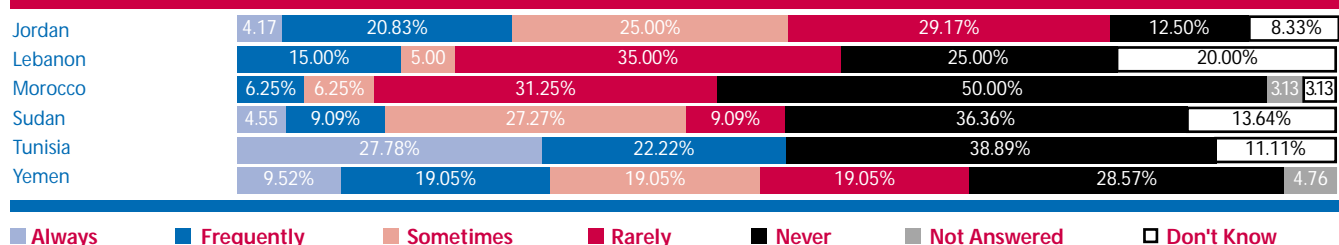
Do citizens have reasonable access to: information and records in a timely manner?



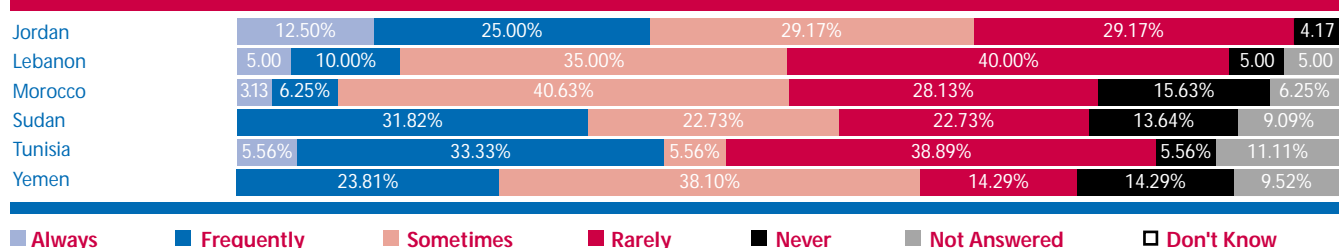
Do citizens have reasonable access to: information on government activities?



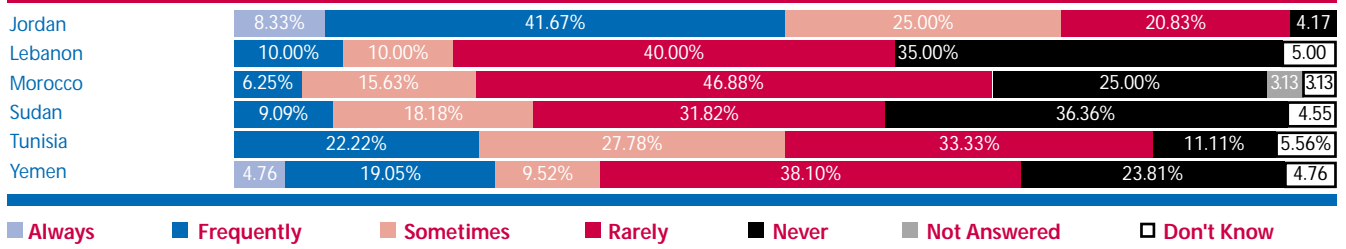
Do citizens have reasonable access to: the records on individuals that public sector entities keep on them?



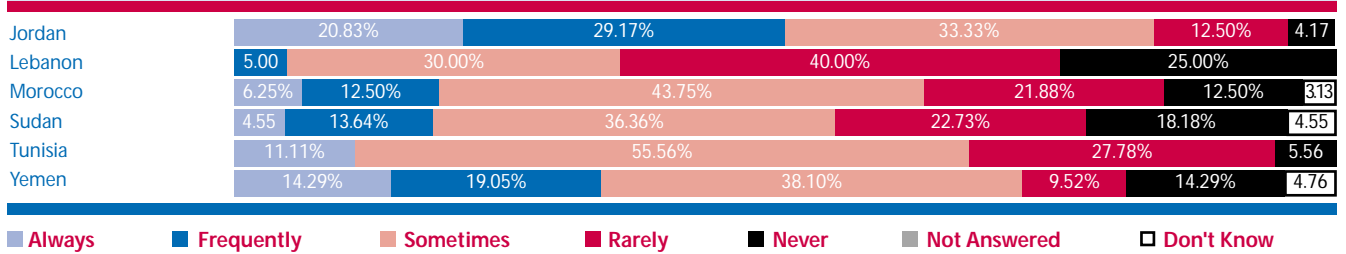
Is information from the citizens solicited by government: through advisory groups on government programmes and activities?



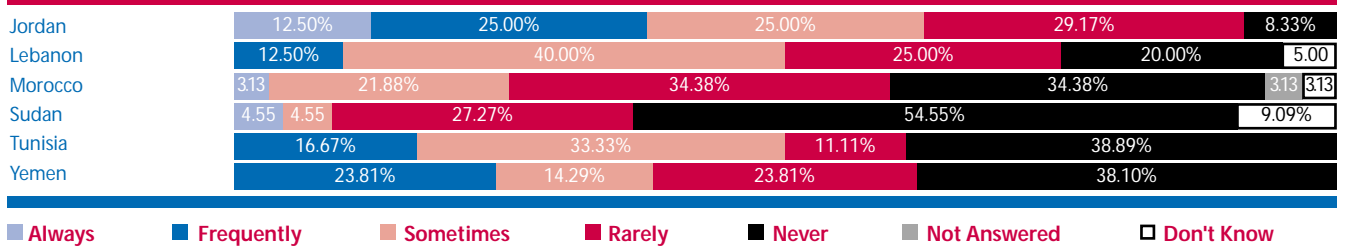
Is information from the citizens solicited by government: through feedback on service delivery (e.g. client satisfaction surveys, consumer focus groups, etc.)



Is information from the citizens solicited by government: through policy consultations (e.g. conferences, townhalls, surveys, opinion polls, etc.)

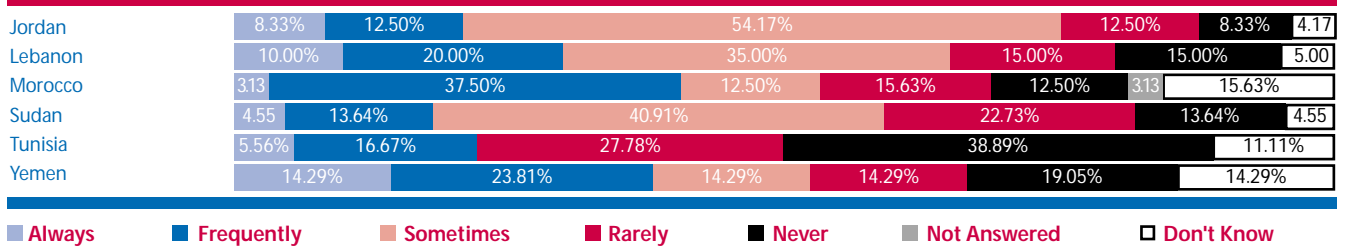


Is information from the citizens solicited by government: through using new information and communication technologies? (e.g. introducing e-government measures, utilizing the internet for reaching citizens, etc.)

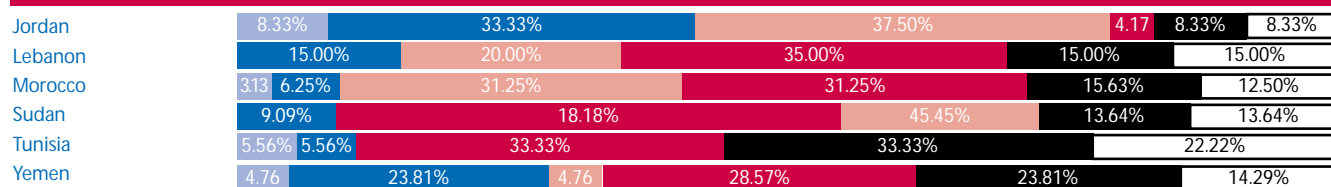


2 Investigative Journalism

Is investigative journalism: based on the support of the society at large?

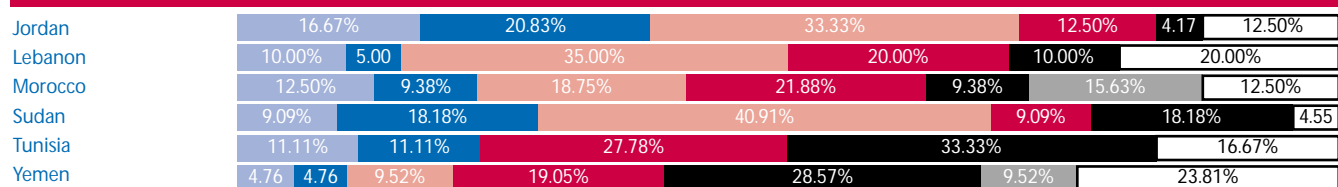


Is investigative journalism: encouraged and made more professional through training?



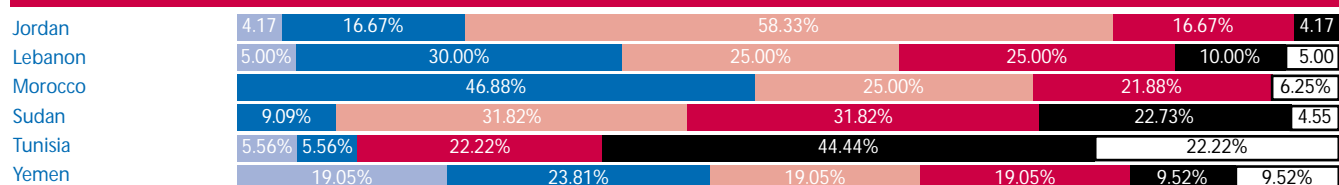
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

Is investigative journalism: held responsible through a professional code of conduct?



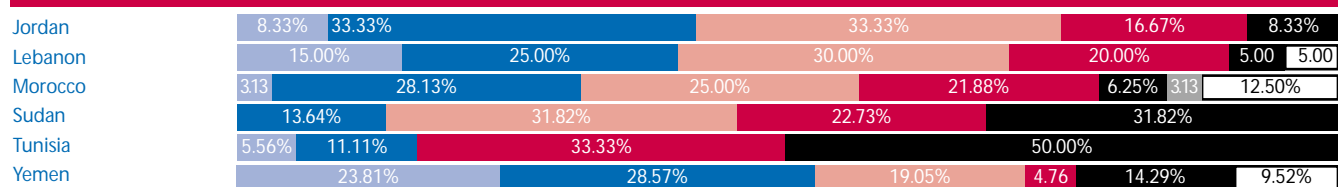
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

Is investigative journalism: involved in exposing incidents of scandals and misconduct in government?



■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

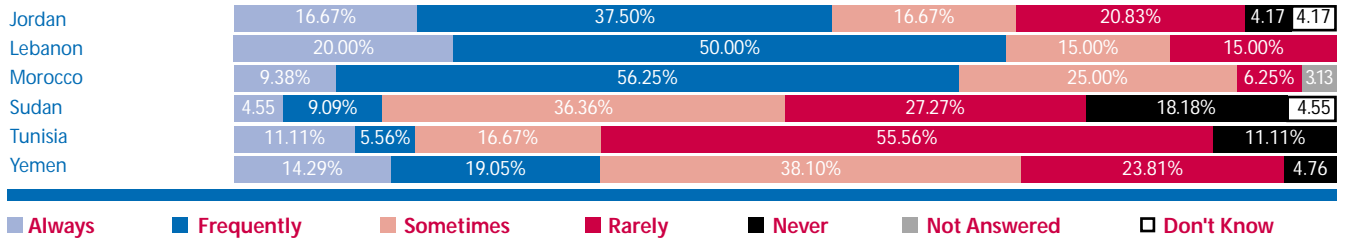
Is investigative journalism: protected through freedom of the press?



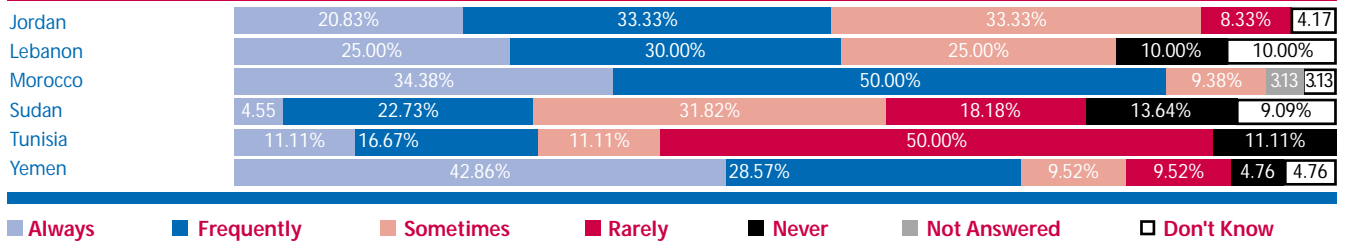
■ Always ■ Frequently ■ Sometimes ■ Rarely ■ Never ■ Not Answered □ Don't Know

3 Non-Governmental Organisations

Do civil society organisations or institutions (e.g. religious institutions, non-governmental organizations such as Transparency International, professional organizations, etc.): carry out civic education programmes or activities? (e.g. on citizens' rights and responsibilities, democracy, public interest, transparency and accountability of governments, etc.)



Do civil society organisations or institutions (e.g. religious institutions, non-governmental organizations such as Transparency International, professional organizations, etc.): have freedom of association?



Do civil society organisations or institutions (e.g. religious institutions, non-governmental organizations such as Transparency International, professional organizations, etc.): play a watchdog role on government decisions and activities?

