



**The Civil Commission for the Independence
Of Judiciary and Rule of Law – Istiqlal**

**Men and women human rights
defenders in Palestine**

"Incomplete Justice"

One year since the murder of human rights
activist: Nizar Banat

July, 2022



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The Civil Commission for the Independence of Judiciary and the Rule of Law – Istiqlal

A non-governmental civil society organization established under the Law of Charitable Societies and Local Organizations No. (1) Of 2000 in Palestine. It seeks to support and enhance the independence of judiciary, rule of law, and individual rights and freedoms. It also strives to achieve equality before the law and to support and strengthen the legal profession, the Sharia judiciary and the public prosecution, in addition to maintaining and achieving the principle of legal aid.

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Executive summary

The Civil Commission for the Independence of Judiciary and Rule of Law - Istiqlal worked on monitoring the reality of men and women human rights defenders in Palestine, especially in the events that followed the murder of activist Nizar Banat in June 2021, and it published a report entitled " Men and women human rights defenders in Palestine: "Incomplete Justice"". It has four axes, in addition the background and legal framework for human rights defenders protection, in accordance to Law and international conventions, which Palestine joined.

The First axis dealt with Nizar Banat case, his life and the facts of his murder, and the follow-up of the trial sessions of those accused in his murder. As for the Second axis, it deals with the reality of human rights defenders in Palestine and their trials. As for the third and final axis, it dealt with the infringements, prosecutions and violations that affected women and men journalists, especially while covering the protests that followed the murder of activist Nizar Banat.

The report came to a set of results and conclusions related to the three axes, as follows:

First: “Nizar Banat ... A victim looking for justice in the courts' corridors".

1. After observing the Trials of those accused of killing the political activist Nizar Banat, especially the prosecution witnesses, it uncovered the real reason for pursuing him by the official Palestinian authority forces, it was his political opinions in which he criticized the various political levels, As a result, he was subjected to a incitement campaign , treason, and chasing before his death, the most severe of which was that his house, on June 1, 2021, a group of unknown assailants shot and threw gas bombs inside the house where Nizar family resides.
2. The campaigns of incitement and mobilization against Nizar personally created a suitable environment for his assassination, due to the degree of hatred and incitement in which he was exposed. At a time when he was a human rights defender, he didn't receive adequate protection, so he was not able to pursue the shooters of his house, and they escaped punishment. This in turn created a

general impression among the haters of Nizar that his life has no value at all; this justified the use of excessive violence against Nizar, which led to his death on June 24, 2021.

3. The institutions of the Palestinian state greatly delayed launching an official criminal investigation into the incident of Nizar Banat's murder, and were replaced with an administrative investigation through a committee formed by the Prime Minister to investigate the death of Nizar Banat on 24/6/2021. After The official investigation committee that was headed by the Minister of Justice "Mohamed Al-Shalalkeh", initiated work, the committee performance was weak, since many parties declined their participation in the committee.. On June 29, 2021, the committee announced the complete of its work and referred the file to the military judiciary.

4. The Military Prosecution began the investigation procedures immediately after receiving the file, and arrested 14 members of the Preventive Security Service who participated in the arrest of Nizar Banat. At the court session held on July 24, 2021, 14 people were indicted under the accusation of the murder of Nizar Banat, whereas they were charged with joint beating leading to death, the abuse of power by confiscation, violence and complicity, and violating the military instructions. The trial procedures began before the security forces' judiciary on 14/9/2021.

5. It turned out that the Military Prosecution dealt seriously with the investigation file related to the killing of Banat, and built its evidence on field facts, files, recordings, and phone calls that it tracked, and it succeeded in building an investigation file accusing the group of 14 people, and thus the prosecution was limited to the executing persons who carried out the crime. Also, it seemed that revealing the existence of those who issued a decision regarding the assassination appeared to be absent because the accused refused to testify, and the failure to show any evidence in the investigation file pointing to instigators or issuers of assassination orders, and thus the court proceeded to frame the incident to the accusation of joint beating leading to death, the abuse of power by confiscation, violence and complicity, and violating the military instructions.

6. The Military Prosecution began presenting its evidence to the court and bringing witnesses related to the case efficiently and effectively, starting from a court session held on 4/10/2021, and ended with presenting its evidence at a court session held on 12/5/2021 by (10) sessions for the prosecution evidence, during which about 22 witnesses were heard, who were brought by the Public Prosecution to take their testimony before the court. And the testimonies of (3) witnesses were presented without attending the sessions, thus, the court had

completed the hearing and produced a total of (25) witnesses within only two months.

7. In the third stage of the trial (the defense evidence stage), the court heard during 9 sessions held from 15/12/2021 to 15/6/2022 only (3) witnesses, over a period of six months, which indicates the start of a new phase of delay and procrastination in the court proceedings, where there is obvious decline in performance between the stage of prosecution evidence and the stage of defense evidence, both quantitatively and qualitatively. This slowness was justified by the exposure of witnesses to threats and their fear of giving their testimony.

8. The trial procedures of those accused of killing Nizar Banat were subjected to severe blows that affected the image and the status of the court, and it constituted an attack on its jurisdiction. On February 13, 2022, the Military Prosecution handed over a letter issued by the Legal Adviser of the Military Intelligence stating that the 14 men accused of killing Nizar Banat refused to leave prison and appear before the military court which is violating the legal texts, and the court issued a decision to compel the accused to appear before the court by addressing the intelligence services. On 18/5/2022, the accused, their representative, and the military prosecution attended, but the personal right attorney did not attend because the family announced its final withdrawal from the military trial in refusal to the violations taking place there. On May 29, 2022, only the Military Prosecution attended, but the accused and the defense lawyer did not attend. The prosecution indicated that the Legal Department of Military Intelligence sent a letter stating that it was not possible to bring the accused to court from the prison in Jericho due to the failure to complete the coordination procedures with the occupation to transfer them because of the security situation. Finally, on June 21, 2022, the accused were released in the incident of murdering the activist Nizar Banat, on the pretext of the spread of Corona virus, without a decision issued in this regard by the court.

The report concluded that the military court hearing the case of murdering the activist Nizar Banat is handcuffed and unable to reach out and control the case, and its decisions were degraded by executive bodies, and thus failed to conduct a fair and effective trial that is capable to achieve justice for Nizar.

Second: Are the trials of human rights defenders achieving justice? or does it constitute a punishment for them?

1. The number of activists and human rights defenders who are being prosecuted, and their files being transferred to the courts after the murder of Nizar Banat, especially during the first month after the incident, increased by more than 400% compared to the cases that were prosecuted in the previous periods.

2. The majority of people who were referred to the court were based on the public right, not on personal complaints, which means that the official authorities have a systematic policy to prosecute activists, and not based on complaints that were investigated and lawsuits built upon.

3. All charges brought against the activists, were a description of actions guaranteed to practice in the Palestinian Basic Law and international human rights standards, its legal description was arbitrarily abused in order to criminalize it. Two to three charges were brought against the majority of activists who are being tried for activities that fall within the framework of freedom of expression, such as peaceful assembly and criticizing the public authorities. And the charges that were arbitrarily used were gradually classified from the most to the least: illegal gathering, defaming the public authorities, stirring up sectarian and racial strife, and using force against security forces. These are broad –loose- charges that are usually referred to in non-democratic societies to prosecute human rights defenders.

4. Prolonging litigation in the files of men and women human rights defenders is a means used to punish activists and human rights defenders. In light of revising and analyzing case files, it turned out that the courts take many sessions to address these cases, which may exceed 10 sessions, most of which are postponed due to the absence of prosecution witnesses from security services members, which means that the majority of the activists' sessions are actually in the stage of hearing the prosecution's witnesses despite the passage of nearly a year or more since they started without any progress in deciding these cases.

Third: Women and men Journalists: Serious Infringements in the Light of Missing Accountability

1. Palestinian women journalists, especially those who are active in covering news of events related to the protest against murdering the activist Nizar Banat, constituted the first target of prosecution and restriction. Also there were issues related to the defamation and incitement against women journalists, accusing them of being associated with other parties and working for foreign agendas. In

addition to the insults, intimidation and threats that women journalists were subjected to while trying to cover these events in the field, and a number of men journalists were also prosecuted. This is besides the confiscation of the phones of many women and men journalists.

2. A number of women and men journalists submitted complaints and reports to the Palestinian judicial authorities regarding the attacks committed against them, but these reports –and complaints-, nearly a year after their submission, were ignored by the competent authorities, and until this moment no action has been taken to prevent the perpetrators from impunity.

The report concluded a set of recommendations, the most important of which are:

1. Referring the case file to the Palestinian regular courts, and referring all the trial procedures of Nizar Banat case that have taken place until this moment, including the legal framing of the charge, and working on completing the court procedures to ensure respect for fair trial guarantees, and to effectively achieve justice for Nizar in a short and suitable duration.

2. Forming an independent investigation committee to examine the circumstances that led to the failure of the military court to complete the trial procedures effectively and transparently, without any detraction in its results.

3. it's very necessary for the judicial authorities to exercise their powers to protect public freedoms and to pursue who work in the executive authority, especially security institutions; who commit violations against the rights of human rights defenders.

4. It's also vital for the Palestinian courts to expedite to clear cases under its jurisdiction, make a verdict regarding the files they have, and to issue judgments related to them, and to stop turning court sessions into a means of punishing activists by prolonging court sessions. Also, the state agencies, especially the security forces, must refrain from detaining human rights defenders for investigation as a punishment for them, and stop the pre-trial detention of those charged with "crimes" that violate the freedom of expression and peaceful assembly.

5. Seriously investigate all incidents that violated the privacy of women and men journalists, stop any campaigns of incitement and hatred against women and men journalists, and referring all human rights violators including those who attacked

women and men journalists to the regular Palestinian courts to prevent them from impunity.

Introduction

Human rights define the relationships between individuals and power structures, especially the state. Human rights define the limits of state powers, and at the same time require the countries to take positive measures to ensure an environment that enables all individuals to enjoy their own human rights. Governments and other duty bearers have an obligation to respect, protect and fulfill human rights that form the basis of legal entitlements and remedies if they are not met. In fact, the possibility of establishing legal and financial claims with equity distinguishes human rights from the concepts of moral or religious value systems.

Human rights are interdependent and indivisible, and since every human right derives from and depends on other rights; the violation of one right affects the exercise of other human rights. Also, defending economic and social rights presupposes freedom of expression, assembly and association. Accordingly, civil, political, economic, social and cultural rights are complementary and are of equal importance to the dignity and safety of any person. Respect for all rights is a prerequisite for achieving peace and sustainable development.

The issue of the decline in public freedoms and violations against human rights defenders in the past period, throughout the year, especially since the murdering of activist Nizar Banat following the arrest operation on Thursday morning, June 24, 2021, has sparked popular discontent among large sectors of the Palestinian people. As well as the political arrests that took place following the end of the aggression on Gaza Strip, to the murdering of Nizar Banat by some members of the security services during the arrest process. And the attacks on peaceful protesters in Ramallah, up to the Cabinet's abolition of Article 22 of the Code of Conduct regulating freedom of expression for public servants, and the fear among large circles in civil organizations and the Palestinian public that the political system has adopted a repressive approach against human rights defenders.

The state of political tension was not a result of the moment, rather, it is an accumulation of frustrations caused by indicators and factors leading towards the eruption, which are: the shortcomings of the policies of successive Palestinian governments in the social and economic fields, the weakness of the rule of law and the implementation of Palestinian court rulings, and the dominance of the executive authority over the judiciary through a set of decisions with laws issued at the beginning of the year 2021. Also, the parliament dissolved in 2018, without any prospect of holding general elections. Also, disrupting the elections of unions and popular unions, and canceling the holding of legislative elections at

the end of April of this year, and issuing a decision by Law No. 7 of 2021 regarding the amendment of Law No. 1 of 2000 regarding charitable societies and civil associations, which aimed to restrict the work of charitable societies and civil associations, to dominate and control over civil associations, and to deteriorate the human rights situation in general.

The political system of the Palestinian Authority met the popular protests over the murder of activist Nizar Banat with a multifaceted repressive approach, and multiple forms were used in the process of repression; such as the suppression of demonstrators by units of the police force (special units), using people wearing civilian clothes to attack protesters in “Al-Sahel Incident” that took place at Al-Manara roundabout in the center of Ramallah, targeting women extensively in the crackdown, seizing mobile phones, especially for women, publishing photos and videos on WhatsApp groups in a flagrant violation of the principle of personal privacy and a violation of people’s sanctities, the evacuation of uniformed policemen from their position at Al-Saaeh roundabout the “Martyr Yasser Arafat Square”, which allowed the attack on the protesting citizens in the martyr Yasser Arafat Square and the sexual harassment of the girls participating in the protests by people in civilian clothes while the police knew that there is a rally at Al-Manara roundabout against the protesters at the same time.

In addition to the attack by Police forces on journalists and the families of detainees in front of the Al-Balou’ police station in the city of Al-Bireh, and the arrest of political and opposition activists at the end of Thursday or the beginning of the Eid holidays to use this detention as a punishment for them so that they cannot file objections to the courts on the same day or the day after their release. All that besides using the official media to describe the protesters as being putschists, saboteurs, with foreign agenda, and inciting some governors against the demonstrators through the media and social media platforms.

This report shed the light on the violations that took place over a whole year against human rights defenders and activists in the Palestinian territories in four main areas; the first axis presents the governing reference for protecting human rights defenders. While the second axis follows the trial procedures for the crime of murdering the political activist Nizar Banat in the search for justice. And the third axis presents the trials of human rights defenders as a forced punishment before indictment. While the fourth axis reviews the violations that women and men journalists suffered in light of missing accountability to the perpetrators of these violations.

The Civil Commission for the Independence of Judiciary and Rule of Law "Istiqlal" would like to thank all the human rights defenders and activists who

agreed to participate in this report and responded to conducting interviews and providing information related to judicial files. Thanks also go to the Palestinian civil society organizations which provided the privately documented information they have to The Palestinian Center for Development and Media Freedoms "MADA", and Lawyers for Justice.

The governing reference for protecting human rights defenders

The United Nations General Assembly (UNGA) enacted a set of basic principles to protect human rights defenders, enhance their role and work, and prevent them from being subjected to any violations they may be exposed to in their countries, places of work and presence. UNGA imposed on countries and political leaders, as well as businessmen, media and religious leaders to publicly acknowledge the important and legitimate role of human rights defenders in promoting human rights, democracy and the rule of law, through “public statements, or public policies, or regulations and laws, including doing so by publicly condemning all cases of violence and discrimination against human rights defenders, and publicly acknowledging the role of human rights defenders, where recognition of their role is essential to ensuring their protection.”

Resolution (48/134) of 1993 of Paris Principles devoted the importance of national human rights institutions roles in supporting human rights defenders, as stipulated in Article (Z): “In light of the essential role that non-governmental organizations play in expanding the scope of the work of national institutions, Develop relationships with NGOs dedicated to the promotion and protection of human rights, economic and social development, combating racism, providing special protection for vulnerable groups (particularly children, migrant workers, refugees, the physically and mentally disabled) or specialized areas.¹

As stated in the Declaration of Human Rights Defenders (1998), Article (2) imposes obligations on countries to adopt appropriate administrative and legal frameworks to support defending human rights⁽²⁾.² Article (8) also recognizes the right of human rights defenders to have participate effectively in managing the Public affairs, including the right to criticize the governmental bodies and organizations concerned with public affairs, and providing proposals to improve their performance, also, draw attention to any aspect of their work that may

1 United Nations Office OHCHR, National Human Rights Institutions: History, Principles, Roles and Responsibilities, Vocational Training Series, No. (4), 2010, United Nations.

2 United Nations Office of the United Nations High Commissioner for Human Rights, Economic, Social and Cultural Rights: A Guide to National Human Rights Institutions, Vocational Training Series, No. (12), 2005, United Nations.

impede the promotion, protection and realization of human rights and fundamental freedoms.³ Article (15) of the Declaration of Human Rights Defenders imposed obligations on the countries to promote and facilitate educating human rights at all levels of education, and to educate public servants about human rights.⁴

Resolution (70/161) of 2015, in the Operational Program urged recognition through public statements, or policies or laws of the important and legitimate role of individuals, groups and organs of society, including human rights defenders to promote human rights, democracy and the rule of law as an essential role to ensure their recognition and protection, including doing so by publicly condemning all cases of violence and discrimination against human rights defenders. Article (12) of the resolution states: “Countries are encouraged to develop and implement sustainable public policies or programs that support and protect human rights defenders at all stages of their work in a comprehensive manner. Paragraph (13) of the same resolution emphasized the importance and usefulness of consultations and dialogue with human rights defenders about public policies and programs, including doing so for protection purposes, and encouraging countries to designate focal points or use other relevant mechanisms for human rights defenders within the public administration⁽⁵⁾.⁵

(5)

Action (21) also encouraged all sectors of society, including political, military, social, religious, business and media leaders, to express public support for the important and legitimate role of human rights defenders in society, including women human rights defenders, and adopting a clear stance in rejecting any discrimination and violence against them.⁶

³ United Nations, General Assembly, Promotion and protection of all human rights: civil, political, economic, social and cultural, including the right to development, Human Rights Council, thirty-first session, agenda item (3), 2016.

⁴ United Nations, General Assembly, Promotion and protection of all human rights: civil, political, economic, social and cultural, including the right to development, Human Rights Council, thirty-first session, agenda item (3), 2016.

⁵ United Nations, Human Rights Defenders in the context of the Declaration related to the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, United Nations General Assembly Resolutions, Seventieth Session (A/RES/70/001 to A/RES/ 70/003), Third Committee (A/70/489/Add.2 draft res. XV), 2015.

⁶ United Nations, General Assembly, Promotion and Protection of Human Rights: Human Rights Issues, Including Alternative Approaches to Improving the Effective Enjoyment of Human Rights and Fundamental Freedoms, Sixty-eighth Session, Third Committee, Agenda item (69), 2013.

Article (24) of the executive policy encouraged national human rights institutions to pay the required attention to the situation of human rights defenders, including doing so through consultations with relevant stakeholders on issues such as legislation, policies and administrative measures that affect defending human rights, and to develop and support the documentation of violations and abuses against human rights defenders in a comprehensive manner.⁷

As for the United Nations Human Rights Council, it enacted resolution (6/22) of 2013, which include a set of principles for protecting human rights defenders. Paragraph (16) emphasized the value of national human rights institutions, established and operating in accordance with Paris Principles in continuous monitoring of existing legislations, and constantly informing the country of its impact on the activities of human rights defenders by making specific recommendations. Paragraph (18) called the leaders in all sectors of society and relevant communities, including political, social and religious leaders, and leaders in the business and media sectors, to express public support for the important role of human rights defenders and the legitimacy of their work.⁸

As for Human Rights Council Resolution (11/40) of 2019, the operational program urged the countries to recognize through public statements, policies, programs or laws, the important and legitimate role of human rights defenders in promoting all human rights, democracy and the rule of law as being key components to ensure their protection, including doing so by respecting the independence of their organizations and avoiding the stigmatization of their work, including the issues related to environment.⁹

As for the United Nations Human Rights Committee, in its General Comment No. (34) Of 2011 stated in Article (23) that countries parties shall take effective measures for protection against attacks aimed at silencing those who exercise their right to freedom of expression. Also, Paragraph (3) (Article 19) cannot be invoked and used as a justification to silence any call for pluralist democracy, democratic principles and human rights. Nor under any circumstances, attack any person for exercising his or her freedom of opinion or expression, including forms of abuse such as arbitrary arrest, torture, death threat. Consistent with Articles (19) and (45), Journalists are frequently subjected to such, threats, intimidation and attacks due to their activities, as well as persons who participate

⁷ United Nations Office OHCHR, National Human Rights Institutions: History, Principles, Roles and Responsibilities, Vocational Training Series, No. (4), 2010, United Nations.

⁸ United Nations, Human Rights Council, Twenty-second Regular Session of the Human Rights Council: Resolutions, Decisions and Statements by the President, Protection of Human Rights Defenders, 2013.

⁹ United Nations, General Assembly, Human Rights Council, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, also, the right to development, forty-sixth session, agenda item (3), 2021.

in the collection and analysis of information regarding human rights situation and who publish reports related to human rights, including judges and lawyers. Such attacks should be investigated rigorously and in a timely manner, In addition to prosecuting the perpetrators and bringing justice to victims.¹⁰

In this regard, member countries which joined the international charters and treaties must abide by international standards, resolutions and principles. No country, party, or any source of authority may arbitrarily arrest, detain or exile any person, as stipulated in the Universal Declaration of Human Rights. States should also ensure that no one is subjected to detention without due process guarantees or deprivation of liberty amounting to put the detainee outside the protection of the law.

Arbitrary detention is a violation of the right to liberty outside the boundaries of nationally recognized laws and international standards, and this principle applies to all persons, including human rights defenders who are more susceptible to these practices due to the nature of their activities.

The authorities in some countries use arbitrary detention - pre-trial and imprisonment - as a tool of systematic repression of human rights defenders, journalists and activists. This practice violates the procedural rights of the fair trial and fundamental human rights such as freedom of expression, association and assembly, as well as their detention and falsely accusing them to deactivate their work and limit their role and activity in their communities.

Palestine has witnessed many practices similar to this case, like the prosecution and detention of activists, human rights defenders, and even journalists. Many cases have been documented, those cases have been subjected to systematic and similar procedures regarding their prosecution, arrest, detention and trial in ways that violate the law and infringe their rights and freedom.

While reviewing the procedures carried out by the Palestinian Authority from the 1990s until 2022, a difference was noted in the policies and approach taken by the Palestinian Authority in arresting, although the arrests came totally to activists and human rights defenders against the background of freedom of opinion and expression. The style and approach adopted by the Palestinian Authority has changed remarkably in the method of arrest, treatment and detention.

In the early years of the Palestinian Authority, it dealt with prisoners of conscience in a manner that showed respect for the political and social status of

¹⁰ United Nations, Human Rights Committee, General Comment No. (34), Hundred and Second Session, Geneva, 2011.

the detainees, and it distinguished them from the rest of the detainees. In recent years, the authority has adopted a different style in dealing with prisoners of conscience on the basis and rules of force without balance. It has also deliberately detained prisoners of opinion and expression and political detainees with criminals and outlaws in unsuitable conditions, in addition to the infringement of their human rights during detention and arrest.

When comparing the field of work of activists and human rights defenders, it turned out that human rights defenders moved from the political issues that were previously prominent, such as opposition to the Oslo Agreement centrally before (2000), to focusing on social, economic and political rights, and the policies of the Palestinian Authority. Since (2010), the focus of human rights defenders became on issues of democracy, change and elections.

(1) Nizar Banat... a victim looking for justice in the courts' corridors

First: Nizar Banat's life and activities

Nizar Khalil Muhammad Banat (Abu Kifah) was born in 1978 in Al Salt city, Jordan.¹¹ He is a refugee from Ajour town. He lived as a child between the Kingdom of Saudi Arabia and the Hashemite Kingdom of Jordan. He returned to the West Bank in 1999, after completing his university education in Arabic language from the Jordanian university. At that time, he worked as an Arabic language teacher for a short period, and then moved to the entrepreneurial work in carpentry. Nizar Banat is a father of five children.

Nizar Banat is considered one of the most prominent critics of the Palestinian Authority's policies in recent years. He is active in the political, social and legal fields. Also, he is interested in human rights and democracy. He was known for his criticisms through social media posts, or videos, in which he talks about the political performance of the Palestinian Authority and its characters, and the manifestations of corruption in its style and executives.

Nizar Banat was monitored, arrested and assaulted several times, and a number of accusations were brought against him because of his writings and videos that he was publishing. He was also presented many times to the Public Prosecution and the Magistrate's Court, following charges including insulting national

¹¹ Vision Center for Political Development, <https://vision-pd.org/archives/514109>

sentiment, encroaching on the Palestinian National Authority, stirring up sectarian and racist strife, and violating freedom of opinion and expression, as these complaints were filed in the name of the public right, without the knowledge of the complaining party.¹²

Nizar Banat announced his candidacy for the Legislative Council elections that were scheduled for 2021, after the presidential decree issued by President Abbas on January 15, 2021 to hold general elections,¹³ provided that the legislative elections will be on May 22, and the presidential elections on July 31 of the same year. This was followed by a decree on promoting public freedoms,¹⁴ which motivated Nizar Banat to form a list namely: "Freedom and Dignity" to contest the legislative elections and the electoral list took the status of an independent list. He was No. (2) Of the list, and the list carried no. (30) By the Central Elections Committee.¹⁵

On April 29, 2021, President Mahmoud Abbas announced the postponement of the elections indefinitely, justifying this by the lack of consent of the Israeli occupation to hold elections in Jerusalem,¹⁶ which motivated Nizar Banat, through the "Freedom and Dignity" list, to publish a message on behalf of the electoral list on his Facebook page addressing the European Union regarding the president's announcement of canceling and postponing the elections, in which he criticized European Union of their funding to the Palestinian National Authority as it is illegitimate, and demanded that they should stop funding and start investigating the mechanisms for disbursing grants provided for the Palestinian National Authority, in which he expressed his intention to go to the European Court for Human rights in order to take decisions regarding stopping funding and supporting the Palestinian Authority, as it is an authority that confiscates public freedoms by supporting human rights institutions in European countries and associations that support the rights of the Palestinian people and the media of all kinds.¹⁷

Publishing the letter was accompanied by a state of widespread controversy and incitement against Nizar Banat and his fellows on the electoral list, and non-

12 The most notable arrests that Nizar Banat was subjected to, according to the documentation of the Independent Commission for Human Rights:

- On December 14, 2015, he was detained by the Preventive Security Service, and released on December 30, 2015.

-On 2/9/2016, he was detained and released on 29/9/2016.

-On 27/7/2020, his house was attacked by a person in civilian clothes who intimidated his wife and children and threatened to kill Nizar Banat.

-On August 23, 2020, he was arrested by the Preventive Security Service, and released on August 26, 2020.

-On November 20, 2020, he was arrested and detained by the General Investigations, after which he was transferred to the intelligence headquarters in Jericho (under the custody of the Security Committee), and the Magistrate's Court issued a decision to release him on November 23, 2020, and his release was delayed until the next day on 24/11/2020.

13 Presidential Decree No. (), regarding the call for legislative, presidential and national assembly elections, issued on 1/15/2021.

14 Presidential Decree No. (), regarding the promotion of public freedoms, issued on 20/2/2021.

15 Palestinian Elections Committee, Electoral Lists for the Palestinian Legislative Elections, 6/4/2021.

16 Presidential Decree No. 12, Palestinian Gazette, No. 179.

17 Statement of the Freedom and Dignity List regarding the postponement of the Palestinian legislative elections, dated (30/4/2021).

governmental calls to hold the list accountable, and accusations of treason and espionage. On the morning of 1/5/2021, Nizar Banat received a phone call from his lawyer informing him of the desire of the head of the Dura Public Prosecution Office in the Hebron Governorate to meet him. His lawyer asked him to go to the Public Prosecutor's Office in Ramallah on the next day 2/5/2021, Nizar Banat agreed upon this aiming to discuss and talk about some matters without any decision to arrest him or issuing any subpoena against him by the Public Prosecution.¹⁸

On the evening of 1/5/2021, the house of Nizar Banat was attacked by unknown persons, as one of the people broke a window of one of the rooms of the house and threw a gas bomb inside it, followed by shooting in the air behind the house, and the attacker withdrew momentarily after that.¹⁹ The family members suffocated and panicked. This incident was followed by publishing Nizar Banat a video on his Facebook page, asking the Public Prosecutor to investigate the attack on his house and family, and he refused to come to the Public Prosecutor office unless the Public Prosecution investigated and arrested the persons involved in this incident.²⁰

This attack was after Nizar Banat demanded the European Union to cut their aid to the Palestinian Authority, due to the postponement of the 2021 Palestinian legislative elections.

European Union denounced this incident on May 2, 2021 on its official account on Twitter: "The Union Commission in Palestine is following with concern the attack which targeted the home of activist Nizar Banat" in Dura town, in the south of West Bank, and added: "Violence against politicians and human rights defenders is unacceptable".²¹

Nizar Banat's lawyer went to file a complaint about the incident of assault and shooting at the house of Nizar on 2/5/2021. At that time, Dura Prosecutor told the lawyer about a subpoena against Nizar Banat issued by the Public Prosecution between 2-4/5/2021, and it was referred to the Judicial Police in the same period on 2/5/2021.

Nizar received death threats shortly before his death. Nizar told his cousin and those close to him that his life is in danger, and he is subjected to defamation and smear campaign by individuals from Fatah movement and individuals of the security services, in addition to attempts to demonize and assassinate him

¹⁸ Testimony of witness Hussein Banat, Seventh Session, Monday, 1/11/2021, Special Court of the South, Security Forces Judiciary Authority, Military Courts, Ramallah, Palestine.

¹⁹ Published on the Quds News website, on 2/5/2021, at the link: <https://qudsn.co/post/183800>

²⁰ Videotaped and published on (Nizar Banat) Facebook page, on (1/5/2021).

²¹ European Union Commission, official Twitter page, published on 2/5/2021.

morally, and that there is a decision to assassinate him physically, and that he cannot lead his life normally.²² This made Nizar move from his area of residence in Dura, which is under the control of the Palestinian Authority, to the house of his relatives in Sarsouriyeh area, south of Jawhar Mountain, in an area with classification (H2), which is under the military control of the Israeli occupation. He stayed there for two months, according to what was reported by his cousins who used to stay with him in the same house, according to their testimonies before the court.²³

On June 24, 2021, a force of the Palestinian Preventive Security forces broke the house where Nizar was staying and arrested him. In the early hours of the morning, the Palestinian Authority officially announced the death of activist Nizar Banat after he was arrested by a security force from his home in the Hebron governorate in the south of West Bank, while His family accused the Palestinian Authority of assassinating him premeditatedly.

Second: Investigation Procedures into the murder of Nizar Banat

An investigation committee was formed into the killing of Nizar Banat based on the decision of Palestinian Prime Minister “Mohammed Shtayyeh” issued on 24/6/2021. The official investigation committee headed by the Minister of Justice “Mohammed Al-Shalaldeh”, a representative of the Military Intelligence Service, Major General “Maher Fares”, and a doctor representing the family, began its work on Saturday 26/6/2021. The committee began the work by meeting the Governor of Hebron Governorate, the commander of Hebron area, the two doctors who examined the body of the victim, and eyewitnesses from his relatives who were at the house where Nizar Banat was. In addition to interviewing the directors of the security services in Hebron governorate (Preventive Security, Intelligence, Police), and a number of Preventive Security officers. The committee also met the doctor on duty, the nursing staff, and the anesthesia and resuscitation technician at Alia Governmental Hospital in Hebron, and listened to all of their statements and testimonies.²⁴

On 27/6/2021, the representative of the family apologized to continue in the membership of the official investigation committee based on the family request. Also, human rights institutions, including the Independent Commission for Human Rights and the Bar Association, announced their apologies for the

²² Testimony of witness Hussein Banat, Seventh Session, Monday, 1/11/2021, Special Court of the South, Security Forces Judiciary Authority, Military Courts, Ramallah, Palestine.

²³ Testimony of witness Muhammad Banat, Sixth Session, Sunday, 24/10/2021, Southern Special Court, Security Forces Judiciary Authority, Military Courts, Ramallah, Palestine.

²⁴ A video statement by the Minister of Justice, Dr. Muhammad Shalaldeh, broadcast on Palestine TV, on Tuesday, 29/6/2021, Ramallah, Palestine / link to the statement (<https://bit.ly/3Ig3O9G>)

committee's membership because of its lack of impartiality and its lack of official qualities and capacities, parallel to the path of criminal investigation into the incident, which is supposed to be carried out by the Military Prosecution.²⁵

On Tuesday, June 29, 2021, the head of the official investigation committee, Minister of Justice, "Shalaldeh" announced through a video press release broadcasted on Palestine TV, that the investigation into the murder of activist Nizar Banat had ended, and the committee had prepared its report and it will be submitted to the Prime Minister to present it to the President. According to what "Al-Shalaldeh" reported in the press release, the committee worked for three days and listened to all witnesses in Hebron city

collected data and evidence and recommended that its report be referred to the competent judicial authorities to take the legal action,²⁶ and the report of the official investigation committee regarding the events and circumstances of killing the activist Nizar Banat was not published.

The Chief of the Security Forces Judiciary (the Military Judiciary) received the reports of the Investigation Committee and the Civil Prosecutor in the killing of activist Nizar Banat on Thursday, 30/6/2021, and the Military Prosecution began completing the investigation and arrest procedures on 1/7/2021, and the suspects in the murder were arrested and transferred to the Military Intelligence prison in Jericho based on the results of the investigation committee by a decision of the Military Intelligence and the Military Prosecution in the case (No. 1/2021). The investigative file prepared by the Military Prosecution was transferred to the competent military court in accordance with the text of Article (105/B) of Military Procedure code to conduct the trial in accordance with due process, so that after two months and twenty days, the trial procedures for those accused of Nizar's murder will begin.

Third: Initiating trial procedures for those accused of killing Nizar Banat

The first session of the trial for those accused of killing the activist Nizar Banat began on 14/9/2021, and it was postponed because the accused attorneys, Firas Sharaab and Ahmed Sharaab were absent.²⁷ The second session of the trial was held on 27/9/2021, and an indictment was charged against fourteen people accused in the murder of Nizar Banat, as they were charged with joint beating

²⁵ Post on the Facebook page of Dr. Ammar Dweik, Director of the Independent Commission for Human Rights, Ramallah-Palestine.

²⁶ Videotaped statement by Minister of Justice Mohamad Shalaldeh, broadcasted on Palestine TV, on Tuesday, 29/6/2021, Ramallah, Palestine/ Link to the statement: <https://bit.ly/3lgO9G>

²⁷ Court decision, first session, Tuesday, 9/14/2021, Special Court of the South, Security Forces Judiciary Authority, Military Courts, Ramallah, Palestine.

leading to death, the abuse of power by confiscation, violence and complicity, also, the violating military instructions.

In the second session, the defense lawyer requested the court to hold trial session secretly, also, to issue an order to prevent publication because there were confidential information and data that will be revealed in the trial sessions. The court rejected the request based on the request of the Military Prosecution, and took a decision to keep the sessions publicly held as it is an issue of public interest, and as it is a moral issue related to the public order. The press was allowed to publish from outside the courtroom the proceedings of the trial sessions, and the prosecution began listing the details of the investigation and the indictment.

The details related to the killing of Nizar Banat were recited from the beginning of his arrest according to an arrest warrant issued by the Public Prosecution addressed to the Palestinian Police, until the moment of his death. Where the facts were listed in accurate and serial details, all the accused denied the charges against them and pleaded not guilty, and they exercised the right to remain silent during the investigation.

The Military Prosecution filed an indictment for all 14 members of the force, who participated in carrying out the task of arresting Nizar Banat and assaulting him, based on the Military Penal Code of 1979, based on Article (384/b) in terms of Articles (377/g) and Article (82/ b) “Beating leading to death under aggravated circumstances, in the sense of deliberate killing with severity and torture,” the penalty for which is “life imprisonment with hard labor,”. The other officers and members have been charged with “Joint beating leading to death” based on Article (844/b) in terms of Article (777/g), and were accused of “abuse of power” based on Article (228/h) and “violating the military instructions” based on Article (204/a) of the same law for all accused persons. This besides violating the Code of Conduct for the Palestinian Security Forces, the clause on the use of force and firearms by members of the Palestinian security forces (Decision of the Minister of Interior No. 211/2011).²⁸

The second session of the trial of the accused persons began with reciting the accusations by the Military Prosecution; that a group of 14 security personnel participated in the process of arresting Banat on June 24, 2021, which led to his death under beating. The accused are all from the Preventive Security Service, including the commander of the security force who participated in the process, who has the rank of colonel, while three others have the rank of first lieutenant,

²⁸ Code of Ethics and General Code of Conduct for Members of the Palestinian Security Forces.

two are first sergeants, and the rest have the rank of soldier, with an apparent face.

All of the 14 members have accused of joint beating leading to death, abuse of power by confiscation, violence and complicity, also, violating military instructions.

Fourth: The indictment of those accused of killing Nizar, as reported by the Military Prosecution

The indictment was recited by the Military Prosecution during the second session of the accused trial on Monday, September 27, 2021. The charges were recited against the accused during the session. The details of the indictment as provided by the Military Prosecution were as follows:²⁹

At the dawn of 24/6/2021, at 3:18 am, a group of Preventive Security consisting of 14 members wearing civilian clothes, driving four vehicles, one of them unlicensed, went to a house where activist Nizar Banat was staying in the southern area of Hebron in Jabal Jawhar, which is an area with Classification (H2) in Hebron, and this area where the house was located is characterized of being outside the administration of the Palestinian Authority and under the security control of the Israeli occupation administration.

In the process of arresting Banat, the force relied on an operations order issued on 4/5/2021, and a subpoena issued by the Public Prosecution addressed to the police force, specifically to the Hebron Police Chief on 23/6/2021. The subpoena has sent via WhatsApp to the Preventive Security Service, accordingly, the location of the victim has been determined to be in the southern region of Jabal Jawhar, Sarsouriya neighborhood.

The force that moved in four vehicles, one of them is a Hyundai Accent a governmental car in silver, the second one is an unlicensed Peugeot in silver, and the third one is a Skoda Fabia in white color, and the fourth one is a "Polo" in grey arrived at the house where the victim is located. Once the force members arrived at the house,³⁰ a number of them opened a window of the house using an iron lever, and entered without introducing themselves, and the group split when they reached the site into two groups,

Who broke the house where the activist Nizar Banat was, and they opened the door for the remaining members of the security force, then two of the force went

²⁹ Military Prosecution, Second session, Monday, 27/9/2021, Special Court of the South, Security Forces Judicial Authority, Military courts, Ramallah, Palestine.

³⁰ Also published on Sama News website at the link: <https://samanews.ps/ar>

to Nizar Banat's relatives, and they are his cousins Hussein and Muhammad Majdi Banat, who were sleeping on a mattress on the floor, and they were sprayed with pepper gas, and putting guns on their heads and asked them not to move. Meanwhile, another security officer went to the late Nizar, and after confirming his identity, he hit him on the head more than once by the iron lever, then he beat him all over his body. After that, the rest of the security force participated in the beating of Banat with "ferocity", according to the description of the Military Public Prosecution. The beating took place using levers, sticks, pistol heels, and by hands and feet. Banat was pulled from the bed and he was stripped of his upper clothes. He was assaulted while lying on his back, then he was turned over on his stomach, his hands tied from behind, while continuing to beat him, then he was sprayed with gas directly while he was tied.

The facts that were recited by the prosecution in the court session showed that the force commander entered the house wearing a "vest" (jacket) on which Preventive Security was written. When the security force attacked Nizar Banat, he told them, "Continue," so they continued to assault Banat, then they lifted him and hit him on the head with a pillar in the house, and they took him outside, but he fell from their hands, so they pulled him by his feet outside and took him towards the Polo vehicle. At that moment, Banat was no longer able to stand, as the facts show, so the security force grabbed him and took him towards their vehicle and forced him to climb into it forcibly, while continuing to assault him, and one of them beat him with his hands and feet and assaulted him with a pistol heel by entering his hand from the window of the vehicle in which the victim is located. Meanwhile, a group of five members of the force returned to the house and searched it and confiscated a "laptop", a "camera stand" and a phone belonging to the victim.

The force left the place at 3:23 am, and headed to the Preventive Security Directorate in Hebron. The grey Polo vehicle arrived at the Preventive Security Directorate building in Hebron at 3:32 am. They entered the victim inside the fence of the directorate building at the main gate. The vehicle doors were opened, and the victim was not immediately lowered, and he remained inside for about 3 minutes. Then he was carried by his hands and feet outside the vehicle and placed on the ground behind the car at the entrance of the Directorate, one of the accused contacted another accused who was near the entrance of the Directorate and informed him of the victim's condition and they called The Operations Director of the Preventive Security Service informing him of the victim's condition, so the Operations Director requested they transfer him to the hospital immediately. The force did not respond to the order, and the victim was transferred by his hands and feet into the directorate and placed in a reception hall on the first floor

where the victim remained for five minutes. He was not taken to the hospital immediately, whereas he arrived to the hospital after that in a difficult condition and no longer shows any vital signs. The prosecution cited the cause of Banat' death, which is "traumatic shock caused by multiple injuries, which caused acute heart failure."

At approximately 3:46 a.m., the victim was transferred from the Preventive Security Directorate headquarters to Alia Governmental Hospital in Hebron, where the victim arrived at the hospital at 3:50 a.m. He was admitted to the emergency department and there were no vital signs visible on the victim. Accordingly, doctors tried to revive him for more than forty minutes to no avail, his death announced after that. After performing the autopsy, it was found that the cause of death was traumatic shock caused by multiple injuries, which caused acute cardio-respiratory failure.” The 14 accused men denied the charges brought against them, and the Military Prosecution informed them that they have the right to remain silent, and they complied with that right, and the court rejected a request from the accused defense to hold the court session secretly⁽³¹⁾.³¹

Fifth: Evidence of the Military Prosecution

The Military Prosecution began submitting its evidence to the court and bringing witnesses related to the case, starting from the third session on Monday, 4/10/2021, and ended submitting its evidence nearly two months later at the eleventh session on Sunday, 5/12/2021, with a total of (9) sessions during which, about (22) witnesses brought by the Public Prosecution to take their testimony before the court, and (3) witnesses whose testimonies were presented to the Military Prosecution without attending the sessions, a total of (25) witnesses.

The witnesses were as follows:

- Witnesses of the third session on 4/10/2021, six witnesses:

1. Abdel-Al Qaymari, a colonel in the Preventive Security Service, Deputy of the Hebron District, a participant in the meeting of the Palestinian Authority's Supreme Security Committee. He stated that he was at a meeting of the security committee for the directors of operations in the security services in Hebron governorate, during which the bank of targets included the name of Nizar Banat, and he was not aware of the reason for arresting Nizar Banat.

³¹ Second session, Monday, 27/9/2021, Special Court of the South, Security Forces Judicial Authority, Military Courts, Ramallah, Palestine.

2. Abdel Moneim Farkh, Director of Joint Operations in Hebron Governorate, the organizer and signer of the operations order issued by the Joint Operations Room, stated in his testimony that he was the one who called for the meeting as being the director of joint operations in Hebron Governorate, and the meeting was held in the presence of the operations directors of all security services in Hebron Governorate, where the meeting was based on the recommendations of the Supreme Security Committee to arrest a number of wanted persons and identifying the target bank.

3. Dr. Abdel Aziz Atawneh, an on-duty doctor at Alia Governmental Hospital in Hebron, explained that when he examined Nizar Banat after arriving at the hospital, he did not have any vital signs, and he began a cardiopulmonary resuscitation, but there was no response. The doctor noticed signs of wrists cuff and a scratch on the forehead, but no bleeding was noticed.

4. The nurse Anas Abdel Muti Hamouz, a nurse in the emergency department at Alia Governmental Hospital in Hebron, reported that he had contributed to the process of resuscitating the victim's heart by direct pressure on the heart, and during that a fracture occurred in the rib cage due to the constant pressure, and he did not notice any bleeding or signs of blood on the victim's body.

5. Imad Salem Jadallah, a nurse in the emergency department of Alia Governmental Hospital in Hebron, stated that the case had entered the hospital accompanied by two armed security people, and the person that they carry was passed out. Imad transferred the victim from the car to the emergency department, and during the transfer he examined the cardiac vital indicators and there was no pulse.

6. Abd al-Afu Niroukh, a medical equipment engineer at Alia Governmental Hospital in Hebron, stated that he was not at work at the time of the incident. He filmed a video from the hospital's recording cameras on his mobile phone, transmitted it on a CD, and handed it over to the existing committee without knowing who this committee was.

Witnesses of the fourth session, on 10/10/2021, four witnesses, namely:

1. Hashem Hassan Arar, with the rank of colonel in the Judicial Police, and the most important thing in his testimony was that he received a subpoena for Nizar issued by the Public Prosecution in Dura, issued on 4/5/2021, and he received it on 10/5/2021, and he carried out the procedures followed in circulating it to all governorates and sending it to the Dura Police Station for follow-up and sending a copy via WhatsApp to the Hebron Governorate Police

Director. The colonel mentioned that he doesn't receive subpoenas except in major cases or opinion issues.

2. Raed Hassan Jawabreh, Civil Police, General Investigation Branch, member of the information committee of the joint security committee of the security services in Hebron, investigation officer and a member of the information committee of the security committee. According to him, during the meeting of the committee, Nizar Banat's name was at the top of the wanted list randomly, and the list was submitted to the leaders of the security services in the province.

3. Youssef Hassan Tbaish, a first lieutenant in the police force, on duty at Alia Governmental Hospital, explained in his testimony that he only saw the corpse while it was covered by the hospital blanket.

4. Walid Ayesh Atawneh, at the rank of lieutenant-colonel, forensic evidence officer at Hebron Police, he did not find any indication of blood, resistance or violence in the place of Nizar Banat's detention or on the tools used, and he did not find signs of broken windows or doors, and confirmed that the tools the force had during the arrest are a hammer, an iron lever, pepper gas, and a head torch.

-Witnesses of the fifth session on 17/10/ 2021, four witnesses, and they are:

1. Mohammed Ismail Sweiti, Colonel, Director of Preventive Security Operations in Hebron, participant in the Operations Directors meeting, responsible for instructing the force official, Aziz Tamiza, to move to carry out the operation after the approval of the Director of Preventive Security, but without giving him a copy of the arrest warrant, and he remained in contact with him all the time until Nizar transferred to the hospital, he reported that Nizar Banat resisted the members of the force that arrested him, according to what force members told him.

2. Ali Ahmed Qdaimat; a doctor with the rank of colonel in the Preventive Security Service, was summoned at dawn to the headquarters to aid one of the detainees, but they transferred Nizar to the hospital before the doctor arrived.

3. Refaat Muhammad Zaid, with the rank of major in the Engineering Department of the Preventive Security Service, who extracted the recordings from the cameras of the Preventive Security Directorate in Hebron and confirmed that nothing has been deleted from the camera recordings, but the DVR device that shows the gate of the building and its inner courtyard is only storing motion photography.

4. Tarif Yasser Hajja, a lieutenant-colonel in the Operations Department of the Preventive Security Service in Hebron. He was on duty in the directorate on the night of the incident. After the force returned from the arrest operation, he saw a person lying on the ground on his stomach and some members gathered around him, one of whom said to him, "Wake up, you are joking." And another one sprayed some water on him to wake up, and he is the one who called the Preventive Security doctors.

-Witnesses of the sixth session on 24/10/2021, three witnesses, and they are:

1. Ismail Muhammad Banat, the uncle of the victim, stated that the victim was summoned by the Preventive Security Service for investigation nine months before his death. The witness intervened with his relation with Maher Abu Halawa, one of the Preventive Security officers, to delay the delivery of the victim to the Preventive Security because the victim owed some returned checks and wants to pay them off. At the same time the witness received a call from the director of investigations in the Hebron governorate, because there was a subpoena for the victim to go to the General Investigations. The victim told the witness that he will turn himself in two weeks later to the Preventive Security Service, but there was a shooting incident at his house, which made him move his place of residence in order to save his family.

2. Ammar Majdi Banat, cousin of the victim, brother of Muhammad and Hussein Banat who were in the house with the victim. He narrated the details of the reasons for moving the victim to his place of residence, and also informed the victim of the intention of some parties to get rid of him and kill him.

3. Muhammad Majdi Banat, cousin of the victim, who was with the victim in the house at the time of the incident, and he narrated the details of the incident.

Witnesses of the seventh session on 1/11/2021, two witnesses, namely:-

1. Hussein Majdi Banat, cousin of the victim, who was with the victim at the time of the incident, and he narrated the details of the incident.

2. Muhammad Ahmad Zakarneh, with the rank of Major General, Director General of the Preventive Security Service in the Hebron Governorate, reported the reasons for the meeting of the Operations Managers and the Security Committee leading Hebron area. He received the outcomes of the meeting through Colonel Muhammad Sweiti, Director of Hebron Operations in the Preventive Security Service, who informed him of issuing a subpoena against the victim issued by the Public Prosecution that was not sent to the Preventive

Security, and he followed up the arrest campaigns directly on the phone with Colonel Muhammad Sweiti.

-Witnesses of the eighth session on 7/11/2021, one witness:

1. Majd Muhammad Faqih, with the rank of captain in the Information Technology Department in the Security Forces Judiciary Authority, an auditor and a participated in writing a report covering all videos, photos and phone calls related to the incident with witness Muhammad Wahdan. His statement was completed at the ninth session.

-Witnesses of the ninth session on 16/11/ 2021, two witnesses:

1. Muhammad Sami Wahdan, with the rank of captain, cybercrime unit officer at the Military Intelligence, an auditor and a participant in writing a report regarding all video clips, photos and phone calls related to the incident.
2. Majd Al-Faqih, the completion of hearing his testimony presented in the eighth court session.

Witnesses of the tenth session on November 29, 2021, one witness:

1. Ashraf Hassan Al-Qadi, forensic physician and responsible for forensic medicine at the Ministry of Justice, who confirmed that the cause of death was "traumatic shock caused by multiple injuries, which caused acute cardio-respiratory failure." and said that the victim was subjected to multiple simultaneous external violence during a short period for few minutes.

Witnesses of the eleventh session on 15/12/2021, three witnesses, and they are:

The testimonies of witnesses were presented to the Military Prosecution without their presence in the courtroom, and they are:

1. Ayman Youssef Arzeigat, with the rank of major
2. Wissam Youssef Salhoub, with the rank of captain
3. Ziad Saadi Banat

In addition to the testimony of witnesses, the Military Prosecution relied on various evidence collected during the investigation period, which included:

1. Displaying various videos from the Preventive Security headquarter while the force went out for the mission and during their return catching the victim, and while they were on alert at the Preventive Security headquarter and bringing an ambulance stretcher to transport Nizar Banat to the hospital, and videos from the houses opposite the house from which Nizar was arrested. The clips showed the

individuals of the force when they arrived the place and entered the house, then the members left carrying Nizar Banat and put him in the car. It turned out that a number of force members did not enter the house and remained waiting outside next to the vehicles. Video clips were examined and displayed at Alia Governmental Hospital when the Preventive Security Force arrived and the victim was admitted to emergency and the first aid operation began, and the photos taken during the autopsy of Nizar Banat were also presented.

2. All the details of the incident in the hour minute and second were proven through video clips, as well as all places were identified through maps and aerial photos.

3. Records of the examination and previewing the house where the victim was, a diagram of the house, photographs, and a CD.

4. A bill of evidence for the tools used by the accused when they entered the house (headlight, two pistols), and the detection, previewing, and bill of evidence for the “Polo” vehicle that was used by the accused to arrest the victim.

5. Examination and inspection of the yards of the Preventive Security Directorate in Hebron.

6. A bill of evidence for (3) sponge mattresses, (2) pillows, and (1) quilt.

7. A bill of evidence for the victim's blouse, and victim's flannel and marking them with the letter (M N 24).

8. A bill of evidence related to the crime scene and the house in which the victim was

9. A bill of evidence for the confiscations from the victim's house without having a search and seizure warrant.

10. Letters issued by the security services regarding the subpoena of the victim.10

11. Presenting the forensic report. 11

12. Report of the forensic laboratory of the Palestinian Police.12

13. A statement of calls issued by Jawwal Company for the accused and witnesses.

14. Digital reports and guides.

The Military Prosecution dealt professionally in collecting evidence and in the preliminary investigations, and relied on the evidence in dealing with the case, as it resorted to the telecommunications company and camera recordings, and tracked the path of the subpoena, and charged the accused persons with search and illegal confiscation due to the absence of a search warrant, in addition to charging them of Insubordination , and emphasized that the Preventive Security Service does not have an official copy of the warrant, but only on WhatsApp, and it does not have the right to arrest him, because the warrant is directed to the police, which reflects the professionalism of the Military Prosecution in dealing with the criminal file, as the indictment was accurate and the facts were conveyed in a detailed manner and matched with the Security Forces Law and the Security Forces Code of Conduct, and confirmed the lead between the accused, their connection to the crime that criminalize them.

Sixth: Evidence of Defense

After the military prosecution finished of presenting its evidence and hearing the witnesses it presented, the court moved to the defense attorney, presenting his evidence and summoning his witnesses. The witnesses appeared before the court as follows:

-The defense lawyer requested to present his evidence at the twelfth session, on Wednesday 15/12/2021, and to summon Mr. Zaid Zaidan Al-Rajbi to testify before the court.

- The 13th session was held, on Sunday 26/12/2021. The witness appeared before the court, and after taking the legal oath, he gave his testimony about the accused force official, Aziz Tmaizi, whether the official gave an order to the force to use violence and brutality against the victim and to continue with use of force. The witness denied this; he denied also the testimony of the one who was with the victim at the time of the incident, Muhammad Banat, and what he said before the Military Prosecution and before the court.

-The 14th session was held on Monday 10/1/2022. The defense attorney's witness, Sami Diab Al-Sheikh attended; the court assigned him to conduct expert work on parts of the videos included in the case.

-The 15th session was held on Monday 31/1/2022. The witness Sami Al-Sheikh came based on the court's mandate, and the defense attorney requested an analytical report that was presented to the prosecution and the court about the videos of cameras that were shown to him as an information security expert. The

Military Prosecution objected to the report due to the lack of productivity, legality, and lack of digital evidence. The military prosecution asked the court to ask the witness to provide certificates and documents proving his experience in the field.

-The 16th session was held on Sunday 13/2/2022, in which the Military Prosecution handed over a letter issued by the Legal Adviser to the Military Intelligence stating that the 14 men accused of killing Nizar Banat refused to leave prison and to appear in the military court, which violates the legal texts. The court issued a decision to compel the accused to appear before the court by addressing the Military Intelligence, in the 17th session that will be held on Sunday 27/2/2022.

-In the 18th session, which was held on 27/2/2022, the defense attorney requested to summon the witness, a specialized doctor, and handing him the medical report of Nizar Banat so that he could conduct expert work regarding it and prepare a report on based on that.

The doctor came, and the medical file was handed over to him to start conducting the work of expertise regarding it in the 19th session on 2/3/2022. The court set the witness's hearing session on 16/3/2022, but it was postponed upon a prior request from the defense attorney to give the doctor more time to prepare his report.

In the 19th session, which was held on 24/3/2022, the testimony of Dr. Saber Al-Aloul, the former director of the Institute of Forensic Medicine was heard. He submitted an experience report after studying and examining all the medical files of Nizar Banat before and after his death. The most important thing of what resulted from the report that the main cause of Nizar's death was a heart attack due to a previous ailment in the heart muscle, and he denied what was stated in the autopsy report about Nizar's death –due to traumatic shock- and that the injuries on Nizar's body could collectively lead to death. The military prosecution asked not to present the doctor's certificate due to the lack of productivity, but the panel of judges refused.

-The next session is scheduled for 11/4/2022. But later the session was postponed based on the special request of the defense attorney until 18/5/2022.

-In the 20th session, which was held on 18/5/2022, the accused, their representative, and the Military Prosecution attended, but the personal right attorney did not attend because the family announced its final withdrawal from the military trial in rejection of its abuses and irregularities. The defense attorney requested improving the conditions of detention of the accused in the Military

Intelligence prison in Jericho, like increasing the visiting hours for families, and the court agreed to assign the prosecution to write to the military prison to give the accused their rights in accordance with the Correction and Rehabilitation Centers Law.

*The defense attorney requested a correspondence with the Supreme Judicial Council and the Civil Prosecution to provide the court with criminal records and judicial decisions issued against each of Muhammad Majdi Banat, Hussein Magdi Banat, Ammar Magdy Banat and Ismail Muhammad Banat, for the purposes of viewing and presenting them as defensive evidence.

*The Public Prosecution objected to the defense attorney's request because the request was not related to the fact of the case, and the witnesses were not incriminated. The court rejected the defense attorney's request and told him that if he has a case exclusively that he needed, he could request it from the court, and it is not permissible in any way to request a criminal record for any witness, especially in general. The court considered that the criminal record is not related to the fact of the case under the consideration of the witnesses, but the defense attorney reserved his right to file a future appeal against the court's decision.

*The defense attorney got agitated over the issue of the lack of protection for his witnesses outside the court, so the court asked him to submit the names of the witnesses in an official letter directed to it, and assured him of its keenness not to leak any names and information.

*The court asked the lawyer not to delay and expedite presenting his evidence, but he insisted that he cannot bring witnesses because they fear the consequences. The next session is set for 29/5/ 2022 on Sunday.³²

-In the 21th session, which was held on 29/5/2022, only the Military Prosecution attended, but the accused and the defense attorney did not attend. The prosecution said that the Legal Department of Military Intelligence sent a letter stating that it was not possible to bring the accused to court from the prison in Jericho due to the failure to complete the coordination procedures with the occupation to move them because of the security situation. The session has been postponed to Wednesday 1/6/2022.

In the 22th session, which was held on 1/6/2022, all the accused, the military prosecution and the defense attorney attended, where the defense attorney requested to bring witnesses by submitting a warrant of their names to the court,

³² The lawyer of Banat family, lawyer Gandhi Al-Rabi, decided on May 10, 2022, to permanently withdraw from attending the session of the accused of the murder of activist Nizar Banat, not to recognize its outcomes, due to granting the accused a leave to go out of the prison without the approval of the court.

and their names were not announced based on the attorney's request. The court decided to mark the defense attorney's warrant and include it in the court papers, and provide the prosecution with a copy of it. The session ended, and Monday 13/6/2022 was set as the date for the next session, and it was postponed until 15/6/2022.

It is worth mentioning that during the last sessions, the judge urged the defense attorney to speed up his procedures and to present his evidence, not to procrastinate and continue postponing the sessions, in response the attorney would get agitated each time, justified what was happening by his inability to bring witnesses because of the pressures and threats they were exposed to.

Seventh: Conclusions and Recommendations

A) The conclusions

"Nizar Banat .. A victim looking for justice in the courts' corridors"

1. The results of listening to the proceedings of the trial of those accused of killing the political activist Nizar Banat, especially the prosecution witnesses, revealed that the real reason for his prosecution by the official authorities – Palestinian Authority- was his political views in which he criticized the various political levels, and as a result he was subjected to a campaign of incitement, treason and prosecution before his murder, the most severe one was on 1/6/2021, his house was shot and a gas bomb was thrown into the house where Nizar family resides, by unknown assailants.

2. The campaigns of incitement and mobilization that targeted Nizar personally created a suitable environment for his assassination, due to the degree of hatred and incitement in which he was exposed, at a time he did not receive adequate protection as a human rights defender, so he was not able to pursue or prosecute the shooters of fire at his house and they escaped punishment, which created a general impression among Nizar haters that his life has absolutely no value. Therefore, this atmosphere constituted a justification for using the excessive violence against Nizar, which led to his death on 24/6/2021.

3. The institutions of the Palestinian state greatly delayed launching an official criminal investigation into the incident of Nizar Banat's murder, and replaced that with an administrative investigation through a committee formed by the

Prime Minister on the death of Nizar Banat on 24/6/2021. The official investigation committee, headed by the Minister of Justice, "Mohamed Al-Shalaldehy", started the work, but the work of the committee was characterized by severe weakness due to the apology of many parties to be a member of the official investigation committee. On June 29, 2021, the committee announced the end of its work and referred the file to the military judiciary. It is worth mentioning that the Civil Public Prosecution, which has jurisdiction, should have initiated the investigation on the murder of Banat from the first moment of the incident all the way to the end, and then it should decide of referring him to the Military Prosecution.

4. The Military Prosecution began the investigation procedures immediately after receiving the file, and arrested 14 members of the Preventive Security Service who participated in the process of arresting Nizar Banat. At the court session held on July 24, 2021, an indictment was charged against 14 people accused of the murder of Nizar Banat, whereas they were charged with joint beating leading to death, the abuse of power by confiscation, violence and complicity, and violating the military instructions. The trial procedures began before the security forces' judiciary on 14/9/2021.

5. It turned out that the Military Prosecution dealt seriously with the investigation file related to the killing of Banat, and built its evidence on field facts, files, recordings, and phone calls that it tracked, and it succeeded in building an investigation file accusing the group of 14 people, and thus the prosecution was limited to the executing persons who carried out the crime, and it seemed that revealing the existence of those who issued a decision regarding the assassination appeared to be absent due to the accused refusal to testify, and the failure to show any evidence in the investigation file pointing to instigators or who ordered the assassination, and thus the court proceeded to classify the incident to the accusation of joint beating leading to death, the abuse of power by confiscation, violence and complicity, and violating the military instructions.

6. The Military Prosecution began presenting its evidence to the court and bringing witnesses related to the case efficiently and effectively, starting from a court session held on 4/10/2021, and ended with presenting its evidence at a court session held on 12/5/2021 by (10) sessions for the prosecution evidence, during which about 22 witnesses were heard, who were brought by the Public Prosecution to take their testimony before the court. And the testimonies of (3) witnesses were presented without attending the sessions, thus, the court had completed the hearing and produced a total of (25) witnesses within only two months.

7. In the third stage of the trial (the defense evidence stage), the court heard during 9 sessions; held from 15/12/2021 to 15/6/2022 only (3) witnesses, over a period of six months, which indicates the start of a new phase of delay and procrastination in the court proceedings, where there is obvious decline in performance between the stage of prosecution evidence and the stage of defense evidence, both quantitatively and qualitatively. This slowness was justified by the exposure of witnesses to threats and their fear of giving their testimony.

8. The trial procedures of those accused of killing Nizar Banat were subjected to severe blows that affected the status & image of the court, and it constituted an attack on its jurisdiction. On February 13, 2022, the Military Prosecution handed over a letter issued by the Legal Adviser of the Military Intelligence stating that the 14 men accused of Nizar Banat murder refused to leave prison and appear before the military court which violates the relevant laws, and the court issued a decision to compel the accused to appear before the court by addressing the intelligence services.

On 18/5/2022, the accused, their representative, and the military prosecution attended, but the personal right attorney did not attend because the family announced its final withdrawal from the military trial in refusal to the transgressions taking place there.

On May 29, 2022, only the Military Prosecution attended, but the accused and the defense lawyer did not attend. The prosecution indicated that the Legal Department of Military Intelligence sent a letter stating that it was not possible to bring the accused to court from the prison in Jericho due to the failure to complete the coordination procedures with the occupation to transfer them because of the security situation.

Finally, on June 21, 2022, the accused were released in the murder case of the activist Nizar Banat, on the pretext of the spread of Corona virus, without a decision issued in this regard by the court.

The conclusion

The above mentioned main conclusions indicate that the military court hearing the case of murdering the activist Nizar Banat is handcuffed and unable to practice its full jurisdiction on the case, and its decisions were humiliated by executive bodies, and thus failed to conduct a fair and effective trial that is capable to achieve justice for Nizar.

B) Recommendations:

Referring the case file to the Palestinian regular courts, and to re-do all the trial procedures of Nizar Banat case that have taken place until this moment, including the legal framing of the charge. In addition to working on concluding the court procedures to ensure respect for fair trial guarantees, and to achieve justice for Nizar effectively, in a timely and expeditious manner.

2. Forming an independent investigation committee to examine the circumstances that led to the failure of the military court in conducting the trial procedures effectively and transparently, without any detraction in its results.

.3. Acknowledging the institutions of the state of Palestinian of their legal and moral responsibility for the crime of murdering the activist Nizar Banat, and compensating his family for all the material and moral losses they suffered.

4. Considering the culture of spreading hatred, incitement and treason as a crime, as it is the environment that can result in physical violence and assault on the human rights defenders who are subjected to defamation and smear campaigns, and holding the launchers of these campaigns legal responsibility for the crimes that occur because of them.

(2) Are the trials of human rights defenders seek justice, or is it a punishment?

The period after the killing of activist Nizar Banat in 2021 was characterized by a completely different image from what was practiced before his murder. A new approach has been adopted in prosecuting human rights defenders at the legal and social levels, as the official authorities brought dozens of files to the courts during the past year.

The Civil Commission for the Independence of Judiciary and Rule of Law tracked, monitored, and documented several files of these cases based on what it witnessed during the sessions attended by the commission's supervisory team, or through its review of the files of cases pending in the courts during a period of one year from the date of killing the activist Nizar Banat, and the interviews conducted by the researcher with many people who were prosecuted before and after the incident. These files were examined and their procedures within the corridors of the courts were reviewed to examine whether the courts were working to achieve justice or practicing a punitive means for human rights defenders.

First: The Demographic Dimension of women and men human rights defenders prosecuted in the Palestinian Courts

This report targeted (45) cases of human rights activists and defenders whose investigative files were transferred to the courts, only two of them were females and the rest were males. Their trial sessions files were reviewed and analyzed in the West Bank courts, the majority of whom were residents of Ramallah and Al-Bireh governorate, in numbers, they are (24) out of (45) cases from the various governorates of the West Bank, that's mean 53% of the total number of cases that were monitored, in addition to (8) cases from Jerusalem governorate, (2) cases from Nablus governorate, (2) cases from Salfit, (3) cases from Jenin governorate, (1) case from Jericho, (1) case from Tulkarm, and (1) case from Tubas.

It was noted that the highest age group of those defenders appearing before the courts ranged (from 21-50) years, as they are (29) cases out of (45), or 64%. There are (7) cases whose age rang is (from 18 - 21), or 16%, and (9) cases of over 50 years, or 20% of the total number of activists and defenders who were prosecuted before the Palestinian courts.

Looking at the background of activists and human rights defenders, it turned out that the widest professional category is workers, with (11) people out of (45), and the rest of the cases were divided into different fields of work, including journalists, lawyers, farmers, engineers, university students, public servants, merchants, doctors, private sector employees, and others who are unemployed.

Second: The Circumstances of the Prosecution of Activists and Human Rights Defenders

Last summer, the West Bank witnessed widespread prosecution of a large number of activists and human rights defenders against several backgrounds, the most prominent of which was the outbreak of large-scale demonstrations and protests following the killing of activist Nizar Banat on 24/6/2021, and activists' protests against the cancellation of legislative elections under the presidential decree No. (12) For the year 2021 issued on 30/4/202.³³ The searching team also found that the files of all cases are devoid of any criminal record, as their records are clean and have not violated civil peace or violated general controls.

1. Detaining and transferring the files of activists and defenders to the courts

³³ Presidential Decree No. 12, Palestinian Gazette, No. 179.

During these incidents, particularly after the killing of Nizar Banat, the files of (36) cases were detained and transferred to the court, while (9) cases are still under trial and their files transferred to the court before that incident. The majority of them were arrested and their files transferred due to the cancellation of the elections. Thus, the number of cases of defenders whose trials were monitored is (45) people who participated in (16 files), the majority of which were submitted to the court after the killing of Nizar Banat.

The activists and defenders who transferred to the courts were detained by several security agencies. The largest percentage of them were arrested by the Palestinian Police, as it turned out that (37) of the total cases were arrested by the Palestinian police, or 82%, and (2) cases were arrested by the National Security, and (2) cases were detained by the Preventive Security Service, and two cases were directly arrested by the Public Prosecution, noting that all detainees are presented to the Public Prosecution within a maximum period of 48 hours, and all of their files have been transferred to the court.

The security services have arrested (41) activists and human rights defenders from the public street during or before their participation in peaceful gatherings. Some of them were arrested and detained during, before or after their participation in peaceful gatherings without issuing any legal warrant, subpoenas issued against just (4) of the total cases that have been monitored and followed up, (3) of them were summoned and inspected by the police, and they were against each of the activist Ghassan Abdullah Al-Saadi, the activists Fakhri Jaradat and Osama Fakhri Jaradat, who were deported to Ramallah after their arrest in Jenin,³⁴ and only one subpoena out of the four was executed by the Preventive Security Service – Nablus, against the TV director Abd al-Rahman Thahir.

According to the testimony of one of the detainees, as included in case file No. (2548/2020), he was arrested while he was in one of the shops in Ramallah, two security men attended, asking for his personal identity, and then he get arrested, and handed over to the investigation, against the background of publishing posts on his Facebook page.³⁵ While case file No. (2635/2020) indicates to other two defendants that the first was arrested by the police during his work in distributing his products at Al-Manara roundabout by the police without any gathering, and the second was wearing a mask while wandering in Ramallah. He was arrested

³⁴ Criminal Case File No. (2828/2021) at Ramallah Court.

³⁵ Criminal Case File No. (2548/2020) at Ramallah Court.

by security men while he was with his friends, and he was taken to a National Security vehicle.³⁶

According to case file No. (3441/2021), one of the women detainees stated that she was buying some necessities from Al-Manara roundabout area, and her friend was arrested in front of her, and after she passed to another street, she was stopped by the police and taken to Ramallah intelligence. Another defendant stated that he was in the Al-Manara roundabout area and he was standing near the gathering when a police force arrested him and took him to the police station. In another statement, one of the detainees stated that she was taken to the police after a policewoman went to her and checked her phone while she was near to the place and left her until she reached a policeman who asked to speak with her and arrested her.³⁷

2. Allegations of excessive use of force against activists and defenders

After reviewing the trial files of the activists and human rights defenders and their testimonies before the Palestinian police directorates, the Public Prosecution and the Palestinian courts, the majority of them confirmed that they were arrested and detained after using violence, force and beating against them by security forces in civilian clothes and others in military uniforms. Many activists and human rights defenders reported that in many cases, they were subjected to beating, violence, force and arrest during the exercise of their work. Others reported that they were subjected to repression, beating and torture without any justification. According to case file No. (2777/2021), the detainee was beaten and assaulted by four people in civilian clothes in Al Baloua area in Al-Bireh city, where there was no gathering or assembly, and he was taken to the police station and an indictment was filed against him.³⁸

In case file No. (2542/2021) for a group of detainees, one of the detainees stated that he was at Al-Manara roundabout in order to demonstrate peacefully in protest against the killing of activist Nizar Banat, and there were riots without providing protection for the demonstrators by the police, so he approached a military lieutenant-colonel to ask him about their role in protecting the demonstrators, and when asked the question, he was beaten by the Palestinian police and arrested. The other detainee stated that he was riding in a car with his brother, a soldier in the Civil Defense, and stopped at a traffic light near the Muqataa to provide the first aid for someone who was in a car that got under fire.

³⁶ Criminal Case File No. (2635/2020) at Ramallah Court.

³⁷ Criminal Case File No. (3441/2021) at Ramallah Court.

³⁸ Criminal Case File No. (2777/2021) at Ramallah Court.

During this time, a group of people in civilian clothes attacked and beat them and smashed their car, and they were arrested by the Presidential Guard.³⁹

In case file No. (2856/2021) for three of the detainees, all of them reported that they were beaten while participating in peaceful gatherings in the city center of Ramallah by security members in civilian clothes before handing them over to the Palestinian Police.⁴⁰

In case file No. (3441/2021), a group of activists were attacked, and 14 people were arrested while participating in peaceful gatherings by Palestinian police and security members in civilian clothes, (12) of them were referred to the Public Prosecution Office to give their testimonies, including those whose ID cards were confiscated and then restored, and others were detained, as charges were brought against (8) activists and referred to the Palestinian courts, and the rest were released based on the Public Prosecution order. One of the detainees stated that he was walking near Al-Manara roundabout and saw the arrests of some people, so he went to a security officer to ask him about the reasons for the arrest, as being a journalist, and he was arrested too.

Another defendant stated that he was assaulted by individuals in civilian clothes on a street near Al-Manara roundabout for no reason after being asked for his name. Another defendant stated that he was on Al-Ersal Street with his son to visit the dentist and was arrested and detained by the police. Another defendant stated that he was participating in the peaceful assembly after getting assured that there was a permit for the demonstration by the governorate and his desire to participate and express his opinion and demand democratic elections, he was directly attacked by the police. Another defendant stated that he did not participate in any gathering, but was close to the gathering with one of his friends before a group of police assaulted and arrested him.⁴¹

In case file No. (2676/2020), the detainee stated that he insulted the security man who was at Anabta checkpoint because he had beaten him and that he did not violate the law, and when he was asked to return, he returned and did not obstruct the work of the security and did not resist or hit the security, but he was stopped, and assaulted by beating him severely by a group of security men at the checkpoint with shoes and rifles' heels, and he lost one of his teeth and got arrested.⁴²

3. Conditions of detention and arrest.

³⁹ Criminal Case File No. (2542/2021) at Ramallah Court.

⁴⁰ Criminal Case File No. (2856/2021) at Ramallah Court.

⁴¹ Criminal Case File No. (3441/2021) at Ramallah Court.

⁴² Criminal Case File No. (2676/2020) at Tulkarm Court.

Some activists and human rights defenders reported that the conditions of arrest and detention were poor, as some of them were subjected to beating and violence, and some of them had visible marks on their bodies, and that the detention rooms there were not suitable for human life, and it didn't meet the minimum of human rights standards, they lack cleanliness and privacy in using toilets, suffer from severe overcrowding, and face a problem with lighting and frequent power cuts. Moreover, they have been detained and arrested in places where criminal cases and those of criminal records exist.

On (21/8/2021), a group of activists announced their hunger strike for a period of (3) days in order to get their conditions of detention improved due to the overcrowding in the detention room, and because rooms lack the minimum of safety standards, security and health in light of the spread of Corona pandemic, and they were transferred to the military medical services because some of them suffer from heart diseases, and the medical examination was in a question-and-answer manner before they were returned to the Ramallah detention center, and some of them were released on the same day.⁴³

Third: The complaining entities about the prosecution of activists and defenders

When monitoring and analyzing the files of the (45) men and women activists whose files were transferred to the court after presenting an indictment against them, it turned out that all of them were arrested, detained and brought before the Palestinian courts based on a complaint issued by the Public Right Prosecution, except one case carrying case file No. (2743/ 2021), He was arrested according to a subpoena issued by the Jenin Prosecution

based on a complaint submitted by the office of Social Development Minister, and for the reasons of public right, the court took a decision not to prosecute him because the complainant was presented in his personal capacity, not in his professional capacity, and without making a personal right claim, and he did not ask to include the accused in compensating the material and moral damages that he suffered in accordance to what was stated by the Palestinian Court of Cassation in its decision No. Criminal case (2009/120),⁴⁴ according to the court's decision, "the complainant is not considered a personal claimant unless he explicitly takes the status of a personal claim in the complaint and pays the necessary legal fees that must be paid. This requires the personal claimant to explicitly request including the material and moral damages he suffered

⁴³ Omar Assaf's interview with the researcher of the National Commission for the Independence of Judiciary and Rule of Law – Istiqlal, on January 23, 2022.

⁴⁴ Criminal Case File No. (2743/2021) at Tulkarm Court.

estimated in cash, that's mean clarifying the amount of compensation claimed and paying the required legal fees, otherwise, the conditions for prosecution are not met.

The majority of the activists who were arrested were subjected to detention by the Public Prosecution for a period of (48) hours pending investigation, and then they were transferred to the court. The court decided to release 28 men and women activists from the first session of the court (62% of the total that the study dealt with), with bails ranging from (100-2000) Jordanian dinars. The court decided to release 10 people from the first session without any bail. The court justified its decision by considering the case outside its jurisdiction, which means that the investigation with the defendants has ended and that the trial procedures for this file may be prolonged, and harming the detainees/defendants if not released, due to the lack of a clear and explicit address for the defendants that falls within the court's jurisdiction to guarantee their place of residence.

One of the activists who got arrested prior to the incident of Nizar's killing, his detention was extended pending investigation at the request of the Public Prosecution for period of (15) days. During this period, he was not investigated or asked about any of the charges against him. Instead, he remained in custody awaiting the court session and his release with bail.⁴⁵

Fourth: Charges brought by the Public Prosecution against activists and human rights defenders

The Public Prosecution charged the majority of the activists who were arrested with several charges, ranging from illegal gathering, defamation against the Palestinian Authority, inciting racial and sectarian strife, treating an employee with violence and severity, and violating the instructions and laws of the state of emergency. The Public Prosecution had brought more than one accusation or charge against the same person, and in some cases, it brought all charges against the same person, and in rare cases that were monitored, only one charge was brought, and this was monitored in only two out of 45 cases.

A. The accusation of illegal assembly

The accusation of illegal assembly is the most monitored accusation listed on the indictments submitted to the court by the Public Prosecution. The accusation of illegal assembly in violation of article (1/164) of the Penal Code No. 16 of 1960 was brought against 42 out of 45 people, whose trials were monitored, meaning

⁴⁵ Anas AlHuwari Interview with one of ISTIQLAL researchers, on 25/5/2022.

that the accusation was brought against 95% of the persons whose files were monitored and transferred to the court.

It is apparent from analyzing the content of the accusation of illegal assembly which the majority of activists and human rights defenders have been charged with, that the Public Prosecution severely abused its power in using this accusation, since the nature of the circumstances and facts related to the events and gatherings against which the defendants were arrested and their files transferred to the court comes in the context of their participation in Peaceful gatherings as stipulated in law No. (12) Of 1998 regarding public meetings, but the Public Prosecution ignored this fact, and worked on pressing the charges based on what was stipulated in the first paragraph of article (164) of the Penal Code (16) of 1960.

The Public Meetings law of 1998 defines a public meeting as “every public meeting to which at least fifty people are invited in an open public place, this includes public squares, stadiums, fields, parks, etc.” Whereas the Penal Code defines the accusation of illegal assembly in accordance with article (1/164) as “a gathering of seven or more persons with the intent to commit a crime, or they were gathered with the intent of achieving a common goal among them, and they acted in a manner expecting - within the circle of reasonableness - that they will disturb public security or that by their gathering, they will unnecessarily or without reasonable cause provoke other persons to disturb public security.

Based on the background of prosecuting the activists and human rights defenders, it turned out that the majority of them have been prosecuted due to their participation or intent to participate, or after their participation in peaceful gatherings to demand the holding of general elections and to protest against its cancellation, and later, the cancellation of the elections that its holding has been set, followed by protests over the incident of killing the activist Nizar Banat and the demand of achieving justice for him. Therefore, their activity falls within the context of the right guaranteed by the Palestinian Basic Law in Article (26), which stipulates in clause (5) the right to “hold private meetings without the presence of police members, and to hold public meetings, processions and gatherings within the law limits.

Thus, the charges brought against the activists are criminalized charges based on the Penal Code, but in fact they lack the Mensrea to become a completed crime, which is the pillar of the gathering with the intent to commit a crime, because the purpose of the gatherings and the evidence presented by the prosecution lacks this element, and therefore the prosecution may have arbitrarily brought this accusation and used it in to address the charge for purposes other than those

intended by the legislator, because all the investigation records and court records show that these people gathered not to commit a crime or disturb public order, as their files submitted to the court were devoid of any evidence to prove this element regarding the accusation.

In its framing of the charge, the Public Prosecution ignored Law No. (12) Of (1998) regarding public meetings, which stipulates in Article No. (2) That “citizens have the right to hold public meetings, seminars and marches freely, and it is not permissible to harm or restrict them except in accordance with the prerequisites stipulated in this law.”⁴⁶

Here, the Public Prosecution must examine whether there are any breaches in implementing the procedures for holding meetings according to the public meetings law, and press charges accordingly. The public gatherings Law stipulates that anyone who violates the provisions of this law shall be punished by imprisonment for a period not exceeding two months, or by a fine not exceeding fifty Jordanian dinars or its equivalent in the currency in circulation. As for Article (165) of the Penal Code, which the charge of illegal gathering was based on, the penalty for participation is imposed on anyone who participates in an illegal gathering, with imprisonment for a period not exceeding one year or a fine not exceeding twenty-five dinars, or both penalties together.

In cases where the accusation of continuing to gather and not disperse except by force, in violation of article 168/1 of the Penal Code of 1960, the penalty stipulates imprisonment for those who are proven guilty from 3 months to two years. Thus, activists and defenders will be charged with more severe penalties than those stipulated for violators of the provisions of the Public Gatherings Law if they are convicted of this, which is imprisonment for a period not exceeding two months or a fine not exceeding fifty Jordanian dinars or its equivalent in the currency in circulation.

B. Accusation of defamation

⁴⁶ The law includes a number of organizational restrictions on holding public meetings, the most important of which is that a written notice is directed to the governor or the police chief at least 48 hours before the meeting is held. Where a written notice signed by the persons organizing the meeting shall be submitted, provided that they shouldn't be less than three, indicating the place and time in which the meeting will be held and its purpose. In case of submitting a written notice from a legal entity, the signature of its representative is sufficient.

The Public Gatherings Law of 1998 stipulated not to violate the right to meet. The governor or the police chief may set controls on the duration or the nature of the meeting stipulated in Article (3) with the aim of regulating traffic, provided that the organizers are informed of these controls in writing after 24 hours at most from the date of delivering their notice. In case that the organizing body does not receive any written answer as stipulated in the previous paragraph, the organizing body has the right to conduct the public meeting on the specified date in accordance with what is stated in the notice.

The accusation of defamation against the Palestinian Authority is the second most used accusation in the prosecution of activists and human rights defenders, as 21 people have been charged out of the total (45) files of criminal cases pending in the criminal courts. Their defamation charges were divided into several forms, most notably:

1. The charge of defamation against the authority in violation of the provisions of Article (45) of the decree-law No. 10 of 2018, in reference to Article (191), Penalties No. 16 of 1960, (5) activists have been accused of this charge.
2. The accusation of defamation against the public authority, in violation to the provisions of article (191), Penalties No. 16 of 1960, (9) activists have been accused of this charge.
3. The accusation of defamation using the electronic network or any information technology means in violation to the provisions of articles (188), (189) and (358) of Penal Code No. (16) Of 1960 in terms of article (45) of Decree-Law No. (10) Of 2018 regarding Cybercrimes. Only one person has been accused of this charge.
4. The accusation of defaming the employees in violation of Article (191) in terms of Articles (1/188) and Article (189) of the Penal Code No. (16) Of 1960, and (6) activists have been accused of this charge.

One of the cases of defamation against the authority, in violation to the provisions of Article (45) of Decree-Law No. 10 of 2018, in reference to Article (191), Penalties No. 16 of 1960, In one of the lawsuits related to activists, it was attributed to the fact that his Facebook posts contained libel and mockery against the Palestinian Police and the security services that arrested the anti-corruption activists, describing it as a “great achievement”. Screenshots of his posts have been published on Facebook.⁴⁷

In another lawsuit, the indictment was based on monitoring the activist’s account, the pages he manages, and his television works he produced, his privacy on social networks, his mobile device, and his laptop was breached, and his private conversations with several people were traced and restricted with secret technical records in the Preventive Security Service.⁴⁸ In another lawsuit, a file against three defendants who were arrested for chanting against the Palestinian Authority, defaming it, and publishing posts on social media platforms to

⁴⁷ Criminal Case File No. (2548/2020) at Ramallah Court.

⁴⁸ Criminal Case File (2676/2021) at Ramallah Court.

encourage illegal gathering. The indictment was reinforced by a report of viewing and inferences of videos and posts on Facebook.⁴⁹

As for the defamation against the public authority; in violation to the provisions of Article (191), Penalties No. (16) Of 1960, the accusation was brought in one of the files, ⁽⁵⁰⁾⁵⁰ against eight defendants out of the 12 people who were investigated; they were charged with oral impoliteness against employees of the state who hold high positions in violation of Article (191/1) of Penalty Code No. (16) Of 1960, and they were charged with undermining the dignity of the State President, in violation to the provisions of Article (195) of Penal Code No. (16) Of 1960.

These activists were arrested and interrogated on the background of gathering and carrying advertising materials, pictures and slogans, which the Public Prosecution considered a crime of slander –defamation- against the public authorities. In the case file submitted by the Public Prosecution, an inference report and a report of viewing video clips were prepared, on which the charges against a group of 12 citizens were brought. A procedures report was prepared that included 24 citizens.⁵¹

⁴⁹ Criminal Case File (2762/2021) at Ramallah Court

⁵⁰ The statement of the eight defendants on this charge was as follows:

-The first and second defendants adhered to the right to remain silent in their interrogation before the Public Prosecution, and the first defendant refused to sign the investigation report. In his testimony to the General Directorate of Police, he stated that he was passing near Al-Manara Roundabout and witnessed arrests of some people, so he went to one of the security men to ask him about the reasons for the arrest as being a journalist, and then he was arrested.

-The second defendant stated before the General Directorate of Police that he was assaulted by individuals in civilian clothes on a street near Al-Manara roundabout for no reason after being asked for his name.

-The third defendant stated that he was on Al-Irsal Street with his son to visit the dentist and was arrested and detained by the police. The defendant, Basil Abdel Aziz, stated that he was in Ramallah to participate in a workshop with the Reform Foundation, and after completing the workshop, he headed to Ramallah and stood next to the Bank of Palestine on Al-Manara roundabout, meanwhile a police force arrested him and took him to the police station.

-The fourth defendant stated before the Public Prosecution that he participated in the peaceful assembly after getting assured that there was a permit for the demonstration from the governorate, he was willing to express his opinion to demand for democratic elections, and that he was directly attacked by the police. As for his testimony before the Police Directorate, he said that he was not present at the gathering at the time, but he went there after meeting a friend and seeing the arrests on Facebook. He went to the Police Directorate and stood near the gathering there, where a group of police assaulted and arrested him.

-The fifth defendant stated that on August 21, 2021 she was buying stuff from Al-Manara area, and her friend, Ghassan Al-Saadi, was arrested in front of her, and after she passed to another street, she was arrested by the police and taken to Ramallah investigations.

-The sixth defendant give her testimony before the Public Prosecution that she was taken to the police after a policewoman went to her and checked her phone while she was near the place and left her, until she reached a policeman who asked to speak with her and then arrested her, which is the same testimony she submitted to the General Directorate of Police.

-The seventh defendant gave his testimony before the Public Prosecution that he was a participant in the demonstration of 2/8/2021, demanding justice for those who killed Nizar Banat. He denied the charges brought against him, which are slander, chanting and insulting.

⁵¹ Criminal Case File No. (3441/2021), at Ramallah Court.

In case file no. (2676/2020), the indictment was built based on the testimonies of the security members present at the Anabta checkpoint, who stated that the defendant refused to obey the orders of the security force at the checkpoint while trying to pass through the checkpoint to enter the city of Tulkarm, in violation of the measures taken within the emergency plan, and he insulted one of the officers with rude words and refused to obey his orders. He resisted the security force and assaulted them, and when they tried to control him, he caused harm to one member of the force.

As for the accusation of defaming the employees, in violation of Article (191) in terms of Articles (188/1) and (189) of the Penal Code No. (16) Of 1960. In one case file, the indictment against the three detainees was submitted based on a review of video clips of the demonstration in which they participated and the charges were brought against them because of the chanting that was classified in the indictment as defamation, slander and inciting strife, as the indictment was backed with a record of inferences, a report of watching and reviewing the videos, proving the charges brought against them.⁵² In another file against defendants, the indictment was built and reinforced by a report of watching a video posted on social media while their demonstration and marches against the Authority.⁵³

The indictment was based on the testimonies of the security members present at Anabta checkpoint, who stated that the defendant refused to obey the orders of the security forces and the at the checkpoint while trying to pass through the checkpoint to enter Tulkarm city, violating the measures taken within the emergency plan, and that he insulted one of the officers with rude words and refused to obey his orders. He resisted the security force and battered, and when they tried to control him, he caused harm to one member of the force.⁵⁴

The accusation of defamation was brought against the use of the electronic network or any means of information technology in violation to the provisions of Articles (188), (189) and (358) of the Penal Code No. (16) Of 1960 in terms of Article (45) of Decree-Law No. (10) of 2018 regarding electronic crimes, it turned out that the indictment states that in June, the accused wrote posts on his Facebook page including insults, libel and defamation against the Minister of Social Development and the Palestine Liberation Organization.⁵⁵

C. Stirring up sectarian and racist strife

⁵² Case File No. (2856/2021).

⁵³ Case File No. (2828/2021).

⁵⁴ In case file No. (2676/2020).

⁵⁵ Case File No. (2743/2021).

The accusation of inciting sectarian or religious strife through the use of the electronic network or any information technology means, in violation to the provisions of Articles (188), (189) and (358) of Penal Code No. (16) Of 1960, in terms of Article (45) of Decree-Law No. (10) Of 2018 against (3) defendants in the criminal case file No. (2726/2021).⁵⁶ Or in violation to the provisions of Article (150) of the Penal Code No. (16) Of 1960, against (20) activists and human rights defenders in (6) criminal case files.⁵⁷

Noting that most of those accused of this charge have been arrested from protests and public demonstrations in the street, including those whose pages were monitored on social networks, and video clips were taken of them from their videos and posts, on which the indictment was based.

It was stated in the criminal case file no. (2762/2021), in which the indictment was built against three defendants based on their illegal gathering, according to the indictment dated 4/7/2021 before Ramallah Court, assaulting judicial officers, and obstructing traffic in front of the compound of the courts, chanting against and defaming the Palestinian Authority, and publishing posts containing encouraging illegal gathering. The indictment was reinforced with a report of viewing and inferences of videos and posts on Facebook.

The defendant in this case adhered to the right of silence during the investigation before the Public Prosecution, and announced his hunger strike and taking medication since the date of his arrest, and he was transferred for treatment in the medical services and the Palestine Medical Complex. The third defendant denied before the Public Prosecution about the charges against him, pleaded not guilty, and explained the reason he was in the location where he was arrested; was due to him having another case before the court.

During the review of the criminal case file no. (2856/2021), it was also found that the indictment was charged against three defendants based on a review of video clips of the demonstration in which they participated, and the charges were attributed to them due to the chanting that was classified in the indictment as defamation, slander and stirring up strife, as the indictment was reinforced with evidence report and a report of viewing and reviewing the videos and proving the charges brought against them. The three defendants denied the charges brought against them when interrogated by the Public Prosecution, and then

⁵⁶ Criminal Case File No. (2726/2021) at Ramallah Court.

⁵⁷ Criminal case files:

- Criminal Case File No. (2856/2021) at Ramallah Court..
- Criminal Case File No. (2777/2021) at Ramallah Court,
- Criminal Case File No. (3441/2021) at Ramallah Court.-
- Criminal Case File No. (2828/2021) at Ramallah Court,
- Criminal Case File No. (2762/2021) at Ramallah Court

confessed of what they chanted during the demonstrations after installing and bringing the videos to the General Directorate of Police.

In the criminal case file no. (2777/2021), the defendant stated before the General Directorate of Police that he was in the Baloua area, far from the police station, and there was no gathering or assembly. He was assaulted by four people, blindfolded, and taken to the police station. The defendant denied all the charges brought against him in the indictment, where he was charged of illegal gathering in front of the Police Directorate in Al-Ballou, chanting to overthrow the political system, photographing police officers, sending their photos to people outside the country and endangering their lives, after the indictment was based on a report of procedures included the defendant's assault on women police officers and sending photos to external parties.

In the criminal case file no. (2828/2021) against two defendants, the first defendant in this case stated to the Public Prosecution that he was not guilty, and he was arrested at 3 am by the joint police, and they have a subpoena and search warrant, and they arrested him from his home and deported him to Ramallah, and that he was not in the demonstration on Wednesday 2/7/2021, but participated in the demonstration of 11/7/2021, at Al-Manara roundabout.

The defendant remained silent before the Public Prosecution and submitted his statement to the Police General Directorate that he participated in a demonstration condemning the assassination of activist Nizar Banat on 2/7/2021, and after he left that place, another protester activist was arrested, and he filmed the arrest, at that time, he got attacked, and the activist's son intervened to prevent them from attacking his father, so they assaulted and beat him too, then they were evicted from the place without being detained by the security at that moment until they were arrested under an arrest warrant from their home in Jenin.

In the file of criminal case No. (2762/2021) against three defendants, the indictment was built based on their illegal gathering on 4/7/2021 in front of Ramallah Court, assaulting judicial officers, obstructing traffic in front of the court complex, chanting against and defaming the Palestinian Authority and writing posts encouraging illegal assembly on the page of Jihad Abdo and Izz al-Din Zaaloul. The indictment included reports of viewing and inferences of videos and posts on Facebook.

D. Treating an employee with violence and violating emergency provisions

Charges of treating an employee with violence, harshness, threatening, or pointing a weapon at him while he is performing a job, and resisting an employee with acts hardship acts, degrading an employee due to performing his job, and

obstructing the work of law enforcement and maintaining public order agencies and competent staff during the state of emergency have been charged against (19) human rights activists and defenders in (6) criminal case files.⁵⁸

In addition to the accusation of violating the decisions, instructions and measures taken by the competent authorities in violation to Article (3/1) of the decree-law of 2020 regarding the state of emergency, against (7) human rights activists and defenders under the pretext of movement and gathering in the state of emergency taken in Corona pandemic regarding preventing gatherings and assembly.

In the criminal case file No. (2542/2021) against (4) defendants, it was proved in the investigation report by the Public Prosecution that the four defendants had illegally gathered on Al Irsal Street and refused to disperse, respond to police orders, incited riots on the public road, and threw stones at police forces and cars. The fourth defendant confessed the charges brought against all the defendants in the indictment.

In the criminal case file no. (2676/2020), the defendant stated in the investigation report at the Public Prosecution that he was not guilty and that he only insulted the security man who was at Anabta checkpoint because he beat him, and he did not violate the emergency law because when he was asked to return, he returned and did not obstruct the security work and did not resist or beat security members, and he was arrested and severely beaten by a group of security men at the checkpoint with shoes and rifles' heels, and he got injured in his face and arrested and his molar got broken. This was the same testimony that the defendant submitted to the General Directorate of Police. The indictment was built based on the testimonies of the security members present at Anabta checkpoint, who stated that the defendant refused to obey the orders of the security force at the checkpoint while trying to pass through the checkpoint to enter Tulkarm city violating the measures taken within the emergency plan, and he insulted one of the officers with rude words and refused to obey his orders. He resisted the security force and battered them, and when they tried to control him, he caused harm to one member of the force.

In case file no. (2856/2021) against three defendants, the three defendants denied the charges brought against them when interrogated by the Public Prosecution, and then confessed of their chanting during the demonstrations after installing and bringing the video clips to the Police General Directorate.

The indictment against the three detainees was presented based on a review of video clips of the demonstration in which they participated, and the charges were

⁵⁸ Criminal case files: criminal case files no. (2542/2021), (2546/2021), (282/2021) at Ramallah court.

attributed to them due to the chanting that was classified in the indictment as defamation, slander, and inciting strife, whereas the indictment included a record of evidence, a report of viewing and reviewing the videos, and proving the charges brought against them.

Fifth: The length of the litigation period and the slow progress of the trial procedures

The proceedings of the trial sessions of (45) activists and human rights defenders have been followed up by attending the sessions or reviewing the files of criminal cases related to those who are being prosecuted on various charges as mentioned previously. The progress of these cases has been analyzed to examine the effectiveness of the courts in considering them and its pursuit to achieve justice.

It seems that the duration of litigation in the files of men and women human rights defenders is longer than it should. In light of reviewing and analyzing (17) case files of cases related to (45) activists and defenders, it was found that the number of files in which the court sessions ranged from (2-5 sessions) is (11) files for (36) human rights activists and defenders, the case files of all of them have been received in 2021. The number of files in which the court sessions ranged from (6-9 sessions) is only one file in which the case was received in 2020.

The number of court sessions exceeded (10) sessions in (5) case files against (8) human rights activists defenders, the case files related to them were received in 2020. In case file no. (2676/2020), the number of trial sessions for one defendant reached (17) session. In case file no. (2411/2020), the number of trial sessions for the defendant reached (15) sessions. In case file no. (2635/2020), the number of trial sessions for two defendants reached (10). In case file no. (2633/2020) and in case file No. (2548/2020) against three defendants, the number of court sessions was 12.

The length of the litigation period has prevented the stability of the judicial bodies which examining these files and more than one judicial body have worked on the same file. The number of files received by one judge reached (3) files against (6) human rights activists and defenders, all of which were filed in July 2021. The number of files circulated by (6-10) judicial bodies reached (5) case files against (23) human rights activists and defenders, (3) files against (5) defendants were received in 2020, in the arrests that took place against the background of demanding for general elections, (2) files against (18) defendants have been received in 2021 against the background of the murdering Nizar

Banat. From (2-5) judicial bodies investigated in (6) case files against (12) human rights activists and defenders, and they were received in 2020 and 2021.

Are the trials of human rights defenders achieve justice or considered a punishment for them?

There were many reasons affected the trial sessions and their postponement, including the closure of the courts during the Corona pandemic, and the absence of judges and witnesses. The most notable problem in all cases that have been followed up and monitored is the absence of witnesses, which was the biggest obstacle for completing and considering the sessions. The rate of sessions adjournment reached (85%) of all cases, all witnesses in most of the cases were Palestinian security men, and in each session that is postponed, the court issues a decision to re-notify witnesses to attend the sessions and to present their testimonies in light of the full commitment of defendants to attend and follow up the sessions.

The number of cases in which a verdict was issued reached (4) cases related to human rights activists and defenders, one of which was against one defendant in case file no. (2411/2020), where he was acquitted of the charge of “publishing information that incites racial strife on the electronic network or one of the Information technology means”.

Some defendants were also acquitted of the charges against them, which are “illegal gathering in violation of Article (1/165) of the Penal Code No. (16) of 1960” and the charge of “treating an employee with violence, severity, threatening, or pointing a weapon at him while he was performing a job or something related to the job, in violation to the provisions of Article (1/6) of Decree-Law No. (26) Of 2020” and the charge of “inciting racial strife, in violation to Article (150) of Penal Code No. (16) Of 1960”.

One defendant was convicted of "defamation against Palestinian Authority" in violation to the provisions of Article (45) of Decree-Law No. (10) Of 2018, and was sentenced to three months' imprisonment and obligated to pay 100 Jordanian dinars in compensation for court expenses.

Sixth: Conclusions and Recommendations

A.) Conclusions:

1. The number of activists and human rights defenders who are being prosecuted, and their files being transferred to the courts after the murder of Nizar Banat, especially during the first month after the incident, increased by more than 400% compared to the cases that were prosecuted in the previous periods.

2. The majority of people who were referred to the court were based on the public right, not on personal complaints, which means that the official authorities have a systematic policy to prosecute activists, not based on complaints that were investigated and lawsuits built upon.

3. All charges brought against the activists were a description of facts that the right to practice them is guaranteed in the Palestinian Basic Law and international human rights standards; the legal description was arbitrarily abused in order to criminalize it. Two to three charges were brought against the majority of activists who are being tried for activities that fall within the framework of freedom of expression, such as peaceful assembly and criticizing the public authorities. And the charges that were arbitrarily used were gradually classified from the most to the least: illegal gathering, defaming the public authorities, stirring up sectarian and racial strife, and using force against security forces. These are broad –loose- charges that are usually referred to in non-democratic societies to prosecute human rights defenders.

4. Prolonging litigation in the files of men and women human rights defenders is a means used to punish activists and human rights defenders. In light of revising and analyzing case files, it turned out that the courts take many sessions to consider these cases, which may exceed 10 sessions, most of which are postponed due to the absence of prosecution witnesses from security services members, which means that the majority of the activists' sessions are actually in the stage of hearing the prosecution's witnesses despite the passage of nearly a year or more since they started without any progress in deciding these cases.

B.) Recommendations

1. The executive authority must stop dominating the public space and preventing the right of peaceful assembly, and stops prosecuting human rights defenders based on exercising their right to freedom of opinion and expression.

2. The judicial authorities should exercise their powers to protect public freedoms and to prosecute the perpetrators of those working in the executive authority, especially who work in the security institutions for the rights of human rights defenders.

3. The Public Prosecution must stop transferring any file against the background of opinion in which a personal complaint is not submitted.

4. The courts must start processing the files pending there, and to issue judgments related to them, and to stop turning court sessions into a means of punishing activists by prolonging the trial sessions in the courts.

5. State agencies, especially the security forces, must stop detaining human rights defenders for investigation reasons as a punishment for them, and stop their pre-trial detention for those who have charges related to “crimes” that violate the freedom of expression and peaceful assembly.

6. Expedite the establishment of coordination bodies between civil society organizations and the groups of activists who defend human rights in order to provide protection and legal support in case of violating their rights by the executive organs of the state.

3) Women and men Journalists.... Serious infringements in the light of missing accountability

The murder of the political and human rights activist Nizar Banat on June 24, 2021, was a pivotal event regarding the extent of the prosecution that Palestinian men and women journalists were exposed to by the Palestinian security services, which took various forms and female journalists had the largest share of these attacks.

According to the data, the last week of June 2021, especially since the killing of activist Nizar Banat, witnessed exposing Palestinian women and men journalists working in the West Bank to a massive prosecution process to prevent the media from reporting what is happening in the Palestinian street of political protests condemning the killing of Nizar and demanding justice for him. During June, Palestinian human rights centers monitored more than 69 attacks and prosecutions perpetrated by Palestinian security agencies.⁵⁹ The size and severity of violations were shocking, whereas the percentage of attacks reached 56% of the violations percentage monitored in that month, which also included Israeli violations regarding women and men journalists.

It was noticed during these prosecutions and restrictions of press freedoms that the attacks seemed to systematically target Palestinian women journalists, as they took various forms, including beatings, confiscating their telephones, exposing some of them to campaigns of incitement, defamation, and infringing

⁵⁹ The monthly report issued by the Mada Media Freedom Center about the infringement of journalists that were monitored in June 2021, and published on the following link: <https://www.madacenter.org/article/1741/>

their privacy, aiming to keep them away from being in the field, to prevent the public and women and men political and human rights activists from establishing any assembly or gathering against the infringement of rights and freedoms.

During these attacks, there were very serious observations proving the responsibility of the Palestinian Authority's organs for grave violations of press freedoms and the safety of journalists. The first was represented by the massive presence of members of the security services in official or civilian clothes, who participated in the suppression of women and men journalists.

The second is the Palestinian police's refusal to provide any kind of protection to journalists or other human rights defenders who have been prosecuted or attacked. In fact, many journalists reported that they requested protection from the (official) police, but they ignored their requests, as will be seen later through victims and witnesses testimonies.

The third observation that was monitored is the absence of a central public authority issuing the decisions, as it seemed that decisions regarding the use of excessive violence against women and men activists and journalists and the rest of the public were not based on any functional hierarchy, but rather it is issued from hidden parties that have the ability to compel the security forces to implement their decisions. Fourth, more than a hundred violations and attacks were recorded within a year after the killing of Nizar Banat,⁶⁰ yet no real accountability cases were recorded against the background of the assault, which means that the justice system fails to achieve justice.

First: Organized prosecution and stifling women journalists' work prospects in the field

Palestinian women journalists were the first target of prosecution and stifling. Women journalists received the highest share of attacks, such as severe beatings and exposing them to physical and psychological harm. For example, journalist Najlaa Zaytoun was attacked more than once, the most severe of which was violently beating by a stick on her shoulder and left arm, causing her severe bruises. While journalist Shatha Hammad was injured by bomb fragments fired at her, causing her an injury under the eye with a length of 2 cm. Journalist Saja Al-Alami was attacked by seizing her phone after following her into a building by security forces in civilian clothes, forcing her to hide for about an hour in one of the toilets to escape them.

It also monitored incidents of defamation and incitement against women journalists, Naela Khalil, Faten Alwan and Jihan Awad, and their names were

⁶⁰ The mentioned number is based on statistics prepared by the researcher, according to what was monitored in the monthly reports issued by Mada Center for Media Freedom.

published by an anonymous page which an incitement list called the "List of Shame" accusing them of being associated with other parties, and of having foreign agendas, in addition to confiscating the phones of many women and men journalists, insults, intimidation and threatening to harm women journalists while they were trying to cover those events in the field.

First testimony:

Journalist Najlaa Zaytoun said that on 25/6/2021, around four o'clock,⁶¹ while I was covering a protest in Ramallah, I was attacked by a Palestinian policeman, but after a short period of time the policeman came and apologized to me and told me that he had made a mistake and did not mean to attack me, after which a man in civilian clothes came and identified himself as an officer in the General Intelligence Service and asked me to give him the Journalists Syndicate card and my mobile phone. I handed over what he asked for, but after about 15 minutes he returned the card and the phone, and he told me to leave the place, but I refused and continued to cover the events and the protests.

The next morning, 26/6/2021, there was a protest following the murder of Nizar Banat. I went to the place of the protest as a journalist and I was wearing the full press uniform to cover the protest, I headed from Al-Manara square to Al-Irsal. There was a counter march under the protection of the Palestinian security services; I tried as much as possible to be in the zone of neutrality between the two sides to cover both demonstrations. Meanwhile, I was surprised by the presence of a civilian behind me trying to steal my mobile phone, and then another civilian pushed me forward and beat me using a wooden stick and hit me on my left shoulder and different parts of my body. I raised my press card and told them that I am a journalist, but they beat me without stopping. As a result, a group of journalists and youth came to protect me and push me back, and here a person in civilian clothes stole my phone from my hand and I followed this person, then this person handed the phone to another person, then to another person, up to the police there, I went to the police to ask about my

phone, the members of the security forces, who were wearing military uniforms, told me (Go from here and talk from a meter away from us), and I told him that I am a journalist, then people in civilian clothes came and filmed me, and this is all proven through a series of photos and videos.

Najlaa said: after that, people in civilian clothes chased me in Ramallah, and number of women journalists and I were besieged, and these people verbally

⁶¹ An interview conducted by the researcher of the civil Commission for the Independence of Judiciary and Rule of Law "Istiqlal" with journalist Najla Zaitoun, February 10, 2022.

assaulted us, using rude words and sexual innuendos, and told me that he will put my head under his shoes, then a group of women journalists and I escaped, and we headed to Ramallah Hospital for treatment, and while I was in the hospital, I told the doctor that I need a medical report showing the attacks that I had been subjected to, and I told him about the people's names who attacked me as I know their name and where they work, but the doctor refused to do so, and told me that the report would be issued of an attack by unknown persons, so I refused and did not get a report from Ramallah Hospital. After that, the hospital informed the police about us, and I left the hospital immediately. A few days later, I went to the Independent Commission for Human Rights and informed them what happened to me, and they brought a forensic doctor from their side and he proved the assault I had been subjected to in a detailed report.

Second testimony:

Journalist Shatha Abdel Rahman Hammad, 33, who works for MiddleEast Eye, said, "The attack me after the incident of Nizar's murder was not the only attack I was subjected to. In 2016, while working at Quds News Network, I was summoned for interrogation at the Preventive Security Service against the background of a money transfer from Gaza issued to a media company licensed in the name of the Quds Network. During the investigation, I was interrogated about my journalistic work, and no action was taken after that ⁽⁶²⁾.⁶²

She added, "In late 2015 and early 2016 I was subjected to a lot of social and family inconvenience and objection due to my activity and work in the field of journalism, and in 2015 I was subjected to a lot of inconvenience by the Israeli occupation forces against the background of my activity and work, as I was used many times as a human shield for Israeli soldiers, and I got detained in the midst of clashes and confrontations, and I was hit by rubber bullets while doing my work in the field and the site of the confrontation".

As for what happened with her in the events accompanied the killing of Nizar, she said, "I went on 26/6/2021, in the midst of the events that followed the killing of activist Nizar Banat, to cover the protest and demonstrations on Al-Manara Square, with a number of fellow journalists, and we did not have any information or indications of repression. At that time, we took a place to cover the protests collectively, we were attacked collectively by people wearing civilian clothes, someone tried to steal my mobile phone and broke it despite we defined ourselves as journalists and we were carrying journalists' cards, and the press crew have been targeted with stones".

⁶² An interview conducted by Istiqlal researcher with journalist Shatha Hammad on 30/5/ 2022.

She said, "The soldiers in military clothes came and started to attack heavily by sound and gas bombs. As a result, I got a bomb fragments in my face in the vicinity of the eye and the nerves area, and I was bleeding in my face. I was taken to a nearby ambulance that took me to Ramallah Governmental Hospital for treatment, along with three other injuries, one in the back and another in a condition of severe suffocation".

Shatha complains of ill-treatment in the medical hospital, and says, "In Ramallah Governmental Hospital, we were subjected to medical negligence when providing the first aid service to us, and we did not receive humane treatment, and they refused to record our admission and release from the hospital, and asked us to buy the wound pad and the medical cotton from the pharmacy near the place, a colleague brought the medical supplies but the doctor refused to provide us with the medical service or to cover the wounds, and he also refused to give us a medical report about what others and I who were taken to the hospital suffered".

Shatha said in her testimony that my female colleagues and I submitted a complaint to the Palestinian Ministry of Health about the mistreatment and medical negligence that we were exposed to as journalists. We went to the Independent Commission for Human Rights, which assigned a doctor to examine us and a forensic doctor to write a forensic report. After they examined me and four of my colleagues three of them are women journalists, a copy of the report was issued to us, and the Independent Commission for Human Rights kept the original copy".

She also added: on 27/6/2021, we went in press uniform to the event place on Al-Manara square again to cover the demonstrations, as we became clearer to the security forces that we are journalists wearing a jacket and a helmet with the press logo on it. We noticed a complete withdrawal of the security forces in military uniform, and the Palestinian police remained in a place far from the demonstration area, then the demonstration was attacked by people in civilian clothes who assaulted us and tried to steal and break our equipment and cameras, and prevented us from photographing. At that time, a journalist colleague was beaten and brutally assaulted. We were surrounded and besieged in an area where we were unable to move and cover in light of the continuing threats, and we did not continue to cover as a result of that, we withdrew from the place due to the severity of the situation."

Second: Infringing the privacy and dignity of women journalists

Attacks on women journalists exceeded the previously mentioned cases, and even expanded to include many women journalists. Journalist Saja Shaker Al-Alami (28 years), the correspondent of the Palestine Post Network, and a freelance journalist (Freelancer) with Ultra Palestine and Palestinian Women said in a testimony she provided that at the same date and occasion mentioned above, she was subjected to a verbal assault and a prosecution, accusing her of treason and that she –and her colleagues- are the cause of sedition.⁶³ One of The security men demanded her to hand over her phone, and he started chasing her when she refused. He asked one of the security forces to arrest her, so, she quickly entered “Al-Najma Mall” building and hid in one of the floors, but a group of people in civilian clothes continued to chase her inside the building, and one of them succeeded to reach her, and when he asked for her phone, she showed him her press card and told him that she was on a journalistic mission, but he did not care and gave her the choice between handing over her phone or arresting her, but she managed to escape from them again, and hid in a women's toilet (bathroom), and closed one of the rooms where she hid. Moments later, one of security force broke into the bathroom that there were other women inside who shouted at him so he had

to leave, and she hid there for about an hour (until about eight in the evening) one of her colleagues contacted her and then she left the place, after she took off her press uniform and put her in a bag that she got from a nearby store so she could get out of that place without being subjected to further prosecution or harm.⁶⁴

According to MADA Foundation’s documentation,⁶⁵ Palestinian security members assaulted Faten Aref Alwan, 41, a freelance journalist, while documenting security forces in civilian clothes dragged a protester in Ramallah on 26/6/2021. Alwan reported that the security forces tried to steal her phone and pull her from her bag, trying to push her towards the demonstrators, which she resisted and succeeded in evading. She added that she had been subjected to "soft-lined" threats, as she described them. It received those threats from her friends, which contained that security forces wanted to know which party she was standing with or supports "so we can know how to deal with you". On the morning of 30/7/2021, she was surprised by an indirect incitement and threat campaign against her by publishing her name within what the organizers of this

⁶³ A statement she gave to Mada Center for Media Freedoms. See the monthly bulletin of June 2021 issued by Mada Center for Media Freedom and published on the following link: <https://www.madacenter.org/article/1741/>

⁶⁴ Ibid

⁶⁵ Ibid

act called, the "list of shame", which included the names of 7 journalists, regarding charges of loyalty to parties hostile to Palestine and that they are inciting sedition, (Faten was accused of being From the American group) and this list was published on a page holding the name "Sons of Fatah Movement – The Rapid Response," which involves dangerous incitement against those journalists.

Journalist Tharwat Abdel Rahim Shaqra, 32 years old, was doing her journalistic work on Saturday (26/6/2021) in direct coverage of the events. In her testimony to MADA Center, she said that a group of people in civilian clothes attacked the channel team in which she works and shouted at them while they raised sticks in their faces, demanding them to delete the materials they had photographed, they told the team, "If you get out of the car, we will smash you." In the afternoon of the following day, Sunday (27/6/2021), while Al-Hurra TV team was covering a march organized at the Clock Square in the center of Ramallah, and when the channel's correspondent Tharwat went to the broadcasting car, the security forces began to suppress, push and beat the demonstrators, so she informed her colleagues about this. Meanwhile, One of

the young men approached her and pushed the camera from the hand of the photographer Saeed, but Tharwat continued her work, and then 6 masked people came and asked the photographer to stop filming and asked about their cards, and when Tharwat and the team said through the live broadcast that the channel team had been assaulted, one of them pulled the microphone from her, but she stuck to it, so he bent her arm forcefully and snatched the microphone from her.⁶⁶

While journalist Batoul Koussa was attacked twice by people in civilian clothes while covering a demonstration in Ramallah on 27/6/2021, she reported that while she was filming these events, a 50-year-old person came to her and tried to seize her phone after asking her with whom you work? After that, while she was moving with a group of her colleagues to Al-Manara roundabout in the center of Ramallah, and when a group of women journalists who moved together approached the site of the event, two people approached her, one of whom was masked, and asked to hand over her phone and threatened to destroy it, and attacked her trying to seize it.

Third: Attacks and Prosecutions of Journalists

Prosecution, assault and stifling were not limited to women journalists, but also included men journalists too. Palestinian human rights organizations monitored

⁶⁶ The aforementioned information was included in a statement given by journalist Tharwat to Mada Center for Media Freedoms, and was published in the June 2021 report published on Mada's website

more than one such incident, such as the June 26 attack with beating by Palestinian security forces on journalist Nasser Abdel-Gawad Saleh, who works as a producer for the American ABC network. He was arrested while covering the events on Al-Irsal Street. He was transferred to the General Investigation Center in Al-Balou' area in Al-Bireh city and was detained for about three hours. During the attack, his phone was confiscated. Also, the journalist Ahmed Talaat Hassan (27 years old) was assaulted while covering a demonstration in Ramallah; they threatened him and tried to prevent him from covering more than once. Also, the assault on the CNN cameraman Karim Asaad Khader (45 years), and raiding a house where journalist Tariq Yousef Sarkaji (35 years) resides in Nablus by a force from the Palestinian Preventive Security forces, Tariq was a photographer and editor for J-Media. In addition to arresting Journalist Amid Shehadeh on Monday evening, 5/7/2021, following a march that was organized in Ramallah to protest the murder of political and human rights activist Nizar Banat.

One of the most severe attacks against journalists was against, Muhammad Amir Abdullah/ Hamayel, 33 years old, a "Jerusalem 24" correspondent, and his colleague, "24 FM" correspondent Aqil Awawdeh, in front of Al-Bireh police station, where they were at about 9:30 pm on (5/ 7/2021) to cover the sit-in there with the live broadcast, one of the officers approached them and asked them not to film. They responded to his request and sat at a distance of about 15 meters away from the protesters camping in the place, but when the anti-riot forces came and asked the protesters to vacate the place within 10 minutes, they did not give them even two minutes and started attacking everyone.

Journalist Aqil Awawda, 31 years old, a 24 FM reporter, says that at the same time he was attacked and arrested by the police, as one of them hit him with a baton on the head and chest several times. He was taken to the police headquarters without stopping beating using the baton, and he was thrown next to the bathroom, he was trying hard to catch his breath because of a strong blow on his chest, and then one of the officers saw him and picked up the press card he was carrying and came out saying, "This is a journalist." Then the journalist Awada was taken to the waiting room and there an ambulance officer was called to treat him, as it turned out after checking his pulse that his blood pressure decreased, which prompted them to transfer him to the Palestine Medical Complex, where it was found that he had severe bruises in the chest, but after hours, journalist Aqeel was transferred back to the police station, to sign a paper, which the officer told him this paper proves that "he did not receive any money from suspicious sources." At approximately 2:30 a.m. on Tuesday (6/7/2021), he was released, and Awawda continued to suffer greatly for more than two

weeks afterwards, as a result of the beatings he was subjected to. These attacks affected the member of Watan Media Network's board of directors, Muammar Orabi, as Palestinian police attacked him while he was in front of the Al-Bireh police station, on Monday evening, 5/7/2021, and the journalist Hind Sherida, who was protesting in front of the police station in a gathering against the arrest of her activist husband, Obai Aboudi in the center of Ramallah.⁶⁷

The Palestinian intelligence in Dura city in Hebron also arrested journalist Alaa Issa Mahmoud Rabai, after summoning him and interrogating him about what he was publishing about the murder of human rights and political activist Nizar Banat, and then transferred him to Jericho prison. For about an hour and a half, an officer interrogated him about the case of killing the activist Nizar Banat because journalist Alaa Rabei was a friend of the late Banat. A joint force of the Palestinian security services also arrested the freelance journalist Naseem Ali Nassim Maalla (26 years) at 1:30 a.m. on Thursday, 4/11 for a period of 21 days, before releasing him on Thursday evening 25/11. In his testimony to Mada Center, journalist Nassim said that a joint force of Palestinian security forces broke in his house in Beita village, south of Nablus, confiscated his mobile phone and took him to the Preventive Security headquarters in Al-Junaid Prison, where he was placed in a small cell and in poor conditions.

On the same day, journalist Naseem was presented to the prison officer who charged him with possessing a weapon, to be presented to the Public Prosecution, which decided to extend his detention for five days, but after presenting him to the judge, it was decided to release him on a 500 Jordanian dinars bail , but after completing the payment of the bail and when the journalist arrived at the prison door to leave, the security forces arrested him again and brought him to the General Intelligence headquarters inside the prison. He was re-arrested in a cell suffering very poor conditions, as there is no water, electricity, or "toilet".

In the next day - Friday - Naseem was sent to the intelligence service headquarters in Al Muqataa, where one of the officials interrogated him - he did not define his exact status - and when he asked about his accusation and the reason for his arrest, he replied, "collecting and receiving money from illegal entities", and his detention was extended for 24 hours by the public prosecutor who decided to transfer him to the "Rehabilitation and Correction Center" in Jericho.

During his stay in Jericho prison, where he stayed for 16 days, journalist Naseem was tortured, handcuffed and blindfolded, and he remained like this for 19 hours.

⁶⁷ It was also mentioned in the testimonies submitted to the Media Freedom Center (Mada), and was published in the center's monthly report for the month of July 2021, as published on the following link: <https://www.madacenter.org/article/1744/>

They also accused him of belonging to Hamas and receiving money from it, based on videos that the journalist had prepared it and sold it to another journalist - belonging to Hamas movement - for 500 shekels, which the authorities considered illegal money.

Naseem remained in the cells of Jericho Prison, whereas the interrogation ended, and was then transferred to the prison rooms. He remained there until the court date, when the judge extended his detention for three days in the General Intelligence prison in Jericho, after which he was transferred back to Junaid Prison in Nablus, and the judge released him from there without bail on 25/11.

Fourth: Impunity of journalists' attackers

A number of women and men journalists submitted complaints and reports to the Palestinian judicial authorities regarding the attacks that were carried out against them, but after nearly a year of their submission, these reports were ignored by the competent authorities, and until this moment no action has been taken to stop the perpetrators of escaping justice, and let their actions pass with impunity.

Complaints and communications had two characters. The first: a collective character, carried out collectively by the Palestinian human rights institutions. The second: the individual character that has been submitted by some victims of the attacks. The collective complaint was filed by eighteen Palestinian human rights organizations on 1/7/2021 to the Public Prosecutor, and its title was a criminal complaint regarding committing constitutional crimes described in Article (32) of the Basic Law and the provisions of Article (158) of the Penal Code No. (16) of 1960, it includes that, these human rights organizations indicated that they monitored and documented on Thursday, 24/6/2021, on Saturday, 26/6/2021, and on Sunday, 27/6/2021, during the peaceful gatherings that took place in downtown Ramallah, a group of more than 3 people in civilian clothes Males and females roaming the roads in downtown Ramallah, specifically in Al-Ersal Street, next to Al-Hamra Palace, to Al-Manara roundabout and the Martyr Yasser Arafat square, attacking participants in peaceful gatherings, beating them with stones and batons, and beating on different parts of the body, in addition to confiscating their mobile phones. This group also attacked a number of journalists, confiscated their equipment and broke some in front of and in the presence of the security forces from the police, National Security and other security agencies, without any intervention by them to protect the participants in the peaceful gatherings. Rather, these agencies arrested the participants who were attacked by these groups and taken to the headquarters of the security services, and collecting phones confiscated from citizens and keeping phones confiscated by these groups in an unknown place.

In its penal report, the human rights organizations warned about the continued violation on public rights and freedoms by the security services, and the entry of armed groups to intimidate the participants and attack them with the protection of the security forces, in a grave violation of the constitutional rights described in the Palestinian Basic Law, and discrimination against citizens to have their equal rights, which constitutes a constitutional crime according Article (32) of the Basic Law, that violate the right to peaceful assembly as in Article (26), the right to personal freedom Article (11), the right to equality and non-discrimination Article (9), and the prohibition of torture and ill-treatment Article (13), and the violation of arrest & detention guarantees Article (12), and the right to freedom of opinion and expression Article (19), also constitute crimes described in the applicable Penal Code, especially Article (158) regarding the formation of armed gangs, which states: “1- Each group of three persons or more, who roam the public roads and the countryside in the form of armed gangs with the intent of robbing passers, and transgressing people or money, or committing any other act of thievery; Shall be punished with temporary hard labor for a period of no less than seven years, and they shall be sentenced to life imprisonment with hard labor, if they commit any of the aforementioned acts.

The institutions said that what was monitored is considered grave violations of the State of Palestine's obligations; stemming from joining basic international human rights conventions, especially the International Covenant regarding Civil and Political Rights. Also, the Convention against Torture and the Protocol of National Mechanisms for the Prevention of Torture, specifically the rights related to freedom of opinion and expression, peaceful assembly, the prohibition of torture, Personal freedom and guarantees of arrest and detention.

Thus, in accordance with the provisions of Article (24) of the Code of Criminal Procedure, a complaint was submitted to open a criminal investigation against all those who committed the aforementioned crimes, and to take the legal measures against them in accordance with principles and law. The institutions attached a file of photos regarding the attacks carried out by those involved in attacking the participants in the peaceful gatherings ⁽⁶⁸⁾.⁶⁸

For Journalist Najlaa Zaitoun, she said that she went to the Military Prosecution in Ramallah to file a complaint against the people who assaulted her, and she paid the legal fees and filed a civil right claim to demand compensation for the

⁶⁸ Institutions which participated in filing the complaint: Al-Haq, Al for Human Rights and Prisoners, Defense for Children International, The Center for Defense of Liberties and Civil Rights “Hurriyat”, Ramallah center for human rights studies, Al Mezan Center for Human Rights, The Civil Commission for the Independence of the Judiciary and the Rule of Law, Bisan Centre for Research and Development, The Palestinian Centre for the Independence of the Judiciary and the Legal Profession, Jerusalem centre for legal aid, Coalition for Accountability and Integrity – AMAN, Association Najdeh The Palestinian Initiatives for The Promotion of Global Dialogue and Democracy- Miftah, Treatment and rehabilitation Centre for Victims of Torture, Palestinian Non-Governmental Organizations Portal, Palestinian Centre for Human Rights, Reform Institution.

damages she sustained. In her oral statement to ISTIQLAL, she added, "While I was in the military prosecution in Ramallah, there were two people, the military prosecutor and the clerk, they heard my statement, then the prosecutor got out of the room I was in and another agent came and told me that I had to give the statement and what I said again, I was surprised by what the military prosecutor just said, especially since the first testimony was recorded on the computer, and I told the military prosecutor that I didn't forget, and I have not forgotten any letter, and I am fully prepared to repeat the statement again, and this is what happened".

As for journalist Shatha Hammad, she says, "On 1/7/2021, we submitted our testimonies to the Independent Commission for Human Rights, Al dameer and Al-Haq association and they took a decision regarding the criminal complaints based on the testimonies submitted by journalists who were subjected to violations and submitted to the public prosecutor, and until today we have no idea or any kind of information about the procedures and the progress of the complaints or any action taken based on such complaints.

Judicial authorities' failure to conduct investigations into reports related to the protection of journalists and human rights defenders; is not limited to the activists who have been prosecuted, but other women defenders complain about the failure of the official authorities to provide them with any protection even when they are subjected to prosecution and threats by societal groups, giving that the state's responsibility is not only to refrain from violations against human rights defenders, but also to ensure that defenders are protected against any attacks they may be exposed to by civilians and the groups of society.

Sama Aweidah, 63 years old, director of the Center for Feminist Studies, said in her testimony that she was attacked by one of the active pages on social media platforms entitled "The mass movement to cancel CEDAW."⁶⁹ She also said that "The page carried out a campaign of demonization and defamation against me because of my activism as a human rights defender. The page brought against me accusations of espionage in favor of the occupation and its agenda, and accused me of encouraging underage girls to commit adultery and homosexuality."

The campaign against Sama came after she was hosted at the Seventh Day symposium, in which one of the stories targeting children and produced by Sama was discussed aiming to raise awareness. Where the story entitled "Smart Salma" within the Aman program to educate students about issues related to sexual

⁶⁹ A recorded statement submitted to the National Commission for the Independence of Judiciary on 25 April 2022, regarding the protection granted to women human rights defenders by the official authorities.

harassment and extortion, and within the program of promoting children's rights in partnership with the Palestinian Ministry of Education, which also includes training of men and women counselors within a guide and tools. The center produced 14 children's stories regarding awareness and education.

Serious infringements in the light of missing accountability

Sama says that in 2021 she submitted several complaints to the Cybercrime Prosecution, and these cases were not raised until the day the incident was documented. Accordingly, Sama and a group of human rights defenders and people who have been subjected to such violations launched protest campaigns and demonstrations, but they reconsidered continuing, due to the intervention of the Director General of the Independent Commission for Human Rights, Dr. Ammar Dweik, who advised her to file a complaint and to take it to the Public Prosecutor's Office. Indeed, at the beginning of May 2022, Sama went, accompanied by a lawyer and Dr. Ammar Dweik and newswoman Nahid Tuaima, one of the victims of the same violation from the same page, all went to the Public Prosecutor's Office and submitted a complaint, and they were not answered until the date of the interview. Sama describes the campaign she was subjected to as a campaign of electronic defamation and demonization in the posts and comments on these pages.

Fifth: Conclusions and Recommendations

A. Conclusions

1. Palestinian women journalists, especially those who are active in covering news of events related to the protest against murdering the activist Nizar Banat, constituted the first target of prosecution and restriction. Also there were issues related to the defamation and incitement against women journalists, accusing them of being associated with other parties and working for foreign agendas. In addition to the insults, intimidation and threats that women journalists were subjected to while trying to cover these events in the field, and a number of men journalists were also prosecuted. This is besides the confiscation of the phones of many women and men journalists.

2. A number of women and men journalists submitted complaints and reports to the Palestinian judicial authorities regarding the attacks committed against them, but these reports –and complaints-, nearly a year after their submission, were ignored by the competent authorities, and until this moment no action has been taken to prevent the perpetrators of the crime from impunity.

B. Recommendations

1. Palestinian official authorities must conduct serious criminal investigations into all complaints they received regarding attacks on women and men journalists.

2. Investigate all allegations and incidents in which the privacy of women and men journalists has been violated, and stop any campaigns of incitement and hatred against men and women journalists.

3. Refer all human rights violators, including those who attacked women journalists, to the Palestinian regular courts to prevent them from impunity.

4. It is very important to provide the necessary guarantees to protect women and men journalists while covering controversial political events.