



The Independent Commission for Human Rights

ICHR

**Freedom of Media in the Palestinian-Controlled Territory
during 2008**

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Introduction

Freedom of media in 2008 was subjected to grave violations in the Palestinian-controlled Territory. The unprecedented encroachment on the freedom of media work in both the West Bank and the Gaza Strip reflected the extent of the political division and its dangerous repercussions on all the basic human rights and freedoms.

The patterns of grave violations against freedom of media and media professionals clearly indicate a systematic policy that is being institutionalized and is going beyond the limits of effective law in the Palestinian-Controlled Territory. These violations are being implemented persistently by all levels within the security agencies in the West Bank and by the Deposed Government in Gaza Strip.

The Independent Commission for Human Rights (**ICHR**) has traced through this report a series of patterns of violations against journalists and against media work as a whole, ranging from a policy of illegal arrests and chasing, to the prohibition of printing and distribution of some newspapers in both the West Bank and the Gaza Strip. This has been done for reasons that fail to correspond with the provisions of laws that are effective in Palestine and that contradict entirely all international conventions and treaties for human rights, to accusations against some Arab media agencies of being biased, to the revoking of licenses of other media institutions, raiding several amongst them in a manner that violates the provisions of Palestinian law. Furthermore, security agencies confiscated media material, and in some cases, journalists were subjected to direct assaults and threats to the extent of attempted assassination against some of them.

ICHR seeks through this report to shed light on the status of freedom of media in the Palestinian-controlled Territory in both the West Bank and the Gaza Strip. Additionally, **ICHR** seeks to urge decision-makers and those involved in this context to take all needed and actual measures and arrangements that can be enforced towards defending and protecting the values of democracy, freedom of opinion and of expression without

which no society can develop nor flourish.

Based on **ICHR**'s interest to safeguard public rights and freedoms, and in compliance subjectively and objectively with its policy of tracking and documenting violations of human rights, of protecting and strengthening the principles of democracy, freedom of opinion and expression as well as respect for human rights, and of harmonizing national laws to comply with international human rights standards and current effective laws in the West Bank and Gaza with relevant international standards, ICHR listened to the opinions of officials, journalists and media workers in both the West Bank and Gaza Strip. ICHR has also documented the challenges and the obstacles that face journalists and media professions in view of the state of division between the West Bank and the Gaza Strip. In the same context, ICHR reviewed relevant High Court decisions, particularly those related to arrests and those ordering the immediate release of some journalists. ICHR has also examined the level of compliance of the PNA in the West Bank and that of the Deposed Government in Gaza Strip with these decisions. Furthermore, it has reviewed the whole range of decisions and policies issued by the PNA in the West Bank and by the Deposed Government in the Gaza Strip regarding media work in PNA territories. As such, ICHR identified a number of conclusions and recommendations to be followed up on with decision-makers and media professionals to safeguard freedom of media and consolidate them as a value that cannot be compromised or restricted by the official authorities under any condition and beyond all the currently provided justifications.

Chapter One: Violations against journalist and media institutions

First: arresting journalists

The year 2008 marked a significant unprecedented increase in the number of attacks against the personal freedom of Palestinian journalists never witnessed since the establishment of the PNA. These violations took place despite the fact that the Basic Law guarantees personal freedom and considers any attacks against it as a crime punishable by law. The Basic Law even guarantees a fair compensation for any individual whose personal freedom has been violated or any of his/her basic rights attacked.

ICHR traced the arrest of (45) journalists in the West Bank and the Gaza Strip. These arrests casted a negative impression over individuals working in this field and formed a source of concern for many amongst them, preventing them from covering events according to professional standards out of fear of arrests or pursuit.

The measures taken by the security agencies in both the West Bank and the Gaza Strip constituted a clear violation of the Palestinian Basic Law, the Palestinian Penal Procedures Law, and relevant international human rights conventions.

1. Arrests of journalists by Palestinian security agencies in the West Bank

In 2008 the **ICHR** traced an increase in the number of journalists arrested by security agencies in the West Bank. The affidavits that

ICHR received for purposes of this report indicate that the majority of the arrests¹ of journalists in the West Bank failed to follow proper legal procedures and were marked by a complete absence of guarantees for a fair trial, not to mention the fact that many journalists were subjected to torture and inhuman treatment. The interrogation of journalists focused on their work, their media and professional activities of covering events, or photographing, writing or preparing audio or visual media reports², or contacting stations banned from working in the West Bank such as Al Aqsa satellite channel or radio station broadcasting from Gaza Strip³, or corresponding with or writing for newspapers such as Al Risala and Falasteen, newspapers both issued in Gaza Strip.

ICHR received (14) complaints in this context from journalists who were arrested by security agencies in an arbitrary manner without following proper legal procedures and presenting them before the Military Judiciary or keeping them for long periods of time without presenting them to the civil or military prosecution.⁴ Journalist Khaldoun Mazloun, detained by the Palestinian General Intelligence agency in Ramallah, stated that he was informed by the interrogator that he is being held by order of the Military Judiciary for (6) months. Mazloun did not appear before neither the civil nor the military prosecution, but rather was informed of the contents of the detention decision inside the General Intelligence headquarters⁵. The security agencies delayed and refused to release some of the journalists even after High Court decisions were issued ordering their release.⁶

1 See annex number (24) regarding the summoning of the journalist Nawaf Al Amer (All Annexes are only available in Arabic Version of the report).

2 See annex number (1) affidavit of Nawaf Al Amer (Arabic)

3 See annex number (2) affidavit by Ala' Titi, and annex (3) affidavit of Usaid Amarneh, and annex (4) affidavit of Samer Khweireh, and annex number (5) affidavit of Mustafa Sabri. (Arabic)

4 According to the complaints made by individuals mentioned above and their families to ICHR.(Arabic)

5 According to the complaint by Khaldoun Mazloun himself provided to ICHR's researcher when he visited him at the detention center.

6 See ICHR's affidavit on stopping the presentation of civilians before the military judiciary (Arabic) commission and on the immediate implementation of High Court decisions on 27/11/2008.

The information available to **ICHR** indicates that during the year 2008, (32) journalists and media professionals were arrested upon the decision of Palestinian security agencies in the West Bank as illustrated in the attached table.⁷

Many journalists were asked by the interrogators about the sources of funding of some of the channels and satellite stations that they work for. Journalists were also asked about the method of these stations' work, or ways of selecting them to work for them, or about the newspapers or the news agencies ⁸ and the relationship between those stations, satellite channels, newspapers, and journalists with the Hamas movement, the Deposed Government in the Gaza Strip or their relations with political figures from Hamas in the West Bank and the Gaza Strip.

Some journalists were asked about their relations with security officials working at the Ministry of Interior of the Deposed Government in the Gaza Strip. Journalist Awad Rjoub stated that he was asked by the interrogator about the last time he contacted Taher Al Nunu, the official spokesperson of the Deposed Government in the Gaza Strip and with Ihab Al Ghusein, the spokesperson for the Ministry of Interior of the Deposed Government in Gaza. The names of both spokespersons were stored in Rjoub's mobile. Rjoub clarified that the last contact took place a few minutes before he was arrested and that he did not answer either of their calls. He explained that the purpose of the calls was to get affidavits from both of them regarding the reasons behind prohibiting the entry of newspapers into Gaza and the closure of Wafa news agency offices there, similar to interviews conducted in the West Bank with the Care-Taker Government. ⁹

During the interrogation, many journalists were asked about the way of contacting stations and how they send the media material to the organizations that they work with in both the West Bank and Gaza Strip¹⁰.

7 See appendix number (1) regarding the arrests made by security agencies in the West Bank. (Arabic)

8 See appendix number (2) affidavit by Ala' Titi and appendix number (4) affidavit of Samer Khweireh. (Arabic)

9 See appendix number (6) affidavit by Awad Rjoub (Arabic)

10 See appendix number (4) affidavit by Samer Khweireh and appendix number (3) affidavit of Usaid Amarnah, and appendix number (1) affidavit by Nawwaf Al Amer.(Arabic)

Awad Rjoub stated that he was asked about the media organizations that he has worked for in the past and present. He was also asked about the way in which he joined Al Jazeera and the nature of his relationship with Waddah Khanfar, the Director General of the Al Jazeera network. Rjoub replied that he worked with Al Jazeera Net and that he did not speak with the Director General because his contact is limited to the website only.¹¹

The interrogation revolved around the salaries of the journalists and the amounts they received in return for their work, as well as the way these amounts were transferred and deposited to them whether through the bank or other means. They were asked about the banks that they deal with and where they keep bank accounts. Ala' Titi, correspondent for Al Aqsa satellite channel in Hebron, stated that he was asked by the interrogator about the amounts that he receives in return for his work, how these amounts were transferred to him, and about the numbers of his bank accounts.¹²

The affidavits made available to **ICHR** by the journalists who were arrested show that the majority of these journalists were subjected to binding in painful position for hours (known as Shabeh in Arabic) and ill-treatment during interrogation by the security agencies. Journalist Usaid Amarneh stated that individuals from the General Intelligence agency in Bethlehem asked him to enter the bathroom without his shoes and kept him sleeping in the interrogation room for days without a mattress or a cover. Later on he was incarcerated in an overcrowded room that barely fits two people together with five detainees. One of those detainees was forced to stay awake so that his colleagues could sleep¹³. Journalist Mustafa Sabri was subjected to beating by one of the Intelligence Agency personnel in Qalqilya governorate who slapped him on the face. Sabri started screaming at him and said "I will get justice through the law that you have violated" Sabri stated that he cried of anger and injustice and prayed to God to avenge him of the aggressor.

11 See appendix number (6) affidavit of Awad Rjoub.(Arabic)

12 See appendix number (2) affidavit by Ala' Titi.(Arabic)

13 See appendix number (3) affidavit by Usaid Amarneh. (Arabic)

Awad Rjoub, Usaid Amarneh, and Ala' Titi were deprived of sleep for long periods of time and were subjected to continuous binding in painful positions. They were banned from contacting their families or receiving visits by them, as was the case with the families of Fareed Hammad and Ala' Titi who were not allowed visits from their families.¹⁵ Journalist Nawwaf Al Amer was forced to log on to his personal e-mail under pressure and threats of keeping him in detention under the pretext that he received a very important and dangerous e-mail that is of interest to the Preventive Security agency¹⁶. Through several affidavits, it was noted that many of the journalists were bound in painful positions for continuous hours, as was the case with journalist Awad Rjoun at the Preventive Security agency offices. He was handcuffed with his hands bound behind his back in metal chains and was forced to stay in a painful position for long periods of time.¹⁷

In the framework of pressures exerted upon journalists and media organizations, many members of the security agencies offered, during the interrogation sessions, the journalists the possibility of working as informants for those security agencies. This was the case with journalist Nawaf Al Amer who was asked by the interrogator of the General Intelligence agency in Nablus to work as an informant for them, but Al Amer refused.¹⁸ **ICHR** received many affidavits (some of the individuals who provided their affidavits did not want their names documented) confirming that the General Intelligence agency and the Preventive Security agency have both approached the journalists regarding working for them as informants. Journalists have rejected these offers.

One of the journalists was re-arrested for writing about the conditions that he went through, including the conditions of detention and the harsh conditions of interrogation as well as the humiliation that he was

14 See appendix number (5) affidavit of Mustafa Sabri. (Arabic)

15 See appendix number (2) affidavit by Ala' Titi. (Arabic)

16 See appendix number (1) affidavit by Nawaf Al Amer (Arabic)

17 See appendix number (6) affidavit by Awad Rjoub (Arabic)

18 See appendix number (1) affidavit by Nawwaf Al Amer. (Arabic)

subjected to during interrogation. This happened to Mustafa Sabri, who was re-arrested and interrogated again by the General Intelligence agency in Qalqilya after he wrote an article entitled “This is how I was humiliated at the Intelligence Agency’s headquarters and I will not abandon on my legal rights”. The article was published on Al Jazeera Net and some other websites. The article was written on 29/7/2008 and was published on the same day. Sabri was arrested on 31/7/2008 for writing his “article in which I described what happened to me at the headquarters of the General Intelligence agency in Qalqilya.”¹⁹

2. Arrests of journalists by security agencies of the Ministry of Interior in the Deposed Government in the Gaza Strip

The security agencies of the Ministry of Interior of the Deposed Government conducted since the beginning of 2008 several arrests of journalists and professionals of various media outlets in the Gaza Strip. The reasons for these arrests, according to the Deposed Government, were that these journalists worked with media organizations that are banned in the Gaza Strip such as Palestine TV and Radio, despite the fact that there is no judicial decision banning or prohibiting their work in the Gaza Strip according to the provisions of Palestinian law.

According to information available to **ICHR**, the security agencies of the Ministry of Interior of the Deposed Government have arrested (13) journalists and workers in various media institutions during the year 2008, as indicated in the attached table.²⁰

In this context, **ICHR** has received (5) complaints from journalists who were arrested by the security agencies in an arbitrary manner, without following proper legal procedures as well as making them appear before the military judiciary or keeping them for long periods of time without presenting them to the civil or military prosecution.

¹⁹ See appendix number (5) affidavit by Sabri Mustafa. (Arabic)

²⁰ See annex (2) regarding arrests by security agencies of the Ministry of Interior of the Deposed Government in the Gaza Strip. (Arabic)

The Deposed Government has prohibited, through its security agencies, activities of all Governmental public media institutions in the Gaza Strip, has confiscated material from their offices in terms of computers, fax machines, and telephones, and arrested many of their workers, informing them that they were banned from practicing any journalistic work or contacting what they called the “Ramallah Government”.²¹

Journalists in the Gaza Strip were subjected to interrogation about their work and journalistic activities in terms of covering events, photographing, writing or contacting news stations banned in the Gaza Strip such as Palestine satellite channel that broadcasts from Ramallah or Wafa Agency, or Al Ayyam and Al Hayat newspapers published in Ramallah. They were also interrogated about their work methods with these institutions as well as the relation between these stations and satellite channels of the The Fatah movement and the Government in Ramallah. These journalists were interrogated for sending or suspected sending of media material to these stations, newspapers, or agencies in the West Bank particularly if these materials were related to news and activities linked to violations of human rights by the security agencies of the Ministry of Interior of the Deposed Government. They were also interrogated for covering events that the Deposed Government did not want to reach the media, and for suspicion that the journalists had written news related to the Gaza Strip that appeared in Palestinian daily newspapers, or websites. Journalists are interrogated regarding the writing, the passing of, or the leaking of news to the newspapers, satellite channels, and the news agency.²²

Sameer Khalifeh stated that: “On 24/5/2008 and after completing my report on the awareness campaign for banning drivers from using cooking oil to operate their vehicles, carried out by the police forces of the Ministry of Interior of the Deposed Government, my colleague the cameraman Ahmad Al Ras and I were preparing a televised report in the Midan Falasteen area in Gaza city when a policeman approached us and

21 Affidavit by Riyad Al Hassan, head of the general assembly of the Palestinian News Agency Wafa on 10/11/2008.(Arabic)

22 According to the affidavit by Mohammad Al Dahoudi- Director General of Palestine TV in an interview with ICHR on 9/11/2008. (Arabic)

informed me that there was an order issued by the police headquarters to summon me to the Shuja'ayyah police station in Gaza city. Police officers asked me to accompany them in their car and wanted to confiscate my mobile. I refused to give them my mobile and rode in the Ramattan news agency's car and drove accompanied by the police officers to the Shuja'yayah police station. There I was interrogated about my relation and work with Palestine TV. However, I informed them that I worked as a corresponded from Sudan TV and not for Palestine TV because I complied with the decision issued by the Ministry of Interior of the Deposed Government prohibiting me and my colleague Adel Az Z'anoun from practicing any work for the benefit of Palestine TV. After checking the truth of my statements that I work for Sudan TV, my colleague and I were released following the intervention of many journalists and Ramattan news agency.²³

Through the affidavits that it has received, **ICHR** has concluded that many journalists who were arrested by the security agencies of the Deposed Government were subjected to torture, ill-treatment, beating, binding in painful positions, and threats and their families were not allowed to visit or contact them.

Journalist Ismaeel Al Sawwah stated that he was taken blind-folded to the Saraya headquarters where he was bound in a painful position for hours and was beaten in the area of the abdomen and upper shoulders. Then he was transferred to the Mashtal prison for interrogation. The interrogator accused him of providing the German TV channel media material that affect the security of the Hamas movement. Sawwah retorted that they could check his website and the channel's website on the internet and that he is responsible for all the materials that he sends. Sawwah stated that he felt sick during his detention and a doctor was brought to see him. The doctor recommended that Sawwah quickly undergo medical tests. Before Sawwah was released from prison, members of the internal security agency of the Ministry of Interior of the Deposed Government warned him against talking to the media about his experience and his arrest. It is important to note that Sawwah took several medical tests

²³ See appendix number (7) affidavit of Sameer Khalifeh. (Arabic)

following his release. The tests revealed that he suffered from wounds in his kidneys and stomach, and revealed ulcerations around his liver.²⁴

Journalist Sakher Abu Own also gave an affidavit indicating that he was subjected to beating, binding, and ill-treatment during his detention by the security agencies of the Deposed Government. He was not released until one of the brokers from the the Hamas movement intervened on two conditions. The first condition was for Abu Own to contact Palestine TV to stop broadcasting the news about “kidnapping Sakher Abu Own, head of journalists’ union in Gaza” while the second condition was for Abu Own to circulate a statement clarifying that his arrest was related to the union’s work. Prior to leaving the prison, he had to sign a document, which he couldn’t read, confirming his commitment not to raise the issue of his arrest in the media.²⁵

Through review of the affidavits and information available, it became clear to **ICHR** that all the arrest, detention, interrogation, and extension of detention procedures in both the West Bank and Gaza Strip represent a violation and an assault on the basic rights and freedoms guaranteed by the Basic Law in Article 11 which stipulates that: “Personal freedom is a natural right and shall be guaranteed and protected. It is prohibited to arrest, search, imprison, restrict the freedom, or prevent the movement of any person except by a judicial order in accordance with the provisions of the law. The law shall specify the period of pre-imprisonment detention and imprisonment or detention shall only be permitted in places that are subject to laws related to the regulation of prisons.”

Whereas the Palestinian Penal Procedures Law is the main regulator of the procedures to be applied for processes of arrest, detention, extension of detention period, and interrogation, and since this law has specified that the judicial police has the right to arrest people in specific cases according to the provisions of article (30) of the said law, given that article (29) of the same law stipulates that: “No one shall be arrested or

²⁴ See appendix number (8) affidavit of Ismaeel Abu Sawwah (Arabic)

²⁵ See appendix number (9) affidavit of Sakher Abu Own (Arabic)

detained except by order from the legally competent party, and should be treated in a manner that preserves his dignity and should not be subjected to physical or psychological harm.” And whereas the arrests and interrogation of the majority of the journalists were conducted, in both the West Bank and the Gaza Strip, in accordance with the Revolutionary Penal Law of 1979 which is considered, according to the High Court’s decision, as non-compliant with the provisions of the law²⁶ and does not follow legal procedures that provides the minimum level of safeguards for a fair trial, therefore all actions by security agencies in the West Bank and the Gaza Strip are considered as a violation and an assault on human rights and basic freedoms, be it attacks on personal freedom, detention in locations not subjected to laws regulating prisons, subjecting journalists to torture and deprivation of contact with a lawyer, entry into houses without a judicial warrant, confiscating the rights of journalists to appear before a normal judge within the time periods stipulated by law, or the arrest, detention, or ill-treatment of journalists, all of which are violations of all international conventions and charters.

Second:

Assassination attempts, physical assaults, harassment, censorship, and discrimination

1. Assassination attempts, physical assaults, and harassment against journalists in the West Bank

Chasing journalists did not stop at a certain threshold, but rather reached assassination attempts in some cases. One such case is that of journalist Mustafa Sabri. On 6/12/2008 unknown armed individuals shot five bullets on the journalist’s house door in Qalqilya. The Preventive Security agency and the police both followed up on the incident. The Preventive Security agency informed the journalist that the incident was

²⁶ See ICHR’s report: The Detention of Civilians by Palestinian Security Agencies With a Stamp of Approval by the Military Judicial Commission, Special series report number (64), ICHR, December 2008.

filed as committed by an unknown perpetrator. It is important to note here that Sabri was arrested several times by the Palestinian General Intelligence agency prior to the attempted assassination.²⁷

Many journalists were subjected to a wide-range of attacks in the West Bank including beating by clubs, obscene language used by security personnel against them as they performed their journalistic work and during their coverage of events. This was the case of the journalist Yusri Al Jamal who on 29/7/2008 was attacked by the National Security forces in Hebron who also ruined his camera. Al Jamal was waiting for the security agencies to give him permission to cover the demonstration organized by Al-Tahrir party in the city of Hebron on the occasion of the destruction of the caliphate.

ICHR documented (14) cases of assault against journalists, cameramen, and correspondents of media institutions in the West Bank. Force was used to prevent the journalists from photographing or covering the events and they were not permitted to reach the locations where events were taking place.²⁸

Repeated attacks were committed against Mohammad Abu Ghanyyeh, Nayef Al Hashlamon, Mohammad Abu Hein, and Mousa Ash Sha'er who were beaten and cursed at by members of the Preventive Security agency in Bethlehem and in Beit Jala following their coverage of a seminar conducted by At-Tahrir party. In another incident, Sami Sa'ed was attacked during his coverage of a sit-in organized by lawyers in front of the conciliation court in Tulkarem. He was prevented from filming the sit-in and his personal camera was confiscated by the security agencies. The police forces intervened and transferred him to the police headquarters in Tulkarem. He was treated well according to Ma'an news agency. **ICHR** intervened with the head of police in Tulkarem who informed ICHR that the journalist was transferred to the police headquarters for his own safety and was released without being subjected to any physical or psychological harm.

²⁷ According to ICHR's documentation on 6/12/2008.

²⁸ See attachment appendix number (11) regarding the physical attacks and the harassment against journalists in the West Bank. (Arabic)

ICHR documented that during 2008, many journalists and media institutions were threatened because of their journalistic work. Among the most prominent threats was the one made against Hadeel Wahdan, a correspondent for the BBC, by one of the members of the General Intelligence agency who threatened her directly as she stated “He told me who do you think you are? Don’t you know that I know where you live, and I know where you work, and I know how to reach you.”²⁹

Journalist Awad Rjoub was threatened by members of the Preventive Security agency. Rjoub stated that during his arrest “The interrogator told me: you want to be the martyr of journalism, so let it be.” Another interrogator talked in a threatening tone and said: “You are a young man and you have your life ahead of you, so watch out for your own sake and for your own future.”³⁰ Al Jazeera satellite channel offices in Ramallah received several threats due to their media work through recurrent phone calls from angry individuals threatening the workers and criticizing the station.³¹

The advisor to the official spokesperson of the Government confirmed that “there are strict and exaggerated security measures carried out by the security agencies while searching journalists and media institutions particularly at the President and Prime Minister’s headquarters and when official dignitaries visit the Palestinian territories. The security agencies search journalists and media institutions through strict security inspection, the use of trained dogs, the search of handbags and cameras.”

A number of journalists, including Faten Ilwan and Yafa Isteiti, stated that foreign journalists and foreign press are not subjected to these security procedures and that there is a high level of flexibility in terms of the process of their entry. They are not subjected to the same inspection procedures like the Palestinian and Arab journalists. Additionally, Arab journalists and media institutions wait for long hours in front of the President and Prime Minister’s headquarters before they are allowed

29 See appendix number (12) affidavit by Hadeel Wahdan. (Arabic)

30 See appendix number (6) affidavit by Awad Rjoub (Arabic)

31 See appendix number (11) affidavit by Waleed Al Omari. (Arabic)

to enter, whereas foreign journalists and press organizations receive better treatment³² reflecting a clear discriminatory policy against Arab journalists.

Journalists and media institutions face different types of censorship whether from security agencies or through the intervention and protest of officials in the Care-Taker Government as was the case with journalist Hadeel Wahdan whose reports are monitored by PNA officials and members of the Palestinian General Intelligence agency³³. Journalist Faten Ilwan was subjected to several incidents of harassment during and following the preparation of her report on Palestinians wounded in the Gaza Strip during the unfortunate events of 2007 during Eid Al Fitr holiday. Officials from the President's Office in the West Bank tried to prevent her from completing the report. Wounded individuals were asked not to talk to her about the subject. ³⁴

On the other hand, journalist Hafez Al Barghouthi, editor-in-chief of Al Hayat Al Jadida newspaper stated that: "There is internal censorship on the political, economic, and tribal levels over the journalists and the media institutions as well as Arab and foreign censorship. Many countries, whether Arab or foreign, hold the PNA responsible for whatever is published in the newspapers and the various media outlets. They consider the PNA responsible for everything that is written or published within its territories. More than once, Arab and foreign countries protested to the PNA regarding news or reports published by the media. As such, the levels of censorship are auto-censorship, internal censorship, Arab censorship, and finally foreign censorship.³⁵" Al Barghouthi was subjected himself to the censorship and was asked in person about articles published by Al Hayat Al Jadida in this framework, or protests were made to the PNA directly.

32 See appendix number (18) affidavit by Yafa Isteiti, and appendix number (13) affidavit by Faten Ilwan. (Arabic)

33 See appendix number (12) affidavit by Hadeel Wahdan (Arabic)

34 See appendix number (13) affidavit by Faten Ilwan (Arabic)

35 See appendix number (10) affidavit by Hafez Al Barghouthi, and appendix number (19) affidavit by Mohammad Daraghmeah. (Arabic)

Information available to **ICHR** indicates that Palestinian journalists are unable to get interviews with the President despite the fact that they demanded to conduct such interviews a long time ago. Journalist Faten Ilwan, correspondent for Al Hurra channel, stated: “I requested an interview with President Mahmoud Abbas three years ago and I still did not get it until now, despite the fact that some media agencies get interviews with the President in a short period of time, such as the Israeli media who get interviews with the President easily. There is a sense of discrimination in terms of getting interviews between the various media organizations. There is also discrimination in the sense that some media organizations are invited to cover events or attend press conferences since some officials pass on information to certain media organizations and not others.”³⁶

Many journalists exerted extensive efforts to obtain official responses or interviews from several officials about topics of interest to public opinion. Journalists lack a specific address within the Government, within a ministry or agencies that can provide them with the official point of view regarding different issues. Journalist Mohammad Daraghmeh, correspondent for Associated Press, stated that he could not obtain comments on a report that he prepared regarding the circumstances of the death of Majd Al Barghouthi at the detention center of the Palestinian General Intelligence Services Agency in Ramallah. The Palestinian National Authority lacks an official spokesperson for the security sector that can provide journalists with comments on security related issues, or on events that take place and that have a security-related dimension.³⁷ Journalist Na’ela Khalil, reporter for Al Ayyam newspaper, stated that she has tried to interview Lieutenant General Abdual Razzaq Al Yihya, Minister of Interior, to prepare a report on political prisoners. However, she was unable to conduct the interview despite her repeated attempts to do that.³⁸

The patterns of restrictions and pursuit took other forms, such as obscene language used by senior officials within the PNA against many

36 See appendix number (13) affidavit by Faten Ilwan. (Arabic)

37 See appendix number (19) affidavit by Mohammad Daraghmeh.(Arabic)

38 See appendix number (20) affidavit by Na’ela Khalil. (Arabic)

journalists and media institutions. Journalist Faten Ilwan, correspondent for Al Hurra channel, said: “A senior official at the Negotiations Affairs Department called me to protest against a report that she prepared before it was actually broadcasted and used harsh and obscene language that no one could imagine. The same thing happened to me when a senior official within the Office of the Palestinian President called me and used similar harsh and obscene language in protest against my journalistic work and accused me of being unprofessional.”³⁹

Some journalists and media institutions had their credibility and professionalism questioned during their coverage of events. This was the case with Al Arabiyya news channel, as its employees were harassed during their coverage of events in Gaza and were told they were not working for Al Arabiyya but rather Al Ibriyyah (this is a pun, Arabiyya means Arab while Ibriyyah means Hebrew in Arabic) .⁴⁰ This also happened to Al Hurra channel whose teams are always accused of belonging to the CIA and of being collaborators⁴¹. The same happened with Al Jazeera satellite news agency teams and reporters who were accused during the coverage of events of affiliation with the Hamas movement.⁴²

2. Assassination attempts, physical attacks, and harassment of journalists in the Gaza Strip

Journalist Mustafa Sawwaf, editor-in-chief of Falasteen daily newspaper was the subject of an assassination attempt by an unknown individual in Gaza on 19/6/2008. A bullet was shot at him while he was in his office from a building opposite his office of the newspaper headquarters. ⁴³

Several journalists and workers in media institutions were subject of a number of attacks by the security agencies of the Ministry of Interior

39 See appendix number (13) affidavit by Faten Ilwan. (Arabic)

40 See appendix number (14) affidavit by Nidal Hassan. (Arabic)

41 See appendix number (13) affidavit by Faten Ilwan. (Arabic)

42 See appendix number (11) affidavit by Waleed Omari. (Arabic)

43 According to ICHR’s own documentation.

of the Deposed Government during their coverage of the events that took place in the Gaza Strip. This included banning the coverage of the Fatah movement's commemoration of the anniversary of the death of the late President Yasser Arafat. They were also banned from covering the marches and demonstrations of national and Islamic forces and factions. Many journalists were beaten and subjected to harsh treatment as clarified in the attached table.⁴⁴ Examples of such attacks include the attack against journalist Mahmoud Al Hams by the police forces of the Ministry of Interior of the Deposed Government in Gaza city. One of the police officers pushed him as the Deposed Prime Minister was touring to see the progress of exams of applicants for jobs in the education sector. An argument between Al Hams and the police officer broke out following the incident.

In his affidavit to **ICHR**, journalist Ala' Abdul Azzeez Mohammad Salameh, reporter for Sawt Al Quds radio station said "I had been near the Rafah borders since six o'clock on Saturday morning the 29/11/2008 to cover the traveling of pilgrims through the Rafah crossing. At around 1:15 that afternoon after I returned from covering the events at the crossing, a police officer asked me to take a dirt road where no means of public transportation pass. After walking for 70 meters on that road, there were (4) additional police officers working for the Ministry of Interior of the Deposed Government. One of them who stood behind him, called me on my mobile from a close range and asked me to approach him. I tried to call the radio station I work for but they prevented me from doing so. The police officer threw my mobile on the ground. I took my mobile back. Then one of the officers blindfolded me and they transported me in a car. During the ride, they made fun of me, then they forced me to enter a house and warned me against taking the blindfold off my eyes. Then one of the officers asked me about my work with the radio station and asked about my journalistic work. Then he hit me on the head and asked me to answer. A second officer accused me of working for the Fatah movement and then hit me on my mouth. I told them I was fasting. One of the officers brought a piece of bread with sand on it and tried to

⁴⁴ See appendix number (12) regarding physical attacks and harassment against and of journalists in the Gaza Strip.(Arabic)

put it into my mouth and forced me to eat it. I asked them for water to wash my mouth from the sand. They told me there was no water. The interrogation continued for another twenty minutes, then they took me to the car and asked me not to remove the blindfold. After that, they dropped me off in the same location from which they arrested me and gave me back my mobile.”⁴⁵ Several media organizations working in the Gaza Strip received statements and pamphlets threatening them that their offices would be attacked, as was the case with Al Jazeera. On 21/3/2008, Al Jazeera received threats through a statement from a group that called itself ‘the group of justice and equality in Palestine’ saying its offices and employees in the Gaza Strip would be attacked. The excuse for these threats was the interference of Al Jazeera in Palestinian internal affairs and the channel’s role in igniting the internal conflict.⁴⁶

Journalist Ismaeel Abu Sawwah, who was detained by the Internal Security agency of the Ministry of Interior of the Deposed Government, received threats and was warned against talking to the media regarding his detention experience.⁴⁷ Journalists Mohammad Shaheen and Sawwah Abu Seif were also threatened and warned against talking to the media about their arrest.⁴⁸

Wafa news agency also received threats by an unknown individual through a phone call to its main headquarters in Ramallah. The caller claimed that he belonged to the Hamas movement and asked Wafa to stop its reports regarding Hamas’s practices in the Gaza Strip.⁴⁹

Among the harassments that journalists were subjected to was the banning of employees of Palestine TV and Radio station from working in the Gaza Strip. Journalist Mohammad Dahoudi stated that: “The security agencies of the Ministry of Interior of the Deposed Government prohibited the staff of the Palestine satellite channel from working in the Gaza Strip although they allowed the Israeli TV crew members to

45 See appendix number (21) affidavit by Mohammed Salameh.(Arabic)

46 According to ICHR’s documentation. (Arabic)

47 See appendix number (8) affidavit by Isameel Abu Sawwah (Arabic)

48 See appendix number (8?) affidavit by Sawwah Abu Seif. (Arabic)

49 According to ICHR’s own documentation.

work freely there. This is a discriminatory act against the freedom of media.”⁵⁰

Based on the information and data made available to **ICHR**, it can be concluded that the procedures adopted by the security agencies in the West Bank against journalists and employees of media institutions have witnessed a significant escalation during 2008, particularly in comparison with foreign journalists who receive procedural and technical facilitation of their work during visits of officials to the PNA territories. On the other hand, the nature of attacks against journalists in the Gaza Strip were physical and direct, as was the case with journalist Ala’ Mohammad Salameh.

Third:
Accusing media agencies and journalists of bias and lack of professionalism while covering events

The year 2008 witnessed unprecedented criticism directed against Arab and foreign media operating in Palestine that broadcast in Arabic by the conflicting parties in both the West Bank and the Gaza Strip. This wave of criticism reflected the desire of each party to have Arab media outlets with the highest audience ratings in the Arab world adopt their version of the story because they realize the importance and impact of the media on public opinion. This was the case with Al Jazeera and Al Arabiyya channels as well as other stations that have high audience ratings in the Arab world. In this context, we present below examples of the harassment that some Arab and foreign media broadcasting in Arabic were subjected to, both in the West Bank and the Gaza Strip, which affected the freedom of media and put media professionals at risk.

⁵⁰ According to the affidavit made by Mohammd Dahoudi to ICHR.(Arabic)

1. Accusing media outlets and journalists of bias and lack of media professionalism while covering the events in the West Bank

On 25/1/2008, President Mahmoud Abbas criticized Al Jazeera station for being biased during a meeting attended by his senior aids and Al Jazeera crew members at the Office of the President in Ramallah and in the presence of the Director of Al Jazeera agencies in Palestine, Waleed Al Omari. The invitation to the meeting was issued by President Abbas's office regarding statements made by Faisal Al Qasem from Al Jazeera during his program ' The Opposite Direction' broadcasted on 22/1/2008. President Abbas was straightforward and clear in the meeting and said that it would not affect him if the whole Al Jazeera station was recruited and mobilized for the benefit of the Hamas movement or any other party. But what annoyed him the most was for a broadcaster at Al Jazeera, and not a guest on the program or a guest during a news bulletin, to curse him like Faisal Al Qasem did. This was not the first time that Al Qsem did that, for he had said amidst the shouting and the noise that his guests were making ' this is Abbas and his clique in the dark black area in Ramallah'.⁵¹

Al Jazeera was subject to much criticism and accusations of being biased, of lacking objectivity and siding with one party against the other. Mr. Yasser Abed Rabbo, Secretary General of the Executive Committee of the PLO, pointed to Al Jazeera's biased approach on 25/8/2008 during an interview with Palestine satellite channel. Mr. Abed Rabbo stated in an interview with ICHR on 19/11/2008 that "Al Jazeera did not broadcast one-fifth of the total air time that was given for the release of Sameer Al Quntar which spanned over a two-day period of time. Furthermore, Al Jazeera did not host the liberated prisoner Saeed Al Ataba who spent more than 32 years in Israeli prisons to give him the opportunity to say a few words on this occasion. " Abed Rabbo added " if it were a press conference held by Saeed Siam or Sami Abu Zuhri, Al Jazeera would have broadcasted it live. Al Jazeera is objective in general, however when it comes to Palestine, the objectivity vanishes. Al Jazeera is originally a channel of one color of the spectrum, and

⁵¹ According to the affidavit made by Walid Al Omari to ICHR. (Arabic)

all this talk about objectivity and professional ethics and standards is just to cover up this fact. Anyone who watches closely would notice that the objectivity disappears completely when the news relates to Palestinian affairs or issues. The objectivity disappears from the simple news bulletins through coverage methods that they use. Anything that relates to Hamas or the Muslim Brotherhood is put in the lime light in a positive manner and is given sufficient time, as needed and sometimes even more than what is needed. However, they portray what they do as being the right track to follow. All PNA accomplishments are obliterated and even distorted or undermined. But if any accomplishment is made aside from the PNA, Al Jazeera uses it as a model and commends it. There is no objectivity because there is a clear political bias that leads to the widening of the gap among the people's ranks. It is a bias that leads to increased hatred and increased internal frictions. This is a dangerous issue and role that Al Jazeera's coverage is undertaking."⁵²

Dr. Najat Abu Baker, member of the Palestinian Legislative Council belonging to the Fatah movement parliamentary bloc accused Al Jazeera also of being biased towards the Hamas movement at the expense of the PNA, and that Al Jazeera coverage and their hosting of prominent figures as well as the interviews and the programs give importance and attention to figures from the Hamas movement at the expense of individuals affiliated with Palestinian national factions and forces.⁵³

The spokesperson for the Fatah movement Fahmi Za'areer criticized Al Jazeera in an article published by several websites, including Sareeh website, accusing it of being biased and of interfering in Palestinian internal affairs. He also accused Al Jazeera of violating all the criteria of professional and journalistic work, and of igniting the Palestinian internal conflict. He called upon Al Jazeera to abide by impartiality and professionalism in its work.

The Union of Civil Servants⁵⁴ accused Al Jazeera on 4/9/2008 and

52 According to ICHR's interview with Yaser Abed Rabbo. (Arabic)

53 Affidavit made by Najat Abu Baker to ICHR. (Arabic)

54 See annex number (28) affidavit by the union of civil servants regarding accusations to Al Jazeera of lack of neutrality. (Arabic)

demanded the freezing of the activities of its office in Ramallah. It demanded the banning of Al Jazeera from working in the Palestinian Territories due to its biased approach and lack of objectivity in its coverage of the news regarding the union's strike that Al Jazeera failed to cover. They also accused Al Jazeera of broadcasting news that contributes only towards widening the gap and the divisions within the Palestinian society.⁵⁵

Journalist Walid Al Omari, head of Al Jazeera offices in Palestine clarified the channel's position on the accusations waged against it over the past period to ICHR. Al Omari said "I cannot be a journalist under pressure; I have to move with some sort of freedom in order to be true to my profession and true to the citizens and the audience in terms of my coverage which has to reflect the reality. Accountability can take place in cases of incitement or broadcasting of false news. However making up stories, lying, and incitement against Al Jazeera to hide the negative aspects of those who want to conceal the truth is unsatisfactory. Al Jazeera does not create the events, and thus "fabrication" of lies is harmful and hurtful and leads to negative consequences such as Al Jazeera vehicles being burnt. When necessary, it is important to resort to the law and the Ministry of Information in the case of a problem. There are also narrow faction-related interests that control this topic.

⁵⁶ As for the work, I was subjected to threats by phone in the West Bank. Angry people call in after the coverage of an event. In the past, armed individuals barged into Al Jazeera offices and threatened us inside our offices. Threats varied whether they came through phone calls or through statements. Cameramen and correspondents working for Al Jazeera were subjected to harassment by security agencies on the streets while they were carrying out their work as well as accusations of belonging to the Hamas movement and different forms of threats such as information and campaigns on the internet.

Al Omari indicated that due to these threats and the harassment, a form of auto-censorship has developed among journalists and media

⁵⁵ See Al Hayat Al Jadida on 5/9/2008 as well as the affidavit entitled «Obituary for Al Jazeera Channel». (Arabic)

⁵⁶ See appendix number (11) affidavit by Waleed Al Omari.

institutions. This in turn affected negatively the media performance and realities in the PNA territories. The correspondent for BBC in Arabic, Hadeel Wahdan, was accused of being biased and of lacking media professionalism. She stated: “One of the General Intelligence Services members in Ramallah has called me and he was angry and upset with the coverage and the report I prepared regarding the events that took place in Hebron University. He accused me of being biased and unprofessional.”⁵⁷

In the same context, journalist Faten Ilwan, correspondent for Al Hurra channel, was subjected to a lot of criticism for being ‘biased and unprofessional’ as a result of her journalistic work.

In sum, it is clear to **ICHR** that accusations of lack of impartiality and professionalism lead journalists to a form of self-censorship in order to avoid harassment, criticism, and accusations. As such, this has had negative repercussions on the realities of their work and the freedom of media. On the other hand, the justifications provided by the official parties did not rely on professional basis but rather on general political considerations. These systematic policies carried out by the security agencies and the official Palestinian establishment has led to deterioration in matters of freedom of media, and limited the ability of journalists in terms of covering events in an effective and professional manner.

2. Accusing media agencies and journalists of bias and lack of media professionalism in transmitting and covering events in the Gaza Strip

The Ministry of Interior of the Deposed Government, along with the Ministry of Information and the Hamas movement have accused media agencies and journalists of working in an unprofessional manner and of being biased to one party at the expense of the other. **ICHR** traced a number of these accusations, including by the Ministry of Information

⁵⁷ See appendix (12) affidavit by Hadeel Wahdan.

of the Deposed Government to Al Arabiyya channel of being biased and unprofessional. Nidal Hassan, Director of Al Arabiyya agencies in Palestine said that the work of Al Arabiyya is being restricted: “There is a clear tendency to pose restrictions against us by the officials as well as incitement against us under a clear framework that accuses Al Arabiyya of being biased and lacking neutrality”.⁵⁸

In the same context, journalist Hadeel Wahdan, correspondent for the BBC in Arabic, said: “I was accused by the Hamas movement of being biased and lacking neutrality. These accusations came from Musheer Al Masri, a PLC member and the spokesperson for the Hamas movement. These accusations came following Hadeel’s report on the events that took place in relation to the Hillis family.”⁵⁹

ICHR notes that the majority of the criticism against media institutions as being biased comes in the context of prohibiting media agencies from covering the truth about violations carried out by the PNA or the Deposed Government. It also comes within the framework of the efforts by each party to make media agencies adopt their official version of the story. The essence of these policies and the violations traced by ICHR against media professionals, reiterate the need for some of the official parties within the PNA and the Deposed Government to end all pursuits and pressures exerted against journalists, because such actions violate the provisions of the Palestinian Basic Law. Article 27 of the Basic Law stipulates that: “The establishment of newspapers and all media means is a right for all, guaranteed by this Basic Law. Their financing resources shall be subject to the scrutiny of the law. Freedom of audio, visual, and written media, as well as freedom to print, publish, distribute and transmit, together with the freedom of individuals working in this field, shall be guaranteed by this Basic Law and other related laws. Censorship of the media shall be prohibited. No warning, suspension, confiscation, cancellation or restriction shall be imposed upon the media except by law, and pursuant to a judicial ruling.”

⁵⁸ See appendix number (14) affidavit by Nidal Hassan. (Arabic)

⁵⁹ See appendix number (12) affidavit by Hadeel Wahdan. (Arabic)

The freedom of journalists to access sources of information and to transmit the facts to the viewers represents an oversight and accountability tool, and therefore any attempt to prevent journalists from carrying out their duties represents in itself a violation and attack on the right of citizens to access and receive information from different sources. As such, officials within the PNA and the Deposed Government should stop interfering in the work of media institutions and stop inciting against these institutions because such actions represent an attack and a violation of public freedoms and rights.

Fourth: preventing journalist and media outlets from covering events

International conventions and national legislation guarantees the right to access information. Article (19) of the Universal Declaration of Human Rights stipulates that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”. Article (2) of the Declaration on Fundamental Principles concerning the contribution of the mass media to strengthening peace and international understanding and to the promotion of human rights stipulates that: “The exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in strengthening of peace and international understanding. Access by the public to information should be guaranteed by the diversity of sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of individuals, thus promoting the participation of the public in the elaboration of information., and with a view to the strengthening of peace and international understanding,

to promoting human rights and to countering racialism, apartheid and incitement to war, the mass media throughout the world, by reason of their role, contribute to promoting human rights, in particular by giving expression to oppressed peoples who struggle against colonialism, neo-colonialism, foreign occupation and all forms of racial discrimination and oppression and who are unable to make their voices heard within their own territories. For the mass media to be in a position to promote the principles of this Declaration in their activities, it is essential that journalists and other agents of the mass media, in their own country or abroad, be assured of protection guaranteeing them the best conditions for the exercise of their profession.”

The Basic Law addresses this right implicitly in article (27). The Law on publication and printing number (5) of 1995 article (4) stipulates that: “Searching for information, news, and statistics that are of interest to citizens from its various resources, analyzing them, circulating them, publishing and commenting on them within the limits of the law.” Article (6) reiterates a similar meaning as it stipulates that: “Official parties should work to facilitate the mission of journalists and researchers in reviewing their programs and projects.”

1. Preventing journalists and local and Arab mass media from covering the events and confiscation of materials by security agencies in the West Bank

Security agencies in the West Bank prevented journalists and mass media from covering some activities or occasions organized by National factions. The security agencies did not allow coverage of these events in total disregard of the freedom of media. This prohibition led to the absence of media coverage of many events that took place in West Bank cities, such as the demonstrations that took place as the Annapolis conference was being convened in the U.S., or during the visit of U.S. President George W. Bush to Ramallah, as well as the demonstrations of Al Tahrir party in the West Bank on the occasion of the destruction of the caliphate. Journalist Hadeel Wahdan, correspondent for the BBC

in Arabic, said: “I was prevented from accessing the playground area of the Friends schools and from filming or covering the events. The road remained closed and security agencies prevented all journalists and mass media from entry or coverage of the events⁶⁰. The Watan TV crew, a local TV station in Ramallah, were beaten by security agencies and were prevented from covering and filming during the visit of U.S. President George Bush as well as coverage of the demonstrations organized by Al Tahrir party that took place in Ramallah⁶¹. In a related incident, Samer Khweireh stated to ICHR that “On 23/10/2008 the Preventive Security agency in Nablus prevented me, as a correspondent for Al Quds satellite channel that broadcasts from Beirut, to film in Yanoun village in the Nablus governorate. I was stopped by an officer of the Preventive Security agency in Aqraba village in the Nablus governorate who informed me that I was prohibited from filming and that I should see the agency in Nablus on 25/10/2008.”⁶²

The Palestinian General Intelligence Agency in Bethlehem prevented and arrested professional cameraman journalist Usaid Amarneh, who works for Al Aqsa satellite channel, as he was filming a demonstration commemorating the sixtieth anniversary of the “*Nabkbah*” (“Day of the catastrophe of 1948”) organized by national forces and factions in Bethlehem. Amarneh stated: “The demonstration was heading towards Dheisheh refugee camp. I was attacked by individuals dressed in civilian clothing and I asked them who they were, and where they worked. One of them showed me his card for a very brief moment and said he worked with the police. I told him “What do you want from me, I am a journalist”. However, after an argument between us, he identified himself as working for the General Intelligence agency. He told me he had an order to arrest me immediately. I asked him to see that order or any paper that states I should be arrested. He did not have any order or paper to that effect. In the beginning he took my camera and my Identity Card. I told him I will go to your headquarters by myself, but he refused that. He used force against me when he arrested me and called for back-up. A force from the agency arrived on the scene and there was shooting

60 See appendix number (12) affidavit by Hadeel Wahdan. (Arabic)

61 According to the documentation of ICHR.

62 See appendix number (4) affidavit by Samer Khweireh. (Arabic)

in the air. I was arrested by force and under gun point and I was banned from filming.”⁶³

Ramattan news agency stated to **ICHR** their crews are banned from entering the Office of the President compound in Ramallah although other mass media, particularly non-Palestinian media agencies, do not face the same restrictions.”⁶⁴

ICHR documented some of the incidents related to the prohibition of coverage as indicated in the attached table⁶⁵, which is a violation of the provisions of the Basic Law that confirm the freedom of journalistic work⁶⁶, as does the Palestinian Law on Publications and Printing.⁶⁷

ICHR also documented an incident of confiscation in the West Bank on 2/3/2008, when an officer of the Palestinian police force in Ramallah confiscated video tapes belonging to the cameraman of the Associated Press Agency, Abed Khabeesa. Khabeesa had filmed a group of police officers carrying batons and standing in front of Jamal Abd An Nasser mosque in Al Bireh city⁶⁸. Police officers seized the tapes from him by force.

It has become evident to **ICHR** that actions related to the prohibition of broadcasting and media coverage imposed on correspondents of Al Aqsa satellite channel lack sound legal procedures. Al Aqsa continued to work in an irregular manner and its correspondents were not informed that the Council of Ministers of the Care-Taker Government had decided to revoke the license of Al Aqsa satellite channel on 1/8/2007, by which it was banned from working in PNA territories. Ala' Titi pointed out that he was not informed of the Council of Ministers' decision until 16/10/2008. Titi stated: “Throughout the duration of my summoning before the security agencies and throughout the periods of detention

63 See appendix number (5) affidavit by Usaid Amarnah. (Arabic)

64 See appendix number (25) affidavit by Ramattan news agency. (Arabic)

65 See attachment number (7) regarding banning journalists and media agencies from covering events and from broadcasting by security agencies in the West Bank. (Arabic)

66 Article (27) paragraph (2) of the amended Basic Law of 2003.

67 Article (2) of the Law on Publications and Printing of 1995.

68 According to the documentation of ICHR.

by them I was not informed of the decision or its contents regarding the banning or the prohibition of the work of Al Aqsa satellite channel. I asked the security officers during period of my detention whether Al Aqsa satellite channel was banned and told them if it were the case, I will abide by the decision to ban it. On 24/4/2008, I met with the Director of the Preventive Security agency in Hebron, Lieutenant Iyad Al Aqra'. Through the discussions he returned the equipment that were confiscated from our offices in Hebron on 6/11/2007 when they closed down our offices. Al Aqra' told us keep working, we don't want to destroy your source of living, but you should be conscientious and not spread problems and don't exaggerate the issues even when you talk about arrests by security agencies. I continued working from 24/4/2008 until 16/10/2008 with Al Aqsa channel in Hebron in the West Bank. I continued to cover the news regarding the crimes of the Israeli occupation whether in terms of arrests or checkpoints. No one banned me from working. However, on 16/10/2008 I was arrested by the Preventive Security agency and I was informed that there was decision banning the work of Al Aqsa channel. This was the first time I hear or see the banning order."⁶⁹

2. Prohibiting journalists and Arab and local media from covering and broadcasting events and confiscation of taped materials by security agencies of the Ministry of Interior of the Deposed Government in the Gaza Strip

The security agencies of the Ministry of Interior of the Deposed Government have adopted a clear policy in preventing journalists and media institutions from covering events or any news without prior permission from the Ministry of Interior of the Deposed Government.

The affidavits available to **ICHR** show that the Deposed Government in the Gaza Strip did not allow free coverage and broadcasting of events. Many journalists confirmed that the Ministry of Interior of the Deposed Government used to call them and ask them not to go out and cover the

⁶⁹ See appendix number (2) affidavit by Ala' Titi. (Arabic)

events. Among the most prominent such cases was the prevention of journalists from covering events related to the families of Dughmush and Hillis in the Gaza Strip. Nidal Hassan stated “In some cases, a channel is banned from covering an event and the office staff are called and asked not to leave their offices to cover events or else be responsible for their own safety and their own lives.”⁷⁰ **ICHR** documented several cases of banning as detailed in the attached table⁷¹. Walid Al Omari confirmed that when he stated “In the Gaza Strip journalists are not allowed to move except upon permission. Al Jazeera crews are asked by the ministries of the Deposed Government not to go out and cover major events, particularly during the events that took place in the Shaja’iyyah neighborhood and the events related to the Dughmush family. If the crew went out they would face risks or punishment as the security agencies and the ministries indicated to them.”⁷²

It is important to note here that the security agencies of the Ministry of Interior of the Deposed Government have confiscated taped media material of several activities and happenings that took place in the Gaza Strip.

ICHR has documented some of the cases of confiscation, including an incident on 3/4/2008 when tapes were confiscated from Reuters cameramen Nihad Shan’aa and Ibrahim Abu Mustafa after they filmed the impact of an explosion that took place in the English cemetery at the entrance of Zwaydeh village in the center of the Gaza Strip⁷². On 18/4/2008, the camera of Imad Ajrami, cameraman for Al Alam TV, was confiscated by the police forces of the Deposed Government in Rafah city while waiting for the demonstration called for by the Fatah movement on the occasion of the Palestinian Prisoners’ Day⁷³. The security agencies of the Deposed Government equally confiscated many copies of Al Ayyam, Al Quds, and Al Hayat Al Jadida daily

70 See appendix number (14) affidavit by Nidal Hassan.(Arabic)

71 See annex number (8) banning journalists and media from covering events and broadcasting by security agencies of the Ministry of Interior of the Deposed Government in the Gaza Strip.(Arabic)

72 According to ICHR’s documentation.

73 According to ICHR’s documentation.

newspapers.

Therefore, the measures undertaken by the security agencies in the West Bank and by the Deposed Government in the Gaza Strip, represent a violation of the provisions of the law and an attack on media work and the right of the Palestinian citizens to receive information from different sources in order to form an independent opinion on the events that take place. Actions preventing coverage or confiscating media materials from journalists have no legal justification according to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as the national criteria that guarantees the right of journalists to search for information to form their opinions freely, without interference by any party.⁷⁴

It is clear that the measure undertaken by the Palestinian National Authority in the West Bank violates the legal texts and the spirit of the Publications and Printing Law of 1995 in terms of the safeguards that should exist for journalists to work freely to cover the events and transmit them to the Palestinian audience in order for them to freely formulate an opinion on current events.

Similarly, the actions of the Deposed Government in terms of preventing journalists from covering specific events go beyond violations of the Publications and Printing Law to the extent of engaging in committing a crime that is punishable by law. As such, **ICHR** noticed that many journalists and media professionals have hesitated and declined to provide information about the reality of what they face in terms of pressure and threats by the Deposed Government out of fear for their lives and their source of income.

⁷⁴ Article (27) paragraph (3) of the amended Basic Law of 2003.

Fifth: prohibiting printing and distribution of daily and weekly newspapers

The Publication and Printing Law number (9) of 1995 regulates the legal framework for the work of newspapers in the Palestinian-controlled Territory. The law also specifies the means for obtaining licenses and the competent parties in this regard. The law stipulates the procedures that need to be followed when a violation of its provisions is committed and identifies the means for initiating a case of public right in crimes related to periodic and non-periodic publications. Article 42 (1) of the law stipulates that: “The competent court of law takes up all actions committed in violation of the provisions of the law. The public prosecutor shall investigate these violations according to the powers and procedures stipulated by the effective penal laws.” It is clear from this article that the executive authority has restricted powers and is not authorized to close or ban the printing or distribution of any periodic or non-periodic publication in the Palestinian territories except through a judicial order.

1. Prohibiting the publication and distribution of daily and weekly newspapers by security agencies in the West Bank

Security agencies in the West Bank have prohibited the publication and distribution of Al Risala, Falasteen, and Minbar Al Islah newspapers. Palestinian security agencies have also closed down the headquarters and offices of these three newspapers and arrested some of their reporters. The headquarters of these newspapers were closed by force by Palestinian security agencies, which was the case in Nablus⁷⁵. Mustafa Al Sawwaf, editor-in-chief of Falasteen newspaper, stated: “In the beginning of the events that took place in Gaza, several newspaper issues were burnt. Then the sellers and the distributors of the newspaper were threatened and reporters working for the newspaper in the West Bank were arrested. There was also an order circulated to all print shops

⁷⁵ According to the documentation by ICHR.

threatening them against printing the newspaper, and we used to print at Al Ayyam newspaper press house in Ramallah. The security agencies prevent printers from publishing the newspaper and prevent journalists from working for the newspaper.”⁷⁶

It is also noted that the Ministry of Information of the Care-Taker Government did not issue any order to prevent, ban, or revoke the license of the aforementioned newspapers⁷⁷. Additionally, no judicial order was issued to that effect. It is also important to mention that the three newspapers have obtained the official licenses required by the Ministry of Information and the relevant parties that allow them to work.⁷⁸

2. Prohibiting the publication and distribution of daily and weekly newspapers by security agencies of the Ministry of Interior of the Deposed Government in the Gaza Strip

The security agencies of the Ministry of Interior of the Deposed Government banned Al Quds newspaper on 23/8/2008, Al Hayat al Jadida on 27/7/2008, and Al Ayyam newspaper on 11/2/2008 issued in Ramallah from entry into the Gaza Strip, under the pretext that these newspapers are biased and lack neutrality and professionalism. Al Ayyam newspaper was banned from entry into the Gaza Strip following the publishing of a cartoon by Baha' Al Bukhari regarding the Palestinian Legislative Council session that was convened by the Reform and Change parliamentary bloc in Gaza. Underneath the cartoon, the word “illegitimacy” was written. The newspaper was further banned under the pretext of its bias towards the Fatah movement’s version of events regarding the explosion that took place on Gaza beach and killed five Hamas members and a child. **ICHR** has documented several cases of banning newspapers which constitutes an undermining of the freedom

⁷⁶ According to the affidavit by Mustafa As Sawwaf to ICHR. (Arabic)

⁷⁷ According to the interview conducted by ICHR with Nimr Adwan, the acting Director of the Publications and Printing at the Ministry of Information.

⁷⁸ See appendix number (25) related to the license of Al Risala newspaper, and appendix number (26) related to the license of Al Risala newspaper. (Arabic)

of media in the Gaza Strip, as indicated in the attached table.⁷⁹

The administrative orders issued by the security agencies prohibiting the printing and distribution of the three newspapers in the West Bank and the similar decision by the Deposed Government to prohibit the distribution of Al Hayat Al Jadida and Al Ayyam newspapers, do not comply with the provisions of the Publication and Printing Law of 1995. They constitute a violation of the Basic Law that guarantees the freedom of publication, printing, distribution, and broadcasting⁸⁰, and stipulates that press and publication are free, and that freedom of opinion is guaranteed for every Palestinian⁸¹. The law also guarantees the freedom of journalistic work in terms of presenting news, information, comments, and contributing to the freedom of thought.⁸²

Therefore, the Care-Taker Government in Ramallah and the Deposed Government in the Gaza Strip should work in accordance with the provisions of the law and allow banned newspapers to resume their activities immediately. If any violations were committed against the provisions of the law, they should be pursued in accordance with its provisions.

Sixth: Forceful entry into media institutions and centers by security agencies in the West Bank

The Palestinian law on penal procedures number (3) of 2001 regulates the procedures to be followed by officers of the judicial police when engaging in arrests, inspection, and entry into houses. The law considers that inspection is part of the interrogation process and should be conducted upon a memorandum from the Public Prosecution or in

79 See annex number (4) related to the banning of printing and distribution of daily and weekly newspapers by Security agencies of the Ministry of Interior of the Deposed Government in the Gaza Strip. (Arabic)

80 Article (27) paragraph (2) of the amended basic law of 2003.

81 Article (2) of the Publication and Printing Law of 1995.

82 Article (3) of the Publication and Printing Law of 1995.

its presence.⁸³

1. Forceful entry into media institutions and centers by security agencies in the West Bank

The security agencies in the West Bank conducted several actions of forceful entry and raids against several media institutions and journalists' offices⁸⁴. According to information available to **ICHR**, the security agencies conducted forceful entry into four media institutions during 2008, namely into Ramattan news agency in Ramallah, Al Bayan radio station in Ramallah, Watan local TV station in Ramallah, and Al Huriyyeh radio station in Hebron.⁸⁵

During 2008, **ICHR** documented incidents of forceful entry and raids, the most prominent of which was one incident whereby the intelligence services agency conducted a raid against Al Huriyyeh radio station in Hebron on 21/10/2008 and closed it down under the pretext that the station had broadcasted the news that Brigadier Tawfeeq Al Teerawi, Director of the General Intelligence agency, and a number of other military officials were referred to retirement on pension because they reached the retirement age. Journalist Mahmoud Quneibi was arrested and detained. Muhannad Al Shareef, one of the station's staff members, was beaten up in front of the station's building. The station was closed for one hour following the incident.⁸⁶

Members of the General Intelligence services entered forcefully into the headquarters of Watan TV station in Ramallah on 29/7/2008. The staff was forced to stop broadcasting an announcement for Al Tahrir party, calling for participation in demonstrations commemorating the destruction of the caliphate. The Intelligence Agency members informed the management of the TV station that there was a decision to arrest the crew and stop the broadcasting of the announcement immediately.⁸⁷ In

83 See article (39) of the Penal Procedures Law.

84 See annex number (9) regarding forceful entry into media institutions and centers by security agencies in the West Bank.

85 According to the documentation of ICHR.

86 According to the documentation by ICHR.

87 See appendix number (15) affidavit by journalist Mohammad Ataya from Watan TV

a similar context, members of the Preventive Security agency entered forcefully into the headquarters of Ramattan news agency in Ramallah to arrest the editor Nawwaf Al Amer and confiscate all documents related to him as well as his personal computer.⁸⁸

2. Forceful entry into media institutions and centers by security agencies of the Ministry of Interior of the Deposed Government

Security agencies of the Ministry of Interior of the Deposed Government conducted several raids and forceful entry operations into media institutions operating in the Gaza Strip⁸⁹. In general, the information made available to **ICHR** indicate that the security agencies of the Ministry of Interior conducted (7) raids against media institutions and centers in the Gaza Strip. In some incidents, the contents of these centers were confiscated by the security agencies, some of them were closed down, including Al Huda station's offices, Al Anoud company for Artistic Production, the General Commission for Information, the headquarters of Wafa news agency, the headquarters of the Center for Media Development of Birzeit University in Gaza city, the Gaza Media Center, and the Sawt Asha'ab radio station. Raids also targeted some independent institutions of educational nature as was the case of the media center affiliated with Birzeit university operating in the Gaza Strip.⁹⁰

Journalist Mohammad Sharafi, Director of Wafa news agency in Gaza, stated the following "Members of the Internal Security agency called me on the night of 26/7/2008 and asked me to hand them over the keys to the agency's office. I told them that I did not have them with me, and that they were with one of the office boys working at the agency. The caller threatened that they will break the door if I did not tell them where the keys were. Eventually, they did enter by force into the office

station. (Arabic)

88 According to appendix number (1) affidavit by Nawwaf Al Amer (Arabic)

89 See annex number (10) forceful entry into media institutions and centers by the security agencies of the Ministry of Interior of the Deposed Government. (Arabic)

90 According to the documentation by ICHR

and confiscated all the computers, the printers, the fax machine, and the electric and electronic equipment. They left only the desks and the cupboards that were fixed to the walls. On 20/9/2008 they confiscated the remaining items in the office and handed the office to its original owner, since the offices were leased. They were annoyed by Wafa's use of terms such as " Hamas militias " in news broadcasted on the agency website. This step was denounced by journalists since no representation was left for Wafa agency in Gaza Strip."⁹¹

Bassam Abu Oun, Executive Director of Sawt Ash'aab radio station, confirmed on his part that: "Ten armed security members of the Ministry of Interior of the Deposed Government had forcefully entered into the radio station's building on 2/8/2008 around 11:00 a.m. as the station was covering the events taking place in the Shaja'yiah neighborhood (with the Hillis family). A spokesperson for the armed men demanded the quick closure of the station and that all workers leave. When the director of the radio station asked for an official order to close the radio station, the officer told him that he did not have a written order but that he had instructions to close down the station. The armed men deployed in the corridors of the radio stations and engaged in arguments with some of the broadcasters. The Director of the station, and in order to protect the safety of the workers and the equipment, stopped the broadcasting and handed over the keys to the station's offices. The closure continued for four days (from the morning of Saturday 2/8 until the afternoon of Tuesday the 5/8/2008)." Abu Oun stated also that " Ihab Al Ghusein, spokesperson for the Ministry of Interior of the Deposed Government, accused the radio station of incitement during the security campaign implemented by the ministry of interior in the Shaja'ayyeh neighborhood. Abu Oun mentioned that the radio station made phone calls and interviews live on the air during the events with prominent figures from the Shaja'ayyeh neighborhood, as well as with representatives of all the political factions. The radio station was reopened following a meeting between the Director and representatives of the Government and the ministries of information and interior held

91 See appendix number (16) affidavit by Mohammad Sharafi to ICHR. (Arabic)

at the ministry of information in Gaza.”⁹²

It can be concluded from all the incidents of forceful entry into some institutions and the confiscation of their contents documented by **ICHR** in both the West Bank and Gaza Strip that these actions were all conducted in violation of the Palestinian Penal Procedures Law number 3 of 2001 which requires a legal warrant issued by a competent party for inspection and confiscation operations.

It is also clear from the documentation of **ICHR** and the attached affidavits that the incidents of forceful entry and confiscation of contents of media institutions in the West Bank and the Gaza Strip violates the provisions of the Palestinian Penal Procedures that require the issue of a warrant by the Public Prosecution for inspection and considered inspection as part of the interrogation. The inspection, according to the law, should be related to the tools of the crime under interrogation, and should be preserved and documented in the inspection report and shall be referred to the relevant parties.⁹³ As such, all procedures related to the forceful entry into media institutions without a judicial order by a competent party are legally considered null and void.

Seventh: Revoking licenses and closure of media institutions in the Palestinian-controlled Territory

The Council of Ministers issued decision number 182 of 2004 regarding the system of licensing for radio, TV, satellite, and wireless stations. The decision clearly stipulates the parties that are competent to grant and revoke licenses in accordance with the regulations. As such, no license of any media institution can be revoked without a decision by a judicial party. It is allowed, in some cases, to temporarily suspend broadcasting in accordance with article (15) of the regulations issued

⁹² See appendix number (17) affidavit by Bassam Abu Oun. (Arabic)

⁹³ See paragraph (3) of article (5) of the Palestinian penal procedures law number (3) of 2001.

by the Council of Ministers in this regard.

1. Revoking licenses and closure of media institutions in the West Bank

The security agencies intentionally closed a number of media institutions in the West Bank, pursued them for not completing the license paperwork, or imposed restrictions on others by asking them to rectify their status. **ICHR** documented several such cases including the one of the Ramattan news agency. The agency stated that: “It was subjected to several incidents of harassment undermining its media work. Our offices were entered by force by the security agencies, our crew members arrested, and eight of our employees were summoned to security centers without any consideration to freedom of media and the sanctity of this media institution. The last of such attacks involved the arrest of Ramattan driver and confiscation of one of the agency’s vehicles in Ramallah. The Palestinian Ministry of Telecommunications launched a campaign to revoke our license and demanded that we pay astronomical fees to license our broadcasting equipment operating in Ramallah. They demanded that we renew our license that we obtained from previous governments that they recognized at one point and then turned around and refused to recognize these licenses. We asked what our fault was and where did we go wrong if we paid in Ramallah then Gaza would not admit that and vice versa. Why are we being asked to give legitimacy to one party against the other? Why are we being asked to get a certificate of good conduct by the Ministry of Interior in Ramallah despite all the efforts that we made, while foreigners and Israelis who start similar investments in our territories are not asked for the same things. They don’t ask them for identification documents, or licenses, or fees. The PNA in Ramallah asks us to pay huge amounts to obtain a license while we announce that we need tax refunds from the Ministry of Finance of the PNA that amount to NIS 3 million, yet they still ask us to pay additional amounts, why won’t they return our money back?”⁹⁴

94 See appendix number (23) affidavit by Ramattan agency. (Arabic)

In total, **ICHR** documented the closure of (7) media institutions by a decision of the security agencies. These institutions are: Al Bayan radio station in Ramallah, Al Aqsa radio station⁹⁵, Al Aqsa satellite channel⁹⁶, Al Risala newspaper, Falasteen newspaper, Manbar Al Islah newspaper, as well as the continued closure of Al Badr office for media and journalism.⁹⁷

It is clear from the above that incidents of revoking licenses and the closure of media institutions are not legally justified which constitutes a violation of the Basic Law that prohibits issuing an ultimatum, or suspending, or confiscation, or revoking, or imposing restrictions on journalists and media institutions except in accordance with the law and upon a judicial decision.⁹⁸ Article (15) of the Council of Ministers' decision number (182) of 2004 regarding the system for licensing radio, TV, satellite, and wireless stations stipulates that "in the case that an institution or party who has a license violates any of the licensing conditions, the competent party as relevant, shall refer the matter to the judicial system to take the legal procedures stipulated by effective laws. Additionally, when a violation takes place that requires direct intervention and temporary suspension of broadcasting, the tri-lateral committee convenes an extraordinary meeting."

2. Revoking licenses and closures of media institutions in the Gaza Strip

The security agencies of the Ministry of Interior of the Deposed Government conducted a number of operations closing down several media institutions, as well as local radio and TV stations on the pretext that these stations are affiliated with the Government in Ramallah or with the Fatah movement as was the case with Palestine TV and Radio

95 See appendix number (30) Council of Ministers decision to revoke the license of Al Aqsa radio station. (Arabic)

96 See appendix number (29) Council of Ministers decision to revoke the license of Al Aqsa satellite channel. (Arabic)

97 See appendix number (13) regarding the revoking of the license and closure of media institutions in the West Bank. (Arabic)

98 Article (27) paragraph (3) of the amended Basic Law of 2003

station. Palestine TV and Radio was accused of lack of neutrality in its work. Sawt Asha'ab radio station was closed and later reopened. The closure was justified by the station's role "in disseminating lies and rumors, incitement and violation of national and professional responsibility through manipulation of the freedom of opinion and expression guaranteed by law." ⁹⁹

Information made available to **ICHR** indicates that the security agencies of the Ministry of Interior of the Deposed Government have closed (6) media institutions in the Gaza Strip in 2008. These institutions were: Wafa news agency, the General ICHR of Information, the office of Al Huda station, Al Anoud Company for artistic production, Center for Media Development of Birzeit University in Gaza city, the Gaza Media Center, and the Sawt Ash'aab radio station.

It is clear from the measures taken by the Care-Taker Government and the Deposed Government against media institutions and relating to prohibition of broadcasting and revoking of licenses, that they are in violation of the regulations issued by the Council of Ministers number (182) of 2004, since political and security considerations had governed the behavior and the conduct of the security agencies in the West Bank and the Deposed Government in the Gaza Strip. As such, the Care-Taker Government and the Deposed Government should observe the laws and regulations issued by the Council of Ministers regarding safeguarding and upholding freedom of media and of journalistic work.

⁹⁹ See annex number (14) regarding the revoking of licenses and closure of media institutions in Gaza Strip. (Arabic)

Chapter Two: procedures and measures to guarantee the respect of freedom of media

1. Procedures and measures to guarantee the respect of freedom of media in the West Bank

At the backdrop of the escalating violations documented by **ICHR** in the West Bank against freedom of media in the Palestinian-controlled Territory, whether in terms of arrests, summoning, banning publication, attacks, confiscation, and closure of media institutions, as well as asking some journalists to work as informants for the security agencies and accusations of lack of neutrality, etc., **ICHR** monitored the measures taken by the PNA to protect freedom of media in the West Bank.

In general, the official policies and statements made by the executive authority in the West Bank reiterated the latter's keenness to protect media and press freedoms. However, the realities on the ground, as documented by **ICHR** and based on the complaints received; indicate that the Executive Authority and its security agencies give security consideration a priority over freedom of media. This can be discerned through **ICHR**'s documentation and monitoring which indicate that the procedures undertaken by the Executive Authority in reality involve restrictions imposed on freedom of media in terms of arrests and pursuit of journalists. In 2008, the security agencies arrested 32 journalists and media professionals. These actions do not correspond with the official statements regarding safeguarding public rights and freedoms. This requires the PNA to work towards harmonizing and putting its words into actions on the ground in order to safeguard the basic rights and freedoms guaranteed by the Basic Law.

Nimer Hammad, the political advisor to the Palestinian President

Mahmoud Abbas, confirmed to **ICHR** that the presidency accords great attention to the freedom of opinion and expression, particularly the freedom of media. He also stressed that the PNA represented by the President always reiterates this right and provides all appropriate means and safeguards for upholding it¹⁰⁰. The Ministry of Information of the Care-Taker Government confirmed to **ICHR** that it accords the issue of media and press freedom great attention. However, security agencies and the Ministry of Interior justify their measures against journalists on security basis¹⁰¹. Security agencies in their turn stress their keenness to protect the freedom of journalism and journalists and their efforts to implement that on the ground. They stress that arrests of journalists take place for security rather than journalistic considerations.¹⁰²

On the other hand, the judicial authority in the West Bank played an important role in preserving freedom of media by not condemning any of the journalists against whom lawsuits were filed, and through the decisions of the High Court which considered that arresting civilians by the military judiciary is a violation of the Basic Law and an attack against personal freedoms guaranteed by the law in its articles (11) and (12). Following are some examples of these trials:

On 30/4/2008, a bill of indictment was filed against free-lance journalist Imtiyaz Al Mughrabi on the charge of libel and slander, based on a lawsuit filed by the Palestine Broadcasting Corporation against her, following the her article titled “Is the Palestine Broadcasting Corporation on the list of reform” . The court of conciliation of Ramallah decided on 5/5/2008 to reject the lawsuit number 889/2008 and acquitted the defendant from the charges against her¹⁰³. The journalist was accused

100 See appendix number (39) interview with Nimer Hammad, the political advisor to the Palestinian president, in the attachments. (Arabic)

101 See appendix number (22) ICHR's interview with Fatemah Abdel Kareem, advisor to the official spokesperson Dr. Riyad Al Malki on 20/11/2008. (Arabic)

102 On 2/3/2008, Brigadier Kamal Sheikh, Director general of Palestinian police force in the West Bank at the time, issued an order circulated to all police officers not to obstruct the work of journalists who cover the solidarity demonstrations with Gaza Strip. He also banned police officers from stopping journalists and media professionals during the performance of their duties and ordered that they provide them full protection and the freedom to work and film.

103 See appendix number (27) on the acquittal of Imtiaz Al Mughrabi.(Arabic)

of slander and libel.¹⁰⁴

The security agencies have, through the Public Prosecution Office, made journalists Ala' Titi and Usaid Amarneh from Hebron, appear before the conciliation court in Hebron on the charge of undermining national security and broadcasting of false news on the background of their media work at Al Aqsa satellite channel. This was a precedent in terms of taking journalists to court since the establishment of the PNA. Their trial was postponed to April 2009.

Restrictions and trials of journalists and media institutions have negatively affected the status of freedom of media despite the fact that the Palestinian judiciary in the West Bank has played a distinctive role in reviewing cases against journalists and media professionals as no decision was issued condemning or charging any of the journalists presented to court by the security agencies. In fact, all journalists were acquitted.

The High Court issued more than 10 rulings ordering the immediate release of journalists detained by the Preventive Security and the General Intelligence agencies. Several of the High Court rulings considered the detention of those journalists as a violation of the Palestinian law and an assault on personal freedom. The rulings considered that detaining these journalists upon a decision of the Military judiciary represents usurpation by the Military Judiciary of the Judicial Authority and an attack on the authentic and inherent competency of the regular judiciary. The Court ordered the release of these journalists including Usaid. Following are some examples of the court's rulings to release journalists:

1. On 10/9/2008, the Palestinian High Court issued its ruling in the case number (229/2008) ordering the immediate release of the petitioner Mustafa Ali Sabri from the location of his detention wherever it might be, unless he was detained on another charge. The General Intelligence agency refused to implement the order.¹⁰⁵

104 According to ICHR's documentation.

105 See High Court ruling to release Mustafa Sabri in the annexes. (Arabic)

2. On 10/9/2008 the Palestinian High Court issued its ruling in the case number (248/2008) ordering the immediate release of petitioner Fareed Hamad from the location of his detention wherever that might be, unless he was detained on another charge¹⁰⁶, but the Preventive Security agency refused to implement the court order.

3. On 28/8/2008, the Palestinian High Court issued its ruling in case number (206/2008) ordering the immediate release of petitioner Awad Ibrahim Mohammad Rjoub from the location of his detention wherever that might be, unless he was detained for another charge.

4. On 2/11/2008, the Palestinian High Court issued its ruling in case number (308/2008) revoking the order to detain Ala' Titi and ordering his immediate release unless he was detained on another charge and ordered the defendant to pay the fees and the amount of 50 Jordanian Dinars in return for lawyer's fees.

Security agencies in the West Bank resorted to a state of procrastination and refusal to implement the orders issued by the competent Palestinian courts related to the release of a number of detained journalists. This was the case with journalists Ala' Titi, Usaid Amarneh, and Mustafa Sabri. The Preventive Security and the General Intelligence agencies refused or delayed their release. Security agencies also resorted to by-pass the court decisions. In one instance, a journalist was asked to sign the release order, and was handed his belongings, only to be re-arrested at the gate of the security agency headquarters, which basically constitutes an attempt to by-pass the judiciary.¹⁰⁷

In addition to the above, the security agencies refused to implement decisions issued by the Palestinian High Court, including the latter's order to release some journalists including Fareed Abdel Halim Hammad, and Mustafa Ali Sabri. The court decision was not implemented as the Preventive Security agency in Ramallah continues to detain journalist Hammad until the date of writing of this report. The Intelligence Services Agency in Qalqilya also kept journalist Sabri in custody for a

¹⁰⁶ See appendix number (32) related to the High Court order to release Fareed Hammad. (Arabic)

¹⁰⁷ See appendix number (3) affidavit of Usaid Amarneh, and appendix number (5) affidavit of Mustafa Sabri. (Arabic)

period of time, then released him, only to re-arrest him in front of the agency's headquarters in Qalqliya.¹⁰⁸

As for the Legislative Council, its actual and real role was inexistent in terms of providing guarantees to protect rights and freedoms. Its role was limited to a few statements and condemnation expressed by some PLC members. It was not a unified position, despite the fact that a working group for rights and public freedoms was formed recently by some of the PLC members in the West Bank. The paralysis of the Palestinian Legislative Council affected negatively its oversight role in terms of protecting rights and freedoms, including the freedom of media. The Legislative Council's role was limited to press statements condemning arrests or attacks against journalists and media institutions.

Khaleda Jarrar, PLC Member representing the Palestinian Front for the Liberation of Palestine (PFLP), denounced the arrests of journalists, their punishment, and their trial, calling for respecting the law to guarantee journalists freedom while performing their work. She reiterated that all international laws give legitimacy to granting journalists the freedom to work and transfer facts as they are. She stressed the need to protect the freedom of journalism and journalists who are being attacked on a daily basis whether through arrests or by banning them from covering events. She also confirmed the need to defend journalists and their rights and called for safeguarding freedom of media for all journalists and not to deal with them from the perspective of political tensions and polarization, underlining the need to deal with all journalists regardless of where they work. On the other hand, PLC Member Ali Ar Roumaneen demanded the PNA to release three journalists arrested by the Palestinian security agencies, namely Mustafa Sabri, Fareed Hammad, and Abdallah Adawi.¹⁰⁹

108 See appendix number (5) affidavit by Mustafa Sabri. (Arabic)

109 See Al Quds newspaper of 21/8/2008.

2. Procedures and measures to guarantee the respect of freedom of media in the Gaza Strip

In an attempt to learn about the procedures undertaken by the Ministry of Interior of the Deposed Government in the Gaza Strip towards safeguarding and protecting freedom of media, **ICHR** met with Mr. Hasan Saifi, General Secretary of the Ministry of Interior of the Deposed Government. Mr. Saifi stated that “there was no decision to confiscate freedom of media in Gaza, neither in relation to institutions nor individuals. When journalists are arrested it is not on the basis of their job as journalists but rather for using the profession to cover up illegal actions.” As for the two newspapers (Al Ayyam, Al Hayat Al Jadida), Saifi indicated that “the two newspapers have gone beyond their mandate and contributed in creating confusion and disturbances, as well as insulting and slandering the Government. Anyone who insults an elected Government insults by default the people who elected it. The decision against Al Ayyam and Al Hayat Al Jadida newspapers is not directed against the freedom of media.”¹¹⁰

Information made available to **ICHR** indicate that there is a systematic policy adopted by the Deposed Government in terms of freedom of media, as 11 journalists and media institutions were arrested and tens others were summoned for interrogation. Scores of journalists and media institutions were attacked and banned from covering events in the Gaza Strip in addition to completely closing down official governmental media institutions in the Strip.

Security agencies affiliated with the Ministry of Interior of the Deposed Government in Gaza Strip resorted to forcing journalists to appear before the Military Judiciary in violation of the Penal Procedures Law number (3) of 2003.

ICHR noticed that PLC members who are part of the Committee for rights and public freedoms in the Gaza Strip have played an effective

¹¹⁰ See appendix number (40) ICHR’s interview with Hasan Saifi, General Secretary of the Deposed Ministry of Interior (Arabic)

role in defending freedom of media. The Committee addressed the Minister of Interior of the *De-facto* Authority, Said Siam, stressing the need to abide by the provisions of the law when arresting citizens and demanded refraining from forceful entry into non-governmental institutions.

Dr. Ahmad Baher, the acting Speaker of the PLC, demanded the Ministry of Interior of the Deposed Government to release journalist Muneer Abu Rizeq, Director of Al Hayat Al Jadida offices in Gaza, saying his arrest was “illegal”. He also expressed his refusal of any arrest conducted in violation of the law and legal procedures, particularly the arrests and the continued banning of publication and distribution of Al Risala and Falasteen newspapers in the West Bank, as well as the continued detention of many journalists and reporters working for Al-Aqsa satellite channel in the West Bank¹¹¹. Dr. Baher reiterated the freedom of media agencies to practice their work and role, as well as the need to safeguard the freedom of opinion and expression in accordance with the Palestinian basic law, the Publication and Printing Law and the need for security agencies to abide by those laws.

PLC Member Jameel Al Majdalawi, representative of Abu Ali Mustafa electoral list in the council, denounced the closure of the Sawt Alsha’ab radio station in the Gaza Strip during his participation in a sit-in protesting the closure of the radio station. Al Majdalawi said “I condemn this closure, Sawt Alsha’ab was the voice of national unity”. Al Majdalawi called during the sit-in for the “shifting away from the pathetic procrastinated positions that obstruct the launching of a genuine national dialogue that will end a lot of issues and problems.”¹¹²

It was clear to **ICHR** that the Public Prosecution of the Deposed Government in Gaza has filed several penal lawsuits against some newspapers and journalists in the Gaza Strip, as indicated in the attached table¹¹³. There was a lawsuit against Al Ayyam newspaper and

111 See affidavit by the Acting Speaker of the PLC dated 4/2/2008. (Arabic)

112 See Al Ayyam newspaper on 4/8/2008, p.3.

113 See annex number (16) Trial of journalists and newspapers before Palestinian courts under the Higher Judicial Council appointed by the Deposed Government in Gaza Strip.

its editor-in-chief Akram Mazen Haniyyeh and its cartoonist Baha' Al Bukhari¹¹⁴ on the charge of libel in violation of articles 203, 204 of the Penal Law of 1936, as well as the violation of articles 26, 25,37 of the Publication and Printing Law of 1995. The court issued its verdict on 6/2/2008 sentencing the two defendants Akram Haniyyeh and Baha' Al Bukhari respectively to six months in prison, and the suspension of the enforcement of the imprisonment penalty for three years. The verdict also included a fine to be paid by both defendants the amount of which was NIS 1000 for each of them or imprisonment for two months for the first charge, as well as imposing a fine of NIS 1000 to be paid by each of the defendants or serve a two-month sentence in prison for the second charge. The order also included a one-month prison sentence against Akram Haniyyeh and a fine of JD 1000 for the third charge or imprisonment for two months. The order also included the freezing of the publishing, issuing, and distribution of Al Ayyam daily newspaper from date the verdict was delivered in accordance with the law.¹¹⁵

The Public Prosecution in the Gaza Strip had also sent a notice to the police in Ramallah to summon journalist Hafez Al Barghouthi, Director General and editor-in-chief of Al Hayat Al Jadida newspaper, to appear before it at the Public Prosecution building in Gaza (previously the building of the charitable ICHR), opposite the Islamic university on 12/2/2008 on the account of a complaint filed against the newspaper by the publication and printing department in the Ministry of Information of the Deposed Government regarding its violation of the legal procedures for publication. The Public Prosecution in Gaza delegated the Ramallah Public Prosecution to summon Al Barghouthi to look into case number 6/2008 filed to the Gaza police¹¹⁶. On 20/5/2008, the conciliation court in Gaza issued its verdict ordering the imprisonment of the convict Hafez Omar Mansour Al Barghouthi for six months and suspension of enforcement of the penalty for three years and a fine of NIS 1000 or

(Arabic)

114 According to the affidavit of Abdel Nasser An Najjar to ICHR. (Arabic)

115 See appendix number (37) court order against Akram Haniyyeh and Baha' Al Bukhari. (Arabic)

116 See annex number (33) regarding the summoning of Hafez Al Barghouthi, and annex number (4) to delegate Ramallah prosecution to follow up on the issue. (Arabic)

serve a one month in prison for the first charge. The verdict also ordered the imprisonment of the convict for three months, the suspension of the penalty for three years, and a fine of NIS 300 or one week in prison for the second charge.¹¹⁷ The police force of the Ministry of Interior of the Deposed Government in the Gaza Strip had also filed a lawsuit against Palestine TV claiming that the TV station had broadcasted scenes from Iraq and claimed that they took place in Gaza.¹¹⁸

It can be concluded from the information available to **ICHR** that the role of the Higher Judicial Council has been in conformity with the official policy of the *De-facto* Authority in the Gaza Strip, contrary to the role of the judiciary in the West Bank which issued many judicial orders considering the procedures and measures undertaken by the executive authority as violating the provisions of the law and demanded the executive authority to immediately release the journalists.

Conclusions

Through its monitoring and documentation activities in the course of preparing this special report, **ICHR** reached a number of conclusions that governed the work of the media in 2008, during which the state of division continued on the Palestinian arena, as follows:

1. Palestinian freedom of media witnessed a grave and dangerous set-back during the year 2008, as 45 journalists in West Bank and the Gaza Strip were arrested, not including the pursuit and attacks against journalists amounting to assassination attempts against several amongst them.
2. It became evident to **ICHR** that there is a systematic policy adopted by the security agencies in the West Bank to impose restrictions upon journalists and continuous efforts to recruit some of these journalists

117 See annex number (36) order of the conciliation court in Gaza against Hafez Al Barghouthi. (Arabic)

118 See Al Quds newspaper issue of 25/9/2008.

to work as informants for the security agencies.

3. **ICHR** noted that a political decision issued by the Deposed Government has restricted freedom of media and restricted the work and freedom of journalists in transmitting events to viewers in the Palestinian-controlled Territory.
4. It became clear to **ICHR**, through the affidavits it received, that the arrests of journalists upon the decision of security agencies in the West Bank and the Deposed Government in Gaza Strip lacked sound legal procedures and were based on their media work and not for other considerations as indicated in some of the claims by the security agencies in the West Bank and the Gaza Strip.
5. **ICHR** observed that the security agencies in the West Bank did not respect some of the High Court decisions to release a number of journalists, since many of them remain under custody, in violation of the law and despite the fact that court orders are binding and failure to implement them is considered a crime according to article (106) of the Palestinian Basic Law.
6. It became clear to **ICHR** that the journalists who were arrested in the West Bank and the Gaza Strip were subjected to ill-treatment amounting to torture in some cases.
7. The accusations directed against media agencies of lacking neutrality and being biased came following attempts by each party to recruit the various media to support their political positions and version of events.
8. It became clear to **ICHR** that the ban on printing and distribution of the different newspapers in the West Bank and the Gaza Strip violated the provisions of the law.
9. **ICHR** noticed that the Ministry of Information of the Care-Taker Government admits the existence of some problems in dealing with journalists in the West Bank as security considerations are a priority

at the expense of freedom of media.

10. It became clear to **ICHR** that the threats against journalists in the Gaza Strip have prevented the latter from undertaking their role in transmitting events out of fear for their lives and their source of income.

Recommendations

Recommendations to the Palestinian National Authority in the West Bank

1. To end all illegal measures taken against journalists and media institutions, and refrain from arresting and pursuing journalists to preserve freedom of media and guarantee the protection of human rights.
2. **ICHR** recommends the need to initiate an investigation by competent parties into the claims of ill-treatment and torture expressed by some journalists who were arrested.
3. **ICHR** recommends the appointment of an official spokesperson for the security agencies to ensure easy flow of information to journalists in a reliable manner as is the case within the Palestinian police establishment.
4. The PNA should open an official investigation into cases of ill-treatment during the detention of journalists upon the decision of security agencies.
5. The need for Palestinian security agencies in the West Bank to refrain from forcing journalists to appear before the military courts for their journalistic work.
6. **ICHR** recommends that the PNA work on changing the procedures related to Palestinian journalists during their coverage of events in terms of conferences, meetings, or other types of activities in order to facilitate their task similar to the procedures applied to foreign journalists to end any discrimination between Palestinian and foreign journalists.
7. Palestinian security agencies need to respect the High Court orders related to journalists and should implement them without delay to ensure respect of the rule of law and human rights.
8. **ICHR** recommends to the Palestinian National Authority the need for the Ministry of Information of the Care-Taker Government to undertake its role as identified by the law and to coordinate the work between the Government and security agencies on one hand and the media on the other.

9. Allow the media and the press that were prevented from operating without legal justifications to carry out their work, including Falasteen and Al Risala newspapers.

Recommendations to the De- facto Authority in the Gaza Strip

1. Security agencies of the Ministry of Interior of the Deposed Government should stop arrests and pursuit of journalists, and investigate cases in which journalists were subjected to ill-treatment and pursuit.
2. Demand the Deposed Government to end the banning of journalists from covering events and accord them full freedom to work and cover the events that take place in the Strip.
3. End all illegal measures taken against media institutions operating in the Gaza Strip and allow them to operate in accordance with the provisions of law.
4. Allow banned media agencies to operate in the Gaza Strip and end the ban imposed upon the distribution of Al Hayat Al Jadida and Al Ayyam newspapers in the Gaza Strip.
5. Stop forcing journalists to appear before military courts in a manner that violates effective laws in the Palestinian-controlled Territory.

