



## **A Bullet in My Eye**

### **Reportage: Mohammad Ghefri**

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#### **Palestinian Negligence or is the Israeli Soldier Above the Law?**

- Ammar Dweik: Israel refuses to hold perpetrators of crimes accountable.
- Palestinian Journalists Syndicate: The International Criminal Court has not responded to us for a year and a half.
- The Minister of Justice: We did not conduct a forensic examination of journalist Amarneh.
- Public Prosecution: We do not have a file for his case and have not conducted an investigation.
- Lawyer Jabareen: The Israeli Police does not have the right to dismiss the complaint.
- Experts: The International Criminal Court is politicized and must be constantly monitored

On November 15, 2019, 36-year-old photojournalist Muath Amarneh left the Dheisheh Palestinian refugee camp and headed toward the town of Surif, north of Hebron in the southern West Bank, to cover a peaceful event organized by residents protesting the confiscation of their lands for Israeli settlement expansion.

In the midst of confrontations between Palestinian youth and the occupation forces, Amarneh was struck in the head by a metal bullet. This injury gouged out his left eye and caused a cut in the eyelid. The bullet remains lodged inside his eye socket, resting against the wall of his brain, profoundly altering his life.

*“Muath before the injury was not like Muath after it. The bullet turned my life 360 degrees, and everything I was planning and dreaming of achieving came to a complete halt.”*

Over the past four years, Muath, driven by official and union efforts, pursued two legal paths in order to hold the Israeli sniper who shot

him accountable. However, these efforts did not yield any results. On the contrary, the Israeli forces subsequently committed dozens of violations against Palestinian journalists.

In this investigative report, we will try to answer, through specialists, the reasons that led to the impunity of the Israeli soldier who gouged out Amarneh's eye.

It is worth noting that while we are writing and editing this investigation, Muath is languishing inside a cell in an Israeli prison, after the widespread arrest campaign that Israel launched after "October 7th." According to his family, he is deprived of taking his medications and wearing his silicone cosmetic eyes, and is being subjected to assaults, which threatens his life.



### **Deliberate Targeting**

Amarneh recounted the harrowing details of the day that forever changed his life. He said: "The oppression by the Israeli forces began early that day. The army prohibited people from holding Friday prayers on their lands, which were under threat of confiscation for the settlers' benefit. Confrontations erupted with the young men, who throw stones at the army and in return, the army responded by tear gas, metal bullets, and live ammunition." Meanwhile, the journalists and their cars ended up behind the

soldiers. As the young men began blocking the dirt roads with stones to prevent the soldiers from pursuing them, the journalists were prompted to move their cars from the location.

Amarneh continued, "Every journalist who passed among the soldiers was questioned by an Israeli officer about his name and where he was working that day. The officer's questions raised our suspicions that something was not normal. I was the last journalist to move my car behind the soldiers."

"The soldiers stopped me and tried to prevent me from passing, but I insisted, leading to an argument. I refused to be used as a human shield. Meanwhile, an Israeli sniper was lying on the ground and spoke to the officer in Hebrew, which I didn't understand. The soldiers laughed, and then the officer told me to go. At that moment, I had a strange feeling that something unusual was happening."

These feelings prompted Muath to warn the rest of the journalists and ask them to wear full protective gear. He also took cover behind a dirt mound that shielded half of his body from the confrontations and continued documenting with his camera for another twenty minutes. The army then ceased their repression in an unusual manner, prompting the young men to gradually approach the forces. At this point, everyone began to anticipate what would happen next.

Regarding the moment he was shot, he said, "I felt my head fly away and couldn't understand what was happening. I put my hand on my face, and it was covered in blood. I didn't know the nature of my injury or whether I was dead or alive."

According to Amarneh's account, the soldiers immediately headed towards him. Among them was a soldier carrying a camera, documenting his injury, which was also captured by the other photographers' cameras.

The soldiers' quick reaction and the Israeli police issuing a press statement moments later, claiming that a journalist was injured during "riot events" and that the police did not know the source of the injury, led Amarneh to assert that his shooting was intentional by an Israeli sniper and that there was zero percent chance this was an accident."

Journalist Raed Al-Sharif was among the eyewitnesses who photographed the Israeli sniper as he passed by him in his car. He

confirmed to us that targeting the journalists that day was intentional and denied any allegations about the army declaring the area a closed military zone at that time.



### **Targeting Muath is a “War Crime”**

Associate professor of law in Britain, Nihad Khanfar, said, "Journalists, in the eyes of international law and its various texts, are considered civilians and are treated as such. Therefore, it is necessary for the occupying power to spare them from harm resulting from any confrontations, and even to protect them. International law not only implicitly addresses the duty to protect journalists and avoid attacking them but also explicitly stipulates this in Article 79 of Additional Protocol I of the Geneva Conventions of 1949."

Khanfar also confirmed that the Rome Statute of the International Criminal Court, in the clause relating to grave violations of the Geneva Conventions, stipulates that targeting journalist Amarneh is considered a war crime, which falls within the jurisdiction of the International Criminal Court.

### **Israel Refuses to Undergo Investigations and Absolves Itself.**

To claim his rights, journalist Amarneh went to an Israeli law firm in Tel Aviv. When explaining his story to the Israeli lawyer, the lawyer expressed enthusiasm about the case, stating that it was "one of the easiest cases with great chances of success and quick resolution."

The lawyer planned to first seek compensation, and upon successful resolution of the case, it can be used as evidence to prove the guilt of the soldier and hold him accountable.

Indeed, Amarneh went to file a complaint with the Israeli police, in accordance with the law, within less than 90 days from the date of the injury.

After a while, the Israeli police responded to the lawyer by stating that they had conducted the necessary procedures and investigation, and they denied responsibility for the injury. The lawyer requested the investigation report, but the police informed him that injuries occurring in areas of war and clashes did not grant the injured party rights. This response led the lawyer to withdraw from the case.

The Israeli police assumed the powers of the court.

However, the director of the Adalah Center for Human Rights in Israel, Hassan Jabareen, stressed that it should have been the court, not the police, to decide on the complaint. He explained that there is a difference between a civil complaint and a criminal complaint. In a criminal complaint, the police can decide not to open a criminal file. However, when it comes to compensation for damages, it is the court that should consider the case, not the police.

According to Amarneh, there were two Israeli lawyers involved in his case. The compensation lawyer initially assured him that he would put pressure on the police, but then withdrew from the case unexpectedly, stating that it would not achieve anything. However, Amarneh believes this is not true. "I think that pressure was put on him by the state of Israel to prevent him from continuing the case," he said.

Amarneh confirmed that the lawyer he appointed failed to follow up on the case. He also noted the reluctance of Israeli courts to accept such trials involving Palestinians.

According to the Israeli human rights organization "B'Tselem", Israel has effectively guaranteed itself an almost complete exemption from paying compensation for damages inflicted on Palestinians. To avoid paying even minimal amounts, the state began, in the second half of the 1990s, to implement several measures aimed at expanding exemptions from liability for damages caused by security

forces to residents of the occupied territories. This effort intensified following the outbreak of the Second Intifada, and over the years, the law was amended multiple times by the Knesset. These amendments, along with the courts' expanded mandate, further facilitated the state's exemption from paying compensation.

However, B'Tselem emphasized that paying compensation to victims for injuries to their bodies or property is not a favor from the state, but rather a duty stipulated by the provisions of international law.

Al-Haq Foundation Director Sha'wan Jabareen also confirmed that the Israeli police response is absolutely inconsistent with the rules of international law and the state's responsibility. He emphasized that there is an established principle: when harm is done to people, the state bears civil responsibility.

In this context, the Director of the Independent Commission for Human Rights, Ammar Dweik, stated that the State of Israel is unwilling to hold accountable the perpetrators of crimes against Palestinians, including its soldiers and settlers. Instead, it provides them with protection. Therefore, serious accountability for the soldier within the Israeli legal system is not expected.

### **The President Requested to approach the International Criminal Court**

In the first days following the injury, President Mahmoud Abbas called journalist Amarneh to check on him and pledged to cover the full costs of his treatment, which was really fulfilled. He also promised to raise the case to the International Criminal Court. During his annual visit to Bethlehem for Christmas, the President requested to meet Amarneh and in the meeting he instructed officials to approach the ICC to file a case on the violations committed against journalists.

However, the Authority did not file an official complaint with the International Criminal Court regarding the case of journalist Amarneh. According to the Palestinian Minister of Justice, Muhammad Shalalda, the Palestinian Authority filed three other cases with the International Criminal Court, which are: The prisoners' file, the settlement file, the 2014 war on Gaza file, in addition to many so-called supplementary files, which the Foreign

Ministry regularly send to the Public Prosecutor's Office, relating to all Israeli violations, including those committed against journalists.

Assistant Secretary of State for the United Nations and its specialized agencies, Omar Awadallah, assured us that all files related to Israeli crimes have been submitted to the International Criminal Court, including the case of the deliberate targeting of journalists.

But both officials (Shalalda and Awadallah) did not clearly indicate that a file on the case of journalist Amarneh would be submitted to any international court.

On another level, the Palestinian Journalists' Syndicate announced that, in cooperation with the International Federation of Journalists, it filed a case to the ICC on crimes committed against journalists.

We asked Amarneh: Do you have evidence that a case has actually been filed? He replied, "They acquired my statement and medical reports, and I signed a power of attorney for a law firm in Britain to initiate the procedures, and since that time I have not been informed of anything, and nothing has happened."

#### The Bureaucracy of the International Criminal Court

Member of the GA of the Palestinian Journalists Syndicate, Omar Nazzal, said that Muath's case was blatant, and its details confirmed deliberate targeting of journalists. With the witnesses and the documented video, there was a strong case that could have been won if it had been pursued to the fullest extent.

Nazzal continued that they in the syndicate submitted Muath's file to the International Criminal Court as part of a group of cases with strong evidence. However, the process of approaching the criminal court took a long time, lasting for a year until the file was prepared, due to the court's stringent requirements for documents, videos, witnesses, and complex investigations in practice.

Nazzal added, "This matter took us a year until we completed the required file for Muath, and we submitted it to the International Criminal Court alongside a group of cases. About a year after submitting the complaint, the Criminal Court informed us that the complaint had been receipt. Therefore, there is bureaucracy at the Criminal Court, and it took a whole year to inform us that the



complaint had arrived without any further delay. After another year, a second response came that they are examining the complaint, and until this moment nothing new has happened.”

According to Nazzal, the last response from the International Criminal Court was in March 2022, stating that the court would consider the complaint. This was the final communication received, and for the past 16 months, the syndicate has not observed any further action taken by the International Criminal Court.



### **Allegations of Negligence**

Journalist Amarneh criticizes the Palestinian Authority for negligence, particularly regarding journalists. He asserts that, without the intervention of the International Federation, the Palestinian Authority would not have pursued a case with the International Criminal Court. The Federation was the entity that

pressured the Palestinian Syndicate to take action on the matter. Amarneh, as the case holder, discovered through a press conference, rather than direct communication with him, that the Public Prosecutor had accepted the case. He commented, "There is nothing serious, and there is no interest in my case. Many people speak on my behalf and are more concerned with personal gain than prosecuting the soldier who escaped the punishment."

Thus, Amarneh fears that one day the case will reach a twist point where it will be withdrawn and dropped forever.

In the context of discussing negligence, we asked the Minister of Justice if any investigation or forensic examination had been conducted into Muath's injury. He responded that the Ministry of Justice and Forensic Medicine is indeed competent to perform external examinations, produce examination reports, and issue its report that is recognized by any judiciary. However, they did not do this for journalist Amarneh. Such actions are undertaken at the request of the Public Prosecution, which is the authority responsible for documenting Israeli crimes and attacks as an official body.

When we contacted the Palestinian Public Prosecution, it became clear that there was no investigative file related to the case of journalist Amarneh, and that they had not conducted any investigation regarding his case.

Omar Nazzal from the Journalists Syndicate stated that they treated Muath as an exceptional case among the numerous incidents involving journalists. However, they do not have any new information, as they are in constant contact with the lawyers' office in London. Nazzal stressed, "No, we are not negligent. In the end, there is an occupation that has the upper hand over us as Palestinians, including journalists. The occupation is above all local, international and global laws, and there is no one to hold the occupation accountable for any crime."

### **The ICC does not Investigate Palestinian Crimes**

Nazzal's statement that the occupation is above all international laws prompted us to wonder about the fate of the other files brought to the International Criminal Court by the Palestinians, and if that led to any results.

Minister of Justice, Mohamed Shalalda, said that during the era of former Prosecutor Fatou Bensouda, criminal jurisdiction was established over the occupied Palestinian territory. However, to date, the current Prosecutor, Karim Khan, has not moved and has not opened any investigation, knowing that he has all the proof and evidence.

### **Criminal Charges Accuse the ICC of Double Standards**

Shalaldeh says that the International Criminal Court is an independent judicial body, but it has been observed that it handled the Ukrainian crisis with swift decisions, while it dealt with Palestinian cases slowly and with delays. Therefore, there are concerns concerning double standards and politicization. There is clear discrimination in dealing with the cases.

Ammar Dweik agrees with Shalaldeh that the International Criminal Court is accused of being politicized and not independent, particularly since Karim Khan took over. It is evident that Khan's appointment involved a deal with Western countries, aimed at neutralizing and freezing the Palestine and Afghanistan cases while prioritizing other files.

Dweik emphasized, "We do not want to raise people's expectations too high because the court operates within the framework of international law, which is heavily influenced by major international powers, particularly the United States. Additionally, there are complex tools of influence used against the court, such as issues of financing and the election of judges and the public prosecutor. We witnessed how Karim Khan was elected."

Sha'wan Jabareen stated that the International Criminal Court has not pursued, and will not pursue, larger crimes that have occurred in Gaza. To this day, these cases are pending before the court and have not progressed because they are not considered a priority. He emphasized that this is a matter of politics, which is why there is constant criticism of the Public Prosecutor.

At the same time, Jabareen noted that the court views some cases as phenomena or political issues rather than personal matters like Muath's case. Consequently, it sometimes does not give these cases enough attention. The court does not pursue every case, but

rather selects one or two crimes to address from a practical standpoint.

Regarding the role of the Palestinian Authority in confronting the double standards and politicization of the International Criminal Court, Awadallah said that they are monitoring the double standards and politicization and are actively working to prevent them. He emphasized that such acts are unacceptable.

A Palestinian Foreign Ministry official confirmed, "There is reluctance, and we are not satisfied that, until today, there has been no completion of this criminal investigation. There is no situation in the world like the Palestinian case in terms of documentation and the crimes committed."

### **Hence, what is the solution to prevent the Israeli soldier from impunity?**

While Nazzal asserts that all the Journalists Syndicate did was approaching the United Nations Human Rights Council and submitting the complaint file to the International Criminal Court, there were critics who questioned the handling of the file in this manner.

Associate Professor of Law in Britain, Nahid Khanfar, agrees with the aforementioned speakers that there is clear double standards in the ICC, which depends on the political equations governing the activation of international legal texts and procedures.

But Khanfar emphasized at the same time that the issue requires diligent follow-up and consistent pushing of the case before the court. The process of delay is nothing but an unjustified political matter. It is essential to continue moving forward constantly with accredited lawyers, as crimes of this nature do not fall under the statute of limitations like other offenses.

Khanfar continued by explaining that there are two potential situations to pursue Muath's case in European courts. Firstly, Muath holds nationality in one of the 47 countries that signed the European Convention on Human Rights, thereby granting competence to the European Court of Human Rights to consider his case automatically. Secondly, if it can be proven that the soldier or the individual who ordered the shooting holds nationality in one of these

countries, this would also provide a basis for pursuing the case in European courts.

Here, Nazzal responds that the most important country in Europe for accepting cases is Britain. Their main partner in the lawsuit is the British Union of Journalists, which holds considerable influence there. If there were any prospect of succeeding in the British judiciary, they would pursue it.

Nazzal continued, "To avoid feeling negligent, we have approached the ICC. However, do we expect to see an Israeli Official in the Criminal Court after a year or two? Based on current data, this is unlikely to happen. But this does not absolve us of the responsibility to pursue all avenues and document our efforts, even if only for the sake of history. If a change takes place in the future, we should have files from years ago prepared."

Nazzal, who seemed pessimistic about the international judicial system, said, "European courts do not act, and there is no point in international courts or the entire international system, including the United Nations, which has more than one resolution binding states to preserve the freedom of journalists and provide them with a safe working environment. However, Israel is above all international laws, and therefore the union and the International Federation does do not have a tool, which is more binding than the UN's." He emphasized that the union also does not engage with the judiciary.

Here we asked legal expert Khanfar about his opinion: whether the failure to hold the Israeli soldier accountable is a Palestinian negligence or is Israel truly above the law? He answered, "It can be said that it is both things together: the political protection of Israel by Western countries, as they are the influential factor in covering up the prosecution of Israel for its crimes." However, this does not absolve the Palestinian authorities authorized to defend journalists from permanent and diligent follow-up before the available litigation authorities."

### **Dreams Shattered, and the Pain Increases.**

In light of all this, the Israeli soldier's impunity, and the bullet lodged in Muath's head, demonstrate that his pain does not fade away and increases by time.

During Muath's last visit to the Israeli Hadassah Hospital in Jerusalem last April, his doctor transferred him to the pain department, which Muath calls the "addiction department," where he was given certain percentages of narcotic medication and every period this percentage increases, because there is no hope in any treatment.

What is happening now is that inside Muath's eye socket there is a silicone cosmetic ball to fill the void, and this ball is pressing on the bullet, and it is not possible to remove the bullet or remove the ball, or reduce its size, and thus the pain increases and does not end. The pain is affecting his life, his work, and his interaction with others. The most difficult thing is that if the bullet moved from its location and led to the removal of the brain membrane, his death would be inevitable, God forbid.

*"I dreamed that the scenes I documented would be influential and convey a message to the world, but they turned into an image and a scene. My consolation is that the image of my injury was influential and reached the whole world, knowing that the targeting was not of Muath as a person, but of Muath as a journalist. Therefore, it is a message to journalists that this picture you take "It costs you your life. A head injury from a sniper is intended to kill."*