



AL-HAQ

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CELEBRATING FORTY YEARS OF
DEFENDING HUMAN RIGHTS IN PALESTINE

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Al Haq Celebrates its 40th Anniversary



On the occasion of its 40th anniversary, Al-Haq held its anniversary celebration at the Ramallah Cultural Palace. Some 500 people attended the ceremony, including politicians, human rights defenders, private sector representatives, academics, diplomats, representatives of international organizations.

On this day, we mark the 40th anniversary of Al-Haq. Today, I find myself overwhelmed with emotion taking me back 40 years ago, as I recall the very beginnings of the dream, which has now come true. I remember that I became acquainted with Adv. Raja Shehadeh in the late 1970s. Soon, I developed a close relationship with Mr. Shehadeh not only as a colleague in the legal profession, but also as an intellectual whose perception of things was not stereotypical. He conceptualised things in his own distinctive way. I discovered that we both shared a preoccupation with the wider concern. We had recurring meetings and rounds of discussions. Most of these had an emphasis on our people's suffering from human right violations committed by the Israeli occupying authorities. These abuses affected human beings, trees, infrastructure, the land, water, air, the environment, culture, and all aspects of Palestinian life. We took the debate and discussion a step further by including fellow judges, lawyers, and others who shared with us the same concerns and aspirations. The debate culminated in the idea of establishing a society, which would work towards developing, protecting, and consolidating the principles of justice and the rule of law. The society would also monitor and document human rights violations, and ensure local and global exposure to such abuses. It would aim at highlighting and exposing the crimes committed by the Israeli occupying authorities.

As a book is about to be published with a detailed account of the evolution and history of Al-Haq and, due to time constraints, I would like to present a brief review of the steps, milestones, obstacles, and challenges we faced at the inception of Al-Haq:

1. The first problem was to answer the question of whether it was wise to involve some lawyers, who were on strike, as members of the Al-Haq Constituent Assembly. In the hope of bringing the prolonged lawyers' strike to an end, we unanimously agreed on the need to engage a number of lawyers on strike and to include them in Al-Haq's Constituent Assembly. At the time, the lawyers' strike had turned out to be inaction, rather than a strike. We hoped to bring lawyers together within a single union framework. This step was extremely important to serve the cause of our people. Indeed, four striking lawyers were included as members of Al-Haq's Constituent Assembly.

2. Another predicament we faced from the onset was that the occupying authorities would not license a society for us to achieve the purposes and goals which we pursued.

To overcome this challenge, the idea of incorporating a pro forma company came into being. The company's purposes and goals would be designed in a smart way so as to fulfil the society's aims. We made it. On 13 September 1979, the society was successfully registered as a company.

3. The third challenge that had to be handled was an early pursuit to take a step forward, which would help make our voice heard by the world, safeguard our project once it is completed, and protect its initiators against arbitrary measures of the Israeli occupying authorities, who would nip the idea in the bud. All the more so, the occupying authorities would prosecute initiators of this idea. To this avail, we sought to have an international non-governmental umbrella, which engaged in human rights, principles of justice, and the rule of law to adopt us as an affiliate or for us to work under its auspices.

Indeed, the International Commission of Jurists (ICJ) was proposed. Based in Geneva, the ICJ was an internationally recognised commission with affiliates in many countries around the world. The ICJ's purposes and goals were identical to our pursuit. On 7 April 1977, the first letter was sent to the ICJ, providing a briefing note on the project we were about to launch and requesting that we be approved an affiliate of the ICJ in the occupied Palestinian territory (OPT). Correspondence continued for almost three years, until 22 January 1980. Then, Mr. Niall MacDermot, the former Secretary-General of the ICJ, made a special visit to the West Bank to sign the agreement between us. For his two-day visit, we had prepared a busy programme, including visits to courts, judges, lawyers, and a group of national figures, namely members of the National Guidance Committee. In addition to an exploratory visit to Israeli settlements, which constituted a grave violation of international law, we briefed Mr. MacDermot about the suffering of Palestinian prisoners in Israeli detention centres.

4. During the lengthy exchange with the ICJ, we took into account that our project would be called into question by some Palestinians as the idea was novel, modern, and unprecedented. This was indeed the case. It required that we make extensive visits to all members of the National Guidance Committee, present our project and its goals, and elaborate on the significance of building a working relationship with the ICJ. They understood and encouraged



Nidal Taha, Chairman of the Board of Directors

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40 Years Defending Human Rights in Palestine



our idea and gave us the green light to proceed and expedite its completion.

5. On 22 January 1980, we signed the agreement with Mr. MacDermot, approving us as an affiliate of the ICJ. Unfortunately, after nearly three years of hard work, disputes arose between the founding members of Al-Haq. Consequently, in the last meeting founding members held on 4 June 1980, the striking lawyers protested and withdrew en masse for a contrived, unauthentic reason. It was most likely that the cause was associated with an order issued directly to these lawyers by the Bar Association in Jordan. It was feared that the involvement of lawyers within the framework of Al-Haq would lead to a speedy conclusion, and losing grounds, of the strike. This dramatic mass withdrawal had a bearing on the Constituent Committee. Others, myself included, also withdrew in protest against the unjustified mass withdrawal of striking lawyers. Withdrawal implied a holier-than-thou attitude towards us, including from a national perspective.

6. The dream was on the verge of death. However, it was revived thanks to the substantial effort and work exerted over nearly three years. For the sake of historical honesty, I find myself obliged to express thanks to those founding members who bravely continued to foster the nascent organisation. They maintained the achievements made over three years of tireless work, turning a blind eye to all competitive attitudes that characterised the period. I would like, at this point, to make special mention of my fellow lawyers Raja Shehadeh and Jonathan Kuttub, as well as Mr. Charles Shammass.

7. That is how Al-Haq was founded and started to operate. Throughout its long career, Al-Haq has experienced highs and lows, and ebbs and flows, which could have broken up and undermined its existence, particularly in 1997.

At this critical moment, a number of ardent national figures intervened and prevented the collapse of Al-Haq. Having been restructured, Al-Haq's course of action was corrected and put back on the right track.

During the period of restructuring, I came back to Al-Haq to provide assistance. I had never considered myself to be remote from Al-Haq. In one way or another, I continued to be in touch with the organisation, inspired by a father's longing for his son. We have endured seemingly insurmountable difficulties with Al-Haq since its inception, the moment it developed into an embryo, during the critical time of labour, towards the difficult caesarean delivery.

Ladies and gentlemen,

Today, we all have the right to celebrate Al-Haq's 40th anniversary and pray that it may live long. This institution has proved itself not only on the Palestinian stage, but also at the regional and international levels. It is our right to be proud of Al-Haq as the first institution that has worked particularly in the area of human rights in the OPT. After serving as an ICJ commissioner, Al-Haq's General Director was elected as a member of the ICJ Executive Committee last year. Since it was established, Al-Haq has received seven international and local awards. Most recently, Al-Haq was awarded the Human Rights Prize of the French Republic in December 2018. Al-Haq is also an active member of various international networks, including the International Network for Economic, Social and Cultural Rights (ESCR-Net). A colleague of ours was elected as an international member of the ESCR-Net. In partnership with other Palestinian institutions, Al-Haq submitted seven communications to the Office of the Prosecutor General of the International Criminal Court. Al-Haq has the right to be proud of its participation in, and contribution to, developing the human rights discourse on the international stage. In particular, Al-Haq engaged in and followed up on the Draft Convention on Business and Human Rights. Al-Haq has special consultative status with the United Nations Economic and Social Council, Euro-Mediterranean Human Rights Network, the World Organisation Against Torture (OMCT), and International Federation for Human Rights (FIDH).

We also have the right to take pride in the high-level professionalism, objectivity, and transparency of Al-Haq and its staff members. Hence, Al-Haq has earned everyone's respect and confidence at the local, regional, and international levels. Al-Haq is an authoritative reference for human rights activists, academics, and politicians in the areas of international law and the regime of the occupation. I cannot fail to mention the unique Public Archive Programme, which Al-Haq is working on. This archive keeps for collective memory and history every document and piece of paper since Al-Haq was established until the present day and beyond.

Lastly, on behalf of the founding members who are present here today, the Board of Directors, the General Assembly, Director General Shawan Jabarin, and all staff members of Al-Haq, I would like to sincerely thank you, distinguished guests, for joining us in celebrating the 40th anniversary of Al-Haq. With your support, it is our hope that Al-Haq will live long, progress, and prosper. Peace be upon you. I apologise for having spoken at such length.■

Nidal Taha,
Chairman of the Board

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Al-Haq's 40th Anniversary Seminar The Right of the Palestinian People to Self-determination

On the occasion of its 40th anniversary, Al-Haq organized two seminars to discuss the right of the Palestinian people to self-determination and the Palestinian human rights movement. The first seminar aimed to provide a platform to discuss developments and future prospects for the collective realisation of the right of the Palestinian people to self-determination. The second seminar aimed to provide an ideal platform to critically study and evaluate the development of the Palestinian human rights movement including its discourse and instruments in order to learn from past experiences.



The right to self-determination is well established in international law. The right of the Palestinian people to self-determination was first recognized with the adoption of the 1919 Covenant of the League of Nations, and the adoption, in 1922, of the British Mandate for Palestine. Notably, Article 22 of the Covenant of the League of Nations recognized that for those peoples, including Palestinians, under mandatory or colonial rule “there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation”. As later recognized by the International Court of Justice in its 1970 Advisory Opinion on Namibia, the “developments [in international law] leave little doubt that the ultimate objective of the sacred trust was the self-determination and independence of the peoples concerned.”

As such, the right of Palestinian people to self-determination was already well enshrined in international law before the Nakba. Since then, the right to self-determination has further developed, becoming an erga omnes obligation of all States, and “one of the essential principles of contemporary international law.” In the case of Palestinians, the right to self-determination has been reaffirmed in

many United Nations (UN) resolutions and is now embodied in international human rights law instruments applicable to Palestinians whether as refugees or in exile, in Israel, or in the Occupied Palestinian Territory (OPT).

Notably, international human rights law enshrines the right of all peoples to self-determination, including the right to “freely dispose of their natural wealth and resources” and to “freely determine their political status and freely pursue their economic, social and cultural development”. As recognized by the UN Human Rights Committee, Article 1(3) common to the two bedrock human rights Covenants “imposes specific obligations on States parties, not only in relation to their own peoples but vis-à-vis all peoples which have [...] been deprived of the possibility of exercising their right to self-determination.”

Yet, after 71 years of the Nakba, very little has been done to guarantee the exercise, by the entirety of the Palestinian people, of their inalienable right to self-determination, despite positive third State obligations in this regard and despite the significant developments in the law applicable to Palestinians. It is this lacuna, which Al-Haq’s seminar, organized at the margins of



Panelists

Alessandra Annoni
Asem Khalil
Basem Ezbi
Grazia Careccia
Hani al-Masri
Joni Aasi
Mamdouh Al-Aker
Mudar Kassis
Nabil Shaath
Raja Khalidi
Sam Bahour
Sawsan Zaher
Shawan Jabarin
Susan Akram
Wesam Ahmad

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SESSIONS

Session 1: The Right to Self-determination: Concept and Contexts

Session 2: The Right to Self-determination and Identity

Session 3: The Economics of the Palestinian Peoples’ Right to Self-determination

Session 4: The Politics of the Palestinian Peoples’ Right to Self-determination



Raja Shehadeh at the Right to self determination seminar. July 13, 2019.

the organisation’s 40th anniversary, seeks to address and discuss. Notably, while the Palestinian people continue to be denied their inalienable right to self-determination, Israel, as Occupying Power, has further entrenched its occupation, colonisation, and fragmentation of the Palestinian territory and its people, creating a regime of systematic racial discrimination and domination over Palestinians, amounting to the crime of apartheid.

In the 71st year of the Nakba, Israel has continued to entrench its illegal annexation of occupied East Jerusalem and the occupied Syrian Golan, while Israeli election promises were made to further annex illegal West Bank settlements to Israel. These measures have further been coupled with recent media leaks of a so-called “Deal of the Century” undermining the inalienable rights of Palestinians, including their right to self-determination, to permanent sovereignty over natural resources, and to return to their homes and property. Accordingly, Al-Haq believes it is particularly timely to reframe

the discussion around the right to self-determination of the Palestinian people and to examine prospects for the full realisation of Palestinians’ inalienable rights.

Aim of the Seminar: Al-Haq’s 40th anniversary seminar seeks to provide a platform for scholars, researchers, practitioners, human rights defenders, and policymakers, to discuss developments and future prospects for the collective realisation of the right of the Palestinian people to self-determination. The purpose of the seminar is to explore the different elements of the Palestinian right

to self-determination, including the right of Palestinian refugees to return, the economic right to self-determination, and the right to permanent sovereignty over natural wealth and resources. As such, the seminar will seek to examine different perspectives on the issue, including through international comparative examples, with a view to evaluating the possibility of realizing the right to self-determination in the Palestinian context and discussing the way forward.

Themes: The seminar will be organised in four panels followed by open discussions and will include a historical overview of the development of the right to self-determination of Palestinians and its current applicability, focusing on the principle of and right to self-determination as a jus cogens norm of international law, while also examining third State obligations in relation to ensuring the full realisation of the right and effective remedies for its prolonged and continued denial.

As the right to self-determination is closely linked to the realisation of an independent State, the seminar will further examine the external, political, and territorial elements of Palestinian self-determination, notably addressing the pervasive and systematic fragmentation of the Palestinian people as a result of Israeli laws, policies, and practices towards Palestinian residents of the OPT, Palestinian citizens of Israel, Palestinian refugees, the diaspora and Palestinians in exile, all of whom form part and parcel of the Palestinian people for the purposes of collective self-determination.

Another substantive element of the right to self-determination is the right to permanent sovereignty over one’s natural wealth and resources and the right to economic, social, and cultural development. In the OPT, Palestinians are restricted from accessing and controlling their natural resources, and from developing a viable Palestinian economy under prolonged Israeli occupation. Al-Haq’s seminar will seek to examine restrictions impeding the realisation of Palestinians’ economic self-determination and right to development, including as a result of corporate complicity in Israel’s occupation.

In addition, the seminar will examine Palestinians’ right to freely determine their political status and the Palestinian Authority’s inability to operate as an independent political entity in light of Israel’s prolonged occupation and colonization. ■

Ramallah Municipal Theatre
Saturday, 13 July 2019

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Al-Haq's 40th Anniversary Seminar The Palestinian Human Rights Movement



Al-Haq takes its 40th anniversary as an opportunity to organize a seminar to shed light on the Palestinian human rights movement, including by studying the conditions under which this movement emerged and developed, the mutual influence between Palestinian, Arab and international human rights movements, challenges that face the movement as well as its achievements. In addition, the seminar aims to discuss the overlaps and gaps between institutional human rights activism carried out by human rights organisations in the OPT and popular-grassroots human rights activism.

In the early 1970s, human rights advocacy and activism did not exist in the OPT, unless one considers popular protests against the occupation as a form of human rights activism, given their nature and calls for freedom and justice. Considering the special status of Palestine, as a territory subjected to belligerent occupation, popular scepticism towards the international human rights regime and cultural preconceptions of human rights persisted.

Even after the establishment of Al-Haq,

recognising human rights activism continued. Nonetheless, and at the same time, there was a growing need to counter Israel's occupation and systemic violations of Palestinian human rights through an international legal framework and platform. This is probably when first steps began to establish professional human rights organizations and human rights movement started to take shape in the OPT.

At that time, the legal environment was characterized by secrecy and alterations of legislation and laws by Israel, the Occupying Power, in violation of international law. In Al-Haq's first publication, the West Bank and the Rule of Law, Niall Macdermot, Secretary General of the International Commission of Jurists (ICJ) in 1980, underscored in the preface of the book that, "this is the first case to come to the attention of the ICJ where the entire legislation of a territory is not published in an official Gazette available to the general public."

The first Intifada in 1987 might have influenced the development of the human rights movement. The widespread human rights violations committed by the Israeli

Penalists

Abeer Kopty
Ammar Dweik
Bahey eldin Hassan
Charles Shamas
Fadi Quran
George Giacaman
Issam Arouri
Iyad Al-Barhouthi
Lynn Welchman
Raji Sourani
Rizeq Shuqair
Sahar Francis
Shatha Odeh
Shawan Jabarin
Soheir Asaad
Yara Hawari

Ramallah Municipal Theatre
14 July 2019

مسرح بلدية رام الله
١٤ تموز/يوليو ٢٠١٩

حلقة دراسية بمناسبة مرور
40 عامًا على مسيرة مؤسسة الحق

حركة حقوق
الإنسان الفلسطينية

Al-Haq's 40th
Anniversary Seminar

The Palestinian
Human Rights
Movement



مؤسسة الحق
أربعون عامًا في الدفاع
عن حقوق الإنسان
Al-Haq
40 years defending
human rights



the first human rights organisation in the Middle East, in the late 1970s, reluctance in

occupying authorities in the OPT functioned as a driving force to further human rights

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SESSIONS

Abeer Kopty



Session 1: Evolution of
Human Rights Activism
in Palestine

Session 2:
Conceptualising
the Status of the
Palestinian Human
Rights Struggle

Session 3: Dynamics
of the Human Rights
Movement's Discourse
and Instruments

Session 4: Challenges
and the Way Forward

activism and for the Palestinian society to accept it. Palestinians felt the need for an entity, a movement or an organization, that would defend their rights. The targeting of human rights activists by Israeli occupying authorities might have given rise to further acceptance of the human rights regime as the public started to believe that defenders are sincere in their endeavours with respect to the defence of Palestinians' rights.

In the mid-1990s, the Palestinian Authority was created. The politically-imposed realities and structures as a result of the Oslo agreement and the approach followed by the PLO in managing the negotiations with Israel, disregarding principles of international law and human rights, pushed for stronger human rights activism to defend the collective and individual rights of the Palestinians. According to Lisa Hajjar, "the biggest blow for the human rights movement was the direction the negotiations took, namely the emphasis on security." This direction obliged human rights organizations to dedicate much of their attention to ensuring that human rights of Palestinians are protected, regardless of the duty bearer. As such, human rights organisations have sought to monitor and counter the violations committed by the Palestinian Authority. This situation created challenges which might have functioned as catalyst for stronger human rights movement.

Aim of the Seminar: This seminar will provide an ideal platform among scholars, researchers, practitioners and human rights defenders and activists to critically study and evaluate the development of the Palestinian human rights movement including its discourse and instruments in order to learn from past experiences. The seminar aims to lead-off a discussion on what is the Palestinian human rights movement's strategy today to counter the shifting paradigm/political reality imposed, the continued deteriorating human rights situation and the reality for human rights defenders and the Palestinian people.

Themes: The general theme of the seminar

hinges around the Palestinian human rights movement, its emergence, development, achievements and challenges. The seminar will go through the origins of the Palestinian human rights movement from different lenses. It will also highlight the contribution of women in shaping the Palestinian human rights movement. Additionally, the seminar will focus on the mutual influence between the Palestinian movement and its Arab counterpart. Critical questions will be addressed to evaluate the definition of the Palestinian human rights movement and the human rights defender in the Palestinian context.

The seminar will go through the development of the movement's discourse and instruments and how it was affected by many factors on the ground such as the Oslo era and the Palestinian Authority. It will also explore nonstandard instruments in human rights activism such as digital activism and the internationalisation of the Palestinian human rights movement.

The seminar will wrap up with presenting the challenges that face the Palestinian human rights movement, including shrinking space for the civil society and human rights defenders as well as violations on freedom of speech, association and assembly. Notably, the Palestinian human rights movement is at risk today, given the shifting paradigm, exemplified in accelerating policies and measures, carried out by Israel as Occupying Power and other international actors in perpetuating the occupation, including through annexation of what has remained from Palestine, and erasing the Palestinian national identity and presence from mandate Palestine and the OPT. Decades of Israeli impunity have created a culture of distrust in international law, among the Palestinian people, as an ineffective tool for protection, accountability and justice. This has doubled the challenge faced by defenders given that this tool has not succeeded so far in bringing about justice.

Lastly, the seminar will present the sources of strength of the movement's experience. The future of the movement will be addressed through exploring approaches to counter these challenges, including through a legal strategy. ■

Ramallah Municipal Theatre

Sunday, 14 July 2019

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Al-Haq Concludes its Fifth International Law Summer School Program



Al-Haq International Law Summer School Program 2019

July 8, 2019, Ramallah. Al-Haq Centre for Applied International Law concluded its Fifth International Law Summer School Program. The summer school program brought together 24 professionals and post-graduate students from 18 different countries to expose them to the human rights situation and international law violations in the Palestinian context.

Over the period of two weeks, participants attended lectures, field visits and engaged in discussions with civil society and human rights organizations on various topics impacting lives of Palestinians.

Lectures were delivered by professionals and covered diverse topics including forcible transfer of population, children rights under military occupation, administrative detention, the right of return of Palestinian refugees, as well as the applicable laws in the Occupied Palestinian Territory. Field visits included tours to the Old City of Hebron, Aida Refugee Camp, Bedouin communities in Area C such as the community of "Abu Nuwwar", villages west of Bethlehem, Jerusalem, Nabi Samuel, Lifta and

Ma'loul depopulated villages, Nazareth, Haifa, Occupied Syrian Golan and Akka.

In addition, participants met with numerous human rights and civil society organisation, including Addameer, Badil, Lajee Center, Diakonia, OCHA, DCIP, PCHR, Adalah, 7amleh, Al-Marsad; Arab Human Rights Centre, Gisha-Maslak, B'tselem, Zochrot, ADRID and Baladna Youth Organization, alongside many other independent academics and professionals.

Al-Haq organizes the International Law summer School Program every year targeting professional and academics in the fields of International Law and human rights. This year, Al-Haq welcomed participants from: Australia, Bosnia, Canada, China, Finland, France, Germany, Greece, India, Italy, Ireland, Nepal, New Zealand, South Africa, Spain, Sweden, United States, and Palestine.

In the closing ceremony of the program, the participants had pledged their full support of Palestinian rights, especially their rights to freedom, an end to the occupation, justice and equality. ■

Summer School Program



Al-Haq Library

The Al-Haq library remains the first fully digital library in Palestine. Open throughout the week, it aims to provide access to resources, including books, periodicals, and documents as well as research support for students, academics, civil society organizations and other individuals. The Al-Haq library has been a depository library of the World Intellectual Property Organizations (WIPO) since 2010. WIPO provides the library with its publications so that they are freely accessible to researchers and other interested individuals in Palestine. WIPO is a United Nations agency that uses intellectual property as a way to promote creativity and innovation worldwide.

The library is also the first library in Palestine to be specialized in law. New materials are routinely made accessible to Al-Haq staff and the general public and are indexed and classified according to international standards. Additionally, the search and retrieval functions of the website are regularly updated to reflect newly acquired materials. The library's collection is a crucial resource for academics, students, lawyers, and researchers and is the only external library featured on Birzeit University's online catalog.

Al-Haq's library has a comprehensive collection of Israeli Orders imposed on the Occupied Palestinian Territories since 1967. Since 1967, approximately 2,500 military orders have

been issued in the West Bank and Gaza Strip. Many other orders were also issued but were not disseminated.

As of June 2019, the library consists of 7,554 books, 329 other contents, 30 periodicals, and 59,000 documents. The online library consists of freely available full text versions of 933 books and 2,499 full-text tables of contents. Full text versions and tables of contents online are searchable and linked to related resources for added value. Between January and June 2019, the online library had a total of 9577 unique users whereas approximately 900 users have visited the library or requested resources by e-mail or telephone.

Al-Haq's library continues with its ongoing project of archiving the historical documents of the organization itself. Developed by Al-Haq's Librarian, the policies for the archiving system are custom-built for the organization based on the nature of the materials. The system is subject to ongoing review and updated commensurate with emerging topics. The archive will make available documentation and organizational records for the past thirty-five years. In the first half of 2019, documents were scanned and a total of 6,000 were downloaded to the library system at a rate of 1000 documents each month. Additionally, 29,499 documents were audited during the reporting period. ■



Al-Haq Sends Urgent Appeal to UN Special Procedures and Calls for Immediate Halt to Demolitions in Wadi Al-Hummus



AL-HAQ

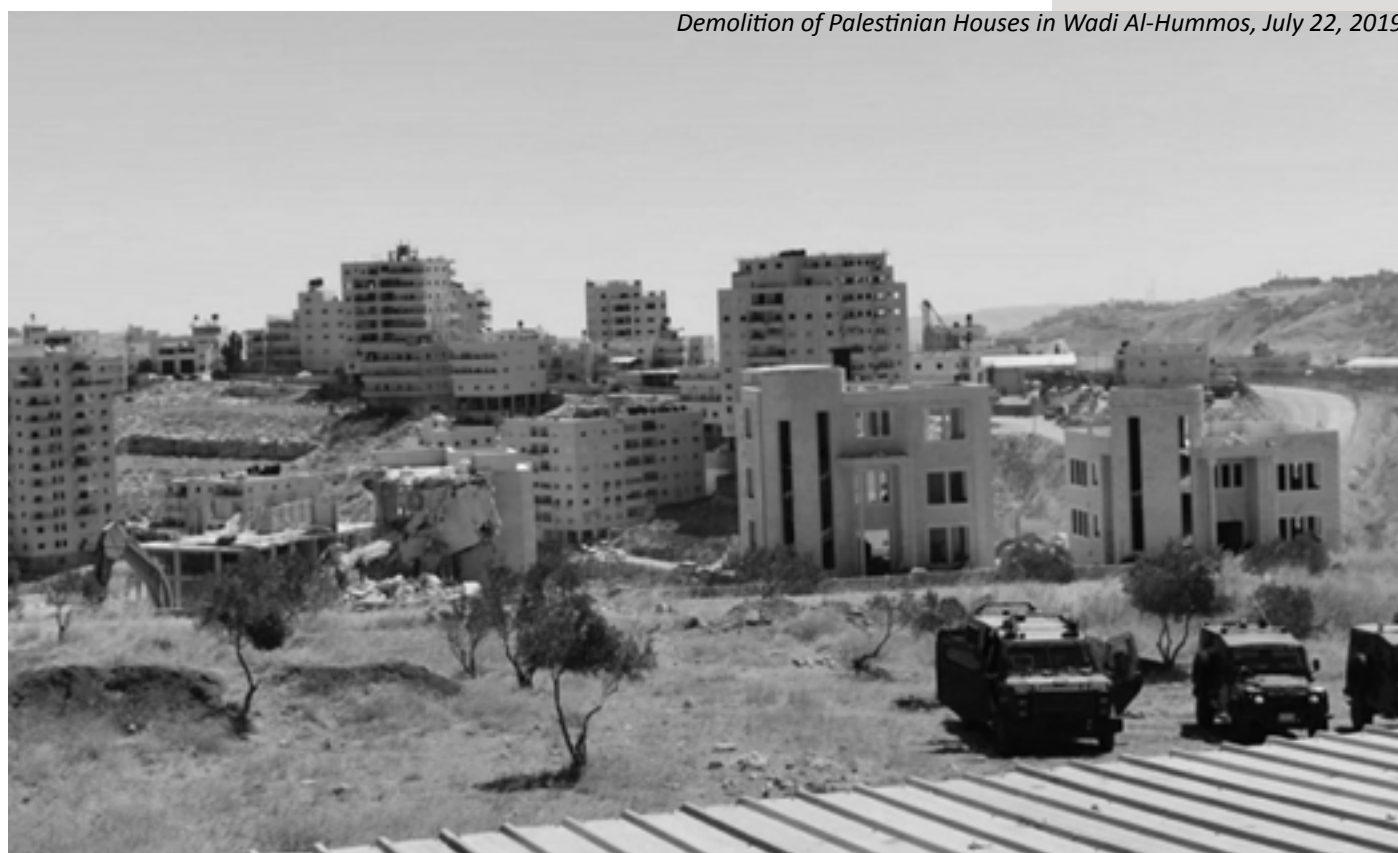
In light of Israel's mass demolitions of Palestinian homes and property in the Wadi Al-Hummus neighbourhood, in the town of Sur Bahir, in occupied East Jerusalem since the early hours of Monday, 22 July 2019, Al-Haq sent a joint urgent appeal to four United Nations (UN) Special Procedures mandates on the ongoing and imminent demolitions carried out by the Israeli occupying authorities, stressing that the demolitions in Wadi Al-Hummus "form part of Israel's long-term and systematic policy to forcibly uproot, displace, and dispossess Palestinians, on both sides of the Green Line, since the Nakba of 1948."

demolition. On 21 July 2019, the Israeli High Court of Justice rejected an appeal from the residents of Sur Bahir, requesting an injunction to delay the execution of the judgment, and as a result, the Israeli occupying forces began carrying out the mass demolitions early the next day, on Monday, 22 July 2019.

Notably, Al-Haq stressed in its urgent appeal that "Israel's High Court of Justice has demonstrated in the case of Sur Bahir that it is neither willing nor able to prevent the commission of suspected war crimes and crimes against humanity in the OPT, including

**"...SYSTEMATIC
POLICY TO FORCIBLY
UPROOT, DISPLACE,
AND DISPOSSESS
PALESTINIANS."**

Demolition of Palestinian Houses in Wadi Al-Hummos, July 22, 2019



In the joint urgent appeal, Al-Haq recalled that on 11 June 2019, the Israeli High Court of Justice dismissed the petition submitted to it by the residents of Sur Bahir and that the Israeli occupying authorities issued, on 18 June 2019, a "Notice of Intent to Demolish" to residents for ten buildings in Sur Bahir that would expire on 18 July 2019. Under this notice, residents were required to demolish their own homes by 18 July 2019 or have the Israeli occupying forces demolish their homes and be forced to pay for the costs of the

the extensive destruction of property not justified by military necessity and carried out unlawfully and wantonly as well as the forcible transfer of protected persons carried out by the Israeli occupying forces, while it in fact rules in favour of and authorises their commission."

Accordingly, Al-Haq called on the Special Procedures "to take immediate and collective action to halt the ongoing and imminent demolitions and to ensure that Palestinians whose homes have been demolished by Israel, the Occupying Power, are ensured effective

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AL-HAQ

**IT IS TIME FOR THE
INTERNATIONAL
COMMUNITY TO MAKE
CLEAR THAT IT WILL
NO LONGER TURN A
BLIND EYE TO ISRAEL'S
SUSPECTED WAR
CRIMES AND CRIMES
AGAINST HUMANITY.**

remedies". In particular, Al-Haq urged the UN Special Procedures to issue a public call on Israel, the Occupying Power, to halt the ongoing and imminent mass demolitions in Wadi Al-Hummus and refrain from forcibly displacing the residents of the area, to highlight the urgent need for accountability, including by calling on the International Criminal Court to immediately open an investigation into the situation in Palestine, and to call on third States to cooperate to bring to an end grave breaches of international law committed in the OPT, including as a result of the ongoing construction and expansion of the Annexation Wall and illegal Israeli settlements.

In addition, Al-Haq highlighted the involvement of corporations, such as Caterpillar and LiuGong, in Israel's policy of house and property demolitions across the OPT, including those being carried out in Wadi Al-Hummus and called on the UN Special Procedures to remind corporations of their responsibilities under international law to carry out enhanced due diligence when operating in the OPT and/or when providing services, products, and machinery to Israel, the Occupying Power, to

ensure that they are not involved or complicit in grave breaches of international law committed in the OPT.

In light of the above, Al-Haq calls for international action to end the mass demolitions in the Wadi Al-Hummus neighbourhood in Sur Bahir and elsewhere in the OPT and to ensure perpetrators of international crimes are finally held to account. It is time for the international community to make clear that it will no longer turn a blind eye to Israel's suspected war crimes and crimes against humanity. Despite overwhelming evidence and a reasonable basis to believe international crimes are being committed in the OPT, the International Criminal Court is yet to open an investigation into the situation in Palestine. The delays in opening an investigation are unjustified and lead to the accelerated continuation of grave breaches in the OPT, while Israeli impunity prevails under the watchful eye of the international community.

To read Al-Haq's full submission to the UN Special Procedures on demolitions in Wadi Al-Hummus, dated 22 July 2019, please click here. ■



Demolition of Palestinian Houses in Wadi Al-Hummos, July 22, 2019

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Al-Haq Attends 41st Regular Session of the UN Human Rights Council



Al-Haq attended the 41st Session of the UN Human Rights Council in Geneva, which took place between 23 June and 12 July 2019. Al-Haq's advocacy during the 41st Human Rights Council session focused on the UN database of businesses involved with Israeli settlements pursuant to Human Rights Council resolution 31/36 of 2016, annexation, the right to self-determination, business and human rights, environmental injustices and climate justice, amongst other issues.

Between 2 and 5 July, Al-Haq, Cairo Institute for Human Rights Studies (CIHRS) and 11.11.11 Belgium, carried out meetings with UN Member States, urging them to support the release of the UN database of businesses engaged with Israeli settlements in the Occupied Palestinian Territory (OPT). The meetings highlighted the importance of such a database, as a tool to implement the UN Guiding Principles on Business and Human Rights (UNGPs); to assist states in regulating corporate activities, specifically those in conflict-affected areas and situations of occupation; and to create a tangible instrument for transparency and corporate responsibility. The meetings also highlighted that the absence of accountability for Israel, the Occupying Power, and private actors within its jurisdiction has detrimentally affected the lives and livelihoods of millions of Palestinians, depriving them of the most basic human rights, notably the right to self-determination, encompassing access and sovereignty over natural resources and wealth. To this end, the organisations

remind that businesses and private actors should be prepared to accept the consequences for their involvement and contribution to gross human rights violations and grave breaches of international humanitarian law.

The meetings were preceded by a side event entitled Upholding the Rule of Law: The UN Database on Businesses Involved in Settlements in the OPT, organized by CIHRS. The panellists presented on the importance of releasing the database from both Palestinian and international perspectives. Professor Michael Lynk, Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, joined via video conference. Professor Lynk discussed his report on the illegality of the occupation and annexation, stressing the importance of the database in the context of

ongoing colonisation and annexation. Al-Haq presented on continuing corporate complicity on the ground, hence the need for a tangible tool, such as the database, in the face of expanding colonisation and the situation of de facto annexation. Meanwhile, 11.11.11, argued that the database is a way to operationalize UN Security Council Resolution 2334 (2016), which called on UN Member States to "distinguish in their relevant dealings between the territory of the State of Israel and the occupied Palestinian territory." Human Rights Watch warned that failure to release the database would set a worrying precedent in the Human Rights Council. Amnesty International focused on the database as a tool for promoting international standards for businesses worldwide. The side event was



Al-Haq attends 41st session of the UN Human Rights Council

attended by at least 20 UN Member States representatives, as well as representatives from the Office of the High Commissioner for Human Rights, and civil society actors.

In addition, Al-Haq, Badil Resource Center for Palestinian Residency and Refugee Rights and CIHRS delivered a joint oral intervention under Item 4: Human Rights situation that require the Council's attention, on discriminatory Israeli laws targeting the Palestinian population in the OPT, Israel and the Diaspora. This is exemplified in the Israeli Nation State Law which restricts the right to self-determination to the Jewish people, denigrating Palestinians and other inhabitants in Israel to second-class citizens and making discrimination in Israel constitutional.

Al-Haq also delivered an oral intervention under Item 5: Report of the Forum on Business

THE ABSENCE OF ACCOUNTABILITY FOR ISRAEL, AND PRIVATE ACTORS HAS DETRIMENTALLY AFFECTED THE LIVES AND LIVELIHOODS OF MILLIONS OF PALESTINIANS

AL-HAQ CALLED ON THE WORKING GROUP ON BUSINESS AND HUMAN RIGHTS TO REITERATE THE IMPORTANCE OF THE DATABASE AS A TOOL TO IMPLEMENT THE UNGPS

and Human Rights, highlighting concerns about obstacles to tools being developed in the pursuit of implementing the UNGPs. Accordingly, Al-Haq called on the Working Group on business and human rights to reiterate, in their report to the UN Human Rights Council and General Assembly, the importance of the database as a tool to implement the UNGPs, and stress the need for its publication and regular update; to carry out a country visit to the OPT to further investigate the extent of corporate activities contributing to human rights abuses and grave breaches; work with relevant civil society and stakeholders to enhance access to effective remedies for the occupied population, including by ceasing and reversing business activities that aid and abet the commission of grave breaches of humanitarian and human rights law, and guarantee non-occurrence; and to remind home states of their role to prevent and address human rights abuses by businesses domiciled in their territory and/or jurisdiction, to take concrete measures, in line with their domestic laws, National Action Plans and international law, including by engaging with businesses and ensuring effective accountability.

On 8 July 2019, Al-Haq delivered an oral intervention during the Human Rights Council's General Debate on Item 7: Human Rights Situation in Palestine and other Occupied Arab Territories. The oral intervention highlighted Israel's role in deepening environmental and climate vulnerabilities for Palestinians as a result of Israel's systematic and unlawful exploitation of natural resources. During the intervention, Al-Haq reiterated that Israel, as a temporary Occupying Power does not hold sovereign rights over any part of the occupied Palestinian territory, including over natural resources. Al-Haq further highlighted the impacts of Israel's prolonged occupation, including the expansion of the illegal settlement enterprise on Palestinians' capacity to adapt to climate change. Al-Haq concluded by stressing that achieving adaptation to climate change is not possible without the genuine realisation of Palestinians' collective right to self-determination and permanent sovereignty, and called upon the Human Rights Council to take concrete and collective action to bring Israel's 52-year occupation to an end.

Also, on 8 July 2019, Al-Haq organized a parallel side event on Agenda Item 7 titled: "Climate and Environmental Justice in the Occupied Palestinian Territory". Al-Haq's Environmental

Policy Researcher, Suha Jarrar, delivered a presentation on "Climate Change Adaptation in the Occupied Palestinian Territory: The Case of the South Hebron Hills". Other presenters included Mr. Samir Zaqout, Deputy Director of Al-Mezan Center for Human Rights, who delivered a presentation on "Conflict and Erosion of a Sustainable Environment in Gaza". The third presenter, Mr. Atwa Jaber, a researcher and candidate at the Graduate Institute in Geneva, delivered a presentation titled "Loot and Harness: Israel's Systematic Appropriation of Natural Resources in the Occupied Jordan Valley".

Prior to the session, Al-Haq submitted a written statement highlighting the ways through which Israel's prolonged occupation and its settlement enterprise deepens Palestinians' climate vulnerability. The statement included examples from the field, reflecting Israel's discriminatory policies, namely in Area C of the occupied West Bank, and their impacts on different areas within the agriculture sector, including on livestock production and on water resources. In the submission, Al-Haq recalled that by virtue of the temporary nature of the situation of occupation, Israel is obliged to temporarily administer Palestinian natural resources in accordance with the rules of usufruct and with the obligation to safeguard the capital of the property. Accordingly, Israel is prohibited from exploiting non-renewable and finite natural resources in a manner that undermines their capital and results in economic benefits for Israel and its settlement enterprise.

Amongst other recommendations, Al-Haq called upon the Human Rights Council to urge Israel to act in accordance with international law, and in accordance with its responsibilities, as stipulated under the Paris Agreement on Climate Change. Article 7 of the Paris Agreement, governs States Parties' responsibilities to reduce climate vulnerabilities of vulnerable populations, and to respect, promote and consider their human rights obligations when taking action to address climate change. During the events and in meetings held during the session, Al-Haq emphasized the linkages between climate change adaptation for Palestinians, and their right to permanent sovereignty, including over natural resources, as part of their right to self-determination.■

Al-Haq Welcomes Advocate General Hogan’s CJEU Opinion Explicitly Requiring Labelling of Settlement Goods, but calls on States and the EU to Prohibit the Import of Illegal Settlement Goods



Al-Haq wishes to highlight and endorse the publication of Advocate General Hogan’s opinion for the Court of Justice of the European Union (CJEU) on 13 June 2019, in relation to the notice issued by the French Minister for the Economy and Finance concerning the indication of origin of goods from the Occupied Palestinian Territory (OPT). In the Opinion, Advocate General Hogan made clear, that since under international law Israeli settlements are illegal and are not recognised by the international community as being part of Israel proper, it is necessary to explicitly label goods coming from these areas as originating from settlements.

Psagot Winery, markets itself as a “Jerusalem Market Vineyards”, although located nowhere near Jerusalem, but rather inside the illegal West Bank settlement of Psagot, is supported and financed by the wealthy Jewish American Falic family, from Florida. In 1981, Israel transferred its civilian population from Karem Dbouna and Beit Vegan in West Jerusalem to appropriated Palestinian land in Jabal Al Tawil, located within the 1967 boundaries of the Palestinian city of Al-Bireh, in violation of international law. Notably, the illegal settlement Psagot, is located on these unlawfully appropriated Palestinian lands on the outskirts of Ramallah, deep inside the occupied West Bank. Additionally the illegal winery is advertised as a national tourist attraction, by an official Israeli Guide to Jerusalem Winter 2018-2019, published by the Jerusalem Development Authority, Jerusalem Municipality, and Jerusalem and Heritage Authority.

Advocate General Hogan’s Opinion was sought after the Organisation Juive Européenne and Psagot, tried to have the disputed notice, which had been issued by the French Minister for the Economy and Finance revoked before the Conseil d’État (Council of State in France). The Organisation Juive Européenne and Psagot Winery argued that the labelling of products from settlements in the OPT as originating in the settlements rather than as ‘Made in Israel’, as they would prefer, was discriminatory. It was unclear to the Council whether or not EU law requires products originating from settlements in the OPT to be labelled as such, and whether or not EU Member States can, under Regulation (EU) No 1169/2011, require the aforementioned products to carry such labels. As a result, the case was referred to the

Court of Justice of the European Union (CJEU). When examining the case, Advocate General Hogan considered whether Israeli settlements in the OPT could either be labelled a ‘country of origin’ or a ‘place of provenance’, as well as whether mislabelling settlement products could be considered as misleading consumers and might therefore have an impact on their consumption by distorting their social and ethical considerations.

In relation to the first question, the Advocate General determined that the term ‘country of origin’ did not apply in this case but that ‘place of provenance’ could be interpreted more broadly than purely as a geographical reference and therefore applied to settlements in the OPT. This means that under Regulation No 1169/2011 (articles 9 and 26), products originating from Israeli settlements in the OPT, need to be labelled as such, in order to not mislead consumers. In this case, labelling would need to be done in a ‘correct, neutral and objective’ way, which excludes the possibility of being labelled as ‘Made in Israel’. When deliberating the possibility of consumers being misled by labelling, Advocate General Hogan cited Advocate General Mischo’s opinion in Gut Springenheide and Tusky that ‘if the information omitted would be likely to shed a [clearly] different light on the information provided, the conclusion must be that the consumer has been misled’.

Critically, Advocate General Hogan applied a broad reading to ‘ethical considerations’ as detailed in Regulation No 1169/2011. Accordingly, Advocate General Hogan conveyed his opinion that:

“In my view, the reference to ‘ethical considerations’ in the context of country of origin labelling is plainly a reference to those wider ethical considerations which may inform the thinking of certain consumers prior to purchase. Just as many European consumers objected to the purchase of South African goods in the pre-1994 apartheid era, present day consumers may object on similar grounds to the purchase of goods from a particular country because, for example, it is not a democracy or because it pursues particular political or social policies which that consumer happens to find objectionable or even repugnant. In the context of the Israeli policies vis-à-vis the Occupied Territories and the settlements, there may be some consumers who object to the purchase of products

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International Advocacy / European Union



Israeli Settlement dates label

emanating from the territories, precisely because of the fact that the occupation and the settlements clearly amount to a violation of international law. It is not, of course, the task of this Court to approve or to disapprove of such a choice on the part of the consumer: it is rather sufficient to say that a violation of international law constitutes the kind of ethical consideration which the Union legislature acknowledged as legitimate in the context of requiring country of origin information.”

Al-Haq welcomes the definitive statement on labelling, which although not binding will likely be of significant influence when it comes to the ruling. Al-Haq further notes that the doctrine of ethical considerations is a fundamental part of trade law, although mention of the concepts of non-recognition and non-assistance in the Opinion, were notably absent. These are arguably important components of international trade, since trading with settlement goods at all is a breach of Article 41 of the ILC Articles on Responsibility of States for Internationally Wrongful Acts. The latter governing States’ obligations not to render aid or assistance in maintaining an unlawful situation, such as for example, facilitating

trade with illegal Israeli settlements. Laudably, Advocate General Hogan emphasised the EU’s ‘positions and commitments in conformity with international law on the non-recognition by the Union of Israel’s sovereignty over the territories occupied by Israel since June 1967’. The Advocate General highlighted the fact that Israeli settlements constitute *inter alia* an example of forcible transfer and therefore represent a breach of Article 49 of the Fourth Geneva Convention. He also made clear that his analysis was in line with UNSCR 2334, which places an expectation on States, as well as the EU, to distinguish between the State of Israel and OPT in their respective dealings.

Commending the opinion issued by Advocate General Hogan, Al-Haq calls upon EU Member States:

- To act in accordance with the Advocate General’s opinion and to ensure that all companies introducing Israeli settlement products into the EU market label their goods in conformity with this opinion.
- To introduce legislation and guidelines on a national level to ensure that the correct labelling practices, which allow consumers to differentiate between products from Israel proper, Israeli settlements, and Palestinian businesses in the Occupied Territories, are adhered to for products entering the EU market.
- To introduce criminal legislation to prosecute and fine individuals, who deliberately and intentionally mislead consumers on the origin of their products, in violation of national and EU laws.
- To take steps to work towards the implementation of national legislation prohibiting the import of illegal settlement goods and services.■

Al-Haq Welcomes Canadian Court Decision on “Correct” Labelling of Settlement-Produced Wines, Calls on Canada to Ban Settlement Products and Services Entirely



Al-Haq welcomes the decision of the Federal Court of Canada, issued on 29 July 2019, determining that wines produced in illegal settlements in the Occupied Palestinian Territory (OPT) cannot be labelled as “Made in Israel”. This decision further confirms that individuals and consumers have the right to “express their political views through their purchasing decisions”, which requires accurate information with regards to the source of the product. In light of this Court decision, Al-Haq calls on the Canadian Government and Parliament to take a stance against Israel’s illegal settlement enterprise, in line with Canada’s obligations under international law including not to recognise, give effect or assist an unlawful situation, by banning trade in settlement products and services entirely.

The Decision: Correct Labelling Necessary to Protect Freedom of Expression and Right to an Informed Choice

The case (brought by Jewish-Canadian human rights activist David Kattenburg) challenged the decision-making of the Canadian Food Inspection Agency and its Complaints and Appeals Office (represented by the Attorney-General on behalf of the Government). The Court held these bodies’ decisions allowing settlement-made wines to be labelled “Made in Israel” were “unreasonable in law”. As both parties acknowledged that the settlements were not within the territorial boundaries of the State of Israel, the Court did not make any formal finding on the legality or status of the settlements.[1]

Importantly, the Court rejected the Canadian Government’s argument that a free trade deal between Canada and Israel, in which the settlements were included within the territory in which Israeli customs law applied, should determine whether products from that area could be considered “from Israel”. The Court found labelling settlement-made wine as products of Israel was “false, misleading and deceptive”, regardless of the terms of the trade deal.[2] The Government’s technical argument would have allowed the terms of a private agreement between two states to be determinative of the status and legal definition of an area, despite the Canadian Government’s acknowledgment that the area in question was not part of the legal territory of Israel.

The rejection of this argument reinforces Israel’s inability to unilaterally and illegally re-define the scope of its territory to include the illegal settlements in the OPT, pre-empting the Palestinian right to self-determination, among other basic rights.

The Court also found that labelling the wines as products of Israel “interferes with the ability of Canadian consumers to make “well informed decisions and well informed and rational choices” in order to be able to “buy conscientiously”. The misleading labelling stopped consumers exercising their freedom of expression by demonstrating their political views through purchasing decisions.[3]

The Context: International Law is Clear on the Illegality of Settlements and Exploitation of Natural Resources

Israel has occupied the OPT since 1967 and since then has systematically designed and maintained policies that allowed for and facilitated the development of Israeli settlements inside the OPT. These settlements are flatly illegal under international law, as they involve the acquisition of territory by force, the prohibition on which is a basic norm of international law, as well as being prohibited under the Fourth Geneva Convention. The settlements involve the transfer of civilians of the occupying power into occupied territories, prohibited under Article 49(6) of the Fourth Geneva Convention, and require the confiscation, appropriation and exploitation of Palestinian land and resources for the benefit of the occupying power.

The illegality of Israeli settlements in the OPT has been consistently recognised by the international community, including by the United Nations’ Security Council,[4] and as recently as February 2019 by the UN Secretary-General.[5] Specifically, UN Security Council Resolution 2334 (2016) called on third party states like Canada to “distinguish in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967 because of the illegal nature of settlement.”[6] Canada itself has also recognised the illegality of the settlements and their position as a barrier to the ongoing peace process.[7]

Settlements also facilitate human rights breaches in the OPT, notably through the

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unlawful exploitation and diversion of essential natural resources (such as water) to the settlements in preference to Palestinian towns and villages.[8] Businesses operating within settlements, like these vineyards, benefit directly from the denial of these rights to Palestinians and from the use of Palestinian property and resources. Moreover, the exploitation of natural resources by Israel and Israeli settlements, and the businesses associated with the settlements, is contrary to the duties of an occupying power under international humanitarian law, which allows only restricted uses of the natural resources of an occupied territory.[9] The settlements and businesses operating within them, such as Psagot winery, use Palestinian land and natural resources to support and sustain themselves. Such exploitation is unlawful and further undermines the Palestinian right to self-determination, which includes a right to permanent sovereignty over natural resources. [10] The Palestinian right to self-determination has been recognised internationally, including by Canada.[11]

As a third party state, Canada is bound by international law to take no steps toward the recognition of the illegal activities of Israel in occupied territories, nor to help or aid to maintain the illegal situation.[12] This clearly extends to support of settlements through supporting their business enterprises. Not only does importation and sale of settlement products as Israeli products support the businesses operating in these illegal settlements, but it also normalises and legitimises the settlements as part of Israel, contrary to international law. The Court’s decision that settlements’ products cannot be marketed as “made in Israel” is therefore an important part of ensuring the settlements, and the ongoing expansion of the settlement enterprise, are not passively accepted by the international community.

The Court’s decision reflects Al-Haq’s clear stances on the status of Israeli wineries operating in settlements in the West Bank of the OPT, including specifically the Psagot winery, whose wine labels were directly challenged in this proceeding. Al-Haq has previously highlighted the illegality of the Psagot settlement, and the related wineries,

as well as the links between supporting these products and facilitating the ongoing occupation in the OPT.[13]

The Implications: States Must Go Beyond Condemning Settlements

While accurate labelling is an important first step, and is in line with European practice,[14] it is only the start of meeting Canada’s obligation to not help or aid in the maintenance of the illegal settlements. Al-Haq calls on Canada to fulfil its obligations under international law and to prohibit the import of settlement goods and services entirely, as Ireland is in the process of doing.[15]

Such a ban is all the more pressing in light of the increasingly flagrant statements made by the Israeli government toward annexing the settlements in the OPT.[16] These statements have in turn been supported by the United States Government’s recent change of policy toward the illegally annexed Syrian Golan and Jerusalem.[17] The suggested annexation of the illegal settlements, which remain legally part of the OPT, is in direct contravention to international law, and highlights Israel’s continued denial of basic international law standards. Without accountability, including bans on the products from these settlements, Israel’s policies and practices will continue at the expense of the most basic human rights of Palestinians, including the right to self-determination. The profitability of the occupation, including the settlement enterprise, is a core reason why such violations are sustained. Only international action directly rejecting the products of illegal settlements can counteract Israel’s economic incentives to continue facilitating the existence and expansion of settlements inside the OPT.

Al Haq calls on the Government of Canada:

- To accept the Federal Court’s ruling, and for the Canadian Food Inspection Agency to adopt labels for settlement-made products which accurately allow consumers to exercise their right to buy conscientiously and make informed decisions;
- To build on the Court decision by taking positive measures toward respecting international law, including by banning illegal settlement products and services;



**SUPPORT
THE RELEASE
OF THE UN
DATABASE OF
BUSINESSES
ENGAGED IN
ACTIVITIES
RELATED
TO ISRAELI
SETTLEMENTS**

- To take all necessary measures to ensure full respect for and compliance with international law norms, including the Geneva Conventions, relevant resolutions of the UN Security Council, General Assembly and the Human Rights Council regarding third state obligations toward the OPT;
- Support the release of the UN database of businesses engaged in activities related to Israeli settlements, as per UN Human Rights Council resolution 31/36 of 2016; and
- To abide by their obligations as third States and as High Contracting Parties to the Geneva Conventions of 1949, notably under Common Article 1, to respect and to ensure respect for international humanitarian law in the OPT in all circumstances.

[1] At [70].

[2] At [101].

[3] At [101] and [126].

[4] See UNSC Res 2334 (23 December 2016) UN Doc S/RED/2334, [1].

[5] “Settlements Deepen Sense of Mistrust, Undermine Two-State Solution, Secretary-General Tells Palestinian Rights Committee” (United Nations, 15 February 2019), <https://www.un.org/press/en/2019/sgsm19461.doc.htm>, accessed 30 July 2019.

[6] UNSC Res 2334 (23 December 2016) UN Doc S/RED/2334, at 5.

[7] “Canadian policy on key issues in the Israeli-Palestinian conflict” (Government of Canada, 19 March 2019), https://www.international.gc.ca/world-monde/international_relations-relations_internationales/mena-moan/israeli-palstinian_policy-politique_israelo-palestinien.aspx?lang=eng#a06, accessed 30 July 2019.

[8] See Mercedes Melon, Settling Area C: The Jordan Valley Exposed (Al-Haq, 2018) amongst other analyses.

[9] See Article 55 of the Hague Regulations and Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda) (2005) ICJ Rep 168.

[10] See UNGA Res 1803 (XVII) (14 December 1962) “Permanent sovereignty over natural resources”, amongst other sources of this norm.

[11] “Canadian policy on key issues in the Israeli-Palestinian conflict” (Government of Canada, 19 March 2019), https://www.international.gc.ca/world-monde/international_relations-relations_internationales/mena-moan/israeli-palstinian_policy-politique_israelo-palestinien.aspx?lang=eng#a06, accessed 30 July 2019.

[12] International Law Commission Draft Articles on State Responsibility, Article 41.

[13] See “Al-Haq Communicates with World Finance Regarding ‘Grapewashing’” (Al-Haq, 18 May 2018), <http://www.alhaq.org/advocacy/topics/business-and-human-rights-focus/1229-al-haq-communicates-with-world-finance-regarding-grapewashing>, accessed 30 July 2019.

[14] “PHROC Welcomes EU Labelling of Settlement Products as a First Step Towards a Ban” (Al-Haq, 12 November 2015), <http://www.alhaq.org/advocacy/targets/european-union/991-phroc-welcomes-eu-labeling-of-settlement-products-as-a-first-step-towards-a-ban>, accessed 30 July 2019 and “Al-Haq welcomes France’s move to label settlement products, but calls for stronger action” (Al-Haq, 1 December 2016) <http://www.alhaq.org/advocacy/targets/european-union/1088-al-haq-welcomes-frances-move-to-label-settlement-products-but-calls-for-stronger-action>, accessed 30 July 2019.

[15] “Al-Haq Welcomes Ireland’s Seanad Vote in Support of Banning the Import of Unlawful Israeli Settlement Products” (Al-Haq, 11 July 2019), <http://www.alhaq.org/advocacy/targets/third-party-states/1281-al-haq-welcomes-irelands-seanad-vote-in-support-of-banning-the-import-of-unlawful-israeli-settlement-products>, accessed 30 July 2019.

[16] See, for example, David M. Halfbinger “Netanyahu Vows to Start Annexing West Bank, in Bid to Rally the Right” (New York Times, 6 April 2019).

[17] “Al-Haq Condemns US Decision to Unlawfully Recognise Israeli Sovereignty over the Occupied Syrian Golan” (Al-Haq, 28 March 2019), <http://www.alhaq.org/advocacy/targets/third-party-states/1380-al-haq-condemns-us-decision-to-unlawfully-recognise-israeli-sovereignty-over-the-occupied-syrian-golan>, accessed 30 July 2019.■



Palestinian Human Rights Council

Palestinian Detainee Dies in Israeli Custody - PHROC: Israeli Authorities Bear Responsibility for Palestinian Prisoners’ Life and Protection from Medical Negligence, Torture and Ill-Treatment

The Palestinian Human Rights Organization Council holds the Israeli occupation authorities fully responsible for the death of Nasser Taqatqa, 31, who died while being held in Nitzan prison on 16 July 2019. According to the preliminary information available to our organizations, Taqatqa was arrested from his home in Beit Fajjar on 19 June 2019, a month before his death. He was taken to Al-Moscobiyyeh interrogation center in Jerusalem, where he spent the majority of his detention. He was later transferred to Al-Jalameh interrogation center, and then, to Nitzan prison. The circumstances under which Taqatqa died remain unclear as neither we nor his family have been communicated with or given access to his dead body. He had also been banned from meeting a lawyer for the most part of his detention. For the majority of his time in detention, he was kept at Moscobiyyeh, an interrogation center known for its brutal use of torture. He was also held in isolation. Thus, under such circumstances, there is serious concern that he was tortured and exposed to ill and/or degrading treatment while he was in detention. Since the beginning of 2018 three Palestinian prisoners have died in detention. Their bodies are still being held by the Israeli occupation authorities until this day. Aziz Awisat, 53, died on 9 May 2018 from organ failure after experiencing medical neglect while in detention. Faris Baroud, 51, died on 6 February 2019 after 17 years in isolation during which a lack in adequate medical care was observed. Such neglect represents a violation of article 91 of the Fourth Geneva Convention, which requires the provision of adequate medical treatment for prisoners and the transfer of sick prisoners, who require special medical care, to hospitals where they should be treated in a manner befitting any other citizen. According to Addameer’s documentation, since 1967, there have been 220 prisoners who have died while under the custody of the occupation. Of them, 78 were killed in circumstances amounting to murder; eight were killed by gunshots while in prison; 60 died in circumstances linked to medical negligence; and 73 died as a result of torture. . Notably, 114 Palestinian prisoners were killed or died since 3 October 1991; the date of Israel’s signature ratification of the Convention against Torture. This figure includes 57 individuals who were killed following arrest, 33 who died due to medical neglect, and 23 who died due to torture while under interrogation.

Torture and ill-treatment continue to be codified in Israeli military and civilian law. Article 1/34 (j)(a) of the Israeli penal code of 1972 allows the use of physical pressure and extreme mechanisms during interrogations in situations that requires what the law qualifies as the “necessity defense”. In 1999 the Israeli high court allowed those extreme measures in cases of what it qualified as a “ticking bomb” situation, which the court ruled to include threats that are not immediate but necessary to defend against. In 2017, the Israeli high court affirmed the use of torture, qualifying them as “means of pressure,” as a legitimate and reasonable practice to extract confessions under the “necessity defense” doctrine, as in the High Court Decision 15/5722: As’ad Abu Gosh vs The Attorney General. This case was the outcome of the first criminal investigation out of 1,100 complaints opened against Israeli intelligence interrogators. Despite ratifying the United Nations Convention Against Torture in 1991, the occupation authorities have systematically applied torture as a semi-standard practice of punishment and extracting confessions, resulting in severe psychological, physical, and frequently fatal consequences for Palestinian prisoners. In light of these concerns, PHROC calls on the international community to hold Israel accountable to its responsibilities under the Convention Against Torture, to the Geneva Conventions, and to UN procedures and mechanisms. We also call on international institutions to put pressure on Israel, the occupying Power, to provide an autopsy and to release the body of Mr Taqatqa and all the bodies of prisoners who died under their custody to their families. In 2016 the Committee Against Torture included in its recommendations that Israel lacks an absolute prohibition of torture in its law. In accordance with the protection of human rights and dignity, it is important that, and the duty of, the international community to show solidarity in rejecting the inhumane policies that allow the lack of the prohibitions against torture to exist in Israeli law and practice. It is a dangerous precedent and a serious threat to human and civil rights everywhere to continue to allow vague security concerns to justify the persistent violation of international human rights law and humanitarian law, and to inflict and legalize torture and ill-treatment in such a widespread, systematic manner without effective accountability.■

Joint Statement: Israeli Authorities Attempt to Forcibly Deport Palestinian Photojournalist from Jerusalem to Jordan



**THE
UNDERSIGNED
ORGANIZATIONS
CALL FOR
IMMEDIATE
ACTION TO
HALT THE
DEPORTATION
OF MUSTAFA AL-
KHAROUF FROM
JERUSALEM TO
JORDAN, OR
ELSEWHERE**

During the night of 21-22 July 2019, the Israeli authorities attempted to deport Palestinian photojournalist Mustafa al-Kharouf, from Givon Prison near the city of Ramleh in Israel to Jordan, a country where he has no residency rights. The attempted deportation of al-Kharouf may amount to forcible deportation, which is prohibited under international law. According to Mustafa al-Kharouf's lawyer, on 22 July 2019, the Jordanian authorities refused twice to permit al-Kharouf entry into Jordan from the King Hussein and Wadi Araba crossings with Israel, following the Israeli authorities' attempts to deport him.[1] The Israeli authorities refused to disclose the whereabouts of Mustafa al-Kharouf. On 18 July 2019, the Israeli Supreme Court rejected Mustafa al-Kharouf's lawyer's request to appeal the detention by the Israeli authorities and his imminent deportation to Jordan, on the basis that he has not "proven his statelessness."

Mustafa al-Kharouf, 32, was born in Algeria to a Palestinian Jerusalemite father and an Algerian mother and has lived in East Jerusalem with his family since 1999. He is married to Tamam al-Kharouf, a resident of East Jerusalem, and has a 22-month-old daughter named Asia. Mustafa al-Kharouf is a photojournalist who has covered human rights violations by Israeli authorities in the Old City of Jerusalem, including excessive use of force by Israeli forces against Palestinian protesters in and around Al-Aqsa Mosque, for media outlets, including Anadolu Agency.

On 22 January 2019, the Israeli Ministry of Interior ordered the deportation of Mustafa al-Kharouf from his home in East Jerusalem, after denying his request for family unification on undisclosed "security grounds" and alleged "affiliation with Hamas". Mustafa al-Kharouf and his lawyer reject such claims and believe that the refusal to grant him a residency status is an attempt to hinder him from carrying out his work as a photojournalist. That night, Israeli occupying authorities arrested Mustafa al-Kharouf from his home in East Jerusalem and held him in detention in Givon Prison, where he was been held until the attempt to deport him during the night of 21-22 July 2019.

On 3 May 2019, the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 sent a communication to the State of Israel following an urgent appeal that was submitted by six human rights organisations, warning against the imminent and unlawful

deportation of Palestinian photojournalist Mustafa al-Kharouf, as well as his arbitrary arrest and detention since 22 January 2019. Within the context of Israel's measures and policies of restricting and revoking residency rights for Palestinians in Jerusalem, resulting in the displacement and forcible transfer of the protected population in violation of international law, the undersigned organizations call for immediate action to halt the deportation of Mustafa al-Kharouf from Jerusalem to Jordan, or elsewhere, or any forcible transfer or deportation separating him from his wife, child, and family, and ensure his



Journalist Mustafa Al-Kharouf

immediate release. Mustafa al-Kharouf must be afforded a permanent residency status that would allow him to live with his family in Jerusalem and realise his rights, including his right to family life, residency rights, his right to health and to social security, and his rights to freedom of movement, expression, opinion and association.

Undersigned organisations:

Addameer Prisoner Support and Human Rights Association

Al-Haq, Law in the Service of Man

Amnesty International

BADIL Resource Center for Palestinian Residency & Refugee Rights

Cairo Institute for Human Rights Studies (CIHRS)

Civic Coalition for Palestinian Rights in Jerusalem

Community Action Center (Al-Quds University) Jerusalem Legal Aid and Human Rights Center (JLAC)

[1] Al-Araby, "Jordan refuses to receive journalist Mustafa Al-Kharouf following his deportation by the occupation" (22 July 2019), available in Arabic at: <https://bit.ly/2JMNzG9>; and <https://twitter.com/JessicaMontell/status/1153246181167947776>.■

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15 Years Since the ICJ Wall Opinion: Israel's Impunity Prevails Due to Third States' Failure to Act

**THE
ANNIVERSARY
PROVIDES AN
OPPORTUNITY
FOR SOBER
REFLECTION ON
THE DAMNING
FAILURE OF THE
INTERNATIONAL
COMMUNITY
TO ACT IN
ACCORDANCE
WITH THEIR
OBLIGATIONS**

Al-Haq Statement on the Occasion of the 15th Anniversary of the International Court of Justice's Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory

Today, Tuesday, 9 July 2019, marks 15 years since the International Court of Justice (ICJ) released its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (hereinafter 'the Wall Opinion'). The anniversary provides an opportunity for sober reflection on the damning failure of the international community to act in accordance with their obligations as third States to respect and to ensure respect for international humanitarian law, to ensure the realisation of the right of the Palestinian people to self-determination, and to cooperate to bring to an end serious breaches of international law committed against the protected Palestinian population.

While the Wall Opinion arrived at a number of clear and unqualified conclusions, 15 years on, the situation in the Occupied Palestinian Territory (OPT) has deteriorated significantly.

Since 2004, Israeli human rights violations against the protected Palestinian population have sharply escalated. Military attacks on Palestinians, in both the Gaza Strip and the West Bank, including Jerusalem have been regular and devastating. Between, 30 March 2018 and 30 June 2019 alone, Israeli occupying forces perched on a berm surrounding the Gaza Strip have mobilised weekly, to shoot at and target unarmed civilian protesters participating in the Great Return March, killing 207 Palestinians, including 44 children, three women, four paramedics, and two journalists, all calling for their right of return to their homes and property, an end to collective punishment and the siege on the Gaza Strip, and ultimately the realisation of Palestinians' right to self-determination.

The Annexation Wall marks one prong of Israel's policy of colonisation of the Palestinian territory, after 52 years of prolonged occupation, annexing large tracts of Palestinian land, while its associated permit and closure regime fragments the Palestinian territory and its people, who Israel, the Occupying Power, governs under various segregationist administrative regimes. Meanwhile, under the



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The Peace Palace, The Hague

watchful gaze of the international community, Israel's illegal settlement enterprise has significantly expanded, with over 250 settlements now located strategically across the West Bank, including East Jerusalem, in violation of international law. Between 2004 and 2016, Israel's illegal settler population has grown from 441,828[1] to an estimated 622,670.[2] It is evident that the Israeli occupying authorities have spent the last fifteen years continuing to deepen and to entrench the colonisation of the OPT through discriminatory apartheid policies over the Palestinian territory and its people.

Common Article 1 and Third State Responsibility

On the question of the obligations of third States, the Wall Opinion was unambiguous:

"the Court is of the view that all States are under an obligation not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem." [3]

Despite this promisingly clear formulation of the law, third States have largely ignored their obligations under Common Article 1 of the 1949 Geneva Conventions, consistently failing to hold Israel to account for illegal annexation and expansion of illegal settlements in the OPT. Organisations with tax-exempt charitable status in various third States continue to fund settlement infrastructure and even promote violence against Palestinians. Meanwhile third State officials participate in visits to annexed and occupied territory, both in East Jerusalem and in the rest of the OPT.

Since the Wall Opinion was promulgated, third States have also concluded and reaffirmed Free Trade Agreements with Israel that fail to properly distinguish between goods and services originating in 'Israel proper' from those made in illegal settlements. It is worth noting, in this regard, the decision by the European Union (EU) and the European Free Trade Association (EFTA) to exclude imports of settlement products from tariff-free treatment in 2005, handed down shortly after the Wall Opinion. But the Israeli Government responded with a special subsidy for reimbursing settlement exporters obliged to pay EU import duty. And Israel continues to label settlement goods as though they originate from Israel itself, placing the burden of identifying settlement goods on European customs officials, rather than on

Israel as the exporting country.

In general, and despite a recent opinion by the EU Advocate General confirming the need for labelling of settlement goods, the EU has been lacklustre in opposing imports derived from Israel's illegal occupation. In 2012, the World Bank estimated that settler exports to the EU totalled 230 million Euros per year.[4] Leaving it to EU consumers to individually decide whether or not to buy illegal settlement produce, and attempting to exclude settlement goods from tariff exemption, is a far cry from the more robust measures that the EU is expected to implement to restrict the import of illegal settlement goods and services.

Despite this bleak picture, there have been some positive steps to implement and act on the Wall Opinion. The Irish Control of Economic Activity (Occupied Territories) Bill 2018 looks set to pass into law, in a move that would criminalise Irish nationals for the import of settlement goods and services from illegal settlements in occupied territories. In November 2018, the Chilean Parliament passed a similar but non-binding resolution, calling on the Government to review the treaties between Chile and Israel to ensure that they distinguish between the OPT, Israeli settlements therein, and the State of Israel, and "include specific reference to the borders of Israel, recognised as the frontiers prior to the June 1967 war" – in accordance with United Nations (UN) Security Council Resolution 2334 (2016). [5]

In addition, some companies have withdrawn from illegal Israeli settlements and infrastructure projects, including French multinational Veolia. The company sold its Israeli subsidiaries and abandoned Israel as a market altogether in 2015, following a global campaign targeting its links to Israel's occupation and illegal settlements. Irish construction company CRH also withdrew from Israel in 2016 following similar pressure. Similarly, in May and June 2019, Canadian company Bombardier and French company Alstom respectively pulled out from a bid to expand and operate the Jerusalem Light Rail, a tool of Israel's settlement policy



The Wall in Mas-ha, Salfit

and annexation of Jerusalem. Notably, in March 2016, the UN Human Rights Council adopted a motion establishing a database of businesses operating in or with illegal Israeli settlements in the OPT.[6] The same month, Israeli media reported that "a growing number of Israeli companies operating in the West Bank are moving their facilities to locations within [the Green Line]."[7]

Finally, perhaps the biggest development since 2004, has been the State of Palestine's ratification of the Rome Statute of the International Criminal Court (ICC) and its May 2018 referral of the Palestine situation to the Court.[8] The State of Palestine's referral document repeatedly mentions the Wall Opinion, clearly demonstrating the extent to which the authoritative document has come to function as the starting point for any legal analysis of Israel's prolonged occupation of the Palestinian territory and denial of Palestinians' inalienable rights.

The Right of the Palestinian People to Self-determination

The Wall Opinion also had the important function of foregrounding the right of the Palestinian people to self-determination. Confirming it to be a right erga omnes,[9] the Court went on to state:

"Under international law, all States have an obligation not to recognise the illegal situation resulting from the construction of the Wall, including an obligation not to assist or maintain the situation resulting from the Wall's construction. This extends to an obligation to ensure the end of any violations to the Palestinian right to self-determination." [10]

The principle of self-determination outlines not just the duty of states to respect and promote the right, but also the obligation to refrain from any forcible action which deprives peoples of the enjoyment of such a right. The right of return of Palestinian refugees to their homes and property is therefore inextricably linked to the Palestinian people's right to self-determination.

Notably, under international human rights law, Article 1 of the International Covenant

on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), applicable in the OPT, as recognised by the ICJ in the Wall Opinion, "imposes specific obligations on States parties, not only in relation to their own peoples but vis-à-vis all peoples which have not been able to exercise or have been deprived of the possibility of exercising their right to self-determination", as confirmed by the UN Human Rights Committee.[11] Yet, for the past 15 years, third States have consistently failed to act against Israel's illegal construction of the Annexation Wall, despite the ICJ's recognition that it violates Palestinian self-determination.

Instead, the international community has idly stood by as Israel, the Occupying Power, continues works on the Annexation Wall, expropriates further Palestinian land, exploits natural resources for the benefit of its illegal settler population, and entrenches a regime of racial domination and oppression over the Palestinian people, amounting to the crime of apartheid, and also increasingly recognised as the applicable legal framework. In particular, in 2017, the UN's Economic and Social Commission for Western Asia (ESCWA) commissioned a report, which concluded "... on the basis of overwhelming evidence, that Israel is guilty of the crime of apartheid" against the Palestinian people, and urging "swift action to oppose and end it." [12] The ESCWA report contained multiple references to the Wall Opinion, and the ICJ's reasoning clearly helped to legitimise and support the report's important conclusions. More recently, in July 2018, the Israeli Parliament (the Knesset) passed the Jewish Nation-State Law, promoting Israeli settlement construction and expansion, and stating that "the right to exercise national self-determination" in Israel is "unique to the Jewish people", while disregarding the rights of Palestinian nationals. The Jewish Nation-State Law plainly flew in the face of the court's reasoning in the Wall Opinion and entrenched Israel's apartheid over the Palestinian people.

Annexation and Fragmentation of the Palestinian Territory and People

The 2017 ESCWA report found fragmentation of the Palestinian territory and the Palestinian people to be the main instrument through which Israel has imposed a regime of apartheid on Palestinians. Since 2002, the Annexation



Wall has operated, both de facto and de jure, to illegally annex Palestinian land. This has further entrenched Israel's apartheid policies and its occupation and colonisation, radically altering the facts on the ground with the intention of making them irreversible. Perhaps most troubling, the Annexation Wall helped lay the groundwork for US President Trump's highly publicised decision to recognise Jerusalem as Israel's capital on 6 December 2017, and to relocate the US embassy there on 14 May 2018. The United States (US) under President Trump has been a truly menacing force as far as Palestinian rights are concerned, it has precipitated a clear end to the bipartisan consensus US politics on unequivocal support for Israel.

The fifteen years since the ICJ's Wall Opinion have seen Israel's continued fragmentation and annexation of Palestinian territory, in particular in and around occupied East Jerusalem. House demolitions, a restrictive and racially discriminatory permit procedure, and Israel's onerous 'centre of life' regime for Palestinian Jerusalemite residents have all operated to forcibly transfer as many Palestinians as possible from the city. The Annexation Wall has effectively severed Jerusalem from the rest of the OPT. What is more, today some 130,000 Palestinians from East Jerusalem live in Jerusalem neighbourhoods behind the Annexation Wall, in Kufr 'Aqab, 'Anata, and Shu'fat refugee camp, separating families in a highly visible extension of Israel's apartheid regime.

This fragmentation of Jerusalem reflects a broader Israeli policy of fragmenting the Palestinian people into four separate 'domains': Palestinians with Israeli citizenship, Palestinian residents of East Jerusalem, Palestinians in the West Bank and Gaza, and Palestinian refugees in the diaspora. While the Wall Opinion does not explicitly mention this fragmentation process, it does clarify the status of East Jerusalem as occupied territory and reaffirms the prohibition on annexation of occupied territory. In this vein, Al-Haq draws attention to the unlawful annexation of West Jerusalem, during the 1948 occupation, which must be similarly condemned internationally for its manifest violations of international law and continued denial of Palestinian rights of self-determination and permanent sovereignty over the City. Thus, the Court's reasoning continues to provide the

starting point for Palestinian and international opposition to Israel's fragmentation strategy.

The Annexation Wall and its Associated Regime

The Wall Opinion found that:

"...the construction of the wall has been accompanied by the creation of a new administrative régime. Thus in October 2003 the Israeli Defence Forces issued Orders establishing the part of the West Bank lying between the Green Line and the wall as a 'Closed Area'. Residents of this area may no longer remain in it, nor may non-residents enter it, unless holding a permit or identity card issued by the Israeli authorities. According to the report of the Secretary General, most residents have received permits for a limited period. Israeli citizens, Israeli permanent residents and those eligible to immigrate to Israel in accordance with the Law of Return may remain in, or move freely to, from and within the Closed Area without a permit. Access to and exit from the Closed Area can only be made through access gates, which are opened infrequently and for short periods." [13]

Israel has maintained and tightened its draconian permit regime, which severely restricts Palestinians' freedom of movement. For example, Israel has reduced the allocation of permits to farmers to work their lands located behind the Wall. According to HaMoked, "[t]he approval rate for permits for landowners fell from 76 per cent of applications in 2014, to 28 per cent in 2018 (up to 25 November). Permits issued to agricultural workers declined from 70 per cent and 50 per cent of applications in the same period ... The majority of rejections are now based on failure to meet the increasing bureaucratic requirements necessary for permit approval." [14]

Israel maintains its effective control over the Palestinian territory through mass incarceration of Palestinian civilians. In June 2019, Addameer recorded some 5,250 Palestinian political prisoners held under administrative detention, incarcerated without due process or fair procedure, including 205 child prisoners. Out of 69 Palestinian children who provided Defence for Children International - Palestine ('DCI-P') with sworn testimonies in 2017, detailing their experiences following arrest, 49 said they endured physical violence at the hands of

IN THE FIFTEEN YEARS SINCE THE ICJ'S WALL OPINION, THE WEAK RESPONSES BY THIRD STATES HAVE EFFECTIVELY GIVEN ISRAEL A CARTE BLANCHE, TO REMOVE AND ERASE PALESTINIAN PRESENCE IN ORDER TO TRANSFER IN ISRAELI JEWS TO JUDAIZE THE TERRITORY.



Israeli forces:

"The majority of Palestinian child detainees are charged with throwing stones. In addition to physical and psychological abuse during arrest and detention, confessions obtained through coercion or torture are routinely used by military prosecutors to reach a conviction, according to DCIP documentation." [15]

Israel directly interferes with Palestinian political life and has currently incarcerated without trial, seven members of the Palestinian Legislative Council, thereby directly impeding the democratic process and ensuring that there is no room for the expression of democratic rights and freedoms in Palestine, while quashing any political resistance to the ongoing and rapidly expanding colonisation.

Conclusion

In the fifteen years since the ICJ's Wall Opinion, the weak responses by third States have effectively given Israel a carte blanche, to remove and erase Palestinian presence in order to transfer in Israeli Jews to Judaize the territory. Meanwhile the prolonged occupation has taken on a permanent and illegal character and the situation now represents a colonisation, annexation, occupation and apartheid, with the latter increasingly considered the dominant legal paradigm for the characterisation of the continuing Nakba and colonisation of Mandatory Palestine. Al-Haq calls on third States to revisit their duties under Common Article 1 of the Geneva Conventions, and to redouble their efforts to ensure that Israel complies with international law, ceases its construction of the illegal Annexation Wall, restores Palestinians to the status quo that existed before and compensates victims. We look forward to a time when the need to commemorate the anniversary of such a damning legal document will no longer be necessary.

[1] "Israeli Settler Population 1972-2006". Foundation for Middle East Peace. Archived from the original on November 18, 2008: https://web.archive.org/web/20081118071827/http://fmep.org/settlement_info/settlement-info-and-tables/stats-data/israeli-settler-population-1972-2006 accessed 08.07.2019.

[2] Statistics on Settlements and Settler Population, B'Tselem, updated 16.01.2019 <https://www.btselem.org/settlements/statistics> accessed 08.07.2019.

[3] International Court of Justice, Advisory Opinion,

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 9 July 2004, 2004 ICJ Reports, para. 159.

[4] World Bank, 'Fiscal Crisis, Economic Prospects: The Imperative for Economic Cohesion in the Palestinian Territories. Economic Monitoring Report (EMR) to the AHLC', p. 4 (September 2012), quoted in 'Trading Away Peace: How Europe helps sustain illegal Israeli settlements', APPRODEV et al, October 2012, https://reliefweb.int/sites/reliefweb.int/files/resources/TradingAwayPeace_0.pdf accessed 08.07.2019.

[5] 'Not Just Ireland: Chilean Congress Calls for Boycott of Israeli Settlements', Haaretz, 29.11.2018 <https://www.haaretz.com/israel-news/.premium-chilean-congress-follows-ireland-and-calls-for-boycott-of-israeli-settlements-1.6700267> accessed 08.07.2019.

[6] 'Israel slams U.N. body's call for 'blacklist' of settlement companies', Reuters, 24.03.2016, <https://www.reuters.com/article/us-israel-palestinians-un-idUSKCNOWQ2LM> accessed 08.07.2019

[7] 'Israeli Companies Leaving West Bank in Apparent Response to Boycott Pressure', Haaretz, 27.03.2016 <https://www.haaretz.com/israel-news/.premium-israeli-firms-increasingly-leaving-west-bank-1.5423112> accessed 08.07.2019

[8] Referral by the State of Palestine Pursuant to Articles 13(a) and 14 of the Rome Statute, 15.05.2018 https://www.icc-cpi.int/itemsDocuments/2018-05-22_ref-palestine.pdf accessed 08.07.2019.

[9] Advisory Opinion, para 88.

[10] Advisory Opinion, para 159.

[11] UN Human Rights Committee, General Comment No. 12: Article 1, The Right to Self-determination of Peoples, Adopted at the Twenty-first Session of the Human Rights Committee on 13 March 1984, para. 6.

[12] 'Israeli Practices towards the Palestinian People and the Question of Apartheid', Palestine and the Israeli Occupation, Issue No. 1 ESCWA, 2017 (subsequently withdrawn from the UN website following diplomatic pressure).

[13] Advisory Opinion, para. 85.

[14] 'Fewer permits granted to access land behind Barrier', UNOCHA 18.03.2019 <https://www.ochaopt.org/content/fewer-permits-granted-access-land-behind-barrier> accessed 08.07.2019

[15] Palestinian children incarcerated at higher rate, abuses routine, DCI Palestine, 18.07.2019 https://www.dci-palestine.org/palestinian_children_incarcerated_at_higher_rate_abuses_routine accessed 08.07.2019. ■

Updates from the 65th, 66th and 67th Great Return March Protests



During the 65th, 66th and 67th Great Return March protests, on 5, 12 and 19 July 2019, thousands of Palestinians, including women, children, young men, and families, gathered between 4:30 pm and 7:30 pm in the five return camps established by the National Authority for the Return March. Protesters organized popular and folkloric activities in the return camps and surrounding areas, chanted national slogans, and raised Palestinian flags, while dozens of protestors, including women, children and youths, gathered at distances of about 50-300 meters from the fence, while Israeli snipers were positioned behind the hills and sand berms, inside military watchtowers and military enclaves behind the fence on the other side. Some of the protesters threw stones at Israeli forces, while the latter fired live and rubber bullets and tear gas canisters at the protestors.

65th Great Return March Protests, Friday, 5 July 2019.

On the 65th Friday of the Great March of Return, 93 Palestinians, including 31 children, were injured due to the Israeli military's continued use of excessive force against peaceful protestors. Of those injured, 37 were hit with live ammunition and bullet shrapnel, 33 by rubber-coated metal bullets and 23 with direct tear gas hits. One journalist and one paramedic were also injured, while tens of others suffocated from tear gas inhalation.

Injuries

In the Northern Gaza Strip governorate, hundreds of protesters gathered at Abu Safiya, east of Jabaliya, to participate in the Great March of Return. The IOF injured 18 protestors, including nine children, one of whom has a hearing disability. Of the 18, seven were shot with live bullets, three with direct teargas canisters and eight with rubber-coated metal bullets. In Gaza governorate, Israeli forces fired live ammunition and teargas canisters at the protestors, wounding seven, including a child. Four were shot with live bullets; and three were directly hit with teargas canisters. In the Central Gaza Strip, hundreds protested in east of al-Brej refugee camp. The IOF injured 26 protestors, including six children. Of those injured, 19 injuries resulted from live bullets and shrapnel, two from rubber bullets and five from teargas canisters directly shot at them. In Khan Younis governorate, hundreds participated in the protests organized in Khuza'a, east of Khan Younis. Israeli forces fired live,

rubber bullets and teargas canisters at the protestors, injuring 16, including two children and a volunteer paramedic. Five were shot with live bullets and shrapnel, while another five were injured with rubber bullets and six with teargas canisters which directly hit them.

The volunteer paramedic, Nahlah Ziyad Jarghoun, 22, sustained an injury due to bullet shrapnel in the foot. In Rafah governorate, the IOF injured 26 Palestinians, including 13 children and a journalist. Among those injured, two were shot with live fire and bullet shrapnel, whereas 18 others were shot with rubber-coated metal bullets and two were directly hit with tear gas canisters. The journalist, Atta Basel Fojo, 22, was shot with a tear gas canister in the lower parts of the body.

66th Great Return March Protests, Friday, 5 July 2019

On Friday, 12 July 2019, the IOF continued to target Palestinian protestors during the 66th Great Return March protests. Thousands of Palestinians, including women, children and young people, elderly and entire families, gathered between 4:00 pm and 7:00 pm, in the five return camps, set up by the Supreme National Authority. During the peaceful demonstrations, participants organized, their usual popular and folkloric events in and around the camps, chanted national slogans and raised Palestinian flags. The demonstrators, including women, children and youths, gathered at a distance of 50-300 meters from the fence, in completely exposed locations for the Israeli snipers stationed behind the hills and sand barriers and inside the towers and military posts behind the fence. Some of the protestors threw stones at Israeli soldiers, who fired live ammunition, rubber bullets and tear gas canisters. As a result, 71 demonstrators were injured, two of them seriously. Of the injured, 39 were shot with live bullets and bullet shrapnel, 23 were wounded with rubber bullets, and nine were hit by direct gas canisters. Of the 71 injured, 23 children, a medic and two journalists were included.

Injuries

In Rafah Governorate, in east of al-Shouka area, east of Rafah, 16 demonstrators, including four children and a journalist were wounded. Six were wounded with live bullets and shrapnel, and 10 were wounded with rubber-coated metal bullets. The wounded journalist is Taqi Suleiman al-Zamili, 27, who was hit by a rubber-coated metal bullet in the lower limbs. In the Central Governorate, east



of al-Brej refugee camp, 25 demonstrators were injured, including eight children and a journalist. Among the injured, 18 were shot with live bullets and shrapnel bullets, one was hit directly by a tear gas canister, and six were wounded with rubber bullets. The injured journalist, Mahmoud Zakaria Abu Musallam, 22, was shot by a rubber bullet in the left leg. In the Gaza Governorate, in Malka east of al-Zaytoun neighborhood, east of Gaza City, two demonstrators were injured by direct tear gas canisters.

In the Northern Gaza Governorate, in Abu Safiya, east of Jabaliya, 12 demonstrators were injured, including one serious injury leaving the victim in a serious condition and seven children. Of the injured, nine were wounded with live bullets and shrapnel, including five children, one was injured directly from a tear gas canister hit and two children were wounded by rubber bullets. In Khan Younis Governorate, east of Khuza'a area east of Khan Younis, 16 demonstrators were wounded, including one who remains in a critical condition, four children and a volunteer paramedic. Of the injured, six were wounded with live bullets and shrapnel, five with direct tear gas canisters, and five with rubber-coated metal bullets. The injured paramedic, Mahmoud Suleiman Qdeih, 27, was hit by a tear gas canister in his stomach.

It should be mentioned that dozens of demonstrators suffered from tear gas inhalation and were treated on the ground.

67th Great Return March Protests, Friday, 19 July 2019

On Friday, 19 July 2019, the Israeli Occupying Forces (IOF) continued to target peaceful demonstrators during the 67th Great Return March in the Gaza Strip. Thousands of Palestinians, including women, children, young men, elderly and families, gathered between 4:30 pm and 7:30 pm, in the five return camps, and participated in the Great Return March events between, including chanting national slogans and raising Palestinian flags, while dozens of demonstrators, including women, children and youth gathered at distances of about 50-300 meters from the fence, in places completely exposed to snipers.

The IOF who were stationed behind the hills and sand berms and inside military watchtowers and military enclaves beyond the fence. Some of the demonstrators threw stones at the IOF. The IOF continued to use live fire, rubber-coated metal bullets and tear gas against the protestors, also targeting medical personnel on duty, as well as journalists covering the protests, which resulted

in the injury of four paramedics and three journalists. The excessive use of force by the IOF resulted in the injury of 118 Palestinians, 57 of whom were injured with live bullets and shrapnel, 47 with rubber bullets, and 14 with direct tear gas canister hits. Of the 118, 45 children, four women, four paramedics and three journalists were injured. In addition, dozens of demonstrators suffered from tear gas inhalation and were treated on the ground.

Injuries

In the Northern Gaza Governorate, the IOF injured 20 demonstrators, including nine children and one paramedic; five were shot with live bullets, 14 with rubber bullets, and one with a direct tear gas canister hit. The injured paramedic, Khaled Suhail Abed, 27, a volunteer at the Ministry of Health, was wounded by a rubber-coated metal bullet in the foot. In the Gaza Governorate, the IOF injured 16 demonstrators, including six children. Of the 16, five were shot by direct tear gas canisters, 10 by live bullets and bullet shrapnel, and one was wounded by a rubber bullet. In the Central Governorate, the IOF injured 32 demonstrators, including 16 children, two journalists and a paramedic. Four of the 32 were seriously injured, whereas 25 were shot with live bullets and shrapnel, and seven were wounded by rubber bullets. The volunteer medic, Ahmad Ibrahim Washah, 26, a volunteer in the Crescent for the Palestinian Red Crescent, was wounded with a rubber-coated metal bullet in the left foot, while journalist Sami Jamal Masran, 34, was wounded by a rubber-coated metal bullet in the face. Meanwhile, journalist Safinaz Bakr al-Louh, 28, who works as a photographer at Amad News, was hit by a rubber bullet in her back.

In the Khan Yunis Governorate, the IOF injured 17 demonstrators, including four children and a volunteer paramedic. Of the 17, seven were wounded by live bullets and bullet shrapnel, five by rubber bullets, and five others with direct gas canisters. Volunteer paramedic Fatima Walid Najjar, 29, was directly hit by a gas canister in the left hand. In the Rafah Governorate, the IOF injured 33 demonstrators, including 10 children, one journalist and one medic. Of the 33, 10 were wounded with live bullets and shrapnel, 20 with rubber bullets and three by direct gas canisters. Freelance journalist Mu'ath Fathi Al-Homs, 23, was wounded by a rubber-coated metal bullet in the hand, whereas medic Saqr Jihad Al-Jamal, 25, was wounded by a rubber-coated metal bullet in the right shoulder and ear.■

Updates from the 63rd and 64th Great Return March Protests



AL-HAQ

The Gaza Strip

On 21 June and 28 June 2019, Palestinians protestors, including men, women and children and families, gathered in the five return camps established by the National Authority for the Return March. Protesters organized popular and folkloric activities in the return camps and surrounding areas, some 50-300 meters from the fence. The protestors chanted national slogans and raised Palestinian flags, demanding an end to Israel's unlawful prolonged occupation, the illegal closure of the Gaza Strip and the continued denial of their internationally recognized right of return as refugees to their homes. In response, Israel positioned soldiers behind the hills and sand dunes, inside military watch towers and military enclaves behind the fence, on the other side. Some protesters threw stones at the Israeli forces, while the latter returned with unnecessary and excessive force, firing on the protestors with live fire, rubber bullets and tear gas canisters.

63rd Great Return March Protests: Friday, 21 June 2019

During the 63rd Great Return March on 21 June 2019, thousands of Palestinian women, children, young men, and families gathered in the five return camps near the fence along the Gaza Strip between 4:30 and 7:30 pm. Protesters organized popular and folkloric activities, chanted national slogans, and raised Palestinian flags. Meanwhile, dozens of demonstrators gathered between 50 and 300 meters from the fence, at which Israeli snipers were positioned behind hills and mounds of sand, and inside military towers and military jeeps behind the fence on the other side. Some protestors threw stones at the Israeli forces. In response, Israeli soldiers fired live ammunition, rubber-coated bullets and tear gas at the demonstrators, injuring 114, including 33 children, five women, and one medic. Of the injured, 48 were wounded with live bullets and shrapnel, 25 were wounded by rubber bullets, and 41 were injured by tear gas canisters. Dozens others suffered from suffocation by tear gas inhalation and were treated on the ground.

Injuries

In the North Gaza Governorate, the Israeli occupying forces (IOF) wounded nine demonstrators, including four children. Two were wounded by live bullets and shrapnel, five by rubber bullets, and two by direct tear

gas canister hits. In the Gaza Governorate, 19 demonstrators were injured, including six children. Nine were wounded by live bullets and shrapnel, seven by rubber bullets, and three directly by tear gas canisters. In the Central Governorate, 28 demonstrators, including seven children, were injured by the IOF. Of the 28 injured, 22 were injured by live bullets and shrapnel, one by a rubber bullet, and five by tear gas canisters. In the Khan Younis Governorate, 31 demonstrators were wounded, including seven children and a paramedic. Of these, four were wounded by live bullets and shrapnel, six by rubber bullets, and 21 by direct tear gas canister hits. The paramedic was hit by a rubber coated metal bullet in the pelvis while volunteering with the medical team. In the Rafah Governorate, 27 demonstrators were wounded, including nine children. Of the 27,



Great Return March, Gaza 2018

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AL-HAQ

The Gaza Strip

11 were injured by live bullets and shrapnel, six by rubber bullets, and 10 by direct tear gas canister hits.

64th Great Return March Protests: Friday, 28 June 2019

Friday, 28 June 2019, saw an increase in the numbers returning to protest at the Great Return March. Between 4:00 pm and 7:00 pm, thousands of civilians, including women, children and entire families, started gathering at the five encampments established by the National Authority for the Return March, adjacent to the fence. The protesters chanted slogans, raised flags, and a number of incidents arose where protestors attempted to approach the separation fence and throw stones and Molotov cocktails at the Israeli forces, who fired live, rubber bullets and tear gas canisters

at them.

The force used by the IOF resulted in the injury of 122 Palestinian protestors, including 38 children, five paramedics, and two journalists. Among those wounded, 41 were hit with live bullets and shrapnel, 35 were hit with rubber bullets and 46 were directly hit with tear gas canisters.

In addition, dozens of civilians suffered tear gas inhalation due to tear gas canisters that were fired by the Israeli forces. An ambulance, on the east of Rafah, was also damaged by a rubber coated metal bullet.

Injuries

In Rafah Governorate, in al-Shouka, east of Rafah, 29 demonstrators, including 14 children, a paramedic and a journalist were injured, of these 12 were wounded with live bullets and bullet shrapnel, six were wounded with rubber coated metal bullets, and 11 were hit directly with tear gas canisters resulting in injuries to different parts of the body.

In the Central Governorate, east of al-Bureij refugee camp, 30 protestors were injured, including eight children, two volunteer first responders and a journalist. Of these, 15 were wounded with live bullets and fragments of bullets, 13 were injured by direct tear gas canister hits, and two were injured by rubber bullets.

In the Gaza Governorate, in Malka, east of Al-Zaytoun neighborhood east of Gaza City, 21 protestors were injured, including two children. Of the injured, three were wounded by live bullets and fragments of bullets and 18 were wounded with rubber bullets.

In the North Gaza Governorate, in Abu Safiya, east of Jabaliya, in the northern Gaza Strip, 21 demonstrators were wounded, including 10 children and a paramedic. Nine protestors were shot with live fire, including six children. Of the injured, seven were hit directly by tear gas canisters, including four children. In addition, five were injured by rubber bullets.

In Khan Younis, in east of Khuza'a, east of Khan Younis, 21 protestors were wounded, including four children and a first responder. In total, two were wounded by shrapnel from bullets, 15 suffered injuries sustained from direct tear gas canister hits, and four were wounded with rubber coated metal bullets.■

Towards a Joint Strategy for the Protection of Healthcare in Palestine



On Thursday, 11 July 2019, Al-Haq participated in a full-day strategic workshop on protecting healthcare in the Occupied Palestinian Territory (OPT), organised by the World Health Organization (WHO) in cooperation with the Palestinian Ministry of Health and the Office of the United Nations (UN) High Commissioner for Human Rights, at the Carmel Hotel in Ramallah. The strategic workshop brought together a wide range of participants, including health workers, Palestinian and international civil society organisations working in the medical and human rights fields, and representatives of UN agencies in Palestine and Geneva. The WHO Strategic Workshop on Protecting Healthcare was convened to review the extent, nature, and impact of attacks on healthcare in Palestine, to understand gaps in existing approaches for the protection of healthcare, and to identify key strategic interventions and good practices to strengthen the protection of healthcare in Palestine.

During the workshop, important interventions were made by affected Palestinian health workers, who described the challenging environment in which they are forced to operate when providing healthcare to Palestinians in the OPT, including severe movement restrictions imposed by the Israeli occupying authorities, resulting in delays, and at times denials of access, which could have life-threatening consequences. The affected health workers described inhumane “back to back” procedures requiring the transfer of patients, including neonates, from one ambulance to another at Israeli checkpoints, in addition to mandatory checks imposed by the Israeli authorities on Palestinian ambulances reaching Israeli hospitals in East Jerusalem, even in life-threatening situations. In addition, one of health worker recounted his experience of Israel’s excessive use of force against paramedics in Dheisheh Refugee Camp on 27 March 2019, when 17-year-old volunteer first responder Sajed Mizher was shot and killed by the Israeli occupying forces (IOF), while he was attempting to tend to an injured Palestinian.

Speaking on the second panel, Al-Haq’s legal researcher, Rania Muhareb, addressed the IOF’s widespread and systematic attacks on healthcare in the OPT. In particular, she highlighted serious escalations in attacks

against health workers by Israel, the Occupying Power, reflected in the killing of five Palestinian health workers by the IOF since 30 March 2018. Of these, four paramedics were killed during the ongoing Great Return March demonstrations in the occupied Gaza Strip, which may indicate a systematic policy and plan to target healthcare providers, amounting to a grave breach of the Fourth Geneva Convention and a war crime under the Rome Statute of the International Criminal Court (ICC). In particular, Ms. Muhareb’s presentation highlighted Al-Haq’s efforts in refuting Israeli army and media claims on the killing of volunteer first responder with the Palestine Medical Relief Society (PMRS), Sajed Mizher, in Dheisheh Refugee Camp on 27 March 2019, stressing that Israel’s campaign against Sajed sought not only to justify his extrajudicial killing, while he was on duty and clearly marked as a health worker, but also served to undermine the Palestinian health sector as a whole.

Accordingly, Ms. Muhareb stressed that there is an urgent need for accountability for attacks on healthcare in the OPT, including through the opening of an ICC investigation and the implementation of the recommendations of the UN Commission of Inquiry on the Great Return March, which included a number of key recommendations on protecting healthcare and upholding the right to health in Palestine, in addition to its call on Israel, the Occupying Power, to lift its unlawful closure of the Gaza Strip, which has made Gaza uninhabitable and amounts to collective punishment, in violation of international humanitarian law. Ultimately, Ms. Muhareb argued that, in the absence of serious and genuine efforts to seek accountability, attacks against Palestinian civilians, including health workers, would continue and Israeli impunity would prevail.

During the second part of the workshop on “strengthening health protection”, the WHO organised three breakout groups to examine monitoring and documentation, advocacy and prevention, and coordination and interventions for mitigation of attacks on healthcare in Palestine. Along with the WHO, Al-Haq facilitated the advocacy breakout session, which explored advocacy tools for the prevention of violations of the right to health, including the development of targeted

THE AFFECTED HEALTH WORKERS DESCRIBED INHUMANE “BACK TO BACK” PROCEDURES REQUIRING THE TRANSFER OF PATIENTS, INCLUDING NEONATES



campaigns, the need for scientific research and data collection, and the importance of accountability for attacks on healthcare in Palestine. The advocacy breakout group examined successes of previous efforts to advocate for the right to health in Palestine, including as a result of civil society efforts at the UN Human Rights Council in Geneva and at the European Union Member State level, while it also identified the violations and challenges facing the Palestinian health sector. At the close of the breakout session, participants in the advocacy working group agreed to establish an emergency response group to better coordinate efforts in countering attacks against healthcare and further violations of the right to health in Palestine.

To read Al-Haq’s recent work on attacks on healthcare, see, for example:

- Israeli Occupying Forces Target and Kill Palestinian Civilians, including a Paramedic (20 June 2019)
- Al-Haq Refutes Israeli Army and Media

Claims on the Killing of Volunteer First Responder Sajed Mizher in Dheisheh Refugee Camp (8 April 2019)

- Palestinian, Regional, and International Civil Society Call for Action Ahead of One-Year Commemoration of Great Return March (27 March 2019)
- Diplomatic Briefing: “The Great Return March: One Year On” (15 March 2019)
- Two Palestinians Killed, including a Volunteer Paramedic, during 20th Great Return March Protests (13 August 2018)
- Israeli Forces Kill Paramedic and Injure 100 Palestinians as Great Return March Enters 10th Week (3 June 2018)
- Israel Deliberately Injures and Maims Palestinian Civilians, Prevents Evacuation of Wounded, and Denies Access to Vital Healthcare Facilities Outside the Gaza Strip (18 April 2018).■



Israel forcing international lecturers out of West Bank Palestinian universities



Birzeit University, Adalah, Al-Haq now fighting to end escalating discriminatory Israeli policy aimed at blocking international academics from entering the country and refusing to renew visas for those with teaching contracts.

8 July 2019

Israel is refusing to issue work permits for international academics working at Palestinian universities in the occupied West Bank and is escalating a harsh visa policy that is forcing them to abandon their students and leave the country. Murky and arbitrary Israeli regulations leave international lecturers and their families in constant uncertainty and subject to deportation at any time.

Now, a Palestinian university in the West Bank, together with two Palestinian human rights groups, are taking legal action.

After three consecutive academic years during which Israel has intensified its efforts to force international lecturers to leave the country, Birzeit University, Al-Haq, and Adalah – The Legal Center for Arab Minority Rights in Israel, are demanding an immediate halt to this policy targeting Palestinian academic freedom and isolating Palestinian institutions of higher learning. **Birzeit University – despite operating under Israeli military occupation – must be guaranteed the ability to exercise its right to freedom of education.**

In a letter sent on 30 April 2019 to Israeli Interior Minister Aryeh Deri, Israeli Attorney General Avichai Mandelblit, Israeli Chief Military Advocate General Sharon Afek, and the Israeli military's Coordinator of Government Activities in the Territories (COGAT) Kamil Abu Rokon, Birzeit University, Al-Haq, and Adalah demand that Israel:

- lift the restrictions preventing international academics employed by Birzeit University from staying and working in the West Bank;
- refrain from imposing arbitrary restrictions on the duration of stay or extension of stay for international academics;
- order the publication of a clear and lawful procedure for issuing entry visas and work permits for international academics

in the West Bank, which will enable the university to manage and maintain its academic freedom.

THE NUMBERS

While only Israeli authorities can provide full figures over the past number of years, by 2017 a variety of sources confirmed an escalation in Israel's refusal to renew visa extensions as well as a range of other conditions. The Right to Enter Campaign, which has monitored the issue of entry and visa procedures for foreign nationals for over a decade, reports a clear escalation in refusals on visa extension applications and tightening of



THE ISRAELI POLICY TOWARD INTERNATIONAL ACADEMICS VIOLATES BOTH ISRAELI LAW AND INTERNATIONAL LAW.

restrictions since at least mid-2016.

For example, the Edward Said National Conservatory of Music, an affiliate of the Board of Trustees of Birzeit University, reported a 200 percent increase in visa denials over the past two academic years alone: In the 2017-2018 academic year, four international faculty out of 20 were denied visa extensions or entry at the border; in 2018-2019, eight international faculty out of 19 were denied visa extensions or entry.

Between 2017 and 2019, four full-time and three part-time international lecturers at Birzeit University were compelled to leave

the country and were not able to continue their teaching because Israel refused to renew their visas. In 2019, Israel denied entry to two international academics with Birzeit University contracts. Not a single international faculty member, with the exception of those directly employed by foreign government-sponsored programs, was issued a visa for the length of their 2018-2019 academic year contract. As of press time, six full-time international faculty members contracted for the 2018-2019 academic year are without valid visas; another five – including a department chair – are overseas with no clear indications of whether they will be able to return and secure visas required for them to stay for the coming academic year. Over 12 departments and programs face losing faculty members in the coming academic year because of the Israeli policy.

Birzeit University President Abdullatif Abuhijleh said: "Blocking our right to engage international academics is part of an ongoing effort by the Israeli occupation to marginalize Palestinian institutions of higher education. The latest escalation in visa restrictions is just one in a longstanding and systematic Israeli policy of undermining the independence and viability of Palestinian higher education institutions".

PALESTINIAN UNIVERSITIES IN THE CROSSHAIRS

Birzeit University is not alone: universities across the Occupied Palestinian Territory, including East Jerusalem, are being affected by the Israeli policy.

A February 2018 Palestinian Ministry of Education study found that more than half of the international lecturers and staff (32 out of 64) at eight universities were detrimentally affected during the previous two years by Israeli rejections of applications for new visas or visa extensions or by refusal to allow them to enter the West Bank. These academics, many of them Palestinians holding foreign passports, are citizens of various countries including the Netherlands, France, Germany, India, and Jordan, with the majority from the U.S. and European Union member states.

Over the past two years, Israel has been escalating the visa restrictions it is imposing





on international academics, including: denial of entry to the West Bank; refusing visa extensions; delays in processing visa extension applications beyond the duration of the period the visa is valid; arbitrarily granting visas for short periods, sometimes ranging from only two weeks to three months; restricting visas to the West Bank only and permitting entry and exit only via the Allenby Bridge crossing rather than via Ben Gurion Airport; requirements to deposit large sums as guarantees, sometimes as much as NIS 80,000 (approx. US\$23,300).

Without work permits issued by Israel and no clear means for securing visas to enter or stay, international academics have no guarantees they can travel to Palestinian universities that recruit them, remain in the OPT for the duration of their academic contracts, or return if they travel abroad for academic or personal reasons.

These Israeli restrictions have severe repercussions on Birzeit, its students, and the Palestinian public at large, isolating the university from other educational institutions around the world and diminishing the quality of education it offers to the Palestinian people.

ISRAELI POLICY ILLEGAL

In 2019's QS World University Rankings, Birzeit University ranked within the top three percent of universities worldwide. But these rankings

are based on a number of key indicators – including the proportion of international faculty and international students – that Israel is now targeting. By preventing Birzeit from employing international faculty, Israel is impeding its ability to function as a university that meets international standards.

The Israeli policy toward international academics violates both Israeli law and international law. It violates universities' freedom to expand the areas of research and studies it offers to Palestinian and international students alike. As such, Israel is blocking the occupied Palestinian population from determining for themselves what kind of education they want to provide.

Adalah Deputy General Director Attorney Sawzan Zaher, who drafted the letter to Israeli authorities, said: "Palestinians in the West Bank and Gaza Strip – like all other peoples around the world – are entitled to exercise their right to academic freedom as part of their right to self-determination. The Israeli military occupation cannot prevent Palestinians from exercising this right".

Indeed, according to the interpretation applied to Article 43 of the Hague Regulations of 1907, sovereignty of education does not change hands – it is inalienable – and must remain in the hands of the occupied Palestinian population.■



ILC Draft Principle on the Protection of the Environment in Relation to Armed Conflicts



INTERNATIONAL LAW COMMISSION

THE DRAFT PRINCIPLES ADDRESS DIRECTLY THE RESPONSIBILITY OF OCCUPYING POWERS FOR ENVIRONMENTAL HARMS

Al-Haq welcomes the International Law Commission adoption of Draft Principles on the Protection of the Environment in Relation to Armed Conflicts on 8 July 2019. These Draft Principles reflect Al-Haq's previous advocacy, which sought to ensure the principles specifically covered the use of natural resources during occupations and corporate accountability for the exploitation of the environment in situations of armed conflict. As adopted, the Draft Principles address directly the responsibility of Occupying Powers for environmental harms and use of natural resources. In particular, Draft Principles 10 and 11, are laudable in recognising that the most egregious environmental harms caused during belligerent occupation, in particular prolonged belligerent occupations like Israel's occupation of the OPT, are often orchestrated by corporations acting under leases awarded by the Occupying Power, for substantial commercial gain.

Al-Haq's analysis suggests the Draft Principles provide new pathways for advocacy on these issues, importantly for Al-Haq's work in the Occupied Palestinian Territory and especially on business and human rights and corporate accountability. However, there remain some areas which could be improved. Civil society must remain engaged to push for progressive changes now that the Draft Principles have moved from consideration by the Drafting Committee into the final stage of negotiation at the higher level of the ILC plenary. Further, the finalisation of associated commentary will be an important part of these principles' efficacy in re-stating, and modernising, the toolbox of international humanitarian law. Al-Haq will remain committed to constructively engaging in the ILC drafting process to ensure the Draft Principles reflect international humanitarian law and the realities of occupation.■

The Wall in Qalqilia



Israeli Minister for Strategic Affairs Continues Attack on Al-Haq

The Israeli Ministry of Strategic Affairs, led by Gilad Erdan, along with other institutions that operate under the guise of Israeli community groups, continues to target Al-Haq. In the most recent incident, 4IL published an inciting article accusing Al-Haq's eminent and internationally award-winning



Al-Haq General Director Shawan Jabarin

human rights defender and General Director, Mr. Shawan Jabarin, of "terrorism". Notably, 4IL is the Facebook page of Israel's Ministry of Strategic Affairs and calls on members to "be on the frontline of defending Israel".

The latest attack was initiated after Al-Haq marked its 40th anniversary, an event which brought together inter alia dozens of distinguished international diplomatic representatives, eminent academics and representatives from different United Nations and European Union bodies and offices and international organisations. Following the event, 4IL publicised allegations and misinformation against Al-Haq and its General Director, allowing for unfiltered defamatory comments on its public platforms. On the 4IL Facebook page, visitors launched into unconstrained hate speech against Al-Haq, while numerous uncensored comments called for the killing of Mr. Shawan Jabarin. Examples include: "When do we put a bullet in the head?", "Why do such people still breathe?", "Why has he not been liquidated?" These and many other comments fall under incitement and hate speech. The attack is the latest in a large-scale campaign against Palestinian and other civil society organizations working to promote and protect the rule of law and human rights standards for the Palestinian people. The campaign, which has been carried out for years by the Israeli authorities and other groups, is designed to silence Palestinian and other human rights organisations and frustrate their efforts to monitor and document Israeli violations, and ensure accountability, particularly for perpetrators of war crimes

and crimes against humanity. The campaign has also targeted other actors, including UN mandate holders, who play a key role in exposing Israeli violations. Additionally, the campaign is designed to smear and intimidate human rights defenders and distract them from their core work towards promoting and protecting human rights standards and holding Israeli officials to account for international crimes, which fall within the jurisdiction of the International Criminal Court.

By silencing Palestinian civil society, Israel continues unabated its brutal and repressive prolonged 52-year military occupation of the Occupied Palestinian Territory, rapidly expanding the colonisation and de facto annexation of the territory, while denying the Palestinian people their inalienable right to self-determination and permanent sovereignty over natural resources.

Nonetheless, Al-Haq is committed to continue and intensify its work in the pursuit of justice through international legal mechanisms. Attacks and attempts of intimidation, including by creating an online public platform to send hateful messages, threats and death threats, will not waiver or compromise the work and focus of Al-Haq and its staff members.

Al-Haq calls on social media companies, particularly Facebook, Twitter and Google, to block 4IL as well as all Israeli sites, which incite violence and murder against Palestinians and Palestinian human rights defenders. Further, Al-Haq reminds corporations of their enhanced due diligence responsibilities to comply with their human rights obligations when supplying services in conflict affected areas. Following with great concern such media platforms, Al-Haq calls on the international community to stop Israeli incitement and put an end to such calls, which target Palestinian civil society, as well as other national figures and individuals. Al-Haq also calls on the United Nations Special Rapporteur on the situation of human rights defenders to intervene to stop the campaign of hatred against Palestinian human rights organisations, most notably the incitement to murder of Palestinian human rights defenders.

Al-Haq holds responsible the Israeli government, represented by the Minister of Strategic Affairs Gilad Erdan, for any actions and consequences that affect Al-Haq, its Director General, Mr. Shawan Jabarin, and its staff members.■

AL-HAQ CALLS ON SOCIAL MEDIA COMPANIES, PARTICULARLY FACEBOOK, TWITTER AND GOOGLE, TO BLOCK 4IL AS WELL AS ALL ISRAELI SITES, WHICH INCITE VIOLENCE AND MURDER AGAINST PALESTINIANS

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AL-HAQ



AL-HAQ

Executive Summary: A Legal Treatise on the Laws by Decree Amending the Law on the Judicial Authority Law and on the Formation of a Transitional High Judicial Council

Executive Summary

On 15 July 2019, Palestinian President Mahmoud Abbas promulgated two laws by decree, the Law by Decree Amending the Law on the Judicial Authority, and the Law by Decree on the Formation of a Transitional High Judicial Council. Both were published in the Official Gazette the next day, on 16 July 2019. These laws by decree involve an encroachment on the Amended Palestinian Basic Law, as well as on constitutional principles and values, particularly the principles of the rule of law, the separation of powers, and judicial independence. As a result of their adoption, the laws by decree have

forced a quarter of judges into retirement. In addition to judges of the Courts of Appeals and the Courts of First Instance, these include the 35 judges of the Palestinian Supreme Court, comprising the Court of Cassation and the High Court of Justice.

Through these laws by decree, the executive authority has encroached upon the judicial authority in what has become the widest interference in the judiciary in the history of the Palestinian Authority. Both enactments are haphazard and were not informed by regulatory impact assessments, which should have examined the potential consequences and implications on the political system, the judicial power, and the rights of litigants before the courts. Developed in closed meetings, they were enacted in light of ongoing conflicts and significant polarisation within the judiciary and beyond. Despite the fact that reform is a right of Palestinian society, the draft laws by decree were not presented for community consultation, reflecting the same long-standing approach and performance of the executive branch of Government.

As of now, the number of laws by decree issued by the President is equivalent to three times the number of laws passed by the Palestinian Legislative Council (PLC) during its first ten-year constitutional term (i.e. 30 years-worth of laws adopted by Parliament). The Gaza-based PLC issued as many laws as those enacted during the entire first parliamentary term of the PLC (i.e. ten years-worth of laws adopted by Parliament). Overall, the total number of laws by decree issued in the West Bank and laws passed in the Gaza Strip is equivalent to 40 years of legislation adopted by Parliament. The absence of the PLC has particularly impacted the legislative consolidation process between the West Bank and the Gaza Strip and has transformed the Palestinian legislative system on a multitude of levels, which will take years to harmonize and address.

The enactment of the Law by Decree Amending the Law on the Judicial Authority has resulted in the abrupt retirement of 52 judges in the West Bank and Gaza Strip, including all 35 judges of the High Court. In addition, more



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Higher Judicial Council Headquarter, Ramallah

than ten judges are further expected to be forced into retirement in the coming year. Having created a major vacuum in the judicial authority, the law by decree does not provide any criteria or basis to bridge this significant gap. A list including the number and names of judges forced into retirement is annexed to this report.

The Law by Decree on the Formation of a Transitional High Judicial Council has led to the dissolution of the current High Judicial Council as well as all panels of the High Court and of the Courts of Appeals. The law by decree vests the Transitional High Judicial Council, which was established by the President alone, with overbroad powers over the judiciary. In addition to restructuring the judicial authority as a whole, these powers include the authority to dismiss, to force retirement on pension, and to transfer judges to other positions. In other words, the law by decree envisages the possibility of further undue interference with the judiciary.

On this basis, the Transitional High Judicial Council will be in charge of restructuring the next permanent High Judicial Council. It will also develop draft legislation to amend judicial laws. To this end, the President has given the Transitional High Judicial Council, which he has established, a term of one year to exercise these overbroad powers. This period is renewable for another six months based on a recommendation from the Transitional High Judicial Council itself and the President's approval in the form of a presidential decision. The Transitional High Judicial Council was formed through the selection of particular members, rather than on the basis of qualifications. The law by decree does not provide a basis or criteria clarifying the process through which all seven members of the Transitional High Judicial Council were

selected.

The adoption of the Laws by Decree Amending the Law on the Judicial Authority and on the Formation of a Transitional High Judicial Council were informed by recommendations of the Justice Sector Development Committee, which the President established under a Presidential Decision, dated 6 September 2017. In its stated positions and papers on the judiciary, Al-Haq has highlighted that the Committee's recommendations are contrary to the Palestinian Basic Law and constitutional principles and values. The Committee has turned a blind eye to the dire situation of the judiciary and justice sector in the Gaza Strip. It also failed to address the role and functioning of the Supreme Constitutional



Higher Judicial Council, Ramallah

Court (SCC), which had violated the Basic Law. The Presidential Decision on the formation of the SCC was also at odds with the Law on the Supreme Constitutional Court itself. was further affected by a conflict of interests. As a result, Al-Haq has concluded that the Committee's recommendations do not provide a valid basis for judicial reform.

The laws by decree recently promulgated by the President violate relevant court decisions, in that they never consulted the High Judicial Council before both laws by decree were adopted, as confirmed by the Chairman of the dissolved High Judicial Council. This is contrary to the provisions of the Basic Law, which requires draft laws governing any matter relating to the judicial authority, including the Public Prosecution, to be referred to the High Judicial Council for consultation before its adoption. As such, the laws by decree fail

AS OF NOW, THE NUMBER OF LAWS BY DECREE ISSUED BY THE PRESIDENT IS EQUIVALENT TO THREE TIMES THE NUMBER OF LAWS PASSED BY THE PALESTINIAN LEGISLATIVE COUNCIL (PLC) DURING ITS FIRST TEN-YEAR CONSTITUTIONAL TERM

SHOULD THE EXECUTIVE AUTHORITY NOW TARGET CIVIL SOCIETY THROUGH LAWS BY DECREE, THEN THERE WILL BE NOTHING LEFT OF THE PALESTINIAN POLITICAL SYSTEM WITH THE EXCEPTION OF THE EXECUTIVE AUTHORITY ITSELF, WHO WOULD BE IN CONTROL OF ALL PUBLIC POWERS AND COMMUNITY OVERSIGHT.

to comply with the judgement rendered in 2005 by the High Court, acting in its constitutional capacity, in which the Court rule in favour of the annulment of the Law on the Judicial Authority No. 15 of 2005, because at the time, and contrary to the Basic Law, the High Judicial Council had not been consulted before

it was enacted and published. On Sunday, 27 November 2005, the High Court ruled that the law was unconstitutional and had no legal effect. The recently enacted laws by decree also disregard the decision rendered by the High Court of Justice on 16 September 2018, suspending the operations of the national Justice Sector Development Committee, as cited in both enactments, implying a persistent disrespect of court judgements and decisions.

The constitutional legislature demonstrates a clear and decisive will in relation to the lack of compliance with court judgements and decisions, as emphasised in Article 106 of the Amended Basic Law, which provides that "[j]udicial rulings shall be implemented. Refraining from or obstructing the implementation of a judicial ruling in any manner whatsoever shall be considered a crime carrying a penalty of imprisonment or dismissal from position if the accused individual is a public official or assigned to public service. The aggrieved party may file a case directly to the competent court and the National Authority shall guarantee a fair remedy for him." Can reform therefore take place through violations of the Basic Law and court decisions, in the absence of community oversight, in light of the continuing deterioration in the political system, and the monopoly of the executive power?

Together with all panels of the High Court and Courts of Appeals, the High Judicial Council was disbanded seven months after the SCC decided to dissolve the PLC by means of a "declaratory judgement" it rendered on



The Supreme Constitutional Court, Ramallah

Wednesday, 12 December 2018. As a result, with the dissolution of both the legislature and the judiciary, the principle of the separation of powers is no longer conceivable within the Palestinian political system, which is already suffering a continued deterioration.

Should the executive authority now target civil society through laws by decree, then there will be nothing left of the Palestinian political system with the exception of the executive authority itself, who would be in control of all public powers and community oversight. Should this occur, then reform would transform from an inherent right of Palestinian society into a power in the hands of the executive and the President.

Throughout the history of the Palestinian Authority, this is the first time the Law on the Judicial Authority, as referred to under the Basic Law, is targeted by a law by decree. Of all the laws approved by the PLC, the Law on the Judicial Authority is one of the most advanced, protecting and maintaining the independence of the judiciary and of judges. Al-Haq has repeatedly stressed that the structural dysfunction of the judicial authority has nothing to do with the law itself. Rather, it is the consequence of violations of the principles of the rule law, the separation of powers, and judicial independence, in addition to the continued lack of will, within the political system, to carry out reforms. This is due to the absence of elections and of a peaceful and democratic transition of power, as well as the failure to fulfil the right of citizens, particularly the youth, to freely choose their



representatives in freely organised elections.

The Amended Palestinian Basic Law, which reflects the constitutional legislator's will, confirms not only that the amendments to the Law on the Judicial Authority are unconstitutional, but that they can also lead to further deterioration in the political system and in the exercise of judicial functions. In no way can these amendments affect the positions of current judges, who have been removed from judicial office as a result. Informed by relevant legal and constitutional references, this report clearly shows that retirement does not apply to those judges who were appointed before the recently adopted and published laws by decree on the judiciary. Instead, these laws by decree can only be enforced on those judges who will be appointed and forced into retirement following their adoption.

In the judiciary and other sectors, reform is an indivisible whole and should cover both the West Bank and the Gaza Strip. Individual rights and justice are also indivisible. It is morally, nationally, and constitutionally impermissible that any Palestinian is excluded and deprived of his or her natural right to full justice and engagement in the reform process. This applies to all Palestinians in the Gaza Strip, which has become uninhabitable according to United Nations reports, Palestinians in the West Bank, and Palestinians anywhere else. This will be reflected in Article 9 of the Palestinian Basic Law, which reaffirmed that "Palestinians shall be equal before the law and the judiciary, without discrimination." Whatever its form and geographical scope, discrimination undermines the will of the constitutional legislator and constitutional values.

As approved by the Palestinian legislature, the Law on the Judicial Authority No. 1 of 2002 has great potential for reforming the judiciary and the justice system once there is a will for reform. In addition to pillars of good governance, the provisions of both the Law on the Judicial Authority and of the Basic Law must be respected and observed. As a first step, effective institutional structure and performance need to be consolidated though

a High Judicial Council that is established by the force of law, rather than by the will of the executive. In addition, the principle of the rule of law must be upheld, namely, through respect for the Basic Law and the Law on the Judicial Authority, which lay out the composition and jurisdiction of the High Judicial Council. There is also a need for an effective community role and coordinated collective action to achieve this goal.

There is an urgent need to carry out widespread community consultations, throughout all Palestinian Governorates, in order to restore the political system and achieve judicial reform. To this avail, all efforts must unite to bring an end to the continued state of deterioration in the judiciary and in the justice system as a whole. Serious and effective reforms must be launched. These must be capable of putting the force of the Basic Law and of the Law on the Judicial Authority to the test in the reform process, which must be based on respect for the principles of the rule of law, the separation of powers, and judicial independence, in addition to the requirements of good governance. In addition, it must be accompanied by a serious effort, and continued and coordinated collective action, to hold general, comprehensive, democratic, and transparent national elections, as soon as practicable. Elections must be held in a democratic process that ensures respect for public rights and freedoms. Finally, reform must entail an end to the continued deterioration in the entire Palestinian political system and to the unprecedented monopoly of public powers and in the decision-making process, while it requires a democratic transition, respect for human dignity, and the protection and maintenance of justice. This is a natural and constitutional right of the Palestinian people, who are the source of all public powers.

The full publication, issued by Al-Haq in Arabic, on 24 July 2019, is available here.

The publication will soon be available in English.■

**ALL EFFORTS MUST
UNITE TO BRING
AN END TO THE
CONTINUED STATE
OF DETERIORATION
IN THE JUDICIARY
AND IN THE JUSTICE
SYSTEM AS A WHOLE.**



Position paper by Palestinian human rights organisations: The Law by Decree Amending the Law on the Judicial Authority and the Law by Decree on the Formation of a Transitional High Judicial Council

Published in Arabic[1]

The undersigned Palestinian human rights organisations view with deep concern the current status of, and patterns of interference with, the Palestinian judiciary and justice sector. The human rights organisations are further greatly concerned as to the violation of firmly established constitutional principles as enshrined under the Amended Basic Law. On 15 July 2019, the Palestinian President promulgated Law by Decree No. 16 of 2019 Amending the Law on the Judicial Authority and Law by Decree No. 17 of 2019 on the Formation of a Transitional High Judicial Council. Published in the Official Gazette, both recently adopted laws by decree reflect a dangerous shift undermining constitutional legitimacy, particularly the principles of the rule of law, the separation of powers, the foundations of judicial independence, and pillars of good governance. As a result, such a shift may strip fundamental rights and freedoms of their judicial protection, which require an independent judiciary, whose formation and functions are solely governed by law and the principle of legality.

Modern constitutional jurisprudence and legislation tends to view the independence of the judiciary as a key prerequisite for democratic constitutions. Providing a protective shield for public rights and freedoms and the principle of the rule of law, the judiciary is accorded the same status as the executive and legislative branches of Government. Accordingly, constitutions and laws must incorporate norms guaranteeing the requirements of judicial independence by laying the foundations for specific constitutional and legal regulations ensuring the protection of the independence of the judiciary both procedurally, in terms of its formation, and objectively in terms of its functioning. These matters are addressed under Articles 97, 98, 99, and 100 of the Palestinian Basic Law, which serves as the provisional Constitution.

Under the principle of the supremacy of the constitution, ordinary legislation must comply with, and may not violate, the object and purpose of constitutional laws. As such, the ordinary legislature, meaning the legislative power, must maintain the highest degree of vigilance in the law-making process. This principle is all the more relevant in the case of extraordinary legislation, namely laws by

decree, which are promulgated while the Palestinian Legislative Council, the Parliament, is not in session and in cases of necessity, which cannot be delayed. Notably, laws by decree have the same power of law as ordinary legislation but are not considered laws as such. Rather, they constitute executive decrees that have the force of law. When it comes to the judiciary, there is a need for even greater vigilance, the Palestinian Basic Law regarding the judicial power as a constitutional matter, for which it has devoted a special and markedly different regulation compared with other matters.

The amendment to the Law on the Judicial Authority comes in light of the current crisis and the unprecedented conflict and polarisation within the Palestinian political system, with their serious implications on the enjoyment of human rights and fundamental freedoms in Palestine. The amendment also comes within the context of the continued deterioration in the human rights situation and the failure by the State of Palestine to abide by its international obligations following its accession to core human rights treaties, and in particular, the 1966 International Covenant on Civil and Political Rights (ICCPR), which obliges States Parties to ensure the independence and impartiality of the judiciary. In addition, the recently adopted laws by decree on the judiciary are contrary to the 1985 United Nations (UN) Basic Principles on the Independence of the Judiciary, which reaffirm that judicial independence shall be guaranteed by the State, while they further violate the object of national constitutional principles guaranteeing judicial independence.

Having followed closely the amendment by the executive authority of the Law on the Judicial Authority, its dissolution of the High Judicial Council as well as all panels of the High Court and of the courts of appeals, and the formation of a Transitional High Judicial Council with broad and open-ended powers without legal safeguards or standards, the Palestinian human rights organisations here undersigned stress the following:

1. The amendment of the Law on the Judicial Authority is one of the constitutional matters for which a special regulation has been devoted by the constitutional legislator, in addition to different procedures from those applicable to ordinary laws. In fact, according

to Article 100 of the Amended Basic Law, the amending authority must consult with the High Judicial Council with regard to draft laws relating to any matter concerning the judicial authority, including the Public Prosecution. However, this procedure was not followed in the promulgation of the recently adopted laws by decree on the judiciary, as reflected in both their preambles, which state that they are based on the recommendations of the National Justice Sector Development Committee, headed by the Chairman of the High Judicial Council, and as established by the executive authority. Accordingly, these laws by decree were not adopted following consultation with the High Judicial Council, as mandated by the abovementioned constitutional provision.

2. In Article 2(3), Law by Decree No. 17 of 2019 vests the Transitional High Judicial Council with broad powers, including the power to dismiss any judge upon a recommendation to the President. This amounts to a grave violation of the principle of the irremovability of judges in cases other than those prescribed by the law, as guaranteed under Article 99(2) of the Basic Law and Article 27 of the Law on the Judicial Authority. The principle of the irremovability of judges constitutes a key judicial guarantee for the protection of fundamental rights and freedoms in addition to the rule of law. Additionally, once the Transitional High Judicial Council is in place, the power of removal jeopardises the continued exercise by judges of judicial office and undermines the solemn status of, and public confidence in, the judiciary, while it foreshadows an increase in authoritarian control, which is inconsistent with the principles of justice, integrity, and the role of the judiciary, for lacking in relevant safeguards.

3. Based on the broad sense and powers it provides, Law by Decree No. 17 of 2019 tasks the Transitional High Judicial Council with reforming and developing the judicial authority and the Public Prosecution, which extends, under Article 2(4), to developing draft legislation amending the Law on the Judicial Authority No. 1 of 2002 as amended and the Law on the Formation of Regular Courts No. 5 of 2001 as amended, in addition to any other set of laws relating to the judiciary. This power undermines the principle of popular sovereignty, in the sense that it seizes the role of Parliament – the representative of

popular will – in enacting laws and regulations governing all societal matters, including society's interest and right to an independent and fair judiciary, whereas reform should not involve a violation of the Basic Law.

4. The Law on the Judicial Authority No. 1 of 2002 provided, in Article 81, that the President of the Palestinian Authority has the power, upon a recommendation by the Minister of Justice, to issue a decision on the formation of a Transitional High Judicial Council, only once, and within a maximum period of one year. This power was exercised by the President through Presidential Decree No. 11 of 2002. In addition, the formation of the High Judicial Council succeeding the Transitional Council must be subject to the Law on the Judicial Authority, and in particular, to the conditions of Article 37 thereof. As such, Law by Decree No. 17 of 2019, which stipulates the formation of a new Transitional High Judicial Council, violates the provisions of the Law on the Judicial Authority, while it is incompatible with the intention by the constitutional and ordinary legislators to grant the executive authority the power to intervene, only once, in the formation of the High Judicial Council and for the purpose of the initial establishment of a Transitional High Judicial Council, in order to prevent the executive from interfering in the affairs of the judiciary.

5. The Law on the Judicial Authority No. 1 of 2002 establishes a Judicial Inspection Department in accordance with Part II of Chapter Four and governs disciplinary accountability of judges, under Part IV of the same section. Recourse may be had to these provisions to hold judges to account for misconduct, while at the same time maintaining their right to defend themselves. As such, reform can take place without encroaching upon the rule of law. This explains why the judicial crisis is not a crisis of law, but instead arises from violations of the rule of law and the erosion of constitutional principles and values, the requirements of integrity and transparency, and the tenets of good governance.

6. Combined with the dissolution of the legislature, the ongoing deterioration in the judiciary and the executive is the result of the continued Palestinian political divide and its associated implications and the failure to comply with the provisions of the Law on

the Judicial Authority. Rather than stemming from the Law on the Judicial Authority, the continued deterioration is also the result of attempts by the executive authority to seek domination over the judiciary and the justice sector as well as repeated violations, by the executive power itself, of the Palestinian Basic Law and constitutional norms.

Against this backdrop, the Palestinian human rights organisations here undersigned, based on their role and determination to promote respect for the principle of the rule of law, for public rights and freedoms, for the principle of the separation of powers, and for judicial independence, call for:

1. The repeal of Law by Decree No. 16 of 2019 Amending the Law on the Judicial Authority and Law by Decree No. 17 of 2019 on the Formation of a Transitional High Judicial Council, both of which violate the provisions of the Basic Law, the principles of the rule of law, the separation of powers, and judicial independence, and Palestine's international obligations, in particular those enshrined under the ICCPR and the UN Basic Principles on the Independence of the Judiciary;

2. Compliance with the Law on the Judicial Authority and the principles of the rule of law and separation of powers in the relationship between the executive and the judiciary, an end to acts of interference by the executive authority and its agencies in judicial matters and the punishment thereof, the activation of the Judicial Inspection Department and the norms governing the disciplinary accountability of judges in carrying out any procedures aimed at addressing the misconduct of judges, while ensuring their right to defend themselves, as enshrined in the Law on the Judicial Authority No. 1 of 2002, and the provision of adequate resources to the judiciary to ensure that it can properly discharge its functions;

3. Giving priority to, and exerting all efforts, to put an end to the Palestinian political divide on the basis of a transitional justice programme, which addresses all damages resulting from the division, and working seriously towards rebuilding the Palestinian political system on democratic foundations based on constitutional principles and values, and in line with Palestine's international obligations;

4. The issuing of a presidential decree setting a date to hold presidential and legislative

elections in all Palestinian Governorates, including Jerusalem, in pursuance of Article 26 of the Basic Law on the right to participate in political life;

5. Restructuring the judicial authority in the southern Governorates in compliance with the provisions of the Law on the Judicial Authority and uniting it with the judicial authority in the northern Governorates, including in safeguarding its independence, and revoking the Presidential Decision forming the Supreme Constitutional Court, for violating the law on the Court's formation;

6. An elected Palestinian Legislative Council to review all pieces of legislation, including laws by decrees enacted during the Palestinian political divide, for the purposes of approval, amendment or repeal, while preserving the legal rights established and consistent with the provisions of the law, and finalising the legislative consolidation process initiated by the first Palestinian Legislative Council in 1996;

7. An elected Palestinian Legislative Council to introduce legislative amendments protecting the structure and unity of the political system, while avoiding a relapse into a similar power struggle such as that of mid-2007; and

8. Ensuring that the amendments made include constitutional safeguards against overlapping powers between public authorities and the domination of one power over the other, to include a balance and integration of their functions, and to implement the international treaties to which Palestine has acceded within the Palestinian legal system, and to adopt all necessary policies and decisions to enforce these measures by all public authorities, institutions, and agencies.

Signatories to the position paper:

- Addameer Prisoner Support and Human Rights Association
- Al Mezan Center for Human Rights
- Al-Dameer Association for Human Rights
- Al-Haq – Law in the Service of Man
- BADIL Resource Center for Palestinian Residency and Refugee Rights
- Defense for Children International – Palestine
- The Palestinian Centre for Human Rights (PCHR)

[1] Al-Haq, “The Law by Decree Amending the Law on the Judicial Authority and the Law by Decree on the Formation of a Transitional High Judicial Council” [Arabic] (24 July 2019), available at: http://www.alhaq.org/arabic/index.php?option=com_content&view=article&id=1004:-qq-&catid=95:2015-05-09-08-24-39&Itemid=235.



Official gazette of the Palestinian Authority

PHROC Condemns Israel’s Denial of Entry to UN Special Rapporteur, Mr. Michael Lynk

UN Special Rapporteur, Mr. Michael Lynk



مجلس منظمات حقوق الإنسان الفلسطينية
Palestinian Human Rights Organizations Council



PHROC members

- Aldameer Association for Human Rights Addameer Prisoners’ Support and Human Rights Association
- Al Mezan Center for Human Rights
- Al-Haq
- Defence for Children International Palestine Section
- Badil Resource Center for Palestinian Residency and Refugee Rights
- Hurriyat - Centre for Defense of Liberties and Civil Rights
- Ramallah Center for Human Rights Studies
- The Palestinian Center for Human Rights
- Jerusalem Center for Legal Aid and Human Rights
- The Independent Commission for Human Rights (Ombudsman Office)

The Palestinian Human Rights Organizations Council (PHROC) condemn Israel’s deliberate denial of entry to Professor Michael Lynk, the United Nations Special Rapporteur (UNSR) on the situation of human rights in the Occupied Palestinian Territory (OPT) since 1967. Israel has denied UNSR Lynk entry to the OPT to carry out his mission between 8-12 July, 2019.

Israel has continuously denied Mr. Lynk access to the OPT since his appointment in 2016, in a clear attempt to frustrate and impede his role as mandated by the UN Human Rights Council to “investigate Israel’s violations of the principles and bases of international law” in the OPT. As a result, the Special Rapporteur (SR) has been unable to directly monitor the human rights situation on the ground in the OPT. The denied entry, follows a pattern of non-cooperation from Israel regarding the Special Rapporteur’s mandate, an issue that both of his predecessors had also encountered. In light of Israel’s consistent dismissal of its fundamental duties under the Charter of the United Nations, Mr. Lynk will once again be forced to conduct his annual regional investigation between the 8th and 12th of July 2019 from Amman, Jordan where he will endeavour to carry out his mandate to the fullest extent possible.

Over the past three years, Mr. Lynk has worked distinctly from the OHCHR Country Office with the aim of investigating and documenting Israel’s alleged violations of international law and international humanitarian law, including the Fourth Geneva Convention, in the OPT. In order to achieve this in the most effective way possible, it is necessary for the Special Rapporteur to undertake regular missions or visits to the OPT to ensure that the annual report he is tasked with presenting to the Human Rights Council is accurate and authentic. However, Israel’s persistent refusal to allow him to enter the OPT means that Mr. Lynk has no choice but to rely on communications from

civil society organisations and on statements from people present in the OPT, such as witnesses, victims, Palestinian government officials, and other UN representatives. The SR has repeatedly expressed his disappointment at Israel’s refusal to engage in an open dialogue, which he believes is crucial to ensure the protection and promotion of human rights. [1]

Israel has denied Mr. Lynk access to the OPT since his appointment three years ago, epitomising Israel’s blatant disregard for its obligations as United Nations Member State to comply with the mechanisms and committees of the United Nations. Israel’s strategy of non-cooperation has been continuously condemned by the international community and branded as an obstacle to the peace process.[2] During Mr. Lynk’s mission to Amman, Jordan in June 2018, he described the human rights situation in the OPT as the ‘bleakest period yet’, with particular emphasis being placed on the accelerating advancement of the Israeli annexation project in the West Bank and the deteriorating state of the Gaza strip.

PHROC considers that Israel’s policy of non-compliance and non-cooperation is having detrimental effects on the implementation and protection of human rights in the OPT. It is therefore critical for the SR to be granted official access at this time in order to fulfil his duties mandated by the UN Human Rights Council and to conclusively communicate to the Council, pressing human rights issues in the OPT. The aim is not only to prevent further deterioration of the human rights situation in the OPT, but to ensure overall improvement. In light of these concerns, PHROC calls on the international community, particularly UN member states to take measures to ensure Israel’s compliance with UN procedures and mechanisms as a member state, and particularly with regards to the special procedures of the UN, and access for SRs, most crucially the SR on the OPT, Mr. Michael Lynk.

[1] A/73/45717, “Situation of human rights in the Palestinian territories occupied since 1967” (22 October 2018), p. 2, para. 2.

[2] This fact was included in the previous Al-Haq letter <http://www.alhaq.org/advocacy/targets/united-nations/205-denial-of-entry-to-un-special-rapporteur-demonstrates-once-again-israels-duplicity-in-its-relations-with-the-un> ■

Al-Haq Briefs UN Special Committee to Investigate Israeli Practices in Amman



On Monday, 17 June 2019, Al-Haq briefed the United Nations (UN) Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories on the current human rights situation in the Occupied Palestinian Territory (OPT) in Amman, Jordan. The Special Committee was established in 1968 by the UN General Assembly and is mandated to monitor and investigate Israel's human rights violations in the OPT until such time as Israel's prolonged 52-year occupation of the Palestinian territory is brought to an end.

During the briefing session, Al-Haq provided the Special Committee with updates on the current human rights situation in the OPT, including on facts and figures of Israeli violations in the Gaza Strip and the West Bank, including East Jerusalem after 71 years of ongoing Nakba, 52 years of brutal military occupation, and 12 years of unlawful closure of the Gaza Strip, amounting to collective punishment in violation of international law. Notably, Al-Haq highlighted the deterioration of the general human rights situation in the OPT and called on the Special Committee to emphasize third States' responsibilities under international humanitarian law to respect and ensure respect for the Fourth Geneva Convention (1949) at all times. In particular, Al-Haq highlighted the obligation of third States towards ending Israel's unlawful closure of the Gaza Strip, and ensuring the inalienable right of the Palestinian people to self-determination, including permanent sovereignty over their natural wealth and resources, and the right of Palestinian refugees to return to their homes and property, as mandated by international law.

Addressing the situation in the occupied West Bank, Al-Haq highlighted Israel's escalation of forcible transfer measures against Palestinians, including as a result of administrative demolitions of Palestinians' homes and property and Israel's de facto annexation of Area C of the West Bank, especially the resource-rich Jordan Valley, and underlined current attempts by Israel and the United States to annex de jure illegal Israeli settlements in the OPT. In addition, Al-Haq briefed the Special Committee on Israel's various measures of collective punishment, in

violation of Article 33 of the Fourth Geneva Convention (1949), which includes punitive house demolitions, the deliberate targeting of Palestinian civilians with excessive use of force, the punitive withholding of the bodies of Palestinians killed by the Israeli occupying forces, the punitive withholding of taxes, and various movement restrictions and closures across the OPT.

Al-Haq further briefed the Special Committee



on the ongoing Great Return March demonstrations in the occupied Gaza Strip, and the lack of political will to end Israel's unlawful closure of Gaza, and to implement without further delay the recommendations of the UN Commission of Inquiry on the 2018 OPT Protests, as adopted by the Human Rights Council on 22 March 2019. Notably, Al-Haq recalled the root causes of the Great Return March, which remain unaddressed and stressed that only through genuine accountability for widespread and systematic human rights abuses and the realisation of Palestinians' inalienable rights, can Israel's unlawful policies and practices in the OPT be brought to an end. This includes the need to uphold the responsibility of businesses for corporate complicity in aiding and abetting the commission of grave breaches of international law in the OPT and bringing to an end Israel's prolonged occupation of the Palestinian territory. ■



Entrance to Kafr Ad-Dik, Salfit. Gates are installed by the Israeli occupation army at the entrance to every village/twon/city/camp in the OPT.

AL-HAQ ORGANIZATION

40 YEARS DEFENDING HUMAN RIGHTS



AL-HAQ

Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah. Established in 1979 to protect and promote human rights and the rule of law in the occupied Palestinian territory (OPT). Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, irrespective of identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable.



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