



AL-HAQ



## Al-Haq Field Report

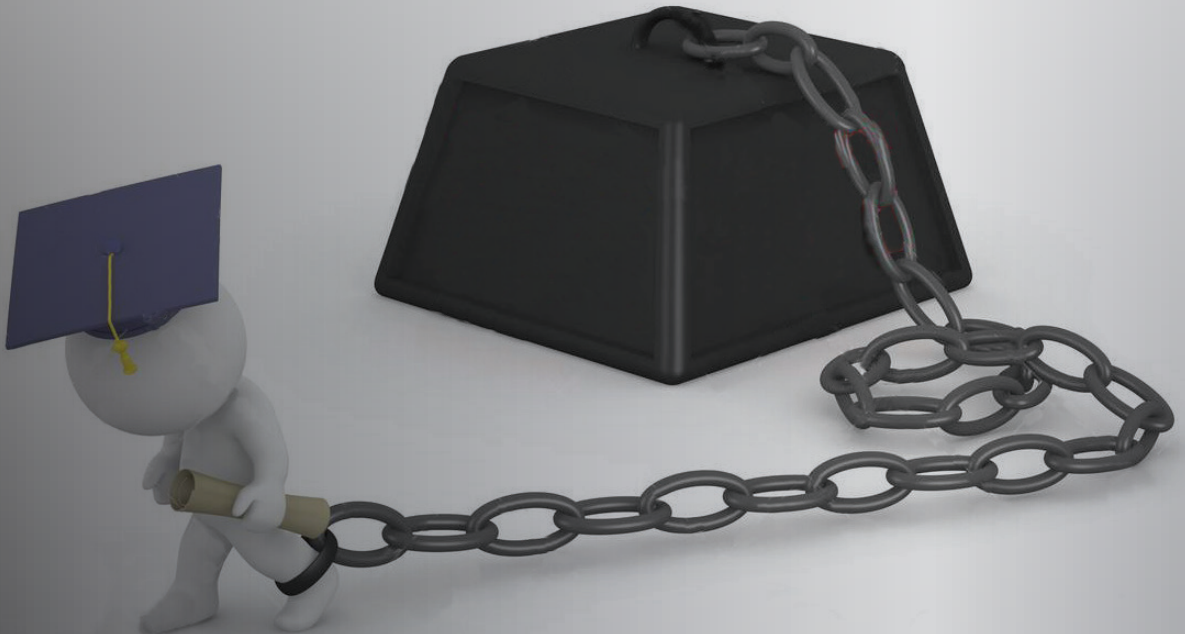
# VIOLATIONS OF FREEDOM OF OPINION AND EXPRESSION IN THE SECOND HALF OF 2014

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## INTRODUCTION

In the second half of 2014, and after the International Covenant on Civil and Political Rights (ICCPR) came into effect, on 2 July 2014, Al-Haq documented several violations of freedom of opinion and expression in the West Bank by Palestinian security services. After documenting and analyzing affidavits and conducting interviews with a number of victims and witnesses, information indicated that violations of freedom of opinion and expression mainly targeted university students, especially those from the Islamic Bloc, on the grounds of their student activities and events. Additionally, other instances of breaches of these rights targeted a number of individuals, including journalists, workers, and imams.

Security proceedings and pre-trial detentions that target students and others have mainly been conducted by the Palestinian Preventive Security. Interrogation of students in detention centres focused on the nature of their student activities and events they organized, as well as the organizational structure of the Islamic Bloc, its activities and affiliated members. Interrogations also focused on the views, comments, and criticisms that the students expressed via their social media accounts and other issues related to the freedoms of opinion and expression.

This field report will begin by providing general comments regarding the affidavits and the interviews conducted, which highlight violations of freedom of opinion and freedom of expression that target university students in particular, and violations related to arrest and detention, including treatment in detention. The report will also outline the way the Office of the Public Prosecutor and judiciary dealt with pre-trial detention measures and criteria. Pre-trial detention is a serious investigation procedures which obstructs personal freedom and the presumption of innocence.

In addition, the report will address the details and aspects of the most evident violations documented by Al-Haq, which range between violations of legal guarantees during arrest and detention to torture and ill-treatment of university students and others in detention centres. These violations show the extent of control that the Palestinian security services enjoy over detention measures and investigation procedures, both of which fall under the jurisdiction of the Office of Public Prosecutor, and how the security services exceed their duties under the law during the preliminary investigation stage. During the preliminary investigation stage, security services should focus on research,

inquiries, and taking statements. The file is then submitted to the Office of the Public Prosecutor, who takes over the investigation as required by law.

The error in the criminal proceedings becomes more technically apparent when there is non-compliance with the legal authorizations required under the Code of Criminal Procedure. In any exceptional investigation carried out by the security services during criminal proceedings, a decision to delegate by the public prosecutor or the specialized prosecutor is necessary. Without such delegation, actions taken by the security services would be contrary to the law which confers all investigative procedures to the Office of the Public Prosecutor.

Further complicating matters for detainees in criminal proceedings, especially in cases relating to freedoms of opinion, expression, and press, is that pre-trial detention renewal orders from magistrate judges are based on a request from the Office of the Public Prosecutor, where the renewal period is 15 days. This raises questions regarding the objectives and rationale of the “pre-trial detention criteria” in such cases. To what extent is pre-trial detention a precautionary measure subject to regulation rather than a penalty or punishment? Also, is such a practice compatible with relevant international standards and practices? The report will discuss this in its conclusion and recommendations.

On 4 March 2015, Al-Haq sent a letter, along with a copy of this report, to the Preventive Security Director General Brig. Gen. Ziad Hab Al-Reeh, in order to receive comments on it and for the Director to take any necessary legal steps to ensure accountability and justice for victims. On 10 March 2015, Al-Haq received a written response from the Preventive Security Legal Advisor. Al-Haq then responded with a clarification letter on 24 March 2015. These letters are included in this report to ensure objectivity, accuracy, and transparency.

Al-Haq also sent a letter, along with a copy of this report, to H.E the Prime Minister and Minister of Interior, Dr. Rami Al Hamdallah, on 12 March 2015, requesting his feedback and further requesting that he would take appropriate actions to ensure accountability and justice. Al-Haq did not receive a response.

In addition, Al-Haq sent a letter, along with a copy of this report to H.E. Attorney General Abdul Ghani Ewaiwi on 11 March 2015. In the letter, Al-Haq noted the Public Prosecutor’s responsibility for the monitoring and oversight of the judicial officers from



the security apparatuses to ensure the application of the Code of Criminal Procedures. Al-Haq also stressed the primary role of the Office of the Public Prosecutor in investigation proceedings. Al-Haq received no response.

Lastly, Al-Haq sent a letter, with a copy of this report, on 11 March 2015 to H.E President of the High Judicial Council Mr. Ali Muhanna to brief him on the questions brought up in this report relating to detention standards and procedures, especially in cases related to freedom of opinion, expression, and publication.

## GENERAL COMMENTS ON VIOLATIONS OF FREEDOM OF OPINION AND EXPRESSION:

All cases of detention of students and others documented by Al-Haq related to freedom of opinion and expression were in violation of the Palestinian Basic Law, which explicitly states in Article 11/2 that any arrest, detention, or restriction of liberty must be done with a judicial order. In the cases documented, the security services failed to provide any warrants issued by the Office of the Public Prosecutor or the judiciary which would legally and constitutionally justify the detention. These cases potentially amount to “arbitrary detention” in violation of the Palestinian Basic Law and the Penal Code, as well as in violation of Article 9 of the International Covenant on Civil and Political Rights (ICCPR).

Furthermore, Al-Haq found that during pre-trial detention, a number of students were subject to acts and practices that may amount to torture and ill-treatment, as defined under the Convention Against Torture (CAT). These grave violations committed against students in detention are considered crimes under the Palestinian Basic Law and the Penal Code, and are also prohibited under international conventions, including the CAT and ICCPR. Notably, these violations were committed after the CAT and ICCPR came into effect in the Palestinian territory.

The field report also monitored cases where students were taken into detention and endured practices of torture and ill-treatment. In some instances, detainees were released within 24 hours, while others had their period of detention extended without being brought before the Office of the Public Prosecutor or the judiciary. This raises initial questions concerning the detention process itself, including its reasons, justifications, and the seriousness of the alleged acts involved, which were the basis of the warrantless detention. Further questions are raised regarding the release of the detainees without being brought before the Office of the Public Prosecutor or the judiciary. Failing to bring the detainees before the Office of the Public Prosecutor within 24 hours of the detention, violates the legal guarantees provided in the Code of Criminal Procedure, is considered arbitrary detention, and a crime under the Basic Law and the Penal Code of 1960.

Al-Haq finds that arrests relating to freedom of expression and opinion, detention by the Office of the Public Prosecutor, and extensions of detention by the judiciary, have

no legal justification - even if detention was based on defamation as defined under the Penal Code.

Detention is considered one of the gravest investigation measures because of its effect on individual freedom and the presumption of innocence. A determination should be made by weighing how dangerous the suspect is to public order and safety, the type of crimes committed, concerns about the suspect's life, or fear of losing substantial evidence, which all may necessitate detention or limitations on personal freedom as a precautionary measure. Accordingly, there is no justification for arresting and detaining students simply based on their opinions.

Additionally, Article 188, on libel and slander, and Article 198, on "permissible libel and slander" of the Penal Code, state that the relevant court is responsible for deciding if slander and libel are criminalized or permissible. As such, pre-trial detention based on opinion, expression, and publications, cannot be justified.

International standards prohibit pre-trial detention in cases of freedom of opinion, expression, and publication. Democratic countries that respect freedom of opinion broadly, freedom of thought and innovation, and right to knowledge, and perceive them as in the best interest of the community and connected to the development process, do not include laws that restrict individual liberty (by confinement) in their penal codes. Instead, international standards suggest imposing fines or civil compensation, if required, while ensuring the right of the accused to respond in all cases.

Al-Haq has further found that in many cases, student detention is extended by the magistrate judge to the maximum 15 day period, subject to renewal based on the investigation. In some cases, the maximum period for extension is granted in spite of the magistrate judge not receiving or reviewing the investigation file. In return, this raises questions with regards to judicial performance and policies on "detention criteria and procedures" and the use of detention as a precautionary measure.

Accordingly, Al-Haq stresses the need to fully respect freedom of opinion and expression and to immediately stop the repeated security summonses of university students and their detention without the appropriate legal judicial orders, all in violation of their legal and constitutional guarantees and rights. This resulted in an open sit-in strike at Birzeit University by six students, between 17 December 2014 through 26 February 2015, who feared repeated summonses and arrests by the security services. The strike was



carried out under difficult and inhumane conditions, as discussed further in this report.

The aforementioned reveals the adverse impact that such security methods of repeated summonses and arrests of students has on their university studies and attendance, as well as on their ideas, creativity and ingenuity, psychological well-being, campus life, and academic future.

Accordingly, official and non-official bodies and academic institutions should uphold their responsibilities in this regard in order to immediately stop these security actions of repeated summonses and arrests that violate students' rights and liberties, which are safeguarded in the international conventions and Palestinian legislation. Consequently, individuals should be held accountable for these violations and the student victims must be ensured justice.



## VIOLATIONS TARGETING UNIVERSITY STUDENTS AND OTHERS

### • **USAYYED MUHAMMAD OMAR HASHASH**

Usayyed, 21, is a resident of Ramallah Governorate and a student at Birzeit University. In his written affidavit to Al-Haq, he affirmed that on Sunday, 7 December 2014 at approximately 10:00 am, he went to the Preventive Security in Al-Balu' for an interview after he had been summoned on the phone. He was kept in a waiting room until 8:00 pm without being informed of the reason for his summons. At around 8:00 pm, Preventive Security officers violently beat and kicked him in the abdomen, head, back, and shoulders until he fell to the ground and fainted. He was also verbally abused.

Throughout his detention, Usayyed was not provided with any food although he requested it. He was told that food was only provided to detainees and that he was not a detainee. He was released on the same day but his I.D card was kept at the Preventive Security office to ensure his return for an interview once again. The Al-Haq field researcher who documented this case saw and took pictures of the bruises on Usayyed's head, which he attributes to the beatings he suffered at the Preventive Security's office.

### • **ABD AL-RAHMAN ISAQ ABD AL-RAHEEM HAMDAN**

Abd Al-Rahman, 19, is a student at Birzeit University and a resident of Ramallah Governorate. He is the coordinator of the Islamic Bloc at his university. In his affidavit, Abd Al-Rahman stated that on Saturday, 6 December 2014 at approximately 11:00 pm, Preventive Security officers arrested him without showing an arrest warrant. He was taken to the Preventive Security office in Al-Balu', Ramallah, where he was questioned about the organizational structure of the Islamic Bloc at the university, its members, and activities.

In his affidavit, Abd Al-Rahman affirmed that he was made to stand blindfolded with his face towards the wall, hands up and legs apart for long hours. While in this position, he was kicked on his legs and beaten on the abdomen, shoulders, and back. These actions may amount to torture and ill-treatment. He was released the next day on Sunday, 7 December at approximately 11:00 pm.

- **ABDULLAH IBRAHIM SALEH YEHYA**

Abdullah is a resident of Al-Ram town, north of Jerusalem, and a student at Birzeit University. In his affidavit, he affirmed that on 28 November 2014 at around 5:00 pm, he received a phone call from the Preventive Security to come in for an interview at their headquarters in Al-Balu' on Sunday, 30 November 2014. Abdullah did not attend the interview because he had university examinations on that day. He subsequently received several other phone calls requesting that he visit the Preventive Security office for an interview, despite the fact that he informed the Preventive Security that he had university exams during that period. On 6 December 2014 at around 6:00 pm, Abdullah went to the Preventive Security office for questioning. When he entered the building, he was ordered to stand with his face to the wall and to put his hands up and legs apart; he was then blindfolded. He remained standing in that position for approximately two hours. When he grew tired and attempted to lower his hands, he was beaten and slapped on the face by one of the Preventive Security officers.

Abdullah was then taken, while blindfolded, to the investigation room where they removed his blindfold and interrogated him about his student activities, his role in the activities organized by the Islamic Bloc at Birzeit University, and the activities organized by Hamas. During the interrogation, the Preventive Security interrogator removed Abdullah's belt and tied his hands behind his back with it. The interrogator then tightened the belt and tied the other end of the belt to the top of the tallest door in the room, leaving Abdullah's feet dangling and his toes barely touching the ground. This position caused Abdullah severe pain and was repeated several times. According to CAT, such actions and practices are considered within the framework of torture and ill-treatment of detainees.

Abdullah Yehya remained in detention until around 10:00 pm of the following day. He was released on the condition that he would return to the Preventive Security when summoned. The student was not provided with medical services during his arrest.

- **ARRESTS TARGETING A NUMBER OF STUDENTS AT BIRZEIT UNIVERSITY**

On 29 October 2014 at around 5:00 pm, a number of students and supporters from the Islamic Bloc at Birzeit University distributed household items to new students. The Preventive Security stopped the activity and arrested some of the students without presenting arrest warrants. The following students were arrested: Muhammad Khalaf Muhammad Al Sabah (23 years), Abdullah Ibrahim Saleh Yehya (20 years), Qassam

Mahmoud Saleh Yehya Tamimi (20 years) and Musa'ab Ayman Zalloum (19 years). The students were taken for investigation at the Preventive Security office in the town of Birzeit, and then taken to the Preventive Security headquarters in Al-Balu' in Ramallah to complete the investigation. As revealed in their affidavits, the four youths were subjected to treatment that may amount to torture and ill-treatment.

In his affidavit, Muhammad Al Sabah affirmed that while in detention in the custody of the Preventive Security at Birzeit, the officers slapped him on the face several times, kicked him, pulled his beard, and twisted his arms before he was taken to the headquarters in Al-Balu' with a mask placed on his head. As soon as they arrived at the headquarters, he was slapped on his face but did not endure more beatings there. Muhammad was questioned about his political affiliation, activities within the student movement, and the activity he was engaged in on 29 October 2014. He was released at around 5:00 pm on Thursday, 30 October 2014.

In his interview with an Al-Haq field researcher, Qassam Tamimi confirmed that during his arrest at the Preventive Security in Birzeit, he was slapped on the face, punched in his head by the officers, kicked and hit all over his body, and had a mask placed over his head. He also affirmed that as he was interrogated at the Preventive Security headquarters in Al-Balu'. During the interrogation, he was faced towards the wall and blindfolded. He was forced into *Al-Shabeh* position,<sup>1</sup> with his arms raised for several hours. He was interrogated about his political affiliations and student activities in general, and the activity he engaged in on 29 October 2014, in particular. He was released at around 5:00 pm on 30 October 2014.

Musa'ab Zaloum, also stated that during the investigation at the Birzeit Preventive Security office, he was subjected to slapping, insults, cursing, forced into Al-Shabeh position, and blindfolded. They also put a mask on his head while he was handcuffed. Besides asking personal questions, he was interrogated about his political affiliations and student activities in general, and the activity that he engaged in on 29 October 2014, in particular. Following questioning, he was taken to the Preventive Security office in Al-Balu'. A mask was placed over his head and he was forced to sit on a wet floor inside the Preventive Security vehicle while being transported. He also suffered insults and mockery by the Preventive Security officers while in the vehicle. Upon

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<sup>1</sup> *Al-Shabeh* is a method of torture in which the subject is placed in stress positions for prolonged periods, and often time blindfolded.

arrival at the Al-Balu' headquarters, the mask was removed from his head but he was still subjected to ill-treatment. He was released on 30 October 2014.

• **AHMAD KHAMIS AHMAD RAYAN**

Ahmad, 20, is a Birzeit University student and resident of Beit 'Ur Al Fuqa village. In his affidavit to Al-Haq, he stated that on 14 September 2014, at around 12:30 am, forces from the Preventive Security stormed his house and arrested him without presenting an arrest warrant, and was taken to the Preventive Security headquarters in Al-Balu'. His investigation focused on his activities with the Islamic Bloc at Birzeit University, his posts on his Facebook account, and his participation in a rally in Ramallah in support of Palestinian prisoners. The investigation also dealt with the Islamic Bloc's organizational structure, names of its members, and his position in the Bloc, as well as the organizational structure of the female Islamic Bloc at Birzeit University.

He affirmed that he was slapped on the face and beaten all over his body in addition to being insulted and cursed. He was forced into Al-Shabeh position for several hours, and interrogated day and night. He was released two days after his arrest at around 12:00 pm on 16 September 2014, without being brought before the Office of the Public Prosecutor or the judiciary as required by law.

• **BARA' MAHMOUD ALI AL QADI**

Bara', 22, is a resident of Al Bireh, and a student at Birzeit University. He is the head of the Media Club at the University. On 14 September 2014 at around 10:30 am, a force from the Preventive Security stormed his house and arrested him without presenting an arrest warrant. He was taken to the Preventive Security headquarters in Al-Balu' for a few minutes before being transferred to the Preventive Security office in Beitounia.

He was interrogated about an investigative media report titled "Adel and 'Imad 'Awadallah: A Tale That We Fear Telling". He was also interrogated about his political affiliation, his election as the head of the Media Club, his supporters, and his Facebook comments and posts.

He was brought before the Office of the Public Prosecutor on 15 September, the day after his arrest, and was accused of defaming a public employee. The Office of the Public Prosecutor decided to detain him for further investigation. Bara's detention was extended for 15 days based on a decision by the magistrate judge, before the judge even received the investigation file for review. He was released on bail on 23

September 2014. In his affidavit, Bara' Al Qadi confirms that he was not tortured and that he did not suffer ill-treatment at the hands of Preventive Security.

On 26 January 2015, Bara' was arrested, without an arrest warrant, by the General Intelligence Service in Ramallah. He was arrested following his Facebook post relating to a football match, which the General Intelligence considered defamatory. During the investigation, he was asked to reveal his Facebook account password, and was questioned about his political views and university activities. Bara' affirmed that he did not suffer torture or ill-treatment during the investigation and interrogation and was released three days later.

#### • **ARRESTS TARGETING A SECOND GROUP OF STUDENTS AT BIRZEIT UNIVERSITY**

On 8 September 2014, Preventive Security officers stopped a public bus carrying six Birzeit University students: Muhammad Kifaya, Muath Kifaya, Omar Jarboa, Abd al Rahman Attiyya, Muhammad Salama Dar Sulaiman and Hassan Mahmoud Baker, all of whom are supporters of the Islamic Bloc. The students were on their way to visit their friend in Shuqba village. The Preventive Security officers forced them out of the vehicle and took them to the Preventive Security offices in Birzeit without presenting arrest warrants.

Upon their arrival to the Preventive Security office, they were told that Muhammad Salama Dar Sulaiman (22 years) was the one wanted and that the others could leave. In solidarity with their friend, the students refused to leave. As a result, they were all taken to the Preventive Security headquarters in Al-Balu', Ramallah. The students stated that Muhammad Salama was badly beaten by the officers as he was being transferred.

They were interrogated about their activities in the Islamic Bloc and the elections of the student movement at the university. They were also interrogated about their Facebook posts and about the Islamic Bloc members in the Student Council. They were released at 11:00 pm on the same day on the condition that they would return for an interview later upon the Preventive Security's request. Muhammad Salama remained in detention and was beaten with a stick all over his body. During the interrogation, he was forced into Al-Shabeh position, while standing with his hands kept up for long hours. He was then taken to the Preventive Security office in Beitounia and brought before the Office of the Public Prosecutor. His detention was extended to complete the investigation

based on charges of defamation related to his Facebook posts. He was released on bail on 21 September 2014.

• **AHMAD 'IMAD AHMAD SHARIF**

Ahmad, 23, is a resident of Deir Sharaf village in Nablus and a student at the Palestine Technical College, Khadouri campus. In his sworn affidavit to Al-Haq, he stated that on 2 July 2014 he was arrested at his house by Preventive Security officers who did not present an arrest warrant. Ahmad was taken to their headquarters in Al-Tour area, South Nablus.

Upon arrival, he was put in Al-Shabeh position, with his arms up, facing the wall for almost an hour. When he dropped his arm due to fatigue, his hands were handcuffed behind his back and he was forced into Al-Shabeh position for almost an hour and a half.

He was interrogated about his political affiliation and personal Facebook posts, which the interrogator considered as insulting to the President. Ahmad affirmed that during the interrogation, he was verbally abused and beaten with a water hose on his neck and left side. Ahmad was brought before the Nablus Prosecution on the second day of his detention. The Prosecution decided to detain him, and the judiciary extended his detention for 15 days for further investigation, and then renewed his detention. Twenty days later, on 22 July 2014, Ahmad was released on bail. His court hearings continue to be postponed because the Preventive Security fails to appear for the hearings.

• **YUSEF ABDUL JALEEL SULAIMAN JABER**

Yusef, 44, is a resident of Beitin village, Ramallah, and works as a preacher and imam at the mosque. In his affidavit to Al-Haq, Yusef recalls that on the night of 29 September 2014, he went to the Preventive Security office in Taybe, east Ramallah, upon a summons being issued to him. He was later taken to the Preventive Security headquarters in Al-Balu' in Ramallah. Yusef was detained without a detention warrant, and his house and bedroom were searched without a search warrant.

Yusef stated that he was violently beaten by the Preventive Security officers upon his arrival to the Al-Balu' headquarters. He was kicked and punched on his head until he fell to the floor unconscious. As a result, Yusef suffered a ruptured eardrum and bruised eyes, as indicated following the medical examinations he underwent after his detention.

Yousef was not provided with any medical treatment during his detention, despite his repeated requests. Yousef also repeatedly complained to the officers about pain, dizziness, and loss of balance due to the beating that he endured. He was detained for three days without being brought before the Office of the Public Prosecutor and judiciary. He was interrogated about his views on the general political situation in Palestine, the recent Israeli military offensive on the Gaza Strip, his relations with Hamas, and his social activities.

• **AYMAN KHALIL MAHMOUS ABU 'ARAM**

Ayman, 27, is a resident of Birzeit and a former private sector employee. On 17 October 2014 at approximately 12:20 pm, plain-clothed Preventive Security officers arrested him and his friend, Laith Qishawi, near the Abdul Naser Mosque in the centre of Ramallah. Ayman and Laith were preparing to participate in a rally in support of Al-Aqsa, which was called for by Hamas.

Ayman asked the Preventive Security officers to explain the reasons for his arrest and present an arrest warrant. In response, they attacked him and violently beat and kicked him until he fell to the ground. The beatings left bruises on Ayman's head. He was then taken to the Preventive Security office in Al-Balu'.

Abu 'Aram also affirmed that when he arrived at the detention centre, he was kept in a room where other Hamas supporters were detained, all of whom were detained before the rally began that day. None of them suffered beatings or insults. They were released at approximately 3:00 pm of the same day.

Considering the sequence of events, the detention of Ayman and the others appears to have been aimed at preventing their participation in the rally, which was carried out as planned and its participants were not attacked by the security services.

• **RA'ED RAFEEQ FAYEZ QUBBAJ**

Ra'ed, 42, is a pharmacist and resident of Al Bireh. He works at the Sharafah pharmacy in Ramallah. On 13 September 2014 at approximately 7:30 pm, Preventive Security officers arrested him from his workplace, without presenting an arrest warrant. He was taken to the Preventive Security office in Beitounia, where he was interrogated during his detention about his writings, Facebook posts, as well as his political affiliation. He was brought before the Office of the Public Prosecutor for interrogation and had his detention extended for 15 days for further interrogation on charges of defamation. He

was released on bail on 17 September 2014. He stated that he did not suffer torture or ill-treatment.

- **MAJDOULINE RIDA ABDUL RAHEEM HASSOUNA**

Majdouline, 26, is a resident of Beit Emrin town in Nablus District and works as a Media Officer at the Palestinian Liberation Organisation (PLO), a Program Producer at the Al Quds Satellite TV channel, and a reporter for the Al-Safeer Lebanese newspaper. On 13 December 2014, she received a memorandum from the Palestinian police in Nablus summoning her to the Office of the Public Prosecutor. On 22 December 2014, she went to the Office of the Public Prosecutor in Nablus. She was accused of defamation on the grounds of her electronic publications. The complaint against her was submitted by the Preventive Security, yet she was not detained by the Office of the Public Prosecutor and the criminal case against her is still pending.



## OPEN STRIKE BY SIX BIRZEIT UNIVERSITY STUDENTS

As part of Al-Haq's documentation of violations of freedoms of opinion and expression, especially violations against university students and the impact of the violations on their studies and academic future, Al-Haq documented the open strike staged by six Birzeit University students on their campus, from 17 December 2014 through 26 February 2015.

The students participating in the strike were:

Abd al Rahman Issaq Hamdan (21 years), Ahmad Khamis Rayan (19 years), Musa'ab Ayman Abdul Raziq Zaloum (19 years), Uasayyed Muhammad Hashash (21 years), Muhammad Khalaf Muhammad Al Sabah (23 years) and Omar Hasan Jarbo' (19 years).

According to Al-Haq documentation, the Preventive Security pursued and tracked students Musa'ab Zaloum and Al Mutasim Billah Ameriya, on 17 December 2014, as they were leaving the university on the day the Islamic Bloc marked the anniversary of Hamas's inception. The Preventive Security issued several summonses to and arrested these students in the past, all impacting their studies and university activities. Upon seeing the Preventive Security outside, Zaloum and Ameriya were chased and re-entered the university. The students then commenced the strike.

On 20 December 2014 and 17 January 2015, a field researcher from Al-Haq's Monitoring and Documentation Department visited with the students to discuss the reasons and circumstances that led to the strike, as well as the humanitarian situation of the participating students.

After conducting individual field interviews with each of the students on strike, it was concluded that the strike was staged for the following reasons: repeated issuance of summonses to students by the Palestinian Preventive Security and the General Intelligence; repeated summonses and arrests of the students by the Preventive Security due to their activities within the student movement; the arrest of the students each time they are summoned by the security services without arrest warrants; and the ill-treatment of the students by the security services while in detention, which may amount to torture. The students added that these actions severely disrupt and obstruct their academic performance and studies.

One of the strike participants, third year student Abd Al-Rahman Hamdan, said that he lost two semesters due to the repeated detentions by the security services during end-of-semester examinations and the class registration period. Abd Al-Rahman was arrested by the General Intelligence on 9 June 2014 and then detained by the Office of the Public Prosecutor before the judiciary extended his detention. He spent a total of 13 days in detention after being accused of illegal assembly before he was released on bail.

Abd Al-Rahman was also arrested on 17 October 2014 by the Preventive Security. The Office of the Public Prosecutor and the judiciary subsequently extended his detention. In total, Abd Al-Rahman spent 11 days in detention on charges of defamation before he was released on bail. The court hearings on both the illegal assembly and defamation charges are pending and awaiting judicial verdict.

In his affidavit, Abd Al-Rahman states that the Preventive Security detained him on 6 December 2014 for 24 hours, on the basis of his activities and affiliation with the Islamic Bloc. The affidavit also describes that while being interrogated in detention Abd Al-Rahman suffered ill-treatment at the hands of the security officers including beatings, being blindfolded with his face to the wall while his legs were forced apart for several hours, and forced stretching with his hands up in the air.

Abd Al-Rahman informed Al-Haq's field researcher that on 16 December 2014 a General Intelligence force stormed his home in the Um Al Sharayet neighbourhood to arrest him, but he was not home that day. This arrest attempt came a day before the open strike started on 17 December 2014.

Written affidavits from other students who participated in the strike reveal repeated summonses and arrests by the Preventive Security and General Intelligence. While in detention, in addition to general ill-treatment, the students were interrogated by the security services on their activities within the student movement and their affiliation with the Islamic Bloc. The students also described the negative impact the actions of the security and intelligence services have on their university studies and academic future.

Al-Haq field research reveals that during the strike, the participating students were living in miserable, difficult, and degrading conditions. The students slept on the ground in a 20 square-metre warehouse at the university, without sufficient cover during winter.

The warehouse also lacked windows, ventilation, and facilities for bathing or personal hygiene, in violation of basic human dignity. As noted, the students feared that if they left the university's campus, they would be arrested.

Al-Haq field research further reveals that the open strike lasted until Thursday, 26 February 2015. Participating students announced in a press conference held at the university that they ended the strike following interventions and follow-up by the Office of the UN Higher Commissioner for Human Rights ("OHCHR"). Despite the relevant security services' affirmation to the OHCHR of their respect for human rights, freedom of opinion and expression, and the need to respect legal principles and procedures for arrest and detention, on Saturday, 28 February 2015 at around 3:00 pm, the Preventive Security arrested students who participated in the strike. On that day, Omar Hasan Jarbo' was returning from a rally in solidarity with the female student prisoner in Israel, Lina Khattab, when he was arrested without an arrest warrant. He was detained at the Preventive Security headquarters in Al-Balu', Ramallah, until Monday, 2 March 2015, without being brought before the Office of the Public Prosecutor.

According to Al-Haq documentation, Omar Hasan Jarbo' was forced into Al-Shabeh position and blindfolded for several hours. He was also stretched by being hanged on a steel ladder in the staircase of the Preventive Security's headquarters in Al-Balu'.

## PREVENTIVE SECURITY'S RESPONSE TO AL-HAQ LETTERS

On 4 March 2015, Al-Haq sent a letter through the Director General Mr. Shawan Jabarin, to the Head of the Preventive Security Forces Director General, Brig. Gen. Ziad Hab Al-Reeh, concerning Al-Haq's field report covering the violations of freedom of opinion and expression.

The letter read:

"Your Excellency Brig Gen. Ziad Hab Al-Reeh, Director General of the Preventive Security Forces, we are providing you with the Al-Haq field report covering violations of freedom of opinion and expression during the second half of 2014. The report includes major documentation, monitoring, and field follow-up carried out by Al-Haq in this regard, which indicates an increase in the violations against freedom of opinion and expression mainly targeting university students and others. As most of the written affidavits documented by Al-Haq in this report indicate that the violations were mainly committed by the Preventive Security, we hope that your Excellency issues orders to the relevant officers to take the necessary legal action to ensure equity and justice for the victims, and to hold everyone proven guilty of these violations accountable. We would appreciate your feedback on the report at your earliest convenience".

On 10 March 2015, the Preventive Security sent a response from its Legal Advisor, Mr. Yaser Abu Libdeh.

The response read:

"The office of the Legal Advisor sends you its warmest regards. In response to the content of the Al-Haq field report on violations of freedom of opinion and expression, dated 4 March 2015, reference number (19/2015), that includes violations by the Preventive Security to the freedom of opinion and expression, mainly against university students and others, we inform you of the following:

First: The regulations and orders in place at the Preventive Security along with the procedures followed by the Preventive Security are all in accordance with the articles of the Basic Law and the Palestinian Code of Criminal Procedure. Also, all of the directives issued by the leadership stress the need to implement the law when carrying out the Preventive Security duties.

Second: The Preventive Security has never detained or restricted the freedom of any citizen for more than 24 hours without a judicial decision, which is affirmed in your report. Per your report, if an individual was not released during or before the 24 hour period, they were brought before the Office of the Public Prosecutor and had detention warrants issued against them as required by the law and regulations.

Third: The Preventive Security did not violate the freedom of opinion and expression of any citizen and did not arrest or detain anyone based on their exercising of these rights. All individuals that were referred to the Office of the Public Prosecutor by the Preventive Security and detained, faced criminal charges levelled against them by the Office of the Public Prosecutor and were detained as per the law and regulations.

Fourth: In the past, citizens submitted complaints against the Preventive Security alleging that they were beaten, tortured, and arbitrarily detained. These complaints were investigated by the Preventive Security and proved to be untrue and malicious. Nonetheless, the complaints in this report shall be subject to careful investigation. If any of the complaints are proven true, fully or partially, or if any violation is found in the implementation of legal procedures, those guilty shall be held accountable and shall face punitive measures as per law and order”.

On 24 March 2015, Al-Haq sent a letter in response, by the Head of the Local and Regional Advocacy Unit, Dr. Isam Abdeen, stating the following:

“Al-Haq sends you its warmest regards and thanks you for your response and your interest in replying to both the content of the field report submitted by Al-Haq on 3 March 2015, to the Head of the Preventive Security Forces H.E. Brig. Gen. Ziad Hab Al-Reeh, and the letter from Al-Haq’s Director General Mr. Shawan Jabarin, dated 4 March 2015. In this regard, we would like to make the following points and clarifications:

First: Al Haq welcomes the affirmation in your letter that regulations and instructions in place at the Preventive Security are in conformity with the articles of the Basic Law and the Code of Criminal Procedure, and that all the directives issued by the Preventive Security leadership affirm the need to implement the law when members are performing their duties. Implementation of the law strengthens the principle of the rule of law, which in return secures rights, freedoms and human dignity, all of which reinforce good governance within the security sector.

Second: The field report issued by Al-Haq explains that all the documented arrest and detention cases, mainly targeting university students and others, were carried out by the Preventive Security without arrest or detention warrants issued by the judiciary or the Office of the Public Prosecutor. This is contrary to the constitutional principles, enshrined in Article 11/2 of the Basic Law, which states: “No one shall be arrested, searched, detained, have his freedom restricted, or prevented from travel, without a judicial order issued in accordance with the law.” Thus, it is prohibited to arrest any person, or to restrict his or her freedom, without first obtaining an arrest warrant.

In addition, there is a difference between a detention warrant and an arrest warrant. Detention warrants are issued after the arrest warrant through a procedure separate from the procedure used to issue arrest warrants. Specifically, detention warrants are issued during the investigation conducted by the Office of the Public Prosecutor after the interrogation of the suspect. Therefore, all of the documented arrest and detention cases that were carried out by the Preventive Security, without the issuance of “judicial arrest warrants” are in violations of the law.

Third: Al-Haq welcomes the reference in your letter dated 10 March 2015 that complaints mentioned in the report will be reviewed, subjected to a detailed investigation, and any proven violation will be redressed as per the law and regulations. Al-Haq hopes that you will elaborate on the nature of any remedial measures taken so that we can include such measures in the field report. This is in keeping with Al-Haq’s approach for accuracy, objectivity, and full transparency in its work and in all the stages of its field reporting.”

Al-Haq received no reply from the Preventive Security on the nature of the measures taken in response to the human rights violations described in its field report.

It has already been mentioned that Al-Haq sent a letter attached to a copy of this report to the Prime Minister and Minister of Interior, Dr. Rami Al Hamdallah, and the Public Prosecutor, Mr. Abdul Ghani Ewaiwi, but received no response.

## CONCLUSIONS

Based on the follow-up and documentation of major violations targeting a number of university students and others during the second half of 2014, we come to the following conclusions:

1. Repeated summonses and arrests that mainly target university students on the grounds of their opinions and student activities are primarily carried out by the Preventive Security. They are mainly carried out following phone calls or direct arrests from homes or in public, without showing arrest warrants issued by competent authorities, namely the Office of the Public Prosecutor and the judiciary. This is affirmed in the written affidavits and field follow-up by Al-Haq with the victims and eyewitnesses.
2. The security services' repeated summonses and arrests constitute a violation of the constitutional rights and guarantees of the students, and individuals in general. These constitutional rights and guarantees are outlined in the Basic Law and relevant legislation, especially Article 11/2 of the Basic Law which prohibits carrying out any arrest, detention, or restriction to freedom without a judicial order. Therefore, these are cases of "arbitrary arrest" against students and others, and are in violation of the Basic Law. Arbitrary arrest also constitutes a crime under Article 178 of the Penal Code -- the crime of restriction of liberty. Arbitrary arrests are also a violation of Article 9 of the International Covenant on Civil and Political Rights, which prohibits arbitrary detention, and calls for the punishment of the perpetrators of these violations, in addition to compensation and redress for the victims.
3. The harassment and arbitrary arrests of university students by the Preventive Security were sometimes carried out randomly. For example, Al-Haq monitoring and field follow-up indicate that the Preventive Security stopped a public taxi on 8 September 2014, and arrested the six students on board without arrest warrants. The students were then transported to the Preventive Security office in Birzeit, and upon arrival were told that only one of the students on board, Muhammad Salama Dar Sulaiman, was subject to arrest. This instance confirms the occurrence of arbitrary detention against a number of university students.
4. The Preventive Security's violations of legal and constitutional guarantees of rights and freedom were not limited to the failure to obtain arrest or detention

warrants by the competent judicial departments. The written affidavits documented by Al-Haq also reveal that searches of homes were conducted without search warrants. Search warrants must be issued by the Office of the Public Prosecutor per legal and constitutional standards. Conducting a search without a warrant is a violation of various Palestinian laws. It violates residential privacy per Article 17 of the Basic Law, which provides, “[r]esidences have sanctity, they cannot be monitored, entered, or searched without a justified judicial order according to the legal requirements. Anything that violates this article shall be considered as void, and anyone harmed by these violations has the right to just redress guaranteed by the Palestinian National Authority.” A warrantless search is also a violation of Article 39 of the Code of Criminal Procedure, which states “[e]ntering and searching houses is an investigatory act that cannot be done without a warrant or in the presence of the General Prosecution...” It also constitutes a crime that violates the sanctity of the house under Article 181 of the Penal Code, and Article 17 of the International Covenant on Civil and Political Rights on the right to privacy.

5. A number of security summonses and arrests against students were carried out without the issuance of arrest warrants by the Office of the Public Prosecutor. The arrests were followed by detention at the Preventive Security office for periods of 24 hours or more, before the detainees were released without being brought before the Office of the Public Prosecutor or referred to the judiciary. During the unlawful detention, the detainees were subject to acts of torture and ill-treatment. In these cases, the Preventive Security was responsible for the restriction of freedom, and not the judiciary or the Office of the Public Prosecutor.
6. The nature of these violations pose serious questions relating to the reasons behind and the significance of the Preventive Security acting independently, without the involvement of the judiciary and Office of the Public Prosecutor. There were no investigation files opened at the Office of the Public Prosecutor, or referrals to the judiciary, and therefore no criminal cases before the judiciary. These actions require follow-up by the Public Prosecutor since security officers are under his supervision as per Article 20 of the Code of Criminal Procedure.
7. Some of the security arrests and summonses issued against university students were carried out during the university examination and semester registration period. This warrants further investigation into the reasons for these security



prosecutions, given that they disrupt and disturb the students, ultimately causing them to lose out on university semesters. This is especially of concern given that the arrests and summonses are carried out in the absence of any pending criminal cases.

8. The students' written affidavits, sometimes supported with medical reports and photographs, affirm that they suffered torture and ill-treatment at the Preventive Security detention centres. The students indicate that despite their requests, they were not medically treated, and at times were refused food, all in violation of their rights that are guaranteed in the Basic Law, relevant legislation, and the International Covenant on Civil and Political Rights.
9. Reading and analyzing the written affidavits and field follow-up with the university students and others, indicates that the security services are in control of the various stages of the investigation, in a manner that violates their legal authorization during the preliminary investigation period. The Preventive Security usurps the original powers of the Office of the Public Prosecutor by conducting a full investigation. While the Office of the Public Prosecutor should take the role of conducting the full investigation, the security services have effectively limited the Office of the Public Prosecutor's role to implementing detention procedures, and requesting an extension of the detention period from the judiciary for investigatory purposes. This is a matter that requires a policy-level revision and review at the Office of the Public Prosecutor and an evaluation of its role in conducting and continuing investigations.
10. In cases relating to violations of freedom of opinion and publication, there is a practice of extending detentions to the maximum 15 day period, subject to renewal. This practice raises questions about detention criteria, its objectives, and rationale. This is particularly important to examine given that in some documented cases, the detention was extended to the maximum 15 day period before the magistrate judge was briefed on the investigation file. This requires a review of the judiciary at the policy-level, especially in light of international trends and practices that prohibit imprisonment as a freedom-restricting punishment in cases of freedom of opinion and freedom of publication.
11. Al-Haq is deeply concerned by the escalation of violations of the rights of freedom of opinion and expression mainly targeting university students given the international conventions and treaties that are in effect in the Palestinian

territory, especially the International Covenant on Civil and Political Rights and the Convention Against Torture. This raises questions regarding the significance and implications of such violations. These cases also violate the freedoms guaranteed for individuals in the Basic Law and relevant Palestinian legislation. Are the escalations attributable to the Palestinian Authority's ("PA") failure to understand that these treaties require "full enforcement" without reservations? Or do the escalations relay that the PA's accession to the international treaties and conventions are merely superficial measures and nothing more?

12. Al-Haq is deeply concerned by the fact that the written affidavits and the field follow-up visits indicate that a majority of the violations committed in this regard have targeted one political affiliation. This may show discrimination on the basis of political views. This also raises the question of whether or not the PA has a stated policy of discrimination, especially in light of the ongoing internal political divisions in the occupied Palestinian territory.

## RECOMMENDATIONS

After reviewing the major violations to the freedom of opinion and expression targeting university students documented by Al-Haq, and reviewing the conclusions, Al-Haq affirms the following:

1. Al-Haq calls for respecting the different forms of freedom of opinion and expression, and the halting of the repeated summonses and arrests that are primarily carried out by the Preventive Security without judicial warrants, that target university students, and others, including journalists, mosque imams and staff.
2. Al-Haq calls on the Preventive Security to respect the legal and constitutional safeguards for individuals included in the Basic Law, relevant legislation, and the international treaties and agreements to which Palestine has acceded, especially as related to the procedures for arrest, detention, and searches of the home.
3. Al-Haq demands that any person proven guilty of any of the aforementioned actions or practices of torture or ill-treatment be held accountable. The perpetrators must be brought before the judiciary, and the constitutional rights and human dignity of the students and other victims must be respected and protected.
4. Al-Haq is highly concerned with the security services' judicial officers usurping the powers of the Office of the Public Prosecutor, in such a way that exceeds the security services' powers during the preliminary investigation period. These actions also violate individual legal protections and guarantees.
5. The relevant law provides that the Office of the Public Prosecutor conducts all investigations independently. The law permits the Office of the Public Prosecutor (through the Public Prosecutor or a specialized prosecutor) to authorize the security services that enjoy the status of judicial police, to conduct any portion of the investigation, but only under exceptional circumstances. As such, the Office of the Public Prosecutor cannot extend this role to any of the security services during the interrogation phase of a felony proceeding. Thus, the authorization to conduct an investigation cannot be general, as illustrated in Article 55 of the Code of Criminal Procedure.

6. Al-Haq affirms that security services' violations of legal regulations through conducting investigations, results in nullifying investigation measures, carried out by the security services judicial officers. The information obtained during such investigations is also considered invalid. This is the responsibility of the Office of the Public Prosecutor, as the overseer of the criminal justice system. The Office of the Public Prosecutor is also in charge of overseeing the performance of security services judicial officers according to Article 20 of the Code of Criminal Procedure.
7. Al-Haq stresses the importance and need for the legally responsible parties to ensure fair and just treatment inside detention centres, in order for these parties to fully carry out their duties. There must also be measures to ensure respect for rights, freedoms, and the dignity of the detainees in the case of arbitrary detention of university students on the grounds of freedom of expression, and in cases of arbitrary detention in general. Under the law, responsible parties include the Office of the Public Prosecutor, including the Public Prosecutor, the judiciary, including judges and presidents of the trial and appeals courts, and the Ministers of Justice and Interior. The relevant laws include the Code of Criminal Procedure, the Judicial Authority Law, and the Reform and Rehabilitation Law.
8. Al-Haq believes that detention and detention renewal orders by the Office of the Public Prosecutor and the judiciary, against the students and others, in cases of freedom of opinion and publication, are not justified. Even if the cases moved beyond mere opinion and are considered slander, libel, or other publication crimes stated in the penal code. The measures used contradict the philosophy, objectives, goals, and rationale of pre-trial detention as a precautionary measure with standards and limitations, and instead use pre-trial detention as a method of punishment. Additionally, the appropriate court is responsible for issuing decisions in criminal cases, and determining whether the speech at issue is in fact defamatory. Therefore, there is no justification for the use of such detention measures before a decision on these issues is made.
9. Al-Haq is also concerned with the practice of extending the detention of some university students to the maximum 15 day period (subject to renewal), especially when extended prior to a review of the investigation file by the magistrate judge. Al-Haq believes that the current detention criteria must be reviewed at the policy-level by the Office of the Public Prosecutor and the judiciary in order to strengthen and protect individual rights and freedoms.

10. Al-Haq considers the negative impact of arrest and detention in cases of violations of freedom of expression and publication, on the freedom of opinion and thought, creativity, and the right to access information. Al-Haq calls for a review of the penal legislation and its compliance with the International Covenant on Civil and Political Rights, the General Comments of the Human Rights Committee, and the international practices that warn against detention in violation of freedom of press and publication, and instead recommend the imposition of fines or civil compensation. The criminal legislation must also be aligned with three-part test on the limitations to the right to freedom of expression under Article 19 of International Covenant on Civil and Political Rights, which strike a balance between rights and freedom to realize the public interest, which is most worthy of protection and support.
11. Al-Haq affirms that it will include the violations of rights to freedom of opinion and expression, in general, especially those targeting university students, in the parallel report on the International Convention on Civil and Political Rights, which will be submitted to the relevant committee on human rights this year. The report will also address various political and legislative aspects, as well as domestic remedies. Al-Haq renews its affirmation on the need for full enforcement of the international conventions to which the State of Palestine acceded, the implementation of the conventions on the ground, and at the different judicial, political, and legislative levels.
12. Al-Haq affirms that the actions and practices that qualify as torture at the internal level, if committed systematically in the absence of criminal investigation, accountability, and redress for the victims, can subject those responsible for committing them to international judicial accountability before the International Criminal Court. It is worth noting the that crime of torture is among the crimes that are not subject to a statute of limitations according to the Rome Statute.