

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

REFERENCE:
AL ISR 12/2019

28 August 2019

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 34/18, 41/12, 34/5 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of smear campaign against human rights organisations **Al-Haq** and **Al Mezan**, threats, including death threats, against Al-Haq's General Director, Mr. **Shawan Jabarin**, as well as the travel restrictions imposed on a consultant for Al Mezan and on Mr. **Issam Younis**, the Commissioner General of the Independent Commission for Human Rights in Palestine.

Mr. Shawan Jabarin is a Palestinian human rights defender, General Director of Al-Haq, Secretary General of the International Federation for Human Rights (FIDH) and a board member of the Human Rights Watch Middle East Advisory Board. Al-Haq is a Ramallah-based independent non-governmental organisation, established in 1979, with the aim of defending human rights and promoting the rule of law in the Occupied Palestinian Territory.

Al Mezan Center for Human Rights is a human rights organization based in Gaza, working on the promotion and protection of human rights in the Occupied Palestinian Territory, with a focus on economic, social and cultural rights.

Mr. Younis is the Commissioner General of the Independent Commission for Human Rights in Palestine (ICHR). ICHR is a member of the Global Alliance of National Human Rights Institutions and an internationally recognized institution working on the protection of human rights and the promotion of peace in the Occupied Palestinian Territory. Mr. Younis is also the Director General of Al Mezan.

The travel restrictions imposed on Mr. Jabarin have been subject of joint communications sent by Special Procedures mandate holders to your Excellency's Government on 16 March 2007 (case no. ISR 1/2007), 28 July 2008 (case no. ISR 7/2008) and 5 March 2010 (case no. ISR 3/2010). We would like to thank your Excellency's Government for the responses dated 4 August 2008, 7 May 2009 and

10 June 2010. The allegations of threats, cyber-attacks and smear campaign against Mr. Jabarin and other members of Al-Haq have been subject of a joint communication sent by Special Procedures mandate holders to your Excellency's Government on 2 August 2016 (case no. ISR 8/2016). We regret that no response has been received to this communication.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders have also previously raised their concerns regarding the attacks and threats against a staff member of Al Mezan Centre for Human Rights (see case no. PSE 2/2012, dated 2 February 2012).

Furthermore, several Special Procedures mandate holders have previously expressed their concerns about denunciatory statements made by the Permanent Representative of Israel to the United Nations in New York against a human rights defender following his statement delivered at the UN Security Council (see case no. ISR 14/2018, dated 20 December 2018). We regret that no response has been received to this communication.

In addition, Special Procedures mandate holders have previously raised their concerns about the state publications referred to below, which appear to stigmatize civil society organisations working for the promotion and protection of human rights in the OPT. These concerns were expressed in a joint communication sent to your Excellency's Government on 31 May 2019 (case no. ISR 8/2019). Said communication included concerns about the alleged acts of intimidation and reprisals against human rights organisations for their cooperation with the UN in the field of human rights, including UN human rights mechanisms, and the International Criminal Court. We would like to thank your Excellency's Government for the response dated 31 July 2019, however we remain seriously concerned given the new allegations received.

According to the information received:

Al-Haq and Al Mezan

On 22 May 2017, a consultant hired to provide support to Al Mezan in the area of communications and gender mainstreaming was stopped upon her arrival at Tel Aviv airport and interrogated. The state agents conducting the interrogation stated that she worked with a "terror organization" which allegedly advised armed groups. She was deported after several hours and banned from entry to Israel and the Occupied Palestinian Territory for ten years.

On 30 June 2017, a staff member of Al Mezan spoke during a panel held as part of the United Nations Civil Society Forum organized by the Committee on the Exercise of the Inalienable Rights of the Palestinian People. The event was held at the United Nations Headquarters in New York.

Following the forum, Ambassador Danny Danon, the Permanent Representative of Israel to the United Nations, gave a public statement in which he accused the United Nations of “colluding with supporters of terror seeking to harm Israel”. The Permanent Mission further stated that Al-Haq and Al Mezan had links with terrorist organisations.

In May 2018, the Ministry of Strategic Affairs and Public Diplomacy published a report titled “The Money Trail: The Millions Given by EU Institutions to NGOs with Ties to Terror and Boycotts against Israel: An In-Depth Analysis”, calling on the European Union and its member States to stop providing financial support to Palestinian and international human rights organisations that “have ties to terror and promote boycotts against Israel”. In the report, the Ministry argued that the organisation Al-Haq had ties with terrorism and that Mr. Jabarin engaged in the activities of a “terrorist organization that carries out murder and attempts murder”. Further, Al Mezan was described in the report as an organisation promoting boycotts against Israel. Similar remarks were made with reference to Al-Haq, Al Mezan and other human rights organisations in the second edition of the report, released in January 2019. In the same month, the Ministry of Strategic Affairs published another report, titled “Terrorists in Suits: The Ties Between NGOs promoting BDS and Terrorist Organizations”, including similar comments about Mr. Jabarin and Al-Haq. Al Mezan was mentioned in the report in the context of its cooperation with Al-Haq.

On 15 July 2019, ‘4IL’, a state-owned online media outlet established by the Ministry of Strategic Affairs and Public Diplomacy, published an article and a Facebook post in which it referred to Mr. Jabarin and other members of Al-Haq as “terrorists in suits”, which appears to be a reference to one of the above-mentioned state reports. The article was published following the celebration of Al-Haq’s 40th anniversary, an event with significant presence of international organisations, diplomats, academics and representatives of intergovernmental bodies. In another Facebook post published on the same day, 4IL mentioned Mr. Jabarin’s alleged “involvement in terrorist and anti-Israel activities”. On 17 July 2019, another post was published on the Facebook page of the media outlet, describing the leaders of Al-Haq as “senior officials in the PFLP, a designated terror organisation”.

Following these publications, 4IL readers started posting defamatory and hateful comments on the media outlet’s Facebook page, including death threats against Mr. Jabarin, such as “When do we put a bullet in the head?”, “Why do such people still breathe?”, and “Why has he not been liquidated?”. The comments including death threats and incitement to violence have not been removed from the Facebook page or otherwise addressed by the media outlet or the Ministry of Strategic Affairs and Public Diplomacy.

Travel restrictions against Mr. Issam Younis

Mr. Younis assumed his duties as the ICHR's Commissioner General on 1 April 2018. Since then, he has not been granted a travel permit and thus has not been able to travel from Gaza to the West Bank in order to represent ICHR in high-level meetings. Between January 2018 and March 2019, Mr. Younis submitted ten permit applications to the Israeli Civil Administration. Three of them were rejected, while another 3 were deemed "non-conforming", which is believed to equal rejection on security grounds. Four applications, including the most recent one submitted on 31 March 2018, are still pending.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concerns at the smear campaign against human rights organisations Al-Haq and Al Mezan, and at the defamatory comments and death threats made against Al-Haq's General Director, Mr. Jabarin, which appear to be directly related to the exercise by members of Al-Haq and Al Mezan of their rights to freedom of expression and association, through their legitimate human rights work in the promotion and protection of human rights in the Occupied Palestinian Territory. The allegations of terrorism published by the Ministry of Strategic Affairs and Public Diplomacy against human rights defenders and public comments by State officials risk broadly conflating the peaceful defence of human rights and freedom of expression with terrorist activity, denigrating their important work in the eyes of the public and putting their safety at risk. Further concern is expressed at the alleged lack of action by the Ministry of Strategic Affairs and Public Diplomacy in the context of the hateful comments containing death threats, published on the Facebook page of the Ministry's media outlet.

We also reiterate our concern that the continued stigmatisation by the authorities may have a chilling effect on human rights defenders and civil society as a whole in the Occupied Palestinian Territory.

We are also concerned about the continued travel restrictions against Mr. Younis, which appear to be directly linked to his work as the Commissioner General of the Independent Commission for Human Rights in Palestine. We are particularly concerned that these measures may have an adverse impact on the ability of Mr. Younis and the ICHR to effectively carry out the institution's human rights mandate.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please indicate what measures have been taken to ensure the physical and psychological integrity and security Mr. Jabarin and other members of Al-Haq, in the context of the threats they have been targeted with.
3. Please provide the details, and where available the results, of any investigation and judicial or other inquiries into the above-mentioned comments containing online hate speech and death threats against Mr. Jabarin. If no investigation has been initiated, please explain why.
4. Please provide information on what steps have been taken to ensure that defamatory statements made in the media against human rights defenders and civil society organisations are remedied immediately.
5. Kindly explain the rationale for imposing travel restrictions on Al Mezan's consultant and Mr. Younis, and how these are compatible with international human rights norms and standards.
6. Please indicate what measures have been taken to ensure that human rights defenders in the Occupied Palestinian Territory are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please note that a copy of this letter has been sent to the Government of the State of Palestine with a view to seeking more information in relation to the case.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Michael Lynk
Special Rapporteur on the situation of human rights in the Palestinian territory occupied
since 1967

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

The above mentioned allegations appear to be in contravention with articles 12, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which guarantee the rights to liberty of movement, freedom of opinion and expression, and freedom of association respectively. In particular, we wish to remind your Excellency's Government of the duty to respect and ensure these rights, and that any restrictions to the exercise of these rights must be provided by law, pursue a legitimate aim and be necessary and proportionate to the aim pursued.

We also want to refer to article 2(1) of the ICCPR that establishes a general duty to ensure the rights recognized by the ICCPR. The Human Rights Committee clarified that "States parties have a positive obligation to ensure the protection of individuals against violations of Covenant rights, which may be committed not only by its agents, but also by private persons or entities" in the case of *Peiris v. Sri Lanka* (CCPR/C/103/D/1862/2009).

We would also like to refer to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights; and
- article 12, (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other

arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would also like to refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We would finally like to refer to Human Rights Committee General Comment no. 35 which states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.