

**Mandates of 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 territories occupied since 1967**

REFERENCE:
AL ISR 8/2016

2 August 2016

Excellency,

We have the honour to address you in our capacities as 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 territories occupied since 1967, pursuant to Human Rights Council resolutions 24/5, 25/18, 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 threats, cyber-attacks and smear campaign against human rights organisation **Al-Haq** and its members and General Director, Mr. **Shawan Jabarin**, as well as arbitrary arrest and detention of a human rights defender, Mr. **Abdallah Abu Rahma**.

Mr. Shawan Jabarin is a Palestinian human rights defender, General Director of Al-Haq 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 Territories.. Mr. Jabarin has been the subject of three previous communication sent by various Special Rapporteurs on 5 March 2010, see A/HRC/16/44/Add.1, paras. 1302-1310, case no. ISR 3/2010; 28 July 2008, A/HRC/10/12/Add.1, paras. 1461-1465, case no. ISR 7/2008; and 16 March 2007, see A/HRC/7/28/Add.1, paras. 1228-1231, case no. ISR 1/2007. We acknowledge one response from you Government received on 7 May 2009. However, we reiterate our concerns in the context of the information below.

Mr. Abdallah Abu Rahma is a human rights defender and the coordinator of the Bil'in Popular Committee against the Wall and Settlements. Mr. Abu Rahma has been the subject of three previous communication sent by various Special Rapporteurs on 27 January 2015, see A/HRC/29/50, case no. ISR 11/2014; 8 November 2010, see A/HRC/16/44/Add.1, paras. 1331 – 1347, case no. ISR 14/2010; and 5 March 2010, see A/HRC/16/44/Add.1, paras. 1302-1310, case no. ISR 3/2010. We acknowledge the responses received from your Government on 10 March 2015, 15 February 2011 and 26 November 2010. However, we reiterate our concerns in the context of the information below.

According to the information received:

Mr. Shawan Jabarin and Al-Haq

On 23 September 2015, Al-Haq staff members received an email from "Allah Hayatna" [allahhayatna.25@uymail.com], purporting to be an Al-Haq employee. The individual expressed his/her disappointment with the manner in which the organisation was handling certain aspects of its work related to the International Criminal Court (ICC). From the email, it was clear that the individual had access to classified information. Al-Haq took immediate measures to retrace the email, but was unsuccessful. The organisation understood that the person was seeking to obtain specific information relating to Al-Haq's work related to ICC.

Some weeks later, Al-Haq's General Director, Mr. Shawan Jabarin, received an email from someone claiming to work with Amnesty International in the Netherlands. The sender inquired into ICC-related work and suggested that Al-Haq had a political agenda. Mr. Jabarin was suspicious of the email and declined to respond to it. Through further clarifications, it was established that no one with the name of the sender has ever worked with Amnesty International.

On 22 October 2015, a partner organisation of Al-Haq received an email from "Fadi" [fadi.ramallah@gmx.com], who claimed to be working for the Palestinian Authority (PA) agencies. "Fadi" stated that Al-Haq was involved in financial fraud, corrupt practices and was under investigation by the PA. Furthermore, "Fadi" stated that Al-Haq's auditors, Ernst & Young, were undertaking an investigation into Al-Haq's finances. Al-Haq contacted several ministries of the PA to determine whether Al-Haq was in fact being investigated, and was advised they were not.

On 28 October 2015, in response to "Fadi's" email, Al-Haq sent a letter to its donors and partners clarifying the situation. Following this, Al-Haq's donors and partners began to receive more emails slandering the organization.

On 2 November 2015, several Palestinian human rights organisations received an email from "Kathy", [kathy1108@mail.com], who claimed to be working for a European donor organisation and who warned them to discontinue working with Al-Haq due to its alleged corrupt practices and the current investigations into its finances.

On 3 November 2015, Al-Haq sent another letter to its partner organisations, encouraging them to contact Ernst & Young to confirm that there was no wrongdoing. On the same day, Ernst & Young confirmed that Al-Haq was not under any investigation and that based on their audit procedures, no fraudulent activity was detected. Furthermore, Ernst & Young revealed that in September 2015, a complaint relating to Al-Haq was sent via the company's online anonymous complaint system. Despite the auditors' repeated requests for further information, the sender did not provide any documentation to support their complaint.

On 9 November 2015, Al-Haq's partner organisations received another email from "Fadi" [fadi-ramallah@gmx.com], informing them that one of Al-Haq's largest donors had decided to stop its funding at the beginning of 2016, and that the PA's investigation of Al-Haq remained underway.

On 10 November 2015, Al-Haq sent a third letter to their partner organisations, in which it stated that the attacks in the form of emails and letters were continuing against them. Furthermore, it stated that Al-Haq had requested the Palestinian Authority to issue a statement in response to the allegations made and also that the Palestinian State Audit and Administrative Control Bureau conduct a comprehensive financial and administrative audit of Al-Haq.

On 11 November 2015, the PA and Palestine Liberation Organisation (PLO) issued a statement denying that it was undertaking any kind of investigation into Al-Haq and confirming its support for the organization.

On 23 November 2015, Al-Haq's partner organisations received another email from "Fadi", but from a different email address [fadi-fadi15@doctor.com]. In it, he claimed that Mr. Jabarin had placed pressure on the PA to discontinue the investigation into Al-Haq.

Furthermore, at the end of 2015 and beginning of 2016, Al-Haq's senior staff members began receiving emails from persons purporting to work with Oxfam Novib, offering the opportunity for funding. These emails came a week after Al-Haq had requested additional funding from existing donors.

On 25 January 2016, a staff member of a partner organization of Al-Haq received a telephone call requesting funding for Al-Haq. The caller stated that donors were stopping funding and staff would lose their jobs. The caller also indicated that the call was personal and his employers did not know he was calling. The caller stated that his name was "Samir" and his email address was [almukawim@gmx.com].

In February 2016, Al-Haq staff members received messages on social media expressing their concern and dismay at the organization's financial troubles and offering assistance. On 8 February 2016 a member of a partner organisation of Al-Haq received a telephone call stating that Al-Haq needed financial support otherwise individuals would lose their jobs. The staff member provided her email address to the caller but there was no further contact made.

On 15 February 2016, a number of staff members of Al-Haq received another email from allahhayatna-25@uymail.com. This person alleged that an Al-Haq staff member had requested a raise. The email appeared to be designed to incite hatred toward this particular staff member.

On 17 February 2016, a staff member of Al-Haq received a telephone call from a woman claiming to be from the Dutch Ministry of Health. The alleged

government employee asked the staff member about the zika virus, and requested the staff member's home address to deliver materials relating to the virus. The staff member provided her home address, however on further research the staff member discovered that the Ministry of Health was not making such routine calls.

On 18 February 2016, Al-Haq experienced a series of attacks against its server in the form of viruses. All documents on computers and network drives were encrypted. On the same day, another email was sent to an Al-Haq administrative assistant, requesting that she click on a link to view the staff member who requested a raise in their salary. The link contained a virus that attacked Al-Haq's system.

On 24 February 2016, a father of an Al-Haq staff member received a phone call from a private number, warning him that if his daughter did not discontinue her work, she would disappear. The following day, this particular staff member's email was hacked into.

On 24 February 2016, Al-Haq sent a fourth letter to its partner organizations, informing them of the continued smear campaign

On 29 February 2016, a staff member of a partner organisation of Al-Haq received another phone call, from a person who identified themselves as "Ibrahim Al-Amin". He asked that this staff member's organization increase its funding of Al-Haq. The caller declined to give his contact details as he said it was sensitive.

On 1 March 2016, a staff member received a call on her home phone from a private number. The caller spoke in Arabic and stated that her work is placing her and Mr. Jabarin in danger. The staff member ended the call and contacted the appropriate authorities. She continued to receive calls from private numbers for two more weeks.

In early June 2016, flyers for a false campaign to raise donations for the Islamic and refugee community in Holland were dispersed using Al-Haq's name and logo. The flyers provided the home address of Al-Haq's Europe representative as the collection point for the donations.

Mr. Abdallah Abu Rahma

On 13 May 2016, the Alwada Cycling Marathon was held to mark the occasion of the al Nakba day in the West Bank. The purpose and intention of the marathon was to peacefully protest against the Israeli occupation in the spirit of sport and solidarity by cycling from Ramallah to Bil'in. As the cyclists approached the wall in Bil'in, approximately 150 armed Israeli soldiers began to spray the cyclists with tear gas and blocked the road. Mr. Abdallah Abu Rahma was allegedly arrested along with an activist from Israel. The Israeli activist was released shortly after her arrest, while Mr. Abu Rahma was detained in Ofer military prison.

At the time of this communication, a video of the arrest of Mr. Abu Rahma was publically available on the Internet through the following link:

https://www.youtube.com/watch?time_continue=191&v=rF1rVA3jFcY

On 16 May 2016, the Ofer military court reportedly ruled that Mr. Abu Rahma must be released immediately and unconditionally and also called to investigate the mistreatment of him by the Israeli border police during his arrest. Despite this, the judge allowed the police to appeal the court decision and present an indictment. Mr. Abu Rahma was detained for ten days and released on bail after paying 15,000 ILS (approximately 4,000 USD).

On 1 June 2016, the first trial of Mr. Abu Rahma was held in the Ofer military court, where he was formally charged of “being in military zone” and “hitting a soldier”, among others. The prosecutor reportedly requested that Mr. Rahma receive long-term punishment and be transferred out of his town.

Mr. Abu Rahma was due to face the second day of his trial on 13 July 2016, which was later postponed to 27 July 2016.

Concern is expressed at the alleged harassment and intimidation against Al-Haq, its staff members and Mr. Jabarin, as well for their physical and psychological security. These attacks appear to be directly related to the exercise of their right to freedom of expression, association and assembly, through their legitimate human rights work in the promotion and protection of human rights in the Occupied Palestinian Territories. Concern is also expressed at the alleged smear campaign launched against Al-Haq, aimed to have a stigmatising effect on the reputation of the organisation.

Further concern is expressed at the alleged arbitrary arrest and detention of Mr. Abu Rahma, which appears to be in retaliation for exercising his right to freedom of expression and freedom of peaceful assembly. We remain concerned about the resorting by the Israeli authorities to the criminalisation of individuals exercising their right to freedom of peaceful assembly and call on the Government to respect and guarantee that right and ensure an enabling environment for human rights defenders to carry out their activities, without fear of persecution.

Final concern is expressed about the broader effect of the above-mentioned allegations, which may have a chilling effect on human rights defenders and civil society as a whole in the Occupied Palestinian Territories.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

Please note that the allegations concerning Al-Haq have also been shared with the Government of the State of Palestine with a view to seeking more information in relation to the case.

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.

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 therefore 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. In the event that the alleged perpetrators against Al-Haq are identified, please provide the full details of any investigation and prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
3. Please provide information concerning the legal grounds for the arrest and detention of Mr. Abu Rahma, and how they are compatible with international human rights law, in particular with articles 19 and 21 of ICCPR.
4. Please provide information about how the charges against Mr. Abu Rahma justify the trial of him by a military court, and explain how this is compatible with international human rights law.
5. Please provide detailed information concerning the legal grounds and justification for the use of teargas, without apparent provocation, against a group of peaceful protesters.
6. Please indicate what measures have been taken to ensure that human rights defenders in the Occupied Palestinian Territories 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.

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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Maina Kiai

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 territories 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 9, 17, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Israel on 3 October 1991, which provides that no one shall be subjected to arbitrary arrest or detention; no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence; the rights to freedom of expression and opinion and freedom of peaceful assembly and association shall be recognized.

We would also like to reiterate the principle enunciated in Human Rights Council resolution 12/16, which calls on States, while noting that Article 19, paragraph 3 of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

We would also like to refer to 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 articles 1 and 2 which provide 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 (a) which provides for the right to meet or assemble peacefully;
- 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.

Furthermore, we refer to the resolution 68/167 on the Right to Privacy in the Digital Age, adopted by the General Assembly in December 2013, which affirms that the rights held by people offline must also be protected online, and it called upon all States to respect and protect the right to privacy in digital communication, to review their procedures, practices and legislation related to communications surveillance, interception and collection of personal data.