

# *Al-Haq*

## *2009 Narrative Report*

*1 January – 31 December 2009*

### **Introduction**

To say that 2009 was an active year for Al-Haq would be an understatement. The year presented Al-Haq with many challenges and opportunities for intervention and in most cases the organization was able to come through strong, while in some cases the organization was unable to achieve the desired results. Al-Haq's ability to deal with the ever-changing environment in the OPT is a testament to its strategic planning and ability to understand the arena in which it operates. This report attempts to set forward the primary activities, accomplishments, and impacts that Al-Haq was able to achieve during the year, while also noting where more work must be done.

The year also marked Al-Haq's thirtieth anniversary. The significance of this occasion was marked by numerous milestones and groundbreaking activities for Al-Haq. The year began with Al-Haq addressing the death and destruction in Gaza through the most recent Israeli offensive of "Operation Cast Lead", where Al-Haq rose to challenge of providing important legal positions for use in the discourse regarding international law and accountability that was unplanned when the initial action plan for 2009 was formulated. This ability to react and react strongly is a prime indicator of Al-Haq's ability as it has developed over the past thirty years.

Perhaps the greatest accomplishments of the year were not those accomplished by Al-Haq alone, but in cooperation with a broad coalition of Palestinian civil society organizations, which Al-Haq helped to lead. The coalition added Israeli and international organizations to its call at various times as well, allowing for a stronger voice to be raised, particularly in relation to the development of the Goldstone Report, which was brought up out of the ground despite the political pressures to bury it. At the national level, the collective voice of Palestinian organizations was able to achieve significant progress on the issue of torture within the PA, leading to an unprecedented level of openness and acceptance of responsibility on the part of the PA. Al-Haq made significant strides in terms of media exposure as well in 2009, with representatives of Al-Haq giving no less than 200 interviews to various media outlets.

A main role Al-Haq played during the attacks on Gaza was to help unify the language used by Palestinian human rights organisations by taking the lead in drafting interventions that were endorsed by other organisations. The noted need for a unified voice by Palestinian human rights organisations led to collaboration with others into the formation of a Palestinian Council of Human Rights Organisations. The establishment of

this Council has helped Palestinian organisations jointly address both Israeli and Palestinian violations. Al-Haq's role in Gaza developed as well on the field through close cooperation with Al-Mezan by providing additional field researchers for greater efficiency in the collection of information and the compilation of a comprehensive statistical report on the attacks on Gaza. Additionally, Al-Haq held a live broadcast discussion that was aired by Al-Jazeera Mubasher (Live) addressing the issue of accountability and the legal options available, resulting in invitations for discussions on accountability in both Jordan and Qatar. It was clear during the attacks on Gaza that Al-Haq was considered a key reference for local, regional, and international media with interview requests coming on a daily basis. Also, lawyers are now contacting Al-Haq to seek to help on accountability. After the passage of the UN GA Resolution in November, Al-Haq was again called upon by the Union of Arab Lawyers in Egypt to provide analysis and advice on the way forward with regard to the Goldstone Report, indicating an increasing regional role for Al-Haq. Al-Haq also did not shy away from criticizing states for their voting on the Human Rights Council and General Assembly, even if they were funders of Al-Haq.

After the frustration with the lack of political will from the international community with regard to Gaza, Al-Haq decided to channel that frustration towards a groundbreaking endeavour. Al-Haq, in 2009, put its name on a complaint against the UK government. The first time a Palestinian organisation in the Occupied Palestinian Territory (OPT) makes such an endeavour to go beyond merely advocating for change and actually attempting to force such change. It is Al-Haq's history and reputation that allowed the organisation to take on such a challenge and find the support to do so.

An additional testament to Al-Haq's ability and reputation was its involvement in the most comprehensive study addressing Occupation, Colonialism and Apartheid which was finalised in May of 2009. Al-Haq was one of team of scholars and practitioners of public international law from South Africa, the United Kingdom, Ireland, the Occupied Palestinian Territory (OPT) and Israel to examine the suggestion made in the 2007 report of eminent South African jurist John Dugard, in his capacity as UN Special Rapporteur, that Israel's practices in the OPT had assumed characteristics of colonialism and apartheid.

Al-Haq's role internally greatly developed in 2009 with Palestinian public officials coming to Al-Haq seeking input directly in addition to reacting to our criticism of their actions. This shows the strength of Al-Haq's reputation and the respect it commands at the internal level. Al-Haq has been willing to provide input and direct the actions of authorities, while at the same time confronting them when necessary which has resulted in families being allowed to visit detained relatives, and in some cases resulting in the actual release of detainees. A significant example of Al-Haq's strength internally occurred in August of 2009 after the death in custody of Fadi Hamadneh, when Al-Haq was able to bring about the first ever secondary autopsy in PA jurisdiction by an independent international forensic expert. The fallout from this incident, although affirming the PA initial assessment, led to significant policy changes in the treatment of detainees and greatly reduced incidents of torture in PA detention facilities.

A continued indication of the impacts Al-Haq's work years after the initial activity had been done, through media attention, conference invitations, requests to submit papers on different issues, and hundreds of visitors who come specifically to visit Al-Haq based on what they have heard and read regarding Al-Haq's work. Visitors ranged from Trade Unionists from the UK to Governmental representatives regarding asylum seekers from

Sweden and Norway, as well as student delegations from around the world. This has led to developing component of AI-Haq's advocacy work through increased interaction with civil society from around the world as well as public officials. As expected, some attention has also been critical, particularly from questionable groups like the NGO Monitor. Of course, we consider criticism from such groups as an important indicator as to the value of our work.

An additional milestone reached by AI-Haq in 2009 was its acceptance of the Dutch Human Rights Prize, The Geuzenpenning. On 13 March 2009 AI-Haq was co-awarded the prize along with B'Tselem in the Netherlands. The Geuzenpenning, is a Dutch award given to persons or organisations who have fought for democracy and against dictatorship, racism and discrimination. It has been awarded annually since 1987 in the city of Vlaardingen. Previous winners included Human Rights Watch, Amnesty International, and the International Campaign for Tibet.<sup>1</sup>

The year also marked an additional important achievement by AI-Haq through the support of one of its oldest partners, The Ford Foundation. AI-Haq was given approval to develop an institute on IHL and Human Rights Studies. This institute will become an important component of AI-Haq's overall program of work. An important activity conducted through the institute was a symposium on the "Occupation, Apartheid, and Colonialism?" study.

On an organisational level, it must be noted that our networking and advocacy at the international level has occurred without the direct participation of AI-Haq's General Director in international meetings, conferences and forum, due to restrictions imposed on his travel by the Israeli authorities. The restrictions, however, do not end with the General Director, as two of AI-Haq's legal researchers have not been allowed to return to the OPT by the Israeli authorities in 2009. This has forced AI-Haq to once again adapt, by developing a relationship with a host university in Brussels allowing for one of the researchers to continue her work from Brussels. This development marks the first time AI-Haq has a permanent staff member working from abroad which has actually allowed for more sustainable advocacy at the EU level.

A very important component of the organisation which allows for AI-Haq to address emergency developments quickly is the Board of Directors of AI-Haq which continues to be a very involved board, but without imposing constraints on the activities of the organisation through unnecessary interference.

Additionally, AI-Haq's role as a reference has not been limited to its documentation or legal research knowledge, but its library as well. In addition to hosting hundreds of visitors in the office, thousands are now able to access the library online. AI-Haq has become the first contact point for advise on the developing of a library in the OPT both in terms of systems and policies. An example is the request by the Palestinian Bar Association for advise on the developing of their library.

Our administration's key role in providing all of the necessary support for the organisation's activities have helped make any transition from one issue to another a smooth and comfortable one for the organisation and its staff. Additionally, other

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<sup>1</sup> [http://www.geuzenverzet.nl/index.php?tekst\\_id=12&lang=EN](http://www.geuzenverzet.nl/index.php?tekst_id=12&lang=EN)

organisations have asked to use Al-Haq's strategic plan as a framework for the developing of their own plans.

The complication with visas and incorporation of some partners into one funding unit has created some human and financial strain. Despite the strain, however, Al-Haq has not lost sight of its strategic plan and has continued to successfully work towards fulfilling the objectives set out at the beginning of the year.

We have developed our ability to do more with less, while at the same time exploring new avenues for funding to support our core work. In 2009, particularly during the attacks on Gaza, Al-Haq was actually contacted by different sources offering to provide financial support. One example was the Rosa Luxemburg Foundation, which allowed al-Haq to hire additional field workers for a short period of time to assist Al-Mezan in the gathering of field information. Another is that from ICCO, focusing on Accountability. Additional small grants supporting our core work came from the International Centre for Human Rights and Democratic Development in Canada and the Spanish Agency for International Cooperation and Development (AECID).

### **Al-Haq's Goals for 2009**

- Influence policy at the national and international levels
- Hold accountable perpetrators of international human rights and humanitarian law violations in the OPT
- Improve and enhance Al-Haq's organizational capacity.

### **I. MONITORING AND DOCUMENTATION**

One of the primary strengths of Al-Haq is its Monitoring and Documentation Department (MDD). Al-Haq does not rely on second-hand information or the press for its information, rather the MDD allows for the constant flow of first-hand documentation by its trained fieldworkers who gather information and affidavits from victims of, and eyewitnesses to, human rights violations throughout the West Bank, including East Jerusalem. The MDD continuously documents a wide variety of Israeli violations, including comprehensive coverage of killings, house demolitions, curfews, and deportations as well as Palestinian violations. In 2009, the MDD collected 610 affidavits that provided the basis for much of Al-Haq's research and advocacy work. In addition to affidavits, the MDD produces field reports and statistical information on a regular basis and at the requests of various stake holders.

The comprehensive documentation collected by our fieldworkers is compiled and scanned into a computerised database that is maintained by our MDD office staff. The database, which was created specifically for Al-Haq, allows the organisation to make use of the information that comes in from the field depending on the aims of the organisation, its legal research and advocacy department, as well as external requests.

The importance of the MDD and our field information was particularly highlighted during the attacks on Gaza. Our two Gaza fieldworkers ran from area to area, at times risking

their own lives to gather and verify information, in order for the organisation to have information that was as accurate as possible. Our Gaza fieldworkers were also called upon by the UN Fact Finding Mission to provide information collected as well as their accounts of what they saw and experienced during the attacks. It must also be noted, that our field research in Gaza was not limited to the Israeli attacks on Gaza. Our fieldworkers did not turn a blind eye towards continuing internal Palestinian violations and collected information throughout the reporting period that was an important part of a broader report on the internal Palestinian situation as a whole.

Of course, Al-Haq's field research is not limited to Gaza during the reporting period and our fieldworkers in the West Bank have continued to follow numerous issues including both Israeli and Palestinian violations. A generally known, but unspoken risk with field research became acutely clear during the collection of information surrounding an internal incident that took place on 31 May 2009 in Qalqiliya, which cost the life of six Palestinians. Someone not satisfied with the outcome of the investigation told one of our fieldworkers that *the price of the life of this field worker is only the price of one bullet*. Despite these risks our fieldworkers continue to push forward leaving no issue untouched.

Al-Haq's field research played an instrumental role in the investigation of the death in custody of Fadi Hamadneh. Our fieldworker was able to immediately gather information from family members as well as officials within the detention facility which led to Al-Haq's pursuit of independent autopsy to be conducted.

Our fieldworkers have been actively involved in training as well through the Diakonia IHL project, providing workshops on documentation to various organisations and groups. The training provided by our fieldworkers has helped them to develop not only their own capacities but also those of others organisations increasing the role of documentation as whole in the OPT. Al-Haq's MDD has also hosted two interns from the Al-Quds Human Rights Clinic in order to develop the students understanding of the practice of documenting violations that they learn about through the previous year's seminars in the university, which Al-Haq's MDD head is also involved in providing.

Additionally, the MDD has been instrumental in providing visiting delegation with fieldworkers to accompany them and guide them on their visit, making the experience a much more powerful one. One specific area of field visits and its impact came in Jerusalem, where four separate delegations were taken to the area of the light rail train system. Two of those delegations were media based covering the issue and later used the information gathered in broadcasts. One, specifically on Swedish TV, coordinated with the help of Diakonia, was broadcast prior to a contract bid for one of the companies involved in the project, Veolia. After the broadcast, Veolia lost on its bid for a contract in Sweden.

The MDD has also began to develop its work in the area of visual documentation with fieldworkers gathering video footage to present violations and testimonies. This is an area of work that Al-Haq will develop in 2010 and begin to present short video clips in addition to the documentation regularly collected. The department has developed a visual documentation unit to focus on this area, and developed its technical capacity with the purchase of new equipment for this unit.

Al-Haq's monitoring and documentation experience was also called upon at an international level in a conference in Geneva, organised by HURIDOCS, a global network working to build the capacity of institutions that use the technical documentation and information management systems and technology in the defense of human rights. The event held in late February was attended by the head of Al-Haq's monitoring and documentation department.

The MDD has also issued monthly reports in Arabic in addition to its quarterly reports in English, in order to raise awareness with regard to Al-Haq's documentation both locally and regionally.

In 2009, the MDD has also made great strides in developing documentation that can be used for litigation in compliment to Al-Haq's Accountability objective.

## **II. LEGAL RESEARCH AND ADVOCACY**

Prior to beginning the section regarding the Legal Research and Advocacy work, where most of the visible portion of Al-Haq's work stems, it is important to note the hard work that is not as visible and done behind the scenes. It is that work done by our field researchers, database and administrative staff which makes all of the work addressed below possible.

### **GOAL 1: INFLUENCE POLICY AT THE NATIONAL AND INTERNATIONAL LEVELS**

#### **OBJECTIVE 1**

**Capacity building and awareness raising in the areas of human rights and freedoms within law enforcement and civil society.**

The continued internal division within Palestinian society in 2009 emanating from the political differences between the Palestinian National Authority and Hamas has led to increased tension between civil society and law enforcement. This tension has forced Al-Haq to reevaluate its method of interaction with law enforcement as they have become a major component of the internal violations toward Palestinian human rights. In order to address these challenges, Al-Haq pushed for the creation of the Palestinian Council of Human Rights Organisations in cooperation with eight other human rights organisations in order to create a joint forum for addressing violations of Palestinian human rights, including internal violations.

Al-Haq played a critical role in the development of the Council through the coordination of meetings and the drafting of the by-laws for the Council in April 2009. This collective voice has enabled the members of the Council to speak out more forcefully on various issues without the fear of individual organizational backlash. The Council has already addressed numerous internal issues such as torture and political arrests.

Although, the Council has provided a forum for joint advocacy work, Al-Haq has not shied away from addressing issues that members of the Council felt were to sensitive to address. An example of this type of case involved the confrontation between Palestinian security forces and members of Hamas in Qalqilya on 31 May 2009.

Al-Haq fieldworkers and legal researchers documented and compiled the relevant information to ascertain the facts behind the deplorable incident that took place on 31 May 2009 in Qalqiliya, which cost the life of six Palestinians. Al-Haq gathered information and sworn statements from eyewitnesses and residents of the neighbourhood where armed confrontation between members of the Hamas-affiliated 'Izz ad Din Al Qassam Brigades (Al Qassam Brigades) and Palestinian security personnel erupted. Al-Haq's fieldworkers also met with some of the Palestinian security officers who participated in the operation. It was not possible to obtain statements from Mrs. Huda al-Basha and Bassam al-Yaseen, respectively the wife and the brother of two of the victims, as the former is still hospitalised under strict surveillance and the latter was being detained by the Palestinian Security Forces.

The detailed documentation gathered and its longstanding experience in investigating incidents such as the one occurred in Qalqiliya on 31 May 2009, allowed Al-Haq to shed light on the specifics of the incident.

Al-Haq's experience and reputation have also led the security services themselves, to contact us on specific cases in 2009. In three cases of death in custody, the security services asked us to attend the official autopsy.

The most significant incident occurred after the death in custody of Fadi Hamadneh. Fadi Hamadneh's lifeless body was discovered at around 8:10 am on the 10 August 2009 by a General Intelligence Services officer, who was conducting a check of the detainees. His death was confirmed by a physician who arrived at the scene soon afterwards. Al Haq was informed of a death in custody at the Al Juneid detention centre the same day and an Al Haq field researcher went to the prison to inquire about the incident and ascertained that the deceased was Fadi Hamadneh.

Al Haq spoke to the family. The family expressed to Al Haq their scepticism of the official cause of death, which was that Fadi Hamadneh had hanged himself. Al Haq informed the family of their legal right to appoint an independent pathologist to conduct a post mortem of the body. The family decided to instruct Al Haq formally to act on their behalf in seeking an independent post mortem into the death. Al Haq therefore wrote to the Palestinian Minister of Justice and the Attorney General, requesting that a family appointed pathologist be allowed to complete a post mortem of the body. The Minister of Justice and the Attorney General agreed immediately to the proposal and expressed their readiness to cooperate fully with any enquiry.

Al-Haq's further requested that any official post mortem be postponed until the family appointed pathologist had completed his investigation. The request was however rejected and an official post mortem was performed the same day (the 10th August 2009) on the order of the Attorney General. It was carried out by the Forensic Medical Institute at the Ministry of Justice. The team was headed by Dr. Ziyad al Ash'hab, the Director General of the Institute, and included doctors from the An Najah National University in Nablus.

The same day Al Haq contacted several international forensic medical institutions in order to request a pathologist to travel to the region. Professor Peter Mygind Leth, PhD Deputy Chief Forensic Pathologist of the Institute of Legal Medicine at the University of Southern Denmark, and a member of the Advisory Board of Forensic Pathology of Denmark, responded to the request and agreed to travel to the Palestinian territories.

Dr Leth arrived in Ramallah on the afternoon of 11 August 2009. He was briefed on the case by Al Haq. The Minister of Justice and the Attorney General were informed that he had arrived and reiterated their willingness to cooperate with his investigation.

Dr. Leth, accompanied by an Al Haq staff member and a translator, went to Nablus on Wednesday, 12 August 2009. Dr. Leth visited the detention centre and examined the scene of the death. He took measurements of the room and was told the location and position in which the body had been found. He was also shown the results of the official post mortem. Dr. Leth then performed a second post mortem of the body in the presence of Dr Ziyad Al Ash'hab and other members of the Palestinian team that had conducted the first examination. Following the autopsy, Dr. Leth met with Al-Haq and the Hamadneh family members where he presented his conclusions that were consistent with death by hanging.

The incident of Fadi Hamadneh's death in custody led to significant steps in pushing for the respect of the rule of law, transparency within the PA, and respect of the rights of the family which will be continuously pursued by Al-Haq. Although affirming the PA initial assessment, Al-Haq's role in the investigation of the incident led to significant policy changes in the treatment of detainees and greatly reduced incidents of torture in PA detention facilities after high level meetings with public officials including the Prime Minister.<sup>2</sup>

One of the main violations of freedoms Al-Haq has had to address in recent years is that of the freedom of association. Al-Haq's challenges to the closure of organisations in 2007 and 2008 have led Al-Haq to become the main reference for civil society organisations facing interference from the Ministry of Interior. In 2009, Al-Haq developed its strategy to address this interference through the training of both civil society organisations and officials within the Ministry of Interior as to the Palestinian NGO Law. Through this training Al-Haq held four workshops for civil society throughout the West Bank and one workshop for the Ministry itself.

Civil society organisations were very pleased with the training saying that they had no clear understanding of their rights as organisations prior to the training, and that they will now change the way in which they deal with the Ministry. The organisations felt strengthened with their new knowledge and were confident in challenging the Ministry through the judicial system in the future. Additionally, the Ministry of Interior itself, also noted that the training provided them with valuable information that will be incorporated into the administration of their work. The Ministry also requested that additional training be provided in the future.

In addition to the workshops, a guide for civil society organisations on the NGO Law was compiled and set for publication to be distributed to civil society organisations throughout the OPT.

Al-Haq also held two televised discussions addressing the rights and responsibilities of NGOs as well as the death penalty and the movement towards abolishing it. As a result of these televised discussions, particularly with regard to the rights and responsibilities of

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<sup>2</sup> <http://www.maannews.net/eng/ViewDetails.aspx?ID=251967> 'Fayyad concedes PA tortured Hamas detainees' AP 4 Jan 2010



NGOs, we have received additional complaints and requests for information on how to address alleged violations of NGO rights.

## **OBJECTIVE 2**

### **To contribute towards the respect for the rule of law and independence of the judiciary in the OPT (West Bank and Gaza)**

Regrettably, from the beginning of 2009, Al-Haq has ascertained that the human rights situation in the Occupied Palestinian Territory (OPT) has gravely deteriorated due to the spreading violations committed by Palestinian actors. In response to this deterioration, and as a result of Al-Haq's fieldworkers and legal researchers, Al-Haq compiled a report addressing the following alarming trends which has been and will be used for national and international advocacy addressing internal violations in an effort to have pressure exerted on the various Palestinian actors both internally and internationally. The report was cited in a Euro-Mediterranean Human Rights Network letter submitted to the EU-PA Joint Committee Meeting on 24 June 2009.

The issues addressed in the report are:

- Extra-judicial killings and violation of the right to life and physical integrity
- Arbitrary detention on political grounds
- Torture and ill-treatment
- Secret detention centres in the Gaza Strip
- Violation of the right to freedom of association
- Violation of the right to freedom of movement committed by the de facto Hamas government in the Gaza Strip
- Disregard for judicial decisions
- Violations of the right to a fair trial and excessive use of death sentences

An additional issue that has come to light since the above report is the issue of arbitrary dismissal from public service employment. Al-Haq has documented numerous cases of persons dismissed from public service because of political affiliation, and will be releasing a report on the issue in 2010.

In addition to the compilation of violations, Al-Haq has issued numerous interventions to actors regarding each of the violations. Some of the interventions also addressed family visits to detainees in Palestinian detention facilities with two successful cases allowing the families to visit their detained relative, and three cases where the detainee was actually released. Al-Haq also intervened in a case of an organisation that was prevented from holding one of its activities. After Al-Haq's intervention, the Ministry of Interior responded by allowing the activity to take place.

In addition to writing interventions to the Ministry of Interior, regarding the interference of the Ministry of Interior with the board of directors of various associations, Al-Haq filed a complaint in the Palestinian High Court against the Minister of Interior. In the filing of this complaint Al-Haq not only addresses the violations of the Ministry, but also strengthens the independence of the judiciary. Hearings are currently being held before the High Court and decision is expected sometime in 2010.

Al-Haq also intervened in death penalty cases in Gaza calling on the president not to ratify any of these decisions. The president's office responded acknowledging that the decisions will not be ratified.

In the area of freedom of the press, Al-Haq submitted a legal intervention on behalf of the Watan TV, a local station, that was seeking to be added as a sky channel. Due to political reasons, the Council of Ministers initially refused to allow it this status. Al-Haq sent an intervention to the Secretary General of the Council arguing the illegality of the denial under Palestinian law. The Secretary General, responded positively and we expect that the obstacles before the station will be removed in 2010 allowing it to have sky channel status.

As a result of the continued pressure Al-Haq has exerted on violations by the PNA, the Complaints Department of the Council of Ministers has come to Al-Haq to create a formal line of communication and asked Al-Haq to submit complaints we receive in order to ensure a follow-up and work towards resolving any issues. In 2009, there has been positive development on the issue of torture while we have failed to make tangible progress on the areas of enforcement of judicial decisions as well as the use of the military judicial system for civilians through this cooperation with the Council of Ministers. These are areas where we will continue to stress in 2010.

### **OBJECTIVE 3**

#### **Integration of international human rights standards into Palestinian legislation and presidential decisions by law**

Despite the lack of a functioning Palestinian Legislative Council, Al-Haq has remained active on pending Palestinian legislation. Al-Haq is considered a reference to both civil society as well as officials with regard to most developing legislation, particularly when it touches on human rights issues. Much of the work addressing legislation has been done through various coalitions to which Al-Haq belongs. Two particular areas are the Personal Status Law and the adoption of a Palestinian penal code. With regard to the Personal Status Law, Al-Haq along with a coalition of other organisations was able to freeze the adoption of a draft by the President in 2008 and put forward a new draft for discussion ensuring better protection of women's rights in 2009.

Through 2009, we have been working to develop a new draft that promotes gender equality and respects the rights of women in line with international human rights standards which will be submitted to the President in 2010. The previously submitted draft allowed for women to be taken advantage of with regard to their property rights, decision to marry or divorce, as well as the right to custody of children. With regard to the penal code, we have been able to delay the adoption of the penal code in order to attempt to modify the mitigating factors involved in so-called "honor killings".

Al-Haq has also been actively involved in the Palestinian Coalition Against the Death Penalty as well as the Palestinian Coalition for the Prevention of Torture. Through these coalitions Al-Haq has been involved in workshops for law students in various universities in the West Bank aimed at mobilizing support for the abolition of the death penalty. Additionally, through the coalition on torture, there has been development in the documentation of torture as well as visits to detention facilities due to coordination between members in the coalition.

An additional impact of Al-Haq's work on the Palestinian Personal Status Law has been the regional recognition of Al-Haq in the area. As such, Al-Haq was invited to submit a paper at a conference in Beirut in March 2009 addressing the Palestinian Personal Status Law as the Palestinian representative where representatives from Egypt, Jordan, and Lebanon were in attendance. The conference addressed the issue of women and polygamy in the laws of the various Arab countries.

The Ministry of Interior also requested that Al-Haq read and provide comments on a draft of regulations that are to be incorporated into the NGO Law. Al-Haq did so, and the ministry responded with gratitude saying that it would consider the comments for incorporation.

Additionally, the Council of Ministers asked Al-Haq to present a paper on Palestinian laws that address justice and provide insight as to what problems exist with the current laws and how to develop the laws in order to overcome the problems.

Al-Haq was also invited to a workshop held by independent Palestinian Trade Unions. Al-Haq submitted an intervention regarding the incorporation of The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) into Palestinian Legislation.

#### **OBJECTIVE 4**

##### **Provisions of the ICJ AO regarding the Annexation Wall are implemented**

In the five years that have passed since that authoritative ruling was made, Israel has failed to fulfil any of the obligations adjudged by the ICJ to be incumbent on it under international law. Construction of the Wall has continued towards completion, while Israel's settlement enterprise in the West Bank, held unanimously by the Court to be in violation of the Fourth Geneva Convention, continues to expand at a rate that is three times faster than 'natural growth' inside Israel. Despite this persistent and open defiance of the Court's elucidation of international law, the High Contracting Parties have as yet failed to fulfil their own legal obligation to ensure Israel's respect for the Convention. Al-Haq is currently engaged in legal action in the jurisdictions of certain High Contracting Parties in an attempt to rectify this failure, as well as advocating for a reconvening of the Conference of High Contracting Parties to the Fourth Geneva Convention in July 2009.

One of the primary components of the ICJ AO that Al-Haq has focused on in 2009 has been that of the obligations imposed on third states, particularly the duty of non-recognition and the duty not to render aid or assistance. These obligations arise in the context of Israel's breaches of peremptory norms of international law, namely interference with the Palestinian right to self-determination, de facto acquisition of territory by force, and breach of "intransgressible" principles of international humanitarian law. The violations of international law, and the obligations they entail for third states, existed well before Israel's most recent attacks on the Gaza Strip but the widespread civilian death and destruction caused during "Operation Cast Lead" and the distinct failure on the part of the international community to take any concrete action to stop Israel's violations have forced Al-Haq to challenge third states directly, starting with the UK, in order to seek an end to the "business-as-usual" approach in relations with Israel.

An important impact of Al-Haq's work during the attacks on Gaza, and its consistent work in utilizing the ICJ AO led to the approaching of Al-Haq by UK based Public Interest Lawyers (PIL) and the Human Rights Legal Aid Fund (HRLAF) for a potential case against the UK government. While these obligations exist toward all countries, the relationship Al-Haq has developed over the years with PIL and willingness of the HRLAF to support such a case encouraged us to move forward with the case.

The idea of legally challenging the UK had been simmering for some time in discussions between Al-Haq and its UK solicitor, pioneering public interest lawyer Phil Shiner. Israel's actions in the context of *Operation Cast Lead* triggered a shift in public opinion worldwide and a heightened realisation of the injustices being perpetrated against Palestinian civilians. Accordingly, despite a slight discomfort at the fact that the first 'post-Gaza' litigation to be filed in a foreign jurisdiction would not be against those directly responsible for the commission of war crimes, but rather against a third party, Al-Haq felt that some immediate action must be taken.

Before Al-Haq filed its case, the UK government refused to accept that it should be made to answer to those obligations before its courts. It is worth, however, taking note of significant developments that have come about in the short period since the claim was filed: in March 2009, the British Foreign Office informed its Israeli counterpart that, contrary to previous diplomatic assurances, it will not change UK legislation that allows arrest prosecution of alleged war criminals,<sup>3</sup> while in April 2009 David Miliband announced that the UK is to review all of its military exports to Israel.<sup>4</sup> This later led to a partial arms embargo being issued.<sup>5</sup> Small impacts, perhaps, but impacts nonetheless.

On 27 July 2009, Al-Haq's application for permission to seek judicial review of the UK Government's actions in light of breaches of international law by Israel in the Occupied Palestinian Territory (OPT) was refused. The Court's two judges found against Al-Haq on grounds of both justiciability and standing.

The decision was appealed at no additional cost to Al-Haq, through the dedication of the Public Interest Lawyers. On 14 November 2009, the permission to appeal was denied. An appeal of this decision has been set for 25 February 2010.

Additional work on the Wall and utilization of the ICJ AO includes the publication of an information packet on the Wall and its associated regimes, in English and Arabic and incorporation of visual material which will be used by Al-Haq during field visits provided by our field workers and also distributed to other civil society organisations, particularly those working on the Wall.

Al-Haq's Canadian speaking tour in 2008 and cooperation with the Bil'in Popular Committee continued to have impacts in 2009 when Canadian author Naomi Klein came to the OPT in order to promote her new book, "The Shock Doctrine", and support the BDS campaign. Al-Haq was called upon to join her in a press conference in the village of Bil'in. Al-Haq provided a legal background to the case of Bil'in v Green Park in Canada.

## **OBJECTIVE 5**

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<sup>3</sup> See Anshel Pfeffer, 'U.K. backtracks on preventing war crimes charges against IDF', *Ha'aretz*, 22 March 2009.

<sup>4</sup> Nicholas Watt, 'Military exports to Israel reviewed following Gaza conflict', *The Guardian*, 22 April 2009.

<sup>5</sup> See Barak Ravid, 'U.K. hits Israel with partial arms sanctions over Cast Lead', *Ha'aretz*, 14 July 2009.

## **Adherence by the international community to its international legal obligations regarding East Jerusalem**

Al-Haq's work on East Jerusalem has some significant impacts during the year. The most visible of which have been through the media's reference to Al-Haq for analysis and field visits provided by our fieldworker with regard to the French company, Veolia's involvement in a tramway project in Jerusalem (Jerusalem light railway). In January, Al-Haq was called upon to provide a Swedish television station with a visit to the sight of the project and provide legal commentary on the project. The station later aired the broadcast on Swedish TV 4 the day prior to the voting on the renewal of contract for Veolia in Sweden. As a result of the media surrounding the role of Veolia in East Jerusalem, Veolia lost the contract, worth an estimated 3.5 billion dollars.<sup>6</sup> In April, the Galway City Council followed suit and refused to sign or renew any further contracts with Veolia as a result of their operations in the OPT.<sup>7</sup>

Additionally, Al-Haq's General Director has been featured in Al Jazeera International's program "People & Power" – Courtroom Intifada. The program focused on legal cases brought around the world to challenge Israeli policies. The specific portion for Al-Haq dealt again with East Jerusalem and the role of Veolia in the tramway project. The program did also address the case of Bi'lin v. Green Park, which Al-Haq has also been involved in promoting.<sup>8</sup>

As can be seen from the above examples, Al-Haq's work is not simply measured by a particular activity and its impact, but rather the years of the experience and reputation it has developed to becoming a primary reference for those wishing to get a professional human rights perspective with regard to violations committed in the OPT.

Al-Haq has continued to also develop its work on Jerusalem through its involvement in the Civic Coalition for Jerusalem where Al-Haq serves as the reference for legal advocacy in the Coalition.

The year 2009 was also marked by the fact the Jerusalem has been recognised as the Arab Cultural Capital. Al-Haq issued an intervention challenging Israel's policy of repressing the cultural activities. As a result of Al-Haq's work on Jerusalem, UNRWA invited Al-Haq to make a presentation regarding cultural rights in Jerusalem as part of UNRWA's 60<sup>th</sup> anniversary commemoration in Brussels at the end of June 2009.

In August 2009, Al-Haq intervened to address the issue of increased in evictions from East Jerusalem. Coupled with the use of the Annexation Wall to appropriate land in the areas surrounding it, is indicative of a systematic policy by Israel to annex East Jerusalem and its surrounding areas to Israel and to allow for the expansion of settlements there. Al-Haq called upon the international community to: actively engage the Israeli authorities to comply with international law, and to affirm the status of East Jerusalem as occupied territory; assert their authority as Third States and take effective measures to uphold their legal obligation not to recognise, aid or assist the

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<sup>6</sup> <http://www.labournet.net/world/0901/veolia2.html>

<sup>7</sup> [http://www.scottishpsc.org.uk/index.php?option=com\\_alphacontent&section=50&Itemid=200536](http://www.scottishpsc.org.uk/index.php?option=com_alphacontent&section=50&Itemid=200536)

<sup>8</sup> <http://www.youtube.com/watch?v=TySr95aKSIU>

illegal situation created by Israel's continuing denial of the right to self-determination of the Palestinian people; pressure Israel to immediately cease the unlawful construction, expansion, and "natural growth" of Israeli settlements in the West Bank, including East Jerusalem and; actively engage and exert pressure on the Israeli judiciary to comply with international law in manner that respects the international consensus.

## **GOAL 2: HOLD ACCOUNTABLE PERPETRATORS OF VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN LAW COMMITTED IN THE OPT**

### **OBJECTIVE 1**

**Perpetrators and accomplices of crimes committed in the Occupied Palestinian Territory (including Gaza and East Jerusalem) are held accountable before any viable judge, including civil courts.**

The attacks on Gaza during the Israeli offensive of "Operation Cast Lead" created a new momentum for the discussion of accountability and the various methods for achieving such accountability. Al-Haq was leading actor in the discussion through its continuing international networking utilizing both criminal and civil jurisdictions. Local, regional, and international media outlets, including the BBC, actually called upon Al-Haq to provide legal analysis on the situation as it continued to deteriorate on the ground. Al-Haq issued numerous legal briefings and interventions during the attacks on Gaza which were widely referenced and distributed.<sup>9</sup> An important aspect of the reaction to the attacks on Gaza was the initiative Al-Haq took in formulating the language used by Palestinian human rights organisations through the drafting of interventions for joint endorsement. This was an important factor in providing the momentum necessary for the creation of the Palestinian Council for Human Rights Organisation.

The monitoring and documentation department in cooperation with the fieldworkers in Gaza were instrumental in providing up-to-date and accurate information that allowed our legal research on accountability to begin compiling comprehensive cases of crimes committed during the Israeli offensive.

As a result of Al-Haq's work on Gaza in 2009, Al-Haq's reputation developed at the regional level as well. Al-Haq was invited to a regional conference on accountability in Cairo on 2 February 2009. Al-Haq's senior lawyer and legal researcher submitted a fifteen minute intervention addressing the legal framework of the Israeli violations and addressing the various crimes committed during the offensive. In addressing the issue of criminal accountability, Al-Haq raised the issue of the potential for civil claims as well. The intervention led to offers for additional cooperation with Al-Haq from various regional actors.

Al-Haq's work in seeking to individual accountability for specific crimes through the judicial systems of third states has continued to develop in 2009. This development was born through a commitment to seek justice, not only through monitoring and advocacy, but also through direct legal action. In addition to its continuous work on compilation of

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<sup>9</sup> <http://www.thejerusalemfund.org/ht/d/ContentDetails/i/3539/pid/742>  
<http://www.globalresearch.ca/index.php?context=va&aid=13191>

case files, Al-Haq dedicated a significant amount of its resources toward compiling comprehensive information on specific incidents during the attacks on Gaza which the organization felt could be strong potential cases abroad. Simultaneously, Al-Haq has continued to develop its network of lawyers and solidarity groups abroad where potential cases could be brought.

2009 has also seen development in the civil arena as well. First, the case of Bil'in v. Green Park has moved forward with preliminary hearings heard in June. On 9 July 2008, in continuation of their struggle for justice in the face of unlawful appropriation of their land, the residents of Bil'in village commenced legal proceedings before the Superior Court of Quebec in Canada, against Green Park International Inc. and Green Mount International Inc. The defendants are Canadian corporations registered in the Province of Quebec who have been involved in the construction, marketing and selling of residential units in the illegal Jewish-Israeli settlement of Modi'in Illit on the land of the village of Bil'in, in the Occupied Palestinian Territory (OPT).

The Green Park defendants have filed multiple dismissal motions with the Court, alleging that the claims of Bil'in should be dismissed summarily on four grounds; justiciability, forum non conveniens, res judicata and standing. The defendants have submitted that the Israeli courts, and not the Canadian courts, are the proper forum for this case to be heard, despite the fact that the Israeli courts have refused to rule on the illegality of Jewish-Israeli settlements in the OPT in light of international humanitarian law, instead holding the legality of the settlements to be non-justiciable (see for example, Bargil v. Government of Israel, HCJ 4481/91). The defendants have submitted that the Quebec Court should decline jurisdiction to hear the case and that it should be dismissed.

In response, Bil'in Village Council submitted an expert opinion from an eminent Israeli law professor to the Quebec Court, which confirms that the case would not be heard by the Israeli courts. Green Park has submitted a contrary opinion in the form of an affidavit from its Israeli lawyer.

On 18 September 2009 a judgment was handed down in the Bil'in case denying the claim on the grounds of "forum non conveniens", in other words that the case can be dealt with by the Israeli courts and thus should not be brought in Canada. The Canadian court did agree however with the notion that corporations and corporate officers/directors can be liable for war crimes/violations of international law as Canada interprets it. The case is being appealed, with a potential hearing likely in the spring of 2010.

As a result of Al-Haq's continued involvement in the case of Bil'in, Al-Haq was invited to prepare presentation on corporate accountability at the Fourth Bil'in International Conference on Popular Nonviolent Resistance. The presentation was very well received and numerous requests for the presentation were made. This led Al-Haq to post the presentation along with other presentations on its website under the heading "Al-Haq's Legal Questions and Answers on the OPT".

Al-Haq is also exploring two other potential civil cases in Europe. While potential criminal or civil cases are not something that is definite, considering the financial and judicial hurdles that need to be overcome, Al-Haq has realized the need to develop additional funding sources specifically for litigation purposes. A key development in 2009 has been the creation of the Human Rights Legal Aid Fund which has already begun working with

Al-Haq in its case involving the UK government and has indicated willingness to aid in criminal and civil cases.

In August 2009, Al-Haq issued a report titled 'Operation Cast Lead': A Statistical Analysis, which was prepared in conjunction with the Al Mezan Centre for Human Rights. The report is a culmination of a thorough investigation of the offensive by field workers on the ground. It presents a selection of the data collected of the extent of the killing and the destruction perpetrated by Israeli forces during the attack. This report provides additional evidence that could be used to support future litigation.

Al-Haq along with others, welcomed the attempts at holding Defence Minister Ehud Barak and former Israeli Foreign Minister and senior politician Tzipi Livni accountable in late 2009 in the UK, and provided legal analysis on the attempts through press releases, position papers, and interviews. Al-Haq and Al-Mezan played an active role in providing the necessary documentation to make the case with regard to Barak.

In December 2009 Al-Haq submitted a position paper on on Issues Arising from the Palestinian Authority's Submission of a Declaration to the Prosecutor of the International Criminal Court under Article 12(3) of the Rome Statute. In early 2009 the Palestinian Authority submitted a declaration under Article 12(3) of the Rome Statute recognizing the jurisdiction of the International Criminal Court for the purpose of identifying, prosecuting and judging the authors and accomplices of acts committed on the territory of Palestine since 1 July 2002.' In the first instance this paper argues that whereas the existence or otherwise of a state of Palestine remains moot at best for the purpose of international law and international relations broadly speaking, a compelling argument can be made that for the purposes of the Statute only, a determination by the Court that Palestine is a state that can engage with the Court would be valid and in line with the Court and the Statute's statutory requirements. The paper, drawing on the criteria being relied upon by the Office of the Prosecutor in order to decide whether the PA, as an institution established by the PLO, has the necessary 'capacity' to transfer its jurisdiction to the Court, then addresses the extent of the PA's jurisdiction over international crimes. It demonstrates that the PA can legitimately prosecute individuals responsible for crimes within the jurisdiction of the ICC regardless of the nationality of the individuals concerned and that the PA has the ability to enter into international agreements. It concludes by asserting that the ICC may validly consider Palestine to be a state for the purposes of Article 12(3) of the Rome Statute and may accept the transfer of jurisdiction from the PA to the Court in line with the Statute and the principles of international law.

The paper has received significant attention within the legal community with discussions on the paper taking place on various academic blogs, as well as discussions with the Office of the Prosecutor at the ICC and Palestinian officials.<sup>10</sup>

## **OBJECTIVE 2**

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<sup>10</sup> <http://internationallawobserver.eu/2009/12/29/paper-on-the-issues-arising-out-of-the-palestinian-declaration-to-the-icc/>

<http://humanrightsdoctorate.blogspot.com/2010/01/palestine-and-international-criminal.html>

<http://dovjacobs.blogspot.com/2010/01/case-study-in-legal-reasoning-icc-and.html>



## **Israel is held accountable before the UN for its violations and crimes committed in the OPT**

The majority of Al-Haq's work at the UN level in 2009 can be summed up in one word, "Goldstone." Al-Haq participated in the the 9<sup>th</sup> special session of the Human Rights Council resulted in a resolution being passed calling for a Fact Finding Mission to be established in January 2009. Upon the initiation of the mission led by Justice Richard Goldstone, Al-Haq was called upon numerous time to make submissions to the mission. As a testament to the scope of Al-Haq's work, the mission met with Al-Haq's fieldworkers in Gaza where affidavits were also submitted. Additionally, one of Al-Haq's legal researchers attending a session in Amman, Jordan addressing PA violations in the West Bank during the attacks on Gaza. Finally, Al-Haq's General Director submitted an intervention via video conference to Geneva detailing the issue of movement restrictions in the West Bank via the Israeli occupying forces.

The real work for Al-Haq at the UN level came after the release of the Report. The first step towards achieving the full implementation of the Report, was the adoption of a resolution endorsing the report during the 12<sup>th</sup> regular session of the United Nations Human Rights Council in September 2009. Representatives of Al-Haq were sent to Geneva to advocate for the report together with other Palestinian, Israeli, and International organizations advocating States' representatives to vote for a draft resolution which endorsed the Report.

Al-Haq also helped to organise a side event entitled "After the Report by the Fact Finding Mission on Gaza: What's Next?" on 29 September, in cooperation and coordination with a joint panel of Israeli, Palestinian and international NGOs for a presentation on the Goldstone report. United in their support of the report and their demand for accountability on all sides, the participating organisations discussed various views on follow-up and mechanisms for justice.

Participants in the event included:

Adalah, Al-Mezan , Amnesty International , Badil , Cairo Institute for Human Rights Studies , Habitat International Coalition , Human Rights Watch , International Commission of Jurists , International Center for Transitional Justice , International Federation of Human Rights , Palestinian Centre for Human Rights , Physicians for Human Rights - Israel

Arguments circulating at the time was on whether it was more important to compromise on the content of the resolution in order to achieve broader support for it, or to keep it strongly worded with less supporters voting for it. Because we expected a majority, based on the support of the Organisation for Islamic Conference, Arab Group, Non-Aligned Movement and African Group, Al-Haq however thought it be more important to not water down the resolution in order to gather more support by European States as it actually effectively meant that no further action would be taken. We demanded a strong resolution.

To our surprise, the day before the vote on a resolution endorsing the report was going to be passed, the PA requested its deferral. The reasons for the deferral remain a mystery. The efforts put in by civil society as a whole previously now intensified even

more, with the lead of Palestinian NGOs. Al-Haq, on behalf of Palestinian NGOs addressed the Human Rights Council, instantly at the time of the deferral expressed our disappointment and anger with the decision of the PA. Under the banner of Justice Delayed is Justice Denied, our outcry resulted in several press releases, demonstrations being organised and press conferences being held where the accountability was demanded. But it was not sufficient to show our disappointment and continue our demand for accountability.

We had to find a way to make sure that the momentum of the Report was not lost, and that action was taken Now by the implementation of the Report. We advised the PA to bring the discussion of the Report back on the Council's agenda in the form of a Special Session, and it happened on 15 -16 October 2009.

This time, the PA made sure that a Resolution was not only strongly worded and presented for adoption, but that the Resolution was adopted. The pressure put on the PA, and the outcry of the civil society and Palestinian public made the PA realize that we did not allow for this Report to be forgotten, along with the violations of the Palestinians' rights.

The next step was the discussion on the Report by the General Assembly. Al-Haq was present in New York during the discussion on the Report, and represented other Palestinian NGOs as well. Palestinian civil society mainly focused their work on monitoring the Palestinian Mission. Our role in New York can either have been seen as 1. Ensure that the Palestinian Mission did not weaken the language of the resolution by pressuring them, through our presence, to prevent a weak resolution, or 2. Support them in not backing down from external pressure.

The discussion in the General Assembly resulted in the adoption of a GA Resolution which calls upon the Occupying Power to do internal investigations according to international standards, and urges the Palestinian side to do the same. On February fifth, the Secretary General shall submit to the General Assembly a report on the implementation of the GA Resolution which was adopted, including the status of internal investigations.

After the passage of the UN GA Resolution in November, Al-Haq was again called upon by the Union of Arab Lawyers in Egypt to provide analysis and advice on the way forward with regard to the Goldstone Report. A video conference was held with our director, Shawan Jabarin. The contents of the discussion were later published in a report by the Union of Arab Lawyers on the Goldstone Report.

Additional UN work by Al-Haq including the Durban Review Conference in April, the UN Committee Against Torture Review of Israel in May, and the submission of a Shadow Report for the Convention on Civil and Political Rights which in July.

While Al-Haq had planned to hold a side event as part of the Durban Review Conference, we along with coordinating organisations such as Adallah and Badil, along with other groups representing the Roma, the Dalits were purposefully denied the opportunity to hold side-events at the conference, thus preventing the voices of such victims from being heard.

The message relayed as justification was that 'we are dealing with principles, not with specific peoples or places.' Racism is, however, not something that occurs in the abstract, but that afflicts real people in real place. Al-Haq did not allow these obstacles to prevent it from participation. In response to such obstacles, the Israel Review Conference, in which Al-Haq participated, was organised by the Palestinian Boycott, Divestment and Sanctions National Committee and brought together lawyers and civil society representatives from around the world to examine the applicability of the crime of apartheid to Israel's practices against the Palestinians, as well as strategies towards accountability for perpetrators of violations of international law.

While the outcome document adopted by the Durban Review Conference re-affirms the DDPA and offers a renewed framework to continue efforts towards the protection of all victims of racial discrimination, including the Palestinians. Paragraph 5 of the outcome document emphasises the importance of combating racial discrimination against those under foreign occupation, and the many important principles elucidated throughout the document provide normative tools with which to address Israel's policies of institutionalised discrimination against the Palestinians.

It is regrettable that references to certain victims of severe racial discrimination have been omitted from the outcome document, and that in many respects, the outcome document is but a weaker reformulation of the 2001 DDPA. Al-Haq echoed the disappointment expressed by the President of the UN General Assembly that "the focus on the victims that was overwhelming at the Durban Conference of 2001 has been diminished in the current text". A cause of particular concern was the reference in paragraphs 62 and 63 of the outcome document to the past tragedies of slavery, apartheid, colonialism and genocide. These paragraphs provide—at once—a fitting tribute to the memory of the victims of past tragedies, but an insult to the ongoing victims of such odious practices, which unfortunately have not yet been confined to the annals of history. Racial discrimination is at the root of these abhorrent practices, and must be addressed as such.

Additionally Al-Haq raised its points and concerns to the Civil Society branch of the Human Rights Council and also addressed the proliferation of Israel's unlawful institutionalised, systematic and oppressive system of racial domination over Palestinians in the OPT since 2001, in its oral statement to the plenary session of the conference on the final day of the conference.

Al-Haq also participated in the Civil Society Forum for the Durban Review Conference, culminating in the adoption of the Geneva 2009 Declaration Against Racism, which goes some way to remedying the failure of the Durban Review Conference by addressing victims, including the Palestinian people and the people of Darfur.

Al-Haq learned an important lesson in Durban: the power of Israeli organisations to completely sabotage an important issue like racism. This lesson has taught us the importance of coordination with other organisations and civil society in general in order to be able to counter these threats in the future.

In May of 2009, Al-Haq participated in the UN Committee against Torture where a review of Israel's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). At this session, Israel responded to a "List

of Issues" posed by the Committee in December 2008. Israel last appeared before the Committee in 2001. Immediately prior to the hearings, on 4 May 2009, Adalah, Al-Haq, Defence for Children International – Palestine Section (DCI-PS), Physicians for Human Rights – Israel (PHR – Israel) and the Public Committee Against Torture in Israel (PCATI), orally briefed the Committee at an NGO session on Israel's systematic and institutionalised practices of torture and ill-treatment and other violations of CAT committed during Israel's attacks on Gaza. The NGOs based their briefing on three reports and 154 pages of evidence submitted to the Committee by member and partner organisations of the United Against Torture Coalition (UAT Coalition).

The Committee members, not just the rapporteurs assigned to Israel, were very interested in what we had to see and subsequently asked very good questions of Israel during the review. It was very clear that advocacy work done prior to the review paid off. Both OMCT and the CAT Secretariat said that we did a very professional and thorough job.

An immediate impact of the participation in CAT was seen in the headlines of the two major Israeli news sites where the Committee pressed Israel on one of the issues raised relating to secret detention facilities.<sup>11</sup> The Committee asked that 'all detainees' allegations of ill-treatment at 'Facility 1391' be probed.

In July 2009, Al-Haq submitted its Alternative Report to the UN Human Rights Committee regarding Israel's violations and failed implementation of the International Covenant on Civil and Political Rights. The Alternative Report is intended to be of use by the Committee in the formation of its 'List of Issues', and it highlights the lack of implementation by Israel of certain obligations set out in the Covenant. In particular it addresses the following Covenant Articles: Article 1 (self-determination), Article 2 (applicability of the Covenant), Article 4 (state of emergency), Article 6 (right to life), Article 16 (recognition as a person before the law), Article 17 (arbitrary or unlawful interference with privacy and family), Article 18 (freedom of thought, conscience and religion), Article 19 (right to freedom of expression and to hold opinions), Article 21 (right to peaceful assembly), Article 22 (freedom of association), Article 25 (right to vote and be elected) and Article 26 (equality before the law).

The Alternative Report asserted that Israel poses formidable obstacles to the realisation of Palestinian self-determination, and recounts the numerous violations of the right to life of Palestinians in the Occupied Palestinian Territory, both by Israeli military forces and by Israeli settlers. The Alternative Report also draws to the attention of the Committee the numerous violations of Palestinians' civil and political rights which take place and include violations of the right to practice one's religion, to engage in elections, to elect chosen political representatives and to have public gatherings in which national and cultural heritage is celebrated. The violation of the right to freedom of expression posed by the restrictions placed on journalists, human rights defenders and academics is also documented, in addition to other discriminatory practises by Israel.

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<sup>11</sup> <http://www.haaretz.com/hasen/spages/1085849.html>  
<http://www.ynetnews.com/articles/0,7340,L-3716495,00.html>

Al-Haq's participation in the Universal Periodic Review in 2008 continued to have impacts in 2009 when Office of the High Commissioner for Human Rights asked Al-Haq to make a presentation on its experience with the UPR in June 2009.

The cooperation with OHCHR continued to develop later in 2009, with the office requesting Al-Haq to provide it with field visits throughout the West Bank, including East Jerusalem. The office will use material it gathered during these visit in its March 2010 report to the UN Human Rights Council.

### **OBJECTIVE 3**

#### **Compel third-party states to prioritise international law, including international human rights and humanitarian law, in their relationships with Israel and the PA**

Al-Haq has had a major development with regard to its third state objective, which is the placement of a permanent staff member in Brussels to focus on EU advocacy. The development came out of necessity when the Al-Haq legal researcher working on EU advocacy was not allowed to return to the West Bank after having been denied the ability to leave for over a year on account of having a Gaza ID. As a result of Al-Haq's reputation and the familiarity of the Vrije Universiteit Brussel "Free University Brussels" with Al-Haq, we have been able to reach an understanding with the university, where it will host our researcher, while at the same time Al-Haq can provide regular seminars at the university regarding issues in the OPT.

The regular presence in Brussels has allowed for more regular meetings with local and international NGOs in Brussels by establishing contacts, exchanging information about the respective mandates and missions of these organisations and Al-Haq. These organisations included, inter alia: Amnesty International – Brussels Office, Crisis Action, CIDSE, Aprovev, Human Rights Watch, UNWRA- Brussels office.

The presence also has allowed for more regular engagement with decision makers and ability participate in panels and activities organised by various bodies within the EU. For example, in September 2009 Al-Haq sent a note to the EU about human rights violations committed by the PA in the OPT ahead of the EU-PA Political Dialogue Committee Meeting.

Al-Haq's representative in Brussels also participated in a civil society meeting organised by the European Commission in December 2009, in light of their evaluation of the progress made in the implementation of their Action Plans with third states in the framework of European Neighbourhood Policy. And provided an update on the general human rights situation in the OPT, talking about violations committed by Israel (relevant to the EU-Israel Association Agreement) as well as by the Palestinian Authority (relevant to the EU-PA Interim Association Agreement). The main issues raised include the lack of accountability, the ongoing siege on the Gaza Strip, house demolitions and ID revocation in East Jerusalem. With regard to PA violations we addressed the right to freedom of association, freedom of assembly, ill-treatment and torture, and the death penalty.

In cooperation with several Brussels-based NGOs, Al-Haq was able to organise and participated in a range of meetings with the EU-permanent representations of several EU-Member States for the purpose of gathering information about the position of the EU and its Member States on the Goldstone report. This information was then incorporated

in an advocacy document summarising the collected data and providing background information on the Goldstone report, the voting patterns of EU Member States, the state of local investigations in Israel and the OPT, planned activities and reports of NGOs and recommendations for actions to be taken on the level of Member States regarding the Goldstone report. This document was then disseminated amongst NGOs working in and on the OPT in order to assist their advocacy efforts.

An important component of Al-Haq's third state responsibility work has come through our active involvement in the Euro-Mediterranean Human Rights Network (EMHRN) as a member of the executive committee of EMHRN as the Palestinian representative. Al-Haq was constantly called upon to provide input on EMHRN submissions and participated in numerous advocacy meetings in Europe. In 2009, Al-Haq has been involved in advocacy meetings in Denmark, Sweden, The Czech Republic, and Spain.

There was a focus during 2009 on the attacks on Gaza and the continuing discussion regarding "upgrading" process between the EU and Israel and how to ensure compliance with human rights requirements incorporated into the EU-Israel Association Agreement. Al-Haq helped to edit the EMHRN Report "Active but Acquiescent, the EU's Response to the Israeli Military Offensive in the Gaza Strip", and was also called upon to organize a launching the report in Ramallah.

Al-Haq recognises the important role the US plays and will seek a more active approach with regard to US advocacy in 2010. Al-Haq, in 2009, began developing a strategy for engaging more with the US, and this has been facilitated through the Open Society Institute's "Project Engage".

As part of Al-Haq's continued effort to highlight Israeli violations and connect them to the obligations of third states, Al-Haq was involved in an extensive legal study that took over one year to complete which has culminated in the publication of a report in May 2009 entitled *Occupation, Colonialism, Apartheid?: A re-assessment of Israel's practices in the occupied Palestinian territories under international law*.

Funded by the South African Department of Foreign Affairs, the study was commissioned by the Human Sciences Research Council of South Africa (HSRC). In early 2008, the HSRC assembled a team of scholars and practitioners of public international law from South Africa, the United Kingdom, Ireland, the Occupied Palestinian Territory (OPT) and Israel to examine the suggestion made in the 2007 report of eminent South African jurist John Dugard, in his capacity as UN Special Rapporteur, that Israel's practices in the OPT had assumed characteristics of colonialism and apartheid. The fact that Al-Haq was called upon to be one of the participants in the study is a strong indicator of Al-Haq's work over the years.

The report concluded that Israel has breached the international legal prohibitions of apartheid and colonialism in the OPT which suggests that the occupation itself is illegal on these grounds. The legal consequences of these findings are grave and entail obligations not merely for Israel but also for the international community as a whole.

Bearing the primary responsibility for the illegal situation it has created, Israel is bound to cease its unlawful activity and dismantle the structures and institutions of colonialism and apartheid that it has created. Israel is additionally required by international law to

implement duties of reparation, compensation and satisfaction in order to eliminate the consequences of its unlawful acts.

Both Israel and the international community are bound to promote the Palestinian people's exercise of its right of self-determination in order that it might freely determine its political status and freely pursue its own economic policy and social and cultural development. Third States are further bound under the principles of public international law to cooperate to bring to an end Israel's practices of colonialism and apartheid, to abstain from recognising the illegal situations brought about by those practices, and not to aid or assist the maintenance of such illegal situations. States cannot evade these international legal obligations by hiding behind the independent personality of an international organisation of which they are members. Further, the responsibilities incumbent on Israel and third States are unconditional and unaltered by any political negotiations occurring at a given time.

Al-Haq hosted Ian Scobbie for a seminar on the issue of colonialism which was very well attended and developed significant discussion on the strategy of moving forward. Al-Haq, along with Adalah held a symposium on the report in Ramallah on 16 August 2009, where members of the research team presented the findings of the report and discussed their implications with representatives of civil society, political parties, government officials, and international organisations. Palestinian, Israeli and South African scholars and professionals provided observations in response to the report. The following day a special session was held for representatives from diplomatic missions in the OPT in order to stress the responsibilities of third states.

Al-Haq also noted the positions of various states in the Human Rights Council and General Assembly with regard to the Goldstone Report, and did not shy away for criticizing states for taking the positions that they took, even if they were funders.

### **GOAL 3: Improve and enhance Al-Haq's organizational capacity**

The administrative department continued its work as a facilitator of other department's activities, implemented the financial needs of the organization. In 2009 the department facilitated the purchase of new equipment and the hiring of a new IT staff member, in addition to three new legal researchers. The department also continues to follow the maintenance contracts and communication with those who provide services to the organization. Furthermore the department continued its work with regard to staff needs for health insurance, staff meetings, and social activities insuring a positive work environment. Also the department accommodated the needs of interns during their period in Al-Haq. The administrative department also played an important role in ensuring a successful 30<sup>th</sup> anniversary for Al-Haq, in addition to other workshops and seminars throughout the year. In maintaining Al-Haq's system of transparency the department also prepared all necessary financial documentation for auditors and partners.

#### **Al-Haq's 30<sup>th</sup> anniversary**

To mark Al-Haq's 30<sup>th</sup> anniversary, Al-Haq organised a conference titled **"30 Years Defending Human Rights, Experiences, Challenges and Strategies for One Human**

**Rights Movement**” on 10 and 11 December 2009, in correlation with International Human Rights day.

The conference brought together human rights defenders, activists, lawyers, academics and organisations from across the globe to share in a critical reflection and to foster a constructive dialogue on successful and innovative human rights strategies. The conference cultivated an in-depth analysis of the current methods in the field of human rights through a dialogue of institutional and individual experiences. In particular, this conference provided an opportunity for the human rights advocacy community to reflect on the many changes in the theoretical, political, and legal landscape of human rights work over the past thirty years. Participants were able to gain insight and new tools for successfully advancing the human rights of the Palestinian people.

In addition to members of the Palestinian human rights community, participants in the conference came from South Africa, Europe, South America, North Africa, as well as Israel to share their experiences in the field of human rights. Local diplomats also attended the conference.

The conference helped to forge channels of communication and strengthen ties between human rights organisations and communities by facilitating a meeting of its members to share experiences, learn from one another, and plan for future cooperative advocacy as we collectively strive to ensure that the rights and protections enshrined in international human rights and humanitarian law make the crucial transition from words on paper to lasting realities on the ground.

Al-Haq issued some 30<sup>th</sup> anniversary material such as cards, banners, posters, and business card holders, utilising Al-Haq’s 30<sup>th</sup> anniversary logo. " الحق معك " meaning “Al-Haq is with you”.

A study on Al-Haq’s 30 year experience has also been commissioned and will be ready by the middle of 2010, while a photo book of Al-Haq’s work and staff over the years has already been printed.

## **Conclusion**

In concluding this narrative report for 2009, it is clear that Al-Haq has been extremely active on multiple levels with impacts from our work evident at both the national and international level. Despite difficulties the faced, Al-Haq did not only maintain implementation of the 2009 plan of action, but also implemented many activities that were unplanned, particularly as a result of the attacks on Gaza and the following Goldstone Report, as well as the tragic deaths in PA custody. Although some the indicators from our work can be directly attributed to a specific activity done in 2009, much of our impact is long term with results developing from years of continued work. It is key to recognise that much of Al-Haq’s work addresses long term policy issues that need time to develop.

Al-Haq’s views and interpretation are now sought on regular basis by officials on pending legislation and by organisations seeking to issue press statements. The ability to increase the role of media and the impact of joint work has been an important realization in 2009 that on principled issues, it is possible to raise a collective voice to include Palestinian, Israeli, and international organisations.



The indications are clear that this strategy of core program work as opposed to project based approaches has continued to bear fruit. As opposed to AI-Haq simply initiating an activity hoping to effect a change, AI-Haq is being called upon by national and international actors to engage in activities based on the experience and reputation AI-Haq has developed over the years through its professional work and dedication to principles.

Perhaps a concluding statement to sum up the position where AI-Haq has reached over the years is that the continuing impact of our work in the OPT has meant that, more and more AI-Haq is used as a reference for others that want to work in or on the OPT, and we are happy to help.