

Universality in Action: Human Rights Activism in Palestine in the 1980s

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Abstract

This research report is a short section from my dissertation investigating Arab human rights NGOs from the late 1970s to the early 1990s. The Ford Foundation provided financial support to several organizations in the region. At the RAC, I was primarily interested in the Palestinian organization Al Haq, located in the West Bank, though I was also able to gather material about NGOs in Gaza, Tunisia, and Cairo. My goal was to understand how these organizations used international law in their advocacy. The chapter from which this report is drawn details how the work of Arab NGOs contributes to the debates over whether human rights law is universal. The chapter argues that human rights practice is an important piece of this discussion. It details how Arab NGOs created, adapted, and implemented what were becoming hallmarks of human rights advocacy: fact-finding and documentation, education, litigation, and international advocacy. The diversity of practices among these organizations highlights that universality does not require homogeneity. The human rights “tent” extends far enough to include both professional, centralized organizations like Al Haq and more sprawling, radical organizations like those discussed elsewhere in the dissertation.

Documenting Occupation: Al Haq

The universal claim of human rights was central to the work of Al Haq—it gave the organization an ostensibly non-political way to assert full Palestinian humanity. The universal techniques of human rights advocacy proved just as important. During the 1980s, the organization grew from the passion project of a few individuals into a professional, elite organization. Its activities were guided by its goals of careful documentation, public education, and targeted direct legal aid. After the publication of *The West Bank and the Rule of Law*, Al Haq became a global pioneer in research and documentation strategies. The organization was a prominent voice both inside and outside Palestine. It maintained rigorous evidentiary standards, developed several active public-facing programs, provided a wide range of client services, and developed close relationships with local and foreign organizations. It was transnational from the beginning, bringing together Palestinian staff with foreign volunteers. The organization targeted the United Nations, foreign governments, and the foreign press, as well as Palestinian and Israeli audiences. Al Haq perhaps epitomizes the ways in which practices associated with human rights advocacy, particularly documentation, transcend debates over the precise content of international law.

Fact-finding and Legal Analysis

Fact-finding and legal analysis were at the core of Al Haq's practice. The organization authored or co-authored nearly twenty reports in the 1980s, setting a pattern of well-researched, detailed work. Its approach to documentation was rigorous, systematic, and rare, even among larger and more established NGOs.¹ Its fieldworkers systematically recorded killings, house demolitions, deportations, collective punishments, torture, and other human rights violations.² The founders, along with other volunteers and staff, published analysis of the legal architecture of the occupation. Al Haq established its reputation for careful and accurate work by writing long, investigative reports and following a careful media strategy. In 1984, for example, it issued just two press releases—one of which was

to announce one of its own publications.³ The organization rarely condemned events as they were occurring. Raja Shehadeh felt there was little point to publicly condemning violations without the careful fact-checking and legal analysis that would not be possible in immediate responses. Instead, Al Haq prioritized long-term investigations and attempted to resolve issues through private means before turning to public censure.⁴ Al Haq was so circumspect that one of its early foreign volunteers and supporters referred to its advocacy strategy at this time as “barely a strategy at all.”⁵

In keeping with its goal of explicating the opaque nature of the occupation regime, Al Haq’s second major publication analyzed an Israeli military order that created a civilian administration, in addition to the existing military government. Instead of using affidavits and other evidence to demonstrate violations of international law, this report sought to enumerate “the objectives of the present Israeli government concerning the region” through an analysis of the new administrative structure.⁶ Raja Shehadeh and Jonathan Kuttab, the report’s authors, understood the order as an attempt to implement Israel’s vision of local authority under the Camp David Accords without Palestinian input and to consolidate its control over the West Bank, while giving the appearance of a pullback in military governance. This type of political analysis was woven into Al Haq’s publications throughout the 1980s.⁷

Most subsequent publications focused on a particular issue—prison conditions, infrastructure plans, torture, military censorship, or deportations, for example. These reports were bleak. One from 1984, starkly titled *Jnaid, The New Israeli Prison in Nablus: An Appraisal*, painted a detailed, visceral picture of life in the prison:

The prisoners in Jnaid suffer above all from extreme overcrowding, especially in the cells. In one cell of 21 square metres there are 12 prisoners, in another of 30 square metres there are 16 prisoners...The prisoners sleep in bunks, 180cms long. The iron bedsteads are so constructed that the beds are not flat but wavy and ridged. The sponge mattresses supplied which are 5 cm thick, cannot remedy this.⁸

Al Haq documented conditions at Junaid that violated international law while describing the human experience of being imprisoned—thin mattresses may not be illegal but the report leaves the reader feeling every indentation. The organization issued its report on Junaid after the overcrowding led prisoners to resist the introduction of yet more bodies into their cramped space. They initiated a hunger strike and issued a list of demands.⁹ The situation at Junaid was well known within Palestine by then, but the report took that knowledge and transformed it into an evidentiary document that could be preserved, referenced, and understood by legal and international audiences. Other reports served a similar purpose for military censorship, administrative detention, and deportation. The impact of any one of these early reports is unclear, but together they established Al Haq as a credible voice just as such voices were direly needed.

The eruption of the first intifada (uprising) in 1987 had profound implications for Al Haq and the practice of human rights in Palestine. The intifada was a mass uprising of Palestinians across the political spectrum, prompting a strong response from Israeli forces. The scope and urgency of rights violations increased. Many of Al Haq's fieldworkers were imprisoned. The organization rapidly expanded its research staff and adjusted priorities in response to the changing circumstances and increased media attention. The organization urged the international community to pressure Israel to follow humanitarian law. It also continued to pursue ongoing relationships with international organizations to disseminate information and protect the organization. Documentation continued to be the centerpiece of Al Haq's activities; it doubled the number of full-time fieldworkers and hired new researchers to chronicle events in Gaza in 1988.¹⁰

Al Haq's blistering account of human rights violations during the first year of the intifada, *Punishing a Nation*, solidified the new era in which human rights became a prominent discourse for discussing the Israeli-Palestinian conflict alongside Palestinian nationalism, Israeli security, and religious claims.¹¹ The report, covering December 1987 to December 1988, devotes more than 300 pages to documenting the use of force, obstruction of medical treatment, administrative detention, house demolitions, and school closures, among other violations. It details threats to the freedom of association, life and liberty, and the rule of law. Though the intifada was covered in the American press, this book-length report

became the “standard reference work for human rights groups, journalists and policy makers alike.”¹²

Punishing a Nation marked several shifts in Al Haq’s approach to documentation. First, it was the first annual report that sought to give a comprehensive view of violations over a particular time period, rather than focusing on one issue. The organization published similar subsequent reports in 1990 and 1991, though it did not keep them up during the 1990s. Second, its focus shifted somewhat from simply proving that violations were occurring. As Al Haq noted in its introduction, this was “redundant” since Israel admitted many of the practices, and furthermore many were adequately covered in the news. Instead, the purpose of the report was “to indicate the scope of the practices...[to] help our audience in assessing the significance and implications of Israel’s violations of human rights and international law.”¹³ Having essentially achieved its initial goal of exposing the practices of the occupation, Al Haq now set about demonstrating that they were pervasive and important.

Like several other Al Haq publications, *Punishing a Nation* offered a blend of legal documentation, legal analysis, and political commentary. After demonstrating systematic violent abuses by the Israeli military, Al Haq concluded that “the Israeli government’s claims that its response to the uprising is a lawful one do not fit the facts.”¹⁴ Veering outside of legal analysis, which determines whether a given set of facts violate a legal rule or standard, the report then went to call Israeli policy “illogical” and liken it to “dousing a fire with kerosene.”¹⁵ While Al Haq worked hard to keep its identity non-partisan, its work was heavily political. The organization did not shy away from political analysis.

In what is now a hallmark of human rights reporting, Al Haq highlighted voices of individual Palestinians. Personal testimony served as evidence, but it also brought violations to life. *Punishing a Nation* included extensive quotations from witnesses and victims as well as full affidavits that include the name, age, residence, and profession of the affiant. It was not common to include full affidavits in human rights reports, but doing so afforded Al Haq an extra layer of credibility. The identification numbers attached to the affidavits suggested that

there were hundreds more, and the introduction noted that more documentation was available for review at Al Haq's office. The organization had pioneered this technique in the Arab world in 1983 by working with the World Council of Churches to publish a collection of affidavits from the early 1980s. The full statements go beyond documenting specific violations of international law. They capture the cumulative effects on Palestinians families. After recounting several incidents of violence from nearby settlers, one woman from Hebron stated: "A life like ours with all the harassment and ill-treatment we receive from the settlers is devoid of human rights. Wouldn't it be better to be dead rather than to live under these circumstances?"¹⁶

Al Haq was able to bring so much lived experience into its reporting because it created a fieldwork unit of investigators trained to take affidavits and gather evidence.¹⁷ In 1984, fieldworkers collected more than 500 individual affidavits,¹⁸ and this almost doubled in the next two years.¹⁹ Al Haq developed a standard procedure for evidence collecting: "In each instance, information was taken down as dictated by the affiant. Questions were asked on points of which he or she might have been unsure. The rule against hearsay was followed, as well as other rules relating to evidence that are observed in judicial inquiries. Finally, the written version was read to the affiant who was asked to sign it."²⁰ There was an internal vetting process to ensure that testimony was accurate and reliable. These affidavits formed the base of reports and litigation that changed the international narrative around Palestine. Al Haq also developed standard questionnaires for recurring situations such as house demolitions or deaths.²¹

Documentation also played an important role in reclaiming Palestinian history by putting the process of dispossession into the historical record. Shehadeh articulated the particular value of this type of work:

I always worried we would get to a point where we would not know how things have...how things turned out. We would know how things turned out, but we would not know how the process that brought us to this point happened. And we would feel perplexed and confused. How did the settlements happen? How did the land get taken over? How did the Israelis re-define and change the law and so on? I was concerned that we would be confused. And I think this

confusion is a big part of colonization. A colonized people's will is taken, and their mind is taken.

Shehadeh saw a role for documentation beyond the success or failure of individual cases or even of the effort to end the occupation: "Maybe we cannot stop this, we cannot stop them from taking the land and building settlements on it, but at least we would know how they did it. And that would be very important. And we would know and we would be able to say to them you didn't do it legally, as you claim. And this is why."²² Human rights reporting was a form of communal memory, of setting down events in a way that preserved the narrative. This has perhaps been one of the most important legacies of Al Haq's use of legal techniques.

Public Services

In addition to its documentation efforts, Al Haq carried out a robust program of education, advocacy, and direct legal representation. Its public programming and extensive presence on the ground, particularly during the intifada, secured the organization's credibility within the West Bank. Al Haq's education efforts promoted general legal literacy as well as specific knowledge about international and Israeli law. Developing respect for human rights and the rule of law among Palestinians was, alongside ending the occupation, one of Al Haq's twin goals.²³ The organization regularly produced instructional pamphlets, authored weekly newspaper columns, and operated a legal aid clinic. Staff gave public lectures on specific rights and the organization's work as a human rights organization. Al Haq also created the first public law and human rights library in Ramallah. The organization began circulating its responses to Israeli officials and commissioned translations of works related to human rights into Arabic. Al Haq also intervened on behalf of individuals. These cases included a wide range of alleged violations, from denial of a travel permit to shootings by Israeli soldiers. These campaigns helped individual victims while dispersing the legal knowledge concentrated among Al Haq's elite staff to a wider audience.

Many of Al Haq's public services were primarily educational. Like other NGOs around the world, the organization created "Know Your Rights" pamphlets to educate Palestinians about legal protections in specific circumstances. These included land seizure, town arrest, taxation, travel restrictions, military courts, and arrest. These pamphlets served several purposes. Primarily, they inculcated human rights values in the Palestinian population. They promoted law as the arbiter of correct behavior in interactions between Palestinians and Israeli state and military officials. They also educated Palestinians about what behavior could be considered illegal, which might assist in future documentation efforts. Mona Rishmawi, who joined the leadership of Al Haq in 1981 and later served as its president in 1990, also wrote a weekly newspaper column on legal issues. These columns, published in Arabic, addressed issues of general application such as the role of the High Court and landlord-tenant disputes as well as human rights.²⁴ The columns gave Al Haq a timely way to spread information. For example, when Israel re-introduced administrative detention in 1985, the organization published a column detailing the special protections for administrative detainees under Israeli law.²⁵ In 1984, Al Haq began publishing a newsletter that detailed its activities as well as human right issues of particular concern. The newsletter was primarily an educational tool, though it did include information about how to support Al Haq financially. Al Haq also worked with local universities to develop course materials on human rights.²⁶

Collecting, organizing, and preserving information for public use was part of Al Haq's project from the beginning. Building the first public law and human rights library in the West Bank was a significant endeavor. The library became an important repository of information at a time when international communications were conducted by letter or telex and resources were not easily shared. By 1984, the library contained more than 1000 books, pamphlets, and periodicals.²⁷ Building the collection took significant resources. In 1985, Al Haq devoted more than \$12,000 out of a total budget of about \$106,000 to the library.²⁸ It also hired staff to ensure that material was properly indexed and available in a usable way. In addition to the library, the organization developed an index of human rights abuses in the West Bank that was available to researchers and other human rights organizations.²⁹ Al Haq was an early member of

HURIDOCS, a network of organizations established in 1982 that supports the information handling capabilities of human rights NGOs in developing countries.

Though Al Haq was not a law firm, it provided legal advice and services. The organization began providing legal aid on a somewhat ad hoc basis very early on. From September 1981 to the end of 1982, Al Haq spent more than ten percent of its total budget on legal services.³⁰ By the mid-1980s, it moved towards systematizing its legal aid. In 1984, Al Haq opened a legal advice bureau where lawyers and staff were available on a weekly basis to provide advice on any legal question, not just human rights issues. Al Haq advertised the bureau through local newspapers and by word of mouth. After the first six months, the bureau opened twice a week to meet demand. By October 1986, the organization had provided advice in 111 cases.³¹ Opening an advice bureau was more than just good publicity and a public service—it promoted law as a tool for resolving conflict, educated the public about legal tools, and strengthened Al Haq’s credibility. The organization hoped the clinic would make legal remedies more accessible to the public, both in disputes related to the occupation and in private matters.³²

Al Haq did not provide full legal services to most clients who came into the bureau; if a case went to court, litigants needed to find an outside attorney. But in a few cases, Al Haq accepted clients for full legal representation. These were cases of particular interest to the organization for their broader policy implications. One case, for example, tested the legitimacy of criteria used to decide if land belonged to the Israeli state. Another related to the status of “no man’s land” and the dividing line between Israel and the West Bank. Sometimes the mere threat of litigation was enough to prompt a response—in one case, the threat of litigation against a curfew on Ramallah and the neighboring town of al-Bireh prompted negotiations that led to the end of the curfew.³³ Al Haq staff were not the first lawyers to challenge the occupation through litigation. Two Israeli lawyers began representing Palestinians in military courts shortly after the 1967 war. Felicia Langer and Leah Tsemel, who trained as an apprentice in Langer’s office, were Jewish leftists who represented Palestinians from the occupied territories. Langer also trained a group of Arab-Israeli lawyers who eventually worked in military courts.³⁴ Few Palestinian lawyers from the West Bank or Gaza joined them,

however, because most West Bank lawyers had gone on strike in 1967 and refused to participate in the Israeli legal system. Shehadeh and Kuttab were two who did not strike, and their frustrations with legal practice in the military courts were part of the inspiration for *The West Bank and the Rule of Law*.

Al Haq used litigation as another advocacy strategy in its toolkit, a way to force hidden practices into the open, establish a factual record, and redress individual wrongs. But after a period of contemplation, the organization decided not to establish a specific unit devoted to bringing test cases. Test cases, also called strategic litigation, use individual lawsuits to bring about social change. Rather than responding to client needs as they arise, like legal aid, strategic litigation units may search out sympathetic clients or particularly good facts to bring an ideal case that challenges a specific legal issue.³⁵ The goal of the case is to change policy. But Al Haq struggled to identify robust criteria to select lawyers and cases and decided to scrap the program.³⁶ There were questions about how to handle cases that did not have attorneys already, as well how to balance the professional law practices of the founders with their role in selecting and possibly arguing cases. This was a limitation of the part-time, volunteer nature of the founders' role at Al Haq, though it did not prevent the organization from continuing legal aid or intervening in ongoing cases.

Al Haq intervened in several cases when it was directly not representing one of the parties. The organization contacted Israeli officials, publicized hearing dates, alerted international organizations, and tracked appeals. The organization capitalized on its expertise with the military court system, proficiency in information management, and extensive network of contacts.³⁷ Al Haq made a point of contacting the responsible authorities to attempt to obtain redress for the individual victim, but also to “remov[e] any room for claims of ignorance about the alleged violation in the future.” From 1983 to 1986, Al Haq directly intervened almost 80 times.³⁸

External Relations

Al Haq had an expansive view of its audience.³⁹ By its nature as a Palestinian organization documenting Israeli action, it operated in a more international sphere than many other Arab NGOs. It was an organization for and of Palestinians, but it also sought to change narratives in the United States and Europe, at the United Nations, and within Israel. Transnationalism was embedded in the very structure of the organization. As an affiliate of the ICJ with funding from exclusively foreign organizations, Al Haq was emmeshed in an international network of human rights and advocacy professionals. The organization maintained and developed these ties through personal relationships, meetings, conferences, and correspondence. Staff members participated in conferences abroad, and foreign delegations often visited Palestine, sometimes dozens per year. Al Haq hosted lawyers, journalists, students, professors, women's groups, and NGOs from within Israel and Palestine as well as abroad. These ties brought friendship and solidarity as well as funding and training. The organization's staff also included several foreign volunteers who were integral to early operations. Al Haq was like a "school" for activists from the Arab world and beyond who went on to start or lead human rights and development NGOs all over the world.⁴⁰

Al Haq participated in several workshops, conferences, and meetings through the United Nations, but the founders had little hope that these would make a difference. The U.N., according to Shehadeh, "paid lip service and nothing more."⁴¹ It is hard to dispute his perception; the United Nations has issued dozens, if not hundreds, of resolutions on Israel and Palestine to little effect. Indeed, the initial draft of *The West Bank and the Rule of Law* was put together as testimony for a United Nations hearing on Palestine and only published as a book once McDermott, the head of the ICJ, convinced Shehadeh that nothing would become of his testimony. This experience illustrates the limited utility of the U.N.; the institution itself was not a useful venue, but it provided opportunities for Al Haq to put testimony on public record and to connect with

supportive allies. In later years, Al Haq participated in conferences related to human rights and women's rights more generally. These offered platforms to normalize and publicize Palestinian perspectives, even if they were not likely to generate direct action on rights violations.

¹ Diane Orentlicher, "Bearing Witness: The Art and Science of Human Rights Fact-Finding," *Harvard Human Rights Journal* 3 (1990): 85.

² Interview with Shawan Jabarin, General Director of Al Haq, in Ramallah (Dec. 21, 2015).

³ Annual Report, 1984. Reel 7240, Frames 001541-001548, Ford Foundation records, RAC.

⁴ Interview with Raja Shehadeh, Founder of Al Haq, in Ramallah (Dec. 15, 2015).

⁵ Joost Hiltermann, "Al Haq: The First Twenty Years," *Middle East Report* 214 (Spring 2000).

⁶ Jonathan Kuttub and Raja Shehadeh, *Civilian Administrative in the Occupied West Bank: Analysis of Israeli Military Government Order No. 947* (Law in the Service of Man, 1982), 6.

⁷ The line between legal and political analysis is porous and contestable. Arguable, all legal analysis falls under the umbrella of the political. But it can be helpful to draw a distinction between straightforward legal analysis—evaluating whether a set of facts amount to a violation of a legal rule—and bigger-picture analysis of Israel's political goals and motivations.

⁸ Law in the Service of Man, *Jnaid, The New Israeli Prison in Nablus: An Appraisal* (Ramallah: 1984), 3.

⁹ I use the more common spelling Junaid. It is sometimes also rendered al-Junaid in English.

¹⁰ Al Haq, Summary of Program Strategy 1989-1990 1-5, Frames 001390 – 001395, Reel 7240, Ford Foundation Records, RAC.

¹¹ Al Haq: Law in the Service of Man, *Punishing a Nation*, 1988.

¹² Hiltermann, "Al Haq: The First Twenty Years," *Middle East Report* 214 (Spring 2000).

¹³ Al Haq, *Punishing a Nation*, 6.

¹⁴ *Ibid.*, 43.

¹⁵ *Ibid.*, 44.

¹⁶ World Council of Churches, *In Their Own Words: Human Rights Violations in the West Bank: Affidavits Collected by Law in the Service of Man* (1983), 17.

¹⁷ Fatih Samih Azzam, "Waiting for Justice: Al-Haq in 2004: A Twenty Five Year Prospective," in *Al-Haq: 25 Years Defending Human Rights (1979-2004)*, ed. Rouba Al-Salem (Ramallah: Al Haq, 2005): p. 6.

¹⁸ Law in the Service of Man, Annual Report 3 (1984), Frames 001541- 001548, Reel 7240, Ford Foundation Records, RAC.

¹⁹ Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. Reel 7240, 001421 – 001481, Ford Foundation records, RAC.

²⁰ World Council of Churches, *In Their Own Words*, 9.

²¹ Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. Reel 7240, 001421 – 001481, Ford Foundation records, RAC.

²² Shehadeh, interview.

²³ *Ibid.*

²⁴ Grant Program Discussion, Memo from Ann Lesch, May 24, 1984. Reel 7240, Frames 001728-001729, Ford Foundation records, RAC.

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- ²⁵ Law in the Service of Man, Newsletter No. 9, July – October 1985, 3. Reel 8686, Ford Foundation records, RAC.
- ²⁶ Law in the Service of Man, Program Report, October 1985. Reel 7420, 0015228 – 001540, Ford Foundation records, RAC.
- ²⁷ Annual Report, 1984. Reel 7240, Frames 001541-001548, Ford Foundation records, RAC.
- ²⁸ Law in the Service of Man, Financial Report, 1985. Reel 7240, Frames 001491 – 001522, Ford Foundation records, RAC.
- ²⁹ Annual Report, 1984. Reel 7240, Frames 001541-001548, Ford Foundation records, RAC.
- ³⁰ Law in the Service of Man, Yearly Report 1982. Reel 4848, 0234-0244, Ford Foundation records, RAC.
- ³¹ Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. Reel 7240, 001421 – 001481, Ford Foundation records, RAC.
- ³² Law in the Service of Man, Newsletter No. 9, July – October 1985, 11-12. Reel 8686, Ford Foundation records, RAC.
- ³³ Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. Reel 7240, 001421 – 001481, Ford Foundation records, RAC.
- ³⁴ Lisa Hajjar, “From the Fight for Legal Rights to the Promotion of Human Rights,” in *Cause Lawyering and the State in a Global Era*, edited by Austin Sarat and Stuart Scheingold (Oxford: Oxford University Press, 2001), 78-82.
- ³⁵ Impact litigation is well known in the U.S. context because of iconic cases like the Scopes Monkey trial, instigated by the ACLU, and *Brown v. Board of Education*, supported by the NAACP. Lawyers in the Arab world have also used the courts to advance social change throughout the 20th century, particularly regarding labor rights. Human rights organizations began to adopt the strategy in the late 1980s and early 1990s. See Ahmad Azzat, “Challenging the Legal Ideology of the State: Cause Lawyering and Social Movements in Egypt,” Arab Reform Initiative Research Papers, May 24, 2019.
- ³⁶ Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. Reel 7240, 001421 – 001481, Ford Foundation records, RAC.
- ³⁷ For example, Al Haq intervened in deportation proceedings against at least 15 individuals in 1985. Law in the Service of Man, Newsletter No. 9, July – October 1985, 7-8. Reel 8686, Ford Foundation records, RAC.
- ³⁸ Al Haq Law in the Service of Man, Interim Programme Report, January 1986 – September 1986. Reel 7240, 001421 – 001481, Ford Foundation records, RAC.
- ³⁹ Ibid.
- ⁴⁰ Jabarin, interview.
- ⁴¹ Shehadeh, interview.