
Field and Legal Research

LSM's first paid worker was a field researcher, and by the early years of the intifada the organization was employing some fifteen field-workers in different governorates of the West Bank and Gaza. The Fieldwork Unit and those who worked with it are widely considered the cornerstone of the organization's work. The rigor of the fieldwork methodology was key to the organization's reputation and credibility with Israeli and international human rights and other actors. For their part, as discussed in chapter 4, the field-workers introduced the organization to different parts of the Palestinian community. They informed victims of violations and the wider society about their rights, principles of the rule of law, and the wider human rights discourse; as their role developed, a number of field-workers were assigned as paralegals in towns in the West Bank, with a formal brief to advise on a range of issues. The information collected by the field-workers and their close knowledge of events in their localities fed directly into the organization's work program, on structural and policy developments.

FIELDWORK METHODOLOGY

It is hard to overstate the stress that LSM/al-Haq founders and staffers, including the field-workers themselves, place on the rigor brought to the fieldwork and thence the analysis and presentation of LSM/al-Haq's work as a whole. "Documentation" (*tawthiq*) was the basis of everything. New field-workers would accompany established colleagues to the field to observe how to conduct interviews, how to take affidavits and complete questionnaires, and how to pursue follow-up; the unit coordinator would at times accompany the field-worker to observe the work. LSM/al-Haq provided training on types of violations and the rights involved.

The office end of the system was focused around what Fateh Azzam refers to as "the all-important meeting of the field-workers."¹ Every Wednesday the coordinator would meet separately with each field-worker and go over piece by piece the

information the field-worker had documented. This was followed by a meeting of all the field-workers together, to discuss the overall patterns in violations that had occurred in each area. Others recall that this part of the meeting might also involve field-workers presenting their work as a learning exercise for the group as a whole. The unit would then present a written “weekly report on events in the field” to the general meeting, where it would be discussed.² Discussion in the general meeting would be aimed at evaluation and analysis, and decision-taking on al-Haq’s program in light of the information from the fieldwork unit—“do we take this up?” Fateh Azzam recalls finding the organization “absolutely driven by developments on the ground.”³

In the 1980s, one of LSM/al-Haq’s main objectives was to establish the facts of Israel’s violation of international law, before press coverage of the first intifada brought many of these to international attention. After the furor that greeted the LSM/ICJ 1985 publication of the report on al-Fara’a prison, Jonathan Kuttab’s commitment (in his letter to the Israeli Ministry of Foreign Affairs) to “retract any published material that is proven to be materially inaccurate” was “not a concession [. . .] but an essential ingredient of [LSM’s] nature as a serious human rights organisation on which it stakes its credibility.” The first time that al-Haq had to amend material inaccuracy in its published material was in 1990. Seventeen Palestinian civilians were shot and killed by members of the Israeli Border Police (“at least” another 150 were wounded) at al-Haram al-Sharif in Jerusalem, the compound that contains al-Aqsa mosque and the Dome of the Rock.⁴ A significant number of al-Haq staffers (field-workers and others, including researchers) decamped to Jerusalem, setting up temporary office in the National Palace Hotel to facilitate, over an intense few days, “an in-depth investigation including detailed interviews with over 50 eyewitnesses to the events.”⁵ Field-worker Ahmad Jaradat recalled that “we worked on the grounds of the al-Aqsa mosque night and day.”⁶ In its first public statement, the organization named one person twice, increasing the number of fatalities by one, due to the presentation of the person’s name in two different ways. Batrawi (who notes that this error did not originate with the fieldwork unit) recalls the wide distribution of the statement of correction as soon as the error was identified. Al-Haq’s speedy response meant that its first public error did not damage its credibility; its revised “Reconstruction of Events” was (along with the report of B’Tselem) appended to the report of the UN secretary-general to the UN Security Council as the international community continued to wrangle over protection of the Palestinian population.⁷

This mistake does not appear to have been repeated during these most intense years of the first intifada. The insistence on accuracy (*diqqa*) in its fieldwork remains a matter of pride and professional honor, for the field-workers involved at the time as well as for other staffers.⁸ LSM/al-Haq’s awareness of the likely challenge by Israel to its fact-based claims and public interventions, along with the professional background of Shehadeh and Kuttab, probably led to the choice of the affidavit, or sworn statement, as the “pillar of documentation” at

the organization, and to the long hours that staffers recall being spent in going over them in the office.⁹ Like other things, however, it developed over time. Shehadeh recalls going to see farmer Sabri Gharib and taking what was probably the first affidavit for LSM, in January 1982. The affidavit set out Israeli attempts to take over Gharib's land. It was to be a long struggle for the affiant; in defiance of harassment from settlers and the military authorities he took every legal step he could (including appealing to the Military Objection Committee and the Israeli High Court) but lost most of his farmland to the settlement, although he saved his house.¹⁰ Sabri Gharib died in April 2012. Shehadeh, who had kept up with Gharib's struggle over the years, wrote, "For me, Sabri's death marks the end of an era when it was possible to believe that law could save Palestinian land from Jewish settlers."¹¹

Back in the early eighties when Shehadeh still believed in the power of the law, LSM began to collect a growing number of affidavits from victims of and witnesses to a range of violations. Its first Newsletter set out its motivation for this methodology. "Although often such violations do not become the subject of legal proceedings, it is felt that they should not go unrecorded and LSM has found that such personal testimonies are in many cases more effective in documenting human rights violations than the use of questionnaires and other methods."¹² The emphasis on sworn statements was not shared by human rights organizations elsewhere at the time; interviews might be carried out rigorously and accompanied by cross-checking and verification of other evidence, but the victim/witness was not asked to sign under oath.¹³ However, the tone of LSM's explanation—that these events should be recorded through testimony—recalls Shehadeh's account in his journal of "the shooting of Hani," his teenage neighbor shot in the leg by a soldier in 1980, and the intimidation of the boy's mother to stop her from filing charges (when that was possible) against the military authorities. He was struck by Hani's mother's reaction when Shehadeh suggested legal action: "What difference does it make? [. . .] Just keep those monsters out of my life." Shehadeh reflected at the time:

In her, I see how anger has gradually, through the years of occupation, given way to despair. Anger fuels memory, keeps it alive. Without this fuel, you give up even the right to assert the truth. You let others write your history for you, and this is the ultimate capitulation. We *samidin* cannot fight the Israelis' brute physical force but we must keep the anger burning—steel our wills to fight the lies. It is up to us to remember and record.¹⁴

A decade later, George Giacaman, a Birzeit professor of philosophy and for a time research coordinator at al-Haq, found that "reading the affidavits was very moving." Affidavits would be taken on a printed form, which after recording personal details confirmed that this was a "statement under oath" with the affiant confirming the truth of the contents, after having been "warned of the legal implications of making false statements under oath."¹⁵ In its first publication of a collection of such statements in 1983, LSM explained how affidavits were taken:

They were collected by trained fieldworkers employed by LSM, who took great care to assure accuracy and precision. 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. Only those affidavits that were signed are presented here. In a number of cases, after the affidavit was prepared and approved the person who had given it refused to sign for fear of further harassment.¹⁶

A further distinction was made between those who signed affidavits and were content to have their names published with their testimony, and those who signed but asked for their names to be withheld, trusting the organization not to use their names without permission. Field-worker Ghazi Shashtari recalls that “the main challenge was people’s fear . . . We had to convince them, the people experiencing the violation. Here, the trust in the field-worker was important.” Iyad Haddad similarly remembers that, besides people’s hesitation in the face of this new kind of document, “mostly what I’d hear was ‘if your foe is the judge, who are you going to complain to?’ meaning there was no trust in the Israeli system, so in the end what was the point of al-Haq submitting complaints, etc.”¹⁷ Other field-workers from pre-intifada days likewise recall some interviewees declining in the end to sign the affidavit.¹⁸ “Some people didn’t necessarily want to give affidavits,” remembers Zahi Jaradat, “but they wanted to talk about what had happened to them.” LSM/al-Haq insisted on certain wording, certain forms and formats of documentation, in a manner that appeared to some as almost an obsession with how an affidavit should be presented or produced. The LSM team decided early on against using notaries to take the affidavits, deploying and training field-workers for this purpose.

There was clearly a desire to put out there the voices of Palestinians directly affected by human rights violations. Scholarship has paid considerable attention to the use of first-person testimonials/narratives in the context of human rights reporting.¹⁹ Al-Haq published sets of affidavits on particular themes and also extracted sections from affidavits to insert in other reports. Al-Haq’s production of this form of record shows how the information was marshaled, and how much narrative of significance to the affiant may have been found not relevant to documenting the empirical facts that establish a human rights violation.²⁰ In the office, the discussion was on how to use the affidavits, how to present them, where they could be stored so that they could be cross-checked if necessary for evidence, and how to keep the names of affiants safe in case the office was raided by the authorities.

By the time LSM issued its first Newsletter, it had also developed other tools for documenting violations. “The idea of documenting a range of violations,” says Shehadeh, “only came to us gradually.” Zahi Jaradat recalls drafting the first LSM questionnaire with Sami 'Ayad on house demolition. By 1984, LSM’s field-workers were using questionnaires to document all those subject (currently or in the past)

to travel restriction orders and all cases of punitive house demolitions and sealings, as well as what the English Newsletter referred to as all killings of Palestinians by Israeli soldiers or settlers, or members of the Village Leagues.²¹ The Arabic Newsletter, and the printed form of the questionnaire developed at al-Haq for the purpose of documentation, used martyrdom (*istishhad*), rather than killing, as the standard expression in the community; the first time the organization used the term *martyrdom* in English for those killed by the occupation forces appears to have been in the dedication of *A Nation under Siege* (1989). Not to use the term *martyrdom* in such contexts, recalled Fateh Azzam, would be almost to pretend not to be a Palestinian organization, in the interests of appearing neutral to a Western audience.

Other questionnaire forms in the archives from the mid-eighties include one directed at juvenile detainees, which might have been developed in reaction to reports of practice at al-Fara'a prison; wounding (including the means of wounding—"bullets, beating with clubs, beating with gun-butts, other"); treatment under interrogation (this questionnaire sought to establish inter alia whether certain patterns of torture and ill-treatment had been used—"position abuse [*shabah*] and which form; showers; beating; sleep deprivation, food deprivation, insults and humiliation, other"); medical care in prison; and one following up the situation of Palestinians liberated in the prisoner exchange of May 1985.

The questionnaires illustrate the organization's interest in documenting the violation of rights not only accurately, but within the framework of a structure or policy; questions were posed as to follow-up in terms of hospital referrals, complaints, investigations. In examining cases of killing and wounding, they sought to determine the degree of deliberation and the immediate surrounding circumstances. Accompanying documentation would include medical reports, copies of military orders, spent cartridges or rubber bullets, photographs, sketches of the site by the field-worker, and an "incident report" from the field-worker setting out his (or—later on—her) efforts to document the violation. The emphasis on accuracy meant that field-workers would have to return for follow-up if their documentation was found to be incomplete or "weak" for reasons not apparently to do with the incident itself; in the case of affidavits, they might be turned into or incorporated within a report should the contents be found to be not suitable for a sworn statement. Affidavits were particularly difficult: "they had to be written in such a way that any question someone had on reading it would already be answered."²² The questioning of victims and of witnesses had to be thorough. Kuttab says, "We taught our field-workers to be very skeptical. It was difficult to do; they had to ask the questions that a hostile interrogator would ask." Azzam recalls, "One of the reasons people at al-Haq tended to think the local community thought us elitist was that the work was in a way so technical, such tiring detail, even to the point that you almost have to interrogate people when you're doing fieldwork." Affidavits were a very constructed form of story-telling, and field-workers experienced

what Paul Gready has referred to as the “tension between the duty to treat testifying victims with sensitivity and respect, and the duty to ensure that their claims about abuses are factually true: the tension between ‘validating the victim’ and ‘validating the story.’”²³

The strategy according to Batrawi was that “al-Haq was looking for the truth, and no more than that.”²⁴ Kan’an recalls, “Raja and Jonathan used to tell us, credibility is everything, there are human rights violations here night and day, we don’t have to make them up.” Like good human rights investigators the world around, field-workers developed a sense for when something was not quite right. In his “Memories” of the al-Haq fieldwork unit written for this study, Batrawi cites examples where good fieldwork (and good instinct) revealed “alleged violations which upon investigation had nothing to do with the occupation.” These were exceptions, but the motivations for making the allegation were not difficult to discern. The death of a family member as a martyr, a *shahid*, having been killed by the occupation forces, was more honorable than if the person had been killed as an alleged collaborator or by accident involving illegal firearms, and a pension (from funds from outside) could be paid to the family of a *shahid*. If al-Haq had documented one such case in error, says Batrawi, “I would have resigned.”²⁵

The field-workers laid great emphasis on the credibility and standing they had in their own parts of the West Bank (and later Gaza), where they worked for LSM/al-Haq, and on the need for the field-workers to be “in and of” the community in order to put their interlocutors at ease rather than add to their discomfort in distressing times. Particular personal skills were needed. They had to judge when to push with more questions and when to decide to come back another day; they had to ensure they conducted appropriate follow-up. Other demands on the field-workers of a more social nature are also clear. “We told people about their rights,” says Kan’an, “and us taking an interest was important. Okay, we had no material aid to give them, but having someone listen, document, follow up your case [. . .] people felt that someone cared about what happened to them.” Very focused on the outreach side of his work with al-Haq, Kan’an adds that “a human rights organization shouldn’t be an ‘organization’ as such . . . The field researchers are its arms into the community.” If the quality of al-Haq’s field research and documentation made the organization’s credibility internationally, the field-workers made it locally.

THE RISKS OF FIELDWORK

Other major challenges came from the Israeli occupation authorities. Being a field-worker was demanding and not infrequently dangerous work. Field-workers had to travel throughout the governorates in which they worked and beyond when called upon; not all had personal transport. There were no mobile phones, and regular landlines were not plentiful. Besides the immediate risks of the

work taking them out and about in hot spots, their efforts drew the attention of the Israeli authorities to their activities. Already in September 1985, as noted in chapter 4, LSM field-workers Ghazi Shashtari and Zahi Jaradat had been arrested and placed under administrative detention for six months, shortly after the Israeli cabinet had announced the reintroduction of administrative detention, deportation, and other measures under Israel's Iron Fist policy.²⁶ LSM used its next Newsletter to explain administrative detention to its readers, having spent much of the preceding three months working on this issue.²⁷ The organization also reported to its readers on an intervention it had made to its networks suggesting that observers attend the appeal hearings. LSM's careful presentation of the context of the arrests and detention of its field-workers and the organization's reasons for concluding they were held because of their human rights work have been set out in chapter 4.²⁸

The risk of arrest for field-workers increased substantially with the outbreak of the first intifada in December 1987. Al-Haq's report on the first year of the uprising, *Punishing a Nation*, is dedicated to five al-Haq field-workers who had spent most of that year under administrative detention, along with Riziq Shuqair, former coordinator of the fieldwork unit who had moved to the research unit. His status—some three weeks after his arrest—was still unknown by the time the report was issued.²⁹ Three of the field-workers were named as “prisoners of conscience” by Amnesty International.³⁰

Among the memories that field-workers relate of the time they spent in prison are the way in which their human rights work exposed them to arrest, the way the authorities reacted to their mention of LSM/al-Haq, and the physical circumstances of their arrest and detention. They tell of the support provided to them by the organization, often including LSM's lawyers (Shehadeh, Kuttub, Rishmawi) representing them at different stages of the process of their incarceration. They also recall the support they received from Israeli human rights lawyers and from visitors and letters from lawyers and human rights activists further abroad.³¹ They tell of human rights work they conducted inside prison, from taking a law-based stand with the prison authorities, for example refusing to do work for the army, to explaining the Fourth Geneva Convention and detainees' rights to fellow detainees. Several found ways of smuggling out to al-Haq affidavits they had taken in prison, and reports on prison conditions.³² And then there are more personal memories. Zahi Jaradat, for example, recalls having been only recently married when he was arrested again in September 1985 at the start of the Iron Fist policy; not questioned or charged, when released he was placed under house arrest, required to go from his village, Sa'ir, to the city of Hebron once a day to sign in at the police station. He spent his months of house arrest reading up on international law; colleagues from the office visited, and Batrawi came once a month to deliver his salary.

Ka'nān says it was “bitter” to miss out on his children, recalling the reaction of one of his young sons when he got out: “In the evening I put on my pajamas and I

was sitting there, and he said, 'Aren't you going home?' I said 'Yes, this is our home.' He said, 'This isn't your home, your home is in prison.'" Kan'an was detained in November 1988, together with Riziq Shuqair:

We'd been to Raja [Shehadeh]'s wedding, me and Riziq. We left and it was so cold, it was raining [. . .] As we drove through Beit Hanina, we got a stone through the window, so Riziq said I should stay with him that night. In the middle of the night, the army came for Riziq, and they told me to get in as well.

In *A Nation under Siege*, al-Haq gave the instances of Kan'an and Jabarin as "two cases [that] merit particular attention, illustrating, as they do, both the brutality and lack of due process which have characterized Israel's response to the uprising."³³ Jabarin's case involved, on his arrest in October 1989, a severe beating in the vehicle taking him to the Hebron lockup and then further mistreatment when he arrived and after he had complained of the initial beating. Hiltermann considers Jabarin to have had several lucky breaks during this process, failing which he might have been "another Ibrahim al-Mtour": he was seen by other detainees in the Hebron lockup where he was beaten and subjected to other mistreatment, and these prisoners were released the same day and informed his family. An army doctor in the same facility "refused to take responsibility for his condition," and a Druze soldier was concerned and compassionate enough to drive Jabarin to an Israeli hospital, where a Palestinian who was working there saw him. Informed of the incident, al-Haq intervened with the military authorities and also with international human rights organizations, which resulted in further interventions, including by Jimmy Carter.³⁴ Defense Minister Yitzhak Rabin wrote back to Carter. The case drew "unprecedented international attention," including in the US press. The Israeli embassy in Washington released a statement stating that Jabarin had "resisted arrest" and that therefore it had been "necessary to use reasonable force to put him in jail."³⁵ Al-Haq responded as follows:

1. Mr Jabarin was blindfolded and according to eyewitnesses was not resisting arrest when taken from his house to the car. In addition, he was blindfolded and handcuffed at the time he was beaten.
2. More importantly, in al-Haq's view, jumping on a person for ten minutes, burning him with a cigarette, and squeezing his testicles cannot be considered "reasonable force." In a letter to former US President Jimmy Carter, Defence Minister Yitzhak Rabin reviewed Mr Jabarin's case and concluded:
3. "As to the beating of the man, it was only moderate enough to convince him to accept detention."³⁶

Despite the various interventions, press columns in the *New York Times*, and a resolution in the European parliament, Jabarin's one-year administrative detention order was confirmed.³⁷ His wife Lamia gave birth to their first child three weeks after his arrest. Jabarin learned of the birth of their son when he was in Ansar III, where there were no visitors, from a photograph in a newspaper brought

in one day by the ICRC, a picture of his son in the arms of Jimmy Carter; “that was the first time I saw him.”³⁸ Al-Haq’s third annual report of human rights violations during the intifada reproduces a translation of a lengthy affidavit in the form of his “detention memoirs” which describe conditions in Ansar III and the treatment of detainees.³⁹ The memoir is a good illustration of what an al-Haq field-worker might consider of relevance to a human rights affidavit—it focuses on empirical narrative and does not venture into personal reflection.

INTIFADA EXPANSION

The arrest of the majority of al-Haq’s field-workers in the first year of the uprising, combined with the huge increase in the number and range of violations that were occurring, led to the recruitment of new members of the unit and a geographical expansion, for the first time, into Gaza. Previously, besides close work with Gaza lawyers setting up the GCRL and work with Gaza trades unions under its project on workers’ rights, LSM/al-Haq had not carried out its own substantive documentation work in or on the Gaza Strip. Its initial focus had been the way in which Israeli military orders were changing the local law in the West Bank, and the legal history of the Gaza Strip since 1948 had been significantly different, as was the judicial system, albeit that the content of the military orders issued for the Gaza Strip (by the army’s Southern Command) was substantively the same.

When the intifada broke out, however, it became awkward when the organization, continuing its practice of not publishing or commenting on information that it had not verified through its own work, found itself unable to include the massive violations taking place in Gaza. This position had caused friction with PHRIC. A considered but practical response was in order. In *Punishing a Nation*, the organization announced that despite al-Haq not having its own field-workers there, “because human rights violations in Gaza are even worse than those in the West Bank, documentation which could be confirmed without actual fieldwork is included in this report.”⁴⁰ In 1989, new recruits to the fieldwork unit included Palestinians from the Gaza Strip. They also included female field-workers. Batrawi recalls proposing that there should be at least one female field-worker each in the West Bank and the Gaza Strip, with a specific geographical remit and a thematic one that focused on violations that particularly affected women, such as the effects of tear gas on pregnancies. Male field-workers, he adds, found it hard to ask the questions that had to be asked of released women detainees.⁴¹ In the summer of 1987, al-Haq had recruited Randa Siniora to develop a women’s rights project at al-Haq, and it was in the second annual report that al-Haq included a separate chapter on violations of women’s rights during the intifada.⁴² A woman field-worker recruited at the time observed that the division of fieldwork was not usually gendered.

The expansion in the numbers of field-workers and in the violations they had to cover occasioned some practical decisions. By way of example, when

administrative detention was reintroduced in 1985, the organization, as we have seen, focused considerable energy on researching the legal background, issuing its first occasional paper on this subject. At the end of 1986, the organization published a list of 37 Palestinians from the West Bank and Gaza placed under administrative detention during the course of the year. At the end of 1987, after the start of the intifada and the huge increase in violations, the Newsletter gave a number of 189 Palestinians from the West Bank placed under administrative detention. By the time *Punishing a Nation* was published, the organization was focusing on the implementation of the policy, with case examples, and on conditions in detention centers, reporting that “three to four thousand people had been placed under administrative detention since the beginning of the uprising.”⁴³

LSM/al-Haq never set itself the goal of documenting and reporting on all violations occurring in the occupied territories. Well before the first intifada, decisions had to be made on what to investigate and what to cover: “The way of thinking,” says Jabarin, “was that nothing was separate from the bigger picture. Is there a policy behind this, where’s it going? [. . .] It means you don’t see the incident in isolation.” It was a question of documenting “certain patterns of violations” rather than every violative incident. Batrawi presents the field-workers’ focus during his time at al-Haq in the first intifada as documentation of all cases of killing, deportation, house demolition or sealing, town arrest, and the closure of educational institutions (as a collective penalty); and some but not all of other issues such as cases of administrative detention, wounding, curfew, the uprooting of trees, and the closure of village or camp entrances. Some specific briefs were developed in response to the documentation requirements of the research unit or for campaigns against particular violations that the organization was to start launching in the early 1990s: here, Batrawi lists refusal to grant family reunification (al-Haq’s first campaign was on this subject), house demolition on the pretext of no building permit (in connection with the work on town planning), the closure of educational institutions, torture, and tax raids.

FROM AFFIDAVITS TO PUBLICATIONS AND CAMPAIGNS

There was early on a feeling that the substantial amount of information being collected had to “go somewhere.” In 1984, al-Haq’s database was introduced as one response to “proliferating files.” A particular commitment seems to have been felt towards the accumulating affidavits, and this was certainly one of the spurs behind the publication of the organization’s first collection. *In Their Own Words* was published by the World Council of Churches in 1983 with the subtitle “Affidavits Collected by LSM.” The affidavits were presented by theme, with sections titled “Settlers,” “Village Leagues” (in this section the names of the affiants were withheld), “House Demolitions and Sealings,” “Universities,” and “Town Arrest.”

Tim Hiller, who wrote the introduction to each section, recalls that “the aim was to let the affidavits speak for themselves and to provide a fairly dry, ‘objective’ introduction to each section.” At the same time, the themes indicate the political environment at that time. Israel had invaded Lebanon in the summer of 1982, and focus remained on that conflict; support for Israel in different constituencies abroad had been affected. The introduction by the director of the Commission of Churches on International Affairs stressed concern lest the experience of the West Bank and Gaza indicate what was to come should Israel engage in a long-term occupation.⁴⁴ And the preface by LSM struck a note of hope for the intended impact of the publication, at a time when certainly Shehadeh believed that alerting Israeli public opinion to what was going on would bring pressure from Israel’s domestic constituency to desist:

LSM hopes this publication will provide focus for those interested in preventing the repetition of the events described here and in putting an end to dangerous trends to which allusion is made—especially for Israelis and friends of Israel abroad. By emphasizing the human element it provides the opportunity for the meeting of minds of people of differing political persuasions in a common concern for justice, dignity and respect for human rights.⁴⁵

The publication, according to LSM, was widely distributed, and within a few months the International Jewish Committee on Interreligious Consultations had published a reply, titled *The Other Side*. This was more akin to the Israeli Section of the ICJ’s response to *The West Bank and the Rule of Law*. In its first Newsletter, LSM reported that the organization “had cooperated with the WCC in answering the criticisms made in the reply. The IJCIC have since dropped their demand that the WCC distribute *The Other Side* together with *In Their Own Words*.”⁴⁶

The next collection of affidavits to be published was the 1985 al-Fara’a report, which arose directly from the work of the fieldwork unit; the report is unusually attributed to “the staff of LSM.” After that, extensive use was made of affidavits in LSM/al-Haq publications, including publishing extracts and appending full texts in the first two annual reports during the uprising, but as Rabbani notes, it is perhaps “surprising” that more themed collections were not published in their own right.⁴⁷ This did not happen again until a set of fifteen affidavits was published in *Application Denied* (1991), a booklet prepared in support of al-Haq’s first international campaign, “Stop Separating Palestinian Families!”⁴⁸ The idea of a campaign was new; while the organization had published studies—mostly occasional papers—on particular issues, these were not in the context of a wider consolidated campaign; there were no recommendations for action or specific demands on the Israeli authorities. The 1991 campaign, like those that followed, combined publications with other communications—posters, stickers, leaflets, and an international speaking tour. Allies were invited to organize meetings and awareness raising activities with al-Haq providing material and speakers, to establish

networks with like-minded groups and organizations, to write to the press and to the Israeli authorities or to national governments.⁴⁹ The issue in focus—the denial of family reunification applications by the Israeli authorities—was described by Adama Dieng, then secretary-general of the ICJ, as among other measures of “cruel, inhuman and degrading treatment suffered by the Palestinian population” which are “less prominent and remain in the shadows.”⁵⁰ In her 1990 study, which Dieng’s words prefaced, Whittome opened as follows:

The right to live together with your spouse and children, in your homeland, is fundamental. But for Palestinians in the West Bank, the Gaza Strip and East Jerusalem, there is no such right. At best, Palestinians are granted permanent residence in the Occupied Territories as a privilege, but not as a right. At worst, they are compelled either to live illegally with their families in the Occupied Territories, to live apart from their spouse, or to leave the country of their birth and childhood.

This is no accident. On the contrary, it is the result of a calculated policy, systematically implemented by the Israeli authorities.⁵¹

In preparation for the campaign and in support of the study, al-Haq field-workers completed 1,609 questionnaires from Palestinians whose application for family reunification had been refused. These included husbands/wives applying for permission for their spouse to join them in the occupied territories, parents applying for reunification with their children, and other relatives applying to join families in the territories. As Whittome explained, separated Palestinian families would be obliged to apply to the Israeli authorities for family reunification in cases where residents had fled during the 1967 war and were then prevented from returning, where Palestinian residents of the occupied territories married a nonresident and wished to live together in the territories, and where “former residents of the Occupied Territories lost their rights to residency under laws and regulations issued by the Israeli authorities since 1967.” Al-Haq had been unable to access reliable and up-to-date statistics on the full number of applications made, granted, and refused by the Israeli authorities since 1967, but believed the field-workers’ 1,609 questionnaires documented only a “relatively small sample” of those rejected.⁵² Whittome pointed out that, at the time of her study, the issue of separated Palestinian families was a “relatively unknown and unpublicised subject.” The campaign was designed to change that. The subject was low-profile in terms of the attention it attracted, but it was devastating—immediately and in the longer term—for the individuals and family units affected. As Whittome’s study showed, and as has been shown further down the decades, it was part of a systematic policy aimed at forcing as many Palestinians as possible out of the occupied territories while taking control of the land. The affidavits in the campaign publication vividly illustrate the terrible choices that people were being forced to make, the dreadful situations in which they lived, and what this was doing to their families.

The campaign was new, but al-Haq’s attention to this subject was longstanding. The all-important issue of the “right to residence” and the possession

of an identity card (ID) issued by the Israeli military authorities after the 1967 occupation—and how these cards were used by the authorities—were a focus for the organization in the early 1980s.⁵³ Cases had been brought to its Legal Advice Programme since its establishment at the beginning of 1985.⁵⁴ Whittome's 1990 study was a revision and expansion of a 1987 al-Haq briefing paper on family reunification. After the early intense years of the intifada, with both the fact and the extent of violations more visible to the international community, the organization sought to turn the focus onto the policy underlying the more visible violations. There was a distinct local impact. Even given the organization's increased profile in the first intifada, Zahi Jaradat recalls that "the welcome was different" after the campaigns; there was a "good impact locally," says Batrawi. Azzam recalls that al-Haq staffers enjoyed this new form of initiative, which was followed the next year by a campaign against house demolition and sealing and then (1993–94, after the arrival of the Palestinian Authority) one on "women, justice and the law."⁵⁵

AFFIDAVITS AND THE PALESTINIAN AUDIENCE

The next publication of affidavits was a collection titled *Palestinian Victims of Torture Speak Out* and was published first in Arabic, an indication possibly of al-Haq's increasing attention to distributing the results of its research locally as the area prepared to receive the Palestinian Authority.⁵⁶ Another collection, in 1995, appears to have been published only in Arabic, although this does not mean that there was never an intention to have it translated. This was a set of documents and affidavits published a year after the killing by Israeli settler Baruch Goldstein at the Ibrahimi mosque in Hebron of twenty-nine Palestinian worshippers on Friday, February 24, 1994. A press release issued by al-Haq two days later stated that protests in different towns and refugee camps in the West Bank and Gaza Strip had raised the death toll to forty-nine and some two hundred injured. The US/Russia-sponsored peace talks were suspended and the UN Security Council argued for three weeks over the text of a resolution (904 of 1994); subsequently, an "Agreement on Security Arrangements in Hebron" was signed between the heads of the PLO and Israeli delegations to the talks, which led to the installation of the Temporary International Presence in Hebron (TIPH) and the resumption of the Gaza-Jericho talks.

Al-Haq's frustration with this state of affairs was part of the context for the publication of this collection of affidavits one year after the massacre.⁵⁷ The 1995 publication is attributed to researcher Khamis Shalabi and, unusually, to field researcher Zahi Jaradat.⁵⁸ It is presented in three parts: a report and related affidavits on continuing human rights violations in Hebron during the year 1994; affidavits from the February massacre, al-Haq's press release and a comment by the organization on the results of the official Israeli inquiry into events; a record of violations of human rights after the massacre by soldiers and settlers, together with a list of sixty-one

Palestinians killed by Israeli security forces or settlers in Hebron during the year 1994. The publication of this report seems to reflect a feeling of responsibility on the part of the organization towards its local constituency;⁵⁹ in the absence of any progress on the situation in Hebron, the enormity of the massacre at the Ibrahimi mosque demanded a public intervention by way of this publication. Also, contacts with the Arab human rights movement had been established and were growing since the organization became closely involved with preparation for the 1993 UN World Conference on Human Rights in Vienna, so there was a growing regional, Arabic-reading audience that had not previously been a routine address for al-Haq publications.

FIELDWORK AND THE DATABASE

One significant destination for the enormous amount of material collected by the field researchers was al-Haq's database unit. The early development of this system has been discussed in chapter 3; in its later development, its software was the product of remarkable effort by al-Haq staffer Umar Ayyoub.⁶⁰ Judith Dueck, who became closely involved with the work of HURIDOCS in subsequent years, recalls that she accompanied Jonathan Kuttab to a Rome meeting of the organization and that "al-Haq was further along in establishing the priorities of the database, so it was able to assist HURIDOCS when they were looking to establish a database that would serve a number of organizations from elsewhere in the world." Nina Atallah, subsequently head of the database directorate in al-Haq, recalls her experience in sharing al-Haq's systems with other human rights activists in international fora down the years. However, internally, the work was not always attractive to other al-Haq workers; she even notes wryly that at times "it was up and down whether the director got the point."

The early choice and implementation of an Arabic-English transliteration system was tedious for some, but critical to the standardization of a retrieval system. The database was—and is—key to al-Haq's documentation strategy: documentation was for a purpose, not for its own sake. Joanna Oyediran, who joined al-Haq as a researcher in 1994, notes the tensions that could arise here:

The field-workers are going out there and there are so many awful things happening, they're taking affidavits and questionnaires, all this information is to show the consistency of a pattern, but it can be frustrating. Sometimes it must have felt like the researchers were just sitting on it. At least at al-Haq it was going into the database and going out as statistics.

Oyediran was one of a number of staffers who suggested that the work would have benefited from a greater integration of the field and legal research work. Nevertheless, standing by itself, the fieldwork unit was an extraordinary accomplishment for the organization. Coordinator Khaled Batrawi gave training courses

on fact-finding in different international fora.⁶¹ When other Palestinian human rights organizations became established, al-Haq field-workers helped with their fact-finding and documentation strategies; they gave talks at schools and universities, and they distributed al-Haq's *Know Your Rights* series of information booklets discussed further below, which were published only in Arabic and dealt with a mixture of internal human rights issues and rights related to the occupation authorities.⁶² By the early 1990s, field-workers were also trained as paralegals, joining with al-Haq's legal services unit to provide legal advice on recurrent issues (such as family reunification) in offices in Hebron and Nablus for those for whom travel to al-Haq's Ramallah office was becoming increasingly difficult and expensive. Fateh Azzam notes the change in the field-workers' role in this regard: "At first, they were out in the field to get information and bring it back to al-Haq; now, we thought of them as extensions of al-Haq in the different areas, distributing *Know Your Rights* and other publications, working as paralegals in the offices outside Ramallah, a dissemination point."

In the end, Rabbani credits al-Haq's field research efforts and methodology as the most important factor in building the organization's credibility. "At the end of the day, it was because al-Haq got all its information from the source, the field, and did it in a very professional way. If anyone wanted to check out the validity of the affidavits they'd come back with the same information." The position of (almost) never intervening before documenting an event itself, he notes, "while seemingly paranoid, [. . .] was not an inappropriate response to the accurate fear that one careless mistake by a Palestinian human rights organisation would undermine its entire record and severely compromise its reputation."⁶³ Rabbani reports personally retaining "a morbid fear of inaccuracy drilled into me at al-Haq."

Jonathan Kuttab is particularly proud, not only of LSM/al-Haq's reputation for accuracy, but also of a wider diffusion of the values of accuracy and documentation in Palestinian society and a greater readiness on the part of foreign actors to accept Palestinian statements as true. Developments in the first intifada also forced the fact of violations by the Israeli occupation forces into the consciousness of the international media and their audiences. It provoked a development in al-Haq's research and publication strategy discussed further below.

PUBLISHING ON PRISONS

One of the methodological consequences of al-Haq's approach was an overall caution in drawing conclusions once the facts had been investigated; understatement, according to Kuttab, was the order of the day. Shehadeh relates this caution to the sustainability of the organization: "We were so careful; we weighed at every stage, what could we say at any certain point in time." This shows in the tone of al-Haq's publications, and one example often given by those who worked with LSM in the early and mid-1980s was how long it took the organization to use the word *torture*.

In particular, using *torture* in the title of the 1985 report on al-Fara'a prison was a huge step for the young organization: as Shehaheh remembered, "Could we get away with it? If not, they'd close us down." This particular milestone was passed at the prompting of Niall MacDermot of the ICJ, which copublished the report. MacDermot had been on the drafting committee of the Declaration against Torture, adopted by the UN General Assembly in 1975, and the ICJ under his leadership had assisted in the drafting of the Convention against Torture.⁶⁴ The CAT opened for signature and ratification in December 1984, just over a month before the ICJ/LSM report was published. The timing was significant; "the word *torture* was being defined and criminalized at an international level, it was an international story," remembers Mona Rishmawi. Kuttab recalls MacDermot "taking me to task for al-Haq being so careful about being neutral" and observing that "yes, we have to be objective, but I don't think we have to be neutral; there is a point when torture is torture, and you're not neutral when you're dealing with either the torturer or the victim." Some years later, al-Haq was still struggling with this balance in its presentation of its material to Palestinian constituency. After a 1987 press conference, al-Haq took issue with one press report that suggested al-Haq "suffers from objectivity to the extent that they have started to consider themselves as any neutral and outside party, and not a Palestinian party concerned with Palestinian human rights."⁶⁵

LSM had in fact published an earlier report on al-Fara'a in April 1984, a nine-sided paper titled "A Report on the Treatment of Security Prisoners at the West Bank Prison of al-Fara'a." The former British army camp had been brought into use by the Israeli occupation authorities to detain some of the many Palestinians arrested during widespread protest against the dismissal of West Bank mayors in 1982; those taken to al-Fara'a "would be kept, without interrogation, for the eighteen days allowed by Military Order 378 and then released."⁶⁶ This was part of a policy introduced under the Israeli chief of staff in April 1982, "to act with force against the agitators and to imprison them at every opportunity."⁶⁷ Arresting them, imprisoning them for the period allowed under military orders, releasing them, and rearresting them was, along with other measures, part of a policy of *tertur*.⁶⁸ In the autumn of 1983, interrogation rooms were constructed, and the prison began to be used for investigation and interrogation. Another reason for concern was that the majority of the 250 prisoners being held there then were aged fifteen to eighteen.⁶⁹ LSM's concern had been shared by elements in Israeli society; ACRI held a press conference in March 1984, and there had been a petition to the High Court of Justice asking for "an injunction against the military commander of the area to order him to show cause why those working on his behalf will not be prevented from applying a system of beatings and torture in al-Fara'a, and why those responsible for torture should not be brought to trial."⁷⁰ By the summer of 1984, two Israeli army officers—one the head of the prison named in extracts from affidavits in al-Haq's report—had been charged and sentenced in

military court.⁷¹ Israeli journalists had been interested, reporting ACRI's allegations of "torture, brutality and inhuman conditions" to break the detainees.⁷² For its part, LSM had for the first time held a press conference in its office, bringing young former detainees from the prison to present their experiences or, as Shehadeh put it, "to tell their stories in addition to our affidavits." In this first report, however, LSM did not itself describe the treatment as torture, ascribing this description of their treatment to the words of the detainees themselves.

As discussed in chapter 3, the furor over the release of the 1985 report seems to have stemmed from the timing and direct international exposure that Israeli diplomatic officials experienced in Geneva at the Human Rights Commission; perhaps it owed some of its impact precisely to the fact that, although still understated in its introduction and explanations of the different sections, the prevailing voice was that of the detainees, directly and forcefully presented to the public. The motive behind publication of this report in collaboration with the ICJ was explained by LSM as follows:

The evidence demonstrates that al-Fara'a is intended to operate as an intimidation centre to which groups—mainly of young people—are taken for a certain period, given harsh treatment and later tried on the basis of confessions that appear in many cases to be extracted against their will, then released. This being the case, it is the function which al-Fara'a is intended to serve which constitutes the violation that must be stopped.⁷³

This passage illustrates LSM/Al-Haq's methodological focus on the "why" as the context for the "what" of human rights violations that came to its attention. The aim of the practices at al-Fara'a appeared to be not "the obtaining of information relating to specific events" but rather "humiliation and intimidation." Therefore, "detention at al-Far'a should be understood, we believe, in the context of other measures aimed at controlling the West Bank population, such as curfews, house demolitions and the withdrawal of basic services from whole neighbourhoods."⁷⁴

A second report on the conditions in which political prisoners were held was issued in October 1984, this time in the newly opened Jnaid prison near Nablus that the authorities had presented as a response to overcrowding in other West Bank prisons when they opened it in June 1984.⁷⁵ In this case, the prisoners were mostly under forty years of age and serving sentences of ten years or more. The prisoners had made attempts to improve their conditions, including interventions with the director, Israeli prison authorities, and the minister of the interior. They had declared a hunger strike, which lasted for twelve days and drew support from prisoners in other facilities and from members of the wider population, who variously held sit-ins and general strikes in solidarity. The LSM report included the list of the prisoners' demands and the response from the prison director. The twelve-page paper publication, similar in physical form to the 1984 al-Fara'a report, reviewed each area of concern: overcrowding; deprivation of exercise, medical services, and

food; use of gas, punishment, and control; restrictions on religious worship; and isolation from the outside world and the prevention of social contact. It did not extract or reproduce affidavits, but referred instead to reports from prisoners; LSM members had also visited the prison. As with its previous report, LSM did not make specific demands or recommendations; it set out the facts and compared them with existing legal standards.

One development in the Jnaid report was the reference to international legal standards. The 1984 al-Fara'a report had reviewed the organization's concerns at al-Fara'a in reference to Israeli military orders regulating prison and arrest and detention procedures in the West Bank.⁷⁶ The Jnaid report, a few months later, reviewed each area of concern not only in relation to Israeli military orders, but also in light of international standards; these included, in relation to the medical treatment given to prisoners, the Fourth Geneva Convention and the UN Principles of Medical Ethics (1982), and more systematically, the relevant provisions of the UN Standard Minimum Rules for the Treatment of Prisoners. In explaining its reliance on these rules, LSM explained that "they do not constitute binding law, but are internationally recognised principles."⁷⁷ The 1985 al-Fara'a report was almost entirely free of legal references, letting the affidavits speak for themselves.⁷⁸ The structural intent (control and intimidation of wider Palestinian society) was clear.

Al-Haq's next reports on prisons were to be produced in the first year of the intifada, as thousands were arrested and new facilities opened by the Israeli authorities; the organization later reported that between December 1987 and May 1992, Israel had detained more than eighty thousand Palestinians.⁷⁹ In May 1988, al-Haq produced "Dhahiriyyeh: Centre for Punishment," a thirteen-page paper about another former British army camp near Hebron used to hold thousands of detainees and where the conditions and treatment amounted, according to LSM, to "collective punishment and other degrading and cruel treatment." Al-Haq invoked not only the Standard Minimum Rules and the Fourth Geneva Convention but also the UDHR and the ICCPR, in relation to the prohibition on torture. Israel had signed the ICCPR but had not yet ratified it. Unlike in its previous prison reports, Al-Haq provided a conclusion. Noting that the already notorious conditions and the treatment at the detention center were clearly intended to be punitive, it concluded: "It appears that the Israeli authorities believe that by so treating detainees it can break their spirit. The prison is thus one of the means used in an attempt to force the Palestinians into submission."⁸⁰

It was in the next prison report in August 1988 that al-Haq made its first explicit demand in a publication. The demand was in the title: "Ansar 3: A Case for Closure." This prison, in an Israeli military camp in the Negev desert near the border with Egypt, was at the time of the report holding twenty-five hundred Palestinians, mostly in administrative detention. Officially called Ketziot, it was known to Palestinians as Ansar 3 in invocation of the Ansar prison camp set up by the Israeli occupying authorities in South Lebanon in 1982. Explaining why the analogy was

appropriate despite the fact that torture was not a feature at Ansar 3, al-Haq drew attention to the physical isolation of the camp, to the rationale—the rounding up of huge numbers of Palestinians, the attempt to break their spirit and the spirit of wider society—and to the treatment dealt the detainees aimed at humiliating and degrading them. Four of al-Haq’s field-workers were held here under administrative detention, and the thirty-three-page report was dedicated to them. The legal standards it invoked were similar to those referred to in the Dhahiriyyeh report, with the important addition of the fact that holding Palestinians from the occupied territories inside Israel was in direct violation of the Fourth Geneva Convention. Al-Haq concluded that conditions at the prison constituted “inhuman and degrading treatment” and called for its immediate closure.

STRUCTURAL WORK

The Ansar 3 report was to be al-Haq’s last effort in this direction; for the next few years, prison conditions were dealt with in chapters in the annual reports of human rights violations during the uprising. The prison reports had arisen from fieldwork, and while LSM/al-Haq had placed them in an overall contextual (and structural) framework, they were something of an exception to its more usual work. Al-Haq’s briefing papers issued on the occasion of the twentieth anniversary of the Israeli occupation are illustrative of its dominant focus and cover the following topics: the West Bank legal system and structure, the military court system, administrative measures of punishment and control, trade unions under Israeli occupation, and the suppression of academic, political, and cultural life. Some of these resulted in publications.⁸¹

Al-Haq’s primary focus can also be seen in the structure of its 1988 conference titled “International Law and the Administration of Occupied Territories,” mentioned in Chapter 4. The “administration” focus explored issues such as financial administration and taxation, economic policies, the exploitation of land and water resources, trade unions, and the provision of services by mass-based Palestinian organizations. The conference also explored the international law implications of prolonged military occupation, and strategies of enforcement, through Israeli fora and UN-based mechanisms.⁸² The object of the conference was to bring experts to discuss matters that were not, at that time, resolved or even particularly under discussion. It was the first international law conference to be held in the territories, and Emma Playfair spent a couple of years contacting different experts, meeting with them, and explaining the challenges and the objectives of the conference. She had some tough meetings, and at least some considered it a political minefield. Those who did come found themselves in East Jerusalem at the start of the first intifada, confronted with daily news of human rights violations while considering their brief on the underlying structure of the occupation. Abdel Karim Kan’an remembers driving people back and forth to present testimony: “We really wanted

this conference to be successful, we worked so hard for it.” For Shehadeh, the event was a breakthrough. A decade after the event, Playfair pointed to an impact wider than the particular situation in the occupied territories: “The published views of legal experts are an important source of international and customary law, so the expert contributions to this conference will directly contribute to the development and explanation of humanitarian law.”⁸³ So many outstanding people did come, she explains, “all due to al-Haq’s fact-finding—exposing the violations and the wrongfulness of the Israeli view on the law—that was al-Haq’s contribution.”

LSM/al-Haq’s focus from its early years on structural violations and on collective and economic and social rights was a very different start than was the case, for example, with the Israeli human rights organization B’Tselem, established in 1989 in the middle of the intifada. Former B’Tselem staffer and director Eitan Felner notes that “like many traditional human rights groups around the world, its work initially focused on civil and political rights.”⁸⁴ Al-Haq, in contrast, was not a “traditional human rights group.”⁸⁵ Its work started and ended with the structural context of the violations it addressed. Rishmawi recalls that LSM’s turn to a more explicitly human rights focus in these and other matters was prompted by Shehadeh’s participation in what Tolley has referred to as “a major 1981 conference at The Hague, [where] the ICJ connected development to the rule of law.”⁸⁶ From these ideas, says Rishmawi, “we started thinking in terms of rights as collective and individual.” According to Tolley, “ICJ advocacy of development as a human right sought to bridge a major North-South divide.”⁸⁷

Prime examples of LSM’s early publications include the study on *Civilian Administration* in the West Bank, the study on Israel’s Road Plan No. 50 for the West Bank, and an LSM occasional paper by Rishmawi on planning and land use. In 1985, Shehadeh published what he described as a sequel to *The West Bank and the Rule of Law*: “It is the thesis of this study,” he told his readers, “that the policy which Israel has been pursuing in the West Bank is intended to drive out the Palestinians, to take over their land, and eventually to annex the occupied territories.”⁸⁸ *Occupier’s Law* was published by the Institute for Palestine Studies in Washington, although the title rubric indicated that it had been prepared for al-Haq.

The book deals in section one with “the various methods by which the alienation of 40% of the land of the West Bank has been brought about” and how Palestinian use of the remaining land was restricted. The second section looks at the administrative structures and the three judicial systems in operation—the local courts, which were by now precluded from hearing any cases against any Israelis, soldiers or settlers; the military courts and tribunals; and Israeli (settler) civilian courts in the West Bank—all of which underpinned Shehadeh’s conclusion that “the status which Israel has accorded to the Palestinians in the West Bank is that of permanent alien residents.”⁸⁹ The last section looks at the “extensive powers of granting to Palestinians permits necessary for running the day-to-day business of society,” justified by Israel’s concept of “security,” but used to “stifle

the growth of the Palestinian population” in any number of economic, social, and cultural ways. An overview of human rights violations is also included in this last section. The second edition of *Occupier's Law* included a new introduction covering international legal instruments applicable in the territories and describing the “four legislative stages of the occupation” to date. In relation to the fourth and then current one, which he dated from 1981, Shehadeh observed that this stage had “primarily involved planning regulations pertaining to the use of the extensive areas of land that were and are being acquired for Jewish settlement” as well as amendments to tax laws that were increasing revenues to Israel from the occupied territories.⁹⁰

These findings described not only what was, but indeed what was to come. In 2008 Shehadeh gave perhaps his most concise and lucid account connecting Israel's colonial plans, as perceived in the eighties by Shehadeh and his colleagues, to the dismal results of the Oslo peace process and beyond. In particular reference to the Road Plan proposed in 1984, to be implemented to connect settlement blocs and urban centers inside Israel, bypassing Palestinian towns, he notes: “Oslo confirmed all this.”⁹¹ The information was already there; and Shehadeh's bitterness at the Oslo process included the lack of attention paid to his own legal input by the Palestinian team ignoring the warnings of Israel's colonial aspirations that had been voiced so conscientiously and energetically over the previous years.

Back in 1986, LSM/al-Haq had published its own in-house study on planning and land use,⁹² and was to follow this up with the unusual step of commissioning a UK academic expert, Anthony Coon, to produce a study on town planning in the West Bank. Coon conducted substantial fieldwork, meeting “planners, architects, lawyers, surveyors and engineers” as well as “ordinary citizens” of the West Bank; al-Haq staff who worked with him recall this as a hugely significant project and a major investment by al-Haq.⁹³ Introducing the book to his readers, Coon conceded that the subject “might seem like an irrelevant distraction from the more substantial issues which arise in a prolonged military occupation.” As he explained, however:

Town planning has a more direct and a more intense impact on the quality of the lives of Palestinians than it has on the inhabitants of almost any other territory. For Palestinians the planning system is of vital concern because it affects not only their prospects of future prosperity, but their prospects of nationhood.⁹⁴

Published the year before the Oslo process was to begin with the 1993 Declaration of Principles, Coon's study identified as “the principal requirement” the reestablishment of “planning institutions which are representative of and responsive to the needs of Palestinians, for these to be adequately funded, and for them to have access to information (in particular the Land Registry).” He also called for “international pressure” to be brought on Israel and argued that “‘legal’ restrictions preventing access to and use by non-Jews of seized land and settlements should be abolished.”⁹⁵ If such measures were not “taken soon,” Coon concluded,

“the world should expect the Palestinian human rights tragedy in the West Bank to be ever intensified—a tragedy in which the conduct of town planning has long been instrumental.”⁹⁶

Coon’s book was published in the United Kingdom by an academic publishing company, although copyright was retained by al-Haq. This particular experiment appears not to have been repeated, although the interest in having substantial studies taken on by established publishers abroad, with their own distribution possibilities, is also demonstrated by Shehadeh’s work with the Institute for Palestine Studies. In the early 1980s, al-Haq’s directors were also publishing shorter pieces abroad, some of which were made available (as “LSM publications”) as reprints from LSM/al-Haq. These were published variously in the *Review* of the ICJ, the *Journal of Palestine Studies*, *Le Monde Diplomatique*, *Hawliat Siyasiyah*, and in volumes of collected articles. They focused on structural issues: settlements, the juridical status of the occupied territories, land law, and (in Kuttab’s case) the acquisition of property.⁹⁷ The first research paper on a specific legal topic by a researcher other than LSM’s directors came about through a request from the UK-based *Index on Censorship*. A US volunteer at al-Haq prepared the article on military censorship in the West Bank, published by *Index* in 1984 and reprinted by LSM in 1985. A series of columns and correspondence in the London-based *Jewish Chronicle* criticizing the article and *Index*’s decision to publish it, and responses to these critiques, were appended to al-Haq’s printing of the article in late 1986, together with letters sent by Raja Shehadeh to both; this appended material exceeded the length of the original article.⁹⁸

LSM/al-Haq was not a research institute, and it was sometimes at pains to stress that it did not consider theory for theory’s sake, but by 1986 the organization had found a format for its own research publications. The early occasional papers examined particular legal issues developing in Israeli policy and practice. The exception in the early years was the paper by Rishmawi mentioned previously, which provided a historical examination of the legal status of Palestinian women, and—also exceptionally—was published in Arabic.⁹⁹

Playfair’s 1987 paper on house demolition and sealing, the fifth in the series, evolved from a “full report” that had been sent by al-Haq to various organizations abroad in August 1986.¹⁰⁰ Al-Haq had

noted with alarm a dramatic increase since 1985 in the number of houses demolished or sealed by the Israeli authorities as a punitive or allegedly deterrent measure, following the arrest of one of the inhabitants of the house. [. . .]

Amongst houses demolished by the Israeli authorities in 1986 were those in the West Bank village of Burqa reported in Newsletter 12. These demolitions followed the rejection by the Israeli High Court of Justice on 24 March 1986 of petitions made by the owners and inhabitants of the three houses. [. . .] On reading the High Court decision in the Burqa case, al-Haq came to the conclusion that neither the efforts it has exerted in the past [. . .] to oppose this practice, nor the appeals to the High

Court, have been to any effect. It concluded that the greatest hope of ending the practice lay in the efforts of members of the international community concerned with human rights and justice.

In the light of these developments, al-Haq decided to prepare a thorough brief about this practice for human rights organisations and individuals locally and worldwide, and to ask them, if they concur with al-Haq's view that this is an illegal, arbitrary and oppressive measure, to intervene in whatever way they consider most likely to achieve the cessation of the practice.¹⁰¹

Al-Haq's cautious and understated mode of addressing its local and international allies is evident here, as is its emphasis on the steps it had taken prior to this "intervention by study" and why it felt it necessary to proceed in this manner. Playfair's paper proceeded methodically through the justifications for the practice presented by the Israeli authorities and the High Court, responding with reference to "local law"—in this case the Defence (Emergency) Regulations (DERs) 1945, issued by the British Mandate authorities, on which demolition orders were based—the Hague Regulations of 1907, the Fourth Geneva Convention of 1949, statements by the High Court of Justice, the writings of eminent experts on the laws of war, and principles of natural justice and other international law (UDHR). The commentary draws on al-Haq's fieldwork to present cases contradicting the statements under examination and to emphasize the impact of the measure. It appends a particularly notorious ruling from the High Court of Justice and two sample demolition and sealing orders. The final part of the commentary takes up a paragraph in the HCJ's Burqa decision that clearly contributed to al-Haq's conclusion that the Court "does not provide an effective forum for review against demolitions."¹⁰² The Court held:

There is no basis to the petitioners' complaint that house demolition is a form of collective punishment. In their opinion, only the terrorists and criminals themselves should be punished, and house demolition punishes additional family members. Such an interpretation, if accepted by us, would leave the above regulation and its orders void of content, leaving only the possibility of punishing a terrorist who lives alone.¹⁰³

This is an extraordinary example of Cohen's "interpretative denial."¹⁰⁴ Al-Haq's (and Playfair's) response was that "a law can be interpreted by reference to the fact that it must have been intended to have some effect; but it cannot be deduced, from the fact that the apparent intention is forbidden by international law, that some other purpose must have been intended."¹⁰⁵

As demolitions and sealings increased exponentially in number and in method through the intifada, al-Haq published two further occasional papers on the subject and launched an international campaign against house demolition in 1992.¹⁰⁶ All drew substantially on al-Haq's field research. A detailed consideration of Israel's use of the British DERs (1945) in deportations, house demolitions, and sealings was

issued during the first years of the intifada, along with a rather ambitiously titled research study into the *Enforcement of International Law in the Israeli-Occupied Territories*. This latter, linked with the Enforcement Project, aimed to show “that states have a legal obligation to ensure that the Fourth Geneva Convention [. . .] is applied by Israel within the Occupied Territories.”¹⁰⁷ Rabbani identifies this—and a later publication on taxation—as al-Haq venturing into new legal areas including the law-based intervention of third-party states.

LSM/al-Haq continually sought to increase the effectiveness of its interventions. Some projects appear not to have resulted in a publication, as with a 1985 project on what it termed “institutional discrimination,” and on which it corresponded with the World Council of Churches’ unit on racism.¹⁰⁸ The 1986 program report refers to a substantial fieldwork effort on this, on the basis of which it sought to determine “whether a practice is a result of individual or mass conduct, or official policy”—the latter category being the one of interest to the organization. Three areas of Israeli policy were under examination:

disposition of land, the allocation of resources, and the use of labour. In each area field data have been collected and examined with a view to determining the degree to which racist policies are being practised against Palestinians in the Occupied Territories, and the short and long-term objectives such policies may be designed to serve.¹⁰⁹

Evident again are the question “why” as well as “what” and the need to understand the policy behind the practice. These were early days to be researching this angle.

LEGAL ADVICE AND *KNOW YOUR RIGHTS*

One of the criticisms directed at LSM/al-Haq—certainly before it began its campaigns—was that its focus tended to be directed towards mostly external actors and public opinion, and more particularly lawyers, human rights organizations, and activists in Israel, Europe, and the United States. The organization did make a concerted effort to develop an “internal” agenda promoting rule-of-law and human rights awareness in Palestinian society. Besides the development of what was to become a “massive library” on law and human rights for public use,¹¹⁰ other elements included public lectures and talks, employment of a human rights educator to develop material for schools, and articles in the local Arabic press. There were two themes in this work: firstly, educating members of Palestinian society about their rights, such as they were, vis-à-vis the occupying authorities, and secondly, promoting ideas of the rule of law and human rights in relation to Palestinians’ conduct towards each other. The challenges of the first were set out in the draft program objectives for 1987 as follows:

The promotion of an awareness of the individual and collective rights of Palestinians is a particularly pressing task in a society where a history of social and political

domination has nurtured a sceptical attitude towards the prospect of achieving these rights. Moreover, widespread ignorance of the rights and protections that are, in theory, available to them renders the population ill-equipped to use the law to defend its vital individual and collective interests.

LSM/al-Haq opened its legal advice program in early 1985. By the end of 1986, Mona Rishmawi was sitting twice a week “to offer legal advice to residents in any matter related to law; to follow up cases concerning violations of basic human rights principles; [and] to adopt cases which do not require court procedures.”¹¹¹ The subjects on which advice was being provided included “travel restrictions, disappearances of residents or relatives of residents outside the West Bank and on the bridges, family reunification, issuance of driving permits [and] registration of charitable associations.” Some successes had been registered in challenging refusal of permission to travel abroad, but family reunification was an area “where it has been very difficult to obtain a significant outcome.” Therefore, the organization would resort to “employing tactics which may not lead directly to a desired final result, but which may nonetheless contribute”—in this case, trying to have the authorities release the criteria on which it was denying applications for family reunification. The organization set out the incremental development of its positions: “One of al-Haq’s goals in intervening with the authorities should be—and is—to clarify the legal situation under occupation, so as to create a more solid legal basis on which to intervene with the authorities and to provide legal advice to those whose human rights are violated.”¹¹²

As demands on the legal advice program grew, al-Haq made a decision to work with an in-house lawyer to train staff as paralegals to implement the majority of the work. Jacqueline Shahinian first took on the paralegal role, using materials produced by the ICJ for paralegals and drawing on assistance from practitioners in the United Kingdom; Shahinian was sent to London to look at the Citizens’ Advice Bureau and the Citizens’ Law Centres as models. Field-workers were later trained as paralegals, and by 1993 the Legal Services Unit was intensifying its activities in its new offices in Hebron, Nablus, and Ramallah. The Legal Advice/Legal Services Unit was to continue its work even through the organizational crisis that caused the near collapse of al-Haq in 1997. Shahinian was kept on by the board when it fired nearly all of the other employees, to open the office and follow up on cases at the unit. The unit was finally closed by Randa Siniora on the basis of a strategic review she carried out in 2005 as al-Haq’s director; there were other organizations providing legal aid, she explained, and at that point Al-Haq’s distinctive strengths lay elsewhere.

Beginning in late 1983, for its first three years the “Legal Corner,” a weekly column in *al-Fajr* Arabic newspaper, was written by Mona Rishmawi and covered an extraordinary range of subjects that included developments in the law and practice of the occupation authorities, the concepts of human rights and the rule of law, the international human rights movement, and other, more internal issues such as tenancy laws, the law of tort (focusing on negligence), “revenge” killings,

bounced checks, and “the woman lawyer and the legal profession.”¹¹³ According to a draft report on the impact of LSM’s publications, the column was “very widely read and often provokes discussion and interest in other aspects of al-Haq’s work.” The individual pieces were never collected for publication despite an apparent intention to do so. Revived in 1993 when the organization was staff run, the column was renamed the “Human Rights Corner” and published in *al-Quds* newspaper, with staff members from across al-Haq’s units writing pieces along with a few invited guest contributors. A first set of these columns was republished by al-Haq in a 1995 collection.¹¹⁴

Finally, we come to the *Know Your Rights* series of locally directed pamphlets aimed at educating and equipping the community in regard to its legal rights. On this, Shahinian comments:

The Know Your Rights concept was a brilliant method to reach the grassroots to allow people to change their way of thinking, that even though the occupation will still go on making our lives miserable, this should not stop us from both complaining and asking why.

Shahinian’s experience at the Legal Services Unit clearly influenced her enthusiasm for the *Know Your Rights* series; in the early nineties, the unit was to produce a number of leaflets addressing issues commonly raised by those coming for advice.¹¹⁵ The *Know Your Rights* series, produced in Arabic and written by Palestinian staffers, reflected ongoing priorities at the organization. Joost Hiltermann was later to state that the series was “one of al-Haq’s most important undertakings during its first decade,”¹¹⁶ although other workers were less sure of the series’ impact. In part, Hiltermann reflects, the series was a response to the early suspicion that “nobody knew what we were about”; the *Know Your Rights* series showed that “this was not just an elite debate that we were fighting in Washington—although that’s important—but this is also useful for the community.” The inspiration behind the series was not, however, utilitarian, but arose directly from the early aspirations of LSM’s leadership that the Palestinian public should have recourse to the law. The first three publications in this series were written by Mona Rishmawi, one a year from 1982, and it was perhaps inevitable that the very first would deal with “The Land,” with the subtitle “Legal Means of Protecting It.” On the inside front cover, the rubric reads as follows:

These pages have been prepared to help citizens in the West Bank in the legal means to which recourse may be had when their land is at risk of attack. They have been written in simple legal language to help the ordinary citizen in understanding them and benefitting from them.

This publication urges immediate recourse in the event of “an attack on your land” to the Israeli Military Objections Committee, “and not the Israeli High Court of Justice as is the prevailing belief among the people.” An “attack” is explained as

such actions as “ploughing, planting, grazing livestock, building etc” by “ordinary persons or companies,” in which case recourse might be had to the local courts and police; and measures such as confiscation, a declaration of the land being “state land” or “absentee property” or other of the means through which the occupation authorities were taking control of Palestinian land. The booklet advises the reader to retain a lawyer, but provides indications of the documents the affected Palestinians would need for their submission to the Military Objections Committee, and includes the forms for the submission of an objection. This first *Know Your Rights* publication is focused on local law.

The second, titled “al-Muwatin” (with a subtitle: “Search, Arrest and Military Trial”), contains introductory quotes from the UDHR, which the booklet says that Israel—as a signatory and a member of the UN—should “respect in its entirety.”¹¹⁷ The publication “explains the procedures followed during detention and military trial as based on Military Orders, especially Order no. 378, without commenting on the extent to which these procedures conform to human rights principles.” It appends the full text of the UDHR “to emphasise the importance of human rights and in the belief that our compatriots will benefit greatly from knowledge thereof.”¹¹⁸ The third in the series (1984) dealt with “town arrest” (or residence restriction orders) in light of an increase in resort to this form of administrative control and punishment. In this one, Rishmawi dealt with the relevant provisions of Military Order 378 applicable in the West Bank apart from Jerusalem, and the relevant provisions of the 1945 DERs on the basis of which orders were imposed on East Jerusalem Palestinians. She appended both sets of provisions, along with Article 87 of the Fourth Geneva Convention (which, it is explained, constrains the occupier’s authority) “in the belief that citizens of the Occupied Territories should be aware of the international law principles that govern their situation.”

The next booklet in the series turned to internal human rights promotion. “For us,” says Kuttab, “human rights wasn’t just about the occupation,” but “the whole universal human rights thing wasn’t shared by everyone, it wasn’t on the political scene.” In 1986, the organization had observed:

Al-Haq has undertaken to intervene with indigenous institutional structures that appear to violate individual and collective human rights, particularly in the areas of labour rights and women’s rights. Al-Haq will attempt to confront practices which violate existing laws and, more importantly, to press for the application of internationally recognised principles and covenants on which local legislation is inarticulate. This task is particularly challenging for al-Haq, operating as it does in a social and political context where the absence of a competent and impartial judiciary and system of law enforcement renders the local population relatively powerless and unprotected vis-à-vis established local institutions and centres of power. Current work on labour and women’s issues will continue in 1987 and it is hoped that al-Haq will be able to play a more activist role in addressing selected violations of human rights in Palestinian society.¹¹⁹

The Labour Rights Project produced the next two *Know Your Rights* publications. The first was directed to Palestinians working in the West Bank and the second to those working for Israeli employers. The latter sought to brief the thousands from the occupied territories who went to work in Israel (“behind the Green Line”), examining Israeli law from which these workers might “even if only in a modest way” benefit, despite “the clear discrimination between Israeli and Palestinian workers.” The first sought to build awareness among Palestinians working in the West Bank of their rights under Jordanian labor law vis-à-vis their Palestinian employers.¹²⁰ Both began by situating workers’ rights as human rights. Both invoked international labor standards as articulated by the International Labour Organization (ILO). The second, for those working for Israeli employers, highlighted the right to belong to a trade union and to be protected from arbitrary discrimination; the first invoked a set of workers’ rights affirmed by the ILO. Al-Haq had first begun reporting on its concerns on trade union rights in 1986, and the Newsletter explained its interest:

The right of association and the right to trade union activity are universally acknowledged to be fundamental to the development of a just and democratic social order. Al-Haq has recently focused its attention on the treatment of trade unions and unionists in the West Bank by the Israeli authorities, and has intervened on a number of occasions in connection with arrests, restrictions, closures and other measures. Al-Haq has [. . .] addressed the Israeli authorities on these matters in light of Israel’s proclaimed support for the trade union environment.¹²¹

Mervat Rishmawi, whose first paid work with al-Haq was on the Labour Rights Project, notes that the project was “focused on provision of legal advice and services to workers and trade unions.” In 1986 the organization provided input and advice to a group of West Bank trade unions in their submission of a representation to the ILO regarding Israel’s arrest and detention without trial of a number of trade unionists and the deportation of two others. The ILO replied that “the representation was not receivable” because, firstly, “the occupation by Israel of Arab territories in 1967 cannot be considered as having extended to the Occupied Territories Israel’s obligations under Conventions it has ratified,” and secondly (and subsequently), because “actions taken by Israel in the Occupied Territories cannot be considered as having taken place ‘within its jurisdiction.’”¹²² These were arguments similar to those that the Palestinian human rights movement was later to face from Israeli officials refusing the application of human rights treaties it had ratified to its actions in the occupied territories. Al-Haq engaged in a detailed correspondence with the ILO, and the following year, together with the Gaza Centre for Rights and Law, the organization assisted two Gazan trade unions in preparing a complaint to the ILO’s Freedom of Association Committee after the military authorities had banned them from holding their elections and then, when they went ahead anyway, refused to recognize the results.¹²³ The complaint was delivered

to the Freedom of Association Committee by al-Haq members who joined an ICJ delegation to the ILO's annual international conference in Geneva.¹²⁴

The Labour Rights Project was thus the context of al-Haq's first exposure (albeit not as a direct party) to a UN mechanism of "enforcement" that employed international normative instruments based outside IHL. Project staffers recall that al-Haq played a facilitating role between the faction-based unions, "because we were seen as being neutral." Intensive briefing work was carried out with visiting international and regional trade union delegations particularly, after the *intifada* began. At the same time, Rishmawi notes, the project engaged in intensive "national work," helping with trainings particularly on local labor law and ILO standards. The Legal Advice Unit was briefed on services to workers, "although we were careful not to take the place of the unions." Marty Rosenbluth for his part recalls "a tension between the unions as a nationalist movement and the unions as a workers' rights movement" which they came across in this work.

The women's rights project was the second dealing explicitly with "local institutions and centres of power"¹²⁵ and had begun in informal fashion in 1985. At the time there were a number of women's committees politically affiliated with the different nationalist factions.¹²⁶ Mona Rishmawi's participation in the Nairobi NGO Forum at the end of the UN Decade for Women (1975–85) provided a framework for LSM to launch its own work from a nonfactional base. Rishmawi published articles in the *Legal Corner* series, joined the West Bank Planning Committee to prepare for the forum, and coconvened a study day on the conference's themes of equality, peace, and development. Rishmawi's occasional paper on Palestinian women's legal status was published in Arabic in 1986, and the following year Randa Siniora was recruited to establish and coordinate a Women's Rights Project. Siniora begins her reflections on the project in a piece written for al-Haq's *Twenty Years* publication with a quotation from the head of a charitable women's organization who suggested, when Siniora met her to introduce al-Haq's project, that Siniora and the organization should rather "go and do something with your partner Amnesty International" (about torture and other violations) and "leave women's problems to be resolved privately and discreetly by the extended family."¹²⁷ Human rights violations by the occupation were considered the proper focus for a human rights organization at the time.

Siniora says that al-Haq's legal and rights focus meant "we weren't duplicating" the existing work of the women's committees. Not long after she joined, however, the first *intifada* "turned everything upside down," and staffers on the Women's Rights Project, like those on the Labour Rights Project, were pulled into the organization's response to the massive violations from the occupying forces (including against women). Sustained work on the internal aspects of these projects was in practical terms suspended.¹²⁸ "It wasn't until a couple of years later," says Siniora, "that we realised that the *intifada* was a matter of everyday life within the Palestinian society, and that we needed to focus on some problematic human rights

issues that are not necessarily related to Israeli violations.”¹²⁹ The project began to look at gender-based violence in the Palestinian family and at personal status laws, as well as the impact on women of Israeli violations such as house demolition and denial of family reunification. The project reached its peak, according to Siniora, with the work on “Women, Justice and the Law: Towards the Empowerment of Palestinian Women,” a project which involved a range of women’s leaders in conceptualizing and convening workshops around the occupied territories on a set of issues comprising health, personal status law, protection against violence, labor and social security issues, civil and political rights, and education and professional training. This work culminated in a major conference in East Jerusalem in the summer of 1994, which closed with a mock tribunal hearing cases of violence against women and other violations of women’s rights.¹³⁰

Siniora brought the idea of the conference and particularly the tribunal back from her experiences representing al-Haq at the 1993 Vienna World Conference on Human Rights and the Bangkok preparatory meeting for the Asia-Pacific region that had preceded it. Al-Haq had agreed to become coordinator of the West Asia grouping of NGOs. In a packed few months (March–May 1993), Fateh Azzam had also attended the first meeting of its kind of Arab human rights organizations preparing for the Vienna conference, while Mervat Rishmawi went to Geneva for a further preparatory meeting.¹³¹ The preparatory meetings, the conference itself, and follow-up to the Programme of Action adopted at Vienna exposed al-Haq intensively to human rights activists and organizations from the Global South, including the Arab world. Seeing itself as part of the Arab human rights movement was something new, and establishing those links was particularly important: “We’d been pretty isolated before,” says Azzam. “I was surprised by the welcome we got from the Arab groups; I hadn’t realized our work was so well known in the region.” A range of impressive activists and organizations from South Asia brought to al-Haq new ideas for strategy and advocacy. Mervat Rishmawi says she “learned about proper campaigning” from “amazing colleagues from Asia.” For Siniora, “it was a huge thing, my first real exposure; I came back asking: How can we use law as a tool? How can we refer to international human rights instruments? I met so many women from Asia working on women, law and development.” Mona Rishmawi, by then at the ICJ in Geneva, identifies this as the point that al-Haq and other national NGOs began to assert their significance as part of the global human rights movement and to reevaluate their relationship with the international NGOs.¹³²

The timing of this process was also critical. The Madrid talks between Israel and representatives of Palestinians from the occupied territories had begun in December 1991; they were superseded by the Israel-PLO Declaration of Principles in September 1993 and the lead-up to the Oslo agreements establishing the Palestinian Authority. Earlier that year, the Israeli authorities had closed off from each other the northern and southern parts of the West Bank, East Jerusalem,

and the Gaza Strip, restricting movement of people and goods between them and further preparing the ground—physically—for the fragmentation that exists today. By 1994 the Palestinian Authority was partially in place, and al-Haq, alongside other groups and society at large, was looking to the internal processes to be expected of a national authority alongside the occupying forces. Some of the impact at al-Haq of these developments is reflected in the series of *Know Your Rights* publications.

Following publication of the second of the labor rights booklets in 1986, there was a break of nearly three years before al-Haq returned to the *Know Your Rights* format. The next four publications addressed Israeli policies and practices that the organization was also taking up in other ways. The booklet titled *Willful Killing* set out the elements of this crime under the Fourth Geneva Convention and addressed issues of evidence (including autopsy) that would establish such killings as grave breaches.¹³³ Succeeding *Know Your Rights* publications examined Israel's policy on family reunification, coinciding with al-Haq's campaign on this, and torture, the latter running alongside al-Haq's major documentation exercise and setting out steps by detainees, their families, lawyers, and NGOs to assist the effort to document and seek redress.¹³⁴

In September 1993, the organization published *A Code of Conduct for Law Enforcement Officials*, reproducing the 1979 UN text, with commentaries on its articles.¹³⁵ The publication was presented as “a contribution from al-Haq to current efforts to re-build Palestinian society.” An extensive introduction by then coordinator Fateh Azzam set this publication squarely in the context of the 1993 Declaration of Principles, particularly the reference to the “strong police force” that was to be established by the Palestinian Council.¹³⁶ “Palestinian society has for decades suffered from the different security agencies under whose authority it lived,” pointed out Azzam, “so what is a ‘strong police force’?” He drew out the rule of law, the role of legislation and the need for just laws, the achievement of a balance between the rights and responsibilities of citizens and law enforcement officers, and the need there would be for solid training of members of the Palestinian police “so that these principles become a part of each one.”¹³⁷ Al-Haq's role in police training became an area of organizational disagreement as the Palestinian Authority arrived in Jericho and Gaza in 1994. Al-Haq updated Rishmawi's *The Citizen* in view of the changes to Israeli military legislation since the 1983 original and given that “we are still going to be living under these laws,” since “it is expected that they will remain applicable at least in the interim period.”¹³⁸ In August 1994 al-Haq published the *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment*, a 1988 UN document, with a forthright introduction by Azzam that urged the incoming Palestinian authorities to ensure respect for these norms and to “provide for legal means to punish every responsible person who deviates from respect for these principles in their entirety, letter and spirit [. . .] We must start now, not tomorrow.” The introduction concluded:

Finally, let us repeat here that society always reaps what it sows. If we sow oppression and violation, we will reap rebellion and instability. If we sow respect for human rights, we will surely reap respect for duties, and respect for the Authority itself.¹³⁹

Two further *Know Your Rights* booklets, before a break of over a decade, focused on building human rights awareness within Palestinian society. The first of these was on violence against women, particularly violence in the family, and included contact details of two organizations to which women might turn for help.¹⁴⁰ The second, by senior researcher Riziq Shuqair, addresses arguments about the cultural relativity of human rights as used against proponents of universality.¹⁴¹ The debate had been very much in focus at Bangkok and Vienna, and the piece draws on documents from these conferences, stressing universality and indivisibility: “in order to refute these [relativist] claims.” Hanny Megally noted in the aftermath of Vienna that in the Arab region “one cannot discuss human rights without being confronted with everyday issues of religion and culture.”¹⁴² Shuqair’s piece is, however, probably the first time that al-Haq addressed this issue in print. Unlike its sister organizations elsewhere in the Arab world, LSM/al-Haq had not dealt with challenges from religion or culture when it started with its work on the occupation. Things were changing with a greater focus on society and with the advent of the PA, which was soon to deploy arguments of “foreign funding” and “agents of the West” against Palestinian human rights NGOs. Shuqair’s piece makes only the sparsest of references to the “accumulated gains of divine religions and human experience” as the source of the concept of human rights. But in taking on and responding to the arguments one by one, the piece reads as an intervention to Palestinian society that staunchly confronts any portrayal of human rights as fundamentally a child of the West, a West by which the Palestinian people had long been betrayed, and which Shuqair and his colleagues at al-Haq could not allow to be represented as the “owners” of the principles on which they based their work. As a *Know Your Rights* publication, it is an unusual intervention, but very much of its time.

INVOKING THE LAW

LSM/Al-Haq’s relationship to and invocation of different bodies of law reflected developments both in those bodies of law and in al-Haq’s understandings of their implications. In its very early years, as seen, the organization was engaged in an effort to understand its legal environment and the implications of changes made by the occupation authorities.¹⁴³ Its rule-of-law arguments, focused on Israeli changes to local law and quotidian practices of the occupying power that appeared systematic and policy based, were bolstered initially with reference to the Fourth Geneva Convention and the Hague Regulations, but also invoked the UDHR in support of fundamental norms binding—morally if not by treaty obligation—on Israel.

In 1986, for example, an intervention informed the legal adviser of the military governor that the harassment of prisoners released in the 1985 exchange violated

sections 3, 5, 6, 7, 9, 12 and 13a of the Universal Declaration of Human Rights which guarantee the rights of freedom from cruel and inhuman punishment and arbitrary arrest, freedom from arbitrary interference in a person's privacy, freedom of movement, and the right to life, liberty and personal security.¹⁴⁴

At the end of 1987, al-Haq reported a more substantial consideration of human rights norms in an intervention on the closure of a print shop in a refugee camp. Al-Haq considered this a violation of article 19 of the UDHR and article 19 of the ICCPR, and invoked country reports and related jurisprudence at the UN Human Rights Committee, the *Travaux Préparatoires* of the ICCPR, and a case from the European Court of Human Rights, holding that:

In al-Haq's opinion Israel is morally obliged to abide by the provisions of the UDHR and the ICCPR. While the provisions of the UDHR and the ICCPR are not explicitly binding on Israel, which is a signatory to both but has not ratified the ICCPR, the relevant provisions of these conventions are generally accepted as customary law.¹⁴⁵

A year later, al-Haq's first annual report dealt mainly with IHL as well as Israeli military orders and Israel's use of the DERs (1945), but referred also to the UDHR and the ICCPR. Based primarily on al-Haq's documentation (affidavits, questionnaires and reports), the report described Israel's response to the uprising as "more of the same, but much more"—the scale of repression had changed and so had Israel's response:

Whereas in the past the authorities were reluctant to admit to abuses, let alone condone them in public, and would at most seek to rationalise them, the exposure given world-wide to Israel's reaction to the uprising has forced the authorities to go on record defending particular policies which even the most casual observer could understand as blatantly illegal.¹⁴⁶

Al-Haq's task had thus changed; no longer having to prove that violations were taking place, the purpose had become "to indicate the scope of the practices that occur."¹⁴⁷ Al-Haq's archives record directors and staffers debating whether to publish a three-month or a six-month report as the intifada gathered momentum, each of these moments passing as the uprising intensified to include widespread civil disobedience as well as street protests, a tax revolt, and other resistance. The publication was thus not originally intended as an annual report. Rabbani recalls that its impact was massive: "nothing like it had been attempted before" in documenting human rights in the occupied territories. The uprising, said al-Haq in this report, "has primarily been an act of collective anger" and "a collective attempt by Palestinians to protect themselves against the predatory behaviour of the Israeli state."¹⁴⁸ Shehadeh observed that the report "was a huge thing, a whole

new stage for al-Haq”—and indeed for Shehadeh, who was beginning to find the workload unsustainable. The second intifada report, *A Nation under Siege*, told al-Haq’s readers:

This year, al-Haq concludes that the systematic human rights violations in the Occupied Territories, in many cases amounting to “grave breaches” of the Fourth Geneva Convention, demonstrate that Palestinians live under a state of lawlessness. The total absence of effective local remedy, discussed at length in this report, has led al-Haq to reiterate its call for international protection.¹⁴⁹

A Nation under Siege included an expanded thematic focus and also paid close attention to accountability and monitoring. Its final chapter was on mechanisms of international protection. For the first time, violations categorized as grave breaches of the Fourth Geneva Convention were identified in each relevant chapter. Rabbani finds a “new agenda” reflected in this second intifada report, which came in at 672 pages in the hardback publication.

Within a couple of years, al-Haq’s spread of legal focus and organizational interest was to increase substantively. Al-Haq’s work on IHL (and particularly on grave breaches and the third-party state obligations to which these give rise) and IHRL (including the treaty mechanisms that were established to monitor compliance by state parties) came together in Melissa Phillips’s *Torture for Security: The Systematic Torture And Ill-Treatment of Palestinians by Israel*.¹⁵⁰ This was the result of a marathon fieldwork and research effort that involved detailed interviews with over seven hundred former detainees in the West Bank and Gaza, first selected randomly and then targeting persons known to have been interrogated while in Israeli custody.¹⁵¹ The findings, together with the analysis of policy and statements by Israeli government officials, pointed to “a systematic and, indeed, institutionalized use of torture both to intimidate and to extract information.”¹⁵² The study exemplifies al-Haq’s work spanning the later years of the intifada and the arrival of the PA in Gaza and Jericho; it was felt to be a major achievement by al-Haq staffers. Different units were closely engaged with the study: the field-workers, the database, and the researchers. Khaled Batrawi recalls the many and specific challenges of investigating and documenting torture, given that there were usually no witnesses for corroboration, detainees were held incommunicado, they were often hooded for long periods and thus unable to identify their torturers, who used code names, there was a failure to investigate complaints of torture on the part of the authorities, and techniques were used that did not leave marks on the body.¹⁵³ The unit put great effort into the documentation. Oyediran describes the result as “a very sophisticated study that demonstrated the richness of al-Haq staffers’ approaches to social research.”

The collection by the field-workers of the documentation had started in 1990; its material basis covered the treatment of Palestinians in Israeli custody over the first four years of the intifada, 1988–92.¹⁵⁴ As the study pointed out, torture was

not new in Israeli prisons, nor was this the first study on the subject. However, “what is new is that an overwhelming majority of Palestinians detained have been tortured.”¹⁵⁵ Just before the intifada began, the report of the Landau Commission (but not its attached interrogation guidelines) had been published. The commission had found that “Shin Bet agents had followed an unwritten but systematic policy of committing perjury to conceal the use of physical force and other pressure to extract confessions.”¹⁵⁶ Preferring not to use the word *torture*, the report “absolve[d] political echelons of all knowledge and the Shin Bet of any evil intention in interrogation and court testimony.”¹⁵⁷ Landau found that “the future use of ‘moderate physical and psychological pressure’ was permissible on the basis of legal arguments of ‘necessity’ and ‘justification.’”¹⁵⁸ These pronouncements were the target of sustained advocacy from human rights organizations.

There were two further significant elements in the context for al-Haq’s work on torture. In 1991, Israel ratified the CAT.¹⁵⁹ When Israel submitted its first report to the Committee against Torture in 1994, al-Haq submitted a brief to the same, presenting documented cases of torture. Israel had not reported to the committee on its actions in the occupied territories or in regard to Palestinians from the occupied territories detained inside Israel; its arguments that its obligations under international human rights law did not apply to the West Bank and Gaza were to be maintained for years. The committee disagreed, holding that Israel was in breach of the convention in a number of policy areas, including in the use of “moderate physical pressure” as recommended by the Landau Commission.¹⁶⁰

This appears to have been the first time that al-Haq made a formal submission to a UN human rights treaty mechanism, the year after the Vienna conference. It marked a development both in the context in which it found itself working and in its own thinking, as well as a new international focus for activity. The relationship between IHL and international human rights law (IHRL), and in particular the situation of occupied territories under these treaties, was one with which al-Haq was already engaged. That same year, 1994, al-Haq published a study on the applicability of human rights law to occupied territories,¹⁶¹ and its submission to the Committee against Torture drew on these arguments to assert the committee’s responsibility to investigate Israel’s actions in the West Bank and Gaza.¹⁶² Fateh Azzam explains that the organization’s developing research interest in IHRL—having previously focused on IHL—was prompted both by Israel’s 1991 ratifications and by the declaration by Yasser Arafat that “the PLO was committed to respect and incorporate into Palestinian legislation all internationally recognized human rights standards,” a statement made to Amnesty International representatives in Tunis in October 1993, and followed by other similar indications.¹⁶³ The fact that key Palestinian staffers had recently taken master’s degrees in IHRL gave added energy to the endeavors. The 1994 study examined the applicability of both conventional and customary human rights law to occupied territory and theories about how conventional human rights instruments would interact with

international humanitarian law. It also looked at the responsibilities of the Palestinian “governing entity” in the event that various authorities were transferred to it from the occupying power. In the preface, Fateh Azzam, as program coordinator, stressed that “al-Haq’s interest is not in the theories of law for their own sake” but to locate the standards through which the governing authority could be obligated to protect human rights in the occupied Palestinian territory.¹⁶⁴

By the time the *Torture* report was published in 1995, the Palestinian Authority’s own human rights–related conduct was under criticism by al-Haq and other human rights groups; the organization’s first publication in this regard, *Freedom of Assembly*, was published in Arabic the same year. The PA was in place in Jericho and Gaza, and negotiations were ongoing for it to take over other designated urban areas of the West Bank. Azzam’s preface to the torture report is squarely placed in this context, and foreshadows al-Haq’s approach to the challenges of Oslo and the interim period:

In the quest for long-lasting peace, justice must be perceived to have been achieved. That justice can only be predicated on a truthful account of past abuses. The major documentation effort contained in this study remains an important historical record and a contribution, albeit partial, to that account.

Moreover, the analysis of the systematic nature of Israeli torture techniques provides a curious case study of premeditated governmental circumvention of the absolute prohibition of torture in international treaty and customary law. A thorough understanding of existing rules and methods of torture in Israeli interrogation facilities will also help to accurately define any changes or forewarning to the Palestinian authorities themselves of the pitfalls and dangers of legitimizing fundamentally illegal practices.

Most importantly, the needs and timelines of this study will never be lost to the victims of torture themselves. It is testimony to the fact that their suffering has been seen, understood, and protested. This, in our view, is no small achievement.¹⁶⁵