
Fallouts

In January 1994, the distinguished Chilean human rights leader José Zalaquett arrived at al-Haq to conduct an intensive evaluation of the organization against the background of rapidly unfolding political developments and internal organizational pressures. The previous year, the Israeli authorities had closed off the northern and southern parts of the West Bank, East Jerusalem, and the Gaza Strip from each other.¹ The political negotiations that had been underway in Washington following the 1991 Madrid Peace Conference between a delegation of Palestinians from the occupied territories (in a joint delegation with Jordan) and an Israel delegation had been superseded in September 1993 with the signing of the Declaration of Principles (DoP) in Washington between Israel and the PLO. The DoP was the result of a secret parallel political process that had been facilitated by the Norwegians and that set the scene for the establishment of the Palestinian Authority.² The first intifada had largely lost momentum by the time that the Madrid conference was jointly convened by the United States and the Soviet Union after the end of the Gulf War;³ the limited law-based moves that had been adopted notably by Europe in response to Israel's brutal repression of the intifada were overtaken by the US-led drive to get a peace process going. The Declaration of the Palestinian State (in the territories occupied in 1967) made by the Palestine National Council in Algiers on November 15, 1988, seemed a long time ago.

An expanded mandate and the beginnings of internal fractures had put pressure on al-Haq even as it rallied to respond to internal and external challenges through the intifada years. Zalaquett's intervention came midway between the first real cracks appearing in al-Haq (around Madrid in 1991) and the 1997 crisis and near-collapse of the organization. Zalaquett was invited urgently by Fateh Azzam to help think strategically about al-Haq's challenges and role in the transitional period as Palestinian government became a reality. Al-Haq was now a staff-owned and staff-governed organization. This was a novel experience that saw considerable output but also consumed much energy. The nineties were a difficult decade

for al-Haq; as Mouin Rabbani said, “Oslo gave al-Haq an identity crisis.” In this the organization was no different from human rights organizations elsewhere in situations of major political transition.⁴ Bell and Keenan identify how “patterns of conflict, the human rights mechanisms available, and the human rights ‘players’” mutate following agreements on political transition.⁵ Looking at the situation in the occupied Palestinian territory (oPt, as the West Bank—including East Jerusalem—and Gaza were now called), Zalaquett identified for al-Haq some of the “main variables” that might arise and that “may, in the time to come, impinge on the situation of human rights and on the work of human rights organizations in the West Bank and Gaza”:⁶

1. The Israeli-Palestinian agreements
The nature of the agreements that may be concluded, the pace of such process, and the possibilities of major difficulties or failure, both in concluding satisfactory agreements or in implementing them [. . .]
2. Tensions that might develop within the Palestinian community
Some of the foreseeable tensions are: a) strains between resident Palestinians, Palestinians returning from abroad and those remaining abroad; b) conflicts between groups advocating competing ideological/political models for the organization of the now Occupied Territories [. . .] c) a possibility of growing armamentism and the development of militias within Palestinian society [. . .]
3. Possible changes in patterns of violations and abuses and in the participation of different perpetrators⁷
[. . . Al-Haq] may be called upon to pronounce itself with regard to any of the following practices:
→ Violations committed by Israeli occupation authorities, whether along the previously-known patterns or new ones.
→ Abuses committed by Israeli settlers or other non-governmental Israeli actors. [. . .]
→ Possible abuses committed by a hypothetical Palestinian authority or its agents.
→ Acts of violence and other abuses committed by Palestinian non-governmental groups, whether they are in opposition to a local Palestinian authority or in favour of it.
→ Permanent or endemic human rights problems which cannot be attributed to policy or actions of a given government, but constitute failings or insufficient development of the society or its institutions (discrimination against certain groups, non politically-motivated police abuses, insufficient protection of labour rights etc).
4. Possible developments in the NGO community
[. . .] There may be a proliferation of organizations which claim to work on a human rights agenda. [. . .] One of the main risks is the politicization of the human rights debate [. . .]

It is also to be expected that many human rights activists will emigrate to other fields of activity such as politics, government or the academia [. . .]⁸

Finally, it is to be expected that the human rights agenda may elicit less interest from the international public opinion and even from the local population, because of competing issues.

Many of Zalaquett's variables did in fact manifest in the oPt. Perhaps most significant is his identification of the challenges that would be posed by the nature and pace of the political agreements being negotiated after the signing of the DoP. The severe limitations placed on the authorities of the incoming Palestinian Authority established in Gaza and Jericho (a "quasi-government" according to Mona Rishmawi) were the subject of much human rights concern, including from al-Haq.⁹ But there was also criticism of the postponement until final status negotiations (scheduled to start three years into the interim period) of key issues including Israeli settlements, the status of Jerusalem, refugees, borders, and external relations; Edward Said wrote of "the truly astonishing proportion of the Palestinian capitulation."¹⁰

For its part, al-Haq entered the transitional period in a somewhat weakened state. Like others, al-Haq may not have immediately recognized the intifada for what it was, but it had risen to the occasion with an energy that saw it through the first intense years, recruiting significant numbers of new staff, widening its coverage geographically, and adapting its focus and to a certain extent its output to meet the demands of the new situation. Besides the daily violations by the Israeli authorities, curfews, and strikes, not to mention the arrest of many al-Haq field-workers, the political developments put their own stresses on the organization: Oslo made it very difficult to leave your politics at the door.

The intifada years had exacerbated burgeoning internal differences, many of them viewed as politically affiliated positions towards the ongoing political processes with little to do with human rights per se. Earlier in the intifada, there had been disagreement on a substantive issue—the killing of collaborators—that was considered as not based on factional politics, but rather on the difference between on the one hand a straight human rights approach and on the other a perspective that took into account context and community, or perhaps was not willing to isolate itself from "the street," for professional as well as personal reasons. Al-Haq had from its earliest years documented patterns of violations committed by Israeli armed forces, settlers, and most relevantly here, by Palestinian collaborators—notably members of the Village Leagues.¹¹ Although by the late 1980s the Village Leagues were of little significance, Israel maintained a network of collaborators in the oPt which al-Haq in *A Nation under Siege* divided into three categories: informers inside and outside the prison system (often coercively recruited by the Israeli authorities); "middlemen who make a living acting

as go-betweens” for Palestinians trying to access the many permits needed for routine life in the territories; and “armed collaborators, who often sell land and wield control through intimidation and violence in their places of residence, in many cases receiving instructions directly from the [Israeli] military or the intelligence services.”¹² The chapter titled “Collaborators” dealt with the last group and detailed acts of violence committed by such persons in the second year of the intifada. Its first section, on applicable legal standards, described such collaborators as “agents of the state”¹³ and invoked Article 29 of the Fourth Geneva Convention to argue that the Israeli authorities were “under a positive obligation to investigate and prosecute” violations of the convention by such collaborators, who as Azzam put it “exhibited extreme gangster-like violence and brutality towards the community.”¹⁴ This was the first sustained treatment that al-Haq had published on collaborator violence.

If for al-Haq this was the human rights story of collaborators, that year (1989) another story was attracting more attention. The United National Leadership of the Uprising (UNLU) called on Palestinians working with the police, Israeli-appointed village and town councils, and the tax offices to resign from their positions. Many collaborators also recanted, requiring Israel to rebuild its networks.¹⁵ Local popular committees (soon outlawed) took over law-and-order functions on the street in a resort to self-help mechanisms familiar elsewhere when central authority withdraws.¹⁶ The Israeli authorities stepped up their hunt for wanted activists; “death squads” of armed Israelis targeted intifada activists.¹⁷ Palestinian attacks against alleged collaborators increased, and according to Hammami:

By the end of the *intifada*’s third year, the collective weight of Israel’s anti-insurgency strategies had succeeded in turning the mass-based civilian uprising into a militarized underground movement of armed youth primarily interested in rooting out alleged collaborators.¹⁸

By October 1989, Amnesty International reported that 130 suspected collaborators had been killed in the intifada.¹⁹ Al-Haq cited the Amnesty figure in its own report for 1989, because the organization did not document such killings, for reasons it felt obliged to set out. Technically at this point killings by nonstate actors (not then a routine subject of IHRL) were not in the official mandate of Amnesty either,²⁰ but the fact that Amnesty ran a newsletter story on the subject is indicative of the intense interest shown by international human rights groups and media, as well as the Israeli media, in this upsurge in Palestinian-on-Palestinian violence. One staffer recalled unspecified international organizations asking for information from al-Haq on this subject “so they could look even-handed.” Rabbani reports that “it was informally suggested that this [al-Haq’s failure to join other public condemnations of the killings] stemmed from a mixture of political bias and a fear of the consequences.”²¹

Inside al-Haq, Azzam recalls “very hot debates” on the killing of collaborators and whether, when, and how the organization should take a public position.²²

During the intifada, al-Haq's reputation had soared internationally and locally, and this was important to many staffers who welcomed the name-recognition (now positive) that the intifada brought: "We felt and we were felt like a Palestinian organization, the intifada took us to the street." Professionally, as Azzam explains, "if you want to get information about a particular event, you need to have access and contacts, and if they don't trust you, you don't get the contacts." He continues:

If you come out of the fold on an issue like the killing of collaborators, you "come out of your skin" [. . .] jeopardizing access is part of it and how the staff felt about it—the staff are part of the community too, they're not outside it, you're part of the community and at the end of the day you go back to them [. . .] The debates going on in the streets were going on in al-Haq too. It's not always easy to maintain a strong and proper human rights perspective on everything.

Some would argue that in the end al-Haq took a correct legal stand but failed to take a strong enough position in human rights terms against intra-Palestinian violence.²³ Al-Haq had previously documented violations by Palestinian nonstate actors and was already working on internal issues such as labor rights and women's rights, where elements of Palestinian society could be the major abusers; it was soon to face debates on how to address violations by the Palestinian authorities and their agents and other armed groups in the territories. But at this initial stage, al-Haq was torn. "Do we talk from a nationalist discourse, or pure human rights?" asked Khaled Batrawi, recalling the discussions at al-Haq in 1989. "If it's pure human rights then no-one has the right to deprive anyone of their life [. . .] There was discussion on this in the organization, and inside each one of us." People at al-Haq were enormously frustrated at the attention given this issue by international media—it felt at times like this was the only story anyone from outside was interested in, that they provided no context, that they had almost stopped looking at Israeli actions in the oPt, and that in the end it was all about getting back to the more (internationally) familiar role of Palestinians as villains, not victims. However, beyond the issue of hostile media coverage lay the substance. Staffer Hanan Rabbani recalls "difficult discussions":

If al-Haq had decided to work on the killings of collaborators it would have affected its credibility nationally; but then if you're setting standards for human rights respect, you need to take that risk. I'm thinking in retrospect here, I don't think I'd have had the courage to think this way then. Now, after years of experience, I think that was the most difficult issue to tackle, but organizations should be setting the example that human life is not something that we decide to end.

General director Shawan Jabarin concedes that "at that time, it was too embarrassing for us to come out and denounce publicly. We were nervous, the board was nervous. [. . .] Now, no, we're more mature, as an organization, as people, we speak on nationalist issues from a position of strength." The questions around the applicable law and accountability were real; as Playfair observed, "It took a lot of time, how to deal with it [. . .] But it was happening under our noses, we could

have dealt with it, even if international law wasn't at a stage to deal with it really, that shouldn't have stopped al-Haq. But it was politically charged."

In the end, after months of external questioning and internal agonizing, al-Haq set out in two paragraphs in *A Nation under Siege* (1990) its position on the killing of alleged collaborators:

Al-Haq does not condone the killing of collaborators and, as a human rights organization, opposes the death penalty, with or without due process, under all circumstances and considers the right to life to be paramount. At the same time, actions taken by or against collaborators in the Occupied Territories must be judged on the basis of the laws of belligerent occupation, in particular Additional Protocol 1 to the Geneva Conventions. In al-Haq's view, both Israel as an occupying power and the Palestine Liberation Organization (PLO) as a resistance movement are expected to respect the Protocol.²⁴

Since the Israeli authorities exercise *de facto* control over the West Bank and Gaza Strip, however, they are solely accountable for law enforcement in these territories. The PLO, although considered by virtually all Palestinians to be their sole legitimate representative, does not exercise control over local legal institutions such as courts, prisons, and police. There is, therefore, no legal mechanism available to either the PLO, or the Palestinian civilian population, to control and hold to account collaborators and those who attack them. In al-Haq's view, only an entity (governmental or otherwise) which exercises effective law enforcement in territory under its control can be held accountable for human rights violations. The military government has in fact exercised its prerogative as the sole law enforcement power in the Occupied Territories; individuals and groups involved or suspected of involvement in activities against collaborators are arrested and severely punished. For these reasons, al-Haq does not document killings of collaborators.²⁵

These paragraphs appear in the substantive chapter on collaborators and in the introduction to the report, the latter being the only concession al-Haq appears to have made to foreground its position on the issue.²⁶ It was, says Azzam, "a soft correct position, not a strong one, but correct." At the launch of *A Nation under Siege*, a "confused delivery" of the position in response to questions from journalists resulted in "negative press coverage," but Rabbani observes that in the end the issue "was basically put to rest."²⁷ Alongside its public position, al-Haq pursued what Azzam calls "quiet diplomacy" with militant activists, "correctly delineating the responsibilities of the PLO and its organs under international humanitarian law despite the lack of legal mechanism or recourse available to them for bringing collaborators to justice."²⁸ A later, substantive report by B'Tselem on collaborators notes internal Palestinian opposition to the killings growing from 1989 onwards and particularly after the Gulf War, when senior political figures in the oPt and the PLO leadership in Tunis joined the growing criticism of this form of vigilante justice that, as Azzam observes, "threatened to sanction and 'normalise' in some way the 'unofficial' use of force within the Palestinian community."²⁹

Jumping ahead briefly, somewhat similar debates took place at al-Haq later in the nineties, in the lead-up to the second intifada, in relation to armed attacks—notably suicide bombings—against civilian Israeli targets. Staffers recall substantial debates about the issuing of a statement by al-Haq (one remembered “a long discussion which seems extraordinary now”) focusing around how to treat Palestinian nonstate actors, the authors of these acts. Writing in 2005, against the background of more suicide attacks in the first three years of the second intifada, Fateh Azzam calls al-Haq’s failure to take a clear public position a “serious gap to date in al-Haq’s honourable human rights record.”³⁰ Acknowledging the frustration in the oPt with the outcomes of Oslo, he argues that “the debate around ‘martyrdom operations,’ as they are often called in Arabic, is framed wrongly”—it is not the perpetrator that defines the act but the target, and “targeting civilians for any reason is a crime under international law.”³¹ The opposing argument in the 1990s, he recalls, was not a legal one. Jabarin again attributes the initial failure to speak out to weakness in the organization as compared to “when you feel strong in your position, when the organization is strong.” The strong position, articulated more clearly in later years, is the distinction between the lawful right to resist (within the limits of IHL) and targeting civilians (which is outside those limits).

This underlines a fundamental point: that al-Haq did not and does not take a principled position against political violence per se.³² Its absolute opposition to the death penalty articulated in *A Nation under Siege* is a specific position. The most immediate international legal framework in occupied territory does not prohibit killing but rather regulates it, including by “organised resistance movements” whose actions comply with the laws of war.³³ At the time LSM was founded, most Palestinian political factions recognized armed struggle as one form of resistance to Israel’s occupation, even if after the PLO left Lebanon in 1982, according to Erakat, for the most part “armed struggle fell into abeyance.”³⁴ A principled position on nonviolence was not publicly espoused by the organization, nor does it seem there was a discussion as to whether nonviolence should be a part of its identity, at least not beyond the founders. It was the armed attacks against civilian Israeli targets that raised issues of al-Haq speaking out institutionally in the nineties and the second intifada.

In this, al-Haq differed from other domestic human rights organizations faced with similar questions. Steiner’s 1991 report notes that up till a decade or so before, violent actions by nongovernmental armed groups were the concern of domestic criminal law and not a human rights law matter, a consensus that had now disappeared.³⁵ Joe Stork notes human rights groups working on the Kurdish issue in southeastern Turkey having to address issues of IHL as the internal armed conflict developed and describes as “controversial in the membership” one organization’s decision in 1992 to hold all parties (armed groups as well as state forces) accountable under common Article 3 of the Geneva Conventions.³⁶ Felner’s exploration

of the debate in the Committee on the Administration of Justice (CAJ) in Belfast points up interesting comparisons with the debate in al-Haq (although Felner's own comparison is made with B'Tselem).³⁷ CAJ, as one of its three core principles, "disavowed the use of political violence as a tool for political ends."³⁸ With its basis in IHRL, CAJ focused from its beginnings on violations by the British state, and as discussions increased on whether and how to expand its work to include paramilitary violence, undertook a formal debate on the issue over 1991–92 which according to Felner was "probably one of the most intense debates in the organization's history."³⁹ Christine Bell, who worked at and with CAJ for many years, observes that "the commitment not to support political violence [. . .] was a deliberate choice, not directly constrained by human rights standards" but implicitly making choices about "the applicability of human rights law, and the non-application of humanitarian law which might have justified forms of state and non-state violence."⁴⁰ The distinction between military and civilian targets was not found helpful in this context, and Maggie Beirne reminds readers that CAJ "had its roots in pacifism and was opposed to the use of violence."⁴¹

Back at al-Haq, the arguments and agonizing and gradual polarization of debates continued as the first intifada wore on. A relatively minor disagreement arose when in the summer of 1990 Iraq invaded Kuwait. Hanafi and Taber here note that across different Palestinian human rights organizations, "national and patriotic motives" (rather than legal ones) led some activists to display a lack of conviction that the Fourth Geneva Convention should apply.⁴² In the end, al-Haq did not make a public statement—indeed, it would have been unusual for it to comment on a situation beyond its own mandate and against the organization's practice of not making reactive statements. As the United States and its allies were building up momentum to send in troops against the Iraqis, Said Zeedani, who joined al-Haq as program director in November 1990, recalls: "The spectre of the Gulf War was hovering. The first week I'm there, we're talking about gas masks; if Saddam Hussein attacks Israel with biological or chemical weapons, does the occupying power have the obligation to provide masks for the civilian population of the occupied territories?" When the war started, Ramallah was under curfew for weeks, and staffers found other places to work from, such as Kuttab's office in Jerusalem, and sneaked out to borrow neighbors' phone lines in Ramallah to send out public documents through the European field representative (myself, in London) using the new dial-up tool of email.

Besides the routine and heavy workload, al-Haq staffers were coming under strain from internal disagreements and external developments as the intifada progressed into its fourth year. Politically, the cooperation between different nationalist factions that had flourished at the start of the intifada disintegrated, and new political challenges arose from Islamist groups (notably Hamas).⁴³ Sectarian division between the different factions was to crystallize around the imminent peace agreements. In 1991, international attention came back to Israel-Palestine after the

end of the Gulf War, and political pressure built towards some kind of resolution. Factional tensions made their way into al-Haq. Hajjar refers to the original optimism of the intifada being replaced by “an embattled determination that things would not return to the status quo ante.”⁴⁴ Al-Haq had recruited widely during the intifada, and the first real organizational crisis, the rupture between the founding board and its first executive director, Mona Rishmawi, had shaken the organization and left bitterness in its wake.

As international developments played out, major changes occurred in the roles played by al-Haq’s founding group of three. If the staffers were feeling fractious, so were the founders, who had stepped back in after Rishmawi’s departure in 1990 and who, to varying degrees, were ready to quit their engagement with al-Haq. They began the process of constituting a new board. In 1991, Shehadeh formally left on the grounds that his engagement with the Palestinian delegation to the Madrid peace conference (and then the Washington talks) was overtly political and incompatible with his al-Haq responsibilities. He had been asked by the Palestinian delegation head, Haidar Abdel Shafi, to advise on how the Palestinian team might bring the issue of Israeli settlements into the negotiations, given the existing terms of reference. Shehadeh was to prepare extensive arguments for an initial review of existing arrangements, and an outline of preliminary proposals was identified by the Palestinian team (and approved by the PLO in Tunis in the spring of 1992). These included the rescinding of “discriminatory and extra-territorial legislation” and the cessation of new Israeli military orders, as well as framing by the Fourth Geneva Convention and Hague Regulations governing the conduct of Israel as an occupying power.⁴⁵ Shehadeh attended talks in Washington as legal adviser to the team, but was not allowed into the negotiations room due to Israeli objections to the inclusion of any Palestinian with a Jerusalem ID or from outside the oPt. In September 1992 Shehadeh ceased his engagement after “instructions arrived from Tunis [. . .] that there was no meaning for the review of the military orders since this can only give those orders recognition and legitimacy.”⁴⁶

Kuttab left al-Haq’s board at the same time as Shehadeh, the two transferring their shares (as the owners of the company) to the new board; Kuttab subsequently headed the Legal Committee negotiating the 1994 Israel-PLO Gaza-Jericho Agreement.⁴⁷ Shammas stayed on for a while to provide some continuity, and also continued his work with the Enforcement Project. It was a febrile atmosphere; Zeedani recalls that “Madrid was coming, and everyone wanted al-Haq to take it up. The issue was how to separate things. We could say so much, but we couldn’t take a political stand for or against political action by Palestinian leaders.” A few days before the opening of the Madrid Conference, al-Haq sent a memorandum to the Palestinian delegation, opening with a reference to the “established international law governing Israel’s conduct in the territories occupied in 1967” (particularly the Fourth Geneva Convention, and invoking also Security Council Resolution 681 of 1990) and declaring that “al-Haq takes no position with regard to the merits of the

political process in question.”⁴⁸ The organization was, however, “deeply concerned” that, given Israel’s refusal to recognize the applicability of the convention and the failure of other states to persuade the United States to support the convention, “the process will be allowed to proceed in a manner which circumvents or compromises provisions of international humanitarian law.” The memorandum then set out Israel’s serious and ongoing violations (settlements, deportation, annexation, and others) and recalled al-Haq’s own record and standing:

We have spoken out both as an institution committed to defending the established norms and standards of human rights and the rule of law against politically motivated encroachment, and as Palestinians determined to realise our internationally recognised rights as “protected persons” under the Fourth Convention.

The organization reminded the Palestinian representatives that in accordance with Article 47 of the Fourth Geneva Convention, they might not concede rights and protections guaranteed to “protected persons” under the convention:

In conclusion, until such time as an internationally recognised sovereign authority replaces the regime of belligerent occupation in the occupied territories, the present opportunity to negotiate interim arrangements can only be utilized to:

- 1) achieve implementation of the Convention, and
- 2) resolve other matters and concerns in accordance with the principles of mutuality and reciprocity, without prejudicing the protections established in international humanitarian law.

The memorandum set out the legal limits to what could be conceded by any Palestinian representative of the protected civilian population under the established terms of IHL which all the states concerned—except Israel in regard to the Fourth Geneva Convention—agreed applied *de jure* to the occupation of the territories.

Al-Haq had done what it could in seeking to uphold the applicable law. As Shehadeh was to argue, however, the letter of invitation to the Madrid conference had already set parameters that were to govern all future negotiations, in particular by keeping Israeli settlements out of the remit despite efforts to have them included. Certainly, future Palestinian negotiators found the legal approach to be not only straitening but inconvenient. From the perspective of Shehadeh and many in al-Haq, a mechanism envisaged to prevent an occupying power from gaining territory and resources from its occupation (the convention, and especially Article 47) was dismissed in favor of belief in a political process in which the main gain was recognition (by Israel and by the United States) of the PLO as the representative of the Palestinian people.⁴⁹ As the local Palestinian delegation continued its efforts, with the talks transferred to Washington, al-Haq made a further intervention by way of an “Open Letter to Palestinian Public Opinion” stating that any just, comprehensive, and durable peace must be based on respect for human rights and the rule of law and invoking the right to self-determination of the Palestinian people.⁵⁰

The letter warned the delegation against negotiating on respect for human rights and the application of international law “or waiving them in whole or part in return for partial gains.” Al-Haq’s report on the letter concluded that:

Adhering to principles of human rights and the rule of law, and starting from them in the struggle for protecting human rights and fundamental freedoms, is not an interim or tactical matter tied to the phase our people is passing through under occupation, but is a strategic long-term choice.

Erakat clearly agrees with Shehadeh on the PLO’s approach:

The intifada provided the PLO with a legal opportunity to leverage international law and norms, including those it had helped to establish, in its pursuit of Palestinian self-determination. It could have used those legal instruments to demand better negotiating terms and/or as a defensive tool to resist Israeli demands; it did neither.⁵¹

Erakat attributes this to “a lack of appreciation for the law’s utility and risk, as well as a general political miscalculation.”⁵² Meanwhile, this whole period witnessed considerable turmoil in al-Haq. There was amongst some longer-standing members a sense of ownership that in hindsight fed into a reluctance to accord authority to the externally recruited incoming management or to the new board, made up largely of academics from Birzeit University, lacking, in the eyes of these staffers, both human rights and NGO experience. Some date the beginning of the problems to the resignations of Shehadeh and Kuttab; for Kan’an, the three founders and Rishmawi had been the “safety valve” for al-Haq. With the staff burned out from the intifada years and increasingly riven by factional divisions and personal recriminations, there was, according to Said Zeedani, “more talk about benefits and raises than about work and the quality of the work.”⁵³ Bell and Keenan list such elements as manifesting in organizational crises—or dysfunctionality—in established and successful human rights NGOs during political transitions even when a peace process is going well.⁵⁴ That sort of perspective, however, to be offered by Zalaquett in 1994, was not yet available to al-Haq workers or management. Already in summer 1992, the files show a hand-written letter from the visiting program officer of one long-standing funder, addressed to the staff and board members of al-Haq:

During the last few days it became clear to me that your present crisis is a very dangerous one. Apparently your board collapses and your senior staff is extremely discouraged. For many other staff members it is only because of their own motivation for human rights work that they continue.

Concerned at the time and energy lost in infighting, he set out what he saw to be at stake in al-Haq’s “life-threatening crisis,” explaining what he perceived al-Haq’s role to have been in the oPt and its impact abroad. Although al-Haq was no longer the only Palestinian human rights organization, it would be “a major blow to the Palestinian people if al-Haq were to collapse.”

As it was, al-Haq did not collapse. Later in the year, the board resigned en masse when the staff objected to a restructuring plan; the staff argued that they had not been involved in drawing it up, that it was overly bureaucratic and did not meet the needs of the work.⁵⁵ Al-Haq needed a body with legal responsibility for LSM under company law; the previous board wanted rid of the shares (and of responsibility), but Shehadeh and Kuttab were unwilling to take them back. At a general meeting, the staff elected six of their number (two men and four women) to hold the shares on behalf of all. They voted in an Executive Committee and Fateh Azzam as coordinator, taking as their motto “collective responsibility for decision-making, personal responsibility for implementation.”

This was the context into which Zalaquett stepped in January 1994, called on by al-Haq “to help the organisation consider the immediate and more distant future, and how its own role may change to meet the new needs.”⁵⁶ The months following issuance of the Declaration of Principles had been hectic, with workshops and meetings to discuss the implications of the DoP for the judicial system and broader human rights issues. Al-Haq reported that its contribution had been to stress the “universality of human rights” and the duty of every ruling authority to respect and guarantee them.⁵⁷ In a logical move following its interventions to the Palestinian delegation to the negotiations, al-Haq quickly published a *Human Rights Assessment* of the DoP, consisting of a comment and analysis together with the declaration, in Arabic and English texts together in one small book.⁵⁸ It was telling that al-Haq had been unable to access the official final text of this most significant political agreement and had to work from “final drafts” accessed through two different sources on the Palestinian side. The al-Haq comment did not include the caveat that had opened its memorandum to the Palestinian team going to Madrid, distancing itself from judgment of the political process per se. It did, however, open its analysis with the potential impact of the DoP—in al-Haq’s reading—on the right of the Palestinians to self-determination, its widest consideration of the principle that it had often invoked but not yet studied. The organization voiced concern that this right could be impaired in the “interim period” by “substantial changes” that interpretation of the DoP might allow to happen,⁵⁹ concern at “the absence of any human rights provisions and the failure to agree expressly to the amendment of Israeli military legislation and practice” and consequently at the prospects for human rights protection during the interim phase, and concern at the obscurity over the jurisdictions of the Israeli and Palestinian authorities and the threats this held for human rights accountability in the coming interim period.⁶⁰ These “three basic human rights issues” were elaborated in the assessment in some detail, including that “the legal status of the West Bank and Gaza Strip continues to be that of occupied territories, and Israel the Occupying Power” and therefore “legally responsible for upholding humanitarian standards in all areas of authority that have not been transferred in full to the Palestinian authority.”⁶¹ Al-Haq also invoked for the first time the right of Palestinian refugees “to

decide to return or receive compensation” in the context of the DoP, and welcomed the prospect of direct, free, and general political elections, another issue that preempted the many variables soon to be raised by Zalaquett.⁶²

As for the incoming Palestinian authorities, al-Haq called on them to incorporate the Geneva Conventions and their Additional Protocols and the two International Covenants into domestic legislation and to “respect the provisions of Protocol II in the event of any internal armed conflict arising in the future.”⁶³ Shortly after the DoP was signed, al-Haq announced that it “views positively” statements made by Yassir Arafat to the effect that the PLO was “determined to respect human rights standards as internationally recognised and to apply them entirely in Palestinian legislation.”⁶⁴ In its press release, al-Haq made two key points that were preoccupying the organization: the importance of the independence of the work of non-governmental human rights organizations and its hope to establish cooperative relations and exchange information with the Authority “without this leading to constraints on the rights of NGOs in future human rights work.”

These concerns were to be heightened in the coming period, but for the moment the growing Palestinian human rights movement was joined by what was to become the National Human Rights Institution for the territories.⁶⁵ Initially called the Palestinian Independent Commission for Citizens’ Rights (later changed to the Independent Commission on Human Rights), the PICCR was established by decree by Arafat in Tunis before his entry to the oPt through an initiative led by Hanan Ashrawi, a Birzeit University professor and high-profile member of the Palestinian delegations to Madrid and Washington.⁶⁶

Despite these initially hopeful moves, al-Haq was in considerable turmoil. The *Human Rights Assessment* had been produced through discussions where often, Azzam remembers, “the debates were fundamentally political,” insisting nonetheless that “the legal position always won.” In his 2005 overview of al-Haq’s history, Azzam summarizes as follows the “rancorous debates” in wider society about Oslo and the PA, which “al-Haq was not spared”:

whether the gradual approach of incremental agreements could possibly work, whether the Declaration of Principles did in effect give up Palestinian rights, especially the refugees’ right of return; whether the PLO as a liberation movement can indeed become a state in formation and transform the individualized authoritarian leadership style into accountable institutions of governance.⁶⁷

During the early Oslo years, Azzam notes that these wider issues “resurfaced every time a violation or programme or event was brought up for discussion, and truth be told, it was an exhausting process for the over-worked staff of al-Haq.”⁶⁸ Being staff-owned and staff-run probably allowed more space for these arguments than might have happened in a more vertical institutional structure. Focusing on human rights implications gave coherence to al-Haq’s public response, but the debates were ongoing and were clearly picked up by Zalaquett. For his part, Zalaquett’s

input clearly framed discussions at the organization around its different roles. Many interviewees for this study either referred explicitly to Zalaquett's input or invoked the choices he had set out for the work ahead; some ruefully observed that they should have paid more attention to his warnings about the risks of transitional moments. The arguments within al-Haq generated by the arrival of the PA (and its security/police forces) focused on two or three particular issues: foremost perhaps was how to deal with the PA, how to treat it, what the relationship should be, and what tone al-Haq should adopt. Those interviewed recalled that the question was not about whether al-Haq would monitor the actions of the PA from a human rights perspective, but how this should be conducted: how to play the watchdog role and how—or indeed whether—to play the “propositional” or advisory role. “Some wanted al-Haq to play the same [watchdog] role combating the PA as we did on the occupation,” said Iyad Haddad, “and this political position, coming from outside al-Haq in that sense, impacted on the work inside the organisation.” Mustafa Mar'i explained it as “some said it doesn't matter where they come from, the PA is the power in the country and we deal with it accordingly; others said we needed to go more softly, bear in mind this is a different situation.”

Mar'i, who came to al-Haq in 1992 to direct the Legal Services Unit, stressed the tensions between these different approaches: “I think the right approach was somewhere in the middle, but we couldn't engage in constructive discussion without having already made up our minds about where we wanted it to end—it wasn't a real discussion, in a way.” Nina Atallah agreed: “It was never a real discussion. People were for and against Oslo, but we'd mix things up and go back and forth [. . .] Nobody gave a clear idea.” For Atallah, this was particularly frustrating: “I needed to know for the database, the lines weren't clear, there was no agreement on methodology, nobody had a clear picture of how to deal with [reports of violations by the PA and its agents].” There were legal issues to be clarified, including the “central concept of accountability”—al-Haq had noted the confusion in its *Human Rights Assessment*.⁶⁹ But fundamentally, these arguments seem to have been fueled as much by political positions as by confusion over the nature of the PA as a legal address. Azzam recalls that, while al-Haq agreed that the occupation was not over just because the PA had been created, “the more extreme view in the organization held that the PA was just an agent of the occupation.”

Al-Haq staffers made an early visit to the newly arrived PA in Jericho and met with a senior official, a visit which Abdel Karim Kan'an explained as follows: “We wanted to clarify that we were an objective, independent, neutral human rights organization—neutral in the sense that if there's a violation we document it, no matter who the perpetrator.” Azzam remembers explaining what al-Haq was and being met with a gracious but paternalistic response (“let me know if you need anything”); “we had to explain, there may be things that we'll disagree on, we'll have to go on the record, that's how we work. He said we'll take care of it, we're here now.”⁷⁰ Azzam summarizes the organization's strategy: “In the early post-Oslo years it was to engage the PNA in a constructive dialogue, combined with

training. This was perceived to be a ‘must’ strategy in the beginning, to assure the PNA that no political aims lay behind human rights advocacy.” But this was not to be pursued “at the expense of public discussion of unacceptable practices and the strategy of ‘shaming.’”⁷¹ Bell and Keenan express this as the challenge for human rights NGOs “to learn how to co-operate without being co-opted.”⁷²

But it was within the wider idea of the “propositional” role as identified by Zalaquett that more heated debates arose. The issue of training—particularly of the PA police force—prompted particularly fierce disagreements—or, as Azzam puts it, “quite heated debates” in and out of general meetings.⁷³ Al-Haq did in fact engage in organizing human rights training courses for the Palestinian police and security forces early on, and Mar’i remembers this as a “big issue” and one of two that probably contributed to “speeding up the ‘split’ in al-Haq or making it more visible”; those against taking up this role “argued that we’ll be seen as responsible for their actions post-training, or it might be used as a cover.” Batrawi, a vigorous supporter of this step, shows some of the tensions when he describes the argument arising from Zalaquett’s report over what al-Haq’s role as watchdog or advisory might be:

The organization was split over the training. I said I’m doing it [. . .] A Palestinian Authority is a million times better than an occupation, and our role now is to play watchdog and advisory. Advisory means promoting human rights in society. The people [Palestinians returning] from outside had a military mentality, some you’ll never change [. . .] but there’s a new generation, these *shabab* of the police are the intifada *shabab*, the prison *shabab* [. . .] Others said, if we train them, we’ll be held responsible. I said, medical colleges graduate doctors but aren’t responsible for the doctors’ mistakes, and doctors don’t grant life. I said, if only one Palestinian law enforcement officer gets the idea from doing this training, it’s still a good thing to do, better than sitting drinking coffee and doing nothing.

It was also suggested that contacts made through training of security personnel could lead to informal avenues of access and (occasionally) time-sensitive tip-offs in cases of torture and ill-treatment. Others at al-Haq also supported the training but were less than sanguine about the results. One remembers being confronted at the end of a course with “a young guy who said to me, ‘Okay, this is all very nice, but if my boss tells me go teach this guy a lesson, what am I going to do: I’ll teach the guy a lesson.’ [. . .] It was all a bit different in reality.” Another alleged that at some point, “certain individuals” at al-Haq were drafting responses to the organization’s interventions for the Palestinian security forces to use: “the point here being that these guys weren’t even learning.” Issam Younis generally recalls:

Mostly the attitude was, how can we help the PA? I went to Jericho, many of us went to do training for police officers [. . .] This was the vision and I think it was correct. Others said you don’t get human rights respect by training, it’s a waste of time. But it was still important. So the result was that al-Haq came out of the situation with the idea that the occupation is continuing, the PA is ongoing, and al-Haq saw a role in building [capacity] and assistance and also monitoring.

The “building capacity and assistance” included not only providing training but also, to a lesser degree apparently, providing advice to the PA on human rights issues in the context of its ongoing negotiations. This was also controversial in al-Haq—Mar’i lists it as the second issue that precipitated the split in the organization. Mar’i was involved in one such exercise in the context of al-Haq’s large family reunification campaign, which included building an informal coalition of Palestinian and Israeli human rights organizations to work on a joint position. He recalls being sent as unnamed legal adviser to the Palestinian delegation, sitting around till the early hours in Arafat’s Jericho compound in order to provide the briefing for discussion with the Israeli side about Palestinians displaced in 1967. Al-Haq had agreed that Mar’i could go, unnamed, and if he wished to say something to the Palestinian team he would call the negotiators out of the meeting, say it, and then they would return to the meeting. Mar’i’s reflections on the experience resonate with Shehadeh’s disappointment in Arafat’s lack of interest in legal arguments, and stress his sudden, tangible grasp of the difference between how IHL was intended to protect the rights of the occupied population and what was going on with Israel:

We’re not actually negotiating with them, we’re rather at their mercy, it’s what they are willing to give. Look at how they treated us from the time we got to the Green Line, you have to wait, get a permit, they want you to know, leave no doubt who’s in control. This leads you to really understand the Geneva Convention rules on negotiations between the occupying power and the occupied population, I really felt that then, because you have to think as well, “What happens to me after this?”

In the end, says Mar’i, “I only did it once, I told the organization it probably didn’t have a lot of value.”

Issues also arose over organizing prison visits and the need to ensure access through the PA. And if everyone agreed that al-Haq would be monitoring PA conduct, there remained the issue of approach. Haddad recalls that some in al-Haq argued that the organization should address the responsible PA officials privately, rather than going public right away. By the summer of 1994, al-Haq’s Newsletter, reporting a year after the DoP, noted that al-Haq had decided (as standard practice) to adopt an approach of “quiet diplomacy” and gave examples. There had been violations by the police, but “it is too early to jump to conclusions and it is not yet clear whether these violations were of isolated nature or resemble somehow a systematic approach by the PNA.”⁷⁴ The organization’s first press release on a human rights violation by PA police and security agents came in July 1994 after a death in Palestinian police custody. It accompanied a letter to the Palestinian minister of justice and the interior. The violation of detainees’ rights in PA custody was relatively quickly a significant concern for Palestinian human rights groups.

Similarly, as noted, Mar’i’s publication on freedom of expression under the PA (the first such report issued by al-Haq on PA violations) was first sent to

the Palestinian authorities for comment before being released; no comments were received. There was also the more routine matter of language, which as ever preoccupied al-Haq. Oyediran recalls being asked to draft a press release on the establishment of the State Security Court and the news of unfair trials being held in the middle of the night; she titled it “Al-Haq Condemns President Arafat’s State Security Court” and took it to Azzam, who changed the wording to something like “Al-Haq Objects to . . .”: “I made all the changes but they didn’t get saved [. . .] so the version that was translated into Arabic and sent out was my original draft.” At the next weekly meeting, Oyediran recalls an intense discussion: “Some were saying that we should never use ‘condemn’ in a press release—this was agreed at the meeting,” but apparently some factions inside al-Haq really liked the original and “photocopied it and distributed it in huge numbers.”⁷⁵

Al-Haq’s website (in its ‘Brief History of al-Haq’) refers to the events of this period coyly as “internal disagreement over how to approach the new situation created by Oslo.” But for all the disagreements, this was a very productive time with the Newsletters recording a veritable whirl of activity. There was a huge amount going on to which the organization felt obliged to respond. Fateh Azzam stresses the huge impetus to al-Haq’s work provided by the political agreements, the prospect of formal Palestinian political authority and governance (however limited), and the arrival of the PA. Then there were the closures imposed by the Israeli authorities, construction of the bypass roads, increasing settlement activities, and administrative punishments to quell resistance. Azzam attributes the fact that the organization pulled through this period to the new focus on human rights law: “The only thing that kept us together, that made it possible to think about this stuff, was human rights law. The commitment to human rights was what helped us get through.” It was also one of the reasons that Azzam invited in Zalaquett, a recognized expert on human rights in periods of transition.

Zalaquett’s report identified al-Haq as among the “core” human rights organizations in the international movement: “It is generally perceived in the West Bank and Gaza, as well as abroad, that al-Haq is the premier human rights organisation in the region.”⁷⁶ It had created awareness of human rights values and the rule of law. Its main work had been “to oppose the practices of Israeli Occupation that contradict individual and national rights of Palestinians,” doing this by “professionally documenting patterns of abuses and specifying how they contradicted international norms.” The organization’s “primary target (until recently) was a foreign audience that could use al-Haq’s material and multiply its message” with the impact on the occupying power (as well as on parts of Palestinian society), getting back “mostly as a reverberation of this internationally-aimed message.”⁷⁷ Zalaquett concluded this section as follows:

From a professional viewpoint, al-Haq sought to uphold the high standards set up by the main human rights organizations. This meant: a) to use as its normative

framework uncontested international norms; b) to base its conclusions on rigorous fact-finding; c) to adopt a style of objectivity and accuracy in reporting; and d) to refrain from taking positions on issues which are alien to a human rights agenda.⁷⁸

By functioning in this way, Zalaquett observed, “al-Haq laid a cornerstone in the Occupied Territories for the subsequent development of the local human rights movement.” The field now, he noted, had “become more crowded and varied” with more organizations being set up and some of the challenges recognizable from other contexts being raised. His main critique was of a rather reactive response to various major political changes of recent times (the intifada and current political transformations), although he suggested that the organization’s engagement in this review process was one way of seeking to overcome this tendency and to think things through systematically.⁷⁹

Zalaquett’s exploration of possible human rights agendas for al-Haq in the changing context acknowledged that the organization was in fact already engaged, albeit not systematically, in many of the new fields of work, as well as pursuing its core “oppositional” agenda of documenting human rights violations related to the Israeli occupation. Just after his report was delivered came the massacre in Hebron’s Ibrahimi mosque by Israeli settler Baruch Goldstein, and in June al-Haq was calling for the disbanding of Israeli “death squads”—special units carrying out summary executions in the oPt—as well as working on the closure of the oPt.⁸⁰ New fields of work included for Zalaquett “contributing from a human rights perspective to the establishment of Palestinian institutions and policies,” a “propositional” human rights agenda “by nature more controversial than an ‘oppositional’ one.”⁸¹ Al-Haq’s internally contested involvement in human rights training for the security forces was specifically noted by Zalaquett as a possible area of work. Al-Haq had also already made interventions to the Palestinian delegation to the Washington talks as well as publishing a human rights analysis of the DoP; it had convened a seminar on the independence of the judiciary in Jericho and, in the summer of 1994, announced that with campaign partners (PHRIC and the Palestine Amnesty groups) it had secured funding for the first year of a major human rights education campaign.⁸² It also published some “first thoughts on human rights criteria” for the elections that were foreseen in the political agreements with Israel (Oslo) and that used as its main law reference the ICCPR.⁸³ This piece did not, however, deal with the link between human rights, democracy, and the rule of law, which Zalaquett had raised in his evaluation as one of the things that al-Haq might need to articulate: “Most prominent human rights organisations do not make explicit connections between human rights and a particular political system,” he observed, but particularly since the mid-1980s there had been “wide explicit acceptance that human rights, the rule of law and democratic institutions are intimately connected.”⁸⁴ He proposed that al-Haq might need to elaborate more on what it understood by the “rule of law” and the relationship between the rule of law and the democratic system:

This may entail a certain declaration of principles about the connection between human rights and democracy. No doubt, the matter may be contentious, but it might prove necessary if al-Haq decides in the future to get involved in issues of political participation, fair elections etc as human rights issues.⁸⁵

This would include the results of “a more conscious effort at systematizing the international norms/values [al-Haq] will use as a reference” in its future human rights work. These principles would form part of its organizational culture and set of beliefs, be included in training of staff (new and old), and be presented as brief texts that could be reproduced in the opening pages of al-Haq’s publications. This recommendation surely sprang from Zalaquett’s perception of the divisions growing among al-Haq staff and was intended to encourage the organization to have things out in a manner that focused on the tools that human rights offered. The result would be an explicit consensus on internal principles that al-Haq had never really articulated. It was after the organizational crisis of 1997 that the organization seems to have paid serious attention to organizational consensus on its mandate, its human rights framework, and its values. Recalling Zalaquett’s visit to al-Haq, Randa Siniora mused: “He warned us about the dangers of transitions, how it had gone in South America and many organizations had collapsed. And although he warned us, we did not learn from this lesson, I think.”

The specific issue of democracy and elections had not so far been in al-Haq’s vocabulary, as it had been addressing the occupying power; however, it did become involved in monitoring the first elections for the Palestinian Legislative Council, an activity that Zalaquett noted some international human rights organizations now engaged in “as a human rights activity.” On the constitutional law side, al-Haq was soon to publish on the draft basic law and was deeply engaged in legislative critique in the following years, often in coalition with other organizations. Probably the best-known effort in this regard was the intense and ultimately successful work by the Palestinian Network of NGOs, established in 1994, on the draft NGO regulation law that the PA adapted from an Egyptian model.⁸⁶ Hajjar puts this in the context of the PA’s desire to have control over funds coming in to the oPt (after the World Bank launched a substantial NGO trust fund for the oPt in 1995) and its dismissal of (and growing antipathy to) the “operational autonomy” of Palestinian civil society that had developed during the decades of Israeli occupation.⁸⁷ The draft NGO law can be seen as the beginning of the deterioration of the relationship between the PA and Palestinian human rights organizations.

Zalaquett’s third area of possible future work was “political legacy and overcoming the legacy of past human rights violations,” a major preoccupation in other countries including, of course, Chile. In his comment, he noted that al-Haq appeared to see no role for itself in this now.⁸⁸ This was not the time for a reconciliation process with Israel; the internal conflicts of other societies posed some significantly different challenges from those experienced by the Palestinians under occupation. The turn to international criminal law after the second intifada

(by PCHR followed by al-Haq and other Palestinian organizations) was a response to Israel's sustained success in denying any access to remedy by the occupied population, but it was not an attempt to tackle the political legacy of the ongoing occupation.

Zalaquett then moved on to the human rights agenda that involved monitoring the performance of the PA and other Palestinian groups, in which al-Haq's early efforts have already been discussed. Aware of the exceptional situation of the Palestinian groups, Zalaquett simply observed: "This human rights agenda is the one most typically undertaken by local human rights groups all over the world, but in the presently Occupied Territories it will be a novel one, when the time comes."⁸⁹ Similarly, considering work on "third generation" or "collective" rights, he noted that for Palestinian human rights organizations "the specific issue of national rights, as [an] expression of 'collective rights,' is of course constantly present."

Then he turned to "fighting 'internal' or 'endemic' violations and protecting and promoting 'civil rights.'" Zalaquett's presentation to al-Haq of what he meant by "civil rights" is interesting:

Civil rights are of course a part of the set of internationally recognized human rights. Here we use the expression "civil rights" with the connotation given in certain English-speaking countries—a campaign for the improvement in the protection of the rights of individuals, which does not presuppose that such rights are being primarily violated by a deliberate governmental policy, and which sometimes seeks to refine or enlarge the content of the rights being protected, beyond what is stipulated in international norms.⁹⁰

Al-Haq was already involved in a major year-long campaign on women, justice, and the law, a society-focused effort directed by a steering committee under the auspices of al-Haq that culminated in a major conference in September 1994.⁹¹ Among other initiatives, interviewees also picked out work on disability rights, including the rights of persons disabled by injuries in the intifada and those whose disabilities were neither intifada nor occupation related. The study considered the obligations of the occupying power but also addressed Palestinians with disabilities, their friends and carers, offering a reference for future Palestinian formulations of disability legislation.⁹²

The final part of Zalaquett's report to be recalled here is his consideration of structure and organizational culture. On the positive side, he noted that staff had an adherence to human rights values, and to staff development. Less positively, "there is a lack of awareness of or regard for managerial skills" and "it may be said that managerial capabilities are somewhat lacking at all levels of al-Haq."⁹³ This was when al-Haq was staff owned and staff run, but it is likely that many at the organization would have felt the comment generally applicable to the organization's set-up. It was to be a number of years before improvement was to be seen and felt. Zalaquett continues:

Within the organization, certain key notions have developed, which seem to reflect dominant political internal values. They include the concepts of internal democracy, collective decision making and participation, as well as the above-mentioned notion of staff development. It is to be remarked, however, that the counterpart notion of staff responsibility and accountability does not seem to form part, in any comparable degree, of the same set of internal values. (This is not to say that al-Haq staff does not appreciate responsibility, but rather that the notion of internal democracy within al-Haq means more the rejection of the idea of a one-person-show than a clearly articulated notion of an alternative model, in which participation and delegation has a counterpart in accountability.)⁹⁴

Some al-Haq staffers remember the two-year staff-run experiment with affection: “These were perfect years,” according to Haddad, marked by greater transparency and feelings of belonging (and ownership) and “not counting the hours you worked”—although, he added, “some got very relaxed, perhaps it went too far.” But as time wore on and the challenges of Oslo and the new political situation grew, the time needed every week for discussion also grew. Some staffers felt the absence of a decision maker of last resort and raised the point made by Zalaquett in this regard, that the accountability part of the equation was not working.

Zalaquett conducted a workshop with al-Haq staffers to discuss the prospect of reestablishing a board. He reported that some had doubts as to whether suitably qualified persons could be found; that some felt that a board should reflect different political tendencies while others wanted members who were politically independent; and yet others wanted board members who were “close to al-Haq’s culture.”⁹⁵ At the end of 1994 and after nearly two years of the staff-run experiment, al-Haq’s staff agreed it was no longer sustainable. “It was almost like we’d discovered the limits of too much democracy” said Azzam, while Atallah recalled “feeling the lack of something outside, when you’re working in the organization and you’re [also] taking the decisions, it’s hard to be objective. People are people.”⁹⁶ Al-Haq proceeded to recruit for a new board from outside the organization and very soon, as Azzam departed for a Ford Foundation consultancy, new program and administrative directors.

The organization proved difficult to manage, however. Al-Haq staffers (current and former) interviewed for this study almost invariably wanted to talk about the crisis (*azma*) that happened within a couple of years, when the organization was all but closed down by its board. As some pointed out, this could only be because al-Haq meant so much to those involved—it was “such a massive thing”—and the implosions were so destructive for the organization “partly because people cared so much.” Staff, management, and board stress different elements of what went wrong. It should go without saying that there is no one truth in this narrative, no way of presenting this particular part of al-Haq’s history in a way that can satisfy those who were there and that does justice to the complexities of the engagement with the organization of so many highly motivated and strongly committed

individuals working things through in a hugely charged political context. What follows should be read with that in mind.

There is some agreement that many staffers (particularly those of longer standing) had difficulty in accepting the authority of new board members (even though they had agreed they needed a board) and an externally recruited management with no familiarity with al-Haq's rather particular culture. The organization was for years, according to various interviewees, verging on the unmanageable. There was dissatisfaction or resentment over new appointments, promotions made, or preferments shown. Strong personalities were involved, and the staff began to fall increasingly into two camps: those who fell politically into the PF-aligned camp and those who did not, although there was a smaller third set trying to stay out of it. This did not necessarily make the second group "anti-PF"; indeed, some of them had traditionally been closer to that political tendency than to other Palestinian factions. Rather, their concerns were framed as a defense of more political (factional) pluralism among staffers and board and an anxiety that the organization itself was at risk of developing a factionally partisan public profile. Significant differences among political groupings outside the organization began to be reproduced inside, in substantive discussions and approaches. George Giacaman agrees that even earlier there were attempts to "get your own people in," stressing however that this was by no means peculiar to al-Haq but rather was happening across the range of NGOs; Palestinian political factions, but particularly the left, had been weakened after Oslo, and this was one of the fallouts.⁹⁷ However, many other organizations were already more politically homogenous (and didn't require their employees to leave their politics at the door). This may be why al-Haq was disproportionately affected by the incursion of factional politics during the Oslo period. The factional disagreements centered at least in theory around the political context. The fact that there had still been no real agreement on organizational approaches to the PA, as had been recommended by Zalaquett, was identified by some as being at the heart of the problem. Sectarian politics permeated work discussions and affected personal working relationships. Staffers complained of polarization in the staff body, serious underproductivity, some individuals "playing dirty" to get ahead, others intimidated into keeping quiet in case what they said was later used against them. Al-Haq became an increasingly unhappy place to work.

As for the board and in-house management, managerial styles were starkly different from the staff-run days. The individuals were not familiar with al-Haq's in-house culture and were felt by some staffers to be taking sides in the increasingly split staff body, lining up with the "PF camp." Administrative requirements were perceived as overly hierarchical: "I began to feel like an 'employee,' not an active member in an association to which I belonged," recalled Haddad, in a comment that underlines the regret felt by some staffers at the loss of the egalitarian ethos of the staff-run years. Some staff refused to comply, some stopped talking to

colleagues in increasingly poisoned relationships, some found difficulty in cooperating with line managers from the other camp. In the late summer of 1996, the staff union addressed an "Appeal to Save al-Haq" to the members of the board of trustees. This followed one-on-one interviews conducted by union delegates with the Ramallah-based staff to elicit views on what was holding back al-Haq's work and how the identified issues might be resolved.⁹⁸ The appeal acknowledged that responsibility for the dire situation in the organization was shared between staff, board, and management, but had a list of demands for the board. These included allowing the general director to get on with the job (an acknowledgment of the tension between general director and board) and completing its own task of designing and implementing a full restructure and related review of job descriptions and salary scales (an implicit criticism of board processes). Significant numbers of staffers complained of an absence of evaluations and a lack of clear lines of responsibility and leadership.⁹⁹ Further, the union appeal stressed that the board should "show sensitivity to things that affect or challenge the independence and neutrality of the organisation," as al-Haq's work requires "maintaining complete neutrality in regard to political issues" and "loyalty [. . .] to the cause of human rights." This invocation of al-Haq's founding principles was to be repeated, but it did not manage to galvanize the board or management or to reduce the intensity of increasingly acrimonious relations with and between staff members.

At the end of 1996 the head of the research unit, one of the most senior and long-standing of al-Haq workers, who had become increasingly vocal in his criticism of management and board, was temporarily suspended and then issued a warning. In the first months of 1997, things seem to have come to a head with hints from certain staff (aligned with the board) that dismissals of other colleagues were imminent. This sealed a long list of complaints, some repeating the concerns from the earlier appeal. A memorandum titled "Where the Board Has Crossed the Line" was drawn up by a group of staffers with concerns over the conduct of board members and the direction in which they were seen as taking the organization.¹⁰⁰ This document seems to have been the justification for the action taken in March 1997 by four of the six staff members to whom the LSM company shares had been transferred when the organization became staff run and staff owned in 1993. The six company shares had not yet been transferred to the new board of trustees appointed in 1995. In March 1997, two of the six employee-owners were not available in Ramallah; one was abroad on a temporary leave of absence for a consultancy, and one was in administrative detention. The four present at al-Haq at that time, disturbed by events at the organization, went to the bank to freeze the accounts, changed the locks at al-Haq, and announced that "as owners" (legally) of al-Haq (that is, of the LSM Company) they were taking over: the board was to resign and its decisions would be nullified. The public justification for the action given was the perceived politicization of the board and the resulting threat to al-Haq's reputation and ability to continue its work. They carried nearly half the

permanent staffers with them. Staffers who disagreed with them concede some genuine concerns and underlying good faith (“they had a point, but it wasn’t the right way to do things”) given the parlous state of the organization. Nevertheless, for this opposing group, as expressed in a letter to human rights NGOs in the oPt, what had happened was a “betrayal of trust” and a dangerous precedent that impugned the legitimacy of al-Haq as an organization.¹⁰¹

For the next month or so, al-Haq staffers were expected to turn up to work, but very little got done. Those who opposed the takeover (for them, the “coup”) insist that they were in the majority among the employees, albeit by a narrow margin. Al-Haq was split down the middle. The employee-owners formed themselves into a management council and wrote to the donors. Those opposed asked the board to stay and also wrote to the donors. The board declined to resign. The fifth shareholder returned from abroad and joined her name to those opposed to the takeover. People remember the fax machine being locked down, stories of one colleague physically attacking another (found “farfical” or “exaggerated” in retrospect), and extremely hurtful personal abuse and recrimination. Oyediran recalls representatives of donors seeking her out to ask what was “really” going on: “I refused to answer. I’m not neutral just because I’m a foreigner; it was really inappropriate.” Palestinian staffers on both sides of the divide assert that there were attempts at external political interference in the organization at this time. Closer to home, some insist that Raja Shehadeh was fully aware of (and was at the least not opposed to) the group of four’s intent to assert the prerogatives of share ownership and dismiss the board in an attempt, as it were, to save the organization from itself; Shehadeh’s support would certainly have given them considerable confidence. And particular censure is reserved for a key human rights player in the West Bank who was approached to help with the crisis at al-Haq but who, according to different reports, played an extremely negative role and appeared to prefer the prospect of the collapse of a rival NGO to the opportunity to pull a peer back from the brink. The crisis at al-Haq perhaps pointed up weaknesses in the wider movement and its allies.

Negotiations continued between the two sides among the staffers, the board, and the management. In May an agreement was reached between the board of trustees, the governing council of the LSM company (the six staff shareholders, “employee-owners”), and the staff, to the effect that the six governing council members would relinquish their shares to a new board of trustees. Pending this new board being constituted and becoming operational, the shares would be transferred to the trusteeship of two trusted parties external to the organization, one of these being Raja Shehadeh. Names of persons to approach for a new board were agreed on, and the existing board undertook to follow up and transfer its authority. A final clause assented to a two-man team to “review the situation of the organisation” in cooperation with and under the direction of the new board of trustees when constituted.¹⁰²

Said Zeedani became chair of the new board, finding the organization in a “disastrous situation [. . .] It was appalling to go to the office, they were fighting all the time and no work was getting done, there were no reports, the library was in disarray, the database . . . ” and himself at least initially in a minority on the new board in fighting to keep al-Haq alive as an organization. The review team reported in August.¹⁰³ The report found that the most serious organizational problem was “a fractious, insubordinate and entrenched organizational culture [. . .] that is inconsistent with efficient and effective operation.”¹⁰⁴ Describing as difficult or impossible “work-related cooperation across the divide” of the two factions, and of some employees with the administration, the report declared:

This divisive, uncooperative atmosphere results most immediately from the employee-shareholder takeover of al-Haq and forced resignation of the then board of directors in February/March 1997, an event that was seen as absolutely necessary by some employees but as absolutely improper by others. But the roots of the division and of al-Haq’s dysfunctional institutional culture in general lie much farther back in the past. The number of remarkably different governing structures that al-Haq has experienced in its eighteen-year history [. . .] is probably best seen as the fundamental cause.¹⁰⁵

After reviewing briefly the different forms of governance that al-Haq had seen in the years since its establishment, the report came back to the idea of staff investment in the organization, that feeling of ownership that the founders had sought so consciously to build at the beginning:

Overall, there is a strong sense of what might be called “personal sovereignty,” or “staff sovereignty” among long-term employees of the organization, a sense that, as is frequently said, “we are al-Haq.” To the extent that this indicates a strong commitment to the organization and a belief in its principles, this is an admirable sentiment. However, to the extent that this implies that staff are not subject to supervision and may not be held accountable to anyone else inside or outside the organization, it is destructive.¹⁰⁶

Here, the report invoked Zalaquett’s 1994 evaluation, and in particular his finding of the relative absence of the “counterpart notion of staff responsibility and accountability,” a lack which the 1997 review team now found “even more evident at al-Haq.” Zalaquett was referenced again in their finding of a noticeable deterioration in the quality of al-Haq outputs since the events of February/March 1997, some of which they considered “very damaging” to al-Haq. They warned that Zalaquett’s finding that al-Haq was widely considered a professional standard-setter was a perception that “may have slipped already.”¹⁰⁷ And in their discussion on institutional strategy, they stressed the importance of the current period and the significance (from a human rights perspective) of the establishment of the PA, invoking Zalaquett’s recommendation that a human rights approach to the PA should include not only monitoring but also “programs that contribute from

a human rights perspective to the establishment of Palestinian institutions and policies.” They noted that in their interviews, many staffers had raised the point that al-Haq’s approach to the PA was still ad hoc and lacking a systematic strategy, and concluded:

It should also be noted that the failure over the last two years to evolve a comprehensive strategy *vis à vis* the Palestinian authority is a significant factor in the current polarization among al-Haq staff. The absence of a clear strategy has led to differences, or perhaps exacerbated other existing differences, among the staff.¹⁰⁸

The report ended with an assessment of the advantages and disadvantages of five options for al-Haq’s future to be considered by the board of trustees. The options ranged from the most severe (dissolution of the organization) to the least (reorganization). Said Zeedani and like-minded colleagues on the board fought for the middle option, reconstruction, which according to the report

would entail the early termination of all current employees, followed by a board-directed period of planning and redesign of the organization. The planning period would lead in three to six months to a competitive recruitment process to hire staff required to carry out the new program of the reconstructed organization.¹⁰⁹

In the autumn, after meetings to explain and discuss, the board proceeded to terminate all staff contracts. Jacqueline Shahinian was asked to come in to keep the legal advice office operational.¹¹⁰ The rest of the staff went off in different directions. It was a shock. Zahi Jaradat remembers, “I felt dismissed, it’s not good to work for fourteen years and get thrown out, it was a big thing for me,” although with hindsight, Atallah reflects that “in the end it was a wise decision.” The whole thing had been a painful ordeal. Some of the wounds from that time are not completely healed, although there have been personal reconciliations. One of the group of four reflected:

The day after we took the decision [to take over the organization], I knew it was a mistake. Not that there wasn’t a real issue, but we tried to solve it the wrong way [. . .] It was a lack of respect to the history of the organization. If I had my time again I wouldn’t do it.¹¹¹

Zeedani was honored by al-Haq at its thirty-year celebration for the efforts he put in; for himself, he says that he is “really very proud to have contributed something to save the organization at that time.” Al-Haq was not going to be a casualty of Oslo; Zeedani and other board members (all volunteers) spent months engaged in intensive structure and program design, recruitment processes, and fundraising. In recreating the organization in the new situation (“a new al-Haq”), the issue, Zeedani said, was not so much the PA, but an increasingly crowded field with new and specialized human rights organizations in addition to the well-established and high-profile PCHR in Gaza and LAW in Beit Hanina. Zeedani also emphasizes one very important thing that had *not* gone wrong with al-Haq: the financial systems

were tight and transparent, despite everything else going on, there were no issues of financial mismanagement or corruption such as those that were later implicated in the collapse of LAW.¹¹²

After some months, a new director and some key new staffers were recruited. In the late summer of 1998, al-Haq's Newsletter reappeared in both English and Arabic, although with some differences in detail for the different audiences; in both editions the cover feature was the first death penalty sentences carried out by the PA.¹¹³ The Arabic edition, where the piece about al-Haq was placed at the beginning, under a title referring to the reorganizing and restructuring of al-Haq, started with an acknowledgement that "it is no secret that al-Haq has been through a tough period of internal crisis." It thanked its board of trustees and those local and international individuals and organizations that had helped it through for the sake of the continuing benefit to Palestinian society represented by al-Haq's existence. The English version thanked former al-Haq staffers for their work; that came as the last item. Both texts then addressed the issue of al-Haq's mandate in a manner that suggested an attempt to clarify its normative referential frameworks and especially the organization's work in regard to the PA, as Zalaquett had suggested might be necessary:

Al-Haq has long been known for its character as a "Legal and Human Rights Research Organization." As such, added emphasis will be placed on the research conducted. Its research will be concentrated in two main areas: 1) investigating Israeli violations of Palestinian human rights and examining those issues which will be discussed during final status negotiations (settlements, status of Jerusalem, etc.); and 2) monitoring and reporting the human rights situation in the areas administered by the Palestinian Authority and assisting in the creation of sound civil society structures.

In analyzing Israeli practices, the organization will continue to rely as it has done in the past on international humanitarian law, given the continuing occupation. We will also refer to human rights commitments made by Israel, as defined by the treaties and conventions into which Israel has entered. Moreover, Israel's membership in the United Nations also imposes certain legal obligations upon it which al-Haq will continue to point to and seek enforcement of.

Al-Haq believes in the universality of human rights and that they should be applied to friend and foe alike. The Palestinian National Authority cannot be exempted from the applicability of the same principles Al-Haq demanded to be respected by the Israeli occupation. Yet the nature of relationship between Al-Haq and the Palestinian authorities is necessarily different. We have greater access to Palestinian decision-makers, and a greater ability to influence and convince them to act in accordance with human rights principles. Furthermore, we have a unique opportunity to participate in training the new authority and its personnel in respect for human rights, and to use our credit and credibility in the past and current fight against Israeli violations to demand and insist on proper behavior by our own National Authority. Therefore, al-Haq will continue to offer assistance in the institutionalization of the principles of the rule of law within the work of the Palestinian National Authority. Al-Haq's concern for this issue is at the heart of its mandate and is the key element in

the protection of human rights. Al-Haq will offer all it can to inform the authorities of the requirements of the rule of law, to encourage them to adopt legislation, mechanisms and procedures that will assure the institutionalization of these concepts that restrain the abuse of power.¹⁴

Thus, in relation to the PA, the organization intended to act both as watchdog and as adviser. Its approach to Israel was explicitly expanded to include treaty-based human rights as well as other areas of UN-related advocacy in which al-Haq was to become very involved. The legal advice services were to continue, but with the emphasis on legal research went a much reduced focus on and capacity for field research and monitoring.

The new director resigned in 2000, and the board recruited former staffer Randa Siniora as director. Other key and long-standing members rejoined, including Shawan Jabarin, Nina Atallah, and Zahi Jaradat. Under Siniora's leadership, al-Haq began to come back into its own, a process at least partly enabled by the values and commitment instilled in the early years of the organization under the "triumvirate" of Kuttab, Shamma, and Shehadeh, albeit tempered by some distressing lessons. When Siniora left at the end of 2005, Jabarin was appointed as her successor at al-Haq, where at the time of writing he remains, the longest-serving general director the organization has had since its establishment in 1979.