



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

February 19, 2021

[REDACTED]
Open Society Justice Initiative
224 West 57th Street
New York, NY 10019
[REDACTED]

Re: FOIA-2020-01700
DRH:VAV:AKT

Dear [REDACTED]:

This is an interim response to your Freedom of Information Act (FOIA) request dated July 9, 2020 and received in this Office on July 23, 2020, in which you requested various records pertaining to the International Criminal Court (ICC), dating from November 3, 2017.¹

Please be advised that a search has been conducted of the electronic database of the Departmental Executive Secretariat, which is the official records repository for the Office of the Attorney General and seven pages, were located that are responsive to your request. I have determined one document, totaling six pages, are appropriate for release with excisions made pursuant to Exemption 6 of the FOIA, 5 U.S.C. § 552(b)(6), which pertains to information the release of which would constitute a clearly unwarranted invasion of the personal privacy of a third party.

We are continuing to search for responsive records in the Office of the Attorney General and will respond to you again as soon as that search and any necessary consultations are completed.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2018). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison, Valeree Villanueva, for any further assistance and to discuss any aspect of your request at: Office of Information Policy, United States Department of Justice, 441 G Street NW, Sixth Floor, Washington, DC 20530-0001; telephone at 202-514-3642.

¹ You directed your request to the Justice Management Division FOIA/PA Mail Referral Unit (MRU), who forwarded it to this Office for handling. The MRU tracking number associated with this request is EMRUFOIA072220-2.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with this Office's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in blue ink, appearing to read "Douglas R. Hibbard", is written over a light blue circular stamp.

Douglas R. Hibbard
Chief, Initial Request Staff

Enclosure

Congress of the United States
House of Representatives
Washington, DC 20515-0305

August 5, 2020

The Honorable William Barr
Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:


As a member of the House Judiciary Committee, I encourage the Justice Department to take appropriate action with respect to shocking information alleging troubling ties between the International Criminal Court (ICC); key non-governmental organizations driving the ICC's investigations of the U.S. and Israel; and U.S.-designated foreign terrorists and Foreign Terrorist Organizations.

I applaud the Trump Administration for holding the ICC accountable for its incursions on American sovereignty. Additionally, I support the position you took on June 11, 2020, expressing that "foreign powers...are manipulating the ICC in pursuit of their own agenda." You further stated that "those who assist the ICC's politically motivated investigation of American servicemembers and intelligence officers without the United States' consent will suffer serious consequences."

The Jerusalem Center for Public Affairs has issued a compelling report drawing striking parallels between the ICC's investigations of the U.S. and Israel, and I have prepared a brief report of my own summarizing links between NGOs and numerous terrorist groups and individuals. I urge the Justice Department to prepare inclusion of all relevant information as it continues to fight back against the ICC's spurious agenda.

Please review the enclosed materials and let me know how the Justice Department intends to proceed in the coming months.

Sincerely,


Andy Biggs
Member of Congress

International Criminal Court Links to Foreign Terrorist Organizations

Prepared by Congressman Andy Biggs

As a Member of the U.S. House Judiciary Committee's Subcommittee on Immigration and Citizenship, responsible for treaties, conventions and international agreements, as well as claims against the United States,¹ I wish to present to the U.S. Justice Department the following information to encourage the Department to investigate potential ties between the International Criminal Court (ICC), the key non-governmental organizations (NGOs) driving the ICC's investigations of both America's conduct in Afghanistan and the Jewish State of Israel, and U.S.-designated Foreign Terrorist Organizations (FTOs).²

On September 10, 2018, former National Security Advisor John Bolton stated that the United States will use any means necessary to protect our citizens and those of our allies from unjust prosecution by the ICC, which he labeled "illegitimate."³ Similarly, on March 15, 2019, Secretary of State Mike Pompeo warned that Washington would impose restrictions on any ICC staff member who investigated U.S. or allied personnel.⁴ Accordingly, in October 2019, the State Department revoked the U.S. visa of Fatou Bensouda, the ICC's Chief Prosecutor, after she declared her intention to conduct an investigation of U.S. soldiers in Afghanistan.⁵ Still, in March 2020, Bensouda authorized an investigation into alleged war crimes committed in Afghanistan since 2003, including by members of the CIA and U.S. military forces.⁶ In response, Secretary Pompeo correctly argued that the ICC was set up to hold rogue regimes accountable, rather than target America, because when U.S. personnel transgress legal norms our own institutions hold them accountable.⁷ Finally, on June 1, 2020, Secretary Pompeo stated that in the coming days a series of announcements would come not just from the State Department, but from all across the United States government, to attempt to push back against what the ICC is up to.⁸

1 House Committee on the Judiciary, [Subcommittees, Immigration and Citizenship](#), accessed 06/20

2 Brig.-Gen. (res.) Yossi Kuperwasser and Dan Diker, "[Legal Assault: How the ICC Has Been Weaponized Against the U.S. and Israel.](#)" [Jerusalem Center for Public Affairs](#)," Jerusalem Center for Public Affairs, published 05/05/20, accessed 06/20

3 Deirdre Shesgreen, "[Trump administration to sanction International Criminal Court, ban judges from US.](#)" USA TODAY, published 09/10/18, accessed 06/20

4 Joel Gehrke, "[Pompeo pulls visas for International Criminal Court officials targeting Americans.](#)" Washington Examiner, published 03/15/19, accessed 06/20

5 Brig.-Gen. (res.) Yossi Kuperwasser and Dan Diker, "[Legal Assault: How the ICC Has Been Weaponized Against the U.S. and Israel.](#)" [Jerusalem Center for Public Affairs](#)," Jerusalem Center for Public Affairs, published 05/05/20, accessed 06/20

6 Ibid.

7 Matthew Petti, "[Pompeo: U.S. Could Make Moves Against International Criminal Court In 'Coming Days'](#)", The National Interest, published 06/01/20, accessed 06/20

8 Ibid.

Most recently, on June 11, 2020, Attorney General William Barr participated in an event announcing the President’s laudable authorization of further sanctions against ICC personnel, during which he expressed concern that “foreign powers...are manipulating the ICC in pursuit of their own agenda.”⁹ Attorney General Barr further stated that the actions taken on that day “will ensure that those who assist the ICC’s politically motivated investigation of American service members and intelligence officers without the United States’ consent will suffer serious consequences.”¹⁰

Accordingly, I want to make certain that the Justice Department is taking appropriate action with respect to significant new open source information that emerged in a report published on May 5, 2020, drawing troubling parallels between the ICC’s investigation of the U.S. and that of Israel.¹¹

With respect to the latter, on December 20th, 2019, Bensouda also announced that she believes there exists sufficient evidence to begin investigating “war crimes” committed by Israel in the West Bank, East Jerusalem and Gaza.¹² What is notable about this parallel effort by the ICC to investigate Israel is that the NGOs and individuals pursuing both the Israel case and the U.S. case are closely related.¹³ Specifically, the two international NGOs advancing the case against the U.S., the International Federation for Human Rights (FIDH) and the Center for Constitutional Rights (CCR), have strong ties to the Palestinian NGOs that brought the complaint against Israel to the ICC—Al-Haq, Palestinian Center for Human Rights (PCHR), Al Mezan and Al-Dameer—and were intimately involved in their submissions to the court.¹⁴ For instance, not only are Al-Haq, PCHR and Al Mezan all members of FIDH, but Al-Haq’s director, Shawan Jabarin, is a secretary general of FIDH.¹⁵ Likewise, Raji Sourani, the general director of PCHR, is the former vice president of FIDH.¹⁶ Nada Kiswanson van Hooydonk and Katherine Gallagher, who represented the alleged victims, FIDH, and CCR in the case against the US, were also engaged

9 [“Russia is ‘manipulating’ the International Criminal Court, says US attorney general,”](#) AFP, published 06/11/20, accessed 06/20

10 “Mike Pompeo, Mark Esper, Bill Barr Press Conference Transcript June 11,” Rev, published 06/11/20, accessed 06/20

11 Brig.-Gen. (res.) Yossi Kuperwasser and Dan Diker, [“Legal Assault: How the ICC Has Been Weaponized Against the U.S. and Israel,”](#) Jerusalem Center for Public Affairs,” Jerusalem Center for Public Affairs, published 05/05/20, accessed 06/20

12 International Criminal Court, [Statement of ICC Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the Situation in Palestine, and seeking a ruling on the scope of the Court’s territorial jurisdiction,](#) published 12/20/19, accessed 03/20

13 Brig.-Gen. (res.) Yossi Kuperwasser and Dan Diker, [“Legal Assault: How the ICC Has Been Weaponized Against the U.S. and Israel,”](#) Jerusalem Center for Public Affairs,” Jerusalem Center for Public Affairs, published 05/05/20, accessed 06/20

14 Ibid.

15 Ibid.

16 Ibid.

with the Palestinian submission.¹⁷ Kiswanson was the head of Al-Haq’s office in The Hague, and Gallagher, who represents CCR in the Afghanistan case, was part of the delegation that submitted the Palestinian NGOs’ opinion to the ICC prosecutor.¹⁸

In turn, these four Palestinian organizations, Al-Haq, Al-Dameer, Al Mezan and the Palestinian Center for Human Rights (PCHR), which together submitted six reports to the ICC between 2015 and 2018,¹⁹ have strong ties to U.S.-designated FTOs, including Hamas and the Popular Front for the Liberation of Palestine (PFLP).²⁰

In particular, Al-Haq staff members, including its general director, have strong ties to the Popular Front for the Liberation of Palestine (PFLP), a designated FTO in the United States.²¹ For instance, in 1985, Shawan (a.k.a. “Sha’ban”) Rateb Jabarin, Al-Haq general director and the secretary general of FIDH, was convicted for recruiting and arranging training for members of the PFLP outside of Israel and sentenced to 24 months’ imprisonment, 9 months of which were served.²² The next year, Israel designated PFLP a terrorist organization.²³ Though recently Jabarin denied having ties to the PFLP,²⁴ in 1994 a government statement to the UN contended Jabarin “has not discontinued his terrorist involvement and maintains his position in the leadership of the PFLP.”²⁵ In response, a source defending Jabarin before the UN implicitly acknowledged his PFLP membership, blaming Israel for having “chosen to criminalize membership of the PFLP, a Palestinian political party.”²⁶ Two years later the U.S. State Department also designated the PFLP an FTO in its very first listing.²⁷ Yet, according to the

17 Ibid.

18 Ibid.

19 Al-Haq, [Palestinian Human Rights Organizations Deliver Submission to the International Criminal Court on Alleged Israeli War Crimes and Crimes against Humanity during 2014 Gaza offensive](#), published 11/23/15, accessed 02/20; Al-Haq, [Palestinian Human Rights Organizations Submit Second Communication to the International Criminal Court on Israeli War Crimes and Crimes against Humanity Perpetrated in Rafah in August 2014](#), published 02/10/16, accessed 02/20; Al-Haq, [Investigate Persecution Arising out of Ongoing Gaza Closure, Palestinian Human Rights Organizations Urge ICC Prosecutor](#), published 11/22/16, accessed 02/20; Al – Haq, [Palestinian Human Rights Organizations Submit Evidence to the ICC Prosecutor on Crimes Committed in West Bank](#), published 09/20/17, accessed 02/20; Al-Haq, [“Four Palestinian Human Rights Organizations Submit File to the ICC Prosecutor: Israel is Unable and Unwilling to Conduct Genuine Investigations and Prosecutions”](#), published 12/23/17, accessed 02/20; Al-Haq, [Palestinian Human Rights Organizations Submit File to ICC Prosecutor: Investigate and Prosecute Pillage, Appropriation and Destruction of Palestinian Natural Resources](#), published 10/26/18, accessed 02/20

20 US Department of State, [Foreign Terrorist Organizations](#), listed as of 10/08/1997, accessed 02/20

21 US Department of State, [Foreign Terrorist Organizations](#), listed as of 10/08/1997, accessed 06/19

22 United Nations, [Decision No. 16/1994](#), published 09/28/94, accessed 04/19

23 Israel Ministry of Justice, [List of Terrorist Organizations and Individuals](#), accessed 06/19

24 France 24 Arabic, [YouTube](#), published 07/22/15, accessed 05/19

25 United Nations, [Decision No. 16/1994](#), published 09/28/94, accessed 04/19

26 United Nations, [Decision No. 16/1994](#), published 09/28/94, accessed 04/19

27 US Department of State, [Foreign Terrorist Organizations](#), listed as of 10/08/1997, accessed 06/19

Palestinian newspaper *Al-Quds*, Jabarin still spoke at a PFLP event on behalf of the organization in 1999.²⁸ Canada designated the PFLP in 2003,²⁹ and even the EU designated the PFLP in 2018.³⁰ As recently as 2019, an Israeli governmental report described Shawan as a senior PFLP member.³¹ The Israeli Supreme Court has described Jabarin as “Dr. Jekyll and Mr. Hyde” for running a human rights organization while at the same time serving as a leading figure in a designated terror organization.³²

Similarly, PCHR director Raji Sourani, the former vice president of FIDH, was convicted and sentenced to three years in prison by the Israeli authorities in the late 1970s for his membership in the PFLP.³³ Following his release, he renounced his PFLP affiliation,³⁴ but has continued to hold regular meetings with its leaders,³⁵ and served as counsel to PFLP Secretary General Ahmed Saadat,³⁶ who was sentenced to 30 years in Israeli jail for *inter alia* planning the murder of Israeli minister Rehavam Ze’evi.³⁷ In 2011, Sourani met in Cairo with Musa Abu Marzouk,³⁸ a U.S. State Department-designated global terrorist³⁹ and member of Hamas, itself a U.S.-designated FTO.⁴⁰ The same year, Sourani met with Khaled Mashal, Chairman of Hamas Political Bureau⁴¹ and likewise a U.S.-designated global terrorist.⁴² In 2014, Sourani described Hamas as a “resistance group”, saying “they are a part of us, part of our chemistry.”⁴³ In addition, PCHR board member Jaber Wishah⁴⁴ is a former commander of the military wing of

28 Al-Quds, [Memorial at Beit Sahour for the deceased Elias Graise](#), published 03/06/99, accessed 04/19

29 Government of Canada, [Currently listed entities](#), listed as of 11/13/03, accessed 06/19

30 European Council, [COUNCIL DECISION \(CFSP\) 2018/1084](#), published 30/07/18, accessed 04/20

31 Israel Ministry of Strategic affairs and Public diplomacy, [Terrorists in Suits](#), accessed 05/19

32 The National, [Shawan Jabarin is an activist to some, a terrorist to others](#), published 12/11/13, accessed 06/19; The Daily Beast, [Shawan Jabarin’s Controversial Appointment to Human Rights Watch Board](#), published 02/15/11, accessed 06/19

33 Washington Report, [A Matter of Principle: Gaza Human Rights Lawyer Raji Sourani](#), published 01/01/95, accessed 06/19.

34 Washington Report, [A Matter of Principle: Gaza Human Rights Lawyer Raji Sourani](#), published 01/01/95, accessed 06/19.

35 The Popular Front for the Liberation of Palestine, [PFLP Delegation Congratulate Raji Sourani](#) (Arabic), published 09/29/13, accessed 06/19

36 AP, [Court Orders PLO Militant’s Release](#), published 06/03/02, accessed 09/19; European council on foreign relations, [Ahmed Sa’adat \(PFLP\)](#), accessed 08/19

37 Efrat Weiss, [Israel Sentences PFLP Leader to 30 Years in Prison](#), published 12/25/08, accessed 09/19

38 Google Groups, [a delegation of the Reconciliation and National Reconciliation Committee meets with Dr. Musa Abu Marzouk](#) (Arabic), published 06/05/11, accessed 08/19; Hamas, [Hamas to foil all plans targeting Palestinian rights and constants](#), published 06/29/19, accessed 08/19

39 US Department of the Treasury, [Recent OFAC actions](#), published 8/21/03, accessed 08/19

40 US Department of State, [Foreign Terrorist Organizations](#), listed as of 10/08/1997, accessed 02/20

41 PCHR, [Sourani Meets with Chairman of Hamas Political Bureau](#), Mr. Khaled Mashal, published 12/24/11, accessed 08/19

42 US Department of the Treasury, [Recent OFAC actions](#), published 8/21/03, accessed 08/19

43 Democracy Now, [YouTube](#), published 07/21/14, accessed 09/19

44 PCHR, [Board of Directors](#), accessed 08/19

the PFLP.⁴⁵ Wishah was imprisoned for his collaboration with Samir Kuntar,⁴⁶ a Hezbollah commander who committed a brutal terror attack in 1979,⁴⁷ killing four Israeli civilians, including a four-year-old girl whom he killed by beating her head repeatedly with a rifle butt.⁴⁸

Likewise, during 2012 Al Mezan's general director, Issam Younis, met with Hamas official⁴⁹ Khaled Mashal, a U.S.-designated global terrorist,⁵⁰ in Cairo.⁵¹ Following the visit, Younis published an open letter in support of Hamas, a U.S. designated FTO,⁵² declaring, "I remain an advocate of the right of Hamas to govern and I absolutely reject the double standards employed by the international community towards the movement."⁵³

Finally, even the Palestine Dialogue Network has openly described Al-Dameer as an affiliate of the PFLP,⁵⁴ which again is a designated FTO in the United States.⁵⁵ Younes Al-Jero, chairman of Al-Dameer's council of directors,⁵⁶ is a former senior member of the PFLP,⁵⁷ and worked for more than 35 years with Rabah Muhanna,⁵⁸ member of the PFLP Political Bureau in the Gaza Strip.⁵⁹ Ahmed Huneideq and Yahyah Al-Ghalban, both Al-Dameer directors,⁶⁰ are also former members of the PFLP.⁶¹ Yahyah was a member of the PFLP's Central Committee⁶² and was

45 PFLP, [PFLP delegation pays condolences to Um Jaber Wishah on the martyrdom of Samir Kuntar](#), published 12/16/15, accessed 09/19; Al-Bayan, [the freed Palestinian prisoner, Jaber Washah, told Al-Bayan that the Palestinian prisoners in the Israeli jail is reaching a boiling point](#) (Arabic), published 09/23/99, accessed 08/19

46 Ibid.

47 The New York Times, [Commander of Hezbollah Freed by Israel Is Killed in Syria](#), published 12/20/15, accessed 08/19

48 The Times of Israel, [Terror chief Samir Kuntar killed in reported Israeli strike in Syria](#), published 12/20/15, accessed 10/19

49 Hamas, "[Members of the political bureau](#)" (Arabic), accessed 06/19.

50 US Department of Treasury, "[U.S. Designates Five Charities Funding Hamas and Six Senior Hamas Leaders as Terrorist Entities](#)", published 08/22/03, accessed 06/19.

51 Ma'an News Agency, "[An open letter to the Hamas movement](#)", published 11/04/12, accessed 06/19.

52 US Department of State, "[Foreign Terrorist Organizations](#)," listed as of 10/08/1997, accessed 05/19

53 Ibid.

54 Palinfo, [Arrow Al-Dameer Association for Human Rights, affiliated with the Popular Front, condemned the Israeli threat to its deputies](#) (Arabic), published 05/31/06, accessed 01/20

55 US Department of State, [Foreign Terrorist Organizations](#), listed as of 10/08/1997, accessed 06/19

56 Al-Dameer, [Council of directors](#), accessed 12/19

57 PFLP, [The PFPL in Gaza honors the members of the Central and Oversight Committee who gave up their positions](#) (Arabic), published 01/16/14, accessed 01/20

58 PFLP Lebanon, [the late fighter Rabah Muhanna...in the eyes of his companions and lovers](#) - Bisan Al-Sharafi (Arabic), published 05/08/19, accessed 01/20

59 PFLP, [Comrade Rabah Muhanna: The prisoners' leadership is the only reference for a solution to the strike](#), published 05/14/12, accessed 01/20

60 Al-Dameer, [Council of directors](#), accessed 12/19

61 Abu Ali Mustafa Brigades, [The PFPL in Gaza honors the members of the Central and Oversight Committee who gave up their positions](#) (Arabic), published 01/16/14, accessed 01/20

62 Wafa, A political meeting for the Popular Front in Khan Yunis calls for deepening the national dialogue (Arabic), published 01/22/07, accessed 01/20

described as a “comrade” on the PFLP’s website.⁶³ Al-Dameer’s council of directors secretary Raafat Salha⁶⁴ has represented the PFLP at a joint conference of Fatah, Hamas and the Palestinian Islamic Jihad (PIJ)⁶⁵ – and, like PFLP, Hamas and PIJ are U.S.-designated FTOs.⁶⁶

Most troubling of all, Bensouda herself has maintained close ties to FIDH, according to FIDH’s website, which describes its “close relationship with the Court.”⁶⁷ In 2015, Bensouda visited FIDH’s headquarters in Paris, and in 2019 she participated in FIDH’s 40th Congress as one of the main speakers.⁶⁸ This raises important questions not just with respect to Bensouda’s independence, but her judgment.

For additional information with respect to this source file, or to provide a response, please contact Mr. Jeff Kuckuck in my office at (b) (6).

63 PFLP, [In continuation of its visits, the front leadership organizes an extensive inspection tour in Khan Yunis](#) (Arabic), published 03/16/15, accessed 01/20

64 Al-Dameer, [Council of directors](#), accessed 12/19

65 Palinfo, [“Fatah” overturns on forming a consensual list for the lawyers’ \[bar\] elections](#) (Arabic), published 04/06/12, accessed 12/19

66 US Department of State, [Foreign Terrorist Organizations](#), listed as of 10/08/1997, accessed 12/19

67 FIDH, [Fatou Bensouda, ICC Prosecutor, Visits FIDH](#), published 04/02/15, accessed 04/20

68 FIDH, [Facebook](#), published 10/17/19, accessed 04/20