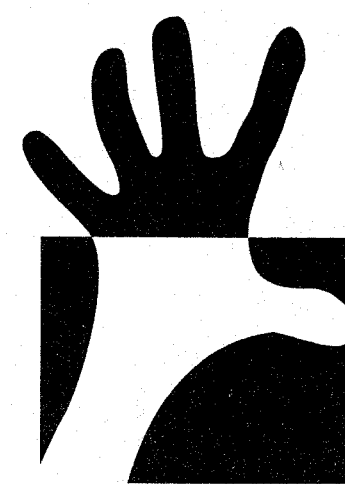


HAMOKED..

Newsletter of HaMoked: Center for the Defence of the Individual

Founded by Dr. Lotte Salzberger

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HaMoked (formerly the Hotline) is an Israeli organization founded in 1988 to defend human rights in the occupied territories. In its eight years of activity, HaMoked has provided assistance to over 9,000 Palestinian victims of violence, human rights abuses and bureaucratic harassment. HaMoked registers complaints and pursues them through administrative and legal channels until the matter is successfully resolved. In addition to its individual assistance, HaMoked advocates for human rights at the policy level.

In Memory of Dr. Lotte Salzberger



On December 11, 1994, Dr. Lotte Salzberger, chairperson of the board of directors of HaMoked: Center for the Defense of the Individual, passed away. Dr. Salzberger had been involved in HaMoked's activities from the very beginning of its inception, when its founding concepts started to take concrete shape. Since the establishment of

HaMoked as an independent association till her death, Dr. Salzberger had served as HaMoked's chairperson.

In recognition of the pivotal role Lotte had played in the establishment of HaMoked and as an expression of profound appreciation of her person and achievement, the general assembly of HaMoked, held on 13.3.95, decided to rename the

association, to be called from now on "HaMoked: Center for the Defense of the Individual, founded by Dr. Lotte Salzberger".

Lotte was fully committed to the ideas behind HaMoked's activities: an unequivocal dedication to the defense of individual's rights, coupled with uncompromising struggle against human and civil rights violations, without a thought for extreme considerations.

Lotte, with the full weight of her experience and knowledge, the fruit of years of work in social, academic and political fields in Israel, contributed immensely to HaMoked's ability to operate as an independent organization and to realize the objectives it has set for itself.

HaMoked continues its defence of individual human rights, inspired by Lotte's determined dedication. The newly unfolding developments in our area show that Lotte's personal example is more relevant than ever.

Human Rights Workshop Held by HaMoked in Wake of Cairo Agreements

In wake of the Cairo agreements and their initial implementation, HaMoked had decided to convene a working session of Palestinian representatives of human rights organizations from Gaza, the West Bank and East Jerusalem and representatives of Israeli human rights organizations, in order to reassess roles, responsibilities and cooperation during the current period. The workshop, whose participants also included representatives of the International Red Cross, UNRWA and Amnesty International, was hosted by HaMoked on November 7, at the Ambassador Hotel in Jerusalem.

The Cairo agreements have defined areas, where responsibilities over the autonomy population are to shift to the PNA, while leaving the overall authority in a gamut of related issues in Israeli hands. New frameworks of cooperation between the PNA and Israeli authorities have been created, without specifying detailed agendas or clear guidelines for procedures. Human rights issues were thus left dangling in a vast grey area, where it is often difficult to determine which authority is accountable, which office is directly responsible; an area where arbitrary bureaucratic decisions often replace publicly formulated policies and guidelines.

The workshop's proposed task was to analyze this grey area,

to share information, to clarify the responsibilities of NGOs and to devise new strategies and ways of cooperation. Presentations on topics, ranging from violence by the Israeli authorities, arrests and prison conditions and the tracing of detainees, to residency rights, freedom of movement, family reunification, land and water issues, health issues and workers' compensation rights were followed by lively discussion periods.

A general agreement as to the fundamental role of NGOs was reached: NGOs should not wait for the authorities to define their roles, but should rather take the initiative in the pursuit of their mandates. While striving to keep all channels to the authorities open, human rights organizations must not abdicate their traditional "watchdog" role. The sharing and dissemination of information among organizations, as well as among the general public, was recognized as one of the most urgent priorities in this fluid, post-agreement period. As ongoing human rights violations continue, redress is becoming increasingly problematic under the guise of legal and administrative redeployment. It is urgent for organizations to identify and analyze new problems, emerging as a direct result of the agreements, either as inadvertent confusion or more

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Separation of Jerusalem

A. Residency and Family Reunification

Jerusalem remains the focal point of contention between the PNA and Israel. Although the interim agreements have refrained from dealing with the issue of Jerusalem, deferring negotiations for the future, the functioning of various municipal and governmental offices, which provide services to the Palestinian population of East Jerusalem, point to a deliberate policy of separating East Jerusalem from the West Bank and limiting its Palestinian population.

High cost of living, housing shortage, inadequate municipal services, health insurance problems and inaccessibility of municipal elementary education are forcing Palestinian residents to leave the city. The Interior ministry's harsh policy on family reunification accentuates this trend.

Although in March 1994, the ministry changed its gender-discriminatory policy of considering family reunification requests by male residents only, in favour of the domicile criterion and security considerations, this has far from improved the ministry's record on family reunification. Faced with a long backlog of family reunification requests, coupled with the harsh entry permit policy, divided families remain divided with uncertain prospects for the future. Entry permits are either refused immediately at the Ministry of Interior, at the behest of the GSS, or lost in administrative backlog; the ministry has even stopped updating West Bank Civil Administration offices on entry permit status lists. Arbitrary confiscation of I.D. cards of residents coming to the Ministry of

Interior Office for routine services, carried out throughout the spring of 1995, reinforced the impression of the existence of a deliberate, undeclared policy.

One such example from HaMoked files is that of a woman from East Jerusalem, who had applied for family reunification on behalf of her husband, a Jordanian resident and was refused. The family then decided to move to Jordan, however, the woman continued coming to Jerusalem each year and gave birth to her five children in Jerusalem. Till 1994, she was treated by the ministry as a regular Jerusalem resident. In 1994, at the bridge crossing with Jordan, she was instructed to renew her I.D. card at the ministry office in Jerusalem. There, her I.D. card was confiscated, while she was informed that her residency is being revoked, without prior notice and a chance to arrange for Jerusalem domicile in view of new policy. The case was transferred to the State Attorney's Office.

Parallel to its legal advocacy, HaMoked continues to pressure the Ministry of Interior for publically declared policies and reasonable administration practices. The urgency of HaMoked's concerns is underscored by the recent allegations of corruption at the ministry's East Jerusalem office, connected with residency and family reunification requests. In view of the above, the ministry's upcoming population census in East Jerusalem does not inspire confidence as to the motives and possible uses of such a population count.

B. Student Entry Permits into Jerusalem

Historically, East Jerusalem has been the cultural and economic center of the West Bank. At present, Jerusalem, through various strategies and means, is being virtually cut off and isolated from the West Bank.

In May 1995, HaMoked had obtained the new regulations, concerning student entry permits to Jerusalem. The new regulations fit into a comprehensive pattern of freedom of movement restrictions, yet in this case, concern a particularly sensitive issue, with far-reaching implications. The regulations state that only those students who had entry permits in the past shall be allowed to finish their studies. Students who studied without permits shall not be issued new ones, while new students, intending to register for the first time, shall be denied entry.

Since Jerusalem is also the West Bank center for higher education, these regulations, in a particularly contrary spirit to that of national reconciliation, mean an indefinite denial of the right to education to a whole new generation of Palestinians. In a broader context, HaMoked views this regulation as one of a number of concrete steps, intended to carry out the government's proposed plan of separation of the two populations and of the severing of traditional links between East Jerusalem and the West Bank.

One of the cases of the denial of student entry permit to Jerusalem, registered at HaMoked, was that of a therapy student from Beit Lehem, whose curriculum required an internship at the Mokassed hospital in Jerusalem. Her entry request was denied, as well as HaMoked's subsequent request on her behalf to the Operations Coordination Office of 3.7.95. A High Court pre-petition was instrumental in the obtaining of the permit, which was finally issued on the grounds that her request does not entail the start, but rather the continuation of her studies. HaMoked has requested comprehensive clarifications of the new regulation and still awaits response.

HaMoked is also advocating on behalf of a student from Hebron, who is registered at the Hebrew University of Jerusalem in the History M.A. Program. He was denied entry under the new regulations, in spite of the fact that he is in possession of a valid Jerusalem work permit.

HaMoked's legal advocacy in this case vis-a-vis the State Attorney's office was instrumental in the establishment of a joint committee of the IDF and its Military Attorney's office, which is to review the new regulation. Neither the deliberations, nor the conclusions of this committee were as of yet communicated to HaMoked.

Freedom of Movement - Exit and Entry into Gaza

Freedom of movement is a fundamental human right. Restrictions, which curtail freedom of movement, necessarily impede one's ability to provide for basic needs in many spheres of daily life. The Cairo Agreements stipulate in the Final Clause 6., Article XXIII of the Preamble: "The two Parties view the West Bank and the Gaza strip as a single territorial unit, the integrity of which will be preserved during the interim period." (p.18).

Since the agreements, however, Gaza has been virtually sealed off. Closures have become routine, preventing Gazans from travelling outside of Gaza. With each new closure order, large number of visitors to Gaza, mostly relatives of Gaza residents, are prevented from returning to their homes for up to several days, sometimes weeks. As if this solution was not hermetic enough, regulating movement in one direction only, on the 17th of May 1994, the regional IDF commander had signed an order, banning Israeli residents from entering the Palestinian Authority's jurisdiction without a valid permit.

This new restriction affects a large portion of Palestinian and Israeli populations in a discriminatory fashion. Wives and other relatives of Gazan residents, returning from family visits in Israel were overnight banned from re-entering Gaza. Professionals and other employees working in Gaza, academics, councillors, the business community, NGO staff;

all were without advance notice suddenly prevented from going about their daily business. Jewish residents were notified that their entry is dependent on prior arrangement of Palestinian security services escort. In plain language, Jews were told to equip themselves with a Palestinian policeman, without being told how should one exactly go about this.

As in other instances, the lack of prior notice, the initial vagueness of the order and of clear regulations produced utter confusion at the Erez checkpoint. Hundreds of Israeli residents have arrived at the checkpoint and waited for hours, only to be denied entry. Procedures for entry applications have since then been standardized and the Liaison and Communications unit of the IDF has been charged with the processing of applications, yet HaMoked has been registering many cases of denial of entry through the all-too-familiar security risk clause. A case in point is that of a Jerusalem resident, lecturer at the Islamic University of Gaza, who was denied entry on security grounds, because of his alleged affinity with Hamas. The Islamic university had appealed to the Liaison committee, stressing the vital need for his presence at the university: in several compulsory courses of the curriculum, he is the only lecturer available. The PNA had recommended the granting of permit, all to no avail. HaMoked had initiated legal proceedings in this case and is still awaiting results.

Prospects for the Future

The transfer of authority from Israel to the Palestinian National Authority throughout the West Bank and Gaza is likely to improve the human rights situation in some areas, where Israel was the source of violation. HaMoked expects less incidents of direct violence by Israeli forces, as the withdrawal of Israeli security force personnel from Palestinian cities unfolds, while settler violence and legal accountability remains an open question. The complicated and overlapping jurisdiction for a variety of governance functions, however, is likely to exacerbate the bureaucratic harassment faced by Palestinians in a number of areas. During the interim period, until final status negotiations are completed, the legal and practical situation in

the territories will become more complex. Overlapping areas of jurisdiction, joint responsibility by two national authorities and complicated procedures for coordination and dispute resolution will likely cause bureaucratic delays, confusion and chaotic administration procedures.

Consequently, while Israel remains in control of a variety of spheres crucial to daily life in the territories, it will be more difficult to hold Israel accountable for its decisions in these areas. Under such circumstances organizations like HaMoked, which can challenge Israeli decisions regarding individual cases and demand that Israel fulfill its obligations, are increasingly important.

HR Workshop

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sinister, undeclared policy. Furthermore, it is the task of NGOs to inform the general public of its rights and to pressure the authorities to publish their own laws, regulations and procedures. A broad division of responsibilities between Palestinian and Israeli organizations was agreed upon. While extensive cooperation between human rights organizations shall continue, Palestinian organizations shall address the Palestinian National Authority; Israeli organizations shall advocate vis-a-vis the Israelis.

Mapping the parameters of change was thus the main objective of the workshop. The most urgent task of human rights organizations in the context of this change is to clarify as precisely as possible spheres of authority, responsibility and accountability of the two administering authorities and to pinpoint specific addresses for the redress of human rights violations. Within the frameworks of cooperation between

Palestinian and Israeli human rights organizations, a broad and intensive free-flowing exchange of information is crucial for the formulation of effective strategies of monitoring, advocacy and documentation.

While implications of change were thoroughly discussed, all of the participants have agreed on one fundamental constant, which has not changed at all. The agreements have left Israel in effective control of most aspects of Palestinian daily life. By retaining direct authority over freedom of movement, through exit and entry permits, residency and family reunification permits, Israel also controls basic issues of economy, health, freedom of education, family life and culture in general. Extensive powers of the Israeli security services and perpetual closures only underscore and exacerbate this situation. The fundamentals of the human rights situation in this area, together with the bulk of human rights violations remain the same, unaffected by the agreements.

Residency and Family Reunification / West Bank

Residency and family reunification has been one category in which HaMoked and the Family Reunification Coalition, comprised of Israeli and Palestinian human rights organizations, have achieved marked successes in the past, enabling more Palestinian families to enjoy the basic right of living together.

As in other categories, however, violations of past agreements with the authorities, reached in the context of the High Court, continue, while the Oslo II agreement brought only a minor improvement in a rather dismal overall situation, coupled with chaos and uncertainty as to validity of past regulations and vagueness of new procedures.

The basics of the dismal situation alluded to above remain unchanged: an annual quota of 2,000 family reunification requests to be processed by the authorities for the whole of the West Bank, Jericho and Gaza is still in place.

A regulation on residency and registration, published in January 1995, improving the conditions of eligibility, were not adhered to by the Civil Administration, as reflected in the tens of complaints registered by HaMoked. Such administrative apathy was in sharp contrast to the initiative launched by the Civil Administration office of the Bethlehem region in November 1994, for example, unleashing a campaign of I.D. card confiscations, as a means to pressure visiting family members into exiting the West Bank. One such case registered by HaMoked in January of 1995 was that of a West Bank resident, whose wife and two of his five children live in the West Bank as visitors, unprotected by past agreements. HaMoked has managed to reduce the NIS 5000 fine, charged to sponsors of visitors who do not exit the West Bank within the time specified in the permit, to NIS 3,500, while payment of the fine is conditional upon the outcome of various pending appeals.

Harassment by the authorities other than and including I.D. confiscation is still rampant. The case of a Bethlehem area resident is a case in point. Her husband, born in Bethlehem (unregistered in 1967, since he was abroad at the time) is a Jordanian resident. Four of their children are registered in the West Bank, while one is a Jordanian resident. When in 1993, the father and son initially applied for a visitor permit, they were refused. The permit was finally issued on 21.8.93, ten days prior to the cut-off date of the last High Court agreement, allowing for their registration. Since, however, they had actually entered the West Bank a week following the cut-off date, the authorities have refused their registration. Threats of deportation, including I.D. confiscation and repeated summons to the Civil Administration office ensued. Following intense correspondence with the State Attorney's office, HaMoked had obtained a letter, averting the threat of deportation. This has in no way, however, stopped the harassment by the Civil

Administration. The central matter of the actual registration has in the meantime been further obscured by the Oslo II agreement.

Two articles of the agreement impact on residency and family reunification issues in the West Bank: Annex II, Article II, Right to Vote and the Electoral Register (pp. 110-113) and Annex III, Article 28, Population Registry and Documentation (pp.159-162).

On the 16.11.95, the authority to register persons in the population register was transferred to the PNA. For the purposes of an electoral register, the authority is registering persons, with a cut-off date prior to the elections. Article II, g., stipulates that persons who were 40 years old on January 1, 1996 and resided in the West Bank at least 3 years prior to the signing of the agreement, or less than 40 and resided in the West Bank at least 4 years prior the the signing, have the right to be registered. The electoral register thus presents a unique opportunity, albeit within a very limited time span, to register hereto unregistered persons. HaMoked is reviewing all of its files, in order to notify all persons eligible under Article II. HaMoked has published notices in the refugee camps of the West Bank and Gaza, advertised in North West Bank TV and utilizes its joint outreach program in order to take as full an advantage of this opportunity as possible.

As far as residency through family reunification is concerned, the Oslo II agreement presents a minor improvement with none of the basics changed. The Palestinian National Authority may register children under 16 years of age (the military order of January 95 stipulated the age at 18). Only one parent need be a resident and he does not have to prove permanent domicile. However, Israel retains the right of final approval and the quota system remains in place. Paragraph 3 of Article 28 refers the reissuance of lost I.D. cards to a Joint Committee to be formed.

Visitors from countries with no diplomatic relations with Israel must apply for permit cleared by Israel, which the Palestinian National Authority may extend for a period of 4 months. For visitors from countries with diplomatic relations with Israel there is no fundamental change and the current Israeli policy remains in place. A number of basic questions surrounding Oslo II still remains unresolved: its relation to prior High Court agreements and past policy and regulations is unclear. HaMoked continues to address these questions within the framework of the coalition on family reunification. HaMoked's current operative policy on family reunification is to treat prior High Court agreements and Israeli regulations as valid.

HaMoked and B'Tselem are at this time preparing an extensive report on West Bank family reunification, which is to include an account of its history, recent developments, statistics and other relevant data.

Tracing of Detainees

In 1995, the tracing of detainees, a category, which was prominent during the first years of HaMoked's activities, is again coming to the fore; HaMoked is expanding more and

more of its energies in order to trace residents of the territories, held in detention in the West Bank, Gaza and Israel.

The withholding of information on the whereabouts and

condition of a detainee from his family creates total isolation of the detainee from the outside world and causes mental anguish during the most critical period of his arrest. It also effectively denies the basic right to legal representation, at precisely the time of arrest when legal representation is most crucial.

The military authorities are obliged by law to immediately notify the families of detainees of arrest. Such notification can be done either by telephone or postcard. The authorities are obliged as well to keep updated lists of all detainees and of transfers of detainees from one place of detention to another in the civil administration offices.

The authorities do not fulfill their obligation. Families are rarely notified by telephone and when they are, it is mostly in cases of medical emergency (as in the Harizat case), while postcards are not sent. Lists of detainees, to which families gain access with great difficulty only and after prolonged wait, are incomplete and not updated.

Beyond the fact that this situation represents an additional means of pressure on the detainee and his family, it enables the interrogators to extend the time under which the detainee is liable to be submitted to "moderate physical pressure", in accordance with the latest permit, while there is no legal representative to turn to the courts to stop the torture.

This is the context in which HaMoked finds itself inundated with tracing requests. While in 1993 HaMoked had registered 440 tracing requests, in 1994 the number rose to 996 and reached 1978 by November 31st, 1995.

This rise in numbers, absorbing more of HaMoked's

resources than ever, can partially be explained by the fact that HaMoked has become the one organization, authorized exclusively to turn to the IDF central data bank and thus becoming the sole channel for other organizations and attorneys. This is expedient to the clerks of the IDF data bank, who have to deal with one organization only, while HaMoked's resources are drained by work, which the authorities are obliged by law to carry out themselves.

Moreover, agreements reached with commanders of the data center during numerous meetings and through court decisions are being constantly broken, causing additional delays in the tracing of detainees. Often, HaMoked receives answers only after it has turned to the High Court.

This situation has been exacerbated by the implementation of Oslo II and IDF redeployment in the territories. New arrests, of alleged Hamas members mostly, and transfers of detainees from closed facilities and to GSS centers in Israel are carried out against the background of chaotic administration procedures.

In response, HaMoked, and the Association for Civil Rights in Israel have filed a joint High Court petition on the 30.10.95. Although the petition was filed on behalf of a juvenile resident of Hebron, arrested a few days prior to the petition, it is a representative one, presenting a comprehensive overview of the unacceptable situation on the whole. At the time of writing, the petition has not been heard in the court, the boy from Hebron, however, was traced within 3 hours, following an appeal brought to military headquarters.

Military Accountability

The withdrawal of IDF forces from Palestinian population centers is one concrete, undisputedly positive outcome of the Interim Agreements. With the implementation of each new withdrawal, HaMoked anticipates the general level of violence to subside.

From HaMoked's perspective, military accountability, in the sense of due investigative and judicial process by the authorities and justice for the victims, always constituted one of the more problematic areas of its advocacy. Court-martials resulting in criminal convictions were practically non-existent, while the settlers eluded due judicial process altogether.

In December 1994, HaMoked began to prepare a report on military accountability, based on all of its files, which deal with IDF violence. In conjunction with this research, HaMoked began to review all of the files with the intent to sue for damages in individual and civil action suits. Based on its experience of the reticence of military investigative units to conduct thorough investigations and the lack of convictions in military courts, HaMoked's reassessment of its legal strategy has a two-fold intent: the awarding of damages represents an acknowledgement of responsibility by the military authorities and, albeit only a token one, yet nevertheless, some redress for the victims. The cost of civil action suits, moreover, might prompt the military justice apparatus out of its lethargy. During the first half of 1995, HaMoked had filed for damages in 71

cases, dating from 1988 to 1995, suing the IDF, the Border Patrol and the police, as documented in detail by HaMoked's 1995 semi-annual report.

The military accountability report is in the final stages of editing, prior to its translation into English. One of the many blatant examples of evasion of responsibility through vagueness of open-fire orders, cited by the report, is that of the court-martial of a soldier, who had opened fire on a thirty year-old woman from the village of Hussan, near Beit Lehem. The incident took place in September 1989 and resulted in injuries, leading to total paralysis of the woman's lower body. The Hussan resident and her husband were driving out of the village, when they were ordered by soldiers to dismantle a stone barricade blocking the road and act as a shield between the soldiers and stone throwers. Fearing for their safety, the couple began to drive back towards the village at a slow pace. One of the soldiers then kneeled and opened fire from a distance of 15 meters. The woman was hit in the spine, the right kidney, the intestines and the right lung. The military court verdict read: "The accused is, at least to a certain extent, the victim of the obscurity surrounding the binding orders of the army." The soldier who had opened fire, critically wounding the young woman, was sentenced to three months suspended, appealed on the grounds of carrying out orders and was acquitted.

In Brief

- HaMoked was involved in the well-publicised case of the death of Mr. Harizat during a GSS investigation. At HaMoked, the case began as a routine tracing request. HaMoked traced Mr. Harizat in Hadassah hospital, where he was hospitalized due to injuries sustained during investigation. Following Mr. Harizat's death, HaMoked had collaborated with Physicians for Human Rights in bringing Dr. Pounder, the Harizat family's pathologist to Israel. Dr. Pounder's visit was financed by Physicians for Human Rights, while HaMoked had provided Dr. Pounder with logistical support during his stay. HaMoked is currently active in a broad coalition against torture, which follows legislative developments in wake of the case.

- HaMoked continues to register cases of arbitrary harassment, such as cases of confiscation of I.D. cards at IDF checkpoints. A HaMoked client, confined to a wheelchair, had both his I.D. card and a valid entry permit confiscated. Eventhough he had paid the fine with which he was charged, he was bounced back and forth from one office to another, while his documents were

not returned. Palestinians without I.D. cards on their person are liable for arrest by the military.

- Another aspect of administrative harassment of residents of the West Bank through the use of I.D. cards is that of a HaMoked client, a released prisoner. Although he has served his term and is thus eligible for the regular orange-coloured I.D. of the territories, he continues to carry a green-coloured I.D. card, with severe freedom of movement restrictions. As a green-coloured card carrier, he was barred from entering Jordan at the bridge crossing in September 1994. Carriers of green cards are also barred from entering Israel.

- The implementation of the Cairo agreement has adversely affected yet another group of Gaza residents: families of prisoners imprisoned in Israeli jails. Family visits of detainees, sponsored, by the International Red Cross have been suspended, since Israeli military authorities insist on IDF vehicles escort, refused by the Red Cross.

Organizational News

FOUNDATIONS SUPPORTING HAMOKED IN 1994 AND 1995

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(Sweden)

ICCO (The Netherlands)

Brot fur die Welt (Germany)

European Commission

Netherlands Development Cooperation Programme (The

Netherlands)

The Ford Foundation (USA)

New Israel Fund (Israel)

European Human Rights Foundation (Belgium)

British Consulate, Jerusalem

Swiss Development Corporation (Switzerland)

General Consulate of France, Jerusalem

Canadian Dialogue Fund (Canada)

Royal Norwegian Embassy, Tel Aviv

Australian Embassy, Tel Aviv

Reformed Churches in the Netherlands (The Netherlands)

Agir Ensemble pour les Droits de L'Homme (France)

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