HAMOKED Center for the Defence of the Individual
هموكيد - مركز الدفاع عن الفرد

HaMoked's 1999 Annual Narrative Report

Table of Contents

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General Statistics Concerning Activities in 1999

During the period 1 January 1999 – 20 December 1999, HaMoked received a total of 1,047 requests for assistance, with 585 requests having been received during the first half of the year. During 1998 a total of 1,247 requests were received.

During the year, HaMoked advocated in 1,885 complaints – this figure includes both the new cases received during the twelve-month period and other earlier cases whose treatment continued into 1999. Of the 1,885 complaints:

- 263 complaints dealt with the issue of freedom of movement. Of these, 44 complaints received transit permits as requested, 10 individuals received permits for limited periods, while 38 persons were denied permission to travel. HaMoked continues to assist the complainants who are still awaiting a response and those whose requests were refused.

- 243 complaints dealt with residency – of those 139 were of Jerusalem residents. Success was achieved in 53 cases (whether for the registration of children, permit for family reunification or for the cancellation of an earlier revocation of residency). 104 complaints were received from residents of the West Bank and Gaza Strip. In this category success was achieved for 35 families while a further 7 family unification requests were rejected because of security reasons.

- 20 complaints dealt with persons who had been deported from the territories (the majority from East Jerusalem) in the past and who wished to return to live there. The permission for 5 of these individuals to return was granted during 1999.

- 194 complaints dealt with cases of violence perpetrated by the Israeli security forces or settlers against Palestinians. During the year the authorities decided to bring to trial soldiers and police officers that were involved in two of the cases handled by HaMoked. During 1999, 15 civil compensation suits were filed in cases of injuries or damages caused by Israeli Defence Force soldiers, policemen or settlers. In addition, HaMoked continued to advocate in suits that were filed in previous years, of which 22 resulted in compensation for the Palestinian complainants.

- 18 persons were assisted in the framework of HaMoked's Detainee Rights Project, consisting primarily of administrative detainees as well as detainees who underwent torture and who were later prevented by the authorities from meeting with their attorneys.

- HaMoked continued to advocate in the case of 5 disappeared Palestinians – some whose fate are unknown and others who were apparently killed but whose burial places (in IDF controlled cemeteries for enemy dead) remain unknown.

- 57 complaints were submitted by Jerusalem residents who wished to visit family members detained in Israeli prisons – 46 requests received permission, 6 were denied and a further 5 are still awaiting a response.

Table of Complaints Received by HaMoked During 1999

Subject of Complaint	No. of Cases	Percent of 1999 Cases	Percent of 1998 Cases
Residency	92	8.8	4.8
Detention Conditions, Torture	7	0.7	2.3
Tracing of Detainees*	661	63.0	58.0
Missing Persons	-	-	0.1
Family visits in Prison	8	0.8	0.7
Violence, Property Damage	36	3.5	3.3
Exit Permits	112	10.6	7.5
Entry from Jordan to West Bank	10	1.0	0.3
Entry from Israel to Gaza	18	1.7	0.9
Entry from Territories to Israel	94	9.0	7.9
ID Card Confiscations	1	0.1	0.6
Guarantees	1	0.1	0.1
Others	7	0.7	13.5
Total	**1047**	**100.0%**	**100.0%**

* **Tracing of Detainees** – HaMoked during 1999 received 831 requests to locate detained persons – of this total the personal data of 661 of the individuals did not previously exist in HaMoked's database. In the remaining 170 requests the personal data already existed when HaMoked was requested to locate them an additional time, due to a further detention or transfer to another prison.

Table of Requests According to Region During 1999

Region	No. of Requests	Percent of Total
Nablus	67	6.4
Tulkarem	98	9.4
Ramallah	144	13.8
Jerusalem	107	10.2
Bethlehem	145	13.8
Hebron	316	30.2
Jenin	85	8.1
Jericho	9	0.8
Other	15	1.4
Gaza Strip*	61	5.9
Total	**1047**	**100.0%**

The breakdown of the complaints from the Gaza Strip is as follows:

- Entrance into the Gaza Strip -3
- Permits to exit abroad - 6
- Family unification - 3
- Prison visits - 4
- Guarantees – 1
- Tracing - 43
- Other - 1
- **Total – 61**

Table of Requests According to Month and Subject During 1999

Month	Property	Violence	Tracing	Administr.	Other	Total
1/99	1	-	76	19	6	102
2/99	-	1	66	38	7	112
3/99	-	4	58	24	2	88
4/99	-	-	51	24	-	75
5/99	-	4	57	31	3	95
6/99	2	4	68	35	4	113
7/99	2	4	54	19	6	85
8/99	-	7	52	24	2	85
9/99	-	2	53	18	3	76
10/99	1	2	44	35	2	84
11/99	-	2	54	29	1	86
12/99	-	-	28	16	2	46
Total	**6**	**30**	**661**	**312**	**38**	**1047**

Table of Requests for Tracing Detainees According to Regions and Years up until 20 December 1999

Region	**1990**	**1991**	**1992**	**1993**	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**Total**
Nablus	5	6	5	32	45	107	76	78	21	26	**401**
Tulkarem	9	4	1	21	42	88	87	107	37	54	**450**
Ramallah	101	54	36	76	102	109	130	145	43	99	**895**
Jerusalem	37	37	36	56	98	67	55	31	11	24	**452**
Bethlehem	56	29	25	59	218	396	158	350	60	113	**1464**
Hebron	7	8	1	63	295	556	698	367	174	229	**2388**
Jenin	2	5	1	9	9	18	44	22	12	58	**180**
Jericho	3	1	-	-	1	4	6	5	-	6	**27**
Other	2	2	1	1	1	6	14	7	3	9	**46**
Gaza Strip	2	4	3	123	181	25	64	49	26	43	**520**
Total	**224**	**150**	**109**	**440**	**992**	**1376**	**1332**	**1161**	**387**	**661***	**6832****

* The figure for 1999 includes the period from 1.1.99 up until the 20.12.99.

** This number is not absolute as a detainee who was traced in the past and for whom there was a new tracing request, is traced as a continuation of the previous complaint.

1. Detainee Rights

Torture

In the area of human rights in Israel and the Occupied Territories, the year 1999 will without doubt be remembered by the Supreme Court's judgment, finally banning the use of torture during interrogations carried out by the General Security Services (GSS). The judgment marked the culmination of a long public and legal struggle, in which HaMoked: Center for the Defence of the Individual has played a central role.

In the beginning of 1996, HaMoked initiated an intensive project, representing detainees who were being tortured during their interrogation. Dozens of petitions were submitted against the GSS, in which the Supreme Court was requested to order the cessation of all techniques that involve physical pressure. These petitions assisted individual detainees, as the State preferred to halt the use of physical pressure in individual cases, rather than submit to a principled hearing over the legality of torture before the Supreme Court.

In addition, these petitions made it impossible for the Supreme Court to ignore the issue of torture. The judges were repeatedly exposed to detailed detainee declarations, explicitly documenting the interrogation techniques of the GSS, while the State failed to deny or challenge their accuracy. The flow of petitions in individual cases also made it difficult for the Supreme Court to continue to refrain from ruling on the broad claim raised in these petitions, that the interrogation methods employed by the GSS are unconstitutional, despite the permission granted to interrogators to employ such methods under the conclusions of the Landau Commission Report. The Supreme Court rejected the State's request to dismiss a number of the pending petitions submitted by HaMoked, after the conclusion of the interrogations in the specific cases concerned, accepting the argument of HaMoked's attorneys that the Court must finally rule in principal with regard to what is permitted and prohibited during GSS interrogations.

Furthermore, the continuing litigation made it difficult for the GSS to deny the facts. The methods systematically employed in the course of interrogations had become transparent. Representatives of the GSS could no longer rely on the "ticking bomb" argument before the Court, claiming that the methods were applied only in the rare and exceptional circumstances of a bomb set to imminently explode. The State's lawyers only found themselves in trouble in attempting to justify the methods of torture, already known to the Court, as merely instrumental measures required to protect the interrogators or to prevent contact between those being interrogated.

It was against this background that the Court rendered its decision in September 1999. The group of cases on which the Court's landmark decision was based, included the petition of Wa'el Ka'kie, submitted three years earlier by HaMoked. Shortly after submitting the petition Ka'kie had been released from detention, but he continues to suffer from the psychological trauma experienced during his torture.

HaMoked was represented before the special panel of nine Supreme Court judges by Eliahu Abram, director of the organization's legal department. Attorney Abram submitted to the Court a comprehensive brief based on international legal instruments and judgments. The

central claim of the brief was that any inhuman or degrading treatment or torture of detainees is absolutely prohibited by international law without any exception. The Court accepted this argument. In the relevant passage of the Court's ruling Honorable President Barak held:

"This conclusion is in perfect accord with various International Law treaties – to which Israel is a signatory – which prohibit the use of torture, 'cruel, inhuman treatment' and 'degrading treatment'. These prohibitions are 'absolute'. There are no exceptions to them and there is no room for balancing".

In retrospect the Court's decision may appear inevitable. In reality, the decision was far from expected. The final result was the culmination of a public and international struggle, particularly waged to mobilize the opinion of the international legal community, together with highly determined and thorough legal work before the court. All this was accomplished through partnership and cooperation among the concerned Israeli human rights organizations that worked together in order to bring about this long-awaited decision.

The struggle against torture did not, however, come to a conclusion with the Supreme Court's ruling. Immediately following the Court's announcement the head of the GSS placed before the government and the public an unambiguous demand for amendments to the law, that would grant the interrogators of the GSS the authority to employ "special" interrogation techniques, without which he could not guarantee the security of Israel. This initiative that would make the State of Israel the only country in the world to permit torture through its laws, won at the initial stage the full support of the opposition, the Prime Minister and the Attorney General. In response HaMoked alerted international organizations in order to encourage them to express their objections. In January 2000, the Prime Minister was reported to have accepted the recommendation of the Justice Ministry not to introduce new legislation at this time that would permit "special" interrogation techniques. The principal justification given for the change in the Prime Minister's position was the vehement international opposition to any such legislation.

The legal situation in the country today is based on the judgment of the Supreme Court. The head of the GSS and the Attorney General have declared their commitment to fully comply with the Court's ruling. Currently there are no permits granting the GSS interrogators permission to use force during interrogations. In addition, the Attorney General will not commit himself in advance, not to bring to trial an interrogator who tortured a suspect during interrogation out of "necessity". However, if an interrogator did contravene the law by employing force during an interrogation, the Attorney General will examine his actions, after the fact, in order to determine whether or not the interrogator acted in circumstances of imminent "necessity", as this defence is defined in the Penal Code. If the GSS interrogator, in the opinion of the Attorney General, did act out of "necessity", he will not face criminal charges.

This legal position, in the opinion of HaMoked, does not yet reflect the total ban against torture under all circumstances required by international law. Despite the Supreme Court's judgment, there remains a loophole wide enough for the exercise of torture during GSS interrogations. As a result HaMoked's attorneys, Tamar Pelleg Sryck and Eliahu Abram, turned to the Ministry of Justice, in a detailed memorandum concerning the Ministry's legislative proposal to incorporate a ban on torture in the Penal Code. HaMoked's attorneys demanded that the proposed law rule out reliance on "necessity" as a defence against the

crime of torture. The Association for Civil Rights in Israel subsequently informed the Ministry of Justice that it fully supports HaMoked's position.

Administrative Detainees

The year 1999 witnessed an additional reduction in the number of administrative detainees held by Israel. HaMoked continues to represent the vast majority of these detainees through its attorney Tamar Pelleg Sryck. At the beginning of the year Israel held over 80 Palestinian administrative detainees; by the end of the year around 15 detainees remained in detention.

Amongst detainees released during the past year – after intensive efforts, both legal and public – was the veteran administrative detainee, Usama Barham, who was released after six years in detention. The dramatic announcement regarding his release was given in the chambers of the Supreme Court, during the hearing of the petition that been submitted for his release by HaMoked. Barham was released under a compromise settlement negotiated by Tamar Pelleg Sryck and the State, after intensive negotiations. Barham committed himself to matters concerning which he had repeatedly stated his intentions in the past - including refraining from any involvement in violent activities. In addition he had to deposit a guarantee and to accept various restrictions on his movements. On the 18th of July1999 the longest-serving administrative detainee was free to go home.

A mid-1999 amendment to the Military Order regulation altered the legal procedures relating to administrative detentions. These changes established mandatory judicial review and periodical reevaluations of the administrative detention orders, and granted the right of appeal to detainees over decisions before the Military Appeals Court. As a result, the case of any administrative detainee who had received a six-month detention order could be brought before a judge at least four times. On the other hand, the opportunity to petition the Supreme Court in such cases has been almost blocked, since the exhaustion of all the above-mentioned military review and appeal procedures, does not leave sufficient time to submit a petition.

A further petition submitted by HaMoked during 1999, was on behalf of the detainee Chalid Jaradat, detained since the beginning of 1997. The petition was however rejected.

During the first half of 1999 HaMoked submitted 77 appeals against administrative detention orders. In 19 cases the period of detention was reduced in agreement with the GSS, a further 18 orders were reduced by the various judges (approximately half of which were not significant reductions) and one order was cancelled because of procedural errors. In the second half of the year, HaMoked represented 39 detainees in their hearings involving judicial reviews or periodical reevaluations (according to the amendments to the administrative detainee order). These procedures led to the immediate release of one detainee, the reduction of 10 orders by at least a month or more, and the further reduction of four detention orders by between two and four weeks. In 20 cases the right to appeal was exercised as stipulated in the amended order. The appeals led to the cancellation of one order, the reduction of a second order by three and a half months and the reduction of a third order (in agreement with the prosecutor) by three weeks.

In the case of the detainee, Aiman Deragme the Military Appeals Court (in two separate decisions) declared that the detention order cannot be extended without the introduction of new significant material. Deragme, had been held in detention without trial since December

1994. Despite these decisions the Israeli Defence Forces (IDF), issued in December 1999 a new detention order against him, for an additional six months. During January 2000, in the framework of the judicial reviews of detention orders, HaMoked argued that this order was issued without any authority, in light of the decisions by the Military Appeals Court. The judge, while not accepting this argument, declared that there did not exist sufficient material to warrant the detention of Deragme and ordered his release: The Judge held that even the most incriminating material cannot justify administrative detention unlimited in time, unless new material is received. After 48 hours of uncertainty and tension, during which time the State weighed the option of appealing the judge's decision, Deragme was finally freed to go home under a restricting order confining his movement to areas demarcated A only, in reality (owing to the dispersion of areas under the full control of the Palestinian Authority) confining him to his town Tubas.

In addition to its representation of administrative detainees in judicial hearings against their detention orders, HaMoked also assists detainees who are sick or require psychiatric treatment and in acquiring permits for family visits.

The Al-Khiam Prisoners

During 1999, HaMoked submitted, in partnership with the Association for Civil Rights, two petitions on behalf of Lebanese civilians who were being held in the Al-Khiam prison in southern Lebanon. In total, HaMoked petitioned on behalf of nine prisoners. Two of those prisoners, Mustafah Towbeh and his son Ali, were released from the prison after the submission of the petition on their behalf. The father and son from the village Arnon in Lebanon were arrested in the autumn of 1997. According to reports the father while in the prison was tortured with the use of electricity, beatings and whippings. In the months prior to the submission of the petition, the father was treated in a hospital in Marj'ayun, after losing consciousness while suffering from high blood pressure and an accelerated heart beat. His son, Ali was later arrested, apparently as a means to pressure the father to collaborate with Israel. He was 14 years of age at the time of the arrest, and was later also tortured by means of electrical shocks while sitting on a chair and in a tub of water. Ali's health deteriorated because of the detention conditions and after being held for two years, without any trial, was released at the age of 16.

The remaining seven prisoners that HaMoked petitioned on their behalf to the Supreme Court remain in captivity in the Al-Khiam prison. At least one of them was only 16 years of age at the time of his arrest and has been held in the prison for close to two years. Two of the petitioners have been held in the Al-Khiam prison, without trial, for over 14 years and are both suffering from serious illnesses. One of them, Sliman Ramadan from the town Ba'el Beck, was arrested by a combined IDF and South Lebanese Army (SLA) force in September 1985. Sliman was injured during his arrest, and was later tortured in the Al-Khiam prison with the use of electricity, whippings and hanging from a pole. A necrosis on his left leg resulted in its amputation in a hospital in Israel. After the amputation Sliman was returned to the Al-Khiam prison, where he was held for three years in solitary confinement in a "darkened room", without any lighting or natural sunlight. Prisoners that were released from Al-Khiam have reported that there is a danger that the remaining section of his leg may need to be amputated because of inadequate medical treatment. Ramadan also suffers from additional serious medical conditions.

The petitions to the Supreme Court were based on information and evidence received from numerous sources regarding the effective control of the Sate of Israel over Southern Lebanon and its authority over the SLA. Amongst other things the petitioners have presented decisions and communiqués of the Israeli government and from Israeli officials, reports and findings of international bodies, declarations taken from released prisoners, media reports and academic studies. The petitioners have also presented exit licenses from the "security zone", which are given to Lebanese civilians by Israel. The response from the State to the petitions provided additional facts verifying Israel's presence in the region – Israel grants civil assistance, totaling millions of dollars, each year to residents living in the "security zone" and annually provides the SLA with tens of millions of dollars. The IDF also assists the SLA with weapons, maintenance and the training of its soldiers. The IDF also has 12 army posts and three bases and paves pass-roads throughout the area. The SLA, in line with Israeli requests, suspended the Red Cross and family visits to the El-Khiam prison for specific periods of time in order to apply pressure for the return of the body of the Israeli soldier Itamar Eliah. The SLA, also in line with Israeli requests, released prisoners from Al-Khiam as part of the agreement for the return of Eliahs' body. Members of the GSS meet together with SLA interrogators at the Al-Khiam prison and assist them by providing professional guidelines and counseling. Prisoners from Al-Khiam are given polygraph tests by Israel, while Israel also financed various renovations to the prison and until recently, the salaries of the jailers and interrogators were paid directly by an IDF officer. In light of the petitions this procedure has been altered. Starting from October 1999, the IDF is meant to transfer the salary payments as a single lump sum to the SLA's budget officer, who will "apparently" (according to the State's comments) pay the jailers' and the interrogator's salaries.

While these petitions remain pending, HaMoked continues with the initial handling and analysis of the cases of additional Al-Khiam prisoners. The treatment of all these cases has been facilitated through the cooperation with attorneys in France who receive power of attorney from the families of the prisoners. The legal battle for the release of these prisoners is also administered together with a public campaign both in Israel and abroad.

Prison Visits

Fatmeh Takatka, a 59-year-old woman, has not been able to see her son who has been held in jail for the last three years. Her husband Mossah, aged 67, has seen their son only three times during this period, and not at all since February 1999. Their son is serving a life sentence in the Ber Sheva prison. The parents are residents of Beit Fg'ar which is situated in the western part of the West Bank. Since the transfer of security prisoners – following the redeployment of the IDF in the Occupied Territories – to prisons within Israel, all prison visits have become dependent on the IDF's granting of permission to enter Israel. The visitors are not allowed to move freely around in Israel: rather they arrive at the prison and leave it on transports organized by the Red Cross, which are escorted by the IDF. It appears, however, that all this is not sufficient, in order to prevent any serious security risk that two elderly parents may pose to the State, and instead they are prevented from visiting their son. Fact: HaMoked's requests to allow for their entry into Israel were rejected, because of security considerations. When HaMoked turned to the State Prosecutor's Office, a reply was received stating that, "the parents of the prisoner can visit their son in prison, within the framework of the Red Cross. All future visits will require additional requests for permission to be granted and will be dependent on renewed security evaluations" (unlike the usual issuing of permits valid for repeated visits over an extended period). Since

receiving this response in July 1999, no arrangements have however been made for the parents to visit their son.

The right to family prison visits is a basic human right, both for the prisoner and for his/her family members and friends and is even stipulated in the Prison Services Ordinance dating back to the British Mandate period. The cessation of relations between a prisoner and his immediate family for such extended periods makes a life sentence cruel and inhuman and is far more detrimental to the prisoner and his family than the actual sentence itself. Nevertheless, the action of refusing prison visits is one that constantly repeats itself – sometimes because the visitor was once a prisoner them self or because they have a "security background", while, the right to visit friends or relations who are not immediate family members is totally disallowed.

The advocacy work of HaMoked usually results in the granting of a single one-time permit for a "family that is prevented" to visit their son in jail. The advocacy involved in the granting of any further permits has to be renewed each time so that additional visits can be arranged.

Detention and Release

The IDF and the GSS systematically fail to fulfill their obligation under law to promptly inform families of detainees concerning their arrest and place of detention. HaMoked on a daily basis receives urgent requests to locate missing family members. HaMoked during 1999 traced over 670 detainees held by the Israeli Security Services, the vast majority within 24 hours of receiving the complaint. Within the framework of the Detainee Rights Project, HaMoked also deals with additional issues relating to detainees. For example, the reimbursement of large guarantees which detainees are required to pay as a condition for their release and, in a separate case, the cancellation of restrictive release conditions. HaMoked also advocated on behalf of Yassar Almoazien, a Syrian prisoner held by Israel, with severe kidney problems. The initial legal actions for his release failed: the Parole Board of the Prison Services refused to release him and the Regional Court rejected the appeal. HaMoked received permission to lodge a further appeal to the Supreme Court, however the appeal soon became inconsequential: international efforts for his release, especially by a group of French intellectuals, proved to be productive. Within the framework of the prisoner release agreements under the Oslo Accords, Yassar Almoazien was released and later arrived in Damascus.

2. Violence committed against Palestinians by the Security Forces and the suing for compensation.

Even today Palestinians in the Occupied Territories are not guaranteed the basic rights of human dignity and bodily integrity. The withdrawal of the IDF forces from the central areas of the major Palestinian cities – under the Oslo Agreements – has reduced both the friction between the IDF and the Palestinian population and the number of incidences of reported violence. However, the phenomenon of disrespect of the law by soldiers, policemen and settlers has not changed, and incidents of shootings, beatings and abuse continue in areas where Israel retains a presence, as well as at permanent and temporary roadblocks that are erected by Israel throughout the West Bank and at the various entry points into Jerusalem.

Part of the responsibility for the continuation of this violence falls on the shoulders of the investigating and prosecutorial authorities: particularly the Investigating Branch of the Military Police and the prosecutor of the Central Command of the IDF. Rather than comprehensively investigating incidents of violence, the system of enforcement tends to ignore complaints, to manipulate the facts or to conduct superficial and artificial investigations that fail to produce any real results. These most central services that are meant to protect an individual's rights and personal safety are consequently not available to Palestinians. The military and police authorities that are supposed to actively protect these rights when they are being threatened, are themselves guilty of their violation. With regards to violence committed by settlers – the authorities stand back. The authorities charged with enforcing the law through investigations, instead cover-up transgressors of the law. It is because of this situation that HaMoked since 1994, has acted and advocated for the enforcement of the rights of Palestinians and for accountability for these violations through civil compensation suits.

The compensation suits act to serve a number of goals. The submitting of suits obligates the system to make itself accountable. Authorities that did not set proper guidelines, and failed to enforce, investigate or bring to trial guilty parties are forced to explain their actions and failures in a court of law. For the victim of the violence there exists the element of empowerment: awarding victims the opportunity to realize their rights, and to force the interrogation of the soldiers who abused and attacked on the witness stand. The award of monetary compensation serves to acknowledge the fact that rights were violated. The payment of the compensation is also essential to people who remain handicapped or for bereaved families who are left without a wage earner. Given the present economic condition in the Occupied Territories, these funds are more essential than ever. Finally, it is also possible to hope, that these suits may act as deterrents against similar actions in the future.

The diversity of the suits submitted by HaMoked during 1999, testifies to the wide range of violations experienced by the Palestinians under occupation. The following are a few examples of the petitions submitted.

In the month of February, HaMoked submitted a suit on behalf of a child who is a resident of Beit Lekiah in the Ramallah district. When the child was 8 years old, he accompanied his parents who worked on their agricultural land. The land, despite the fact that it was private agricultural land, served as part of a training area for the IDF. The child lifted an object,

that had apparently been abandoned by IDF soldiers and the object exploded. The child was burnt on his legs and arms, and a fragment of the object penetrated and entered his stomach, the removal of which required an operation.

In March, HaMoked submitted a suit on behalf of a family from the Azirih Al Kab'lia village in the Nablus district. The family had fallen victim to violent demonstrations and disturbances of settlers from the Yitzhar settlement. The family had been on their way from their village to Nablus, when three cars with Israeli number plates blocked their path. Seven settlers exited from the vehicles while shouting, cursing and shooting into the air. They threw stones at the Palestinian cars, totally destroying them. One of the stones hit the left hand of the father, fracturing the hand. The parents together with their two-month-old baby managed to escape from the besieged car, however two infants (two girls aged two and three) remained caught alone in the vehicle. The father hurried back to try and rescue them and found them both terrified, with their hair and clothes covered with broken glass. That same day the family lodged a complaint with the police and later army and police forces arrived at the location of the attack. Despite the facts that it was known that the settlers had left the scene in the direction of the Yitzhar settlement and that one of the injured Palestinians had taken the license number of one of the vehicles involved, the police failed to take any action in order to investigate the incident. HaMoked requested to photocopy the material in the case and received a response that "there is nothing in the case-file to photocopy". HaMoked is claiming in the suit that the reluctance and failure of the police to investigate the incident constitutes in itself a violation of the family's rights, for which they are entitled to compensation. In addition, the lack of action by the police effectively annulled the family's chances to receive compensation for their damages from the settlers.

In the month of June HaMoked submitted a suit on behalf of Dr. Aiyamar Chayot, a dentist from Nablus. In December 1996, Dr. Chayot left Nablus, with a permit issued by the IDF for Tel Aviv in order to collect sophisticated medical equipment for his practice. He wanted to return to his home by bus, from the central bus station in Tel Aviv via Ariel, from where he would proceed to Nablus. However, when it became apparent to the bus driver of the "Dan" Cooperative Transportation Company in Tel Aviv that the passenger is Palestinian, Dr Chayot was ordered to exit the bus. In response to HaMoked's complaint over the bus driver's behavior, the Cooperative justified the actions of the driver, citing a military order issued by the IDF commander in the West Bank, which states "persons who are not Israeli may not travel on Israeli public buses". Following correspondence between HaMoked and the Legal Advisor to the IDF in the West Bank, HaMoked was informed by that office that the military order is no longer valid. However the IDF refused to publish written notification of the cancellation of the order. In this case, HaMoked is suing for the compensation resulting from the humiliation suffered by Dr. Chayott and is requesting that the court issue an injunction instructing the Cooperative "Dan" to allow the entire public use of its services.

In the month of August, HaMoked submitted a suit on behalf of a one year and five month old baby from Beit Olah in the Hebron district, who died because of delays at an IDF roadblock. In 1996 the baby was diagnosed as having leukemia and underwent chemotherapy treatment at the Hadassah Hospital in Jerusalem. At the time of the baby's release, the parents were instructed that he must be returned to the hospital should the infant's temperature begin to rise. Two days later the infant's temperature began to rise. This period was during the peak of the disturbances following the opening of the Old City tunnels in Jerusalem. The parents failed to obtain an ambulance to transfer the baby to the

hospital, but rather found a car with Israeli license plates. When they arrived at the IDF roadblock, the soldiers refused to let them pass, despite the explanations regarding the critical medical condition of the baby. Only an hour later did they open the way for the driver of the car, the mother and the baby. The father was forced to remain behind. Before reaching the hospital the baby stopped breathing. At the hospital efforts were made to revive the infant – but to no avail.

In the same month, HaMoked submitted a suit on behalf of a teacher who is a resident of Ein Yabrud in the Ramallah district. The suit deals with the serious beatings he suffered at the time of his arrest and transfer to administrative detention. The beatings, amongst other things, resulted in damage to his cornea and injury to his eye. Following the submission of a complaint to the Prosecutor of the Central Command of the IDF, HaMoked was informed that the degree of force that the soldiers used against the detainee was, for the most part, reasonable." However, certain irregularities were found, which as a result, the Prosecutor ordered that the officer in charge of the force be brought to a disciplinary hearing. The irregularity dealt with the instruction by the officer to nine of his soldiers to beat the detainee at the time of his arrest, while he was handcuffed, eyes covered and lying on the ground". The officer appeared in a disciplinary hearing and was fined 100 NIS (around $ 25.00).

During the month of November, HaMoked submitted a suit on behalf of a female resident of the refugee camp Kaldinia, who was shot by IDF soldiers while trying to intervene on behalf of three family members who were being beaten. One of the bullets remains permanently lodged in her neck, causing swelling to her neck and face. Initially the women suffered from severe hoarseness as a result from damage to her vocal cords. Fragments of a second bullet, which penetrated her leg, caused her serious walking difficulties, and today she still suffers from pains in her leg during changes in the weather.

During December, HaMoked submitted a suit on behalf of a female resident from the Chader village, who was beaten by police near the Nablus gate in Jerusalem. The incident occurred while police were removing peddlers from the Nablus Gate area: these actions by inspectors of the Jerusalem municipality together with police intervention resulted in numerous complaints being lodged with HaMoked. The inspectors violently dispersed the peddlers while trampling on and confiscating their merchandise. During the incident the inspectors confiscated the vegetables that the woman had brought to sell and loaded them onto their vehicle. The woman ran after the inspectors and begged for the return of her goods. The police who accompanied the inspectors intervened, brutally pushing her while one of them beat her hand with a baton, breaking the bone.

During the course of the year many compromise agreements were reached in suits that were previously submitted. In this manner, for example, the parents, wife and seven children of a resident from the village Jaba'la, who was shot and killed in 1994 by Border Control Policemen, received 400,000 NIS and the family of a child who was shot and killed in a refugee camp next to Nablus in 1995 received 80,000 NIS. The family of another victim who was killed received 50,000 NIS. A girl who was injured by a "shock grenade" in 1991 was compensated with 30,000 NIS. Two people who were beaten in 1990 by policemen of the Border Control Unit underneath the police station in Newe Yaakov were compensated together with a payment of close to 20,000 NIS. Another complainant received 10,000 NIS compensation resulting from beatings suffered during his arrest and interrogation in 1991.

An additional achievement of HaMoked during the year was of the establishment of the right of a complainant to have access to all the investigation reports and material that the police had opened following their complaint. In May 1999, the Police issued a directive clarifying the right of a complainant to have access to police files, while emphasizing that for this purpose there is no differentiation between the testimonies of witnesses and all other investigation material – including memorandums and police activity reports. The directive was announced following a HaMoked petition to the Supreme Court, requesting to review the report of a police photo identification line-up, in which a complainant identified a female settler who participated in the beating of her children in Hebron in 1995. The police transferred to HaMoked at the time the testimonies of witnesses in the case, but refused to release the report of the identification examination, which was the central piece of evidence in the case. The report of the identification and additional memorandums were released to HaMoked a few months after submitting the petition to the Supreme Court in 1998, while later the above-mentioned police directive was issued preventing in the future refusals to reveal evidence like those encountered in this case.

3. Freedom of Movement

Departures Abroad

By means of control over the Jordan border crossings, and all other border exits, Israel continues (and in practice - the GSS) to control the lives of the residents of the Occupied Territories. The instructions to deny departure abroad is fed on-line to a computerized system; without advanced notification to the individual concerned. As a result any resident who arrives at a bridge-crossing may find themselves being forced to return home. Experience indicates that the use of the tool of preventing border-crossings is widespread. The resident whose exit is denied is not given any explanation for the decision. Even HaMoked receives the most laconic responses such as; “the resident’s exit abroad will endanger the security of the region” or “Hammas activist”. The information on which the decision to prevent an exit abroad is based remains classified, without any possibility of challenging the claims. Not infrequently, it has appeared that the prevention of a journey abroad was implemented either in order to pressurise an individual to collaborate with the Israeli authorities or as a punitive sanction in order to show a resident “who is the boss”.

For example S.D. from Arabe in the district of Jenin, has apparently been prevented from traveling abroad since 1993, although he was never arrested or brought to trial. In July 1999 he requested to accompany his daughter, aged 10, to a hospital in Amman Jordan, where she was to receive treatment. The daughter suffers from muscular dystrophy and was until then treated in Israel. The treatment however is very expensive and entry into Israel complicated while the language barrier also created complications. When S.D. arrived with his wife and daughter at the bridge, the authorities allowed the wife and daughter to pass, but prevented his exit while issuing him with a “summons” to meet with the GSS. When he arrived at the meeting, after being made to wait, he was informed that the “captain” of the GSS is refusing to meet with him. Following a request issued by HaMoked S.D. received a one-time permit to accompany his daughter to Jordan.

During 1999, the GSS further exploited for the worse, its control over the various border crossings. In a number of cases, HaMoked requested permission for residents to leave for

abroad, but instead of an answer received a request that the resident meet with a coordinator of the GSS. HaMoked was informed that the meeting would be a condition for the continued handling of the request to travel abroad. HaMoked protested against this exploitation of the organization's requests: human rights organizations cannot be a channel for the security services to arrange meetings. This, in addition to the unjust exploitation of a resident's urgent need to immediately leave the country, in order to subject him to an interrogation or (as experience shows) to pressure him to agree to collaborate with the GSS. In response, the Civil Administration asserted that the meetings are requested in order to reevaluate the resident's status as a person prevented from traveling abroad, and allows the resident the opportunity of a hearing in which he may present his version of the information which exists against him. In light of this, HaMoked requested that the hearings should be arranged in a fitting manner: the resident should receive, prior to the hearing, the information that he is supposed to respond to and must have the right to representation during the proceedings. These demands were not answered. The unwillingness of the GSS to administer these hearings in a fair manner casts considerable doubt on the sincerity of the claim that these meetings are meant to grant the resident the right to a hearing in his case.

A rare opportunity for residents to contest the claims of the GSS against them, came about for 25 petitioners who participated in a petition submitted by HaMoked to the Supreme Court in 1997, over the denial of their right to travel abroad. Originally, 81 petitioners were included in the petition, of which the majority have since been omitted (usually after granting permission for them to exit). The exit of a further seven petitioners was approved during the past year. In the case of the remaining 25 petitioners HaMoked requested that the classified evidence, on which the GSS based its decision, be made available to the petitioners. The hearing of the petition has yet to commence. However, at this stage the State has released an itemized summary of information for each of the petitioners, as well as various statements by suspects who mentioned the names of the petitioners. In most cases the information that was revealed was very general and did not relate to any militant activities on the part of the petitioners. The GSS continues to rely, primarily on the classified materials. The justification for these materials to remain hidden from the petitioners is to be decided by the court.

One of the cases that HaMoked handled successfully during the past year concerned, A.G., a young woman from Nablus. A.G. has a heart condition: suffering from heart palpitations and an unstable heartbeat, she is on permanent medication and will most likely require an operation. In autumn she began treatment with a specialist in Jordan, and when she requested to leave for additional treatment in Jordan she was returned from the border. In response to our urgent request to the Legal Advisor's Office in the West Bank, the woman was referred by the office, on the basis of the medical documents, to a cardiologist in the Occupied Territories for treatment. HaMoked urgently turned to the State Prosecutor, alarmed by the fact that the Office had instituted its own opinion instead of the opinion of the doctors who are personally treating her and who had referred her to Jordan for treatment. Moreover, an emphasis was placed on the right of the young woman, who is sick; to choose the doctor she wants to treat her. A.G. received a one-time permit to leave for continued medical treatment in Jordan. When A.G. a month later, required additional follow-up treatment, HaMoked was once again required to turn to the State Prosecutor, and once more A.G. received a one-time permit to exit. At the beginning of the year 2000 the prevention order against A.G. from exiting the country was cancelled, and she can now continue with each of her treatments without having to battle each time with the Israeli authorities.

Entry into the Gaza Strip

During the month of October 1999 the safe passage (in a reduced version) was finally opened between the Gaza Strip and the West Bank. The passage, while improving the freedom of movement of the residents of the Occupied Territories, did not solve the problems of all those who need to travel between the two areas. The use of the safe passage was made dependent on the holding of a magnetic card, which is not issued to residents who have a status of being "prevented owing to security considerations". A few thousand residents in the Gaza Strip are defined as having "iron cast prevention orders" with their exit from Gaza being completely prohibited. In order to facilitate the exit of these individuals from Gaza, intense advocacy work is required on the part of HaMoked.

S.H. is a 75-year-old male resident from Hevrat Elarov in the Hebron district. S.H. has six daughters who are married to residents of the Gaza Strip and live in the Jabaliya camp. Since the end of 1997, HaMoked has been advocating on his behalf, when on almost each occasion, prolonged correspondence and endless telephone calls are required in order to arrange for him to visit his daughters. In the previous visit that was arranged for him in early November (shortly after the opening of the safe passage), HaMoked was also required to intervene in order to allow him to return from the Gaza Strip to his home: initially he was stopped at the Erez Crossing on the border, and was prevented from returning to Hebron.

4. Residency

Residency in Jerusalem

At first glance it appears as if the year 1999 signaled a turning point in the State's policies in the area of residency rights in East Jerusalem. However aside from the many promising declarations that were voiced, in practice almost no real changes were felt. Some improvement was felt in the attitude of the clerks of the Ministry of Interior in East Jerusalem towards the Palestinian residents of the city, while changes to the actual rules and procedures were only reported at the end of January 2000. Even then, however there remained much uncertainty as to the exact nature of the new procedures, and should they indeed exist they had yet to be formally published. The discrepancy between the public declarations, reported in the newspapers, and the daily reality felt in the city, added to feelings of desperation and frustration. The need to be "fed" by rumors also did not contribute to the resident's sense of security.

The slow change that is being signaled is the result of the pressure brought by human rights organizations and by the opinion of the world community. In addition there has been a growing acknowledgement on the part of the authorities that part of the actions that were implemented to evict the Palestinian population from Jerusalem brought the exact opposite result: migration of Palestinians back into the city in order to protect their status as residents. The Israeli perception of East Jerusalem as an integral part of Israel (and not as occupied territory) and the goal of maintaining a large Jewish majority in the city however remain intact. As a consequence discrimination against Palestinians and the pushing of Palestinians from the city continue. The authorities mobilize to serve these political-demographic goals through the manipulation of the planning and building laws, social

security laws, laws relating to residency and citizenship and through the budget allocations for infrastructure development, education, culture and city services. The price of these policies is paid by families who themselves are facing a daily struggle against an obtuse and alienating system, whose original purpose is to serve the people. Instead of providing the appropriate services to the population, the authorities make these people's lives insufferable. Even if the authorities were to fully revoke the policies that were adopted from the beginning of 1995, the Palestinians residents of the city are faced with a long journey before they will be allowed to realize all their basic rights.

Revoking of Residency Rights in Jerusalem

Since 1995 the Israeli Ministry of Interior has revoked the residency of thousands of Palestinians residents of Jerusalem. Their Israeli identity documents were taken from their possession and their medical insurance as well as their allotments from the National Insurance Institute (NII) were ceased. They were declared to be illegal residents in their own city, and were ordered to leave. Behind the revoking of the residency rights stood the Ministry of Interior's hidden and retroactive policy with regards to the protecting of one's residency status. In the past residents of East Jerusalem were able to leave for abroad for prolonged periods of time (on condition that they extended the validity of their "Exit Cards") or to live in other areas of the Occupied Territories, without risking their right to return and to settle in Jerusalem. According to the new policy, such a transfer of one's "center of life" results in the automatic revocation of an individual's residency rights. Even if the person had returned to and lived in Jerusalem for many years and received services from the Ministry of Interior (under the previous policy), this person is now suddenly regarded as an illegal resident. The onus to prove one's continuous stay in the city falls on the resident, while the receiving of any services from the Ministry of Interior is made dependent on presenting a selection of documents: rental contracts, electricity bills, city-rate taxes, written acknowledgement from the NII, medical documents, school certificates – and all for past years.

In October 1999, the new Minister of Interior Mr. Natan Sharansky announced to the media that the policy of revoking the residency of residents living in East Jerusalem had been brought to a conclusion. "If he (the resident) currently lives in Israel…the Ministry of Interior will not begin to examine, and will not request that he bring all sorts of electricity and water accounts from the past ten years…those who are interested in remaining residents of the city, but in the past were for a number of years in Kuwait or other countries, we will not use the excuse that they were not here in order to cancel their residency" (Sharansky on the radio program "On This Day" 17.10.99.). In an interview with the newspaper Al-Quads, Sharansky spoke clearly and categorically of changes that were even more in the direction of the cancellation of the policies that were adopted in 1995.

These are the words of the Minister. However what did the State Prosecutor's Office inform the Supreme Court, in response to the revoking-of-residency petition submitted by HaMoked? In a laconic Notice the Prosecutor's Office stated, that individual checks would be conducted for each person who turns to the Ministry of Interior, when the question of the expiration of the permanent residency permit is raised. If the individual continued to preserve an appropriate connection to Israel during the period which they resided outside of Israel "the Interior Ministry will not take steps – subject to the absence of a criminal or security barrier – to erase him from the registry." To these opaque statements in the Notice, the Prosecutor also attached additional reservations, by stating that the above does not

detract from the "provisions of law" or from the "discretion of the Interior Ministry concerning [the above rules'] application in light of the personal circumstances and the totality of connections of the person [who turns to the Interior Ministry]".

An additional aspect of the Minister's words and that of the State Prosecutor's Office, which needs to be emphasized, is that there is no proposed solution to the problem of people who have already had their residency rescinded by the Ministry of Interior. In this respect, there was a change at the end of January 2000: according to an unofficial publication – that in practice has been confirmed – residency status is restored to individuals who are able to prove that they have resided in Jerusalem over the past two years.

HaMoked's petition to the Supreme Court against the policy of revoking residency rights, remains pending. At the end of 1999 HaMoked requested that the Court order the State to submit an affidavit by the Minister of Interior, Mr. Sharansky, in which he will state in detail the procedures and criteria of the new policy. The affidavit will also clarify discrepancies between statements made by the Minister through the media and that of the distancing responses voiced by the State Prosecutor.

Children's Health Insurance

An additional petition of HaMoked that is still pending in the Supreme Court, is over the issue of medical insurance for children who have only one parent who is a Jerusalem resident. The petition was submitted in March 1999 together with Physicians for Human Rights and the Association for Civil Rights in Israel.

The petition challenged the practice whereby these children, from the time of their birth, are not awarded health insurance, but rather only after a prolonged inspection into the family's "center of life" by the NII and following the registering of these children with the Ministry of Interior, or after the issuing of a "temporary number" to these children (instead of an identity number) by the NII. The policy creates a situation whereby babies and young children, who are in the most critical years of their development, are denied all medical and follow-up treatments. The population of East Jerusalem is one of the poorest in the country, with the majority of the residents being unable to afford private medical treatment. It is precisely this group that has to contend with severe barriers while trying to receive their national health insurance.

The petition has been heard and we are currently awaiting judgment. In the meantime, the Supreme Court ruled in another case, that an individual's health insurance cannot be halted before the person has been informed of the decision and given the right to a hearing. In light of this ruling, the petitioners offered the State an agreement, according to which all children who are covered by the petition will be awarded health insurance from birth, and will continue to receive medical treatment until all the stages of a NII investigation have been completed and a decision regarding the child's residency reached. A response from the State has yet to be given.

Separated Families

A further subject that illustrates the gap between what is being stated in the Court and what is occurring in reality is in the area of separated families.

In its 1997 petition HaMoked requested the renewal of the old procedure, according to which spouses married to Jerusalem residents, who are residents of the West Bank or Gaza Strip, be given temporary approval to reside in Jerusalem as a result of their marriage to a Jerusalem resident, allowing them to live together with their wives and children. The petition referred to a prolonged period of years, from the time a request for family unification is submitted to the Ministry of Interior, until the initial approval of the request. The procedure which existed at the time of submitting the petition, granted the family the right to live together only after the request for family unification received initial approval, and subsequently the families are forces to live apart during a period of over five years until the issuing of a permit for permanent residency in Jerusalem.

The State agreed in principle for the need of such procedures, but did not hurry to implement them. Initially the State approved the majority of the family unification requests of the individual petitioners, essentially delaying the need to deal with the issue, since the cases of the specific petitioners had been resolved. Only in September 1998, did the State announce the decision to establish a procedure that could answer the demand in the petition and stated that the specific details of the procedure were being formulated. Only in January of 1999 did the state's attorney send to HaMoked the "principles of the procedure", which were far from answering the needs of the population. Again a number of months passed – during which time the proposed procedure was not implemented. In June 1999 the State announced, that all the preparatory work had been recently completed and that all the relevant forms had been prepared. In July 1999, when the petition reached a hearing in court, one of the problematic categories of the new procedure was changed as a result of pressure from the judges. In light of the establishment of the new procedure, HaMoked's petition was rejected. However, up until this day the new procedure has yet to be implemented, and HaMoked has yet to encounter a single approval for a spouse to stay in Jerusalem based on the framework of the new procedure.

The sole positive result of the formulation of the procedure is that when HaMoked demands its application in individual cases, the Ministry of Interior hurries (relatively speaking) to grant the initial approval of the family unification request.

Towards the end of 1999, HaMoked distributed a report entitled, "Families Torn Apart: Separation of Palestinian Families in the Occupied Territories". The report is a comprehensive study detailing the plight of the thousands of Palestinian families that are being forced to live apart.

Registering of Children

Our annual narrative report for 1998 highlighted a new policy that had been adopted by the Ministry of Interior for registering the children of Jerusalem residents with a temporary status valid for one year instead of as permanent residents. This policy was a trap for these families, as they were given no indication that the status was only temporary and needed to be extended after one year. The actual registration in the identity document looks exactly like that of a permanent resident. Following HaMoked's intervention, this procedure was canceled, and children who were registered as temporary residents received permanent residency status. The Ministry of the Interior also posted a notice in its premises, notifying that anybody who registered their children during the period when the policy was in practice is welcome to approach the office in order to correct the registration.

Individual Treatment

The Ministry of Interior's handling of cases, especially in the area of family unifications and the registering of children, continues to be complicated and convoluted. The bureaucratic hurdles that are placed before these requests make it almost impossible for these cases to proceed without the intervention of an attorney or an organization. Receiving responses from the Minister of Interior demands repeated requests and the applying of pressure on the system. HaMoked during 1999 continued to assist families in different stages of the family unification process: the issuing of visiting permits for family members who are foreign nationals and their extension, the cancellation of fines for overstaying extensions, the initial approval of family unification, the extension of visas that are given for one year during the evaluation of the request, registering children and more. Likewise, HaMoked advocated in cases of residency revocation as well as in cases where there was a threat of residency revocation. Amongst the families that HaMoked handled were a number of tragic cases, in which the impermeability of the authorities only added to the already bitter scenarios in which these people found themselves. This includes cases where the revocation of residency endangered the medical treatment of individuals with serious illnesses; when one of the spouses is unable to function, single parent families and others. More than once the individual treatment of a case has required the coordination between the Ministry of Welfare, Ministry of Interior the NII and other officials in order to solve the concrete problems that arise from delays caused by the Ministry of Interior.

The Signs of Change? The case of M.A.

M.A. born in Nablus and married to a Jerusalem resident has lived in the city since 1983. The couple has two children aged 14 and 16. The children and father are recognized as Jerusalem residents while the mother is a resident of the West Bank. In 1986 the father was placed on trial for activities in the Fattah movement and sentenced to jail. He is expected to be released in November 2000. Throughout her husband's sentence M.A. and her children have lived in her husband's family's house in Jerusalem. HaMoked submitted a family unification request despite the husband's sentence, and obtained (by means of a petition to the Supreme Court) a permit for her to temporarily reside in Jerusalem. In October 1999 the request for family unification for her to be with her children and husband was rejected because of "security considerations". HaMoked submitted an appeal to the Ministry of Interior: the woman who has lived for years in Jerusalem, without any personal involvement in threatening activities. The "security considerations" clearly related to her husband who is sitting in jail, and whose status as a resident is not being challenged. The refusal of the wife's request for family unification does not flow from a security threat that she poses but rather relates to the double-punishment of her imprisoned husband, and to the collective punishment of his wife and children because of his actions. The Minister of Interior, Mr. Sharansky reacted to our appeal in a letter-dated 27.12.1999 and signed by himself. He wrote, that the Ministry of Interior, "Is concerned in bringing requests that are rejected for renewed inspections", and did not intervene in any concrete manner.

Residency in the West Bank and the Gaza Strip

Since the Oslo Agreements, it has become almost impossible to pursue principled challenges over the subject of residency in the Occupied Territories. The subject, which is a clear human rights issue, has become a strong bargaining chip in the negotiations between

the Palestinian Authority and Israel. Categories such as the registering of a person who was born in the area but who was not registered for various reasons; the return of people to the area after losing their residency when their travel documents were not extended; or the establishing of quotas for approving family unifications (the current annual quota stands at 4000 requests) – are issues handled in line with the 'diplomatic' timetable without any consideration of the needs and individual rights of the residents.

Even under these conditions HaMoked continues successfully to assist the residents of the Occupied Territories with regards to their status. Agreements in the Supreme Court, that were achieved in previous years after intense efforts on the part of HaMoked including the submission of dozens of petitions are still valid today. The spouses of residents who resided in the Occupied Territories or received a permit to enter them during the period from 1989 until the end of August 1992, have the right to receive Palestinian identity documents based on family unification, without delay and without being subject to annual quotas, except for cases rejected because of individual security considerations. HaMoked, under these agreements, assists families in proving their rights and in realizing them – for example, transferring to the Israeli authorities documents testifying to their entry into the West Bank during the defined period (more than once the authorities have initially ignored evidence proving a persons eligibility).

A further widespread phenomenon that HaMoked has encountered is the significant increase in the number of family unification requests that have been refused based on laconic reasoning such as "security considerations". Such was the case, for example, with a couple from Beit Rimah in the district of Ramallah. The couple was married in 1988; he is a resident of the West Bank and she was born in Jordan. The entry date of the wife into the West Bank entitles her to belong to what has been nicknamed "The first Supreme Court Population", who have the right to residency. The Israeli authorities are however stalling their response due to "security reasons". It remains unclear however what exactly are the reasons that are preventing the Palestinian woman from receiving residency, as she has already resided in the area for years based on her visitors permit.

A further problem is the refusal to grant visitor permits to the Occupied Territories to individuals who were born in certain "enemy" countries (such as Libya, Sudan, Syria and Yemen). Israel denies the existence of this policy, yet it clearly prevails. HaMoked succeeded in solving this problem for spouses and children belonging to the "Supreme Court Population" where entry was allowed, even if they were born in one of the above-mentioned countries.

5. Respect for the Dead

In any developed society the treatment of the bodies of the dead is considered to be outside the issues of conflict or war. From the moment a person is killed, the body cannot be used as an object of revenge or punishment. Rather there prevails a humanitarian obligation to provide for a respectful burial, with proper identification so as to allow for its future transfer to the family of the deceased. The right to respect the dignity of the dead is not only the right of the deceased but also that of the family and friends. The receiving of the body, the burial, arranging the funeral ceremony and visiting the grave are all essential in

comprehending the reality of the death of a relative or friend and accepting and dealing with it.

Israeli society attaches immense importance to the issue of respect for the dead and the proper burial of the deceased. The locating of the remains of fallen IDF soldiers, and the identification of bodies and body parts receive priority of the highest nature. Errors in identification (such as the recent incident of the fallen "Shayetet" soldiers in Lebanon) result in public scandals and condemnation. Also in the civilian domain, Israel is prepared to occupy its court system with contentions over the nature of a tombstone and its inscription. When, however, the issue turns to that of Palestinian corpses, the approach alters radically.

In May 1999 HaMoked petitioned the Supreme Court on behalf of the brother and elderly parents of Sofiyan Tsabih. Sofiyan was killed in August 1995, when he carried out a suicide bombing on the Jerusalem bus line number 26. After more than four years, the remains of the body are still being held by Israel and have not been returned to the family. HaMoked turned to the IDF on a number of occasions in order to allow the family to receive the body and to enable them to have a grave and tombstone where they can visit and bereave. All the requests were refused. In its petition HaMoked mentioned, amongst other things the law according to which the IDF destroyed part of the gravesite of Baruch Goldstein, the murderer of 29 Muslim worshippers in the Cave of the Patriarchs, in Hebron. The law demanded the destruction of the memorial monument erected at the gravesite, but specifically exempted the tombstone. The right to a grave and a tombstone is a basic right of the deceased and their family, and is one that cannot be withheld.

The IDF's refusal to return the body of Sofiyan Tsabih is part of the IDF's policy over the last few years not to return to the family the body of an individual who carried out a suicide attack. This policy is a form of collective punishment against family members and uses the body of the deceased as an object of revenge. Even when the IDF has been prepared to return the bodies to the families, it appears that the task is often beyond the IDF's ability. The system of burial at the cemeteries for fallen enemies does not allow for adequate identification of the buried bodies.

Two cases in which HaMoked is working for the return of the bodies to the families of the deceased have reached dead-ends as a result of the inability of the IDF to identify the correct remains. In one case the IDF has already exhumed four corpses; DNA tests, that were performed in the USA and Israel, showed none of the corpses to be the body belonging to the family that requested its return, despite the army's vehement claim that the body was buried in one of the graves exhumed. In the second case, the corpse exhumed again proved not to be that of the body that had been requested. These failures are not surprising. The burial of bodies at the cemeteries for the fallen enemy dead is carried out in a degrading manner in shallow pits, without any permanent markings or durable wrappings around the body. Before the burial no medical examinations are performed on the body and no documentation is made sufficient to assist with identification in the future. At the cemetery for the fallen enemy dead at the Daughters of Jacob Bridge, identification marking were only recently placed on the graves, years after the burials. Even these markings are dubious however: numbered metal plates, connected to wooden poles pegged into the ground.

The facts unearthed during the handling of these two cases by HaMoked resulted in the establishment of a Military Investigating Committee. This Committee is investigating the two disputed cases and the IDF's general treatment of fallen enemies. The Committee is also meant to give recommendations with regards to the future treatment of the bodies of the enemy dead. The Committee was established in October 1999; representatives from HaMoked already have testified before it.

In 1999 HaMoked published and distributed a report entitled "Captive Corpses".

Organizational Report

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