

**המוקד להגנת הפרט**  
**HAMOKED** Center for the Defence of the Individual

המוקד - مركز الدفاع عن الفرد

מיסודה של ד"ר לטת זילברגר - עמותת רשומה  
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## 1998 Annual Report of Activities

**HaMoked: Center for the Defence of the Individual**

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## General Statistics Concerning Activities in 1998

During the period 1 January 1998 - 31 December 1998, HaMoked received 1,247 requests for assistance. During the first half of 1998, 665 requests were received. In 1997, 1,551 requests were accepted.

During 1998, HaMoked advocated in 2,352 complaints - some received during 1998 and others in which the treatment continues from previous years. Of these 2,352 complaints:

\* 504 complaints dealt with freedom of movement. Of these, 175 complainants received transit permits as requested, 87 persons received permits for limited periods and 152 persons were not allowed to travel. Those refused requests and those awaiting a response are still being assisted by HaMoked.

\* 254 complaints dealt with residency - of these 105 were of Jerusalem residents. Success was achieved in 39 cases (whether in registration of children, permit for family reunification or the cancellation of an earlier revocation of residency). 149 complaints were from residents of the West Bank and Gaza Strip. Here success was achieved for 52 families. For six families, a refusal of their requests for family reunification was received for reasons of security.

\* 23 complaints dealt with persons who had been deported from the territories (including East Jerusalem) in the past and who wished to return to live here. The return of 11 of these persons was granted in 1998, while three were not permitted.

\* 305 complaints dealt with violence by Israeli security forces or settlers toward Palestinians. During the year the authorities decided to try 11 of the soldiers or police officers involved in these cases. During 1998, 51 civil compensation suits were filed. In addition, HaMoked continued to advocate in suits which were filed in previous years, of which 47 resulted in judgements for compensation in 1998.

\* 173 persons were assisted in the framework of HaMoked's Detainee Rights Project. These included detainees who underwent torture and administrative detainees.

\* HaMoked continued to advocate in the cases of six disappeared Palestinians - some of them whose fate is unknown and others who were apparently killed but their burial places (in IDF controlled cemeteries for enemy dead) are unknown.

\* 21 complaints were submitted by Jerusalem residents who wished to visit family members detained in Israel - 10 were permitted to visit while 4 were denied.

\* HaMoked submitted 33 High Court petitions on behalf of Palestinians in various issues.

Table of Complaints Received by HaMoked During 1998

<u>Subject</u>	<u># Cases</u>	<u>% of 1998 Cases</u>	<u>% of 1997 Cases</u>
<u>Residency</u>	<u>53</u>	<u>4.2</u>	<u>3.0</u>
<u>Detention Conditions, Torture</u>	<u>12</u>	<u>0.9</u>	<u>3.4</u>
<u>Administrative Detention</u>	<u>121</u>	<u>9.8</u>	<u>2.0</u>
<u>Tracing *</u>	<u>789</u>	<u>63.3</u>	<u>74.7</u>
<u>Missing Persons</u>	<u>1</u>	<u>0.1</u>	<u>0.1</u>
<u>Family Visits in Prison</u>	<u>8</u>	<u>0.6</u>	<u>4.4</u>
<u>Violence, Property Damage</u>	<u>35</u>	<u>2.9</u>	<u>2.4</u>
<u>Exit Permits</u>	<u>100</u>	<u>8.0</u>	<u>7.5</u>
<u>Entry from Jordan to West Bank</u>	<u>3</u>	<u>0.2</u>	<u>0.3</u>
<u>Entry from Israel to Gaza</u>	<u>12</u>	<u>0.9</u>	<u>0.9</u>
<u>Entry from Territories to Israel</u>	<u>102</u>	<u>8.2</u>	<u>0.2</u>
<u>ID Card Confiscations</u>	<u>6</u>	<u>0.5</u>	<u>0.3</u>
<u>Guarantees</u>	<u>1</u>	<u>0.1</u>	<u>0.2</u>
<u>Other</u>	<u>4</u>	<u>0.3</u>	<u>0.6</u>
<b>Total</b>	<b>1247</b>	<b>100%</b>	<b>100%</b>

\* Location of Detainees: HaMoked received 1,038 requests to locate detained persons - of them, 789 persons whose personal data was not located in HaMoked's database, and another 249 persons whose data was already listed and HaMoked was requested to locate them an additional time, due to an additional detention or transfer to another prison.

**Table of Requests According to Region During 1998**

<u>Region</u>	<u>Number of Requests</u>	<u>% of Total</u>
Nablus	128	10.3
Tulkarem	111	08.9
Ramallah	178	14.2
Jerusalem	093	07.4
Bethlehem	155	12.5
Hebron	442	35.5
Jenin	061	04.9
Jericho	006	00.5
Other	017	01.3
Gaza Strip *	056	04.5
<b>Total</b>	<b>1247</b>	<b>100%</b>

\* The complaints from the Gaza Strip break down as follows:

Permit to exit for abroad	3
Prison visits	1
Tracing	45
Torture	3
Confiscation of property	1
Administrative detention	3

**Table of Requests According to Month and Subject in 1998**

<u>Month</u>	<u>Property</u>	<u>Violence</u>	<u>Adm.</u>	<u>Tracing</u>	<u>Other</u>	<u>Total</u>
1/98	3	3	13	68	23	110
2/98	2	3	21	59	6	91
3/98	1	1	19	69	44	134
4/98	---	2	22	49	4	77
5/98	---	3	30	66	37	136
6/98	1	4	30	76	---	111
7/98	---	3	26	68	14	111
8/98	1	3	27	74	6	111
9/98	---	---	18	60	2	80
10/98	---	2	17	42	11	72
11/98	1	---	27	82	11	121
12/98	1	2	13	76	1	93
<b>Total</b>	<b>10</b>	<b>26</b>	<b>263</b>	<b>789</b>	<b>159</b>	<b>1247</b>

1998 Administrative Complaints by Month/Subject

<u>Month</u>	<u>ID Confis.</u>	<u>Exit Permit</u>	<u>Entry to West Bank</u>	<u>Residency</u>	<u>Entry to Israel</u>	<u>Other</u>	<u>Total</u>
1/98	3	6	---	1	3	---	13
2/98	---	11	---	9	3	---	23
3/98	---	9	---	3	7	---	19
4/98	1	3	1	3	14	---	22
5/98	---	12	---	2	14	2	30
6/98	---	9	2	9	9	1	30
7/98	---	13	---	6	7	---	26
8/98	1	12	---	5	10	---	28
9/98	---	6	---	5	6	1	18
10/98	---	7	---	2	9	---	18
11/98	1	7	---	7	13	---	28
12/98	---	5	---	1	7	---	13
<b>Total:</b>	<b>6</b>	<b>100</b>	<b>3</b>	<b>53</b>	<b>102</b>	<b>4</b>	<b>268</b>

## 1. Residency

### The Quiet Transfer from East Jerusalem

At the beginning of 1999 Qudsia Manco still does not possess an identity card. The East Jerusalem branch of the Israeli Ministry of Interior is as yet unaware that in September 1998, the State Attorney's Office announced to the High Court that the State was rescinding its decision to annul the Jerusalem residency of Mrs. Manco. Qudsia Manco (the name Qudsia means 'Jerusalemite') lost her residency with the justification that she resided in Jordan for long periods with her husband, whom the Ministry of Interior refused to permit to live with her in Jerusalem. In the wake of a High Court petition submitted by HaMoked, the State altered its decision in this case. When Mrs. Manco finally does receive her identity card, she will be able to renew her social rights with the National Insurance Authority, again receive medical treatment, identify herself before the clerks of the Postal Bank in order to receive allowances...However, the matter of Mrs. Manco is far from completed. Soon the advocacy for her request for family reunification with her husband will be renewed and several more long and difficult years await her until her husband will also be given Jerusalem residency and they will be permitted to reside together on a permanent basis in the city.

The Israeli authorities act to limit as much as possible the Palestinian population in that part of Jerusalem which Israel annexed, in violation of international law, in 1967. For this demographic and political goal the authorities exploit the building and planning codes, laws of national insurance and regulations pertaining to residency and citizenship. The ensuing price is paid by the poor and simple families, who find themselves in a daily struggle with a hostile system whose goal was meant to be serving the population. People find themselves without any legal rights in the city of their birth and lacking in any type of social security.

HaMoked acts in a variety of manners to assist families who fell victim to the Israeli policy of quietly deporting them from Jerusalem. HaMoked places a special emphasis on helping those who encounter difficulties with the Ministry of Interior and National Insurance Authority. The assistance of HaMoked is most required in these areas as the authorities place almost insurmountable barriers before those wishing to fulfill their rights. Even for the most simple of enquiries the assistance of an attorney is often crucial. The Palestinian population of Jerusalem, among the poorest in Israel, is not always able to pay for expensive legal services.

There were no dramatic developments in the area of Jerusalem residency in 1998. On one hand the authorities improved their methods with a number of new and creative means intended to cause difficulties for the city's Palestinian population. However, HaMoked and other human rights organisations achieved a number of seemingly modest victories which will ease the daily lives of many. In addition, HaMoked succeeded in solving the individual problems of numerous residents, and continues to work on the individual cases of others.

## Report: The Quiet Deportation Continues

In September HaMoked, in cooperation with B'Tselem, published a detailed report entitled "The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians." This report analyses aspects and developments not included in the original 1997 report, and places a special emphasis on the involvement of the National Insurance Authority in efforts to deport Palestinian residents of Jerusalem from their city. Publication of this report was done as part of the public campaign conducted against this quiet deportation.

## Living on Your Land: Principled High Court Petition Concerning Revocation of Residency

In April HaMoked submitted a principled petition to the High Court against the policy of the Ministry of Interior to revoke the legal status of East Jerusalem residents. The petitioners are five human rights organisations and fifteen Jerusalem residents from whom residency was revoked and were told to leave the city. In this petition, HaMoked proved what has been known yet denied before the High Court until now by the State: During 1995 the Ministry of Interior implemented a new policy, by which it commenced an intensive revocation of the status of residency from thousands of Palestinians. According to this policy, residency is revoked from a person who in the past was abroad for periods of more than seven years (not consecutive), even if they always entered and exited with valid permits from the Ministry of Interior. Even if several years have passed since the residents returned to their homes in Jerusalem and cut all ties to their temporary places of residence in other countries, the Ministry of Interior confiscates their identity cards and orders them to leave the city. Up until 1995, residents of East Jerusalem knew that their residency was safe as long as they returned to Jerusalem by the date noted on their exit permit; only if they remained abroad for more than seven years they could not receive a permit to once again return to Jerusalem. An additional policy change, which was also enforced retroactively, was that the Ministry of Interior began revoking residency not only from those who left for abroad, but also from those who moved their residence to parts of the Occupied Territories not annexed by Israel in 1967. This especially affected those neighborhoods of Jerusalem remaining outside the annexed territory, to which many moved due to the serious housing shortage in East Jerusalem, a shortage caused by deliberate Israeli policy.

To this petition HaMoked attached a lengthy list of documents which prove this change in policy. These documents include sections of the State Comptroller's report, an affidavit from Amir Cheshin, the former advisor for Arab affairs to Jerusalem mayor Teddy Kollek, official regulations and affidavits presented in the past by the State to the High Court and statistics about the dramatic increase in the number of residency revocations as of 1995. The High Court issued an interim injunction and ordered the State to respond to the assertions of the petition, and in September 1998 the State



responded. The State rescinded its decision to negate the residency of seven of the petitioners. On a wider level, the State announced that residents of East Jerusalem who moved to the peripheral neighborhoods of Jerusalem and retained their connection to the city will be able to keep their Jerusalem residency. Apart from these concessions, the State continued to defend its policy to revoke residency and continues to argue that no new policy is involved. The High Court judges will hear this petition in April 1999.

#### Living as a Family: The Closure and Divided Families

Since 1991 (the Gulf War), the Occupied Territories are subject to an ever-tightening closure. One of the most serious outcomes of the closure is the severance between the parts of East Jerusalem annexed to Israel and the rest of the Occupied Territories. In numerous East Jerusalem families one of the relatives holds an identity card of the Israeli military government of the territories (and today of the Palestinian Authority). If in the past this did not prevent residence in Jerusalem, now the non-resident relative must receive a permit to enter the city and live there legally. Until March 1996 these permits were given to the non-resident spouses of Jerusalem residents in the framework of a "divided family regulation," initiated by HaMoked. However, in the beginning of 1996 this regulation was cancelled and these families now faced an impossible dilemma: If they move to the territories, they would threaten their requests for family reunification and risk their status in the city, as the requests are dependent on proving center of life in Jerusalem. If they did not leave the city, the couple would be forced to live apart and maintain two households, or the non-resident spouse would be forced to reside in Jerusalem illegally. In the summer of 1997 HaMoked submitted a High Court petition to renew the divided family regulation, and in its wake the problems of the majority of the individual petitioners were solved. The petition remains pending concerning HaMoked's demand to renew the regulation for the entire Palestinian population. Toward the end of 1998 the State Attorney's office announced that a new regulation for issuing permits to divided families had been formulated and would be implemented soon.

#### To Give Birth Without Worries: Social Rights of the Mother

The law of national insurance guarantees that a resident of Israel who is due to give birth does not have to worry about the costs involved. The law determines procedures according to which the matter of covering the costs of birth will be arranged directly between the hospitals and National Insurance Authority. However, this is not true for residents of East Jerusalem. Residents of East Jerusalem were forced by the hospitals to receive a special form from the National Insurance Authority that it would indeed defray the costs of birth. The National Insurance Authority, for its part, did not hurry to provide this form prior to commencing a lengthy process of investigating the center of life of the East Jerusalem residents, a process almost never completed by the time of birth. With the absence of this form from the National Insurance Authority, the hospitals demanded that the women themselves cover the costs of birth.

Toward the end of 1997, HaMoked and other organisations submitted a High Court petition against these discriminatory regulations. As a result, the National Insurance Authority announced a major change already in the beginning of 1998. Now, when both the husband and wife are residents of Jerusalem, the woman will not be forced to receive a special form from the Authority but will be treated as all other women giving birth in Israel.

However, if the husband is not a Jerusalem resident the National Insurance Authority remained firm in its demand that an investigation into the woman's "center of life" be conducted before it would guarantee to cover the costs of birth. However, the Authority did agree that if the woman turned to it by the end of the first trimester of pregnancy and if the investigation was not concluded by the time of birth, it would also guarantee to cover the costs. This proposal, in the opinion of HaMoked, was an empty one: The woman should not be expected to notify the authorities of her pregnancy at such an early stage, when she herself may not know or have told her family members. Even the judges of the High Court expressed the opinion that this arrangement is unreasonable. With the pressure of the court, the National Insurance Authority agreed that this arrangement would be applicable for women who notify of their pregnancy by the sixth month.

The new arrangement is still discriminatory. Until the birth itself, the woman is forced to live with uncertainty about whether she will be faced with a hospital bill of thousands of shekels. She is still forced to notify the National Insurance Authority of her pregnancy, a demand not made of other women in her situation. She is still exposed to investigations which are generally unfair and humiliating. With this, the new arrangement does neutralise one of the more cruel means which the authorities found to harass East Jerusalem residents at the critical moment of birth.

#### When the Child is Sick: Health Insurance for Children

There is no need to expound upon the critical importance of medical treatment for children, especially in the earliest stages of their lives. The national health law is intended to ensure that every resident of Israel receives health care with no regard to his or her economic situation. The law stipulates, among other things, that each resident register his children with a health cooperative. However, as usual, the procedure is different for residents of East Jerusalem. The children of Jerusalem residents do not automatically receive identification numbers in the hospital, and the procedure for registering them in the Ministry of Interior is liable to take years. As long as the children have no identity numbers, they do not appear on the computers of the health cooperatives and while the National Insurance Authority does award temporary numbers, this is also a lengthy procedure. The National Insurance Authority conducts an investigation into the center of life of the parents, an investigation which lasts many months. Even when the investigation is concluded it takes many months and even years until a temporary number is awarded. During this entire time the child does not receive vital medical care or, if the financial situation of the parent's permits it or if the child is extremely ill, he or she receives private and expensive care.

In May 1998, HaMoked and Physicians for Human Rights (PHR) petitioned the Jerusalem Labour Court in the name of ten children from whom medical care was prevented in this manner. As with cases previously mentioned, the very submission of this petition resulted in the solution to the individual problems of the petitioners themselves. However, no progress was made with the overall situation as the court refused to discuss the principled difficulties raised in the petition.

It must be noted that the position of the Public Complaints Commission of the national health law is that it is impossible that health insurance not be given to an infant until the National Insurance Authority conducts an investigation and awards temporary identification numbers. This position was recently expressed in the yearly report of the commission.

HaMoked and PHR will soon be submitting a High Court petition in this matter.

#### Registering Children with the Ministry of Interior: Update

The procedure for registering children in the Ministry of Interior continues to be arduous. This is especially true when the child's father is not a resident of Jerusalem, but HaMoked has also encountered cases in which the Ministry of Interior causes difficulties with the registration of children whose father, or even both parents, are Jerusalem residents. With this, HaMoked has a high success rate in registering children and the length of time required has been shortened, especially when a newborn's sibling was registered in the not so distant past. At the same time, a new form of harassment on the part of the Ministry of Interior must be noted. In at least two cases, in which the registration of children was approved, the Ministry of Interior provided these children with a temporary permit to reside in Israel. This permit includes an identity number, and is intended to mislead the parents as the problem of registration is seemingly solved. In reality, however, an additional bureaucratic procedure is required with the passage of one year. This new form of harassment is patently illegal, as the law stipulates that children must receive the status of one of their parents and not a third status.

#### Family Reunification - Update

It is also possible to outline progress made on the individual level in the subject of family reunification. However, the Ministry of Interior is constantly placing even more formidable barriers in the way of families who wish to live together. The current policy of the Ministry of Interior is that when the family's center of life is in Jerusalem and there are no criminal or security suspicions against the non-resident spouse, family reunification will be permitted. However, this approval does not mean that a Jerusalem identity card will be awarded immediately to the non-resident spouse. Instead, the Ministry of Interior has commenced a "trial period" regulation for five years and three months, during which the eligibility for an identity card will be reexamined. During this trial period temporary residency permits, which must be renewed yearly, are given to the non-resident spouse.

The first hurdle which the family must cross, therefore, is that of Israeli acceptance of its request for family reunification. This permit is not given prior to the submission of an endless number of documents proving the family's center of life in Jerusalem. However, this is not all: Until recently even one who met all the criteria would not be permitted family reunification until he petitioned the Israeli High Court and a date was set for the hearing. Only then did the Ministry of Interior hurry to accept the family reunification request and ask that the petition be erased. Only toward the end of 1998 did HaMoked encounter a small number of cases in which requests were accepted with no need to petition the court.

Even when the request was accepted, the procedures for receiving a temporary residency permit extended over numerous months. The temporary permit is valid for one year, at the end of which the family must once again battle the bureaucracy of the Ministry of Interior. In several cases handled by HaMoked, more than six months have passed since the family requested that the temporary permit be renewed!

### Refusal to Register Marriages

A new bureaucratic hurdle invented by the Ministry of Interior is the personal status of "under investigation" or "unknown" which the ministry listed on the identity cards of newly wed Palestinians who wished to register their marriages. The Ministry of Interior claims that this practice has been halted and that "under investigation" is listed only in those cases in which a specific suspicion exists of a fictitious marriage. If so, why does the Ministry of Interior refuse to erase the status of "unknown" that is listed in the identity card of couples in which one of the spouses is not a Jerusalem resident?

### Segregation

One of the tools which permits the Ministry of Interior to institute discriminatory regulations toward residents of East Jerusalem is the reception of Palestinian residents only in the ministry branch in East Jerusalem. The city's primary branch of the Ministry of Interior, in the center of West Jerusalem, serves all comers except for the Palestinian residents of the city. This physically separated reception of persons permits the unequal treatment. HaMoked has been corresponding on this matter since 1997 with various authorities, which have provided different and contradictory replies. In October 1998 this matter was referred to the State Comptroller by Public Complaints Commission.

### Residency in the Territories

In the wake of the Oslo agreements, the authorities in the matter of residency (population registration) in the territories were transferred to the Palestinian Authority, including the awarding of permits for family reunification and entry to the territories from abroad. However, many of these authorities require previous approval by Israel. Even those authorities now under the sole authority of the PA (such as the registration of children) cannot be exercised without the authorisation of Israel.

The division of authorities between Israel and the PA is not without advantages. With this, it prevents a direct connection between the Palestinian resident and Israel, which retains the power to accept or reject a request, and it adds additional bureaucratic procedures. A most difficult situation arises with unique requests, for which the Palestinian clerks know there is no sense in transferring them to Israel. As long as the requests are not transferred by the PA, they are not officially rejected by the Israelis. When Israel does not deal with a request, it is also impossible to appeal or turn to the judicial system for assistance. In this way the advocacy of human rights organisations is limited.

Principled struggles in the area of residency are all but impossible now that the entire subject has become a political bargaining chip between Israel and the PA. Numerous joint Israeli-Palestinian committees which are to decide in these matters have been suspended and no progress is made. Thus, for example, is the case for the revocation of residency for those who returned to the territories after their exit permits expired. Several cases such as these are currently being handled by HaMoked and a High Court petition in this matter has been pending since 1993. In November 1998, Israel requested that the court reject this petition as it is no longer relevant given the transfer of authorities in this matter to the PA. The petitioner, Hazem Nasara, is currently legally residing in the territories due to an interim injunction issued by court. If the petition is rejected, this injunction will be null and the State does not offer an alternative procedure through which Nasara may alter the incorrect decision to cancel his residency.

Even under these difficult conditions, HaMoked is able to assist individual residents of the territories in this issue. High Court agreements, reached in past years following intensive efforts by HaMoked and the submission of tens of petitions in this matter, are still valid. Spouses of residents, who resided in the territories or received a permit to enter this area sometime between 1989 - 1992, are eligible to automatically receive Palestinian identity cards, unless security reasons prevent this. HaMoked assists these families to prove their eligibility for family reunification.

Additional High Court agreements set a yearly quota for family reunification permits at 2,000. The Oslo Accords raised the hopes that this quota would be increased, to more accurately reflect the needs of the population. The Israelis refused to increase the quota, and in response the Palestinians did not transfer to Israel the requests for family reunification for the West Bank. At the end of 1997 the PA decided to once again transfer these requests to Israel even without an increase of the quota, and Israel agreed to fill the quotas from previous years in 1998. Israel exploited this agreement, and in 1998 notified the UN Committee for Social and Economic Rights of its agreement to drastically increase the quota of permits in 1998.

The family reunification requests are transferred to Israel according to the order decided upon by the PA. HaMoked assists these families by referring them to the relevant PA offices and compiling the necessary paperwork to prove eligibility.

## 2. Detainee Rights

### Torture

On 23 April 1998 M., a 23 year old student detained by Israel on 3 January, was released from prison. M. was released after a psychiatrist from the prison services determined that he was mentally unfit to stand trial. Following his release, M. was diagnosed as suffering from post-traumatic stress syndrome. He cut off connection with his surroundings, did not speak and suffered from serious depression. While in prison, M. was tortured by the General Security Service (GSS). HaMoked submitted a High Court petition on his behalf on 15 January, after he told the organisation's attorney of the torture he underwent. The forms of torture were not unusual in their severity: Sleep deprivation, "gambaz," (being forced to kneel in the frog position) and "shabah" (tied to a low stool whose front legs are shorter, hands tied with one stretched behind the back, sack over the head and a continuous playing of loud music).

In the wake of this petition, the State announced that it would no longer use the aforementioned physical pressure. A follow-up visit to the prison proved that the interrogation methods were indeed lightened - the sack was replaced with dark glasses, the stool replaced with a regular chair and M's. hands were cuffed in the front, although sleep was still prevented. HaMoked submitted an additional High Court petition to cease this type of treatment. In the wake of the State announcement that M. would receive reasonable hours of sleep each day, this petition was erased. However, this was not enough to help M. and he is currently undergoing treatment at the center for victims of torture in Ramallah.

While M. attempts to rehabilitate himself and the GSS continues to torture hundreds of additional Palestinian detainees each year, the Israeli High Court continues its learned discussion about torture and the State contention that the defence of necessity justifies this. Discussions of this petition continue with breaks of months between sessions, and only at the end of 1998 did the State conclude the presentation of its arguments. During these discussions, the High Court judges raised the question of why this subject should not be arranged by the Knesset through legislation. While the government did present proposed legislation concerning the GSS, this draft does not contain any directive authorising the GSS officials to use special interrogative methods. The court expressed its dismay at attempts by the government to pass the responsibility for deciding in the matter of torture to the court instead of to the Knesset. The State position is that GSS interrogators are authorised to use physical force against interrogees. Shai Nitsan, the State representative, noted in his presentation that the use of physical force is justified (and even required) not only in situations of a "ticking bomb" but also to obtain information which does not relate to a specific attack currently being planned. Comments made by the judges during these discussions demonstrate that from a legal standpoint, it is difficult for them to accept this position. With this, it appeared that the judges' criticism was directed toward the legal assertions used to justify torture more than to the torture itself.

HaMoked, in addition to the other public petitioners in this case, firmly maintain the position that bodily harm to an interrogee is a complete taboo not permitted under any circumstances. According to the international convention against torture, which Israel has ratified, no emergency situation justifies the use of torture. The UN committee which acts under this convention concluded in 1997 that the GSS interrogation methods meet the definition of torture, and reiterated this conclusion in 1998.

### Administrative Detention

The first six months of 1997 were characterised by the struggle of administrative detainees to achieve recognition of their rights by prisons, to where 140 of them were transferred from the Megiddo military prison. HaMoked aided them in this struggle with legal advice and instructed them concerning their legal rights. During this period there were approximately 400 administrative detainees.

Only toward the end of 1997 did the administrative detainees recommence their appeal of detention orders, an action they refrained from taking for over a year. The collective decision to refrain from filing appeals resulted from a feeling of extended frustration. Appeals were almost always denied and the detentions of the few who were shortened were then extended once again by the military commander.

With the recommencement of the appeals and throughout this reporting period, these appeals comprised the major part of HaMoked's activities in this area.

The first half of 1998 was characterised by a drastic decrease in the number of administrative detainees. As of the end of June there were 22 administrative detainees held in the Sharon prison, the majority detained for at least two years. In the Megiddo prison there are no more than 75 detainees, some of them detained for over a year and others for several months. Twenty persons were detained on 22 May, the majority of them from Jerusalem and the surrounding area.

The drastic drop in the number of detainees may be undoubtedly attributed to the extensive public actions against administrative detentions, centered around the activities of "Open Doors," a voluntary group established in September 1997. The activities of this group are supported by HaMoked, the Association for Civil Rights in Israel (ACRI) and B'Tselem. On the initiative of Open Doors, articles and advertisements were published in newspapers, two television programs on this issue were aired and a theatrical event took place.

There is no doubt that the involvement of HaMoked in this issue, especially the legal representative of so many detainees in appeals, was an important factor in the numerical decrease of this phenomenon.

These activities met with fertile ground. With the fading of the Oslo peace process, it appears the GSS concluded there is no longer any point in detaining so many objectors to the Oslo process for long periods of time. The aforementioned public process assisted the GSS in arriving at this conclusion.

Additionally, there was a change among the detainees themselves, who were influenced by the emerging attitude in Palestinian society and the long years of detention.

Finally, hundreds of persons suspected of belonging to the Hamas were detained in prisons of the PA, many of whom are still detained.

### Appeals of Detention

As previously noted, appeals on behalf of administrative detainees stood at the center of HaMoked's activities during this reporting period. Attorney Tamar Pelleg Sryck of HaMoked currently represents the vast majority of administrative detainees in their appeals.

The appeals take place before a military judge at the prisons in which the detainees are held. The law stipulates that the authorities hold the appeal no more than three weeks after it was filed. However, the court secretariat did not function as required and many appeals were set for later dates, cancelled or not held as scheduled. Under these circumstances, much advocacy with the secretariat was required in procedural matters.

- \* During 1998 Attorney Pelleg Sryck appeared in 210 appeals.
- \* Of these, 107 appeals resulted in the shortening of the detention period.
- \* In 49 of these 107 appeals, the detention period was shortened from one to three months.
- \* In one appeal a decision was not given.

It should be noted that a relatively low percentage of appeals were accepted in the months July-September while the number rose toward the end of 1998. Reasons for this include the attacks, the River Whye agreement which resulted in detentions and the change in the opinion of the judges.

It should further be noted that the percentage of appeals accepted varies from 0-50%, depending on the judge.

### Judicial Decisions with a Principled Character

\* A judge recommended that the authorities return to the legal arrangement, similar to that existing in Israeli law, which was in practice prior to the Intifada and which guarantees judicial review of detentions with no need for the detainee to file appeals of his detention.

\* The definition of "open material" which the GSS must reveal to the appellant was expanded.

\* The right to request and receive open material prior to the appeal was recognised.

\* Criminal records of the appellant must now be revealed to him and his legal representative prior to the hearing of his appeal.

HaMoked repeatedly contended that the judges must rule in accordance with the laws of evidence. This contention was rejected due to the existence of a contrary High Court decision (given in once instance and by one judge only). However, the judges expressed sympathy with this legal argument.



HaMoked conducted extensive correspondence with both the chief military attorney and president of the military court of appeals. Among other issues this correspondence dealt with the right of the appellant to receive all unclassified material ahead of time and not during the appeal itself, the necessity of holding the appeal hearings as scheduled and to receive judicial decisions within a reasonable period of time.

#### Advocacy with Additional Legal Channels

In January 1998, HaMoked submitted a petition to the regional court against the prison services in order to permit the passage of books to a detainee from his attorney. The petition became irrelevant with the release of the detainee and on a practical level thanks to Open Doors, whose activists went to the prisons on visiting days and gave the visiting family members books to be given to the detainees.

In April, HaMoked submitted a High Court petition on behalf of an administrative detainee whose detention was extended although it had been shortened by a judge in an appeal. The petition was submitted when it became clear that the extension was done on the basis of material which had been before the appeals court. Under these circumstances HaMoked saw the extension as an illegal act done by administrative authorities. The detainee was released on the eve of the hearing, but the High Court responded to HaMoked's request to discuss the petition owing to its principled legal nature. In July the High Court accepted the petition and ruled that administrative detention cannot be extended further after a judge has shortened it. The High Court noted that an exception to this rule may be made if new material or circumstances drastically change the situation.

The appeal of the longest-serving administrative detainee, Ussama Barham, held almost continuously since 8 September 1993, was held in June. His appeal was denied. On 1 September the High Court heard the petition of Ussama, who argued that the judge hearing his appeal must act according to accepted laws of evidence. In other words, the judge must not accept the hearsay testimony of the GSS representative, but summon the intelligence sources and hear them firsthand. The petition was in principle rejected. With this, the High Court declared that a judge may directly investigate the intelligence sources "in exceptional cases which will be determined according to the discretion of the judge, in accordance with the balance between vital security needs and the fundamental rights to freedom and a proper hearing."

An additional petition, which was submitted in the beginning of 1999, concerns Saleh Shehade, a detainee from the Gaza Strip whose detention appeal was rejected. In September, on the eve of his release from prison after a ten year sentence, Shehade received an order for a six month administrative detention. This petition was submitted in cooperation with ACRI and LAW.

## Special Cases

### **Mental Illness**

Among the detainees which Attorney Pelleg Sryck represented were two suffering from mental illness. They were examined, at HaMoked's request, by a psychiatrist affiliated with PHR. One of the detainees, a minor, was released on 25 August when his sentence was shortened by a month following the submission of an appeal. The second detainee is still being held and a decision concerning his appeal is pending.

### **Demand for Collaboration**

HaMoked represented an administrative detainee who is an Israeli citizen residing in the Occupied Territories. He was detained for three months following his refusal to collaborate with the GSS. The fact that he was asked to be a collaborator was not denied by the respondent in the appeal, but it was claimed that this was not the reason for his detention. In her decision the judge unequivocally noted that the detention should not be extended and if the appellant represents a danger to security of the region, he must be tried. The detainee was released at the conclusion of his three month order. It should be noted that there is an increase in the number of detainees who complain of being asked to collaborate in order to avoid further administrative detentions.

### **Investigation of the Death of an Administrative Detainee**

HaMoked continued to correspond with the authorities in the matter of the death of Marwan Maali in the Megiddo military prison. The investigation in this matter, which was renewed following HaMoked's advocacy with the military attorney, has been completed and the collected material has been transferred to the State Attorney's Office. HaMoked is considering the submission of a compensation suit in this matter.

### **Compensation for Wrongful Detention**

HaMoked turned to the Legal Advisor of the West Bank with the demand to compensate for the wrongful detention of Aimad Alamla after the High Court determined that the military commander has no authority to detain a person after a judge decided to free him. The legal advisor refused this demand, and HaMoked is currently contemplating the submission of a civil compensation suit in court.

### Problems Related to Detention

HaMoked further dealt with the detention conditions of the administrative detentions, a problem which is never solved. In contravention to regulations, the Palestinian detainees are not held in conditions better than those of the other prisoners. Their conditions are also much worse than those of the Jewish administrative detainees. Difficulties pertaining to detention conditions are generally solved through compromises between the prison administration and the detainees, and HaMoked assists them in this matter with legal advice and advocacy with the authorities. HaMoked advocates in general matters such as mail, food and housing conditions, in addition to personal issues pertaining to health, family visits, etc.

A number of examples of personal problems related to detention which HaMoked solved:

\* Aimad Naama was released on bail and then administratively detained. Attorney Pelleg Sryck represented him in trial, a condition for receiving the bail; bail was subsequently returned with interest.

\* HaMoked successfully advocated for the return of personal documents, which were confiscated at the time of detention or during interrogations.

\* HaMoked advocated in a special case of a wife visiting her detained husband.

#### Cooperation with Other Organisations and Activists

HaMoked maintains close cooperation and assists other organisations and activists in the matter of administrative detention.

\* HaMoked pursues an especially close connection with Amnesty International, which conducts general and individual campaigns to free administrative detainees, many of whom are represented by HaMoked.

\* Attorney Pelleg Sryck was invited by Amnesty International - Netherlands for a series of meetings and lectures, of which one of the central topics was administrative detention.

\* HaMoked turned to the Middle East Section of Amnesty International and requested that it "adopt" five Palestinian administrative detainees who were detained for an extended time and whose appeals to the High Court were denied. As a result, Amnesty cell groups in Europe and Canada are acting to "release or try" these five detainees.

#### Detainee Rights

##### Demand to Release Yasser Almuazan

Yasser Almuazan is a Syrian imprisoned in Israel for the past ten years after he was apprehended in southern Lebanon when he was 17 years old. Yasser contracted chronic renal failure and was transferred to the prison services medical center for continuous dialytic treatment. If Yasser is released to Syria, he has a good chance of receiving a kidney transplant from a family member. Attorney Pelleg Sryck is advocating for his release in two ways. One includes requests to local and international human rights organisations to demand Yasser's release. As a result, numerous letters were sent to the relevant Israeli authorities in this matter, and a group of French intellectuals also turned to their government and EU officials to request their intervention. Secondly, HaMoked is acting through legal channels. HaMoked petitioned the Prison Release Board to free Yasser on the grounds of a serious chronic illness. In this petition HaMoked was assisted by a volunteer physician associated with PHR, who met Yasser and submitted a medical opinion of his condition. The hearing of this request was held in early 1999 and despite the recommendation of Israeli intelligence sources to free him, the Prison Release Board rejected the request. HaMoked continues to advocate for his release.

## Investigation of the Death of a Detainee

At the request of the Palestinian Center for Human Rights, HaMoked is investigating the death in prison on 4 October 1998 of Ahmed Asfur. Ahmed, a resident of the Gaza Strip, was imprisoned for illegally entering Israel and was to be deported back to the Gaza Strip. According to the information supplied to the family, Ahmed committed suicide. The Israeli police have concluded their investigation into this death, and in the beginning of 1999 HaMoked obtained this report and is considering continued advocacy.

## Right of the Imprisoned to Speak Privately with his Attorney

Attorney Pelleg Sryck, through the Israeli Bar Association, successfully cancelled the illegal directive, issued by the prison authorities, to obligate attorneys to waive the right of the detainee to speak with his attorney in private.

## Al-Khiam Prison

HaMoked corresponded with the head military attorney to receive permission to visit the Al-Khiam prison in southern Lebanon. HaMoked received a request from the families of four detainees held here to represent them and obtain their release. The military attorney denied the request of HaMoked, with the contention that the Al-Khiam prison is administered by the Southern Lebanese Army (SLA). In March 1999 HaMoked, in cooperation with ACRI, petitioned the Israeli High Court in this matter.

## Prison Visits

Since the beginning of the interim agreement between Israel and the Palestinian Authority, all Palestinian prisoners are held within the boundaries of Israel. This is in contravention to the directives of the Geneva Convention, which forbid the transfer of persons from occupied territories to the territory of the occupying power. In practice, the holding of Palestinian prisoners within Israel deals a serious blow to their rights to family visits, and the rights of family members to visit their loved ones in prison. The current practice permits visits of residents of the Occupied Territories with their first degree family members in Israeli prisons. This is done through limited entry permits into Israel, which can be used solely within the framework of organised transportation of the Red Cross.

The primary difficulty arises when persons wishing to visit imprisoned family members are themselves not permitted to enter Israel. In the past these persons could not receive entry permits under any circumstances. Today, however, HaMoked is successful in obtaining for these numerous person one day permits. One to two months are generally required to arrange for these permits and even when the request is granted, HaMoked must advocate for a similar length of time in order to receive another permit such as this. HaMoked finds this practice unacceptable and is working to formulate a better regulation. It is intolerable that this fundamental right of the prisoner and his family is dependent on repeated bureaucratic procedures and the continuous intervention of a human rights organisation.

The closure is not the sole barrier to the realisation of the right to family visits in prison. The Israeli authorities are forever placing obstacles in this matter. A., currently detained in the Ashkelon prison, was permitted only one visit from his wife and other family members since his detention in September 1997. The difficulty is that A. is a Jordanian citizen, while his family members are residents of the West Bank. The Israeli authorities have difficulties in dealing with the differing legal statuses, and even the order of a military court to permit him family visits did not help. In December 1998 his wife was given a one day permit to visit N., and HaMoked continues to advocate for her permanent permit.

In another case handled by HaMoked, a wife was not permitted to visit her imprisoned husband as the IDF could not verify the couple's marriage of 1986.

In other cases, prevention of prison visits resulted from the prison services' policy of not permitting visits by family members who themselves had been imprisoned in the past.

## Tracing of Detainees

Table of Requests for Tracing of Detainees According to Regions  
and Years to 31 December 1998

	1990	1991	1992	1993	1994	1995	1996	1997	1998	<u>Total</u>
<u>Nablus</u>	5	6	5	32	45	107	76	78	63	<b>417</b>
<u>Tulkarem</u>	9	4	1	21	42	88	87	107	59	<b>418</b>
<u>Ramallah</u>	101	54	36	76	102	109	130	145	115	<b>868</b>
<u>Jerusalem</u>	37	37	36	56	98	67	55	31	31	<b>448</b>
<u>Bethlehem</u>	56	29	25	59	218	396	158	350	109	<b>1400</b>
<u>Hebron</u>	7	8	1	63	295	556	698	367	328	<b>2323</b>
<u>Jenin</u>	2	5	1	9	9	18	44	22	25	<b>135</b>
<u>Jericho</u>	3	1	---	---	1	4	6	5	4	<b>24</b>
<u>Other</u>	2	2	1	1	1	6	14	7	10	<b>44</b>
<u>Gaza</u>	2	4	3	123	181	25	64	49	45	<b>496</b>
<b>Total</b>	<b>224</b>	<b>150</b>	<b>109</b>	<b>440</b>	<b>992</b>	<b>1376</b>	<b>1332</b>	<b>1161</b>	<b>789</b>	<b>6573*</b>

\* 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.

### 3. Violence

#### Incompetent Investigations into Complaints of Violence and the Enforcement of Responsibility through Compensation Suits

Since its establishment HaMoked has dealt with instances of Israeli security force violence against residents of the Occupied Territories, including East Jerusalem. HaMoked assists the residents in filing complaints about violence, follows-up on the investigation of these complaints with the goal of disclosing the perpetrators and putting them on trial. For some time HaMoked has warned that the law is not enforced in regard to security forces. Instead of rooting out the phenomenon of security force violence, the system of enforcement prefers to ignore complaints, twist the facts or conduct superficial and incompetent investigations which do not produce any results. Palestinian witnesses are almost never questioned and their testimonies are given almost no weight in contrast to those of soldiers and police officers suspected of committing offences. At the end of 1997 HaMoked published a report entitled "Escaping Responsibility: The Response of the Israeli Military Justice System to Complaints against Soldiers by Palestinians." The report analyses complaints submitted until 1994 and the grim situation depicted here has not changed since.

One of the means which HaMoked utilises to hold the authorities accountable is the submission of civil compensation suits against Israel in cases of violence. The authorities whom at the relevant time refused to deal with the complaints in an appropriately serious manner must now explain in court how a person was beaten, humiliated, injured or killed. The State must often explain why a complaint was not investigated, how a complaint was lost, etc. Apart from the recognition and monetary compensation (generally very modest) gained by the victim, the civil compensation suits force the system to deal with its accountability.

In a precedent-setting judgement awarded in 1998 in a case submitted by HaMoked, it was determined that a negligent investigation of complaints may have financial implications for Israel. The case dealt with a number of thefts committed by soldiers during searches of homes in the village of Batir in May 1989. The victims of the thefts immediately complained about them to the Israeli military officials in the area and afterwards to the Israeli police. While the military police did conduct an "investigation" and the State Attorney was able to count 38 "actions of investigation," Judge Bilha Kahana wrote in her judgement that these were the equivalent of "treading water." She further noted that had a reasonable investigation been conducted, the thieves would most likely have been located. The State, which was not responsible for the thefts themselves, was forced to compensate the plaintiffs as the negligent investigation meant that the thieves could not be held responsible. The judgement thus sets an important precedent in the legal doctrine of "evidential damage," and also awards significance within the damage laws to the responsibility of the State to be accountable for the actions of its soldiers.

Instances of incompetent investigations are numerous in the 1998 compensation suits filed by HaMoked against the State for actions of its security forces in the Occupied Territories. This is so in the case of T., on whose behalf HaMoked filed a compensation suit in March. In June 1994, when T. was 19 years old, four IDF soldiers entered the home of his uncle in the Sair village of the Hebron district. The soldiers ordered him to accompany them and they sat him by two military jeeps as a "human shield" to prevent local residents from throwing rocks at them. Afterwards, the soldiers drove him to a remote area where they beat him on all parts of his body, and then ordered him to leave the area by foot. T. limped away, and the soldiers attempted to hasten his departure by throwing rocks at him. He finally reached the road, where he was picked up by a local resident and taken to his home. Nine days after the incident, his attorney contacted the Central Command Advocate General's (CCAG) Office and requested that the military police conduct an investigation. This office announced that an investigation had been ordered. However, in August 1995, it became apparent that the order "was not disseminated." A new order was given to commence an investigation, but in the investigation that was begun no testimonies were taken, not even that of the complainant. The investigation was subsequently closed with the justification that it was impossible to locate the responsible soldiers.

The military police did not even bother to investigate the matter of the Zaid family from the Kalandia refugee camp. In the morning of 2 November 1995, Mrs. Zaid was in the house with her daughters and grandchildren. Soldiers forcibly entered the home and began removing the family members from the house, with curses and pushes. Mr. Zaid, who returned from work, arrived and demanded that the soldiers leave or present a search warrant. The soldiers began beating Mr. Zaid. Even the local UNRWA director arrived, but failed in his attempts to convince the soldiers to leave the home. Only following the intervention of the Israeli police from the Ramallah police station, who also arrived at the home, did the soldiers leave, but not before causing significant damage. The family complained with the Israeli police in Ramallah, which transferred the complaint to the military police. The CCAG Office later told HaMoked that "From contacts with the military police it became apparent that (this) incident was not investigated by them. During 1995 notes on this matter were sent by the police, but no investigative material was attached and no investigation was conducted."

Mounier Karaje, born in 1925, was shot in the head in the center of Hebron on 17 June 1997. An IDF soldier fired a rubber bullet which caused a skull fracture and profuse bleeding, and Mr. Karaje suffers from, among other things, disturbances to his concentration and memory and it was estimated that he now suffers from a 20% disability. This disability prevents Mr. Karaje from working in his occupation as a journalist and continuing his social involvement. Despite the seriousness of this incident and its tragic results, an investigation was not conducted. In the wake of HaMoked's advocacy, the CCAG ordered not an investigation but an "initial inquiry." "At the conclusion of the inquiry," it was noted, "the possibility of commencing a formal investigation will be considered." Today, 1.5 years after the shooting, the CCAG has yet to complete the "inquiry." HaMoked decided not to wait any longer and in October 1998 submitted a compensation suit on behalf of Mr. Karaje.



## Pressing Charges and Compensating the Victims

Even while utilising the channel of compensation suits, HaMoked continues to advocate for the pressing of criminal charges against violent security forces. Occasionally HaMoked is successful in these attempts. One of these successes came in the case of Mahmud Ganim and Ahmed Musa from Alhadar. Ganim and Musa arrived in Jerusalem on 12 August 1997 with valid entry permits. While they were in the Jerusalem neighborhood of Beit Safafa, a jeep halted and the border police officers inside ordered them to get in the jeep. The officer took them to a forest in southern Jerusalem, removed them from the vehicle and severely beat them. They further tied Ganim by his leg to the back of the jeep and began driving as Ganim was dragged from behind. Musa was released by the soldiers while Ganim managed to escape. With their last energies they managed to make it to a nearby road and were taken by a passing car to the hospital. In this incident the military police succeeded in locating the soldiers: Michael Udrenko, Shai Ashtamaker and Nisim Adutler. They were tried in the Jerusalem District Court, found guilty by their own confessions and receiving punishments totalling ten years in prison. In the sentence, considered serious, given on 27 March 1998, the soldiers were sentenced to prison for between 1-1.5 years, and were also given suspended sentences. Their appeal of the "seriousness of the punishment" was rejected in June 1998. HaMoked will file a civil compensation suit in this matter shortly.

In 1995, the court in the city of Ramle refused to send officers of the border police who abused Palestinians to prison. The court sentenced Shlomo Nino, Arnon Meir, Chen Turjeman and Roni Nazuri to six months of public service and suspended sentences. The officers were convicted on the basis of their confessions in the framework of a plea bargain. The officers were tried following an incident in March 1994, during which they halted a car containing four Palestinians and took them to an abandoned orchard, where they abused and severely beat them. The soldiers even sat on the shoulders of the Palestinians and took pictures of themselves in this position! Following the submission of a complaint by HaMoked, the soldiers were located and put on trial. In December 1997, HaMoked submitted on behalf of two of the victims a civil compensation suit against the four soldiers and the State of Israel. It was to be expected that the State would disclaim all responsibility for these actions and argue that all responsibility falls on the officers who acted against regulations, but this was not the case. The State chose to defend the soldiers and compensate the victims from public funds. Even before submitting a letter of defence, the State arrived at a compromise with the victims whereby each would receive NIS 13,500.

In another court verdict from December 1998, the plaintiff received NIS 20,000 following a civil compensation suit filed by HaMoked. The complainant was attacked by border police officers Nasud Ohion and Ben David Krispin on 4 December 1990 and taken to the police station. At the station the complainant, who suffers from an addiction to paint thinner, was tied to a pole and requested that the soldiers pour a bit of thinner on his sleeve so he could inhale the fumes. Ohion poured a large quantity of thinner on him and lit it with a lighter he received from Krispin. The complainant suffered from second degree burns. Krispin was

convicted in a police disciplinary court, his rank was lowered, he was warned and fined. Ohion was sentenced by the court in Jerusalem to six months of public service, given a suspended sentence and ordered to pay NIS 2,000 in compensation to the victim. The suit filed by HaMoked in October 1997 on behalf of the complainant against the State and soldiers ended, as previously noted, in additional compensation of NIS 20,000.

### Proposed Legislation to Deny Compensation to Palestinians

In addition to filing individual compensation suits, HaMoked continued its campaign against the proposed legislation to deny compensation to Palestinian victims of Israeli security force violence. The proposal, which passed its first reading in the Knesset in July 1997, would exempt the State, its security forces and all those acting on its behalf, from responsibility for injuries caused in the Occupied Territories. During 1998 there were several discussions of this proposal in the relevant Knesset committee. HaMoked, in the framework of a wide coalition of human rights organisations, succeeded in enlisting the assistance of international organisations, in addition to leading attorneys in Israel, in objecting to this law. This proposal was also condemned by the UN Committee for Human Rights. At the same time, much pressure was applied on the committee by the government to quickly move this proposal back to the Knesset for its second and third readings. The Minister of Justice Tsachi Hanegbi and Minister of Defence Yithak Mordechai themselves appeared before the committee to support this proposal. Despite the governmental pressure objections to this law arose in the committee, even among Knesset members from the conservative parties, and discussions were frozen.

### **Freedom of Movement**

#### Entry to the Gaza Strip

In 1998 the Gaza Strip continued to be under a severe closure imposed by the Israeli authorities. The "safe passage" arrangements concluded in the Oslo Accords for movement between the West Bank and Gaza Strip have yet to be implemented, and there are no signs that this will occur soon. Exit from the Gaza Strip is most selective and limited: Many do not receive permits from Israel to exit, not even to Israel and East Jerusalem, and there is no entry into Gaza - not even for residents of Israel and East Jerusalem. Limited criteria permit a few visits to Gaza by first degree family members, although these visits entail a complex bureaucratic procedure. The intervention of HaMoked is required not only for exceptional cases, but also for the submission and follow-up on all individual requests. Thus, HaMoked is constantly advocating for a group of women, residents of Israel, who are married to residents of the Gaza Strip. These women receive three month permits to enter Gaza and when the permits are due to expire, HaMoked must recommence intensive advocacy with the Israeli authorities to permit these couples to continue their lives together.

## Exiting the Gaza Strip

Similar to entering the Gaza Strip leaving it, even if it is in principle permitted by Israel, requires the constant intervention of HaMoked. An example of this is the case of Y., a resident of Gaza currently working on his graduate degree in microbiology at the Hebrew University of Jerusalem. HaMoked began advocating on behalf of Y. in the autumn of 1996. Since then, and despite the fact that Israel has never expressed a principled objection to his studies in the country, HaMoked's constant advocacy has and is required to arrange Y.'s passage permits between Jerusalem and the Gaza Strip. These permits are supposed to be issued for three month periods. However, the permit is often given for a shorter time, or is not printed out, or is not granted...Intensive advocacy is required in order to solve the numerous difficulties which are forever cropping up in this matter. Y. is currently completing his second year of studies, and it is apparent that HaMoked's assistance will be required in the future to assure his legal presence in Jerusalem.

## Leaving for Abroad

Even after the signing of the Oslo Accords, the GSS continues to control the travel abroad of residents of the Occupied Territories. The bridges to Jordan, for example, are controlled jointly by Israel and the PA. However, when the Israeli clerks discover that a person is "prevented exit" by the GSS, he is not permitted to cross and must return home. Many who were prevented passage at these bridges, and others not permitted to leave via the Israeli airport, turn to HaMoked for assistance. In 1998 HaMoked received 100 new requests for aid in this issue, while it continued to advocate in 352 other cases received in previous years. As a result of HaMoked's intervention, 109 complainants were permitted to leave (55 due to a High Court petition submitted in 1997), 23 others allowed out for a limited time and a remaining 118 were not permitted out and on whose behalf HaMoked continues to advocate.

The fact that the right to leave a country is one of the most fundamental of all human rights, protected in international conventions and in the basic law of Israel, seems to have been forgotten by Israel among the vast bureaucratic procedures required for residents of the Occupied Territories who wish to travel abroad. The resident must point to "special humanitarian reasons" for his proposed trip. The fact that the resident has in Jordan family members, whom he has not seen for years, is not enough in most cases. Even exceptional circumstances are not always enough for the Israeli authorities, and such was the case of N. In March 1998 her brother and five year old nephew were killed in a car accident in the United States. As N. was turned back by Israel at the bridge to Jordan a few months earlier, HaMoked contacted the Legal Advisor of the West Bank to permit her exit to Jordan, where the funerals were to be held. Despite the urgent circumstances, the "security officials" responded that her exit was denied as she is "identified with the Islamic Jihad organisation." Only following an urgent pre-High Court petition to the State Attorney's Office was her travel to Jordan permitted. Several months later N.'s mother suffered a heart attack. HaMoked turned again to the Legal Advisor of the West Bank in order to allow N. to once again leave for Jordan. To its request HaMoked attached a telegram sent by the Red Cross in the matter of N.'s mother, but the Israeli security authorities refused the request as a medical opinion was not attached.

Not only family matters necessitate the travel abroad of residents of the Occupied Territories. From December 1997 until November 1998 HaMoked advocated for the right to leave for abroad of H., a lecturer of law at the Alnajah University in Nablus. H. was registered for doctoral studies at a university in Sudan, and to complete his studies had to travel there and present his thesis. HaMoked contacted the Legal Advisor of the West Bank, which refused to allow N. to travel. In the wake of an appeal with the State Attorney's Office, a one-time exit permit was given to N. He travelled to Sudan, but was forced to return to the West Bank prior to completing all the requirements for his academic degree. HaMoked once again intervened, and N. was permitted to leave the territories. N. completed his doctoral degree with honours.

In October 1998 HaMoked challenged the accepted assumption that the Oslo Accords award Israel the authority to prevent the travel abroad of residents of the Occupied Territories for reasons of security. In the High Court petition submitted by HaMoked, the specific directives of the Oslo Accords concerning border crossings were analysed. These directives include a closed list of specific cases in which the exit of persons may be denied, and clear instructions of the procedure involved in refusing these travels. When Israel accepted these rules, and even anchored them in military law, it could no longer argue that the territories are "closed military zone," the entry to and exit from dependent upon the Israeli military commander. The petition was submitted on behalf of Harav and Rasmia Afani, a couple from Jericho. Harav Afani, blind in both eyes, acts as the Imam of the Jericho mosque. He requested to travel to Jordan in order to, among other things, arrange his pension after 26 years of serving in the Hashemite public service. Prior to this High Court petition, HaMoked's advocacy with both the Legal Advisor of the West Bank and the State Attorney's Office was met with the unclear assertion that Afani and his wife "are involved in enemy activities." The High Court preferred not to hear arguments concerning the authority of the IDF military commander to prevent the exit of residents of the Occupied Territories. Instead, the court heard in camera the security considerations of the State. The High Court judges requested additional information concerning the necessity of Mr. Afani's trip to arrange his pension. A decision has yet to be taken.

### Respect for the Dead

Israel has a long and honoured tradition of expending enormous effort to return soldiers' bodies to Israel for burial. Israeli public opinion is extremely sensitive to the question of the certain identity of its fallen soldiers. At the same time, Israel acts disdainfully and negligently in identifying and burying Palestinian bodies and intransigently toward the families of those killed.

This attitude toward Palestinians killed in bomb attacks they initiated or in clashes with the IDF is evident from a number of cases handled by HaMoked. One case is that of Issa Zawahara, who was apparently killed in 1990 in Lebanon. A High Court petition in this matter is still pending from 1992. At first the State argued that it does not know a thing about Zawahara's fate. Only later did the State present a photograph of Issa, taken after he was

killed. The State also noted his place of burial: The cemetery for enemy dead located near the Daughters of Jacob Bridge. However, the body provided by the State was not that of Issa - this was proven by a DNA test conducted in the United States. At the end of 1995 Israel suddenly provided an identifying document, which it claimed to have found on the body in 1990. Attempts to locate the body of Issa in the cemetery for enemy dead continue: In the summer of 1998 three additional bodies were removed from the cemetery for DNA tests. Unequivocal information as to the fate of Issa has yet to reach his family. On the one hand the State contends that there is no doubt that Issa was killed, but on the other cannot produce his body. This entire incident raises serious fears concerning the IDF regulations for dealing with Palestinian bodies.

In the matter of Sufian Tsabiah the State took great care to learn of the certain identity of the body, and even performed DNA tests at its own initiative. Sufian Tsabiah was enlisted by the Hamas for a suicide mission in August 1995, and a certain identification of the body was required in order to justify the destruction of his family's home in March 1996. Tsabiah's family, more than three years after the incident, has yet to receive his body and have a funeral. The remains of Tsabiah's body are being held by Israel in an unknown place. When HaMoked first turned to the Minister of Defence and requested that the body be given to the family, the request was denied with reference to another case handled by HaMoked. In this case the High Court permitted the holding of a body as a bargaining chip in order to locate the body of the Israeli soldier Ilan Saadon. The body of Saadon was located, the other Palestinian body was returned to his family while that of Sufian is still being held by Israel. In August 1998 HaMoked once again turned to the Minister of Defence in this matter, and in November an additional refusal was received. This time the minister, despite a specific request of HaMoked, did not detail his refusal.

In early 1999 HaMoked, in cooperation with HaMoked, published a report concerning the Israeli attitude toward Palestinian bodies.

## Organisational Report

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