

Alternative Report by
HaMoked: Center for the Defence of the Individual
to the UN Committee Against Torture
for consideration of Israel's Fifth Periodic Report

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4 Abu Obeidah St.
Jerusalem 97200
Tel. +972.2.6283555
Fax. +972.2.6276317

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mail@hamoked.org.il
www.hamoked.org.il

HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger, is a human rights organization established in 1988 against the backdrop of the first intifada. HaMoked's mandate is to safeguard the rights of Palestinians living under Israeli occupation. HaMoked acts to enforce standards and values rooted in international humanitarian law and international human rights law.

Issue No. 2 raised under Articles 1 and 4:

1. In the current reporting period, two reports were published by HaMoked and B'Tselem that focus on two specific interrogation facilities run by the Israel Security Agency (ISA) and are located inside Israel, in incarceration facilities run by the Israel Prison Service (IPS) – Shikma Prison in southern Israel, and Petah Tikva Prison in central Israel. Both reports reveal that the ISA still practices illicit interrogation methods as a matter of routine; that the IPS is complicit in the ill treatment of interrogees by creating prison conditions that complement the actual interrogations, with the aim of weakening the detainee mind and body. Effectively, they form an integrated system whereby Palestinian detainees routinely undergo cruel, inhuman and degrading treatment. Each of the measures uncovered is cruel and degrading; more so when used in conjunction or for protracted periods. In some cases it amounted to torture.
2. The findings of the Shikma Report, published February 2016, are based on the affidavits and testimonies of 116 Palestinians from the West Bank interrogated at the Facility from August 2013 to March 2014 (Backed by the System, <http://www.hamoked.org/Document.aspx?dID=Documents3072>; hereinafter: **Shikma Report**). The findings of the earlier report, published November 2011, are based on the affidavits and testimonies of 121 Palestinians interrogated at Petah Tikva in 2009 (Kept in the Dark, <http://www.hamoked.org/Document.aspx?dID=Documents1308>; hereinafter: **Petah Tikva Report**).
3. The following table presents the most prevalent illicit measures reported by Shikma interrogees:

Dominant Interrogation Feature at Shikma August 2013-March 2014	No. of Cases	Prevalence (total=116)
Hands tied to chair throughout interrogation session;	105	91%
Of them, legs also bound	37	32%
Threats	68	59%
Solitary confinement estimated at above 48 hrs.	50	43%
Swearing and derogatory remarks	50	43%
“Stress position”, i.e., prolonged sitting on misshapen chair (e.g. with a longer extra leg attached mid-bottom)	38	33%
Physical violence by interrogators	14	12%
Sleep deprivation estimated at above 24 hrs.	12	10%

Note that 71 of the interrogees at Shikma were held there for more than 20 days; and eight of those for more than 40 days. Under military legislation, pre-indictment detention may continue for 90 days, and may be extended beyond that for up to three months in total by the Military Appeals Court. This, as compared to the 35 days stipulated in the Criminal Procedure Law – which de-facto applies to all but OPT residents – extendable for up to 75 days upon the Attorney General’s approval. In all stages of detention, the proscribed periods are much longer for OPT residents (see petition HCJ 4057/10 challenging this issue).

4. Similar findings came up in Petah Tikva. While the reports’ sample groups are not statistically representative, it is striking that, insofar as the reported measures are calculable, their prevalence is similar in both facilities: thus, of the total 121 Petah Tikva cases, threats were reported in 56% (68 cases); Swearing and derogatory remarks in 36% (43); sleep deprivation in 11% (13); and physical violence by interrogator in 9% (11). This

similarity bolsters the conclusion that these methods are regularly used by the ISA, rather than in isolated cases only.

5. Another alarming revelation is that the ISA is indirectly complicit in torture practiced by the Palestinian Authority: in 10 of the documented Shikma cases (9%), the men were cruelly interrogated by the Palestinian Authority a month or less before their arrest by Israel; at Shikma, the ISA interrogators clearly relied on information obtained during these PA interrogations (see Shikma Report, pp. 44-47, including affidavit excerpts).
6. The holding conditions and medical care at the ISA interrogation wings are the responsibility of the IPS. According to a recent report by the Public Defender's Office, conditions at IPS prisons are generally deficient (The conditions of detention and imprisonment in the incarceration facilities of the IPS in the years 2013-2014, <http://www.justice.gov.il/Units/SanegoriaZiborit/DohotRishmi/Documents/prisonreport20132014.pdf>). Shikma Prison (aside from the ISA wing) is one of the worst, with an average cell space of 2.6 m² per inmate, as compared to the national average of about 3 m² per inmate (see *ibid*, p. 19; and petition H CJ 1892/14). The deficient hygiene conditions and inadequate food quality given to security inmates held there were noted for their severity in the Public Defender's report (see pp. 54-55, 62). This seems to disprove the state's assertion that "The conditions prevailing in the Shikma detention facility [...] comply with the statutory requirements". The state went on to maintain that "that the physical conditions at the interrogations facilities are not designed to facilitate the ISA interrogation practices" (see state's response in the Shikma Report, pp. 66-68). However, the Shikma and Petah Tikva reports clearly show that in the context of interrogations, holding conditions assume an extra significant function (and the distinction between the two is often blurry and artificial); and that the substandard holding conditions at both facilities complement the actual interrogations, making the IPS an accomplice of the ISA's system of abuse
7. The following table presents the most prevalent incarceration features reported by interrogees held at Shikma:

Dominant Substandard Condition at Shikma August 2013-March 2014	No. of Cases	Prevalence (total=116)
Poor and/or little food	98	84%
Dirt and/or stench in cell	78	67%
Extremely hot or cold air-conditioning	57	49%
Inadequate provision of change of clothes	48	41%
Personal hygiene items such as towel or toothbrush long-withheld	46	40%
Shower withheld for more than three days (the standard is once a day; denying showers for up to three days is possible only rarely, when strictly required)	38	33%

8. A comparison of the relevant data suggests that conditions at Shikma are similar if not worse than those which existed in Petah Tikva before its 2013 renovation (see below Par. 16). Thus, inadequate food was reported in 66% of the Petah Tikva cases (80 of the 121); insufficient supply of fresh clothes appeared in 35% (42) of the cases; withholding of showers (for unspecified duration) was reported in 29% (35) of the cases; temperature extremes were reported in 26% (31) of the cases.

Failures in the provision of chronic medication to Interrogees:

9. A recurring phenomenon is the withholding of necessary medication regularly taken by detainees. Thus for example, in the case of T.A., an 18-year-old from Qalandiya who suffers from epilepsy and a two-year-old head injury who was held at Shikma for 44 days, including 12 days of intense interrogation. Throughout the period, T.A. did not receive his regular medication. The Shikma doctor had written in the admission form that T.A. was generally healthy and not on any regular medication, despite the fact that T.A. had told him upon admittance to the facility about his chronic medical problems (and also about the soldiers beating him en route to the facility, evident in his swollen, wounded face). Once, after losing consciousness while tied to the interrogation chair, the doctor gave him painkillers and a drug to lower fever, and the interrogation continued (see Shikma Report, pp. 42-43).
10. An extreme case of IPS medical staff collaborating with the ISA happened at Petah Tikva: "A" from Nablus, regularly takes psychiatric medication for a mental disorder. At age 19 he was arrested and held for six months. At the Petah Tikva facility, he was not given his medication and was placed in a standard cell. After about one day there, he had an attack in the cell. Rather than taking him to a clinic and having him treated by medical staff, he was taken to an interrogator, who gave him medication, coffee and cake. Throughout his detention there, medication was given by the interrogator, and not by the medical staff (Petah Tikva Report, pp. 35-36).
11. This is just one of several recurring problems in medical treatment detailed in the reports, including lack of examination upon arrival at the facility, and failure to address reports of violence en route to the facility (all contrary to **Par. 47-49 & 319** in **Israel's current periodic report** (hereinafter: **IPR**). Additionally, IPS medical staff must be required to photograph any injuries of inmates and not only when a warden or another inmate is thought to be responsible (as presented in **IPR, Par. 315**), but also in injuries possibly sustained during the ISA interrogation or inflicted en route to the facility by soldiers or police officers.

Complaints and legal action related to the reports:

12. To date, the ISA interrogee-complaints inspector recommended dismissing eight of the 13 complaints interrogees had filed over the ISA's conduct at Shikma (four due to the "complainant noncooperation"); these decisions are likely to be approved by the inspector's supervisor. Five are still pending. In no case was HaMoked offered to be present in a meeting between the Inspector and a released complainant (see **IPR, Par. 298**). It is unknown what sort of changes in procedures and methods of the ISA were prompted by the dismissed complaints (see **IPR, Par. 296**). Given the view expressed in **IPR, Par. 11**, it seems that state authorities have adopted a hostile attitude towards complainants and those who assist them in the painful process, and are thus predisposed to dismiss complaints (see also Par. 78 below, about the so called "Transparency Law" which discriminates against human rights NGOs).
13. Earlier on, all 18 complaints filed by interrogees over the ISA's conduct at Petah Tikva were dismissed as unsubstantiated based on the recommendation of the ISA inspector, then still within the ISA.
14. Complaints against IPS medical staff: three complaints by Shikma interrogees over improper medical treatment are still pending the decision of the police's National Unit for Handling of Wardens. Complaints over improper medical treatment and/or complicity

with abuse/torture, were filed by 13 Petah Tikva interrogees; 12 complaints were dismissed for “lack of evidence” (including one case that was transferred to the Department for Investigation of Police (DIP)). The fate of the other remaining complaint remains unknown, six years after it was filed.

15. HaMoked petitioned the HCJ over the deplorable holding conditions at both facilities based on the accumulated evidence that the holding cells were filthy and stuffy, without adequate ventilation, inadequate sanitary conditions and often without access to daylight. The petition (HCJ 6392/15) is still ongoing: Thus far, in the preliminary response to the petition, dated January 1, 2016, the IPS rejected HaMoked’s claims; nonetheless it did acknowledge that changes are needed in the constant lighting in the cells to allow differentiated lighting for daytime and nighttime, and that some sort of half-door might be installed to screen the squat toilets in the cells from view.
16. HaMoked's petition against the conditions at Petah Tikva (HCJ 7984/11) prompted the renovation of the facility, but there is not enough evidence from detainees to determine the extent of actual improvement. According to the state’s updating notice from December 2014, the renovation included the replacement of the electrical wiring and air conditioning system in all lock up cells and interrogation rooms; and the installation of toilets, showers, new plumbing and partitions screening the toilet area in the cells.
17. Complaints to the Military Police Investigation Unit (MPIU) over abuse en route to the facility: about a third of the Shikma interrogees reported that they were beaten by soldiers or police officers en route upon arrest/during transfer to the facility. Eleven of them filed complaints over their abuse by soldiers; nine complaints were dismissed without further action (three due to “complainant's noncooperation”). At the time of writing, two complaints are still pending. Similar complaints were filed by nine of the Petah Tikva detainees. The MPIU opened inquiries into all nine; eight were closed without further action due to lack of evidence (in five of them final decision was communicated more than three years after the complaint was filed, and following petition HCJ 7990/11 filed over such delays). In the remaining case, a soldier faced disciplinary proceedings and received a “severe reprimand” for aiming his weapon at the complainant's head.
18. One of the interrogees at Petah Tikva (see above Par. 1) filed a civil claim via HaMoked in 2010 against the state, the ISA, the military, the police and the IPS, for various abuses he suffered upon his arrest, and during his interrogation period at Petah Tikva. Some two years later, on the court's recommendation, he dropped the cases against all but the ISA, and struck a settlement agreement with the ISA, whereby the latter paid the plaintiff a net sum of ILS 20,000. It should be noted, that his complaint to the ISA Inspector was one of those that had been dismissed earlier on as unsubstantiated. The meagre sum received after some three years after the interrogation, sheds some light on the lapse of motivation on part of other plaintiffs in pursuing the arduous path of receiving damages from Israel through its court system. Thus, in six other civil suits, also filed via HaMoked, proceedings were terminated following the plaintiffs' request/noncompliance and one was dismissed.

Issue no. 6 raised under Article 2:

Detainee whereabouts and notification of arrest:

19. Contrary to the assertion in **IPR, Par. 52**, the state routinely breaches its obligation to swiftly notify families from the OPT about the arrest and whereabouts of their relative (and recall that security detainees are not allowed to phone their families). Since 1995, the military has been operating a prison control center that collates and must provide up-

to-date information regarding detainees and their whereabouts. In practice, families from the OPT can learn if and where their loved ones are held only by contacting HaMoked which verifies arrests and traces detainees chiefly vis-à-vis the control center, which usually responds within 24 hours. When tracing efforts fail and the whereabouts of the person are still unknown 36 hours into the presumed arrest, HaMoked files an urgent habeas corpus petition to the HCJ when it is fairly certain that the person has been arrested. Otherwise, when the information supplied by the family is uncertain, HaMoked first sends a final pre-petition letter, followed by court petition if needed.

Detainee tracing by HaMoked in 2013-early 2016:

No. of OPT Detainees Traced through:	New Tracing Request	Pre-Petition Letter	Habeas Corpus Writs Sought from the HCJ	Total
2013	4,067	2 (one age 14)	4 (one age 17)	4,073
2014	4,561	3 (one age 16)	6 (five Gazans; see below)	4,565
2015	4,470	7 (one age 15)	5	4,482
2016 Jan.-Feb.	937	1	2 (ages 15 and 14)	940

Detainee tracing during Israel's 2014 ground offensive in Gaza:

20. In the course of the offensive, the Israeli military arrested hundreds of Palestinians, and many were transferred for interrogation to facilities inside Israel. The control center refused to respond to HaMoked's communications concerning detainees from the Gaza Strip. In the circumstances of the war, it was especially vital to ascertain detention, to rule out the possibility that anyone missing was in need of rescue, injured or trapped in the rubble. In July 2014, HaMoked and PHR-Israel filed habeas corpus petition HCJ 5226/14 on behalf of five families from Gaza who were searching for their missing loved-ones. Following the petition, the state provided information about these detainees, and directed the military prison control center to respond to inquiries about specific detainees. The state refused to divulge to HaMoked any details about the other Gaza detainees not mentioned by name, citing in this context the change in the status of Gaza following the 2005 disengagement. HaMoked's petition for the publication of the list of names of all Gaza detainees held inside Israel was withdrawn at the court prompting (HCJ 5243/14).

21. In April 2015, HaMoked filed another habeas corpus petition (HCJ 2596/15) relating to the Gaza war, in a bid to discover the fate of a missing 24-year-old Palestinian from Rafah; the last time W.M. was seen was in Rafah on August 1, 2014, during the War in Gaza, reportedly lying on the ground, bleeding, close to Israeli soldiers. Only then did the Ministry of Defense finally disclose (letter dated April 19, 2015) that most likely, this was the man who had been killed in a clash with the military on the date in question, whose body was taken to Israel and buried in the cemetery of enemy combatants. It should be noted that in that war the military took and buried in Israel the bodies of 19 Gazan fatalities, including that of W.M. (according to letter of the Public liaison Department of the military's Spokesperson Division to HaMoked, dated March 24, 2015, http://www.hamoked.org/files/2015/1158902_eng.pdf) – most likely to be used as bargaining chips in future negotiations. The military offered vague assurances that precautions had been taken to ensure that these bodies would not get “lost” or become unidentifiable – as happened in several cases in the past, some remain “lost” (see, e.g., state's updating response in HCJ 1173/13 <http://www.hamoked.org/Document.aspx?dID=Documents2503>).

Issue no. 11 raised under Article 2:

Solitary confinement of detainees during the interrogation period:

22. Under Prison Regulations, the official in charge of the interrogation may order the isolation of the detainee and his seclusion from other detainees if and for the duration needed for the interrogation. In practice, a significant number of detainees interrogated over security allegations are held in solitary confinement for at least part of the interrogation period.
23. The data obtained from both facilities, Shikma and Petah Tikva, suggests that in this kind of “interrogation-period” solitary confinement, the detainee sees no one throughout, except for brief contact – through the cell-door hatch – with the warden bringing the food, and are thus induced to seek human contact with the interrogators later on.
24. The findings of the Petah Tikva Report, indicate that in that period, of the 121 detainees, 94 (78%) were held in tiny windowless cells in solitary confinement during their interrogation period, for varying stretches of time, and some for at least two separate stints during that period.
25. According to the data collected from Shikma interrogees, of the total 116, 37 detainees were held in solitary confinement for at least 2 days. Of these 37, 19 reported their holding in solitary confinement lasted for more than three days, some for over a week.

Prolonged “segregation” of convicted security prisoners:

26. Under the Prison Ordinance, a prisoner may be held in “separation”, in total isolation from other inmates, for a period of up to six months by virtue of monthly administrative decisions of IPS official. The isolation period may be extended by up to six months more subject to judicial review and approval, and thus indefinitely. (Whereas “solitary confinement”, discussed in **IPR, Pars. 84-88**, may only last seven consecutive days). The Ordinance dictates that this measure must be used as a last resort only, when the purpose cannot be obtained through any other means. The holding of prisoners in semi-isolation, where two inmates are kept together in a cell and have no contact with the other inmates – may continue without judicial review for up to a year. The official grounds for isolation are varied, and include security of the state or prison and the safety or health of the prisoner himself or other inmates. The prisoner is kept in his cell – usually under inadequate conditions – for 23 hours a day. For one hour each day, the prisoner is allowed to go out to the prison yard, which is cleared of all other prisoners for the duration. His only contact is with the wardens (see in depth report on the issue published in September 2012 by the Public Defender’s Office). HaMoked has encountered several cases in which “security” detainees from the OPT were held in isolation due to “security” grounds.
27. In at least one case, a prisoner was held in total separation alternating with stints of “semi-separation” for nearly ten years, from 2003 until June 2012. The man, A.B., serving multiple life sentences, was finally removed from separation and moved into a regular wing only following a security prisoners' strike, which also sought, inter alia, to end the holding in separation of several security prisoners. Moreover, in addition to his segregation, for a long period of time the man was placed under an IPS family visit ban: consequently, from 2003 until February 2009, he was allowed to see his wife and three minor children (the only relatives who could visit him at all) only three times; and from then on, he had no more visits. Thus, until the end of his segregation, for some three years he had no direct contact with his family, and saw literally no one but the prison staff, his attorney and – while in “semi separation”, his cell-mate.

Family visits to Palestinian inmates incarcerated inside Israel:

28. Israel holds the vast majority of Palestinian prisoners, detainees and administrative detainees in incarceration facilities located inside Israel, in breach of international law. In 2010, the HCJ rejected a public petition in the matter, and upheld this practice and also the holding of military court sessions inside Israel. A large share of the Palestinian inmate population held by Israel, are labeled “security prisoners” pursuant to an IPS administrative decision (see IPS procedure in Hebrew at <http://www.ips.gov.il/Uploads/Commands/PDF/100.pdf>). The criteria for this classification include, inter alia, membership in an organization banned by Israel and participation in a prohibited assembly. Inmates thus classified are governed by a separate, more restrictive set of prison regulations (see IPS procedure in Hebrew, <http://www.ips.gov.il/Uploads/Commands/PDF/89.pdf>); they are incarcerated in separate wings under harsher prison conditions and no phone calls are allowed, except in situations defined as humanitarian and subject to special procedure. They are also afforded a much stricter visitation format: only immediate relatives may visit them; the visitor and inmate cannot speak directly, only through a speakerphone, as a see-through partition separates them. Thus also no physical contact is allowed except by the inmate’s children up to age 8 and only for a few minutes at the end of the visit.
29. Relatives must apply to the military for an Israeli entry permit in order to visit their loved one in prison. This applies also in seeking to visit a relative held in Ofer Prison – located inside the West Bank. A response to a permit application may take up to ten weeks – and in practice, sometimes much longer, and occasionally an administrative petition is needed in order to elicit a response.
30. The Israeli criteria for prison visits from the West Bank were published for the first time in June 2014 in “Procedure for Issuing Israeli Entry Permits for the Purpose of Visiting Prisoners” (following petition HCJ 4048/13). Under the current criteria, in the absence of any security preclusion (specific or collective), a one-year entry permit to visit a specific inmate may be given to the inmate's spouse, parent, grandparent, daughter, and sister, as well as his/her son or brother – provided he is under age 16 or over age 35.
31. Single-entry permits (valid for just 45 days) are not given only to people to whom the ISA ascribes – an undisclosed – “security concern” (as presented in **IPR, Par. 94**). Such short term permits are also given on a categorical basis to any inmate’s son or brother between ages of 16 and 35. This constitutes a mitigation of the previous harsher policy (over which petition HCJ 4048/13 was filed), whereby such sons could only visit their incarcerated parent twice a year, and brothers their sibling only once a year.
32. Moreover, not all blacklisted individuals – many of whom have never been arrested or interrogated – are given even the shorter permit and are precluded entirely from visiting the incarcerated relative. Often enough, filing a court petition leads to the lifting of the ban, allowing the “precluded” person to receive at least this short-term permit and visit his/her imprisoned relative (see, e.g., AP 29355-03-13). This raises concern that “security bans” are often imposed on flimsy grounds. It should be noted that the single-entry permit means that the recipient must repeatedly undergo the protracted application process, with just a small chance of visiting the incarcerated relative even three times a year.
33. In some cases, blacklisted Palestinians are not allowed to visit their incarcerated relative at all. When such cases are heard by the Court for Administrative Affairs, the ISA's claims

about the nature of the security threat and the evidence for it are classified, and may be reviewed by the court only, ex-parte. The petitioner and his/her lawyer are never told about the nature of the allegation, except for a laconic uninformative “paraphrase”, communicated by the judge after the ex-parte review. The prospective visitor is thus prevented from substantively countering the allegations underlying the ban (the same is true in cases of a military ban on going abroad, military administrative detention orders and so on).

34. In at least one case the visit ban has been continuing for years: from February 2009 to this day, Faida Jamal, mother of three from Beit Rima – a woman never arrested or interrogated by Israel security forces – has been banned from visiting her life-prisoner husband A.B. (see Par. 27 above). HaMoked has had to withdraw each of the administrative petitions filed on her behalf (most recently in December 2015, AP 40249-10-15) due to the ISA's obscure security allegations against her.
35. Between June 15 and July 13, 2014, Israel halted all family visits to prisoners from the OPT who were held in Israel, as part of the sanctions imposed on the Palestinian population in the West Bank following the abduction of three Israeli youths.
36. Thereupon, prison visits from the West Bank were only partially renewed: a punitive visit ban was imposed by the IPS on prisoners associated with Hamas, Islamic Jihad and the Palestinian liberation fronts, preventing them from seeing their families (see HCJ 6409/14). By September 2014, family visits to these prisoners were resumed in a limited format. To this day, Hamas and Jihad inmates – as well as anyone held in the same wing with such prisoners, regardless of presumed affiliation – are allowed only one visit per month, as opposed to twice a month for other prisoners.

Family Visit Bans issued by IPS:

37. The IPS maintains that family visits are a privilege which may be granted or withdrawn from inmates. The prison commander is therefore authorized to prohibit the entry of a visitor to the prison, either based on a specific ban against the visitor or the inmate, inter alia, due to a security reason or as a disciplinary sanction. In addition, under IPS regulations, former inmates – loosely defined in the procedure to encompass also people ultimately acquitted or released without charge, whether Israelis or OPT residents – may enter a prison for a visit provided s/he obtained in advance the express permission of the prison commander. But following the HCJ's judgment in December 2009 (HCJ 4127/09), if the prison commander refuses to grant the permit, visitors may no longer challenge the prevention against them; the court ruled that the right to visit is first and foremost the right of the prisoners, and not of the visitors, and that visitation prohibitions must be tackled through a “prisoner petition”. But prisoner petitions are an inadequate channel for this purpose, given that the prisoner and the visitor have no way of communicating with one another, and leaving the prisoner to try and tackle in court the essentially classified allegation directed against the absent visitor. Additionally, the burden of filing a prisoner petition, increases the likelihood that the inmate would face undue pressure from IPS officials.

Family visits to inmates from Gaza:

38. Since the resumption of prison visits from Gaza (see **IPR, Par. 95**), only parents, spouses and children up to age 10 may visit incarcerated relatives held inside Israel (see military procedure in Hebrew at http://www.cogat.idf.il/Sip_Storage/FILES/6/4576.pdf).

Issue no. 31 raised under Article 11:

39. Facility 1391 remains open to this day, allegedly unused, operating under a largely secret arrangement, with the court's endorsement given in HCJ 9733/03 in early 2011. HaMoked continues to monitor the operation of the secret facility, using the few available tools for public scrutiny left by the HCJ.
40. In rejecting HaMoked's petition and legitimizing the operation of the Facility (see **IPR, Par. 279**), the HCJ was careful not to address the harsh conditions and ill-treatment which went on unchecked throughout the years the Facility had operated in complete secrecy. The court didn't even consider the issue of the Facility's secrecy during those years, only from the time its existence was revealed. Therefore, the court could conclude there was no problem in the fact that all that remained secret was the exact location of the facility and not its very existence. The only three known aspects of the arrangement included as part of the judgment raise grave concern as to the efficacy of the monitoring of the Facility in use: first, the court embraced the state's undertaking not to hold OPT Palestinians or Israelis in the facility, but only foreign nationals. However, it is important to recall that the Facility has always been used principally for the clandestine holding of foreign nationals of Muslim/Arab origin, and was only revealed following the sporadic and short lived use of the facility for incarceration of OPT residents. Israel's undertaking thus also reduces the likelihood it would face with any habeas corpus petition concerning anyone held there. Second, the state undertook to only hold there inmates for very brief periods. However, in order to prevent prolonged holding incommunicado in the Facility, the court stipulated that should the Facility be used for non-brief incarceration, its location must be disclosed. Aside from these, and the guaranty that holding a person in the facility requires approval by "senior ranking" officials and informing the Attorney General, most of "the restrictive arrangement" was included as a classified addendum in the judgment. Thus, any detainees that might be held at the Facility 1391, would indeed be placed within the protection of the law, but the law protecting them will remain secret, and as such, impossible to monitor.

Issue no. 33 raised under Article 11:

41. Under the Youth Law (Trial, Punishment and Modes of Treatment) (see **IPR, Par. 284**), if a minor is classified a "security detainee", s/he may be denied basic protections afforded to detainee-minors.
42. The Law does not apply to minors from the OPT (except for East Jerusalem), even if they are arrested inside Israel. They are detained and tried under the stricter military legislation, which, inter alia, does not allow parents to be present during the minor's interrogation (see, e.g., B'Tselem, webpage on "Minors in Custody" at http://www.btselem.org/detainees_and_prisoners/minors_in_custody). In arresting a minor, under Military Order 1676, the military is required to make only a "reasonable effort" to promptly notify parents of the minor's arrest.

Tracing of Palestinian minors in custody:

43. HaMoked often receives tracing requests from families of minors from the West Bank held by Israel. In 2013, HaMoked traced 518 minors; 59 of them between 12-14 year old. In 2014, 475 minors were traced by HaMoked; of them 41 between 12-14 years old; one was a nine year old who was held for about two hours at a military base – in blatant breach of even military legislation – until he was returned to his parents via the Palestinian Authority (complaint no. 81149). In 2015, 580 minors were traced; of them, 58 were ages 12-14; two were age eleven – each was held for some 10 hours at a military

base until he was released (complaints no. 90574 and 91067). One habeas corpus petition was needed in 2013 in order to trace a 17 year old minor in custody. In 2013-2015, each year, one pre-petition letter was needed in order to trace a minor in custody (ages 14, 16 and 15 respectively). In January-February 2016, two habeas corpus petitions were needed to trace two minors, 15 and 14 respectively, who were arrested in separate occasions.

44. Of the interrogees at Shikma who supplied their accounts, five were minors, the youngest then age 16 and two months. Four of them reported they were subjected to beatings during their arrest or transfer to Shikma; one of them reported that at the admittance checkup at Shikma, the physician ignored his complaint about the beating en route to the facility. (See Shikma Report, pp. 36-38, including affidavit excerpt).

Issue no. 36 raised under Articles 12 and 13:

45. At present, long after the June 2013 transfer of the Interrogee Complaints Inspector to the Ministry of Justice, the procedures regulating the manner of examining interrogees' complaints remain obscure as ever. In its response of November 2014 to HaMoked's inquiry regarding the Inspector's powers, the Ministry of Justice listed the Inspector's options at the end of a complaint review; and stated that the investigators working under the Inspector have the same powers as those accorded to disciplinary investigators under the Civil Service Law (Discipline) 1963; the question of whether there was any written document specifying the Inspector's work regulations was left unanswered (see letter of the Head of the Ministry of Justice Public Inquiries Unit, dated November 12, 2014, to HaMoked's freedom of information application, <http://www.hamoked.org.il/Document.Aspx?dID=Documents2555>).

Issues no. 43-44 raised under Article 14

Discriminatory monetary compensation regime in state-liability cases:

46. For some 14 years, the Civil Wrongs (Liability of the State) Law contains unique provisions aimed at relieving the state from its responsibility in tort towards Palestinians from the OPT for damage to life, limb or property caused by the Israeli Security forces. Thus Israel has largely eliminated the only viable avenue through which Palestinians could hope to obtain adequate damages from the state and have their case heard. The courts often played a crucial role in facilitating otherwise unlikely settlement agreements between Palestinian plaintiffs and the state. Compensation may also be sought by direct application to the military's Claims Division, but in HaMoked's experience, even when such claims are accepted, the sums awarded are largely insubstantial.
47. Thus, lawsuits over damage sustained inside the OPT (such as, in the case of the ISA interrogees, damage upon arrest or en route to facility), come under Section 5(a) of the Law – which **applies exclusively to events involving Israeli security forces inside the OPT**. But all tort claims over damage suffered **either inside the OPT or Israel** (e.g., in the case of ISA interrogees, from the arrest throughout the interrogation period), **may** come under Section and 5(b) of the Law – which is **based on the plaintiff identity, irrespective of the specific state agency involved**. Similarly, all injurious events **may** come under Sections 1 and 5 of the Law, which define “**wartime activity**” and establish state immunity for it.
48. As stated, Section 5(a), enacted in 2002, applies exclusively to lawsuits over events involving the security forces inside the OPT. But while its applicability is determined by location, i.e., the OPT, in practice, it deprives only Palestinians from receiving any remedy, as Israeli civilians are eligible for various monetary awards under other legal arrangements. Two of the provision it includes are procedural in nature: one requires the

prospective plaintiff to file a notice of damage to the military within 60 days (and exceptionally 90 days) from the date of the event in which damage was sustained. The other requires filing the lawsuit within two years from the date of the event (as opposed to the usual seven-year limitations period). Omission or delay in complying with either requirement, may lead to the summary dismissal of the case.

State immunity based on the plaintiff's identity under Section 5(b):

49. Section 5(b), entitled "Claims by an enemy and a person who is active in or a member of a terrorist organization" was enacted in 2005 and expanded in 2012. Under it, a plaintiff may be denied the right to compensation on a personal basis - even if the damage was unlawfully caused by a state agent (not necessarily of the security forces); even if the injurious incident was unrelated to security (such as in a car accident or during a peaceful protest); and, as stated, regardless of where it took place. It exempts the state from liability in tort towards: (1) a subject of an enemy state (or, since 2012, a government-proclaimed enemy territory) unless lawfully present in Israel; (2) an activist or member of a "terrorist organization"; (3) or anyone injured while acting on their behalf. The Section stipulates that the applicable definitions for "terrorist organization" and "enemy state" are as those set in the Penal Law of 1977. Thus, it may apply to any Palestinian who is active in or belongs to most of the Palestinian political entities, to deny her/him compensation even if s/he engages in strictly civilian activity, and even if the damage preceded the alleged involvement. It may also apply, inter alia, to subjects of Arab countries, but not to Jews engaging in nationalistic terrorist activity. The state immunity in such cases never expires, it lasts for all eternity, even after the end of the state of war/armed conflict; this whereas before, court proceedings could be stayed, allowing the plaintiff to have the lawsuit heard by the court after end of the "state of war".

The double exemption relating to plaintiffs suing over events in custody:

50. An exception to Section 5(b) is established in the First Annex to the Law. Under the exception, the state is not released from liability if the plaintiff coming under Section 5b is suing the state over damage sustained while in custody – but only provided that after s/he was released, the person "did not return to be active in, or a member of a terrorist organization or to act on behalf of such or as an agent thereof". Thus, victims of torture or abuse in custody may be denied compensation based on some ascribed activity made after their release – irrespective of the nature and extent of damage or the severity of the authorities' negligence.
51. In 2012, Section 5b(1) was expanded to encompass also plaintiffs from any territory outside of Israel which is proclaimed a "conflict zone" by a Governmental decree. This affords the state immunity from liability for any damage caused to the residents of the "conflict zone" (who are not Israelis) and it applies retroactively to all claims in which the hearing of the evidence has not yet commenced. And in 2014, the government declared the Gaza Strip was "enemy territory" for the purpose of civil claims against the state (see Civil Wrongs Order (State Liability) (Declaration of Enemy Territory – Gaza Strip (5775-2014)). Thereby, Israel extended its immunity to civil suits by Gaza plaintiffs who sustained damage from July 2014 – i.e., from the beginning of the last war in Gaza.

Section 1 and 5: the definition and expansion of the "wartime action" immunity:

52. The Law has always provided that the state may be exempted from civil liability if it is determined that the harm resulted from a wartime action. In 2002, the term was given a definition in the Law, and in 2012 it was expanded. In the interim, the courts moved away from the narrow judicial interpretation of the term, and increasingly rejected lawsuits on

that ground, reaffirming the state's position that compensation in such cases should be resolved outside the framework of tort law.

53. The distinction between police and combat action gradually eroded along with the long-accepted binding criterion for "combat action", i.e., the question of whether or not the troops involved were under imminent danger. Thus, notoriously, a binding precedent was set whereby the state is exempt from liability for incidental damage during targeted killings (usually carried out from the air, without substantial risk to the crew) even when innocent people were killed (see, e.g., CC 2394/04, issued 2005). Another precedent was introduced in connection to injurious incidents which occurred during Operation Shield in 2002, whereby the specifics of the case are largely immaterial if the overall context is a largescale military operation, which justifies releasing the state from liability.
54. In 2012, the definition of "wartime action" was significantly broadened, inter alia, by making the life-risk factor an optional criterion rather than obligatory. Crucially, the 2012 Amendment stipulates that a "wartime action" claim raised by the state must be decided upon at the outset, as a preliminary argument, before hearing all of the evidence. If it is accepted, the court must dismiss the lawsuit outright, without ever holding a full review of the case on its merits. This is an encroachment on the judiciary's independence: perhaps prompted by the fact that in the past, the courts usually rejected state requests for summary dismissal on that ground and would hear and consider all of the evidence before deciding on this question. Thus many lawsuits filed by Gazans over the innocent deaths caused by Israeli shelling during Operation Cast Lead were dismissed outright, without the court examining the particulars of each fatal incident (see, e.g., CC 40563-12-10 (2013)).

Other obstacles:

55. In many cases, the military's refusal to give entry permits to Palestinians, especially from Gaza, who sought entry to Israel to further their lawsuit – such as by consulting with the lawyer, obtaining a medical opinion and even testifying in court – hampered and even foiled the litigation. A designated procedure for Gazans was published only in 2013 (following HCJ 9408/10 (see procedure http://www.cogat.idf.il/Sip_Storage/FILES/7/3957.pdf). According to military data, of the 55 applications filed on behalf of 187 Gazans after the publication of the procedure and until November 2014, 49 were dismissed for "failing the criteria" (letter of COGAT Spokesperson, dated November 13, 2014, in response to Gisha's freedom of information application, http://gisha.org/UserFiles/File/LegalDocuments/freedomOfInformation_4_9_14/answer_24_11_14.pdf). The state as litigant opposes to entry-precluded Palestinians "testifying" via videoconference calls (see, e.g., LCA 35950-04-11).
56. Consequently, many cases have been dragging for years and some are ultimately terminated due to "plaintiff's inaction". Thus in a case concerning the wrongful death of a woman from Rafah, killed by military gunfire in 2003: the lawsuit was filed three times, (the first time in 2005, within the shortened two-year limitations period). Twice it was dismissed without prejudice due to "plaintiffs' inaction" – resulting from the military's refusal to allow the plaintiffs to enter Israel to testify in court (CC 10251/05 was dismissed in 2009; CC 2221/10 in 2011). When the lawsuit was filed for the third and last time, the court dismissed it for being filed passed the limitations period (CC 22786-12-11, filed December 2011, dismissed June 2013). See additional details <http://www.hamoked.org/Case.aspx?cID=Cases0093>.

57. It should also be noted that for years now, the courts have been imposing on Palestinian plaintiffs prohibitive court guarantees to cover potential trial costs in case they lose – although it is not obligatory. Sometimes this has caused the plaintiffs to drop their lawsuit.
58. No viable alternative for compensation has been established to date. To the best of our knowledge, the Defense Ministry maintains a committee for ex-gratia monetary awards. The criteria are extremely limited (see in Hebrew <http://www.hamoked.org.il/Document.aspx?dID=Documents3129>). Under the criteria, the committee, inter alia, may consider granting a onetime award over damage caused by the military in the OPT, only in cases of severe bodily injury resulting in severe medical or severe financial difficulties; or in cases of death, where the spouse, parents or minor children of the deceased are in severe financial difficulty as a result. Data of the Defense Ministry, shows that from 2004 to 2015, the committee received 62 applications; 10 relating to Gaza – all of which were refused; 52 relating to the West Bank, 10 of which were rejected and 42 accepted. Of the accepted cases, 35 were out of court applications (which, as a rule, must be filed within a year from the event). In the remaining seven cases, ex-gratia awards were given following the rejection of the lawsuit due to “wartime activity”. The average sum awarded was ILS 14,000 (see letter of Head of the Public Inquires Division of the Ministry of Defense, dated August 3, 2015, in response to HaMoked’s freedom of information application, <http://www.hamoked.org.il/Document.aspx?dID=Documents3130>).

Issue no. 51 raised under Article 16:

Punitive demolition of homes:

59. In June 2014, Israel revived the practice of punitive home demolition, and has since been employing it widely in the West Bank, including annexed East Jerusalem. Thus far, until March 17, 2016, Israel demolished 22 housing units with the HCJ’s approval (only one family opted not to petition the court). In another case, after the HCJ issued an order nisi (HCJ 8024/14), mainly because the assassination target had survived – the state reduced the scope of the demolition order and demolished (by filling with concrete) only the room of the suspected shooter (killed earlier on, reportedly in a shootout with the security forces). To date, 11 demolition orders and 4 sealing orders are pending further decision either by the military or the court (see full list of homes <http://www.hamoked.org/Document.aspx?dID=Updates1683>).
60. It is important to note that punitive demolition/sealing orders – issued under Regulation 119 of the Defense (Emergency) Regulations – are intrinsically also orders of seizure of the property – i.e., the structure itself and the plot of land on which it stands. The seizure remains in effect indefinitely, prohibiting reuse of the property by the Palestinian owners – even people unrelated to the suspect/attacker. In theory, after a substantial period, the military commander may grant a request to invalidate the seizure. It is still unclear whether such a request was ever granted.
61. In late 2014, the HCJ rejected a public petition (HCJ 8091/14) against the policy, filed by a group of human rights organizations. The court ruled that Israel had the authority to continue the demolition of homes pursuant to Regulation 119, and accepted Israel’s position that it was a means of deterrence rather than punishment. The court reiterated this view in rejecting the individual petitions against the various demolitions.
62. Punitive demolitions are deliberately aimed to harm uninvolved people, young and old – the family members of the suspect/assailant who live in the targeted home. In almost all

of the cases, Israel has not suggested and sometimes it expressly conceded, that the family had any involvement in or foreknowledge of their relative's plans. Israel has been targeting homes for demolition regardless of whether the suspect/assailant has already been killed or captured by the Israeli forces; regardless of whether he was unmarried and lived at his parents' home; even if he only visited his parents' home sporadically while living elsewhere for years (e.g., in student dorms, see HCJ 1125/16 (pending)). Moreover, Israel seeks to demolish homes even when there is substantial cause to doubt that the man actually perpetrated a deliberate attack against Israelis.

63. Thus, for example, in HCJ 1014/16, the court approved the punitive demolition of a family home in Hebron although considerable doubt surrounded the incident – in which one Israeli soldier was fatally injured by a car and the driver, in his early 20s, was shot dead by the military. The court's majority accepted that this was a car-ramming attack based on administrative – and lacking – evidence presented by the military; this, despite the fact that the military had not bothered to obtain, inter alia, the opinions of a traffic examiner and a medical examiner, to rule out the possibility that this was a car accident in which the driver had lost control of his car.
64. Israel has been punitively demolishing homes also when they are not owned by the suspect's nuclear family, but is only rented by it from another family member (see, e.g., HCJ 4597/14) or a third party (see HCJ 8782/15). Only twice did the HCJ cancel a demolition order: in HCJ 7040/15, where the court stipulated that the owner of the house, who was not related to the family and had filed a separate petition in the matter – must evict the family within five days; and in HCJ 6745/15, where the court invalidated the demolition order because it was issued almost a year after the related attack.
65. Collateral damage: despite the state's recurring undertakings before the court, in several cases, adjacent housing units (in the targeted building and in nearby buildings) were also damaged in the demolition. At least 13 untargeted housing units sustained massive damage from the demolition of five of the targeted homes, which rendered them inhabitable, leaving several completely uninvolved families without a roof over their heads. Thus, in November 16, 2015, the military demolished a suspect's family home on the top floor of a three-storey building in Qalandia Refugee Camp, Ramallah District; the two bottom floors sustained massive damage and the structure was demolished by the Palestinian Authority as an immediate safety hazard. Mrs. Khadijeh Hassan 'Amer, grandmother of the suspect/assailant and owner of the building, who had lived there herself on the ground floor, is now intent on rebuilding her home, with two floors only. It is not yet clear if, when, how and to what extent Israel would compensate the owners and occupants in these cases. It is too early to determine if the recently introduced technique of filling homes with barbed wire and injected foam would come to replace the current techniques, eliminating incidental damage.
66. To date, 92 housing units of families of suspects/perpetrators were surveyed by the military, an act which signals that the home might be slated for punitive demolition. Of them, nine were surveyed following an attack involving Israeli fatalities – a constant feature in the demolition orders issued thus far. While in 65 cases, there were casualties (but no deaths) in the related attack, in 18 no one was injured (not including injury or death of the suspect/perpetrator). Clearly, the surveys not only indicate Israel's largescale plans to punitively demolish homes, but also serve to terrorize and intimidate their guiltless occupants (see list via <http://www.hamoked.org/Document.aspx?dID=Updates1683>).

Other issues:

Issue no. 52

The right to family life of the Shalit-deal exiled and their families:

67. Israel has been infringing on the right to family life of the Shalit-deal exiled and their relatives from the West Bank. From 2012 to this day, HaMoked has handled dozens of complaints by parents and siblings of the Shalit-Deal exiled over their banning from foreign travel by the military. In 2015 alone, HaMoked handled at least 24 such cases. In some cases, the relatives were required to sign a written undertaking not to meet their released relative as a condition for going abroad (see HCJ 8681/14, in which the state ultimately withdrew the pledge option). Even relatives whose home, work and family are abroad, were barred at Allenby Bridge from going back home at the end of their visit to the West Bank, unless they signed this pledge or one stating that they would stay away from the West Bank for a few years (see HCJ 6668/15, filed after the petitioner was required to pledge not to return to the West Bank for three years and not meet her brother, exiled to Gaza, otherwise she would not be allowed to return to her home in Dubai).
68. This also applies to the West Bank relatives of the 160 prisoners or so who were exiled to Gaza as part of the Shalit exchange deal: purportedly under the release agreement, Israel prohibits their relatives from traveling via Israel to visit them in Gaza, compelling them to travel to Gaza via Jordan and Egypt – i.e., through Allenby Bridge, where their exit may be banned, conditionally or otherwise. It should be noted that according to Israel's announcement at the time, 18 of the released prisoners were supposed to be removed to Gaza for three years only. It is unknown if and when the others, including the 40 or so prisoners that were exiled to foreign countries, would be allowed back to the West Bank.

Issue no. 53:

The disjoining of Gaza and the West Bank:

69. Since the early 2000s, Israel has been striving to isolate the Gaza Strip and sever it from the West Bank. Israel had formulated numerous procedures which variously regulate – and restrict – passage between these two areas, which form a single integral entity. Thus, there are two separate procedures for relocation: one for relocation from Gaza to the West Bank – dubbed the “settlement procedure”, and another, inherently different, for relocation from Gaza to the West Bank. Thus, relocation from Gaza to the West Bank is almost impossible, regardless of even family ties: the procedure stipulates that “marriage or parenthood of shared children will not, as sole grounds, be considered exceptional humanitarian circumstances warranting settlement in the [West Bank]”; relocation to the West Bank is possible only for chronic patients, children who have lost a parent or elderly people requiring nursing care – provided they have no relatives to care for them in Gaza. The parallel procedure for relocation from the West Bank to Gaza is not so restricted, and it clearly states that “the basic assumption is that a resident of the West Bank may submit a request to permanently settle in the Gaza Strip for any need that is considered humanitarian (usually family unification)”. West Bank residents who wish to live with/near their relatives in Gaza Strip may do so easily, provided they agree to sign a pledge whereby they intend to permanently settle in Gaza and understand that returning to the West Bank – even for a visit – is impossible except in unusual humanitarian circumstances (see joint report by HaMoked and B'Tselem, *So Near and Yet So Far: Implications of Israeli-Imposed Seclusion of Gaza Strip on Palestinians' Right to Family Life*, January 2014, http://www.hamoked.org/files/2013/1158150_eng%281%29.pdf).

Curtailed Family Unification between Israelis and OPT residents:

70. On June 15, 2015, the Knesset extended for the 16th time the validity period of the Citizenship and Entry into Israel Law (Temporary Order), 5763-2003 by another year, until June 30, 2016. This ostensibly temporary order has long since become permanent, with dire consequences for thousands of people. It restricts and in many cases entirely denies family unification in Israel for Israeli citizens and residents – many from East Jerusalem – with spouses from the OPT. This ethnically-based sweeping ban was upheld by the court only after it was slightly mitigated in 2005, to allow partial family unification with spouses from the OPT – provided they are over 25 in the case of women, and 35 in the case of men – without ever allowing them to receive Israeli status in Israel (see HaMoked's report, Temporary Order? Life in East Jerusalem under the Shadow of the Citizenship and Entry into Israel Law, 2014, pp. 16-18, <http://www.hamoked.org/Document.aspx?dID=Documents2473>).
71. Express statements and publicized initiatives of elected officials in the early stages of the legislation process, clearly revealed that the Law's goal was essentially demographic, and aimed at promoting Israel's long-pursued ethnocentric policy of ensuring a Jewish majority, especially in Jerusalem (ibid, pp. 16-18). Following criticism against the law proposal, Israel moved to present it as a strictly security-related measure, purportedly necessary in order to reduce the threat of terrorist attacks being carried out or aided by OPT residents inside Israel.
72. The Citizenship and Entry into Israel Law has compelled many couples either to separate or, if they choose to live together in Israel illegally, in constant fear that the OPT spouse might be deported. Those who were already undergoing family unification at the time of the 2002 government freeze which preceded the Law, and those who managed to enter the family unification process following the law, live in Israel with temporary stay permits only, without social security rights and without any certainty as to their future; They have been undergoing center-of-life examinations and security background checks for years with no end in sight. According to figures supplied by the state in June 2015, some 8,000 Palestinians are living in Israel under the family unification process with temporary stay permits only (data presented in a consolidated hearing in petitions challenging this policy; see HaMoked's update, <http://www.hamoked.org/Document.aspx?dID=Updates1500>).
73. This number includes many children who have one parent who is a permanent Israeli resident and another who is a resident of the OPT. The Law denies such children, the possibility of receiving status in Israel – if over age 14 at the time of the parent's request to have his child registered in Israel. Thus, they must continue living into adulthood with just stay permits and without social security rights; some are left stateless. This limbo situation reinforces the conclusion that the policy is motivated by demographic considerations.
74. The few mitigation introduced in the Law do not apply to Gaza residents: in June 2008, the Government of Israel adopted Resolution 3598 (see http://www.hamoked.org/items/8881_eng.pdf) directing the Minister of Interior not to approve applications filed by Israeli residents and citizens for family unification with residents of the Gaza Strip. As phrased, the Resolution applies not only on people who actually live in Gaza, but also on anyone listed as a Gaza resident in the Palestinian population registry, even if s/he has been living away from Gaza for many years (note that address changes from Gaza to the West Bank are largely blocked by Israel's refusal to update its copy of the Palestinian registry). Accordingly, the Ministry of Interior has since been refusing to accept for consideration family unification applications filed for Palestinians who live in Gaza or are registered with

a Gaza address, even if no concrete security allegation has been raised against them. The HCJ upheld this policy in June 2015 (HCJ 4047/13), closing the door on family unification with Gaza residents.

General information:

Issue no. 57:

New laws liable to impinge on human rights or the protection of human rights:

75. In July 2011, the “Boycott Law” – the Law for Prevention of Damage to the State of Israel through Boycott – entered into effect. The Law allows to sue for damages anyone calling for an economic, cultural or academic boycott on Israel, one of its institutions, or “an area under its control”. In April 2015, the HCJ rejected the petitions against the Law (HCJ 5239/11) and left it largely intact. The court ruled that the Law had a worthy objective and its infringement on freedom of speech was balanced; the court also ruled that in certain cases, calling for a boycott amounted to “political terrorism”.
76. In July 2015, the Knesset passed a law allowing to force-feed administrative detainees and prisoners protesting through hunger strike. The Law is purportedly concerned with saving the lives of hunger strikers, but essentially seeks to break hunger strikes by prisoners and silence their protest and is a cruel and inhuman practice. The Law effectively establishes a separate medical norm for Palestinian prisoners – as hunger striking prisoners in Israel are mostly Palestinian “security prisoners”. The Law grants immunity to medical professionals who act against their ethical-medical commitments towards their patients.

New bills liable to impinge on human rights or the protection of human rights:

77. In March 2016, the Ministerial Committee for Legislation is to consider a private bill – Entry into Israel Bill (Amendment – Revocation of Residency of Persons who Breached Allegiance to the State of Israel or their Family Members) 5786-2016 – seeking to grant the Minister of Interior powers to revoke the permanent residency permit of persons “who have been convicted of an act that constitutes breach of allegiance to the State of Israel, or their family members [specifically “spouses, parents or children”]”.
78. In January 2016, the Ministerial Committee for Legislation approved a proposed amendment seeking to impose an increased transparency duty on “Supported Entity funded primarily from donations by Foreign Political Entities”. This would expand the already biased law passed in March 2011, entitled “Duty of disclosure for recipients of support from a foreign political entity”. The Bill seeks to impose “a duty of enhanced transparency” on NGOs mainly funded by “foreign government entities”; such NGOs would be obliged to state this fact orally and in writing: in their publications and public reports, and when present at the Knesset. NGOs would also be required to include a list of governmental donors for the relevant period when contacting elected and appointed public officials and in their reports, in addition to declaring that they are largely funded by foreign sources. This bill is a clear attempt at political persecution and delegitimation of human rights and civil society organizations. Added transparency would be imposed only on NGOs receiving foreign donations from governmental sources, but not on NGOs that receive foreign donations from corporations, trusts and private individuals – such as settlers’ organizations, which are covertly funded by the Israeli government and Evangelical sources. The bill is also silent concerning associations funded by foreign tycoons who promote political agendas.

Issue no. 58:

Recent measures adopted against the Palestinian population:

79. Following the increase in attacks against Israelis by Palestinians in East Jerusalem and elsewhere, on October 14, 2015, the Security Cabinet adopted a series of measures, some clearly punitive, and the PM then issued further instructions, all purportedly intended “to deal with the Wave of Terrorism”. The steps taken thereupon were presented by the PM in his briefing to the ministers on October 18, 2015 (See http://www.hamoked.org/files/2015/1159980_eng.pdf). Among the steps listed were the revocation of Israeli residency and citizenship status of assailants and their relatives.

80. In January 2016, the Minister of Interior revoked the permanent residency status of four East Jerusalem young men due to “breach of allegiance to the State of Israel”, leaving two of them stateless. Three of them are standing trial for the killing of Israeli citizen in September 2015. The fourth is standing trial for the lethal attack on October 13, 2015, in which three Israeli citizens were killed. The revocations were made under Sect. 11(a) of the Entry into Israel Law 1952, although it gives the minister only general discretion to revoke a permanent residency visa in Israel; “breach of allegiance” is specified as grounds for revocation of Israeli citizenship only, and even then, in order to avoid statelessness, the person is entitled to receive permanent residency in the absence of status elsewhere). The revocation proceedings – flawed throughout – were launched on October 14, 2015 (the day of the Cabinet decision cited above). Only following HaMoked’s demand, the Ministry of Interior gave the full 30-day leave allotted by law to submit written arguments and summoned the men to oral hearings. In February 2016, petition HCJ 1635/16 was filed against the revocation; the state is to submit its response by April. It should be noted that the family homes of the three suspects in the September attack are slated for punitive sealing – whereby only the openings of the home are sealed, rendering it reversible; their families’ petitions against the sealing are pending in court (HCJ 1721/16, 1337/16, 1336/16). The fourth man’s family home is also slated for punitive demolition; the objections of his family and the property owner are pending the military’s response.

Additional measures reportedly considered:

81. On October 25, 2015, it was reported in the media (see <http://www.haaretz.com/israel-news/.premium-1.682276>) that the Prime Minister was contemplating revoking the residency status of East Jerusalem Palestinians living in neighborhoods within the boundaries of annexed East Jerusalem but beyond the separation wall (see above). This would constitute their dispossession and expulsion from their homes and native city.

82. In October 2015, it was reported in the media (see <http://www.haaretz.com/israel-news/.premium-1.688049>) that the security establishment was contemplating expelling to the Gaza Strip relatives of suspected attackers if it was discovered they supported or had prior knowledge of their relative’s act. Such expulsion would cause the expelled individuals to be separated from their families, and remove them from their property, possessions, and livelihoods – this given the Israeli-imposed isolation of Gaza, cutting it off from the West Bank. In a brief response to HaMoked’s inquiry, the Ministry of Justice wrote on January 21, 2016 that “at this stage”, there was no intention to deport assailants’ relatives to Gaza or ban them from going abroad. But according to later media reports, in February 24, 2016, the Prime Minister sought the Attorney General’s legal opinion as to the possibility of deporting assailants’ families to Gaza (see <http://www.haaretz.com/israel-news/1.706557>).