



Freedom of Movement

“Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country.”

Universal Declaration of Human Rights, Article 13

By the end of 2002, the term “Freedom of Movement” has become meaningless wherever movement of Palestinian residents of the Territories is concerned. They cannot leave their homes because of recurrent curfews; they cannot leave their towns and villages because of ditches and mounds surrounding them as part of the siege. They cannot reach other towns and villages because of roadblocks; they cannot enter Israel because of closure, which prohibits them from crossing the Green Line. Residents of the West Bank are unable to reach the Gaza Strip and vice versa, because the “safe passage” has been terminated; and most of them cannot go abroad because of the draconian conditions for exit permits to Jordan. In addition, foreign relatives of residents of

the Territories cannot visit them, because Israel refuses to approve permits to visit the Territories.

Consequently, children are unable to attend school regularly, adults are unable to work and provide for their families, the sick and wounded are unable to get medical care and the faithful are unable to practice their religion. Inquiries received this past year by HaMoked covered the array of difficulties caused by denying the Freedom of Movement: delays in the evacuation of injured persons, irregular water supply, roadblock violence, separation between parents and children, engagements that cannot turn into marriage, scholarships that cannot be utilized, and vocational training courses that cannot be reached, are just some of the examples.

Entry from Abroad

According to the IDF, the West Bank and the Gaza Strip have been and still are a closed military zone; all entries and exits are subject to approval by the regional commander. Any person who is not registered in the Palestinian Population Registry needs a permit to enter and stay in the Territories. The permit, which depends on Israel's approval, is given for a limited period of time and, as a rule, can only be renewed after the person exits the Territories. One of the exceptions to this rule was defined in petitions that HaMoked filed with the HCJ in the early 1990s. The exception concerns residents' spouses who have stayed in the Territories as visitors or received visit permits between 1989 and August 1993: the State has undertaken to the Court that as long as their applications for family unification are still pending, these spouses would be legally allowed to stay in the area, their permits would be extended for six months at a time, and they would be permitted to travel in and out of the Territories with no restriction. In addition, applications of these spouses for family unification (namely, to be recognized as a resident and get a Palestinian ID) enjoy a special status compared to other applications for family unification.

Since September 2000, Israel has frozen the processing of these visit permits. Currently, visit permits are only seldom approved, in humanitarian situations whose definition no one knows. As applications for family unification have also been frozen, non-resident spouses of residents of the Territories now have no legal status in

their own home – their visit permits have expired, and their applications for Palestinian IDs are not being processed. If caught by IDF soldiers, they will be deported (see section about deportation of “illegal aliens”, above). If they leave the Territories, their situation will only be worse – like that of spouses who left in the first months of the intifada and have been unable to return ever since: they relied on the fact that their special arrangement had not been canceled in the past either, and that nothing has been published to indicate such pending cancellation. Husbands, wives, fathers and mothers found themselves far away from home, unable to return to their spouses and children, and children lost their father or mother in one fell swoop. The difficulty obtaining exit permits only made things worse, as members of the same family are now kept apart for months and even years. The following is an excerpt from the statement of a mother who has been staying in Jordan with her little boy for about two years now, unable to unite with her husband and her other two children in the West Bank. This excerpt is from HaMoked's HCJ petition on this case (to be discussed below):

“I ... want to live with my husband in a house of our own – and the house already exists ... and I have already lived there and built a family. Now I am being kept away, like an exile.

“My children are ... just five and seven years of age. Do I need to explain how a mother feels when she cannot see her children? Cannot hug or kiss them? Cannot make sure that they eat

properly, or that they get to eat what they like? Or that they study well, or even that they are clean? I do not think it necessary to explain how children need their mother, and how a mother's love is irreplaceable The only contact we can have is by phone. I talk with them on the phone and we all cry.

"... My little boy ... refuses to accept the fact that he is not with his father. He is so jealous of his cousins, that he has taken his uncle's name instead of that of his father. At night, he asks me to let him sleep by his uncle, whom he believes is his father and whom he calls 'baba' – just like his young cousin, who indeed sleeps by his father. When I refuse, he cries with anger, because he does not understand why he is being denied this treat while his cousin is not. After all, he wants a father too – a father he cannot even remember because of the prolonged separation, which forces me to show him his father's picture every day, to ingrain it in his memory as much as possible."

HaMoked has not succeeded in the last two years in convincing the authorities that such cases of families that are torn apart, constitute humanitarian circumstances in which visit permits should be approved.⁴⁴ Legal arguments concerning the right of the spouses to family life and the right of their children to be raised in a protected family unit in their own home, were to no avail. It was also of no use to explain that when the State refuses to issue visit permits in these cases it violates an commitment it had first made to the HCJ in 1991 and which was reconfirmed in later cases.



G.A., a Jordanian citizen, and H.A., a resident of Beit Ula, married in 1990 and settled in the husband's village in the Territories. The couple has three children – the eldest is now seven, and the youngest is four years old. Mr. and Mrs. A. belong to the population to which the first HCJ ruling applies - G.A. was given a visit permit, which was renewed every six months, and her permanent residency did not depend on the quota established in negotiations between Israel and the PA. Over the years, G.A. left several times to visit her parents and brothers in Jordan, and returned to her home in the West Bank. In January 2001, holding a valid visit permit, G.A. went to Jordan with her youngest, and has been unable to return ever since. In August, H.A. tried to go to Jordan with their oldest son, to visit his wife and little boy, but Israel did not let him through.

On his behalf, HaMoked contacted the West Bank legal advisor with an urgent request to approve H.A.'s exit to Jordan. The answer was received two months later: denied because of "security reasons". HaMoked appealed to the authorities again, asking to issue a visit permit for the wife, or, alternatively, to allow the husband to go to Jordan. After a great deal of red tape, both options were rejected. In November, HaMoked petitioned the HCJ to allow the wife and son into the West Bank or, alternatively, to authorize frequent visits of the husband to Jordan. In January 2003, the State announced

⁴⁴ HaMoked, *Semi-Annual Report: January-June 2001*, pp. 12-14.

that “**ex gratia**, in view of the specific, exceptional humanitarian circumstances of this case,” G.A. and her son would be allowed back into the West Bank. (Case 16159)

Following this petition, the authorities held a discussion in which they addressed the

general question of visit permits. HaMoked forwarded the State Attorney’s Office a document detailing its position on renewing visit permits and handling applications for family unification, and explained the legal arguments that support this stance. The authorities have still not made a decision in principle on this matter.

Leaving the Territories

Since the start of the occupation, Palestinian residents of the Territories can only leave if they get the approval of the IDF commanders in the West Bank or the Gaza Strip, as relevant. Israel has often abused this power as a penal measure or as a tool to extort collaboration. Many residents who tried to exit through the border passages at the Allenby Bridge or at Rafah, were sent back, because their applications for exit permits had been denied. They had no choice but to wait another six months, the period defined by the military, before they were allowed to reapply, and then wait another few months for the answer, and hope that this time it is positive and is not made contingent on a meeting with a GSS interrogator.

In the first half of 2002, against the backdrop of the IDF invasions into the territories of the PA, there has been a change both in the number of inquiries HaMoked has received regarding exit permits and in the circumstances surrounding these inquiries. The number of applications for exit permits has dropped, since people do not tend to part with their families in times of war;

the few who did ask for help getting exit permits, did so under urgent circumstances, such as medical treatment or the hajj. For further details about HaMoked’s processing of these inquiries, see the previous activity report.⁴⁵ As the IDF’s presence in the territories of the PA extended throughout the year, the number of inquiries on this subject increased and the circumstances changed as well – family visits, higher education and other such reasons were cited in addition to medical emergencies. The IDF also resumed its old habits: it again started taking a year to provide answers, despite a pledge it has made in a petition that HaMoked had filed in 1992, to process ordinary applications within about two months;⁴⁶ it made the permit contingent upon a meeting with an IDF interrogator, as a means to secure collaboration; and made the permit contingent upon a commitment to stay away for a long time, a form of “voluntary exile”.

S.D. and his brother have not seen each other in 18 years. Since 1997, all of S.D.’s attempts to travel to Jordan have been