

then, administrative detention orders have also been stamped with the seal containing the details of the military commander who signs them.

In another appeal HaMoked had filed regarding the approval of an administrative detention order, the military court of appeals has held that in compliance with the law and with HCJ rulings on the matter, the place of detention must be noted on the detention order, and that detainees must not be held anywhere but in the place stipulated in the order. The judge

ordered his instruction to be disseminated to the relevant entities, after various cases in which administrative detainees were being held in detention facilities other than those specified in their detention orders. In response, and after the vice president of the military court of appeals had stipulated that this condition was not substantive, the IDF Commander in the West Bank amended the ordinance governing administrative detentions, so that the place of detention no longer has to be specified in the administrative detention order.

Conditions of Detention



Many Palestinians who were arrested in the West Bank since the first HCJ IDF invasion of the PA in March have been transferred to Ofer Camp, west of Ramallah.⁷⁰ Some have been kept there and some were relocated to GSS interrogation facilities, Ket'ziot and other detention facilities in Israel. Once information about the harsh detention conditions at Ofer Camp started to come in, HaMoked, together with other human rights organizations, took measures to improve the situation. First of all, HaMoked endeavored to enable attorneys and representatives of human rights organizations to visit the camp; next, HaMoked collected testimonies from released detainees, and based on these testimonies, petitioned the HCJ on April 18, on behalf of HaMoked and six other Israeli and Palestinian organizations, demanding that humane, dignified and suitable detention conditions be maintained at Ofer Camp

and at the facilities in which detainees are gathered before being transferred there. In addition, HaMoked has filed individual petitions pertaining to the detention conditions at Ofer Camp and to meetings with attorneys. These activities were detailed in the previous activity report.⁷¹

Hearings on the general petition continued, but at around the same time that the individual petitions were filed and before the HCJ handed down a decision on the general petition, detention conditions at Ofer Camp gradually started to improve. With the general petition underway, HaMoked continued to monitor these conditions: HaMoked's lawyers visited the site, and attorneys representing detainees provided additional information. Testimonies of detainees indicated that the improvement was marginal, and in some aspects things had even gotten worse: overcrowding in some of the tents had grown; the sleeping

bunks remained too narrow, too short, and rough. With no tables, detainees still had to eat on the floor; a serious shortage of staples, utensils, clothes, towels and soap persisted. In some of the chain-linked enclosures in which detainees were being held, sewage from the toilets was drained through the showers; in others, shower water flowed into the tents, and in some of the toilets there was no running water. Tents and toilets were infested with rodents, snakes and scorpions. In addition, detainees started to worry about the coming winter and the cold and rain that would seep into the shabby tents and flood the floor and bunks.

On 18 December, the HCJ handed down its decision on the general petition. It was held that:

“Even those suspected of carrying out the most atrocious terror attacks are entitled to detention conditions that meet minimal humane standards and guarantee basic human needs. It would be inhumane of us not to guarantee such conditions for detainees in our custody ... It is the duty of any Israeli government, which derives from the humane nature of this government ...”⁷²

In its decision, the HCJ endorsed HaMoked's arguments and established that the conditions in which Palestinians were being detained during Operation Defensive Shield were in blatant violation of legal rules:

“Even in circumstances such as these, everything must be done to provide at least a minimal standard of detention conditions. This was not done in the temporary detention facilities; detention orders, International Law – which prevails

in the area – and the basic principles of Israel's administrative law have all been violated. Suffice it to mention a few flagrant violations: numerous detainees were too tightly cuffed, which caused their hands to go blue and led to excruciating pain; some detainees were detained for many hours, sometimes even 48 hours, outside, with no protection against the elements and with insufficient access to toilets; detainees' belongings were taken away without any record of the items taken. Such detention conditions, as well as other violations of minimal standards, cannot be justified by the need to prepare for handling a large number of inmates in such a short time. It was known ahead of time that this need would arise. It was expected. Operation Defensive Shield was planned ahead. One of its objectives was to detain as many suspected terrorists as possible. The need to maintain minimal detention conditions was thus a natural outcome of the objectives defined for the operation. There was no surprise here. Adequate detention facilities could have been prepared in advance. The steps that were taken a few days after the operation began should have been taken a few days before it started. Indeed, security

70 At the end of December, around 700 detainees were being held at Ofer Camp. Based on data provided to HaMoked by the IDF on December 30, 2002.

71 HaMoked, *Semi-Annual Report: January-June 2002*, pp. 5-8.

72 HCJ Petition 3278/02, *HaMoked: Center for the Defence of the Individual and others v. IDF Commander in the West Bank*, not published, paragraph 24.

needs – which must always be taken into account – did not justify the unacceptable conditions of detention and interrogation at the temporary facilities.”⁷³

Concerning conditions at Ofer Camp since it was opened and until HaMoked’s petition to the HCJ, the court held:

“Congestion was intolerable. Many detainees had no shelter and were exposed to the elements. Some detainees did not get enough blankets. In all of these respects, detention fell short of minimal detention standards. There was no security-related argument to justify this.”⁷⁴

In addition, the HCJ reviewed the rules of International Law with which the IDF must comply in the Territories, starting with the humanitarian provisions of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, through to the International Covenant on Civil and Political Rights and the Standard Minimum Rules for the Treatment of Prisoners. The HCJ even made some operative suggestions: to make tables available at the camp so that detainees no longer have to eat on the floor, and to make sure that they have books, newspapers and games. The HCJ proposed the establishment of an advisory committee that would work with the prison warden, and would comprise jurists and experts from the field. The HCJ also recommended enabling Palestinian detainees in the Territories, just like those in Israel, to file petitions concerning their detention conditions.

On December 25, HaMoked contacted the IDF to check whether it had implemented

the recommendations made by the HCJ concerning Ofer Camp and Ket’ziot, regarding which a similar ruling was handed down in a petition initiated by Adalah and assisted by HaMoked. As of the date of this report, no response has been received from the IDF to this query. HaMoked has also demanded that the State Attorney General and Military Attorney General investigate what the HCJ has dubbed “blatant violations” of International Law. In the context of inhumane treatment of detainees, these violations constitute grave breaches of the Geneva Conventions and under the Statute of the International Criminal Court are considered war crimes, and Israel is therefore obligated to find and indict the perpetrators and those who handed down the orders. The State Attorney General is currently considering this demand.


On January 2, 2003, the media reported “riots” at Ofer Camp, in which 30 detainees and one soldier were wounded. HaMoked’s attorneys demanded permission to visit the camp the next day, and petitioned the HCJ when this demand was refused. Thanks to the petition, HaMoked staff were permitted to visit the camp on January 5. Testimonies collected by HaMoked indicated that the immediate cause that started the “riots” was humiliation of the younger detainees by the guards, but that increasing congestion and the harsh conditions in which detainees continued to be held, despite the ruling of the HCJ, had actually prepared the ground for what had happened. HaMoked contacted the State Attorney’s Office with a demand that it uphold the general principle defined by the HJC and implement the court’s specific recommendations.

In line with the ruling of the HCJ, HaMoked endeavored to have severe conditions in other detention facilities in the West Bank improved. Testimonies collected in November and December generated a grim picture of overcrowding, shortage of food and beds, and humiliation and violence toward detainees. With every testimony that was obtained, HaMoked contacted the IDF's judicial authorities, demanding an investigation and an improvement in detention conditions.

M.H. was apprehended in his home at 2 AM on December 24, and taken to the Salem facility, where he was kept for five days. He was held in a small, stifling room with five other inmates and no mattresses. Every detainee was given one blanket. Mattresses and additional blankets were only provided after two days. One day, no food was served at all, and on the other days quantities were extremely limited: two yogurts and a single loaf of bread for breakfast for the six detainees in M.H.'s room, and salami and bread for lunch and dinner. On the weekends, when no officers were around, M.H. and his friends were humiliated and beaten by the soldiers. M.H. was released on the night of December 28. HaMoked collected his testimony and contacted the West Bank legal advisor, demanding an investigation and an immediate improvement of the conditions at Salem. As of the date of this report, no response has been received. (Tracing 24392)

Many Palestinian detainees are being held in Israel under Israeli emergency legislation

and in violation of International Law.⁷⁵ Most suspects are interrogated by the GSS in detention facilities and prisons inside Israel. Most administrative detainees are held at the facility in Ket'ziot, in the Negev area, while most inmates sentenced to long prison terms serve their sentences in prisons inside Israel.⁷⁶ According to a ruling handed down by the HCJ in a petition that HaMoked filed in 1996, detention conditions must comply with Israeli law;⁷⁷ however, the authorities do not comply with this ruling and continually infringe the basic rights of detainees. In those cases of which HaMoked is informed, it petitions the administrative courts on behalf of the detainees, not only in order to get the detention conditions of these specific detainees improved, but also to force the authorities to meet their court ordered obligations.

 M.S., a 24-year-old resident of Hebron, married and the father of one child, was detained on

73 *Ibid*, paragraph 26.

74 *Ibid*.

75 **Geneva Convention Relative to the Protection of Civilian Persons in Time of War** (1949), Article 76.

76 According to data provided to HaMoked by the IDF on December 30, 2002, 893 of the 979 administrative detainees in custody at the time were being held in Ket'ziot. Data HaMoked received on December 4, 2002, indicated that 608 of the 670 residents of the Territories who were serving sentences in military facilities were being held at Megido Prison and in Ket'ziot. At the beginning of October, facilities of the Israeli Prison Service, inside Israel, contained some 1,800 residents of the Territories (**Haaretz**, October 7, 2002, p. A1).

77 HCJ Petition 1622/96, **Al Ahmar and Hamoked: Center for the Defence of the Individual v. GSS**, not published.

November 4. N.A., married and the father of one child, was detained on November 10. Both were held after their arrest at the GSS interrogation facility in Shikma Prison in Ashkelon. They shared a single mattress on the floor, although under Israeli law each inmate must be given his own bed and mattress. N.A. was held in a cell with eight other detainees; they had three mattresses between them. On November 26, HaMoked petitioned the administrative court in Be'er Sheva on behalf of M.S. and N.A., demanding that it order the GSS and the warden of Shikma Prison to give them beds, and prohibit the prison authorities from letting any inmate sleep without a bed, even in the GSS interrogation facility. The State replied that M.S. and N.A. were sleeping on two mattresses on the floor, in compliance with a regulation issued by the Minister of Internal Security in 1997 concerning detention conditions of security detainees, which relieved the authorities from the obligation of providing beds for such detainees. The State therefore demanded that the petition be denied. HaMoked insisted that this regulation was unlawful. The court has yet to hand down a decision on this matter.

(Cases 23855, 23856)

In some cases, petitions get the situation rectified and lead to an improvement in detention conditions, in compliance with the law.



Detainee:

M.M. was arrested in 2001. He was indicted in the District Court in Jerusalem, and was being held in detention until the end of legal

proceedings. When his attorney visited him, he found that M.M.'s cell was infested with rats and cockroaches, and that M.M. had not been allowed to take his personal belongings, to which he is entitled by law, from the facility in which he was held before. Furthermore, M.M. was not given any basic hygiene products such as soap. M.M.'s appeals to the entities in charge of the prison were ignored. On April 29, HaMoked petitioned the administrative court in Be'er Sheva on his behalf. On June 10, three days before the scheduled hearing, the State informed the court that following the petition, M.M.'s cell had been treated against pests, that he was given back his personal belongings and that hygiene products had been provided. **(Case 17834)**

Another violation of the rights of detainees who are being held in GSS interrogation facilities in Israel stems from the fact that they are detained for weeks in substandard conditions even after their interrogation is completed. After appeals to the authorities yielded no results, HaMoked started petitioning the courts on behalf of individual inmates, to force the authorities to transfer them from the interrogation wards to detention facilities.



Prisoner:

A.B. was arrested on June 11, and held at the interrogation ward in the detention facility in Jerusalem. On July 22 his detention was extended, in order to enable his interrogation file to be transferred to the military prosecution; this indicated that his interrogation had been completed. A.B. was nevertheless still detained at the interrogation ward, without a daily walk and without any

family visits, in a windowless cell and with no partition between the toilet and the beds – in violation of his rights as a detainee. HaMoked demanded that he be transferred to a facility where he would be held under conditions appropriate to his status as a prisoner after an indictment has been served. This was ignored. The

request to transfer him to a prison where his rights would be upheld was ignored, even after an indictment had been served. On August 9, HaMoked filed a petition on behalf of A.B. Two days later, after two months in the interrogation ward, A.B. was transferred to Nitsan Prison. **(Case 22485)**

Prison Visitation

Until the second intifada, families of Palestinian prisoners who were being held in prisons inside Israel could only visit them with special transportation organized by the ICRC and subject to special entry permits issued by the IDF. In October 2000 Israel discontinued family visits, and all the attempts of the ICRC to resume this practice on a regular basis in 2001 failed because of the serious restrictions imposed on the freedom of movement, particularly in the West Bank. Many of the detainees who were apprehended in the large arrests in 2002 have been locked up for months in detention facilities without being allowed any visitors except their attorneys – provided that there is no order barring these meetings as well.

A sweeping IDF prohibition against family visits is harmful to detainees by keeping them apart from direct contact with their families for very long periods. In an affidavit signed in December and submitted to the HCJ, an administrative detainee who was arrested in March and was being held at Ofer Camp, said:

“I am 23. I am married. I have a daughter.

She is now three months old. She was born when I was in detention. I have never seen her. I had no way of communicating with my wife around the time of delivery. I only heard that the child was born from my lawyer, in court. I am a new father – but I have never actually experienced fatherhood ... I am a resident of Beituniya. From the camp, I can see my home in the distance. When I see my home, and know that my wife and daughter are there and that I cannot see them, tears well up in my eyes. I would have preferred not to be able to see my home at all.”

And another administrative detainee stated in his affidavit:

“I feel it is nothing short of a crime to keep a man 10 minutes away from his family but not let him have any contact with them for so many months: I don't know what's going on with them, whether anyone has been hurt or injured, how they are feeling ... I left my son when he was nine months old. I want to see him, hear him say his first