

Israel issued by the IDF. Two types of permit exist: periodic permits enabling participation in all transportation during a period of three months, and one-day permits. The permits are limited to first-degree relatives, and not more than five relatives may hold a permit simultaneously. Many relatives are unable to obtain permits since Israel refuses to allow them to enter, allegedly for security reasons.

In mid-2000, HaMoked achieved some measure of success in this field. Contacts with the State Attorney's Office regarding a group of 12 parents and wives who were refused permission to visit their relatives led to the issuing of a new procedure. The new arrangement insured that all members of the immediate families of prisoners who had not hitherto been permitted to enter would receive one-time visit permits on a regular basis, without security checks between visits. After the outbreak of the Al-Aqsa Intifada, this procedure was nullified.

From the beginning of the year through June, prison visits have been permitted for only three and a half months in the Gaza Strip, and just six weeks in the West Bank. Between October 2000 and January 2001 prison visits were not authorized. Even during the period when prison visits were permitted, the criteria were very strict. At the end of January, for example, it was decided that siblings and children over the age of 16 would not be allowed to visit their relatives in prisons. In mid-February, the Red Cross was forced to suspend visits just one day after it was reactivated. The organization claimed that "the suspension is the result of steps taken by the Israeli authorities, such as closures, blockages, forced detours, and the delaying of the visitors' buses... the steps taken have rendered the program impossible in logistical terms."

In April, the reactivation of prison visits was approved. In addition to parents, wives and sisters, those permitted to visit prisoners include children under the age of 16, and brothers over the age of 35, provided the latter are married. Throughout this period, Palestinians not permitted to enter Israel have been unable to visit prisoners.

Violence against Palestinians by the Security Forces

Since the outbreak of the Al-Aqsa Intifada, there has been a sharp rise in the number of cases of physical violence and abuse of Palestinian residents of the Occupied Territories by security force personnel. Among other reasons, this increase is due to heightened friction between the residents of the Territories and the security forces, and is reflected both in the number of violent incidents and their severity and character. However, the exacerbation in the situation in the field did not lead to an increase in the number of complaints received by HaMoked – the number of complaints processed during the first six months of 2001 is similar to that received during the same period in 2000. Among other causes, this fact reflects a declining willingness on the part of residents of the Territories to file complaints against the Israeli security forces, due to their lack of confidence in Israeli law enforcement. In addition, the travel restrictions imposed on the residents of the Territories mean that in some cases people wishing to file a complaint may be unable to do so. Moreover, our experience shows that during periods of severe and protracted clashes with the Israeli security forces, with a high number of Palestinian fatalities and injuries each day, the population tends to rally around the common cause, rather than complain about specific or localized instances of violence against a particular person.

Complaints received in recent months relate to cases of severe violence by Border Control policemen and IDF soldiers; complaints of damage to property by regular police personnel; complaints of ongoing and large-scale shooting into residential homes, forcing residents to leave and rent homes in other areas; and a complaint relating to the shooting at close range of an unarmed Palestinian detained by a soldier, causing severe injuries.

As well as receiving new complaints, HaMoked continues to process existing cases, assisting Palestinians in forwarding their complaints to the authorities and monitoring official responses. The claims for compensation filed by HaMoked in the Israeli courts are intended, inter alia, to force the authorities to acknowledge their liability in such cases of violence, and to act as a deterrent against the recurrence of such incidents.

Conviction, Punishment and Deterrence

On October 19, 1994, at 11:00 pm, two Border Guard policemen and an IDF soldier entered Moshav Azariya (within the green line) to arrest three Palestinian laborers they suspected of being in Israel without permits (it later emerged that the laborers held lawful permits). According to the charge sheet filed against the defendants by the State, the defendants woke the laborers by kicking and beating and dragged them into the yard, where they beat them and performed a body search. The security force personnel took the Palestinians to a checkpoint on a neighboring village where they continued to beat them, including with a night stick, and humiliated them by forcing them to sing degrading songs. Two of the laborers were stabbed with a syringe. During the journey to the checkpoint, the three victims were beaten with various objects in the vehicle. In addition to charging the security force personnel with assault in aggravating circumstances, the commander of the force, Roni Borgana, was also accused of instigation to perjury during the investigation. Since Moshav Azaria lay outside the commander's field of responsibility, he encouraged his subordinates to report during the investigation by the Police Investigation Department that the laborers were arrested not in the village itself, but at the Border Guard checkpoint.

In December 1999, Judge Yoram Noam at the Magistrate's Court in Jerusalem acquitted two of the defendants, but convicted Borgana of assault leading to actual bodily injury, and of instigation to perjury. During the course of the case, HaMoked assisted in locating the Palestinian witnesses and bringing them to give testimony.

The judge's verdict, issued in January of this year, includes the following comments: The phenomenon of violence on the part of police personnel, or other law enforcement officers, while abusing their power and toward innocent victims who have committed no wrong is a serious one. In addition to the physical injury and humiliation of the victim, such acts damage the image of the police and the law enforcement bodies and impair public trust in these bodies. The Courts must combat this unacceptable phenomenon by imposing severe punishment duly reflecting the value of maintaining personal integrity and human dignity, in order to condemn such actions, reflect society's revulsion at their occurrence, and include an element of deterrent punishment toward violent police officers. Lenient punishment is liable to fail to meet the goal of the punishment.

The defendant's actions are grave due to the assault itself, the cruelty and the abuse of defenseless persons. These are unforgivable acts that deserve every condemnation. The circumstances in which the offense was committed should be considered particularly grave – the defendant attacked the plaintiffs without any cause during all the stages of the event, over a considerable prior of time; using objects and tools – work tools in the vehicle, a baton and a syringe; and causing actual injuries to the plaintiffs. A further aggravating aspect is the fact that the assault was committed by a commander, who should set an example to his subordinates, in the presence of the subordinates, as well as the incitement of the subordinates to present a false version during the interrogation by the Police Investigation Department.

Despite these grave comments, the judge sentenced Borgana to no more than ten months' suspended imprisonment, public service and a fine of NIS 5,000. In his verdict, the judge wrote that one of the reasons for the light punishment was the fact that the defendant had, in the past, required nine years of psychological and psychiatric treatments. In March 2001, HaMoked filed suit for damages against Borgana on behalf of the three injured Palestinians.

In many cases, the ineffectiveness of the authorities is seen during the early stages of investigation. In April 1994, for example, IDF soldiers fired live bullets, tear gas and flares toward the family home of Z.A. in the village of Jit. The firing caused extensive damage to the family home and to property therein, and killed a number of animals. Numerous gas canisters penetrated the home and exploded, injuring the residents. In July 1994, HaMoked demanded that the attorney of the IDF's Central Command instigate an investigation of the event. Only in February 1995, after a number of reminders, did the attorney's office notify HaMoked that the matter was still under investigation. In September 1995, after additional reminders and correspondence with the State Attorney's office, the Central Command attorney's office informed HaMoked that an examination with the army sources "revealed that the said incident is unknown, and there is no record that might indicate the involvement of IDF soldiers..."

In a suit for damages filed in January 2001 at the Magistrate's Court in Jerusalem, HaMoked notes that the damage to the property "were compounded by the disregard of the investigating bodies, which poured salt on the plaintiffs' wounds by failing to take serious action in order to clarify the plaintiffs' complaint and to prosecute those responsible."

HaMoked continues to receive numerous complaints of violence, despite the reduced inclination of Palestinians to file complaints. For example, several Palestinian residents of Jerusalem complained to HaMoked of violent behavior by Border Guard and regular policemen in the Al-Wad area of the Old City of Jerusalem. The policemen broke and destroyed merchandise in a row of shops, and beat several residents with nightsticks and rifle butts, causing injury to various parts of the body. In a further complaint received by HaMoked in April, M.S. testified that Border Guard policemen removed him from his car by force, beat him and kicked him until he lost consciousness. The policemen also took M.S.'s identity card, his magnetic identity card, and some NIS 800 in cash.

Civil Suits

During the first half of 2001, the Jerusalem Magistrate's Court ruled in favor of a damages suit filed against the State of Israel by HaMoked on behalf of R.S. The claim relates to an incident that took place in Sebastia in 1989. While on his way to visit his uncle, he met several youths who shouted "Soldiers, soldiers!" In order to avoid a possible confrontation between the soldiers and the youths, R.S. turned back and headed in a different direction. Some time later he encountered a soldier, who aimed his weapon at him. As R.S. turned in order to head back, the soldier shot him from behind, hitting him in the head. The plastic bullet penetrated R.S.'s head, where it remained lodged. As a result of this serious injury, R.S. was found to suffer a 20% permanent neurological disability. The judge accepted R.S.'s version of events and ruled that the State is liable for damages. A decision on the amount of damages will be given in September 2001.

It is worth adding that in his ruling, the judge expressed dissatisfaction with the manner in which the IDF investigated this incident:

"The IDF authorities should have examined and investigated the circumstances of the incident in 1989, and all the more so should the Defendant [the State] have undertaken the said clarification following the filing of the suit in 1996. No-one denies that the incident was not investigated by the Military Police, nor by the command levels... The Defendant's failures in investigating this incident, and its refraining from offering testimonies – either concerning the incident itself, or concerning its attempts (if any) to locate witnesses – weigh against it, and thus constitute support for the Defendant's version."

Compensation claims completed this year

On November 17, 1993, H.A. was selling vegetables close to Damascus Gate in the Old City of Jerusalem. Municipal inspectors arrived, accompanied by policemen and Border Guard police, and confiscated her merchandise. While attempting to obtain her merchandise, H.A. was beaten with a nightstick; her hand was broken and disfigured. The Jerusalem Magistrate's Court accepted the suit filed by HaMoked, and ruled that the State was liable to pay damages to the plaintiff. In March 2001, HaMoked and the State reached a settlement providing compensation of NIS 50,000 for the plaintiff.

L.M., an employee of the Jerusalem Municipality, was severely beaten by policemen in November 1995 close to the New Gate in the Old City of Jerusalem. The policemen, who wore civilian clothes, attempted to undertake a body search, ignoring L.M.'s request that they show identification. In light of this refusal, L.M. refused to allow them to search his person. In response, they beat his face with their fists and with handcuffs, tied him, beat his head against a wall while he was tied, and continued to kick him after he fell to the ground, to the point that he lost consciousness. When he awoke, he was informed that he had been arrested for assaulting police officers and for attempting to evade lawful arrest. His requests to receive medical treatment were denied. He was eventually released on bail by a senior official from the Municipality and was rushed to hospital, where he required several stitches on his face. After HaMoked filed a suit for damages against the two policemen and the State, a settlement was reached providing L.M. with