

Detainee Rights

Locating Detainees

The location of prisoners and detainees continues to be one of the most important services provided by HaMoked for the residents of the Occupied Territories. Israel continues its practice of not informing the families of detainees of their place of detention of its own initiative, despite the fact that Israeli law and Supreme Court rulings oblige it to do so. Families continue to rely on HaMoked in order to obtain this information. The work of locating detainees has acquired a routine nature; every day, HaMoked employees locate detainees and prisoners. In most cases, the IDF provides accurate replies within a reasonable period of time, although cases of procrastination and inaccurate responses still occur.

Since the outbreak of the Intifada, there has been a sharp increase in the number of requests to locate detainees. There has also been an increase in the number of cases in which HaMoked has been obliged to contact the State Attorney's Office due to the failure of the IDF to locate detainees. M.S. of Kalkiliya, for example, was arrested at his home in April 2001. The IDF informed HaMoked that it was unable to locate him at any detention facility, and that he could not be located with the General Security Services (GSS) since he did not appear in the Population Registry. Contacts with the State Attorney's Office revealed that M.S. was detained at the Kishon Prison. Some three days later, HaMoked once again attempted to locate M.S., after the possibility arose that he might have been transferred to a different facility following the extension of his detention. During two days HaMoked was unable to contact the Kishon detention center, while the Sharon detention center refused to provide us with information. Only after contacting the State Attorney's Office again were we able to ascertain that M.S. was still detained at Kishon.

Administrative Detainees

In September 2000, before the outbreak of the Intifada, Israel held just five administrative detainees who were residents of the Occupied Territories. As of June 30, 2001, this number has risen to 15 (one is a resident of the Gaza Strip, one of East Jerusalem, and 13 of the West Bank). In addition, one Israeli citizen is detained, as are at least three Lebanese citizens. In total, therefore, Israel is holding at least 19 administrative detainees. In July alone, four people were incarcerated through the process of administrative detention. It should be noted, however, that these figures are much lower than during two previous crisis periods. During the first Intifada (1988-1993), the number of administrative detainees reached many thousands; and during the "run-in" period of the Oslo Accords (1995-1998), many hundreds were held. Since 1998, there has been a drastic reduction in the number of administrative detainees.

Prior to the new Intifada, administrative detainees held by Israel were alleged to be members of Hamas or Islamic Jihad. Now, however, approximately half of the detainees

are alleged members of Fatah or the DFLP. As a general rule, detention orders are ratified by military judges, and appeals against detention orders are rejected.

According to military law applying in the Territories, administrative detainees must be brought before a military judge within eight days of their detention. Three months after the judge's decision, the detainee is brought for a process called "periodic review." Detainees are entitled to appeal against the decisions of the judge, and against the periodic review; the appeals are heard by a judge in the military appeals court. Attorney Tamar Pelleg Sryck, on behalf of HaMoked, represents most of the administrative detainees in the judicial reviews, periodic reviews, and, when appropriate, in appeals against the judges' decisions in these proceedings. During the period January - June 2001, 23 orders issued came under judicial review. 16 orders were authorized in full. In many cases, individuals are detained for the purpose of interrogation, and administrative detention orders are obtained subsequently. In six cases handled by HaMoked, the number of days spent in interrogation was deducted from the period of administrative detention as stipulated in the order. One detainee represented by HaMoked was released following a preliminary hearing, before the judge made his ruling. All 12 cases of periodic review (11 of which were represented by Attorney Tamar Pelleg Sryck on behalf of HaMoked) were approved. 13 appeals were heard; all were rejected.

The case of Imad Siftawi

Mr. Siftawi is a 39-year old native of Gaza, married and father of four. During the 1980s, he was active in the Palestinian Islamic Jihad movement. He was imprisoned and indicted, but before sentencing he escaped from prison and crossed the border to Egypt, eventually settling in Sudan. Following the signing of the Oslo Accords in September 1993, Mr. Siftawi joined those who supported the agreement; he expressed this position in public, and quit Islamic Jihad, later joining Fatah. As a result, his car was torched by members of Islamic Jihad, he received threats and was ordered to leave Sudan. In 1996, he returned to Gaza as a "returning resident," and found employment in the PA Ministry of Religious Affairs. His return to Gaza was possible in light of an Israeli commitment not to take legal steps against Palestinians relating to offenses committed prior to September 13, 1993 (this commitment appears, inter alia, in Article 16.3 of the Interim Israeli-Palestinian Agreement concerning the West Bank and Gaza Strip, 1995). Mr. Siftawi became active in attempts to promote rapprochement between Israelis and Palestinians, and developed contacts with the Ahmadian Muslim sect, which advocates peace and non-violence (the leader of the sect in Israel testified to these contacts before a judge). He also maintained contacts with the Van Leer Institute in Jerusalem, and took steps to establish a "Good Neighbors" movement to encourage cooperation with Israelis. He was invited by the Van Leer Institute to participate in a project on religious tolerance, but did not receive permission to enter Israel. He suffered hostile reactions from the Islamic Jihad and Hamas movements due to his political positions.

On December 13, 2000, when returning from an overseas visit, he was detained by Israel and interrogated by the GSS at Shikma Jail for over two months. During this period, he was threatened with deportation and administrative detention. He was twice prevented from sleeping, and was kept for 36 hours tied hand and foot to a chair. He was also placed in a cell with collaborators, who used threats in an attempt to force him to admit membership in the Islamic Jihad. The extension of his detention and his own application for release were heard without him being allowed to meet his attorney, or even to be present in court at the same time as her. On January 21, 2001, a petition was filed to the Supreme Court to enable him to meet with an attorney. The petition was heard the next

day and rejected by the Court. However, the ruling stated that the State had announced that Mr. Siftawi would be able to meet with his attorney prior to the next extension of his detention. This meeting took place on January 25, 2001.

On February 18, 2001, the Commander of the IDF Forces in the Gaza Strip issued an administrative detention order for six months. Mr. Siftawi was transferred to Ashmoret Prison, where he was held in isolation, contrary to the Israel Prison Services' procedures for isolation, and contrary to the relevant regulations applying to administrative detainees. After a protracted struggle, he was transferred to a cell with another detainee, but in the same wing – again, in contravention of the procedures.

During his entire period of detention, Mr. Siftawi has continued to deny any involvement in unlawful activities, and to insist that he has not been involved in such activities since his return to Gaza. In an affidavit submitted to Amnesty International, he writes:

“I touched a gun and explosives for the last time in my life in 1990 when I was in Syria and Lebanon. Since my return in 1996 I was engaged, in Gaza, in promoting the peace process. I was in touch with Israelis planning joint activities. I declared the above in detail to the judge.”

Amnesty International recently recognized Mr. Siftawi as a prisoner of conscience. Several branches of Amnesty have adopted his case and are in contact with him. Amnesty International has called on Israel either to prosecute Mr. Siftawi or to release him immediately.

HaMoked maintains close contacts with Mr. Siftawi. Attorney Peleg Sryck visits him often, and has also visited his family in Gaza. On the legal side, HaMoked has represented Mr. Siftawi in various proceedings, relating both to the initial order and to the extensions – a total of nine hearings, to date.

The case of M.M.: A death foreseen

On September 16, 1997, M.M. was found hanging in his cell at Megido Prison. All the details relating to his arrest clearly show that his suicide was foreseeable, and that his arrest was arbitrary and unreasonable in the extreme. M.M., who was born in 1966 and was married with three children – suffered severe mental problems from 1995, and received psychiatric treatment. Although the Israeli authorities were aware of his serious condition, he was held in administrative detention from August 4, 1997 for a period of two months. In his first meeting in the prison, his interviewer wrote that M.M. “has an unclear psychiatric background, is taking drugs suggestive of schizophrenia, and has been under treatment for three years. He claims that his mother set herself on fire and his sister committed suicide. Attention should be paid to this detainee.” His grave condition worsened still further. On August 18, 1997, the commander of the prison clinic wrote that he “expressed a desire to commit suicide, and began to make a disturbance in the compound... I believe he should be hospitalized in a psychiatric ward at a prison hospital for treatment and monitoring; alternatively, his release from prison should be considered.” On September 3, 1997, M.M. was examined by an expert psychiatrist at Ayalon Prison. Following this examination, the commander of the prison clinic wrote to the prison authorities on the same day, stating that “this is indeed a psychotic state... *He should be released* from Megiddo Prison. If it is decided to continue his detention, this should be done *solely* in the prison service, through psychiatric hospitalization in the psychiatric ward” (emphases in the original). On October 10, 1997, while completely

ignoring the recommendations of the physicians and the commanders in the field, Brigadier-general Shlomo Oren, military commander of the West Bank, extended the administrative detention of M.M. by four months. Six days later M.M. committed suicide.

In June 2001, HaMoked commissioned an expert opinion from a psychiatrist relating to the death of M.M. In his opinion, the psychiatrist wrote that M.M.'s suicide could have been avoided had he been hospitalized. He wrote that "stupidity, negligence, a series of errors and malice combined, and culminated in [his] death." The psychiatrist added that M.M. should have been transferred to a "therapeutic psychiatric framework." HaMoked intends to file a civil suit in this matter in the near future.

During the period covered by this report, four administrative detainees were released under restrictive conditions. The agreements in all these cases were signed after protracted negotiations. One example is the case of H.G., who was held in administrative detention for a consecutive period of over four years. H.G. was detained in February 1997 for four months, and subsequently released. The GSS claimed that his release was an error, and just nine days later he was detained again for six months. His detention was subsequently extended repeatedly. All the appeals filed by HaMoked were unsuccessful, as was a Supreme Court petition filed in July 1999. Only in May 2001 was H.G. finally released, after signing an agreement with the IDF commander in the region. As part of the agreement, a special supervision order was issued stipulating that:

1. After his release, he must not leave his home for one week;
2. After one week, he will be moved to another village, which he must not leave for one year;
3. During the entire period, he must report to the police once every two weeks.

H.G. was required to undertake not to take part in violent activities or to threaten violence; not to support such activities; and not to contact activists in organizations engaged in violence. He was also required to provide a cash deposit of NIS 20,000 for a period of one year.

Detainees under General Security Services (GSS) Interrogations

During the period November 2000 - March 2001, Attorney Pelleg Stryck represented eight detainees on behalf of HaMoked – seven from Gaza and one from the Jenin region. Seven hearings took place during January - March at Shikma Prison (relating to the detainees from Gaza), and one hearing at Kishon Prison, regarding the detainee from Jenin. Visits took place to same detainees in order to prepare for hearings and monitor interrogation. Of the eight detainees represented by HaMoked, four were released, one was placed in administrative detention (Mr. Siftawi – see above), and three were prosecuted (these cases were referred to another attorney). Of the five detainees not prosecuted, three were not allowed to meet their attorney at various stages of their detention, let alone family or friends.

On the night of December 14/15, 2000, H.A. was shot by Israeli soldiers from an ambush point established close to the Jewish settlement of Yitzhar. Another person in the car together with H.A. was shot and killed; this latter person seems to have been on Israel's "hit list," and the shooting was planned in advance. H.A. was seriously injured