

Respect for the Dead

A joint report by HaMoked and B'Tselem, published in March 1999 entitled "Captive Corpses," noted that from the occupation of the Territories in 1967 through November 1994, there was no

"...consistent pattern regarding the question as to whether the bodies of those killed should be returned to their families. The question of how to act with regard to the body of each Palestinian killed in clashes with soldiers or in attacks seems to have been taken on an ad hoc basis in each separate case, and sometimes in a completely arbitrary manner... After the suicide attack at Netzarim settlement in the Gaza Strip on November 11, 1994, a more consistent pattern began to emerge, in accordance with which Palestinian bodies are not returned to their families, with the exception of extremely isolated instances."

In 1992 and 1999, HaMoked petitioned the Supreme Court regarding the bodies of two Palestinians whose remains were not found in the two graves where they were suppose to have been buried according to the IDF notification. Following the petitions, the Chief-of-Staff established a military commission of inquiry to examine all aspects of the IDF's treatment of enemy fatalities. HaMoked representatives gave testimony regarding the defects in identification and marking of Palestinians buried at the cemeteries for the enemy dead. The State refused to forward the committee's report to HaMoked, or even those sections relating to the body of the subject of the first petition from 1992. The Supreme Court accepted the State's position on the specific matter, and announced that "we did not find it appropriate – for security reasons – to order the forwarding of this report..."

On January 31, 2001, HaMoked contacted the Chief Adjutant-General's Office, arguing that its right to review the report is guaranteed, inter alia, by the Freedom of Information Law, which since December 31, 2000 has also applied to the IDF. Three months later, the authorities replied that the report would not be forwarded. In June we submitted an identical request to the IDF. The subject is currently under review by the relevant military authorities.

In addition to addressing the principled issues raised in this respect, HaMoked has also continued to process specific complaints. In 1972, S.A.M. was killed in a clash with IDF forces in the Hebron area. Immediately after the incident, the family were shown pictures of the body, which they identified. In November 1995, an IDF representative informed Attorney Leah Zimmel (who handled the case at the time) that approval had been given to return the body to the family. In practice, this did not happen. In 1999, work on this case was transferred to HaMoked, which once again asked the authorities to return the body to the family as had been promised. After additional contacts, HaMoked was informed in February this year that the body was not known to the IDF, and accordingly there was no possibility of locating it. Since it seems that the entire subject was the responsibility of the police at the time, we were referred to the police. In a letter to the IDF, HaMoked expressed surprise at the former approval of the return of the body by the IDF, given the present claim that it was unknown. In response to our request to receive copies of correspondence between the various authorities, we were informed that, apart from documents already presented to us, the only other items were

internal correspondence between military bodies, which could not be forwarded. We intend to petition the Supreme Court next month on this issue.