

For individuals holding foreign residencies there remains no mechanism to reinstate their residency status. Take for example the case of Dr. Chazam Nasasra a resident from Beit Fourik in the Nablus district, who in 1980 left to study in the Soviet Union. After the completion of his studies he returned to the West Bank in 1993. In the interim the “Exit Card” with which he had left the Occupied Territories had expired. In the same year HaMoked petitioned the Supreme Court on behalf of Mr. Nasasra with a request that his case appear before the “Committee for Expired Exit Cards” while he was still in the Occupied Territories. The petition included a request that the Committee adopt fair procedures and allow representation on his behalf before the Committee. The Committee for Expired Exit Cards operates an advisory body in the Occupied Territories which examines whether an individual whose exit cards expired while they were away had not transferred their “Center of Life” abroad, allowing them to return and live as legal residents. At the time when the Oslo Accords were signed the petition was pending before the Court and a formal request had been submitted to the Committee. Now, the state claims that the authority regarding registration in the Population Registry rests with the Palestinian Authority (P.A.), and accordingly Israel cannot solve Nasasra’s dilemma. However, in reality the P.A. has no real authority, according to the agreements, to authorize the residency of an individual without permission from Israel. A joint committee that is designed to handle cases such as Nasasra’s convenes very rarely, and deals only with cases where the person departed from the territories in 1986 at the earliest.

During December the case of Nasasra reached the High Court. The High Court judges rejected the petition declaring that the resolution of the problem lies with the P.A. The problem of Nasasra remains unresolved. The key to authorizing his residency remains in the hands of Israel, which is unwilling to grant him citizenship in the country of his birth.

## **Violence Committed by the Security Forces** **Against Palestinians**

The images of violence from the past few months are reminiscent of the first Intifada, when HaMoked was initially established as an emergency hotline for victims of violence. The rise in the number of injuries in the territories has, however, not been reflected in an increase in the amount of complaints received by HaMoked. This stems from a strong prevailing feeling which views victims who suffer at the hands of the IDF, not as individual cases, but as part of the collective struggle and general mobilization. Currently, there is no expectation amongst the Palestinian population that the law-contravening authorities in Israel will investigate the actions of soldiers or settlers in order to achieve justice. Indeed, an IDF spokesperson recently announced that since the outbreak of the Intifada in September 2000, the authorities had only opened one single investigation into a case involving violence. This does not mean however that HaMoked remains without work in this field. Cases that were received over the past few months include incidences of severe police violence in East Jerusalem; excessive force used during night time arrests; confiscation by police of identity documents; heavy shooting on an eye clinic in Hebron and a complaint from a family living in Beit Omer where the IDF has maintained a look-out point on the roof of their house for a number of years. In this case, the family complained of continuous abusive treatment by the soldiers. HaMoked

unremittingly approached various authorities including the Advocate General's Unit to the IDF for a period of over two weeks until the harassment against the family was finally brought to an end.

Together with these new complaints HaMoked continued handling its previous cases. Even before September the lives and property of Palestinians living in the Occupied Territories were vulnerable to attacks committed by Israeli soldiers, police and settlers. This inherent violence, characteristic of the occupation, is encouraged in Israel by social legitimization of discrimination against Arabs (at least in some circles), through the negligence shown by the authorities and in the 'forgiving' nature adopted by the courts towards perpetrators of crimes committed against Palestinians. HaMoked continues to assist victims of such violent attacks by bringing their complaints to the attention of the authorities and by following up on the resulting investigations. The aims of compensation suits filed by HaMoked are to provide the victims with a sense of justice, hold the authorities accountable and to create potential deterrents against similar acts of violence in the future.

### Conviction and Deterrence

In April last year, a severe incident of abuse committed by a Border policeman against three Palestinian boys living in the Occupied Territories came to light. The attack by the policeman was committed while the boys were being transferred by truck from one prison to another. The policeman hit and kicked the boys, forced them to lower their heads throughout the journey and to sing degrading songs praising the Border Police units and insulting the Prophet Mohammed. He also demanded that one of the boys perform oral sex on him, opening his pants and exposing his genitalia. After the boy refused, the policeman hit him once more.

The boys, characteristically, did not lodge a complaint until their lawyer, Mr. Chalad Kozmar, heard the details of the abusive treatment they had received whilst in detention. Kozmar subsequently lodged a complaint before the military court, which then ordered an investigation. No meaningful investigation was conducted however until HaMoked and Attorney Mr. Kozmar released the story to the press. From this point, handling of the complaint was suddenly accelerated and the policeman, Eran Nakash, was arrested and brought to trial. It became apparent that Nakash was also under suspicion for involvement in two additional incidences of abuse against Palestinians. During the course of the trial HaMoked also assisted in locating and bringing witnesses to court so they could provide testimony.

In January this year a Jerusalem District Court judge convicted Nakash of attacking the minors under his authority, committing indecent acts and abuse of police powers. The judge sufficed, however, with a 14-month prison sentence with a further 15 months suspended.

The State Attorney's office submitted an appeal against the verdict to the Supreme Court, which subsequently also convicted Nakash of abuse committed against minors, and criticized the District Court for its leniency, increasing the sentence to an effective three years in jail. The Court, in its ruling, drew attention to the actions of two additional policemen who witnessed the incident and not only failed to restrain Nakash, but also refrained from reporting the incident and later tried to cover up his actions. The judge

also cited a number of witness' testimonies regarding accepted norms of violence against suspects and the widespread protecting of comrades within IDF and Border Police units.

The Supreme Court went on to observe, "...it is alarming that the moral values of the young individuals who were present were so distorted and deformed that they did not even have the courage to urge the perpetrator to cease his actions, and this purely because they regarded him as their senior. Furthermore, the two policemen were unwilling from the start to report the actions of Nakash who was a member of their unit. Based on their testimonies, the two failed to report the incident, as they were fearful of reprisals. It is unacceptable that Nakash's comrades viewed his actions as normal behavior. The command sector is called upon to unequivocally elucidate to its rank and file the requirements and obligations involved when individuals are placed under their authority, and the penalty incurred for violating their duties."

As in the past, however, the judge's words fell on deaf ears. The number of complaints of violence received and handled by HaMoked remains constant. For example, only two months after the Nakash ruling, on June 9<sup>th</sup> 2000, a group of soldiers took S.A., a 21-year old Palestinian from the Beit-Omer village, to a grove next to the Beit-Omer refugee camp, where he was severely beaten by one of the soldiers. Following the abuse he was taken and thrown at the side of the road near the Gush Etzion intersection. When HaMoked submitted the complaint two weeks after the incident, S.A. was still suffering from acute pains and was receiving drugs to assist him with his injuries. The complaint submitted by HaMoked is currently pending with the Investigating Branch of the Military Police.

### Civil Suits

#### The case of Amin Judah

On May 25<sup>th</sup> 2000, the Jerusalem Magistrate Court ruled in favor of the suit filed by HaMoked on behalf of Amin Judah against two Border policemen and the State of Israel. The case related to an incident that occurred in 1992 at the Jerusalem central bus station. A group of (army) policewomen stopped Judah and his friend while on their way to work and demanded to inspect their identity documents. Border policemen that passed by intervened and also demanded to see their papers. In the opinion of the judge, they intervened in order to impress the female soldiers. Since Judah's work companion did not speak Hebrew, Judah tried to assist him in answering the policemen's questions. This intervention merely succeeded in inciting the policemen who took him to a stairway near the police station and proceeded to beat him. Afterwards, the police charged Judah with assault and attempting to grab a policeman's weapon and placed him in detention. The charges were later dropped and the policemen brought to a disciplinary hearing where a single arbitrator acquitted them of all charges.

However, after hearing all the testimonies in the case, the Magistrate Court judge ruled in favor of Judah. In his decision the judge stated that there had been a severe case of misconduct and abuse of power and he reprimanded the defendants for their unacceptable and unrestrained actions throughout the course of the incident. He went on to state that the defendants only added 'sin' to their crime when they later tried to cover up their own actions by lodging a complaint against the petitioner. These actions resulted in the arrest and imprisonment of the petitioner for a period of 48 hours and the issuing of an invalid indictment against him, which was subsequently cancelled.

The Court ordered the defendants to pay Judah compensation to the value of 13,000 NIS (approximately \$3,250) for pain and suffering caused plus all court costs and attorney fees. HaMoked submitted an appeal against the amount of compensation awarded, claiming that it did not reflect the severity of the incident and the violation of basic human dignity and bodily integrity that Judah suffered.

#### Suits submitted by HaMoked which ended in negotiated out-of-court settlements

In December 1989, IDF soldiers burst into the house of R.G., a resident of Hebron, while the occupants were absent. The soldiers vandalized the entire house, stole jewelry and deposited excrement in the bedroom. Relatives who arrived at the house complained to an officer, who sufficed with a brief 'on the spot' investigation and told the relatives to submit a formal complaint. The family submitted a complaint, however, following various clarifications it became apparent that one of the authorities involved had lost all the investigative material. Following a suit filed by HaMoked, R.G. received 25,000 NIS as part of a negotiated settlement in June this year as compensation for damages caused.

In September 1994, in Beedoh village, A.G. was shot in the leg after he witnessed what he thought to be a woman trying to kidnap a group of children. What he actually witnessed was a military operation involving undercover IDF soldiers. The results of an official investigation found that the soldiers had been waiting for stone throwers. Since everything was calm, one of the undercover soldiers began throwing stones hoping to incite some of the local inhabitants. The plan worked and after others began throwing stones in retaliation the soldiers moved in to arrest them. One of the soldiers then shot A.G. and, after approaching him, further hit him on the head, knocking him to the ground. The soldier's vehicle then approached, ran into A.G. and injured him in the chest. A.G. and the children were then boarded onto the vehicle where he was forced to endure further beatings from which he was fortunate not to receive any permanent disabilities. HaMoked filed a suit on behalf of A.G. and in May this year a negotiated settlement with the State was concluded from which he received 20,000 NIS in compensation.

K.M. was also shot in the leg in September 1993 in Ramallah when he tried to walk from his shop back to his house after a curfew had been declared in the city. As a result of the attack K.M. sustained a 10% permanent disability and requires special soles for his shoes. In May this year the State agreed to a negotiated settlement awarding K.M. 35,000 NIS in compensation.

In May 1994, Y.C. was attacked and beaten by IDF soldiers next to the Erez border crossing between the Gaza Strip and Israel. The soldiers stopped Y.C., a truck driver, and demanded to see his vehicle licenses. The soldiers were apparently angered by the fact that he handed them all the licenses together instead of individually and remarked that usually it was the police and not the army who carried out such inspections. The soldiers then started cursing him and began hitting and slapping him all over his body. One of the soldiers also used his rifle to hit him in the eye. Following the incident Y.C. immediately lodged a complaint at the Erez police station. The soldiers were never identified. In May this year, as a result of the suit filed by HaMoked, the State agreed to a negotiated settlement in which Y.C. received 20,000 NIS in compensation.

A further example of one of HaMoked's out-of-court settlements from the first half of the year 2000, and one that particularly stands out, involves a resident from Ein Yabrud, Hatam Abdelrasak. IDF soldiers arrested Mr. Abdelrasak in March 1996. After his arrest he was bound and forced to lie on a road where the soldiers began kicking and beating him until he lost consciousness. The army investigated the incident. The Prosecutor for the Central Command concluded that the degree of force used against the detainee was for the most part reasonable, however certain irregularities were found, as a result of which the Prosecutor had ordered the officer in command to be brought to a disciplinary hearing. The irregularity referred to was the order given by the officer to nine soldiers to beat the detainee at the time of his arrest, while he was handcuffed, blindfolded and lying on the ground. The disciplinary hearing ordered the officer to pay a fine of 100 NIS (approximately \$25.00). HaMoked filed a suit on behalf of Mr. Abdelrasak. In June this year, the State agreed to pay Mr. Abdelrasak 50,000 NIS in compensation, despite lack of evidence that he had suffered any permanent disabilities.

### **Prisoners in Isolation**

Confining a prisoner in isolation for prolonged periods of time endangers his mental health and constitutes a form of cruel treatment or even torture. In the past the Prison Service held dozens of prisoners in complete solitary confinement, many of whom had been held for periods in excess of a year (in 1996 – around 30 prisoners had been held in isolation for over a year, with seven for over seven years). Almost no procedures had been stipulated for the holding of prisoners in isolation, while the detainee had no opportunity to voice his objections or to appeal the decision. Many of the victims of this method were Palestinian prisoners convicted of security related offences.

In 1995, HaMoked and Physicians for Human Rights (PHR) submitted a petition to the Supreme Court against the isolation technique. The petition demanded the formalization of new procedures that would assure an automatic judicial review of the decision to hold a prisoner in isolation, a right to a hearing, periodical medical and psychological evaluations and minimum living standards for conditions in the isolation cells.

The petition resulted in a number of far reaching changes to the Prison Services' policies. Actual changes included the preference to hold two or more prisoners together in a cell isolated from the rest of the inmates, essentially removing many of the dangers of isolation. The number of prisoners held alone in cells – genuine solitary confinement – was reduced to only a few cases, while the total number of prisoners held in isolation (alone or together with others) declined along with the period of time spent in isolation.

A joint committee, consisting of representatives from the Ministry of Interior Security, the Prison Services and the Ministry of Justice formulated a package of legislative amendments to be incorporated into the law, the Administrative Regulations and the guidelines of the Prison Services. The impact of HaMoked's and PHR's proposals on the final package of new amendments was significant. HaMoked and PHR, nevertheless, retained a number of important objections to the final proposals, *inter alia* the fact that the amendments to the law proposed by the joint committee called for a judicial review only a year after a prisoner has been kept in isolation. The period proposed by the committee during which a prisoner may be held in isolation without any hearing was also