

2. Detainee Rights

Torture

On 23 April 1998 M., a 23 year old student detained by Israel on 3 January, was released from prison. M. was released after a psychiatrist from the prison services determined that he was mentally unfit to stand trial. Following his release, M. was diagnosed as suffering from post-traumatic stress syndrome. He cut off connection with his surroundings, did not speak and suffered from serious depression. While in prison, M. was tortured by the General Security Service (GSS). HaMoked submitted a High Court petition on his behalf on 15 January, after he told the organisation's attorney of the torture he underwent. The forms of torture were not unusual in their severity: Sleep deprivation, "gambaz," (being forced to kneel in the frog position) and "shabah" (tied to a low stool whose front legs are shorter, hands tied with one stretched behind the back, sack over the head and a continuous playing of loud music).

In the wake of this petition, the State announced that it would no longer use the aforementioned physical pressure. A follow-up visit to the prison proved that the interrogation methods were indeed lightened - the sack was replaced with dark glasses, the stool replaced with a regular chair and M's. hands were cuffed in the front, although sleep was still prevented. HaMoked submitted an additional High Court petition to cease this type of treatment. In the wake of the State announcement that M. would receive reasonable hours of sleep each day, this petition was erased. However, this was not enough to help M. and he is currently undergoing treatment at the center for victims of torture in Ramallah.

While M. attempts to rehabilitate himself and the GSS continues to torture hundreds of additional Palestinian detainees each year, the Israeli High Court continues its learned discussion about torture and the State contention that the defence of necessity justifies this. Discussions of this petition continue with breaks of months between sessions, and only at the end of 1998 did the State conclude the presentation of its arguments. During these discussions, the High Court judges raised the question of why this subject should not be arranged by the Knesset through legislation. While the government did present proposed legislation concerning the GSS, this draft does not contain any directive authorising the GSS officials to use special interrogative methods. The court expressed its dismay at attempts by the government to pass the responsibility for deciding in the matter of torture to the court instead of to the Knesset. The State position is that GSS interrogators are authorised to use physical force against interrogees. Shai Nitsan, the State representative, noted in his presentation that the use of physical force is justified (and even required) not only in situations of a "ticking bomb" but also to obtain information which does not relate to a specific attack currently being planned. Comments made by the judges during these discussions demonstrate that from a legal standpoint, it is difficult for them to accept this position. With this, it appeared that the judges' criticism was directed toward the legal assertions used to justify torture more than to the torture itself.

HaMoked, in addition to the other public petitioners in this case, firmly maintain the position that bodily harm to an interrogee is a complete taboo not permitted under any circumstances. According to the international convention against torture, which Israel has ratified, no emergency situation justifies the use of torture. The UN committee which acts under this convention concluded in 1997 that the GSS interrogation methods meet the definition of torture, and reiterated this conclusion in 1998.

Administrative Detention

The first six months of 1997 were characterised by the struggle of administrative detainees to achieve recognition of their rights by prisons, to where 140 of them were transferred from the Megiddo military prison. HaMoked aided them in this struggle with legal advice and instructed them concerning their legal rights. During this period there were approximately 400 administrative detainees.

Only toward the end of 1997 did the administrative detainees recommence their appeal of detention orders, an action they refrained from taking for over a year. The collective decision to refrain from filing appeals resulted from a feeling of extended frustration. Appeals were almost always denied and the detentions of the few who were shortened were then extended once again by the military commander.

With the recommencement of the appeals and throughout this reporting period, these appeals comprised the major part of HaMoked's activities in this area.

The first half of 1998 was characterised by a drastic decrease in the number of administrative detainees. As of the end of June there were 22 administrative detainees held in the Sharon prison, the majority detained for at least two years. In the Megiddo prison there are no more than 75 detainees, some of them detained for over a year and others for several months. Twenty persons were detained on 22 May, the majority of them from Jerusalem and the surrounding area.

The drastic drop in the number of detainees may be undoubtedly attributed to the extensive public actions against administrative detentions, centered around the activities of "Open Doors," a voluntary group established in September 1997. The activities of this group are supported by HaMoked, the Association for Civil Rights in Israel (ACRI) and B'Tselem. On the initiative of Open Doors, articles and advertisements were published in newspapers, two television programs on this issue were aired and a theatrical event took place.

There is no doubt that the involvement of HaMoked in this issue, especially the legal representative of so many detainees in appeals, was an important factor in the numerical decrease of this phenomenon.

These activities met with fertile ground. With the fading of the Oslo peace process, it appears the GSS concluded there is no longer any point in detaining so many objectors to the Oslo process for long periods of time. The aforementioned public pressure assisted the GSS in arriving at this conclusion.