

Exiting the Gaza Strip

Similar to entering the Gaza Strip leaving it, even if it is in principle permitted by Israel, requires the constant intervention of HaMoked. An example of this is the case of Y., a resident of Gaza currently working on his graduate degree in microbiology at the Hebrew University of Jerusalem. HaMoked began advocating on behalf of Y. in the autumn of 1996. Since then, and despite the fact that Israel has never expressed a principled objection to his studies in the country, HaMoked's constant advocacy has and is required to arrange Y.'s passage permits between Jerusalem and the Gaza Strip. These permits are supposed to be issued for three month periods. However, the permit is often given for a shorter time, or is not printed out, or is not granted...Intensive advocacy is required in order to solve the numerous difficulties which are forever cropping up in this matter. Y. is currently completing his second year of studies, and it is apparent that HaMoked's assistance will be required in the future to assure his legal presence in Jerusalem.

Leaving for Abroad

Even after the signing of the Oslo Accords, the GSS continues to control the travel abroad of residents of the Occupied Territories. The bridges to Jordan, for example, are controlled jointly by Israel and the PA. However, when the Israeli clerks discover that a person is "prevented exit" by the GSS, he is not permitted to cross and must return home. Many who were prevented passage at these bridges, and others not permitted to leave via the Israeli airport, turn to HaMoked for assistance. In 1998 HaMoked received 100 new requests for aid in this issue, while it continued to advocate in 352 other cases received in previous years. As a result of HaMoked's intervention, 109 complainants were permitted to leave (55 due to a High Court petition submitted in 1997), 23 others allowed out for a limited time and a remaining 118 were not permitted out and on whose behalf HaMoked continues to advocate.

The fact that the right to leave a country is one of the most fundamental of all human rights, protected in international conventions and in the basic law of Israel, seems to have been forgotten by Israel among the vast bureaucratic procedures required for residents of the Occupied Territories who wish to travel abroad. The resident must point to "special humanitarian reasons" for his proposed trip. The fact that the resident has in Jordan family members, whom he has not seen for years, is not enough in most cases. Even exceptional circumstances are not always enough for the Israeli authorities, and such was the case of N. In March 1998 her brother and five year old nephew were killed in a car accident in the United States. As N. was turned back by Israel at the bridge to Jordan a few months earlier, HaMoked contacted the Legal Advisor of the West Bank to permit her exit to Jordan, where the funerals were to be held. Despite the urgent circumstances, the "security officials" responded that her exit was denied as she is "identified with the Islamic Jihad organisation." Only following an urgent pre-High Court petition to the State Attorney's Office was her travel to Jordan permitted. Several months later N.'s mother suffered a heart attack. HaMoked turned again to the Legal Advisor of the West Bank in order to allow N. to once again leave for Jordan. To its request HaMoked attached a telegram sent by the Red Cross in the matter of N.'s mother, but the Israeli security authorities refused the request as a medical opinion was not attached.

Not only family matters necessitate the travel abroad of residents of the Occupied Territories. From December 1997 until November 1998 HaMoked advocated for the right to leave for abroad of H., a lecturer of law at the Alnajah University in Nablus. H. was registered for doctoral studies at a university in Sudan, and to complete his studies had to travel there and present his thesis. HaMoked contacted the Legal Advisor of the West Bank, which refused to allow N. to travel. In the wake of an appeal with the State Attorney's Office, a one-time exit permit was given to N. He travelled to Sudan, but was forced to return to the West Bank prior to completing all the requirements for his academic degree. HaMoked once again intervened, and N. was permitted to leave the territories. N. completed his doctoral degree with honours.

In October 1998 HaMoked challenged the accepted assumption that the Oslo Accords award Israel the authority to prevent the travel abroad of residents of the Occupied Territories for reasons of security. In the High Court petition submitted by HaMoked, the specific directives of the Oslo Accords concerning border crossings were analysed. These directives include a closed list of specific cases in which the exit of persons may be denied, and clear instructions of the procedure involved in refusing these travels. When Israel accepted these rules, and even anchored them in military law, it could no longer argue that the territories are "closed military zone," the entry to and exit from dependent upon the Israeli military commander. The petition was submitted on behalf of Harav and Rasmia Afani, a couple from Jericho. Harav Afani, blind in both eyes, acts as the Imam of the Jericho mosque. He requested to travel to Jordan in order to, among other things, arrange his pension after 26 years of serving in the Hashemite public service. Prior to this High Court petition, HaMoked's advocacy with both the Legal Advisor of the West Bank and the State Attorney's Office was met with the unclear assertion that Afani and his wife "are involved in enemy activities." The High Court preferred not to hear arguments concerning the authority of the IDF military commander to prevent the exit of residents of the Occupied Territories. Instead, the court heard in camera the security considerations of the State. The High Court judges requested additional information concerning the necessity of Mr. Afani's trip to arrange his pension. A decision has yet to be taken.

Respect for the Dead

Israel has a long and honoured tradition of expending enormous effort to return soldiers' bodies to Israel for burial. Israeli public opinion is extremely sensitive to the question of the certain identity of its fallen soldiers. At the same time, Israel acts disdainfully and negligently in identifying and burying Palestinian bodies and intransigently toward the families of those killed.

This attitude toward Palestinians killed in bomb attacks they initiated or in clashes with the IDF is evident from a number of cases handled by HaMoked. One case is that of Issa Zawahara, who was apparently killed in 1990 in Lebanon. A High Court petition in this matter is still pending from 1992. At first the State argued that it does not know a thing about Zawahara's fate. Only later did the State present a photograph of Issa, taken after he was