

**HaMoked: Center for the Defense of the Individual**  
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**1995 ANNUAL REPORT**

From January through December of 1995, HaMoked advocated on behalf of 1978 cases. Throughout 1994, HaMoked advocated on behalf of 1913 cases.

**CASES BY SUBJECT**  
**January 1 - December 31, 1995**

Subject	Number of Cases	Percentage of Total Cases
Location of Detainees	1376	69.6%
Residency/West Bank	115	5.9%
Residency/Jerusalem	54	2.8%
Exit Permits	102	5.2%
Entry from Jordan to the West Bank	22	1.2%
Entry Permits to Gaza	24	1.3%
Entry to Israel	156	8.0%
Violence	32	1.7%
Missing Persons	0	0.0%
Property Damage	6	0.3%
Other*	61	4.0%
Total	1978	100 %

\* Other subjects include prison visits, 29 cases of identity card confiscation, the return of corps, Civil Administration workers' benefits, administrative fines, change of address, health insurance benefits for East Jerusalem residents, etc.

**Prisoner and Detainee Rights**

**A. Location of Detainees**

In 1994 there were 996 tracing requests, over 200 of these from Gaza. In comparison, for the whole of 1993, 440 new tracing requests were registered.

In 1995, 1376 new tracing files were opened, although the actual number of detainee tracing requests amounted to **2111** (a new tracing request for a person who was traced in the past is registered through his old file).

These numbers illustrate that the IDF has still not evolved satisfactory procedures for the notification of detainees' relatives -

the sole existing solution remains HaMoked, and this despite the clear letter of military regulations. As a consequence of this disregard of military regulations, HaMoked has had to expend great efforts in order to trace each detainee, whether in transit detention centers, permanent ones, military, civilian or police detention centers. In view of this, HaMoked turned to the State Prosecutor's office in March of 1995, lodging a detailed, extensive complaint against the tracing policy.

In September 1995, HaMoked, together with the Israeli Association for Civil Rights, petitioned the High Court on this issue (see High Court petitions section below).

**Table of detainee tracing requests by regions/years up to 31.12.95:**

	1988	1989	1990	1991	1992	1993	1994	1995	Total
Nablus	2	10	5	6	5	32	45	107	
Tul Karem	0	4	9	4	1	21	42	88	
Ramallah	31	132	101	55	35	75	102	109	
Jerusalem	24	61	37	35	36	56	98	66	
Bethlehem	32	110	56	29	26	59	218	396	
Hebron	10	34	7	9	1	63	295	553	
Jenin	0	4	2	6	1	9	9	19	
Jericho	3	5	3	1	0	0	1	4	
Other	0	6	2	2	3	2	1	4	
Gaza	0	1	2	4	3	123	182	27	

3779\*

\*Does not include new tracing requests of persons sought in the past.

There have been drastic changes in the tracing of detainees category in the context of IDF redeployment - all of the permanent IDF detention facilities in the territories have been evacuated, with only temporary facilities, holding detainees for up to a few days only, remaining. Detainees are being transferred to Israel - in contravention of international law, which forbids the transfer of residents of occupied territory into that of the occupier.

Consequently, most of the tracing today is done through the police and the prison services, which are better equipped at giving out information than the IDF. Neither today, however, does the Palestinian detainee receive the elementary right to a phonecall, the right to inform his family of his arrest and whereabouts. In spite of the fact that detainees are being held in Israel, the IDF is still responsible for their safety and welfare, as the main force responsible for security in the territories.

There is no doubt that the number of IDF arrests shall decline significantly, since area A of the redeployment, that of the large urban populations, will no longer be under IDF jurisdiction. In area B, under joint PNA - IDF jurisdiction, the number of arrests should decline as well. In area C, under IDF control, the number of arrests will most probably remain the same.

As stated above, HaMoked is today the main address for the tracing of detainees. In response to the developing situation, however, HaMoked has decided to expand its advocacy on behalf of detainees beyond the initial step of tracing, whether in cases of denial to meet with an attorney, or in cases of torture. Since most detainees are being held in Israel, the majority of West Bank lawyers are effectively barred from representing them, during the first critical days of arrest. Very few West Bank lawyers have entry permits into Israel, while all entry

permits lose their validity during times of closure. Furthermore, only attorneys registered in Israel may petition the High Court, while Israeli attorneys' fees are much higher than in the West Bank.

In view of the above, HaMoked has decided to attempt and provide fast-response legal services to detainees under GSS interrogation in Israel. For HaMoked's advocacy in these cases to date see High Court Petitions section below.

## B. Torture

Three proposed legislations, which are soon to be brought before the government, deal with the rights of suspects and detainees. Human rights organizations have coordinated joint action in opposing certain clauses of the proposed legislations and pressuring for compliance with human rights standards, as well as international law.

1. The GSS law - the official draft of this proposed legislation has not yet been published. According to press reports, the legislation deals with patent regulations, governing investigative authority, which are to remain classified. The debate on the proposed bill is to be classified as well. These proposed regulations are to provide a legal basis for the use of violence and intimidation during investigations, violating the body and the dignity of the interrogatee. The classified nature of these regulations will preclude any judicial review.

The coalition of human rights organizations opposes patent clauses in GSS legislation, which authorize the GSS to violate the body and dignity of the interrogatee, affording it immunity from criminal prosecution.

2. Bill against torture - the international covenant against torture, of which Israel is a signatory, states explicitly that no extenuating circumstances, such as a state of war, the threat of war, internal political instability, or any other emergency situation permits the use of torture. The carrying out of orders of either a superior or of any public authority does not constitute a justification of torture.

The proposed bill is to reflect Israel's signing and ratification of the International Covenant Against Torture in its legislation. We demand that the proposed bill include a definition of torture compatible with that of the covenant and its rigorous application. We consider the proposed legislation on torture to provide an historical opportunity not to be missed, yet we oppose the draft's definition of torture as severe physical or mental pain or suffering, except for the pain or suffering inherent in the nature of the investigation process or lawfull punishment itself.

The above clause, in our estimate, allows potential amendments, which will legalize torture. We prefer no legislation at all, to a bill, which contravenes the Covenant Against Torture.

3. Admissibility of evidence - convictions based entirely on the suspect's statement, the right to a new trial - these are the central issues of the third proposed legislation. Although the Knesset committee, drafting this bill, has made a number of valuable suggestions, regulating the interrogatee's rights during an interrogation, here too, we fear suggestions conducive to legalized torture. We support a proposal by a number of Knesset members, which would constitute any statement, derived by violent means, inadmissible as evidence.