

## Gaza and the freedom of movement

Freedom of movement in Gaza in its entirety - all entries and exits - are controlled by Israel. Although applications for permits are submitted to the PNA, all decisions are made by Israeli authorities, which forward their answers to the PNA, who contact the applicant. In this instance also, there is a joint appeals committee in existence.

In HaMoked's experience, this committee usually confirms all rejections on security grounds. It is to be stressed that these severe freedom of movement restrictions, on both persons and goods, are grounded in the Oslo II agreement. The human dimension of this situation is reflected by cases described in the High Court Petitions.

## Compensation Suits

HaMoked has filed 47 compensation suits during 1995, of these 26 through the court system and 21 through administrative instances. In cases of administrative refusals, HaMoked intends to pursue the cases further, through the court system.

Throughout the years, HaMoked has filed 135 compensation suits. In 88 of these cases to date, damages were awarded. Most of the damages awarded by administrative instances were rejected by HaMoked as too low. A case in point is that of a 15 year-old youth, killed by the IDF in 1989. The administration has offered NIS 15,000 in way of compensation. HaMoked is preparing to sue through the court system for an amount, more reflective of the loss to the family.

The following authorities were sued in 47 cases in 1995:

IDF	20
Police	2
Border Patrol	2
GSS	1
Civil Administration	16
Ministry of Interior	1
Ministry of Education	1
Detention facility	2
Airport Authority	1
Jerusalem municipality	1

The subject of compensation to Palestinian victims of violations by Israeli security forces has recently come to the forefront of public debate in Israel, in view of the government's declared intent of blocking future Palestinian claims.

The government's latest offered compromise calls for the establishment of an administrative committee, which would consider some cases, on a humanitarian basis only, by-passing the Israeli court system.

HaMoked, together with 5 other human rights organizations - The Civil Rights Association in Israel, B'Tselem, Physician for Human Rights, the Public Committee Against Torture in Israel and DCI - is active on this issue: a joint press conference was held in Jerusalem on 4.1.96, while ministers and Knesset members were informed of the human rights community's objections to the government's efforts on this issue.

We object to the government's intention to absolve the state of its responsibility for compensating Palestinian victims of IDF's actions. The right of every victim of an illegal action by the IDF in the territories, to sue for damages, is a basic human right, part and parcel of the right to personal safety and private property.

It is also an important guarantee of the IDF's observation of law, as well as of the rights of the population under its jurisdiction, in the past and in the future.

The denial of the right to compensation through due legal process, as practiced by the court system, without presenting a fair and reasonable alternative, is a gross violation of human rights.

According to press reports, the proposed legislation will be enforced retroactively. Compensation suits will not be filed through the courts; they will be considered by an administrative committee. This proposal does not guarantee due process.

The victims, those who have filed for damages, as well as those who have not yet done so, are liable to lose their right to compensation solely on the basis of their national identity. The government reasons that such legislation is necessary for the implementation of the Taba agreement. The agreement, however, does not cover the issue at all. The government reasons further that IDF actions in the territories too place in the context of a war situation, so that the state does not bear responsibility for damages. IDF operations in the territories were police actions, however, with rules of accountability very different from those of war. Invoking the rules of war retroactively constitutes a denial of existing rights under international law. HaMoked continues its active opposition to the proposed legislation and at the same time continues to file compensation suits.

### 1995 High Court Petitions and Pre-petitions

As a rule, HaMoked petitions the High Court in cases where a detainee was not traced within 48 hours of HaMoked's initial enquiry, cases of exit permit refusals, entry permits to Jerusalem spouses of divided families etc.

#### A. Torture, Detainees' and Prisoners' Rights

##### 1. a) File #8801, Pre-petition

An urgent pre-petition to the State Attorney's Office, concerning a Tul Karem resident, detained in the interrogation ward, of a prison in Israel. Relatives of the detainee were summoned to the Civil Administration in order to submit the detainee's medical documents. This has aroused the reasoned suspicion that the GSS intends to use violence during its interrogation, including shaking. The pre-petition requests the reason for the demand of medical documents after a month of detention and asks whether the interrogators intend to apply physical pressure during interrogation. The State Attorney's Office did not reply and HaMoked turned to the High Court.

##### b) High Court Petition 7246/95

This petition continues the advocacy in the case of the Tul Karem detainee above. The detainee, tortured during interrogation, is held in an Israeli prison contrary to international conventions. The interrogation process in his case also contravenes international conventions. The detainee underwent an operation on his skull in 1990, suffers from kidney stones, muscle spasms in his back and chest and blood in his bowel movements. The prison doctor has made only a routine, superficial examination. During his interrogation, the detainee was held for most hours of the day with feet shackled to a low chair, hands shackled behind his back, with a sack over his head. He was allowed a few minutes for food and drink between beatings. He is not able to identify those who had beaten him, because of the sack over his head. The High Court had set an urgent