

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

session for the hearing. During the hearing, the GSS had announced that the detainee's interrogation has ended.

2. a) File #31302, Petition 7752/95

A petition on behalf of two detainees, prevented from meeting with an attorney vs. the GSS. The two brothers, residents of Hebron, are detained in an interrogations ward in an Israeli prison. Denial of the right to meet with an attorney contravenes basic laws, as well as detainee's rights. The High Court had set an urgent session for the hearing. On the day of the scheduled hearing, the GSS announced that there is no more need for the prevention of a meeting with an attorney.

b) High Court Petition 7964/95

Two of the petitioners are prevented from meeting with an attorney, ~~as described above~~ ~~Their petition, one of the cases in which~~ ~~cases~~ during current interrogations of the three detainees and shaking in particular. The High Court has issued an interim injunction and ordered the GSS to abstain from shaking, or any other means of physical pressure during interrogation of the three petitioners, till a scheduled hearing. Close to the scheduled hearing, the GSS had announced that interrogation of two of the detainees has ended, while the third is being interrogated without physical pressure.

3. a) File #6894.2, Petition 6757/95

The petitioners are The Civil Rights Association in Israel and HaMoked vs. IDF in a matter of habeas corpus. The petition concerns a minor, born 1978, who was arrested on 26.10.95, at 1:30 A.M. at his home, after being severely beaten over all parts of his body. The soldiers did not present a warrant to the family, nor did they tell them, where they are taking the son. The family searched for the son for three days without success. On 29.10.95, the family turned to HaMoked. HaMoked had initiated a thorough search, but could not trace the minor.

b) The petition also dealt with the principle matter of inadequate procedures and disregard of written orders, concerning notification of arrest and whereabouts of detainees. Three hours following the filing of the petition, the authorities had divulged the minor's place of detention. Hearing on the principle matter of the petition has not yet been set.

4. File #8242, Petition 4585/95

This is a habeas corpus petition vs. commander of IDF forces, West Bank. A West Bank resident, on the IDF wanted list, exited the territories for Jordan in 1991, as part of a deal with the IDF, promising not to return for a period of five years. Brother of the resident has received information, which maintains that the resident had returned to the territories illegally and was arrested by the IDF. HaMoked had searched for him through Red Cross lists, as well as in temporary and permanent detention centers, police stations, border crossings etc., all to no avail. HaMoked had made telephone enquiries with the village mukhtar, who told HaMoked that his village had been under curfew for 3 days, while soldiers made house to house searches, calling the resident's name by megaphone. Approximately 15 days following the filing of the petition, the State had announced that the family may pick up the body of the resident if it wishes to do so. HaMoked still insists on receiving an official version of the circumstances of the resident's death. To this day, only unofficial and conflicting reports are available. HaMoked is proceeding with the case.