

husband in prison was denied because of security reasons. Despite the State's assurances, none of the applications made in H.N.'s case and in the case of 126 other relatives were answered. HaMoked therefore petitioned the HCJ on behalf of 21 applicants, in order to force the State to explain why they had been turned down. Three days before the hearing, the State's representative announced that H.N. and 19 other petitioners would be allowed to visit, and that other special cases would be reviewed as soon as possible. However, the military took very long to decide on the technicalities of how the approved visits would take place. H.N. waited in vain for the promised

permit; but she was among the fortunate ones and her husband was released as part of a prisoner exchange in January 2004. **(Case 26008)**

The State also argued that the fact that these petitioners would receive permits was not because they received special treatment but because the military has changed its policy. The following day, HaMoked received answers to 58 other applications – around half the applications HaMoked had made by then. Most of the applications (54 out of 58) were approved – indicating the arbitrariness of the repeated refusals that forced applicants turn to HaMoked in the first place.

Conditions of Detention

In 2003, the military incarcerated thousands of Palestinians. In some periods, the figure exceeded 3,000. Many of these detainees were held in various facilities throughout the West Bank, such as Ofer Camp and temporary facilities at the military headquarters in the region. But the Ofer facility, built in March 2002, and the facilities and prisons inside Israel were not designed to contain so many detainees, and detention conditions had become inhuman. The sharp jump in the number of detainees affected mainly those who were arrested in the West Bank and held at the Ofer facility, which was set up almost overnight, and at temporary facilities where detainees were not meant to spend more than a few days. These facilities did not have enough food, blankets or mattresses for all the detainees.

The military did not provide clothes for changing or mend the broken tents, whose tenants were exposed to the rain and cold. The washing facilities were insufficient and in some cases, overflowing toilets created a serious sanitary hazard. The facilities were insufferably crowded. Detainees, who were held there for weeks and even months, did not have enough room to lie down nor enough food to eat. Medical care was scarce, and even those detainees whom the physician in charge said should not be kept there because of their health, were not released or transferred. Statements from detention facilities throughout the West Bank exposed humiliation by the soldiers, beatings, medical neglect and abuse.



In May 2003, HaMoked filed a petition concerning the detention conditions

at the temporary detention facilities at the military camps of the brigades of Etsion, Shomron, Efrain, Binyamin and Menashe. Statements made by detainees who were held there indicated that conditions in these facilities did not even meet the minimum standard for human survival: congestion was unbearable and detainees did not even have enough room to lie down; food was scarce and of low quality; detainees only had access to toilets twice or three times a day, at the jailors' discretion; the tents were broken and detainees exposed to the weather; detainees were not given extra sets of clothes and were wearing the same dirty, smelly clothes they had worn on their arrest; detainees were permitted very little time in the yard. Although these were meant to be transit facilities, in reality people were being held there for weeks and even months. Detainees did not get any newspapers or visits and the staff abused, humiliated and beat them. Obviously, the commanders of these facilities were in violation of Israeli and international law, but despite repeated appeals that HaMoked made to them, nothing was done. In May 2003, HaMoked petitioned the HCJ.

"I was detained on January 23, 2003. The only time I was questioned was on February 3, 2003, between 9 AM and 10 PM. I was taken twice to the military court at Salem for the extension of my arrest... which was extended until the end of my trial. The hearing was set for June 3, 2003. I have a congenital heart defect. Because it is so crowded... I cannot sleep, I feel I am suffocating and I have chest pains. The commanders of the facility are aware of my condition; they know I need special medication that they cannot provide.

They promised they would contact my family and get me my medication, but nothing has been done...".

"I hereby state that I was arrested on January 31, 2003 and interrogated for six days thereafter, 9 hours every day. I was taken to court once, but had no counsel. I do not know when the next hearing will take place. Around three weeks ago, a man with a leg wound caused by hollow-point ammunition was held here, and because he received no medical treatment, the wound got infected and gangrene set in. In protest, all detainees, under my lead, went on a hunger strike. In retribution, the soldiers took me out of the room and beat me up all over... Whatever little bread detainees get is moldy... Until a month ago, they used to let us go outside for one hour a day, but now they only give us 35 minutes. In this time, all 18 prisoners have to do their laundry, shower, stretch their legs and breathe some fresh air, brush their teeth, go the toilet and shave...".

"I am 16. I am anemic and have low blood pressure, and need large quantities of food. Because of the food shortage and poor quality of food at the facility, I am constantly dizzy. I hardly get half a tomato a day, no fruit, not enough meat. I once saw one of the soldiers taking some of the bread that was meant for us and throwing it away...".

(Excerpts from affidavits submitted in HCJ Petition 3985/03, Badawi et al. v. IDF Commander in the West Bank et al.)

In June 2003, around one month after the petition was filed, an advisory committee to the Chief of Staff, chaired by the president of the Central Command's soldiers'

military court, was appointed to check the conditions at the temporary detention facilities. As of 2004, it appeared that thanks to the committee's appointment, conditions have somewhat improved: one of the facilities was closed for renovations and congestion standards were defined. But, concurrently, the number of detainees at the facilities grew (on October 23, 2003, the figure was 333) and congestion was worse than ever before. In addition, the main problems remained unchanged: poor sanitary conditions, a shortage in bunks and mattresses, insufficient medical care and meager food. As of June 2004, the committee has not yet completed its work. HaMoked has recently received reports, which have not been corroborated yet, that conditions have deteriorated even more. HaMoked will look into the matter and decide on further action.

As stated in the previous report, in December 2002 the High Court rejected the petition to improve detention conditions at Ofer Camp. This petition was meant to improve the conditions at the camp and guarantee detainees' most basic rights. While the Court rejected the petition, the outcome was not altogether disappointing,

as the very filing of the petition led to an improvement of detention conditions. In this decision, the Chief Justice expressed his dissatisfaction at the prevailing conditions and stated that from the very start of the mass-arrests, conditions did not meet the required minimum standard and that "this deviation cannot be justified." The Court further held that the State must provide detainees with newspapers, books and games and consider the construction of a decent mess hall where detainees can eat at tables and not on the floor "like animals".²⁰ Indeed, in the eight months after the petition was filed and until the Court made its decision, conditions at Ofer did improve. However, three months after the decision, HaMoked was forced to file an application with the Court under the Contempt of Court Order. The Court was asked to penalize the State for failing to provide detainees with books, newspapers and games as instructed by the Court. HaMoked found out that the books, newspapers and games collected for Ofer Camp by the ICRC and private individuals, had been destroyed. In visits to the facility, newspapers intended for the inmates were found outside in the mud. The petition is still pending.

Administrative Detention

The authority to issue administrative detention orders is in the hands of military commanders in the Territories, giving them almost unlimited power to apprehend and hold individuals as administrative detainees. The order authorizes the commander signing the arrest warrant to digress from

standard criminal procedure and not reveal the suspicions or the evidence on which it is based. This is how in 2003 hundreds and at times even more than 1,000 people were incarcerated based on the inexplicit grounds that they "pose a threat to the security of the region". Military detention

orders are effective for up to six months and are subject to judicial review. Within eight days after the military commander signs the order, the detainee must be brought before a military judge who is to consider the lawfulness of the order, based on investigation material submitted to him.²¹ The military commander may extend the detention for another term, subject to judicial review. Administrative detention violates two of the detainees' most basic rights: the right to defend themselves against the accusations, which is denied since they have no access to the evidence against them; and the right to know of their period of detention which is denied because there is no trial and their detention can be extended indefinitely.



In June 2002, R.G.'s mother asked HaMoked to trace her son, who had been arrested by the military 10 days earlier and whose whereabouts were unknown. The next day, HaMoked traced R.G., who was being held in administrative detention at Ofer Camp. The arrest warrant, signed by the IDF Commander in the West Bank, stated that R.G. was affiliated with one of the organizations active in the West Bank and ordered that he be held in administrative detention for four months, until October 2002. Around 10 days after the arrest, in the first judicial review, the judge sustained the arrest warrant and, having reviewed the confidential evidence, asserted that administrative detention was in order. Four months later, on the day that R.G. was set to be released, a new arrest warrant was issued and his detention was extended by six months. In the judicial review held a few days later, the military

prosecutor stated that he had no new intelligence on R.G. Tamar Pelleg-Sryck, HaMoked's attorney said that an existing order could not be extended without any new evidence, based solely on intelligence predating R.G.'s arrest. R.G.'s travels throughout the West Bank, as an employee of UNRWA, could not serve as indication of his affiliation with any organization, she further argued. The judge stated he had noted the arguments of the defense, but upheld the administrative order nonetheless. Pelleg-Sryck appealed the decision with the Military Court of Appeals. The Court held that the actions attributed by the confidential material to R.G. are serious enough to justify his continued detention. At 6 PM on March 26, a few hours before his expected release, another administrative order was issued, extending R.G.'s detention by a further six months. In the judicial review, Pelleg-Sryck repeated the same arguments: the intelligence collected against R.G. before his first arrest in June 2002 could not reasonably be enough to keep him in prison for a year and a half; without new evidence, the continuation of his administrative detention would be unlawful. Both this judge and the judge who heard the appeal that followed, rejected these arguments and upheld the

²⁰ High Court Petition 3278/02, **HaMoked: Center for the Defence of the Individual v. IDF Commander in the West Bank**.

²¹ From the start of the events in April 2002 and until October 2003, Order 1500 furnished far-reaching authority to carry out administrative detentions. For example, the Order enabled any officer from the rank of Major to sign military detention orders and for a while extended the period for judicial review to 18 days.