

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.

arrest warrant. In September 2003, before R.G. was to be freed, another warrant was issued – this time only for three months. In the judicial review session for R.G.'s fourth arrest, the defense attorney asked the court to carefully examine the so-called new intelligence. This evidence is not new at all, she said, and was only submitted for appearances' sake. This time, the court sided with the defense. The judge held that the risk in revealing the evidence against R.G. was not specific and that because of the long time that has passed since his arrest, the court must give special emphasis to R.G.'s rights. "Therefore," the judge held, "I believe the right thing to do would be to question the detainee and significantly shorten his current detention so that it

concludes on October 30, 2003." The prosecution got one month to question R.G. and start criminal proceedings against him – which would force them to reveal the evidence and serve an indictment, or find some meaningful new evidence to justify his continued administrative detention. Without new evidence, the judge stated, R.G. could no longer be held in administrative detention. The prosecution appealed, but since it had no new intelligence and since an indictment was not served, the Military Court of Appeals denied the appeal. R.G. was released on October 30, 2003, after 17 months of incarceration, not knowing what he was accused of or ever seeing the evidence against him. **(Case 20633)**

Tracing of Detainees

In 2003, the Israeli authorities arrested many thousands of Palestinians, and HaMoked received thousands of applications to trace detainees. While in 2002 HaMoked had to file 33 habeas corpus petitions in order to compel the State to reveal the whereabouts of detainees, only 10 petitions of this kind had to be filed in 2003.

As stated in the 2002 report, HaMoked went to the courts in all cases where the military did not provide information as to where a person was being held. In many of these cases, the military only divulged the information once a petition was filed. In these cases, HaMoked withdrew its petitions. In order to force the military to comply with HaMoked's requests and provide reliable information within a reasonable timetable, HaMoked asked

the Court to make the State cover trial costs. The Court complied, and within a short time the authorities streamlined their operations. However, there are still cases in which the answers provided by the military control center are inadequate; in these cases, HaMoked talks directly with the detention facilities and contacts on the ground.

On December 17, 2003, 15-year-old H.M. was arrested by the military. HaMoked immediately contacted the military control center, asking that H.M. be traced. Concurrently, HaMoked also contacted other military units with an inquiry about H.M. whereabouts. However, the authorities said they had no information about him. After further communications,