

January 27, 2015

Report on Human Rights Violations Perpetrated by Israel in the Summer of 2014

This report, submitted to the UN-appointed independent commission of inquiry on the 2014 Gaza conflict, focuses on five areas addressed by HaMoked regarding the measures employed by Israel against the Palestinian population in the Occupied Palestinian Territories (OPT) before, during and after the fighting in Gaza: detainee tracing, the right to freedom of movement, detainee rights, punitive house demolitions and respect for the dead. The report reviews the human-rights violations perpetrated by Israel in each of these areas based on information accumulated by HaMoked from June 13, 2014, the date on which the abduction of three Israeli youths in the West Bank was revealed. This report does not constitute a comprehensive overview of all Israeli human-rights violations in the OPT during this period.

Tracing Detainees from the West Bank

On June 13, 2014, when the abduction of three Israeli youths in the West Bank was revealed, Israel announced the launching of Operation Brother's Keeper in search of the abductees. During this operation, the Israeli military raided West Bank cities and villages and according to Israeli media reports arrested more than 400 Palestinians.¹ Although the authorities are legally obligated to promptly notify relatives of detainees of their place of detention – an obligation entrenched both in military legislation applied in the OPT and in Israeli law, in the Prisons Ordinance and the Police Ordinance – families were not notified of the detainees' arrest and whereabouts. As always since its inception in 1988, in this instance too, HaMoked contacted the military for current information about the whereabouts of detainees in order to speedily provide it to their families.

From June 13, 2014, the first day of the operation, to June 30, 2014, the day the bodies of the abducted youths were found shot dead, HaMoked handled 361 new requests to trace detainees from the West Bank; 157 of these relating to arrests made in the Hebron district. During July and August, 2014, while the search for the suspected abductors continued, the number of new detainee-tracing requests remained higher than usual, standing at 291 and 324 respectively. By comparison, the monthly average of new detainee-tracing requests HaMoked had received during the six months preceding the operation was 260.

Most of the Palestinians arrested during this operation were held pursuant to individual administrative detention orders, without a judicial decision, without

¹ Most of the arrests were made by June 23; see, e.g., Gavriel Fiske, "Four arrested overnight in West Bank as sweep continues", **The Times of Israel**, June 24, 2014, available at: <http://www.timesofisrael.com/four-arrested-overnight-in-west-bank-as-sweep-continues>.



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charges and without trial. Some are still held today. Monthly figures provided to HaMoked by the Israel Prison Service (IPS) show that in June and July of 2014, during the military operation, the number of people held in Israel under administrative detention orders more than doubled: while in early June there were 201 administrative detainees, in early August the number reached 449. The number continued to rise during August, albeit more moderately. This, in contrast to the decline trend in the number of administrative detainees held during the same period in the previous year, standing at about 140, the lowest in the past seven years.

The Number of Administrative Detainees Held in prisons inside Israel²

2013			2014		
Month	As at	Administrative detainees	Month	As at	Administrative detainees
January	1.1.2013	178	January	2.1.2014	157
February	12.2.2013	170	February	6.2.2014	174
March	5.3.2013	168	March	5.3.2014	184
April	2.4.2013	167	April	6.4.2014	189
May	6.5.2013	156	May	11.5.2014	197
June	2.6.2013	148	June	3.6.2014	201
July	1.7.2013	137	July	6.7.2014	381
August	6.8.2013	134	August	5.8.2014	449
September	10.9.2013	138	September	7.9.2014	478
October	1.10.2013	135	October	1.10.2014	470
November	5.11.2013	152	November	6.11.2014	457
December	11.12.2013	145	December	7.12.2014	470

Tracing Detainees from the Gaza Strip

During Israel's ground offensive in the Gaza Strip in the summer of 2014 – during the war designated by Israel Operation Protective Edge – the Israeli military arrested hundreds of Palestinians.³ Many were transferred for interrogation to facilities inside Israel, without their families being notified of their arrest or whereabouts. Thus, the detainees were left without any contact with the outside world, vulnerable to ongoing violations of their rights, including the rights to due process, adequate holding conditions and the right to be free of torture and inhuman or degrading treatment.

On July 28, 2014, HaMoked filed a habeas corpus petition to the High Court of Justice (HCJ) on behalf of five Gaza families whose loved ones had disappeared, and requested the court to instruct the state to uphold its

² The figures (provided by the IPS) include detainees held at Ofer Prison located in the West Bank. The vast majority of Palestinian inmates are held in prisons located inside Israel, in breach of international law.

³ According to Israeli media reports, from the start of the ground offensive on July 17, to July 24, 2014, about 270 Palestinians were arrested in the Gaza Strip; see, Amira Hass and Gili Cohen, "Israel holding unknown number of Palestinians captured in Gaza Strip", *Haaretz*, July 25, 2014, available at: <http://www.haaretz.com/news/diplomacy-defense/.premium-1.607185>.

obligation to register the detainees and notify their families of their place of detention.⁴ In the circumstances of this war, the information was vital in view of the fact that a person who was not in custody might have been missing or in need of rescue, having been injured or trapped under rubble.

The military prison control center, the contact center for inquiries regarding the whereabouts of people arrested by the military, refused to respond to HaMoked's communications concerning detainees from the Gaza Strip. Following the petition, the state provided information about the detainees who were named in the petition, and the military prison control center began responding to inquiries about Gaza detainees – **but only those whose names were stated in the inquiries.**

For several long weeks, HaMoked strove to learn the identities of all of the Palestinians who had been arrested by the military in the Gaza Strip and find out what had happened to them. Citing the change in Gaza's status since the 2005 disengagement, Israel refused to disclose information concerning the whereabouts and legal grounds for the incarceration of detainees whose names HaMoked did not have. HaMoked's HCJ petition for the publication of the names of all Gaza detainees held inside Israel was withdrawn after the court supported the state's position and even inquired: "where is this basic right [of notification of a person's place of detention] during times of war inscribed?"⁵

When Israel withdrew its ground forces from the Gaza Strip, HaMoked sent the military an application under the Freedom of Information Act, asking for figures on the arrests conducted by Israel in the Gaza Strip during this period. According to the information provided to HaMoked, the Israeli military had arrested 159 Palestinians inside Gaza and transferred them to Israel. Those who were not released back to Gaza shortly after arrest were held in Israel under the Incarceration of Unlawful Combatants Law. The military stated that the three temporary holding facilities established during the fighting were located inside Israel, that they housed fewer detainees than the prescribed capacity and that they were dismantled once the operation ended. The military added that during the fighting three detainees had been held in hospitals inside Israel. The military also stated that it no longer held Gaza Palestinians who had been arrested during the fighting and that requests for additional information concerning Gaza detainees should be addressed to the IPS (indicating that there are Gaza detainees inside Israel who are held at IPS facilities).⁶

Some of HaMoked's questions to the military were left unanswered. Thus, the military did not disclose, inter alia, the total number of Gaza detainees encompassing those held inside Gaza, and refused to answer questions relating to the interrogation of detainees "to avoid injury to state security".⁷

⁴ HCJ 5226/14 **Abu Rida et al. v. Israel Defense Forces et al.** (2014), available at: http://www.hamoked.org/files/2014/1158590_eng.pdf.

⁵ HCJ 5243/14 **HaMoked v. Israel Defense Forces**, hearing transcripts, August 8, 2014, available at: http://www.hamoked.org/files/2015/1158576_eng.pdf.

⁶ Letter from the Public Liaison Department, IDF Spokesperson Division, to HaMoked, dated December 23, 2014, available at: http://www.hamoked.org/files/2014/1158578_eng.pdf.

⁷ *Ibid.*

The Right to Freedom of Movement

Following the abduction of the three Israeli youths on June 12, 2014, Israel imposed sweeping, arbitrary movement restrictions on the civilian population in the West Bank. Initially, Israel prohibited travel abroad by all residents from the Hebron district under age 50, without publishing an order or directive to this effect and without specifying the ban's duration.⁸ It then denied foreign travel to thousands of Palestinians from across the West Bank. In most cases, the banned individuals were Palestinians living abroad who had come to the West Bank on a family visit during the month of Ramadan (which began on June 29, 2014) and ahead of the Eid al-Fitr holiday. When they sought to return to their homes and leave the West Bank for Jordan via the Allenby Bridge border crossing (the only gateway linking the West Bank abroad), Israel prevented their departure. When these individuals contacted the Coordination and Liaison Administration to find out why their departure had been prevented, they were told that they were under an exit ban until August 1, 2014; when they inquired again, after that date, they were told the ban would be lifted only on September 1, 2014 – thus reported many who sought HaMoked's assistance in leaving the West Bank.

On August 24, 2014, Lieutenant Colonel Wisam Hamed of the Civil Administration told HaMoked that the blanket ban on travel abroad had been lifted, citing the number of Palestinians banned following the abduction of the Israeli youths: 30,000. About a week earlier, a similar figure was provided by an "Israeli source" to the Israeli press, which reported about a new "blacklist" that "contains at least 27,000 names" of people banned from exit.⁹

In response to HaMoked's inquiry about the reason for the exit ban and the authority behind it, the Civil Administration Public Liaison Officer asserted that no blanket ban on foreign travel by West Bank Palestinians had been imposed. According to the officer, "as part of Operation 'Brother's Keeper', foreign travel bans have been entered against Judea and Samaria residents", purportedly "on an individual basis and in keeping with professional-security criteria". The officer added: "with the improvement in security conditions, a process of removing many of these travel bans has been carried out by security officials", and this too, "following individual examination".¹⁰

The Civil Administration's response clearly supports HaMoked's claim that Israel had thus used wrongful collective punishment, given that it is entirely unreasonable that security officials could assess – on an "individual" basis and overnight – the cases of 30,000 Palestinians, both when imposing the ban and when lifting it.¹¹ As a result of the blanket ban, thousands of people were

⁸ This restriction was removed on the night of June 28-29, 2014 – thus according to a letter from Adv. Yael Morag Yaku-El, Assistant State Attorney, to HaMoked, dated June 29, 2014, sent following HCJ 4554/14 **al-'Awawadeh et al. v. West Bank Military Commander** (2014).

⁹ Amira Hass, "Thousands of West Bank Palestinians denied exit since Gaza conflict", **Haaretz**, August 19, 2014, available at: <http://www.haaretz.com/news/diplomacy-defense/premium-1.611227>.

¹⁰ Letter from Capt. Eliran Sasson, Public Liaison Officer, Civil Administration, to HaMoked, dated October 1, 2014, available at: http://www.hamoked.org/files/2014/1158641_eng.pdf.

¹¹ A letter to this effect, dated October 5, 2014 was sent by HaMoked to Capt. Eliran Sasson, Public Liaison Officer, Civil Administration, English translation available at: http://www.hamoked.org/files/2014/1158643_eng.pdf.

denied the right to travel from their country abroad. Other fundamental rights, including the rights to freedom of occupation and family life, were also critically violated. According to figures of the Palestinian Police Crossing Administration, from June 13, 2014 to August 13, 2014, no fewer than 3,393 Palestinians who tried to cross Allenby Bridge from the West Bank into Jordan were turned away because of security preclusions.¹² By comparison, throughout 2013, only 1,266 Palestinians were turned away by the Israeli authorities at Allenby Bridge en route to Jordan.¹³

Detainee Rights

On June 15, 2014, shortly after the abduction of the three Israeli youths, Israel halted all family visits to prisoners from the OPT who were held in Israel. With its growing concern that this measure was not an operational necessity, but rather collective punishment of the prisoners and their family members, numbering tens of thousands, HaMoked wrote to the Attorney General and the State Attorney's Office, calling for the immediate renewal of family prison visits.¹⁴

Prison visits were renewed on July 13, 2014, but it then turned out that prisoners associated with Hamas, Islamic Jihad and the Palestinian liberation fronts had been placed under a punitive visit ban and could not see their families. On September 23, 2014, HaMoked filed a petition to the HCJ for the renewal of all visits.¹⁵ The state has yet to submit its response to the petition. However, from its inquiries with detainees, HaMoked has learnt that in the meantime, the situation has slightly changed: family visits to Hamas and Islamic Jihad prisoners are now maintained but only once every two months; and the same applies for prisoners affiliated with other organizations who are held in prison wings together with Hamas and Islamic Jihad prisoners. This discriminatory decision continues to violate the basic rights of prisoners and their family members, primarily the right to family life.

In addition, following the abduction, the Israeli media reported that the Government of Israel was also considering exacerbating the conditions of incarceration of Palestinian "security" prisoners affiliated with Hamas, inter alia, by limiting the purchase of food items in prison canteens and removing electrical appliances from their cells.¹⁶ Therefore, on June 18, 2014, HaMoked sent to the Minister of Public Security its legal expert opinion on the illegality of the proposed measures – intended as collective sanctions against prisoners based on their political-ideological affiliation, seeking to thus turn them into bargaining chips in order to exert pressure on others over whom the prisoners

¹² Information provided by UNHCR during a work meeting of the Protection Cluster Working Group, held on August 28, 2014, attended by a staff member of HaMoked.

¹³ See supra note 9.

¹⁴ Letter from HaMoked to Attorney General Mr. Yehuda Weinstein, dated June 25, 2014, and letter from HaMoked to Adv. Osnat Mendel, State Attorney's Office, dated July 2, 2014, available at: http://www.hamoked.org/files/2014/1158450_eng.pdf.

¹⁵ HCJ 6409/14 **Melitat et al. v. Government of Israel et al.**, available at: http://www.hamoked.org/files/2014/1158712_eng.pdf.

¹⁶ Raanan Ben-Zur, "Israel considering imposing strict measures on prisoners affiliated with Hamas", **ynetnews**, June 18, 2014, available at: <http://www.ynetnews.com/articles/0,7340,L-4531740,00.html>.

had no control.¹⁷ The ministry's response, received by HaMoked on August 3, 2014, demonstrates that Israel views Palestinian prisoners' basic living conditions as a privilege extended to them, one that may be taken away or not granted to begin with. "The rights of the security prisoners of the Hamas organisation, invariably, were not harmed", the response stated, "Nevertheless, the benefits granted to this population of prisoners [...] were reconsidered".¹⁸

Punitive House Demolitions

As part of its sanctions against the Palestinians in the West Bank, implemented in response to the abduction of the three Israeli youths, Israel decided to reintroduce the policy of punitive house demolition as a means of "detering" potential attackers. The policy, which was systematically employed in the past, was all but abandoned in 2005, after a military commission concluded that it did not achieve deterrence against attacks on Israelis, and in some cases might even prompt such attacks.

Following this decision, in July and August of 2014, the military demolished four residences in Hebron: the apartment of a suspect in a shooting attack and the homes of the three suspects involved in the abduction case. HaMoked petitioned the HCJ regarding each of these homes to prevent the demolitions. However, the court dismissed the petitions in a row, after the justices accepted the state's position that the escalating security situation warranted use of the power to demolish residences pursuant to Regulation 119 of the Defense (Emergency) Regulations dating back to the British Mandate.¹⁹ The Israeli media reported that the army was preparing to demolish dozens more homes in the West Bank, including the homes of "security prisoners" who had been released in the deal struck for the release of Israeli soldier Gilad Shalit, and had since "returned to terror".²⁰ However, in response to its letter on this issue, HaMoked was informed that the security establishment would exercise the power to demolish homes only in cases defined as extreme.²¹

In November 2014, when the military issued demolition orders for the family homes of six residents of East Jerusalem, alleged to have carried out lethal

¹⁷ Opinion available at: http://www.hamoked.org/files/2014/1158412_eng.pdf.

¹⁸ Letter from Udi Shalvi, Minister of Public Security Bureau Chief, to HaMoked, dated June 29, 2014 (received on August 3, 2014), available at: http://www.hamoked.org/files/2015/1158711_eng.pdf.

¹⁹ HCJ 4597/14 **'Awawdeh v. West Bank Military Commander** (2014), judgment dated July 1, 2014, available at: http://www.hamoked.org/files/2014/1158437_eng.pdf; HCJ 5290/14 **Qawasmeh et al. v. West Bank Military Commander** (2014), judgment dated August 11, 2014, available at: http://www.hamoked.org/files/2014/1158616_eng.pdf.

²⁰ Chaim Levinson, "IDF planning to demolish homes of dozens of Palestinian militants in West Bank", **Haaretz**, July 4, 2014, available at: <http://www.haaretz.com/news/diplomacy-defense/.premium-1.603029>; see also, Sudarsan Raghavan, "In West Bank, Israel revives punitive home demolitions in effort to deter Hamas", **Washington Post**, July 22, 2014, available at: http://www.washingtonpost.com/world/middle_east/in-west-bank-israel-revives-home-demolitions-to-stop-hamas/2014/07/22/c8197236-1dd7-4874-a3eb-f9438065644f_story.html.

²¹ Letter from Adv. Michal Hod, Assistant State Attorney, to HaMoked, dated August 19, 2014, available at: http://www.hamoked.org/files/2014/1158472_eng.pdf.

attacks in the city, it became clear that these were not isolated measures, but rather a wholesale renewal of the unacceptable policy.²² One of the homes slated for demolition – the apartment of a resident of Silwan who carried out a vehicle attack at a light rail station in Jerusalem on October 22, 2014 – was detonated by the Israeli security forces on the night of November 19, 2014. The family had refused to challenge the demolition decision or petition against it to the HCJ, because it had no faith in the Israeli justice system. HCJ petitions were filed regarding the five other residences – the apartment in Shu'fat of the assailant in the other light rail vehicle attack perpetrated on November 5, 2014; the apartment of the parents of the suspected shooter of Jewish right wing activist Yehuda Glick on October 30, 2014, located in Abu Tur; the family homes of the two assailants in the attack at the Har Nof synagogue on November 18, 2014, located in the neighborhood of Jabal al-Mukabber; and the apartment of the tractor driver who perpetrated another vehicle attack on August 4, 2014, also located in Jabal al-Mukabber – four of which were filed by HaMoked. On December 31, 2014, the HCJ issued its decision in the five petitions: the court issued an order nisi in the petition concerning the home of the suspect in the Glick shooting, instructing the state to explain why it should not refrain from demolishing the home. The court dismissed the other petitions; however, to date, the homes have not yet been demolished.²³

On December 31, 2014, the HCJ also dismissed the general public petition against the punitive house demolition policy which was filed by HaMoked at the head of a group of human rights organizations.²⁴ The petition was supported by a legal expert opinion authored by leading experts on international, constitutional and military law in Israel, which determined, inter alia, that house demolitions constituted collective punishment which may, in certain circumstances, amount to a war crime.²⁵ The court accepted the state's claim that the reason for the demolitions was deterrence rather than punishment, but added that the actual deterrence achieved by such demolitions should be examined in future and, moreover, that in future cases it would require the state to present actual evidence for such deterrence. Still, in its judgment, the court incorporated quotes from Hebraic law which explicitly support collective punishment.²⁶ On January 15, 2015, the organizations filed

²² According to media reports, the Israel Prime Minister also ordered the demolition of the homes of two suspects in two separate stabbing attacks in Tel Aviv and Gush Etzion, one home in the city of Hebron and the other in the Askar refugee camp in the Nablus district; see, Attila Somfalvi, "Netanyahu orders demolition of homes of terrorists who committed Monday attacks", **ynetnews**, November 10, 2014, available at: <http://www.ynetnews.com/articles/0,7340,L-4590534,00.html>.

²³ HCJ 8024/14 **Hijazi et al. v. GOC Home Front Command** (2014), judgment dated December 31, 2014, available at: http://www.hamoked.org/files/2014/1158989_eng.pdf; HCJ 8066/14 **Abu Jamal et al. v. GOC Home Front Command** (2014), judgment dated December 31, 2014, available at: http://www.hamoked.org/files/2014/1159008_eng.pdf.

²⁴ HCJ 8091/14 **HaMoked: Center for the Defence of the Individual et al. v. Minister of Defense et al.** (2014), available at: http://www.hamoked.org/files/2014/1159000_eng.pdf.

²⁵ Opinion available at: http://www.hamoked.org/files/2014/1159001_eng.pdf.

²⁶ See supra note 24, judgment dated December 31, 2014, available at: http://www.hamoked.org/files/2014/1159007_eng.pdf.

an application for a further hearing in the petition before an expanded panel of justices.²⁷

Respect for the Dead

More than 2,200 Palestinians were killed as a direct result of Israel's air and ground offensives on the Gaza Strip. Based on HaMoked's extensive experience gained over many years and given the fact that Israel has not shied away from using Palestinian corpses as bargaining chips in the past, HaMoked assumes that in this instance too, Israel is holding the bodies of some of the Palestinians killed in Gaza.²⁸ This assumption is supported by foreign media reports that the bodies of two Hamas commanders had been taken by the Israeli military during the fighting.²⁹

Therefore, on October 22, 2014, HaMoked applied to the Ministry of Defense under the Freedom of Information Act, requesting details regarding bodies in Israeli possession of Palestinian fatalities from Gaza who had been killed during the Gaza war. HaMoked asked whether any bodies of Palestinian fatalities were transferred from the Gaza Strip to Israel during the fighting, and if so, how many. HaMoked also asked whether the identities of all of the bodies were known and where the bodies were stored.³⁰ On December 7, 2014, the IDF Spokesperson told HaMoked that security officials required a 30-day extension to respond to the application. At the time of writing, the response has not yet arrived.

Additionally, in October 2014, HaMoked received a request to help locate a Palestinian youth from Rafah in the Gaza Strip, last seen by one of his friends in the eastern part of Rafah, lying motionless and covered in blood, either dead or wounded, with Israeli soldiers near him. The youth has not been seen since and his family does not know what happened to him. HaMoked contacted the Ministry of Defense, asking whether the youth was still alive, whether he was held by Israel, and if so, where.³¹ At the time of writing, no pertinent response has yet arrived.

HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger, is a human rights organization established in 1988 against the backdrop of the first intifada. HaMoked's mandate is to safeguard the rights of Palestinians living under Israeli occupation. HaMoked acts to enforce standards and values rooted in international humanitarian law and international human rights law. www.HaMoked.org

²⁷ HCJFH 360/15 **HaMoked: Center for the Defence of the Individual et al. v. Minister of Defense**, available at: http://www.hamoked.org/files/2015/1159120_eng.pdf.

²⁸ For more details, see joint report by HaMoked and B'Tselem, **Captive Corpses**, 1999, available at: http://www.hamoked.org/items/10500_eng.pdf.

²⁹ Roi Kais, "Palestinian sources: Israel seized bodies of two Hamas fighters in Gaza conflict", **ynetnews**, October 20, 2014, available at: <http://www.ynetnews.com/articles/0,7340,L-4581952,00.html>.

³⁰ Letter available in English translation at: http://www.hamoked.org/files/2014/1158900_eng.pdf.

³¹ Letter from HaMoked to Defense Establishment Legal Advisor, dated October 28, 2014, English translation available at: http://www.hamoked.org/files/2014/1158901_eng.pdf.