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**In the Supreme Court  
sitting as the High Court of Justice**

**HCJ 11198/02**

***Diriya et al.***

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**The Petitioners**

- v e r s u s -

- 1. Commander of the Ofer Military Detention Facility**
- 2. Commander of IDF Forces in Judea and Samaria**

both by the State Attorney's Office

**The Respondents**

**Joint Motion to Postpone the Hearing**

1. The parties request to update that subsequent to the previous hearing, the first family visit to the Ofer detention facility took place on 10 March 2003. The visit came to an end shortly after it began due to the inmates' refusal to hold it in the conditions provided by the management. The Petitioners informed the Court thereof in the "Application to Attach Documents" dated 15 April 2003. There has been no additional visit since as a result of the dispute.
2. As part of the negotiations between the inmates (including Petitioner 3) and Respondent 1, Respondent 1 has accepted some of the technical demands and an agreement was reached to begin the visits and continue negotiations simultaneously.

The Respondent wishes to note that he has agreed to some of the inmates' demands in order to advance toward them and despite the fact that he believes the conditions provided for the visits initially were reasonable. Counsel for the Petitioners wish to note that the conditions precluded the visit and that to the best of their knowledge, the conditions on which the parties agreed are already implemented in the Ketziot prison facility.

3. The demands made by the inmates to which Respondent 1 acceded are, in principle, reducing the distance between the visitors and the inmates, extending the time allocated for the visit (to one hour), installing benches for family members at the visitation area and allowing family members to bring items in accordance with a list that was provided. Further changes to the structure, that would make it easier for visitors to see the inmates through the partition were also promised.
4. The Respondents informed counsel for the Petitioner that the promised construction would conclude within a month and the parties agreed that the visits, including those from Ramallah, Qalqiliya and Jericho would begin immediately thereafter, subject to coordination with the ICRC.
5. The Respondents informed counsel for the Petitioner that the following demands made by the inmates have been taken under advisement:
  - a. The demand to allow physical contact between the inmates and their young children at the Ofer facility, as has been the case in holding facilities in the past (considered by the Deputy Chief Military Police Officer).
  - b. The demand to reduce the number of family members who are precluded from visiting.

However, the Respondents notify at the present time that in any case of preclusion, the legal advisor for Respondent 2 may be contacted and any such communication would be answered as soon as possible. Efforts will be made to provide an answer on the merits of the request within about a month. In addition, families that are precluded from visiting will be able to receive permits for the small children of the inmates to be accompanied by individuals who are not precluded. Permits for the accompanying individuals will be arranged via the ICRC. The legal advisor for Respondent 2 may be contacted on this matter as well. In situations where all relatives who meet the criteria are precluded from or unable to visit, an exceptional visit permit will be granted to a relative who does not meet the criteria, subject to security screening.

6. According to the criteria put in place by the Respondents for purposes of the visits that have taken place thus far, only the inmates' grandfather, grandmother, parents, spouse and children up to the age of 13 may visit (the latter do not require a permit), all subject to the absence of a security preclusion against them.

The Petitioners object to these criteria and argue that they arbitrarily and unlawfully restrict the rights of the prisoners and their families. The Petitioners refer to the Order regarding the Operation of Detention Facilities (Judea and Samaria Area) (No. 29), 5727-1967 (Appendix P/6 to the petition), the Regulations regarding Administrative Detention (Administrative Detention Holding Conditions) (Appendix P/7 to the petition), Article 116 of the Fourth Geneva Convention and the general legal norms mentioned in the petition.

The Respondents take the position that the criteria are in keeping with legal provisions. However, they do wish to note that the matter is being reassessed by the security establishment and they hope that an answer will be provided within a month.

The Petitioners have informed counsel for the Respondent that they are willing to wait.

7. The Respondents wish to inform that in coordination with the ICRC, the ICRC-arranged family visitation program will be expanded to include families from the Tulkarm and Salfit districts. Visits from these districts are expected to begin in late May.
8. In addition, the Respondents intend to expand the visits to other areas, in coordination with the ICRC, in the near future, inasmuch as the situation on the ground permits doing so. The goal is to ultimately include the entire Area, since the Respondents, as stated in the decision dated 16 February 2003, do not dispute the inmates' right to receive family visits.
9. The parties appreciate the efforts made by the ICRC which contributes according to its desire and capacity. However, the Petitioners emphasize that in their view, the law places the responsibility for holding family visits in prisons on the Respondents and does not absolve them of their duty or reduce it in accordance to the ICRC's capacity to assist.
10. In view of these developments, as there is a need to put the agreements that have been reached to the test and allow for progress towards further agreements in the ongoing negotiations, the Respondents and the Petitioners jointly seek to postpone the hearing before the Honorable Court for six to eight weeks.

Today, 16 Iyar 5763, 18 May 2003

[signed]  
Shai Nitzan, Adv.  
(Acting) Head  
Special Functions Division

[signed]  
Yossi Wolfson, Adv.  
Counsel for the Petitioners