

Date: August 13, 2014
In your response please refer to: 31250

To
MK Moshe (Bogie) Ya'alon
03-6976711
Minister of Defence
Through the Public Complaints Unit

By Facsimile:

URGENT!



Dear Sir,

Re: **Arbitrary preclusion against West Bank residents who wish to go abroad through Allenby Bridge**

1. Over the last two months, HaMoked: Center for the Defence of the Individual, has been receiving more and more complaints of **West Bank residents who were prevented by Israel from travelling abroad through Allenby bridge**. The vast majority of the applicants are **individuals who live abroad** and who came to the West Bank for a visit during the *Ramadan* holiday and towards *Eid al-Fitr*, including students, academics and business men who work abroad, etc.
2. During the last two weeks the number of applications in this regard has even increased, due to the fact that many Palestinian residents who were precluded from travelling abroad were orally informed, either by the various Israeli DCO's or by the Palestinian coordination offices throughout the West Bank, that the preclusion which prevented them from travelling abroad would be removed on August 1, 2014. Over the last few days we came across many cases in which the residents were informed that the preclusion would be removed on September 1, 2014.
3. It should be emphasized that the above information which was given to the residents, has, naturally, prevented them from taking all necessary action to fully realize their rights and appeal against the preclusion which prevents them from going abroad, in view of the fact that they were informed by an official source that said preclusions would be removed automatically. Not surprisingly, Israel prevented, once again, said Palestinian residents who tried to cross Allenby bridge as of August 2, 2014, from travelling abroad.
4. Accordingly, the facts on site indicate, that during the last two months a sweeping preclusion was imposed against the travelling abroad of Palestinians, West Bank residents, who work or study abroad. Said preclusion amounts to a collective punishment, which is strictly prohibited by international law:

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

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(Article 50 of the rules annexed to the Hague Convention, 1907)

5. We strongly protest against the imposition of such a sweeping preclusion, which injures thousands of individuals who did nothing wrong, and whose right to freedom of movement, from their homeland to other countries, is completely denied, without any distinction and for an unlimited period of time.
6. The right of Palestinians, residents of the Occupied Palestinian Territories (OPT) for freedom of movement is a fundamental right:

The right of the individual to move freely within and without the boundaries of his country, is a clear manifestation of the autonomy of the will of the individual. The constitutional principle – which is derived from human dignity – concerning the development of the personality of each individual, includes the right to freedom of movement. Indeed, **the constitutional protection given to the freedom of movement is a manifestation of the constitutional protection given in Israel to liberty** (HCJ 5016/96 **Horev v. Minister of transportation**).

7. Also in times of emergency, balancing should be made between the pressing security need and the violated right:

There is no possibility of making a clear distinction between the status of human rights in times of war and their status in times of peace. The dividing line between terror and tranquility is a fine one. This is the case everywhere. It is certainly the case in Israel. There is no possibility of maintaining it over time. **We must treat human rights seriously both in times of war and in times of tranquility.** We must free ourselves from the naïve belief that when terror ends we will be able to turn the clock back (HCJ 7052/03 **Adalah - Legal Centre for Arab Minority Rights in Israel v. Minister of the Interior**).

8. In addition, it is not clear what kind of security need is being served by this sweeping preclusion, since all passengers who cross Allenby bridge are identified and examined, and their baggage is inspected.
9. In addition, the order for the application of this sweeping preclusion has never been published as required. The military commander is obligated to **publish the order under which such limitations are imposed**, and bring it to the attention of the injured population, rather than rely on the situation on the scene
10. Finally, the military commander is obligated to provide solutions for urgent humanitarian cases, in which an immediate departure abroad may be

required, such as urgent medical treatments. To date, no information has been published regarding the procedure which should be followed in such cases or of the solution which would be provided to them.

11. We expect the **immediate revocation** of said arbitrary preclusion! In addition, please respond to our above letter urgently.

Sincerely,

Dalia Kerstein
Executive Director

Cc:

Major General Nitzan Alon, Military Commander of the West Bank Area
Brigadier General David Menachem, Head of Civil Administration