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At the Supreme Court
Sitting as the High Court of Justice

H CJ 70724-08-04

In the matter of: _____ **al-'Ajur et al.**

Represented by counsel, Adv. Nadine Abu Arafah and/or Nadia Daqqa
of HaMoked - Center for the Defence of the Individual founded by Dr. Lotte
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Tel.: 02-6283555; Fax: 02-6276317

The Petitioners

v.

Israel Defense Forces et al

Represented by counsel, Adv. Matan Steinbuch and/or Matanya Rozin
of the State Attorney's Office
29 Salah a-Din, Jerusalem
Tel.: 02-6466590; Fax: 02-6467011

The Respondents

Notice on behalf of the Petitioners

Following the decision of the Honorable Court dated September 8, 2024 according to which the Petitioners shall notify whether they wish to proceed with the petition, notice is submitted as follows:

1. The petition at hand was submitted as a petition for writ of *Habeas Corpus* in which the honorable court was requested to order the Respondents to inform, *inter alia*, of the holding place of a father and his five years old daughter, who were in the military's custody as of March 24, 2024, when the military burst into their home and since then their whereabouts are unknown.
2. On September 6, 2024 a response on behalf of the Respondents was submitted in which they informed that after having conducted an examination with the various respondents, no indication was found of Petitioner's incarceration. It was informed that "The military police officials informed that military police bodies have no indication of Petitioners' present or past arrest or incarceration by the military bodies". In addition, it was noted that Israel Prison Service officials informed that "In an examination conducted in the computerized system of Israel Prison Service in the course of handling H CJ 70724-08-24 registration of the above was not found in the systems according to the details provided and therefore there is no indication of Petitioners' incarceration by the Israel Prison Service."

3. The response was given notwithstanding the events described in sections 2-6 of the petition. As described there, on March 24, 2024 the soldiers burst into the al-'Ajur family home. During the bursting-in, soldiers fired at the inhabitants, injuring several family members, including Petitioner 2 and her mother. Thereafter, the soldiers took the minor daughter to another room to treat her injured shoulder. At that time they ordered Petitioner 2's mother to leave the house and her wounded daughter. In the absence of any other choice and with her life under threat, Petitioner 2's mother left her alone with the soldiers who had promised to take care of the minor. It should be noted that at that time Petitioner 1 was left alone in the room since the soldiers ordered his uncle to join the other men of the family.
4. Petitioners' whereabouts have vanished since they were held by the soldiers who promised to take care of and treat the injured minor. It is possible that the soldiers are still holding the Petitioners without divulging any information in that regard to the family. On the other hand, the family is seriously concerned that the security forces did not fulfill their responsibility to take care of the Petitioners, including a helpless minor, and may have left her alone in an unsafe place which does not fit her medical needs. Hence the expectation and even the responsibility which is imposed on the Respondents to make an effort to provide the information requested in the petition: what had happened to the father and his daughter who were in the soldiers' custody.
5. In the circumstances of the matter and since there is an increasing number of cases in which it has been informed with respect to people who were arrested by the security forces that "there is no indication of arrest" despite the fact that they were undoubtedly arrested, the Honorable Court has already been requested in the petition to order the Respondents to inquire whether the Petitioner is held in an undeclared incarceration facility. Similar circumstances arose in H CJ 2656/24 '**Awadallah v. IDF**'; H CJ 5476/24 **Tawil v. IDF**; H CJ 5475/24 **Shakshak v. IDF**; H CJ 6092/24 **Abu Ras v. IDF**; H CJ 5474/24 **Abu Laban v. IDF**; H CJ 5477/24 **Hejazi v. IDF**; H CJ 5953/24 **al-Muqayed v. IDF**; H CJ 20610-08-24 **Hajaj v. IDF** and in other cases which have not yet reached the honorable court.
6. It seems that Respondents' examination was made without taking into consideration the cases referred to by the Petitioners. Therefore, there is no alternative but to demand several clarifications of the meaning of the information provided. Therefore, we wish to understand whether the possibility has been examined that people are held in incarceration facilities without registration or whether there has been a registration error? This is the place to note that Article 5 of the Convention for the Protection of All Persons from Enforced Disappearance provides widespread or systematic practice of enforced disappearance constitutes a crime against humanity and that Israel supported the adoption of said Convention. Accordingly, the enforced disappearance of Gaza resident detainees constitutes a violation of the law which may expose all the parties involved in the holding of said detainees to criminal liability.
7. In addition, since we are concerned with a petition for writ of *Habeas Corpus*, and Petitioners' fate, whether they are alive or not, is extremely relevant, we wish to understand whether the answer which was given negates, *inter alia*, the possibility that

the Petitioners, one or both of them, died at a certain point while held by the security forces, and may currently be held by another body? Does the answer which negates an indication of incarceration also negate the possibility that the Petitioners had died before they were taken by the security forces? In other words, does it negate the possibility that the Petitioners were captured as bodies? These are legitimate questions in view of the shocking circumstances of the case and therefore, the need to conduct another examination in Petitioners' matter and the need to receive the above clarifications are crucial to understand what had happened to the father and his minor daughter while in the military's custody.

8. This effort is also required in view of the fact that recently, HaMoked, which represents the Petitioners, received similar answers which turned out to be erroneous. Accordingly, for instance, in the matter of Medhat Abu Tabanja, the Incarceration Control Center informed that there was no indication of his arrest or incarceration. A few days later another lawyer managed to visit the detainee.
9. It should also be noted that in several cases the answers which were received regarding detainees' holding place turned out to be incorrect since after several months it was informed that said detainees had died while in custody, on an earlier date than the date of the first answer.
10. Therefore, the honorable court is requested to order the Respondents to give answers to all of the above questions and to schedule a hearing in the petition as soon as possible in view of the importance and sensitivity of the matter, and its wide implications which may render dozens if not hundreds of applications redundant.

Jerusalem, September 15, 2024

Nadine Abu Arafeh, Adv.
Counsel for the Petitioners