In the Supreme Court **HCJ 5076/04**
Sitting as the High Court of Justice

1. **Z. Husseini**
2. **M. H.**
3. **a minor boy**
4. **a minor girl**
5. **a minor boy**
6. **a minor boy**

Petitioners 3-6 by their mother, Petitioner 1

7. **Dr. I. A.**
8. **S. A.**
9. **a minor girl**
10. **a minor girl**
11. **a minor boy**
12. **a minor girl**
13. **a minor boy**

Petitioners 9-13 by their father, Petitioner 7

14. **G. M.**
15. **N. Y.**
16. **Adalah – The Legal Center for Arab Minority Rights in Israel (Reg. Assoc.)**
16. **HaMoked: Center for the Defence of the Individual, Founded by Dr. Lotte Salzberger (Reg. Assoc.)**

represented by attorneys Yossi Wolfson (Lic. No. 26174) and/or Manal Hazzan and/or Leena Abu-Mukh Zuabi and/or Adi Landau and/or Shirin Batshon and/or Hava Matras-Irron
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The Petitioners

v.

Commanding Officer, Southern Command
by the State Attorney's Office
29 Salah a-Din Street, Jerusalem
Tel: 02-6466590 Fax: 02-6466655

The Respondent

Petition for Order Nisi and Temporary Injunction

A petition is hereby filed for an Order Nisi directed to the Respondent and ordering him to show cause:

A. Why Petitioners 1, 3, 4, 5, 6, 7, 9, 10, 11 , 12, 13, 14, and 15, and citizens and residents of Israel who have spouses and/or children living in Gaza, are not allowed to enter Gaza to visit their spouses and/or children, without setting a condition on the period in which they must stay in Gaza and not return to Israel; and

B. Why it is not declared that the provision conditioning the giving and/or extension of a permit to enter Gaza to a citizen/resident of Israel, for the purpose of visiting the person's spouse and/or children, on his giving an undertaking to stay in Gaza for three consecutive months, in which he will not return to Israel, is not declared void or invalid.

Application for Temporary Injunction

The Honorable Court is requested to issue a temporary injunction ordering the Respondent not to condition the granting of a permit to enter Gaza, for purposes of family visit to an Israeli citizen/resident, on an undertaking to remain in Gaza for three consecutive months and not to return during that time to Israel. The reasons for the application are as follows:

A. The grounds for this application are those set forth in the petition, particularly insofar as that they seek to prevent irreversible harm resulting from the separation of Israeli citizens and residents from their families, among them their spouses and/or minor children.

B. Issuance of the order will not cause any harm to the Respondent and/or any third person, but the failure to issue it will cause extremely severe and irreversible harm to the Petitioners and others in their situation.

C. The petition, and its appendixes, constitute an integral part of this application.

Request for expedited hearing

The Honorable Court is requested to set an urgent hearing on the petition. This request is made because of the extremely grave violation of Petitioners' fundamental, constitutional rights resulting from the directive that is the subject of the petition.

The grounds of the petition are as follows:

The factual background

Preface

1. This petition deals with a directive given by the Respondent that relates to relatives of detached families, i.e., Israeli citizens and residents who are married to residents of the Gaza Strip.

2. The directive conditions extension of a permit to enter Gaza of members of detached families who are living in Gaza on the giving of an undertaking to remain in Gaza for three consecutive months, and not to return to Israel during that period of time.

3. The directive prevents members of the detached families who are currently staying in Israel from obtaining a permit that will allow them to enter Gaza to stay with their family and to return to Israel.

4. According to an article published in *Ha'aretz* on 5 May 2004, an officer under the Respondent's command said that the directive was given to reduce the use of Erez Checkpoint. In that the Respondent did not respond to letters sent to him by the Petitioners' counsel, as will be described below, the Petitioners must assume that the officer's comments, as reported in the newspaper article, indicate the reason that the directive was issued.

   The newspaper article is attached hereto as Appendix P/1.

5. The directive that is the subject of the petition flagrantly discriminates against Israeli citizens and residents married to residents of the Gaza Strip, and/or who are parents or children of residents of Gaza, in all matters relating to their constitutional rights to family life, dignity, equality, and privacy.

6. The directive that is the subject of the petition is extremely unreasonable, its purpose is improper, it is sweeping, and excessive.

7. In effect, this directive particularly harms Arabs who are citizens or permanent residents of the state, for they are the ones who are married to Palestinians living in the Gaza Strip. It should be noted that the directive does not apply to Israeli citizens and residents who want to enter the Gaza Strip to visit the settlements. Therefore, based on the results test, the directive discriminates on the basis of ethnic origin to an extent that violates human dignity.

8. The violation in the relevant circumstances is extremely grave. It severs families, separates parents from their minor children, and one spouse from another. It forces these families to make cruel, inhuman choices.

The situation prior to issuance of the relevant directive

9. As is known, a portion of Israeli citizens and residents who are Arab are first-degree relatives of persons living in Gaza, among them spouses, parents, and children.

10. Beginning in 1994, the Respondent has prohibited the entry of Israelis into the Gaza Strip, except to go to the settlements or pursuant to special permits. The permits are given by the Respondent in exceptional cases based on criteria that have never been published, and have become narrower over the years. The Respondent's policy in this matter is apparent only from accumulated experience, because the Respondent has refused to announce the criteria on which he relies, nor does he give written responses or reasons when he refuses to grant a permit.

11. For a long time, the Respondent has implemented a forbidden policy regarding the entry of Israelis into the Gaza Strip. For everyone who does not come within the category of "detached family" (that is, spouse or minor child of a resident of the Gaza Strip) permits are almost never given. Only when a relative *of the first degree* is in critical medical condition, supported by up-to-date medical documents, or to attend a funeral or wedding of a first-degree relative, is it possible to obtain a permit. In these situations as well, entry of second-degree relatives (such as a grandchild of an ill resident or wife of the first-degree relative who is allowed to attend a funeral) is generally not allowed. In rare cases, HaMoked: Center of the Defence of the Individual managed to arrange the entry of relatives for other special family occasions. This policy is currently being heard by the Honorable Court in HCJ 10034/03 and HCJ 1034/04.

12. There has been one constant exception to this harsh policy: from the time that the Gaza Strip has been closed, the Respondent has acted to enable spouses and their children to

maintain a family life. The Respondent does not restrict the entry into Gaza of Israeli citizens and residents who are married to Gazans, and the handling of these matters, which is referred to by representatives of the Respondent as Detached Families Procedure, has continued to be applied, except for short breaks from time to time, and in times of great tension. The Detached Families Procedure was a kind of nature reserve of relative humanity. Indeed, members of detached families encountered untold difficulties in realizing their entitlement to enter the Gaza Strip; despite this, the principle whereby members of detached families are able to maintain a family life has been maintained over the years.

13. Now, the Respondent also impairs this small benefit that he has given to persons whose only desire is to continue their life's routine, which is difficult in any case, by placing before them the cruel choice between their family and their country, between separation and transfer. From the beginning of April 2004 to the present time, except for a few days, the procedure that enabled families to live together has been cancelled in practice. In the middle of May 2004, the procedure was reinstated, for two days, and again cancelled. In addition, during these two days in which the procedure was reinstated, entry of Israeli citizens and residents into the Gaza Strip was conditioned on their signing an undertaking not to leave the Strip for three months. At the present time, Israeli citizens and residents are not allowed to enter the Gaza Strip, even those who have a spouse and minor children there. Extension of permits of persons staying in the Gaza Strip is possible, apparently, from time to time, subject to the signing of an undertaking not to leave the Gaza Strip for three consecutive months.

The Petitioners

Petitioners 1-6

14. Petitioner 1 is an Israeli citizen and resident of Haifa. In 1995, she married Petitioner 2, who is a resident of Gaza. During the course of their marriage, the couple had four children, all of whom are Israeli citizens. Their children are Petitioners 3-6. Petitioner 1 is a tour guide by profession and is currently a homemaker.

15. Petitioner 1's request to obtain a status in Israel for her husband, which was submitted shortly after they married, was denied by the Ministry of the Interior. As a result, much of the time, Petitioner and her children live with her husband, Petitioner 2, in Gaza, and part

of the time in Haifa in the home of Petitioner 1's family. It should be mentioned that Petitioner 1's father passed away and her widowed mother, who suffers from medical problems, lives with Petitioner 1's unmarried sister in Haifa. Petitioner 1's three married brothers live with their families in Haifa. Petitioner 1 has warm and close relations with her family, and social relationships in Haifa, where she was raised and educated, and lived until she married at age twenty-five.

16. Petitioner 1 and her children, Petitioners 3-6, stay in Gaza pursuant to an entry permit into the city, which Petitioner 1 receives from the Erez District Coordinating Office [DCO]. The permit is valid for thirty days and is renewable.

17. In the week that began on 10 May 2004, the day on which the permit was scheduled to expire, Petitioner 1 requested an extension. An officer named 'Amer, the commander of the "Israeli office" at the Erez DCO, informed her that permits were not being renewed, and that she would have to wait in Gaza for notification of when her matter would be handled.

18. On 11 May 2004, the DCO informed Petitioner 1 that she had to go to the DCO urgently to renew the permit. When she arrived, she was required to sign an undertaking not to enter Israel for three months.

19. Petitioner 1 spoke with the officer 'Amer, who explained to her that, if she does not sign the undertaking, she would not be given a permit, meaning that she would not be allowed to return to Gaza. She requested that a copy of the undertaking be sent to her attorney so that she could receive legal advice in the matter before deciding whether to sign it. Her request to send the fax was denied. Petitioner 1 read the text of the undertaking over the telephone to her attorney. The text was as follows:

> **Re: Israeli spouses request for permit to enter the Gaza Strip**
>
> **In accordance with the Order Regarding Closing of Area (Gaza Strip and Northern Sinai) No. 144, 5728 – 1968**
>
> **I, the undersigned, ___[full name]___, holder of identity card number _____ hereby declare and undertake as follows:**
>
> **I am an Israeli citizen/Israeli resident.**
>
> **I hereby request a permit to enter the territory of the Palestinian Council in the area of the Gaza Strip (hereafter: the area) beginning on _____ and ending on _____ for the purpose of living with my spouse ____[full name]___, identity card number _____, a resident of the area, and with the rest of my family that is living in the area.**

I am aware that, because of the security situation, the permit to enter the area is given on the condition that I stay in the area for a period of no less than <u>three months</u> from the day that I enter the area.

I am aware, and I agree, that this undertaking is a condition to my being allowed to enter the area to live with my spouse and my family, and that, if I do not make this undertaking, I will not be allowed to enter the area for the said purpose.

I am aware that my leaving the area and entering Israel prior to the end of the three-month period from the day that I enter the area is liable to result in my not being allowed to return to the area for the said purpose.

I have been informed that, in the event of an emergency that requires me to leave the area for Israel prior to the end of the said period, I must immediately contact, by letter to which are attached the relevant documents, to the Israelis Office in the Erez DCO, at telephone 08-6741478 and fax 08-6892552, and state the reasons that require me to leave the area despite this undertaking.

For the avoidance of doubt, it has been explained to me that the making of such request does not exempt me from this undertaking.

I declare that this is my name and this is my signature.

20. At the time, the children of Petitioner 1 were staying with their father in Gaza. Thus, she was compelled to sign the undertaking so that she could return to Gaza. When she wanted to write alongside her signature a few words regarding the circumstances in which she signed the document, officer 'Amer did not let her. Officer 'Amer also refused to give her a copy of the undertaking that she had signed.

21. Petitioner 1 received a permit that was valid for three months, until 11 August 2004.

22. On 12 May 2004, Petitioner 16 wrote to Col. David Binyamin, the Respondent's legal advisor, regarding Petitioners 1-6, pointing out that the undertaking that Petitioner 1 was compelled to sign was not legally enforceable.

    A copy of the letter is attached hereto as Appendix P/2.

23. Compelling Petitioner 1 to sign the undertaking not to enter Israel for three months as a condition for renewing her permit to stay in Gaza results in her forced separation from the family into which she was born, her friends, and from the routine way of life that she and her children have lived since her marriage.

    Parenthetically, it should be noted that, as a result of the situation described above, Petitioner 1 was not able to sign an affidavit before an attorney. Thus, her affidavit is

submitted without verification of her signature. The same is true as regards the power of attorney given by Petitioners 1 and 2.

Petitioners 7-13

24. Petitioner 7 is a citizen of Israel, originally a resident of Haifa, who has lived for many years in Beer Sheva, where he works as an anesthesiologist in a hospital in Beer Sheva.

25. In 1983, Petitioner 7 married Petitioner 8, a resident of Gaza. Over the years of their marriage, the couple had five children – Petitioners 9-13 – all of whom are Israeli citizens.

26. Petitioner 7's request that Petitioner be granted a status in Israel, which he submitted about seven years ago, is pending in the offices of the Ministry of the Interior. Petitioner 8 and the couple's children, Petitioner 9-13, reside in Gaza.

27. A long time has passed since Petitioner 8 received a permit to enter Israel. For this reason, the family lives together only when Petitioner 7 visits in Gaza.

28. Petitioner 7 goes to Gaza to visit his family from time to time, doing so when he is able to arrange a number of days leave from his job at the hospital. Usually, he goes to Gaza for a few days every two or three weeks, stays with his wife and children for a few days, and returns to Israel and his work in Beer Sheva.

29. The visits of Petitioner 7 to Gaza in recent years have entailed his obtaining a permit to enter Gaza, issued by the Erez DCO, which operates in accordance with the Respondent's directives. Recently, it has become increasingly harder to obtain a permit and has entailed much delay and harassment.

30. Petitioner made his last visit to his family in Gaza on 19-21 February 2004. Since then, he has not seen his wife and children for the reason that, since March 2004, he has not managed to obtain a permit to enter Gaza, despite his repeated requests.

31. On 2 May 2004, Petitioner 7 submitted another request to the DCO to arrange his entry to Gaza so that he could visit his wife and children. When he did, he was surprised to hear that, when he applies for a permit to enter Gaza to visit his family, he would be required to stay in Gaza for three consecutive months, and that this condition would apply to all future requests as well.

32. On 5 May, Petitioner 16 wrote to Col. David Binyamin, the Respondent's legal advisor, regarding Petitioners 7-13, requesting that he order a permit be given to Petitioner 7 to

enter Gaza to visit his family, and that no restriction be placed on his right to return to Israel.

A copy of the letter is attached hereto as Appendix P/3.

33. To date, no response to the letter has been received.

34. Preventing Petitioner 7 from entering Gaza will force a separation between the said petitioner and his wife and minor children. Even if the Respondent enables him to enter Gaza in the future in accordance with the arrangement set forth in the new directive, the condition requiring that he remain three consecutive months in Gaza means that he has to give up his job in the hospital, cease working in his profession as an anesthesiologist, at which he has been active for many years, so that he can see his family.

Petitioner 14

35. Petitioner 14 is an Israeli citizen. In 1986, she married Ahmad Ibrahim 'Ali Ma'ruf, a resident of Khan Yunis. Petitioner 14 is a homemaker, and her husband is a carpenter.

36. Petitioner 14 and her spouse have ten children: Darwish, 16, is the eldest and he studies in Israel. Regarding the others, the children who are of school age attend schools in the Gaza Strip. The youngest, Marwa and Salah Al-Din, are three-year-old twins. All the children are Israeli citizens.

37. For several years, Petitioner 14 and her children have lived with her spouse in Khan Yunis pursuant to permits to enter Gaza that were issued by the Respondent. At first, the permits were valid for one month, and then for three months. Petitioner 14 was also able to extend the permits at Erez Checkpoint. The permits were always given as required.

38. On 15 May 2004, Petitioner 14 left the Gaza Strip with her nine children. She had to take care of a few matters relating to her eldest daughter, who studies in Israel.

39. On 17 May, Petitioner 14 went to the Israelis Office at the Erez DCO. She was told that she would not be allowed to enter the Gaza Strip.

40. The same day, she requested the Respondent's legal advisor to allow her to enter the Gaza Strip without requiring her to make an undertaking that she would stay in the Gaza Strip for three months. In her letter, she mentioned her right and legal obligation to enter Israel whenever necessary to take care of matters relating to her small son. This natural right and obligation is also enshrined in the Legal Capacity and Custodianship Law, 5722 – 1962, and in various provisions of the Penal Law, 5737 – 1977.

A copy of the letter is attached hereto as Appendix P/4.

41. To date, no response to the letter has been received.

Petitioner 15

42. Petitioner 15, a resident of Jerusalem, was born in 1966. She is married to a resident of the Gaza Strip, 'Ala Al-Din Yagi.

Petitioner 1 and her husband have six children, who are registered in the population registry of the Gaza Strip. Her eldest son is eleven years' old. The youngest children, Qayis and Ahmad, are two-year-old twins.

Petitioner 15 works on a project of the Canadian government, and is in charge of the project's activities in the Gaza Strip. The objective of the project is to advance women in Palestinian society, which it does, in part, by means of occupational training and by changing perceptions regarding the status of women in society.

43. Petitioner 15 married at age twenty-six, and has a web of social contacts in Jerusalem. Her parents are in their fifties. Her father is ill with diabetes and many related medical problems, vision problems among them. He underwent heart surgery. Petitioner 7 has seven brothers and sisters in Jerusalem. Her responsibilities at work also require that she leave the Gaza Strip to attend seminars and meetings.

44. Petitioner 15 is presently staying in Jerusalem with her two infant children (the Respondent does not allow her to bring the other children with her into Israel). She must enter the Gaza Strip.

45. The procedural problems that the Respondent has raised regarding her entry into the Gaza Strip have already caused the said petitioner to limit her entry into Israel: she never knows how long it will take before the Respondent will allow her to enter the Gaza Strip. However, her need (to visit her family, including her ill father, to meet her friends, and to attend work-related meetings and seminars) cannot be deemed a kindness in which the authorities let her enter Israel every three months.

46. On 24 May 2004, Petitioners' counsel wrote to the office of the Respondent's legal advisor, requesting that Petitioner 15 be allowed to enter the Gaza Strip without requiring her to undertake not to return to Israel for any specific period of time.

A copy of the letter is attached hereto as Appendix P/5.

47. To date, no response to the letter has been received.

Petitioner 16

48. Petitioner 16 is a human rights organization, duly registered in Israel, that was founded in November 1996 as an independent legal center to promote human rights, particularly those of the Arab minority. Its major purposes are to attain equal rights, protect the collective rights of the Arab minority in the State of Israel in various areas, among them land, civil rights, political rights, cultural rights, social rights, economic rights, religious rights, women's rights, and prisoners' rights.

Petitioner 17

49. Petitioner 17 (hereafter: "HaMoked: Center for the Defence of the Individual) is a human rights organization, duly registered in Israel and located in Jerusalem, that deals, in part, with matters of Israelis who want to visit relatives in the Gaza Strip.

Correspondence with the Respondent

Correspondence by Petitioner 17

50. On 4 April 2004, HaMoked: Center for the Defence of the Individual learned for the first time about the revocation of the Detached Families Procedure. The same day, the Petitioners' counsel wrote to the State Attorney's Office and demanded that the procedure be reinstated immediately.

    A copy of the letter is attached as Appendix P/6.

51. On 5 April 2004, the Respondent's legal advisor responded that, "no decision had been reached to revoke the said procedure, but only to suspend it temporarily in light of the current security situation. The need to continue suspension of the procedure will be reconsidered in the coming days."

    The letter is attached as Appendix P/7.

52. On 13 May 2004, HaMoked: Center for the Defence of the Individual was informed by telephone that the procedure had been reinstated. No written confirmation was received, nor did the Respondent publicly announce the decision to reinstate the procedure. The reinstated procedure remained in effect only until the end of the same week.

53. On 18 April 2004, following the assassination of Dr. Rantisi and following the Palestinian attack at Erez Checkpoint, HaMoked: Center for the Defence of the Individual was informed that nobody would be allowed to pass through Erez Checkpoint, and that the

Detached Families Procedure was no longer in effect. As usual, only verbal notice was given.

54. On 22 April 2004, Petitioner 17 wrote to the State Attorney's Office and demanded that the authorities immediately renew movement through Erez Checkpoint and that the Detached Families Procedure be reinstated. The letter emphasized that problems in the system for making checks does not justify closing the checkpoint, in the same way as the same problems did not end the routine of life in Israel – where the same means of checking are used to protect all the border crossing points and the various institutions.

The letter is attached as Appendix P/8.

55. The State Attorney's Office handed over the handling of the letter to the Respondent's legal advisor, and requested that he urgently handle the matter and respond directly to Petitioner 17.

The letter is attached as Appendix P/9.

56. It should be noted that the deputy legal advisor to the Respondent later informed Petitioners' counsel by telephone that the checking devices at Erez Checkpoint had been improved, and that the problem with the devices had been solved.

57. On 2 May 2004, HaMoked: Center for the Defence of the Individual was informed for the first time about a directive according to which citizens and residents of Israel who are married to residents of Gaza may enter the Gaza Strip only if they undertake not to return to Israel for three months. The notification was provided, as usual, in a telephone conversation that HaMoked: Center for the Defence of the Individual made to the commander of the Israelis Office in the Erez DCO.

The same day, Petitioner 17 wrote to the State Attorney's Office and to the Respondent's legal advisor. The letter to the State Attorney's Office demanded that the Detached Families Procedure be reinstated without any illegal condition requiring forced stay in the Strip for three months. In its letter to the Respondent's legal advisor, Petitioner 17 stated its position that an undertaking made by an Israeli woman not to enter Israel for three months is illegal, null and void, and of no legal effect. The letter added that:

> The undertaking that you seek to have women sign results in waiver of mandatory human rights, which are not subject to condition… The transfer nature of the demand grossly violates Israeli public policy as well as Israeli law.

The letters are attached as Appendixes P/10 – P/11, respectively.

58. Until about 10 May 2004, the procedure was not implemented, and residents and citizens of Israel married to residents of the Gaza Strip were not allowed to enter the Strip. Information received by the Petitioners indicates that, on about 10 May, the Respondent began to implement the procedure that enables entry into the Gaza Strip, provided that the applicant gives an undertaking not to leave the Strip for three months. The procedure was also implemented on 11 May.

59. On 12 May, HaMoked: Center for the Defence of the Individual was informed by telephone that the procedure had again been suspended following an incident that took place in the Strip, in which six Israeli soldiers were killed. Since that time, the Respondent has not allowed any Israeli citizens or residents married to residents of the Gaza Strip to enter (with or without condition) the Strip. To the best of Petitioners' knowledge, for part of the time, Israeli officials handled requests of persons situated in the Strip to renew their permits.

60. To date, no reply to the letters of Petitioner 17 (Appendixes P/8-P/11) has been received. Requests (verbal and written) to obtain the text of the undertaking as drafted by the Respondent have also remained unanswered.

Correspondence by Petitioner 16

61. Petitioner 16 was first informed on 5 May 2004 about the Respondent's directive that is the subject of the petition. The same day, Petitioner 16 sent an urgent letter to the Respondent's legal advisor in which it demanded the immediate revocation of the directive and the cessation of all interference in permitting Israeli citizens and residents to visit their family in the Gaza Strip without restriction on their right to return to Israel. The letter also stated that the directive was unconstitutional, and that it severely infringed fundamental rights of Israeli citizens who are married to residents of the Gaza Strip. A copy of the directive was also requested.

A copy of the letter is attached as Appendix P/12.

62. The same day, Petitioner 16 wrote a letter to the Respondent's legal advisor regarding Petitioners 7-13.

See Appendix P/3 above.

63. Between 6 and 11 May 2004, Petitioner 16 made numerous telephone calls to the office of the Respondent's legal advisor to receive an answer regarding its requests. During a telephone call, the legal advisor's assistant stated that the matter was still under review, that the directive had not yet taken effect, and that consultations in its regard were still taking place.

64. After being informed on 12 May 2004 about implementation of the directive, Petitioner 16 wrote a reminder letter in which it also related to the matter of Petitioners 1-6. In this letter, Petitioner 16 stated, among other things, that the undertaking signed by Petitioner 1 had no legal effect.

See Appendix P/2 above.

65. To date, no reply to the letters of Petitioner 16 (Appendixes P/2, P/3, and P/12) has been received. Requests (verbal and written) to obtain the text of the undertaking as drafted by the Respondent have also remained unanswered.

Thus, we see that the Respondent's directive is, in practice, contrary to the claim made by the Respondent's assistants, and causes the Petitioners, and other detached families, grave and unjustifiable harm.

The legal argument

Preface

66. This petition involves a discriminatory, arbitrary, sweeping directive that lacks criteria, is unreasonable and disproportionate and grossly breaches the constitutional rights of Petitioners 1-15 to a family life, dignity, and equality, which are enshrined in the Basic Law: Human Dignity and Liberty and in international law; the constitutional right of Petitioners 1, 3-6, 7, 9-13, 14, and 15 to enter Israel; and the provisions of humanitarian law that apply to the Respondent as regards Petitioners 2 and 8.

The directive breaches the right to enter Israel

67. The right of a person to enter the country in which he is a national is a fundamental right. It lies at the foundation of the modern political system – at the foundation of the separation of the world into states whereby every person must be connected to one or more of them. The ties between a person and the country in which he is a national are the

basis underlying a long list of fundamental rights, and the ability of a person to enter the country in which he is a national is a practical condition for exercising those rights.

68. The right of every person to enter the country in which he is a national is enshrined in Article 12(4) of the International Covenant of Civil and Political Rights:

> **No one shall be arbitrarily deprived of the right to enter his own country.**

International law allows states to deport aliens – but prohibits states from deporting their citizens and residents, and obligates them to receive them and enable allow them to enter their territory at all times.

On this matter, see the detailed survey made by Justice H. Cohen in HCJ 698/80, *Qawasmeh et al. v. Minister of Defense et al., Piskei Din* 35 (1) 617, 639-647.

69. The right of a state's national to stay within the country is enshrined in Section 6(b) of the Basic Law: Human Dignity and Liberty, and even if the section is given a narrow construction, whereby it does not apply to permanent residents of the state, the right of such persons is enshrined in the Entry into Israel Law, 5712 – 1952.

70. The infringement of this fundamental right is only allowed when set forth expressly in law, is for a proper purpose, and is not excessive. The Respondent's directive does not meet any of these conditions.

71. The text of the undertaking (presented in full in Section 19 above) that was prepared by the Respondent and which he sought to conceal from Petitioners 16 and 17, indicates that the Respondent is well aware of the illegality of the conditions he set, and that he sought to disguise and legitimize it by means of verbal and legal sleight-of-hand. Ostensibly, the Respondent does not forbid Israeli residents and citizens married to residents of Gaza to enter Israel, but "only" compels them to promise not to do so, making it clear that if they take advantage of this right, they are liable not to be allowed to meet their spouses and children. On this point, it was stated in another context:

> **The question, whether the decision of a governmental authority harms the freedom of occupation, must be examined substantively and nor formally. Infringement of freedom of occupation does not only occur when an authority directly restricts the right to engage in any work or occupation, for example by prohibiting the activity or demand a license. Negating in practice the possibility of**

> **engaging in a particular work or occupation impairs the freedom of occupation.**
>
> HCJ 5936/97*, Lamm v. Director General of the Ministry of Education, Culture and Sport, Piskei Din* 53 (4) 673, 681.

72. The purportedly "voluntary" waiver of the right to enter Israel is not voluntary at all, and even if it were given freely and willingly, it would not be legal. A contract, which lies entirely in the field of private law, is voidable if it violates public policy where it violates the human rights of one of the parties. See, for example, A. Barak, *Interpretation in Law – Volume Three: Constitutional Interpretation* (Jerusalem: Nevo, 1994) 690-691.

73. The above principle applies even more so where a public authority, to which the legislator did not give power to restrict a protected constitutional right, cannot bypass the lack of authority by having a person sign an undertaking that places a condition on vested mandatory rights. Allowing the administrative authority to acquire authority by such means mocks the very principle of the rule of law.

74. Every infringement of a fundamental right – directly or indirectly – requires express authority by statute, and in the absence of such, is invalid. On this point, the High Court of Justice recently held in another context:

> **The policy of an administrative authority that rejects a certain occupation or severely restricts it will be considered a breach of the freedom of occupation… In any event, the harm must meet the conditions set forth in the limitations clause in Section 4 of the Basic Law: Freedom of Occupation, the foremost of which is that the harm be set forth in law or pursuant to express authorization set forth therein. In the absence of such law, and this is the case herein, the right of the petitioners cannot be infringed… pursuant to a procedure adopted by an administrative authority.**
>
> HCJ 2921/03, *Kaufmann et al. v. Dr. Amir Shanun et al.* (not yet published).

75. In practice, the directive results in residents and citizens of the state being kept outside the state's borders.

76. Moreover, the Nationality and Entry into Israel (Temporary Order) Law, 5763 – 2003, blocks the Gazan spouse from entering Israel, and restricts the possibility of the spouses meeting, and they can live as a family only in the Gaza Strip. With this law in the backdrop, it becomes even clearer that the effect of the directive is exile of the Israeli spouse. Thus, it is a directive to achieve transfer, pure and simple, which is contrary to the values inherent in the basic laws.

The directive infringes the right to maintain a family life and the right of a child to live with his family

77. The directive that is the subject of the petition infringes the Petitioners' constitutional right to maintain a family life, and the right of the children to live in the bosom of their families, which rights include the prohibition against interfering with the family unit arbitrarily, and the obligation to protect it, rights that are enshrined in Israeli law, international law, and humanitarian law.

78. Israeli law recognizes the fundamental right to family life, the right of parents to raise their children, the right of children to live in the bosom of their families, and the central importance of the family unit in Israeli society. Specific provisions are set forth in various laws that are intended to protect the various aspects of the right to family life, particularly the right of children to live in the bosom of their families. The comments of the Honorable Justice Heshin in *Stemkeh* are appropriate herein:

> **The state of Israel recognizes the right of a citizen to live with his spouse as he wishes and to raise a family in Israel with the spouse. Israel is required to protect the family unit… Israel – recognized and recognizes – its obligation to provide protection for the family unit also by giving permits for family unification. It joined the enlightened states that recognize – subject to limitations of state security, public safety, and public welfare – the right of family members to live together in the area that they choose.**
>
> HCJ 3648/97, *Stemkeh et al. v. Minister of the Interior et al., Piskei Din* 53 (2)728, 781-782.

See also:

HCJ 754/83, *Rankin et al. v. Minister of the Interior et al., Piskei Din* 38 (4) 113, 117;

HCJ 693/91, *Efrat v. Director, Population Registry et al., Piskei Din* 37 (1) 749, 783;

HCJ 2266/94, *John Doe et al. v. Robert Roe, Piskei Din* 39 (1) 221, 235.

79. International law, including many conventions to which Israel is party, expressly recognizes the right to family life, prohibits the arbitrary interference in family life, and imposes an obligation on the state to protect it.

The Universal Declaration of Human Rights states, in Article 12:

> **No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.**

And in Article 16(3):

> **The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.**

The International Covenant on Economic, Social, and Cultural Rights, of 1966, which Israel joined on 19 December 1966 and ratified on 3 October 1991, states in Article 10(1);

> **The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children…**

The International Covenant on Civil and Political Rights, of 1966, which Israel joined on 19 December 1966 and ratified on 3 October 1991, states in Article 17:

> **(1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.**
>
> (2) Everyone has the right to the protection of the law against such interference or attacks

And in Article 23(1):

> **The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.**

The Convention on the Rights of the Child, of 1989, which Israel joined on 3 July 1990 and ratified on 3 October 1991, states in its preamble, in part, that:

> **Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community...**
>
> **Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.**

The Declaration on the Human Rights of Individuals Who are Not Nationals in the Country in which They Live, of 1985, states in Article 5(1)(b);

> **The right to protection against arbitrary or unlawful interference with privacy, family, home or correspondence.**

80. The fundamental right to family life in international law requires the state to enable the spouse of citizens to receive a status in the state, and special protection is given to the right of children to live in the bosom of their families, particularly with their parents. The Convention on the Rights of the Child states, in Article 10(1):

> **In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.**

See also the provisions of Articles 2, 3, 5, 7, 9, 16, and 18 of the Convention on the Rights of the Child.

Regarding Article 3 of the Convention on the Rights of the Child, which states that the best interest of the child is the major consideration in all acts regarding children, see:

Civ. Reh. 7015/94, *Attorney General v. Jane Doe, Piskei Din* 50 (1) 48, 66.

HCJ 5227/97, David v. Supreme Rabbinical Court [not yet published], Section 10 of the opinion of the Honorable Justice Heshin.

Regarding Article 7 of the Convention on the Rights of the Child, which states that a child has the right to be cared for by his parents, see:

Civ. App. 3077/90, *Jane Doe et al. v. John Doe, Piskei Din* 49 (2) 578, 593.

81. Moreover, humanitarian law, which applies to the Respondent, as the occupying power, toward Petitioners 2 and 8, in that they are residents of occupied territory, recognizes the duty to protect family life and the prohibition on arbitrary interference in family life. For example, Section 46 of the Regulations Attached to the Hague Convention, of 1907, and similarly the provision of Article 27 of the Fourth Geneva Convention for the Protection of Civilians in Time of War, of 1949.

The directive infringes the right to equality and human dignity

82. The directive that is the subject of the petition infringes the right to equality and human dignity.

83. The directive discriminates between members of detached families who want to enter Gaza, almost all of whom are Arabs, and persons wanting to enter Gaza to visit settlers, practically all of whom are Jews. In light of its clear effect on Arab citizens and residents of Israel whose spouse and/or children live in Gaza, the directive clearly discriminates on the basis of national origin.

84. According to the common law, discrimination is based on its results, and in the present case, and in accordance with this test, it is clear that the present case is one of discrimination based on national origin. Regarding the results test, Justice Heshin stated in *Women's Lobby*, that:

> **Let us also recall that the principle of equality looks toward the result: no matter how pure and chaste the person's intention, if the result of his act is discriminatory, his act will be invalidated as if it had never been.**

See also:
HCJ 2671/98, *Israel Women's Lobby v. Minister of Labor and Social Affairs, Piskei Din* 52 (3) 630, 654;

HCJ 1113/99, *Adalah – The Legal Center for Arab Minority Rights v. Minister of Religious Affairs, Piskei Din* 54 (2) 164, 176;

HCJ 953/87, *Poraz v. Mayor of Tel-Aviv – Yafo, Piskei Din* 42 (2) 309, 334;

HCJ 205/94, *Akiva Nof v. State of Israel – Ministry of Defense, Piskei Din* 50 (5) 449, 464-465.

85. It should be emphasized that the prohibition on discrimination, including the prohibition on discrimination regarding the naturalization of spouses, appears in international conventions, among them conventions to which Israel is party.

See, for example:

Article 3(1) of the International Declaration on the Elimination of All Forms of Racial Discrimination;

Article 3 of the Convention on the Nationality of Married Women, of 1957, which the State of Israel joined on 12 March 1957 and ratified on 7 June 1957.

86. In *The Association for Civil Rights in Israel*, the Honorable Justice Zamir emphasized the importance of the universal principle of equality and pointed out the special import of the principle of equality when the discrimination is based on national origin, and the need to ensure equality between Arabs and Jews in light of the special system of relations between the two populations in Israel. The Honorable Justice Zamir held that:

> **The principle of equality in this sense is the soul of democracy. Democracy demands not only one person - one vote in elections, but also the equality of all people at all times. The real test of the principle of equality is found in the treatment of the minority: religious, national origin, or otherwise. If the minority is not treated equally, there is no democracy for the majority…The same is true about the question of equality of the Arabs… Surely on the legal plane, there is no difference between the question of equality *vis-à-vis* the Arab population and the question of equality *vis-à-vis* another group. On this plane, the question of equality is a question of equality vis-a-vis a religious minority or minority based on national origin, whatever the case. This, too, is a universal question. It also has a universal answer. The answer is**

that a minority based on religion or national origin, especially such a minority, is entitled to equality. However, at the practical level in the State of Israel, there is especial significance to the question of equality for Arabs. This question entails a complex system of relations that developed between Jews and Arabs in this country over a long period. Nevertheless, and possibly for this reason, equality is necessary. Equality is necessary for living together. The good of society, indeed the good of each individual in society, requires the nurturing of the principle of equality between Jews and Arabs. In any case, this is the command of the law, and thus is the obligation of the court.

HCJ 6924/98, *the Association for Civil Rights in Israel v. Government of Israel, Piskei Din* 58 (5) 15, 28.

87. The breach of equality in this case is especially grave, in that it harms a group on the grounds of a "suspicion," and thus violates the constitutional right to dignity. The harm is especially grave because, in making the directive, the Respondent labels Arab citizens and residents of Israel as "enemies," and in effect results in their transfer from the territory of the state. In doing so, the Respondent reinforces dangerous social stereotypes, and implements a policy that identifies with racist entities that infringe the rights of Israel's Arab minority. In *Miller,* the Honorable Justice Dorner pointed out the meaning of discrimination based on group membership of the person discriminated against, and of the degradation that the discrimination causes to the dignity of the victim:

This is not the case in certain kinds of improper discrimination based on group membership, among them discrimination based on sex, and also discrimination based on race. Underlying such discrimination is attribution of an inferior status to the person discriminated against, a status that results from his ostensible inferior nature. This entails, of course, profound humiliation for the victim of the discrimination.

HCJ 4541/94, *Alice Miller v. Minister of Defense, Piskei Din* 49 (4) 94, 132.

88. The connection between human dignity and discrimination based on group membership was mentioned by the Honorable Justice Heshin in *Second Women's Lobby*, as follows:

> **Discrimination against a woman – for being a woman – is generic discrimination … If Levi prefers Reuven because he is male – or rejects Leah because she is female – generic, and not specific, discrimination is involved. Another example of generic discrimination is discrimination based on skin color or race. Generic discrimination, as has been stated, is discrimination that critically injures human dignity. A person has no control over his sex (female or male), his skin color (black, yellow, or white), his bodily integrity (disabled or physically able). This person has done everything in his ability to attain wisdom and knowledge, to be a good and beneficial person, friendly, and a person of integrity. Now he is rejected, however, by others only because of a characteristic over which he has no control, a genetic or other feature.**
>
> HCJ 2671/98, *Women's Lobby v. Minister of Labor and Social Affairs, Piskei Din* 52 (3) 630, 658-659.

See also HCJ 6845/00, *Niv et al. v. National labor Court, Takdin Elyon* 2002 (3) 1867, 1874-1875.

89. Therefore, in accordance with the results test, the case herein is one of discrimination against Arab citizens and residents based on group membership, which infringes the fundamental right to equality, and infringes the constitutional right to dignity.

90. The directive breaches the right to dignity also in that it impairs the ability of members of detached families to maintain a family life. Belonging to a family is part of the "I" of a person and is thus included within human dignity. The Honorable Justice Beinisch made this point in *John Doe v. Attorney General*:

> **In the era in which "human dignity" is a protected fundamental constitutional right, effect should be given to the aspiration of an individual to fulfill his personal essence, and for this reason, it is necessary to respect his wish to belong to the family unit of which he deems himself part… Also, the parents and children of a**

person are part of his individuality, part of his personal, family and social "I."

Civ. App. 7155/96, *John Doe v. Attorney General, Piskei Din* 51 (1) 160, 175-176.

91. The Petitioners will argue that the directive breaches the right to dignity of Arab citizens and residents who have spouses and/or children living in Gaza, a right enshrined in the Basic Law: Human Dignity and Liberty.

The directive does not comply with the limitations clause

92. The directive, which breaches protected rights set forth in the Basic Law: Human Dignity and Liberty, must meet the cumulative conditions set forth in Section 8 of the Basic Law (hereafter: the limitations clause). As will be shown below, the directive fails to meet these conditions.

The directive violates human rights without explicit statutory authority

93. The limitations clause requires that every violation of a protected right be made by a law or pursuant to an explicit provision of law. On this point, the comments of the Honorable President Barak in *Rubinstein* are appropriate:

> **The violation of human rights – even if it advances the values of the state, is for a proper purpose, and is not greater than necessary – must be set forth in a statute that sets forth the primary arrangements. Formal authorization given by an executive authority for a legislative action is insufficient. Therefore, the requirement that the primary legislation will set forth the primary arrangements and the secondary legislation or administrative regulations will deal with the execution, while ensuring that the liberty of the individual is protected. True, in a democracy, there is at times a necessity – to fulfill a public interest – to violate rights of the individual. However, this violation, even if justified, must be set forth in primary legislation, and cannot be handed over to the executive authority itself.**
>
> HCJ 3267/97, *Rubinstein et al. v. Minister of Defense, Piskei Din* 52 (5) 481, 516-517;

HCJ 3939/97, *Kibbutz Sde Nahum v. Israel Lands Administration, Piskei Din* 56 (6) 25, 62-63;

HCJ 5100/94, 4054/95, *the Public Committee Against Torture in Israel et al. v. Government of Israel et al.*, *Piskei Din* 53 (4) 817, 832-833.

94. The directive that is the subject of this petition violates human rights, yet is not enshrined in statute, and is not found in legislation that explicitly permits the Respondent to infringe human rights as he does in the present directive.

The directive is intended to achieve an improper purpose in that it violates fundamental values

95. The limitations clause requires that an infringement of rights be made for a proper purpose. Yet, the purpose of the directive that is the subject of the petition, as the Petitioners, whose letters to the Respondent remained unanswered, learn from the comments made by the Respondent's representative in telephone conversations with Petitioners' counsel and in articles in the media, is not proper. For example, on 5 May 2004, *Ha'aretz* reported (Appendix P/1) statements made by an officer at the Erez DCO to *Ha'aretz*, whereby the purpose of the directive is "to prevent crowds and massive movement at Erez Checkpoint, because a substantial number of Israelis have family connections in Gaza." Similar comments were made by the Respondent to Petitioners' counsel in telephone conversations, as described above in the petition's factual chapter.

96. The purpose of the directive is, therefore, to reduce the traffic at Erez Checkpoint, that is, to lower the number of persons passing through the checkpoint and thus ease the work of Respondent's representatives who have the task of checking persons who pass through Erez Checkpoint. According to the common law, administrative convenience cannot justify the infringement of human rights. For example, in *National Youth Theater,* Justice Zamir held:

> **We see that the existing situation makes things convenient for the Ministry of Education, which can allocate the support from the budget to a closed group of veteran theaters, according to existing patterns. However, it is clear that such convenience cannot exempt the ministry from the obligation to allocate the support among theaters in an egalitarian manner.**

HCJ 3792/95, *National Youth Theater v. Minister of Science and the Arts et al., Piskei Din* 51 (4) 259, 286.

Similarly, in *Nof*:

> **The resources that were necessary to meet the same need in full, the authority must establish criteria for allocating its resources. But these criteria must be egalitarian; and in no case can budgetary constraints justify the setting of criteria that are not egalitarian.**
>
> HCJ 205/94, *Nof v. Ministry of Defense, Piskei Din 50 (*5) 449, 463.

See also:

HCJ 953/87, *Poraz v. Mayor of Tel-Aviv – Yafo, Piskei Din* 42 (2) 309, 338;

HCJ 4541/94, *Miller v. Minister of Defense, Piskei Din* 49 (4) 94, 113, 122, 144;

App. Pris. App. 4463/94, *Golan v. Prisons Service, Piskei Din* 50 (4) 136, 170;

A. Barak, *Interpretation in Law,* Vol. 3 (Nevo, 1994) 526.

97. It should be mentioned that, in that the directive is discriminatory, and especially in that it discriminates on the basis of group membership, it does not have a proper purpose, and is not conform to fundamental values, equality first and foremost.

Therefore, it is clear that the directive does not meet the first two conditions of the limitations clause: it violates human rights without authority for such action being found in law, and it is not intended for a proper purpose. The failure to comply with either of these two conditions renders the directive unconstitutional, and it should be invalidated.

Without derogating from the above, the Petitioners will further argue that the directive also does not meet the test of proportionality, in that it violates, in an extreme, sweeping, and excessive manner, fundamental rights lying at the heart of human rights.

The directive is excessive

98. The directive that is the subject of the petition, which violates protected rights, must meet the test of proportionality set forth in the limitations clause. As was held by the Honorable Justice Heshin in *Stemkeh,* strict compliance with proportionality is required under the circumstances, because we are dealing with a directive that causes great harm to the Petitioners' rights:

> **In applying proportionality, we further recall that, the greater the intensity of the right infringed or the intensity of the violation of the right, so, too, will we act with greater intensity to ensure that the authority's action is not excessive.**
>
> HCJ 3648/97, *Stemkeh et al. v. Minister of the Interior et al., Piskei Din* 53 (2) 728, 777.

99. The directive fails to meet any one of the three sub-tests of the test of proportionality, as we see below:

The rational-connection test

100. In that the purpose forming the basis of the directive is improper, fails to meet fundamental values and violates the common law that prohibits the infringement of human rights for reasons of administrative convenience, the rational-connection test is not met.

101. Moreover, the directive fails to meet the test because it is sweeping in scope, for a sweeping policy necessarily applies also in a manner that does not advance its purpose. We shall expand on the sweeping nature of the directive in our discussion of the second test, below.

102. Furthermore, the Respondent distinguishes between detached families currently staying in Gaza, whose entry to Gaza is conditioned on their signing an undertaking to stay in Gaza for three months, and members of detached families who are by chance currently staying in Israel and are completely prohibited from entering Gaza. This distinction that the Respondent makes is extremely unreasonable, for there is no substantive difference between the two groups. For this reason, too, the directive does not meet the rational connection test.

The lesser-harm test

103. The directive fails to meet this test, even if it is found that its underlying purpose is proper. The reason is that the directive is sweeping and applies to every resident and citizen of Israel who is married to a resident of the Gaza Strip, without an individual examination being made. A directive that is applied in such sweeping manner is by definition the means that causes the greatest possible harm.

104. Regarding a sweeping decision of this kind, this Honorable Court has recently held:

> **Refusal to grant a press certificate, without examining each case individually, because of the inherent danger of every Palestinian journalist who is a resident of the region – including those who are entitled to enter and work in Israel – is the means that causes the greatest possible harm. This means severely infringes freedom of the press, which could be prevented by conducting individual security checks that are justifiable to protect against the personal security risk resulting from residents of the region, to the degree that such risk exists…**
>
> **Indeed, it can always be claimed that simply being a Palestinian journalist residing in the region creates a security risk… However, this special risk is minimal and theoretical, and cannot justify certain** breach of the protected interests…
>
> HCJ 5627/02, *Sayef et al. v. Government Press Office et al*., not yet published.

105. The sweeping refusal to hear requests, unrelated to the applicant's specific circumstances, is forbidden. The principle that requires an examination of the individual case and which forbids sweeping prohibitions, has been held more than once by decisions of this Honorable Court.

See:

HCJ 243/82, *Zikhroni v. Executive Committee of the Broadcasting Authority et al., Piskei Din* 37 (1) 757, 781;

Reh. HCJ4191/97, *Rekant Ephraim v. National Labor Court, Takdin Elyon* 2000 (4) 587, 594;

HCJ 6741/99, *Yekutieli v. Minister of the Interior, Piskei Din* 55 (3) 673, 713-714.

106. That is, the Respondent not only failed to choose the means that causes the lesser harm, but in the situation herein chose the means that caused extremely grave harm.

The proportionality test

107. The directive places together on one scale the constitutional and fundamental rights of residents and citizens of Israel and of residents of the region: the right to self-realization in the framework of the family unit; the right and obligation to care for children and the

right of the children to be cared for by their two parents; and the elementary right to the be physically present in the land in which they are nationals. These rights are clearly and unquestionably infringed and crushed as a result of the directive that is the subject of the petition. On the other side of the scale, lies values that have not been discussed, and, at best, the risk of harm to them is minimal and theoretical. Such breach of Petitioners' rights is excessive.

108. The intensity of the infringement of the fundamental rights and the constitutional rights of members of detached families outweighs the purpose of the directive as described above, which the Respondent could attain by other means, ones that do not infringe fundamental rights. Respondent can achieve the purpose he seeks, for example, by adding examiners at Erez Checkpoint, improving the technology used in the checks at the checkpoint, and improving the physical conditions there.

109. In light of the above, the directive issued by the Respondent should be voided and invalidated.

For these reasons, the Honorable Court is requested to issue an Order Nisi and a temporary injunction as requested in the caption of the petition, and after receiving the Respondent's response, to make the Order Nisi absolute, and to order that the Respondent pay the Petitioners' costs and attorney's fees.

Jerusalem and Shefar'am, 30 May 2004

[signed] — Yossi Wolfson, Attorney

[signed] — Orna Kohn, Attorney

Representing the Petitioners