At the Jerusalem District Court **Adm. Pet. 1238/04**
Sitting as the Court for Administrative Matters

In the matter of:

1. _____ **Jubran, from Silwan, Jerusalem**
2. _____ **(a 15-year-old minor girl)**
3. _____ **(a 14-year-old minor girl)**
4. _____ **(a 12-year-old minor girl)**
5. _____ **(a 10 ½-year-old minor boy)**
6. _____ **(an 8-year-old minor boy)**
7. _____ **(a 5 ½-year-old minor girl)**
8. _____ **(a 4-year-old minor girl)**
9. _____ **(a 4-month-old minor girl)**
10. **HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger – Reg. Assoc.**

represented by attorneys Adi Landau (Lic. No. 29189) and/or Yossi Wolfson (Lic. No. 26174) and/or Manal Hazzan (Lic. No. 28878) and/or Leena Abu-Mukh Zuabi (Lic. No. 33775) and/or Shirin Batshon (Lic. No. 32737) and/or Hava Matras-Ivron (Lic. No. 35174) and/or Sigi Ben-Ari (Lic. No. 37566) and/or Gil Gan-Mor (Lic. No. 37962)
of HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger
4 Abu Obeidah Street, Jerusalem 97200
Tel. 02-6283555; Fax 02-6276317

The Petitioners

v.

The State of Israel – Ministry of the Interior:
1. **Minister of the Interior**
2. **Director, Population Administration**
3. **Director, Population Administration Office, East Jerusalem**

represented by the State's Attorney's Office
29 Salah Al-Din Street, Jerusalem
Tel. 02-6466590; Fax 02-6466655

The Respondents

Petition for Order Nisi

A petition is hereby filed for an Order Nisi, directed to the Respondents and ordering them to show cause:

A. Why they do not determine that Petitioner 2 is to be granted permanent-resident status in Israel;

B. Why they do not grant Petitioners 3-8 temporary-resident status in Israel for two years, and at the conclusion of the two-year period grant them permanent residency subject to proof on their center of life and provided that the security authorities have no reason to deny them such residency status;

C. Why they do not cancel their new policy, whereby a status in Israel is not granted to children of Israeli residents who are born in the Occupied Territories or are registered there (even if they were born in Israel), and receive, at the most, periodic permits issued by the commander of the IDF forces in the Occupied Territories, which only enable them to stay in Israel, provided they are infants or children under twelve years of age;

D. Why they do not determine that a child, one of whose parents is a permanent resident and the child lives in Israel permanently with that parent, is entitled to a status in Israel;

E. Why they do not determine that any new policy that diminishes the status of children will be implemented only following a transition period that begins after public announcement of the details of the new policy;

F. Why they do not incorporate, in regulations or procedures, the arrangements regarding the status of children of permanent residents of the state, born outside of Israel, whereby children who live with a parent who is a resident of Israel receives the status that his parent holds, in an efficient, simple, and expeditious procedure, regardless of the child's place of birth, according to an established time schedule for handling and deciding applications of this kind;

G. Why they do not set criteria and clear procedures for making application to obtain a status in Israel for children of residents who live in Israel;

H. Why they do not publish these procedures and criteria broadly, in Arabic, and in a manner accessible to everyone.

Preface

1. The petition involves the status of children of residents of East Jerusalem.

   Ostensibly, the status of all children born to parents who are Israeli residents should be regulated according to standard rules and criteria. The paramount rule of the common law, legislative enactments, and the Respondent's practice over many years was that the child received the same status as his custodial parent who was a resident of the state, provided that the child was living with that parent within the state's borders. This rule took into account the parents' rights and obligations to their children; the state's obligation to protect the child and his rights, and the relevant circumstances in each specific case.

   However, the Respondents deviate from these principles and create different systems of rules for different groups of children. The distinctions made by the Respondents are not based on substantive grounds and lack any lawful foundation. The regulations set for large groups of children fail to meet the rational line of thought that guided and should guide the Respondents.

2. According to the Respondents' new policy, children of residents of the state who live in East Jerusalem, if they were born or were registered in the Occupied Territories, are not entitled to a status in Israel. This sweeping policy is applied to children of all ages and in every situation. Discretion is not allowed. The Respondents apply their policy not only to children who come within the category "resident of the region" and are over twelve years of age. As regards this group of children, the applicable law, for the present, is the Nationality and Entry into Israel (Temporary Order) Law, 5763 – 2003 (hereinafter: the Law), the legality of which is currently being examined in the High Court of Justice (HCJ 10650/03, *Abu Gwella et al. v. State of Israel - Ministry of the Interior et al.*). The Respondents apply their policy also to newborns, infants, and children under the age of 2. Although the Law allows the registration of these children, the Respondents decided to apply a policy in which these children are allowed to take part in the family unification procedure, but if the request for family unification is granted, they are not given a *status* in Israel. Rather, they are permitted to *stay* in Israel in accordance with periodic permits that they obtain at the Civil Administration. These permits provide the children no additional rights.

3. This petition also opposes the Respondents' policy, pursuant to which the Respondents breach the Entry into Israel Regulations, 5734 – 1974 (hereinafter: the Regulations or the Entry into Israel Regulations) and the relevant common law. Accordingly, the Respondents refuse to exercise discretion in determining the status of children under age 12, even if they were born in Israel. As a result, Article 12 of the Entry into Israel Regulations applies to these children, and not the provisions of the Law.

4. The Respondents also refuse to exercise discretion in accordance with Article 3(2) of the Law, which allows the granting of a status in special cases, and in cases in which grave harm will be caused to children.

5. As a result, as we see in the case of the family who are petitioners herein, in one family there are children who are entitled to live in Israel and other children who are not so entitled. Some have resident status and some rely on military permits to stay in Israel. Some of the children have a permanent status, while their infant siblings have to go once a year to the relevant DCO and obtain a permit to stay in Israel. Some of the children are entitled to health insurance, while their siblings are not. These differences exist even though there is no meaningful distinction between one sibling and another.

6. Petitioner 1 (hereinafter: the Petitioner), a resident of Israel, has eight children. The Respondents decided to grant a status in Israel to only one of her children, the baby, ____, Petitioner 9. The Petitioner's request to arrange a status for her seven other minor children was rejected. Regarding Petitioners 2 and 3, who are fifteen years old and fourteen years old, respectively, the Petitioner was informed that, in light of the Nationality and Entry into Israel (Temporary Order) Law, it was not possible to arrange their status, or even their stay, in Israel. Thus, the children are deemed to be staying in Israel illegally. The request to arrange the stay of the five younger children, Petitioners 4-8, ranging in age from ten years old to four years old, was also rejected. The Petitioner was informed that, so long as the Law remains in effect, the children will not be entitled to a status in Israel. However, the Respondents approved the children's stay in Israel by means of permits, given annually, subject to a finding that their center of life is in Israel, and following criminal and security checks. These children come within the

family unification procedure according to an unclear format unknown to the Petitioner, a procedure that does not lead to the granting of a status is Israel.

As a result of the lack of a status in Israel, children of residents are not recognized by the National Insurance Institute [NII], and thus are not entitled to social rights. Their parents are not entitled to the children's allotment or to disability payments (where applicable) for them. The children are not entitled to state health insurance. If they require medical tests, treatment, or hospitalization, these children, despite their being the children of residents, would not be entitled to support from the State of Israel, as children of other residents of the state, and even the children from previous marriages of a person married to a resident of the state, are entitled. Young children of *state residents*, such as the Petitioner's four-year-old daughter, will have to undergo, time and again, the hassle of going to the Civil Administration to obtain permits to stay in Israel, which are granted subject to security checks.

The Respondents contend that this policy is based on the Nationality and Entry into Israel Law. As explained, the Petitioners do not seek in this petition to attack the legality of the Law. That question is pending in the High Court of Justice. The Petitioners will argue that the policy implemented by the Respondents is inconsistent with the Law's language, purpose, and substance, regardless of how broad a reading one wishes to give it. Article 3(1) of the Law expressly authorizes the minister to grant a status in Israel to children under age 12. Nevertheless, the Respondents adopt a repudiated and restrictive interpretation, for an unknown purpose.

The Petitioners will argue that the Minister of the Interior is required to arrange the status of the children of state residents, so long as it is proven that the parent is a resident of Israel and that his child lives with him. The Respondents must arrange the status in an expeditious, efficient, and rapid process.

The facts

The factual foundation on which the Petitioners' contentions are based is as follows:

The parties to the petition

7. Petitioner 1 is a resident of the State of Israel and the mother of eight children, ranging in age from fifteen years to four months. It is now undisputed that the Petitioner's center of life is in Jerusalem.

8. Petitioners 2-8 are the Petitioner's minor children. They live with their parents in East Jerusalem, but bear West Bank identity numbers. The mother's request to arrange their status in the Israeli population registry was rejected.

9. Petitioner 9, a permanent resident of the State of Israel, is the infant daughter of the Petitioner and the baby sister of Petitioners 2-8.

10. Petitioner 10 is a registered non-profit association that assists persons who fall victim to harsh treatment or deprivation on the part of the state authorities, including presentation of their case to the court, either on its own behalf or on theirs.

11. Respondent 1 is the competent minister, in accordance with the Entry into Israel Law, 5712 – 1952, for the handling of all matters related to that law, among them requests to obtain a status in Israel, including requests to register children.

12. Respondent 2 is the director of the Population Administration in Israel. Pursuant to the Entry into Israel Regulations, 5734 – 1974, Respondent 1 delegated to Respondents 2 and 3 his powers regarding the handling and approval of requests to arrange the status of children that are submitted by permanent residents of the state who live in East Jerusalem. Also, Respondent 2 takes part in making policy relating to requests to receive a status in Israel pursuant to the Entry into Israel Law and the regulations enacted pursuant thereto.

13. Respondent 3 (hereinafter: the Respondent) is the district director of the Population Administration in East Jerusalem. In accordance with the Entry into Israel Regulations, 5734 – 1974, Respondent 1 delegated to Respondents 2 and 3 his powers regarding the handling and approval of requests to arrange the status of children that are submitted by permanent residents of the state who live in East Jerusalem.

The Case of Petitioners 1-9

14. In 1988, the Petitioner married a resident of Beit Sahur, in the Bethlehem District. Following their marriage, the couple lived in the house of the husband's

family in Beit Sahur, a four-minute trip (at the time) from the house of Petitioner's parents, in Jerusalem's Sur Bahir neighborhood. However, the Petitioners continued to maintain the center of their life as many Jerusalemites did. The Petitioners stayed at the home of the Petitioner's parents, with their children, for extended periods of time. Petitioner's husband worked in Jerusalem and stayed in the city pursuant to permits issued by the IDF.

15. In 2002, Petitioner's husband inherited part of the family property in Beit Sahur. He sold his share of the house, and with the money the couple purchased, in 2002, an apartment in Silwan, a neighborhood in East Jerusalem. Since then, the Petitioner's children have been studying in schools in Jerusalem. The National Insurance Institute recognized the family as residents from that year, and the Petitioner receives the children's allotment from the NII. The Petitioner and the children are members of the Histadderut Health Fund in the city. The baby daughter was born in Jerusalem.

16. Over the years, the Petitioner and her husband had eight children: the eldest child, a daughter, was born in Jerusalem, the six children who followed were born in Beit Sahur, and the baby daughter was born, as stated, in Jerusalem.

17. In 1995, the Petitioner submitted a request for family unification for her husband. Officials at the Ministry of the Interior instructed her to go to the ministry's offices to arrange the status of her children after the request for family unification is approved. The couple had difficulty paying the high rents in Jerusalem, at a time that they were able to live free in the Petitioner's husband's family home on the city's border, and planned to move to the city when the request for family unification was approved. Also, the couple received legal advice indicating that the center of their life was in Jerusalem, in that they moved back and forth between Jerusalem and in Beit Sahur, and the Petitioner's husband worked in Jerusalem. The Petitioner did not receive a decision on her request for family unification.[1] In the meantime, not wanting to leave her children without a status, the Petitioner and her husband registered the children on the identity card of their father.

[1] Recently, when the Petitioner went to Respondent's office, she was handed a letter that her request for family unification had been rejected in 1997. It should be noted that the Petitioner was handed the original letter of the Interior Ministry. Apparently, this letter was never sent to the Petitioner's address in Jerusalem, the home of Petitioner's family.

18. When the Petitioners moved to live in Jerusalem completely, they sought, through Attorney Tsemel, to register at the NII. The couple did not have money to handle the matter of arranging the children's status at the Interior Ministry. To achieve this latter objective, they retained the less expense services of a woman who claimed she was an attorney, but was later found, after she was paid, to be an imposter, and who failed to do anything on their behalf.

19. In 2003, the couple went to HaMoked: Center for the Defence of the Individual, Petitioner 10 herein, who wrote on their behalf to the Respondent's office requesting "family unification" for their children. In its letter of 19 November 2003, Petitioner 10 contended that the request was being submitted although Respondents' acts violated the rules of proper administration, in that their policy on arranging the status of children had not been made public. Therefore, Petitioner 10 contended, the Petitioner was submitting her request although she did not know the significance of the new policy (submitting a request for family unification rather than for child registration), the procedures involved in this policy, the length of time and nature of the process, or how long the process was supposed to take. Petitioner 10 informed the Respondent that the request also included the elder daughters of the petition, who were then thirteen and fourteen years old, even though they were older than twelve years of age. On this point, Petitioner 10 argued:

> **Clearly it is unreasonable to separate their status from that of their mother, brothers, and sisters. In the event that you oppose arranging the status of the two [elder] daughters, please inform us why you believe that the circumstances herein do not come within the provisions of Article 3(2) of the Nationality and Entry into Israel (Temporary Order) Law, 5763 – 2003.**

The letter from Petitioner 10 is attached hereto as Appendix P/1.

The Petitioners were given an appointment at the Interior Ministry far in the future, 29 April 2004. The request to arrange the status of the children was submitted at that time.

20. On 17 June 2004, the Respondent responded, indicating that the Petitioner's request for her children over the age of twelve was rejected in light of the Nationality and Entry into Israel Law. However, after checking the request, the Respondent stated that the Petitioner could submit a request for family unification for her children under the age of 12. Accordingly, the Petitioner was given an appointment for 19 August 2004 to file a "request in the proper manner." It should be mentioned that the Respondent did not point out, either in this statement or previously, the consequences of approval of the request for family unification.

The Respondent's letter is attached hereto as Appendix P/2.

21. On 15 August 2004, Petitioner 10 sent a letter objecting to the decision to refuse to arrange the status of the two daughters over age 12.

The letter of Petitioner 10 is attached hereto as Appendix P/3.

22. On 19 August 2004, the date of the appointment that the Respondent had set for the Petitioner, the latter went to his office, but the clerk at the office refused to receive the Petitioner's request for family unification. The clerk gave the Petitioner an appointment for 12 September 2004. On 12 September, the Petitioner again went to the Interior Ministry office to submit the request. The clerk at the office informed her that the refusal relating to the two daughters over age twelve had not been changed, and added, "take it to court." The clerk also stated that decision had been reached to grant the baby daughter, who was born this year in Jerusalem, permanent residency status. Regarding the other children, the clerk indicated that the request for family unification on their behalf had been approved. However, rather than register the children as residents in the Petitioner's identity card, she was told that requests for permits for them should be addressed to the District Coordinating Office [DCO]. The letter referring her to the DCO was written only in Hebrew, so the Petitioner did not know what it said. However, the clerk informed her that the children would be allowed to stay in Israel provided she obtained permits from the DCO, that she would have to renew the permit yearly, and that she would have to prove their "center of life" to enable to children to continue to stay lawfully in Israel. The clerk added that, as long as the Nationality and Entry into Israel Law remained in effect, the Petitioner would not be able to obtain any status for her children.

The referrals given to the Petitioner's children to obtain DCO permits are attached hereto as Appendixes P/4 A-E. The birth certificate that the baby infant received at that time, which contains an identity number of a permanent resident, is attached hereto as Appendix P/4 F.

Exhaustion of proceedings

23. On 13 September 2004, the undersigned, counsel for the Petitioners, went to the Interior Ministry office and met with Ms. Haggit Weiss, head of the family unification division in the Respondent's office, and with the Respondent, Mr. Avraham Leqah. The Petitioners' counsel asked the two officials why they had established a policy that ignores the exception in the Nationality and Entry into Israel Law that grants authority to exercise discretion in matters regarding the status of children under age 12, in that the Law is intended solely for security purposes. Moreover, in that the Petitioner's children are permitted to live with their mother, a resident of Israel, and no security reasons stood in the way (as mentioned above, the children are 4, 5½, 8, 10, and 12 years old), why did the Respondents decide not to grant them a status in Israel. The Petitioners' counsel also sought to clarify the foundation underlying the new policy and whether procedures had been established, and if so, why they were not made public. According to the Respondent, there is a procedure, and it will be published soon. However, he refused to provide a copy of the procedure to the Petitioners' counsel. It also became clear during the meeting that a directive on the matter had been issued by the Respondent's legal department in 2003, but the directive was never made public, nor was notice given in subsequent cases in which residents requested to arrange the status of their children. Nor was notification of the directive given to Petitioner 10, which wrote to the Respondents numerous times after the government's decision and publication of the Nationality and Entry into Israel Law to learn the procedure for arranging the status in Israel of children of residents of East Jerusalem.

Samples of the correspondence from Petitioner 10 to the Respondents covering a long period of time in which it sought to learn how to arrange the status of children, and the Respondents' reply, in which no procedure or arrangement is mentioned, are attached hereto as Appendix P/5 A-J.

24. On 17 October 2004, Petitioner 10 sent a letter to the Respondent in which it again requested a copy of the procedure which formed the basis of the new policy on arranging the status of children. Also, Petitioner 10 requested the Respondent to arrange the status in Israel of the child ____ in accordance with the Law and common law, and to approve the request for family unification of the child ____, in accordance with Article 3(2) of the Law. Petitioner 10 added that, as a result of the harsh effects of the Interior Ministry's decision on the Petitioner's children, it was impossible to wait any longer before filing suit, and requested an immediate response.

Petitioner 10's letter is attached hereto as Appendix P/6.

25. No reply was received from the Respondent.

The legal framework

The general principle

26. As a matter of social and judicial policy, Israel accepts the principle that a child receives the status of his custodial parent who is a resident of the state, provided that the child lives in Israel with that parent.

This principle is derived from the general rule, which is part of natural justice, on the rights and obligations of a custodial parent to his or her minor children, and on the protection that society must give to the relations between them.

Accordingly, the High Court of Justice has held that:

> **As a rule, our legal system recognizes and respects the value of the integrity of the family unit and the interest of preserving the well-being of the child. Therefore, it is forbidden to create a disparity between the status of the minor child and the status of his custodial parent or parent who is entitled to custody of the child… I personally believe that it is improper to distinguish between the status of a minor child and the status of his custodial parent in Israel, whether in the framework of interpretation of Article 12 or by establishing a criterion suitable for the exercise of**

discretion given to the Minister of the Interior by the Entry into Israel Law.

HCJ 979/99, *Fabalawiya Karlo (a minor) et al. v. Minister of the Interior, Takdin Elyon* 99(3) 108.

27. As we see from the above quotation, from the opinion of the Honorable Justice Beinish, the legislative foundation, according to which this policy must be implemented, is a patchwork. However, implementation of every provision of law must be made in accordance with the same general principle.

Application regarding a child born in Israel

28. For a child born in Israel, Article 12 of the Entry into Israel Regulations, 5734 – 1974 (hereinafter: the Regulations) applies:

> **A child born in Israel, to whom Article 4 of the Law of Return, 5710 – 1950, does not apply, shall have the same status in Israel as his parents. Where the parents do not have the same status, the child shall receive the status of his father or his guardian, unless the other parent objects thereto in writing; where the other parent objects, the child shall receive the status of one of his parents, as the Minister shall decide.**

In the past, the Respondents exercised discretion only if the father was the Israeli resident. In cases in which the mother was the Israeli resident, the officials told her to register the child in the Occupied Territories. This policy was voided in HCJ 48/89, *Reinheld Issa v. Director, District Administration Office, Piskei Din* 43(4) 573, where the court held that the Minister of the Interior must exercise discretion, based on the center of life of the child, and not on the sex of the resident parent.

29. It goes without saying that entitlement to a status in Israel pursuant to Article 12 is not limited to a newborn child, but applies to children of all ages:

> **The respondent's position – whereby Article 12 applies only if the request is submitted shortly after birth – should not be adopted. From the perspective of preserving the integrity of**

> **the family, there is no difference between a person who seeks a status in Israel for his child shortly after birth and a person who seeks a status in Israel for his child some time later. In both cases, if the custodial parent is registered as a permanent resident of Israel and the center of the family's life is here, the parent should be allowed to raise, and live with, the child.**

AdmP 577/04, *Alqurd et al. v. Minister of the Interior*. The judgment is attached hereto as Appendix P/7.

Application regarding a child born outside of Israel

30. For a child born outside Israel, Article 12 does not apply (since, according to its language, the article applies to a "child born in Israel"). However, for many years, the Respondents treated children born in Israel and children born outside Israel according to the same rules and procedures. Their status was considered in the context of a Request for Child Registration procedure and according to the center-of-life criterion. The frequent changes in the Respondents' policy applied both to children born in Israel and children born elsewhere.

31. In 2001, the Respondents began to collect a fee for granting residency to children who were not born in Israel. The idea was that children born in Israel receive their status pursuant to law, with the Minister of the Interior being a kind of "arbitrator" who decides whether the proper status is that of the mother or of the father. For children born outside of Israel, on the other hand, the status is granted pursuant to Article 2 of the Entry into Israel Law. This procedure, unlike decision made pursuant to the end of Article 12, entails a fee.

    The distinction between the two procedures regarding the fee led to repeated changes in the policy, in the same inconsistent approach that so often characterizes the Respondents' policy – precisely on topics that require a greater degree of stability and certainty.

32. Recently, the Respondent's policy on resident's children who were born outside of Israel has stabilized, and, in AdmP 402/03, *Judah et al. v. Minister of the Interior et al.*, was even given the effect of a court judgment (hereinafter: *Judah*), as follows:

The parties reached the following arrangement:

1. **The respondent states that his policy in cases in which a child of a permanent resident is born outside of Israel, the following shall occur:**

   A. **Permanent resident status to a child of a permanent resident born outside of Israel will be given by means of an application for family unification.**

   B. **The "graduated procedure" in these cases will last for a period of two years.**

   C. **During this period, the child will stay in Israel as a temporary resident (A/5 visa). The visa will be given for a period of two consecutive years, during which a request for extension will not be required.**

   D. **At the end of the two-year period, the child is entitled to obtain permanent resident status, subject to proof of center of life, and provided there are no security grounds for denying the status.**

   E. **The above shall not derogate from the provisions of the Nationality and Entry into Israel (Temporary Order) Law, 5763 – 2003.**

….

Given the effect of a judgment with their consent…

The judgment in AdmP 402/03, *Judah et al. v. Minister of the Interior et al.,* is attached hereto as Appendix P/8.

33. Therefore, children born outside of Israel are also entitled to permanent residency in Israel, provided that they prove the center of their life is in Israel. The only differences between them and children who were born in Israel are that, as recently decided, they must go through "family unification" (that is, a procedure pursuant to Article 2 of the Law, and not according to Article 12 of the Regulations), and the permanent resident status is granted after a two-year period in which they are given temporary resident status.

Implementation of the policy in the Petitioners' matter

34. The parties agree that the center of the Petitioner's family's life is in Jerusalem. Thus, the Respondents decided that Petitioner 9, the baby of the family, will receive permanent resident status in Israel.

According to the policy described above, which has been set forth in legislation and in the common law, all the Petitioner's children should receive permanent resident status in Israel – each child according to the relevant provision of law.

Petitioners 2 and 9, who were born in Jerusalem, are entitled to receive permanent residency in accordance with Article 12.

Petitioners 3-8, who were born in Beit Sahur, are entitled to receive temporary resident status for two years, and following that, permanent residency, in accordance with the High Court's opinion in *Judah.*

In practice, permanent residency in Israel was approved only for Petitioner 9. Petitioners 4-8 were granted approval to receive one-year "DCO permits," which the IDF gives to residents of the Occupied Territories who enter Israel. These permits do no more than make the stay in Israel legal. They are primarily important for adults, in that they prevent the holder being sent back to the Occupied Territories. The holder is not entitled to social or health rights of any kind. The request for Petitioners 2 and 3 was rejected, thus requiring that they leave Israel. If they do not leave, they will be deported.

35. The Respondents rely on the Nationality and Entry into Israel Law (Temporary Order) Law, 5763 – 2003. However, the provisions of this law provide no support for the Respondents' arguments.

36. First, the application of the Law in the present case is not automatic, for the Respondent has the burden of proving that Petitioners 2-8 are "residents of the region." It is not obvious that we are involved with "residents of the region" – their mother is a Jerusalemite and the center of their life has been shown to be in Jerusalem, about which there is no dispute.

A similar matter was heard in AdmP 822/02, *Gusha v. Director, District Population Registry Office et al*. In that case, the respondents argued that the Law applied to the children of a resident of Jerusalem and a resident of the Occupied Territories. The respondents argued that, because the children were registered in the population registry in

the territories, they were "residents of the region," to whom the Law applied. The court rejected this argument and held that determination of whether the children are "residents of the region" is based on a check of their center of life:

> **If the petitioners are to be seen as having a center of life in Israel, they are entitled to be registered pursuant to Article 12 even if the registration is deemed the grant of a residency permit. In such a case, the Nationality and Entry into Israel Law will not be an obstacle, in that this law applies only to persons who are residents of the region.**
>
> **….**
>
> **From the letter of the population registry office, of 31 July 2002, in which the request was rejected, we see that the respondents found the registration of the petitioners in the population registration sufficient justification to reject the request, and to demand that they submit the request in the framework of their father's request for family unification. This letter does not indicate that the respondents checked whether the registration indeed reflects the situation as regards the petitioners' center of life…**
>
> (Ibid., Articles 7-9.)

The judgment is attached hereto as Appendix P/9.

In the present case, as stated, the Petitioners' center of life in Jerusalem is not in dispute. Thus, there is no dispute that "residents of the region" are not involved.

37. Without derogating from this understanding, as regards Petitioner 2, she was born in Jerusalem, and automatically acquires her resident status pursuant to Article 12 of the Regulations, and is not granted the status by Respondent 1. The distinction between obtaining residency pursuant to Article 12 and being granted residency is recognized by the Respondent: as we mentioned above, in making this distinction, the Respondent classifies the registration of children who were not born in Israel as "family unification" and collects a fee for the application, while the registration of children born in Jerusalem is classified as "child registration" and does not entail payment of a fee.

38. As regards Petitioners 4-8 (again, without derogating from the previous argument), the provisions of Article 2(1) of the Law also indicate that the Law does not apply to them. According to this article, the Minister of the Interior may grant a residency permit to prevent the separation of a child under the age of twelve from his parent who is lawfully staying in Israel. (See also the end of Article 16 of the judgment in AdmP 822/02, cited above). The Law contains no provision that prohibits the Respondents from applying in their case the arrangement established in *Judah.* Absent such a prohibition in the Law, the Respondents must act in accordance with the provisions set forth in *Judah*, which they consented to and which received the sanction of a court judgment. As regards Petitioner 3, she, too, is entitled to a status in accordance with the arrangement set forth in *Judah*, either because the Respondents were required to apply the general exception at the end of Article 3 of the Law, because of the special circumstances and the state's obligation to protect the family unit and to act in the best interest of the child. It would be unreasonable to permit the 14-year-old child to remain without a status, and thus separate her from her mother, brothers, and sisters. Yet, the Respondents refuse to exercise their discretion, in accordance with the exception set forth in the Law, in her case.

The general policy

39. All the comments regarding the Petitioners also apply to the Respondents' general policy. The Respondents established a broad rule (the exact contents of which have never been made public), whereby children of Jerusalem residents, one of whose parents is a resident of the Occupied Territories, will not receive a status in Israel if they are born in the Occupied Territories, if the birth is registered in the Occupied Territories, or if the child is more than twelve years old (even if born in Jerusalem and living there).

As we have seen, this rule is inconsistent with existing statutory and common law.

As we shall show below, the policy undermines the fundamental principles of our legal system and the very nature of a humane society.

A lenient view toward the Respondents' policy is that the harm it causes to the families and the children is not *proportionate*. A more realistic approach leads to the conclusion that their policy serves no proper purpose, seeks to promote unacceptable objectives, and is racist.

40. Voiding the Respondents' unlawful policy is insufficient. The policy is another link in the chain of deceptive decisions and procedures, revived and replaced time after time, and

never made public in an orderly manner, but remain concealed in the Respondents' desks and are brought to light on a case-by-case basis.

The Minister of the Interior has the obligation to arrange the status of children of residents and to establish a policy that enables children to obtain a status in Israel.

The Respondents must handle requests to obtain residency status for children in a fair, expeditious, simple, and efficient manner, in accordance with properly publicized procedures, and based on reasonable criteria that take into account the best interest of the child.

Infringement of fundamental human rights

Right to family life and right of the child to protection by society

41. The Petitioner, as a resident of the State of Israel, has the right to live securely with her children in Israel, with her children having a legal status. This right results from the Petitioner's right, as a permanent resident of the state and as a result of her fundamental right as a mother, not to have her state prevent her from protecting her children and from providing for them to the best of her ability. The state has the clear and natural obligation not only to refrain from committing such harm, but also to take positive acts to protect the individual against impediments to his ability to provide his children with the protection that they need.

42. The Respondents disregard the best interest of the child, a fundamental principle in the exercise of administrative discretion or judgment regarding minors. So long as the person is a minor and so long as his parent functions properly, the best interest of the child requires that the child be allowed to grow up in a supportive family unit. Refusal to register the child as a resident of Israel, when the child's parent is a resident of Israel and is residing in Israel, means forced separation of child and parent, impairment of the child's development, and interference in the family unit, counter to the best interest of the child. Alternatively, the child will have no option but to remain with his parent in Israel, without a clear and stable status, so long as the hardships resulting from a lack of status do not overcome the family.

43. The best interest of the child is a firmly established principle in Israeli law. Regarding the importance of the family unit and the constitutional limitations on state interference, see the comments of the Honorable President Shamgar in CA 2266/93, *John Doe v. John Roe, Piskei Din* 49 (1) 221, 235-236:

> **The right of parents to custody of their children and to raise them, with all that these entail, is a natural and primary constitutional right, as an expression of the natural connection between parents and their children (CA 577/83, *Attorney General v. John Doe*, *Piskei Din* 38 (1) 461). This right is expressed in the privacy and autonomy of the family: the parents are autonomous in making decisions regarding their children – education, lifestyle, place of residence, and so on – and interference by society and the state in these decisions is an exception that requires justification (see the above mentioned CA 577/83, pp. 468, 485). This approach *is grounded* in the recognition that the family is "the basic and most ancient social unit in human history, which was, is, and will be the foundation that serves and ensures the existence of human society" (Justice (as his title was at the time) Elon in CA 488/77, *John Doe et al. v. Attorney General, Piskei Din* 32 (3) 421, 434).**

The Supreme Court has recognized the fundamental and constitutional right of minor children to live with their parents. See the comments of Justice Goldberg in HCJ 1689/94, *Harari et al. v. Minister of the Interior, Piskei Din* 51 (1) 15, 20.

44. The International Convention on the Rights of the Child (*Kitve Amana*, 31, 221), which the State of Israel, along with almost every other country, has ratified, sets forth a number of provisions that require protection of the child's family unit. For example, the preamble to the Conventions states:

> **[The States Parties to this Convention being] 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. [...]**

See also, Articles 1, 3(1), 4, 5, 7, 9(1), and 10(1) of the Convention. The provisions of the Convention have gained increasing recognition as a supplemental source for children's rights and as a guide for interpreting the "best interest of the child" as a consideration in

our law: see CA 3077/90, *Jane Doe et al. v. John Doe, Piskei Din* 39 (2) 578, 593 (the Honorable Justice Cheshin); CA 2266/93, *John Doe (a Minor) et al. v. John Doe, Piskei Din* 39 (1) 221, 232-233, 249, 251-252 (the Honorable President Shamgar); CFH 7015/94, *Attorney General v. Jane Doe, Piskei Din* 50 (1) 48, 66 (the Honorable Justice Dorner). The Respondents should exercise their authority in accordance with the best interest of the child as interpreted in the provisions of the Convention. See, also, Articles 24(1), 24(2), 17, 23, and 26 of the International Covenant on Civil and Political Rights.

Parents' obligations to their children

45. The duty of a parent to his children and the prohibition on neglecting them are firmly established in Israeli Law. For example, Article 15 of the Capacity and Guardianship Law, 5722 – 1962, whose heading is "functions of parents," states:

> **The guardianship of the parent shall include the duty and the right to take care of the needs of the minor, including his education, studies, vocational and occupational training and work, and to preserve, manage and develop his property; it shall also include the right to the custody of the minor and to determine his place of residence and the authority to act on his behalf.**

Article 323 of the Penal Law, 5737 – 1977, states:

> **It is the duty of a parent or person who has responsibility for a minor, being a member of his household, to provide the necessaries of life for such minor, to care for his health and to prevent him being abused or from suffering physical injury or other harm to his well-being and health, and is held to have caused any consequences which result to the life or health of the minor by reason of not fulfilling the said duty.**

See, further, Article 373 of the Penal Law.

46. The Respondents' policy prevents the parent from meeting these obligations, thereby turning the parents into unwilling offenders. Even worse, the policy thwarts the primary social tool to protect the life, body, and dignity of the children.

The rights infringed are constitutional rights

47. The right to family life is inseparable from the basic human rights - to dignity, liberty and privacy. An integral part of the right to human dignity includes the right of a minor to live with his parents as a unified family, and the right of the parent to live with his child:

> **In an era in which "human dignity" is a protected constitutional right, effect should be given to the aspiration of a person to fulfil his personal being. And for this reason, respect should be given to his desire to belong to the family unit that he considers himself part of** (CA 7155/96, *John Doe v. Attorney General, Piskei Din* 51 (1) 160, 175).

48. As we have seen, the harm to children and separation from their parents are liable to bring about grave physical and emotional consequences for the children. The Respondents' policy also affects, therefore, the right of children to bodily integrity, in the sense of the children's right that the state and their parents must protect them and ensure their proper physical and emotional development in the critical years of childhood.

Infringement of rights: Improper purpose

49. The Respondents' policy does not enable Israelis whose children are born in the Occupied Territories to arrange their children's status in Israel.

50. The Respondents contend that their policy is carried out in the context of the Nationality and Entry into Israel Law, the ostensible declared purpose of which is to cope with the security threat. Clearly, this reason is not available to the Respondents in cases involving minor children of residents, where the authorities do not contend that the children or their parents constitute a security risk. In making his sweeping decision, the Respondent refuses to set any exceptions to his refusal to register the said children, even though his investigation shows that the infant or child does not constitute a security threat.

51. The only reason for such a policy that the Petitioners can conceive is the Respondents' desire to preserve a Jewish majority. This desire is evident from numerous press reports and public statements, which Respondents 1 and 2 did not attempt to conceal. This objective also appears in a presentation given to the cabinet on the eve of its vote on Decision 1813.

In the presentation, the Population Administration proves how "foreigners of Arab extraction" multiply or grow in number, breed many children (10-12 children per couple), "whose growth potential" is enormous, and whose children marry and receive a legal status in Israel, and on and on. The breakdown of generations to grandchildren and great-grandchildren is presented in self-explanatory diagrams, and at the end a calculation appears.
In addition to racist headlines like "Friend brings Friend" (p. 13 of the presentation), the presentation teaches "what the budget was being used for" and what "consideration" the Jewish people get for it, and "how much does the children's allotment *alone* cost us?" (emphasis in original) According to the calculation of the Population Administration – NIS 3.3 billion over ten years! (p. 16)

Conspicuous are the exact calculations that the Respondents offer regarding the National Insurance Institute monies that are wasted on the rapidly growing Arab population, in contrast to the lack of security and other data that were requested.

It is inconceivable that demographic and fiscal concerns are used to rationalize the infringement of the fundamental rights of the Petitioner and many other persons in her situation who seek a status in Israel for their children.

The presentation of the Population Administration, on which the government relied when voting, and was given on the eve of the passage of Government Decision 1813, is attached hereto as Appendix P/10.

In light of the contents of the presentation, it can no longer be denied that fiscal and demographic considerations, as well as outright racism, comprise at least part of the purpose underlying the Respondents' policy.

This purpose is improper and does not conform to the values of the State of Israel.

52. In *Lugasi,* Justice Shamgar described conduct by a government authority that is not done in good faith:

> **… when the authority giving the reason, which is a disguise or an external cover for another, hidden intention, knows that the comments it makes differs from what it is thinking.**

We see before us a typical example of the lack of honesty, or deceit. (Judgment in *Lugasi*, supra, page 459)

In the present matter, the extraneous, cynical purpose underlying the Respondents' policy is obvious, and seemingly no attempt is even made to disguise it.

Infringement of rights: Disproportionate harm and selection of the more harmful means

53. Let us assume, for the sake of argument, that there are purposes that justify the classification of children regarding the granting of permanent residency status in Israel. Removing exercise of discretion by the Respondents, whereby *no child* is able to obtain a status in Israel *in any case,* is an extreme means that results in harm to a greater extent than necessary.

54. Nobody denies the Respondents' authority and obligation to examine every request made to them, and to reject requests if the applicant constitutes a security threat to the state and to public safety (see *Stemkeh,* pp. 787-788, HCJ 2527/03, *As'id v. Minister of the Interior, Piskei Din* 58 (1) 139, 143-144). However, a sweeping decision, which does not enable approval of any requests, in cases in which the applicants are a resident parent and his or her minor children, infringes, to the greatest extent possible, fundamental rights of the residents.

Obligation to exercise discretion regarding the registration of a child

55. The Nationality and Entry into Israel Law empowers the Minister of the Interior to exercise discretion in granting a status to residents' children under age 12. Not only do the Respondents fail to exercise their authority in suitable cases and in an organized and egalitarian manner, they decided to establish a policy whereby they fail to exercise their discretion altogether.

56. Refusal to exercise discretion is contrary to fundamental principles of law. The administrative authority must consider, on the merits, requests to exercise powers given it, and to do so in a reasonable, proportionate manner, in good faith, without acting arbitrarily and without taking into account extraneous considerations. It must also give proper weight to fundamental rights and principles of our legal system (see Ra'anan Har Zahav, *Israeli Administrative Law* (5757 – 1996), pp. 103-109, 435-440, and the references provided there; HCJ 3648/97, *Bijalbahan Petel and 31 Others v. Minister of the Interior and Three Others, Piskei Din* 53 (2) 728, 770).

57. The making of a policy and internal directives does not exempt the governmental authority from its obligation to consider each case on its merits and circumstances (see HCJ 92/83, *Naggar v. Victims of Work Accidents and Hostile Activity Insurance Division, Piskei Din* 39 (1) 341, 353; HCJ 2709/91, *Hefziba Construction and Development Company Ltd. v. Israel Lands Administration, Piskei Din* 45 (4) 428, 436; Zamir, [*Administrative Authority,* Vol. 2 (Nevo Publishing, 5756 – 1996)] 701-703, 784-786).

This obligation is a fundamental principle of administrative law, and is also found in the common law in the framework of granting a status to children. See HCJ 48/89, *Issa v. Director, District Administration Office, Piskei Din* 43(4) 573.

58. Furthermore, according to Article 3(2) of the Law, the Minister of the Interior may grant nationality or a permit to reside in Israel, if granting of the permit or nationality is intended to advance an important matter, or a special interest, of the State of Israel. This article allows the Respondents to exercise discretion in special cases. Regarding the importance of humanitarian concerns in a state governed by the rule of law, the High Court has ruled:

> **The State of Israel is governed by the rule of law; the State of Israel is a democracy that respects human rights and gives serious weight to humanitarian considerations** (HCJ 794/98, *Obeid et al. v. Minister of Defense, Piskei Din* 55 (5) 769, 774).

On the importance of humanitarian considerations, in cases in which the Respondent makes decisions regarding requests for a status in Israel, the judgment in AdmP 1037/03, *Feldman et al. v. Minister of the Interior* is instructive:

> **The respondent's main argument, whereby "changes in status are not given to adult males to whom the Law of Return does not apply (and see Articles 7 and 14 of the respondent's response and Appendixes C, E, and F) only demonstrates that the Respondent did not examine the humanitarian aspect. For if this were not the case, he would have argued that the petitioner did not meet the conditions of this exception.**

Where a "humanitarian exception exists, the governmental authority must consider the personal background of each case. Failing to take into account these circumstances is like failing to give them proper consideration, in which case the discretion is also deemed unreasonable (see and compare HCJ 935/89, *Ganor v. State of Israel, Piskei Din* 44 (2) 485, 513-515; Yizhaq Zamir, *Administrative Authority,* Vol. 2 (Nevo Publishing, 5756 – 1996) 763-771).

The Respondents ignore the exception to the Law, which allows the exercise of discretion in special cases, and surely in cases that cry out for attention, such as that of Petitioner 3. In this case, the failure to exercise discretion, within the framework of the exception in the Law, will force this 14-year-old child to be separated from her mother and seven brothers and sisters, who are entitled to a status in Israel. No substantive reason can support such a situation.

59. The illegality of the Respondents' policy is obvious. The amendment to the Nationality and Entry into Israel Law did not empower the Minister of the Interior and the officials to whom he delegated his authority to suspend arranging the status of small children of state residents. Such authority – to prohibit the children of state residents to acquire a status – has never been granted to them. Quite the opposite. Article 3(1) of the Nationality Law granted the Minister of the Interior authority to exercise discretion to grant a status to residents' children. When the law grants the Respondents authority to exercise discretion, they are not allowed to establish a policy in which they do not exercise their discretion. The granting of discretion entails "the obligation to consider the need to exercise it and the proper ways to act in that framework" (HCJ 297/82, *Berger et al. v. Minister of the Interior, Piskei Din* 37 (3) 29, 45).

The right to equality

60. In failing to exercise discretion in arranging the status of residents' children born in the Occupied Territories, the Respondents are guilty of improper discrimination and of treating Israeli residents of Arab origin whose children are born in the Occupied Territories differently than other residents of Israel, whether they live inside or outside the state. In this context, it should be noted that the status of the latter is not acquired because they come and settle in Israel out of their free will (such as pilgrims and Black Hebrews). These are persons who, in 1967, were turned into residents by the State of

Israel. In this regard, their actual status and the lack of another status entitle them to civil rights comparable to the civil rights granted to citizens.[2]

61. When the Israeli law and judication were applied to East Jerusalem, the principle of equality and of human dignity and liberty also were applied. When the Respondents establish a policy not to arrange the status of children in Israel's population registry, they had to give proper consideration to the right of residents of East Jerusalem to be treated like other residents of the state, whereby their right to grant a status to their children is equal, as far as possible, to the right of other residents of the state, such as persons who are married to foreign nationals, whose children are born outside of Israel. The same is true regarding other fundamental human rights in Israel.

62. The right to equality, which the Law violates, is enshrined in the constitutional right to dignity:

> **Human dignity is based on the conception that all persons are equal.**

Aharon Barak, *Interpretation in Law – Constitutional Interpretation* (5754 – 1994) 319.

63. In AdmP *Judah,* cited above, the Respondents stated that the family unification procedure for children born outside of Israel would last for two years, during which the children are given temporary resident status. Surely, then, it is forbidden to discriminate between residents' children who are born in the Occupied Territories and children born, for example, in Jordan, Kuwait, or the United States, based solely on their place of birth.

64. The principle of equality prohibits the Respondents from discriminating against the children who are petitioners herein in comparison with other children of Israeli residents, for reasons based on national origin, status, and place of birth. The lack of primary and secondary legislation on the right of children to receive a status, and the fact that the process is complicated, confusing, confusing, and frequently changing, all constitute forbidden discrimination.

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[2] According to the Entry into Israel Law, a distinction is made between residents and nationals in a limited number of matters: the right to vote in parliamentary elections, status being dependant on actual place of residence, such that the status "expires" if the resident does not maintain a center of life in Israel for a period of seven years, the difference in travel documents, and the procedure for obtaining a status for children. So far, there has not been any question regarding the ability to grant such a status. The new law seeks to remove any doubt that such a status may not be granted.

Collective sanctions

65. The Respondents' policy punishes children and parents in a sweeping manner, and the Respondents do not even bother to explain the purpose underlying the harsh sanction of denying such a fundamental right. In the past, the Supreme Court has nullified, on the grounds of lack of proportionality, collective punishment. For example, in *Ben Atiyah*, which dealt with the revocation of the right of a school to hold an examination after it was discovered that copies of the previous exam had been copied in large numbers, the Court held:

> **The occurrence of a relatively large number of cases of harm to the purity of the examinations indicates a lax system of supervision, and the way to cope with the phenomenon is to increase the effectiveness of the supervision and to impose suitable punishment on the persons involved, and not in harming students "of the next class and the educational institution and its teachers."** (HCJ 3477/95, *Ben Atiyah v. Minister of Education*, *Culture and Sport, Piskei Din* 49 (5) 1, 8).

The position of the Honourable Court in *Ben Atiyah* is even more relevant in the present case because cessation of the handling does not result from the acts or omissions of any of the minor Petitioners or of any other children in their situation, and the cessation is not connected to them in any way whatsoever. These children are prevented from obtaining a status in their place of residence. Their parents, who are residents of the state, are denied the right to grant their children a status in their country.

The infringement of the right is disproportionate in the narrow sense

66. We have seen the magnitude of the harm caused to the Petitioners. The Petitioners are only an example. What happens, for example, to a child, whose mother is an Israeli resident and father is a resident of the Occupied Territories, who was born in the Occupied Territories but at age five lost his father, who died, and moved with his mother to live in Israel? According to the Respondents' policy, this child, too, would not be granted a status.

The harm to children and families is harsh and certain. It encompasses all areas of life. It prevents the child from living with his parent, and pressures the Israeli resident parent

whose children were born in the Occupied Territories to emigrate. It is discriminatory, and thus extremely humiliating. Recently, the National Insurance Institute ceased its "Person Registration" procedure, it which it was possible to place children of permanent residents in the health funds, even if they were not yet registered in the population registry.[3] The result is that children who are not registered as residents in the population registry are not entitled to health insurance pursuant to the State Health Insurance Law, 5754 – 1994. The NII ceases to recognize the residence of children of residents who were previously found entitled, in accordance with the prior policy, if their status is not arranged at the Interior Ministry.

The purpose of the Respondents' new policy, conversely, is unacceptable. At best, it is vague, hypothetical, and peculiar. The sweeping assumption that a small child is liable to become a dangerous assailant who will misuse his residency, is not only hypothetical and unfounded, but is based on preconceived notions, is degrading and offensive.

The balance between the questionable objectives of the Respondents' policy and the fundamental rights it flagrantly violates clearly indicates that the violation of rights is, at least, disproportionate.

The obligation to formulate and publish a fair and reasonable policy

67. The enormous importance of publishing decisions and procedures of a governmental authority is obvious. The situation described above indicates that the Respondents have over the years failed to make public their changing policy. As a result, the residents have learned of the changes as to their rights and basic needs, which are entrusted to the Respondents, only after frequent visits to the Interior Ministry office or by publications of human rights organizations. Unfortunately, recent attempts to uncover the procedures for arranging the status of residents' children who were born outside of Israel, or whether such procedures indeed exist, failed.

68. As described above, the Petitioners learned of Petitioner 3's refusal to register children in their situation from their own case, after repeated requests by Petitioner 10 on their behalf received no substantive reply.

69. The failure to publish the Respondents' decision has forced many families that are not represented to wait in vain to register their children. These families do not know the significance of approval of their request for family unification for their children. Also,

[3] Through a "Passport Holder Number" given by the NII.

formulation of the decision in writing and its publication provide additional guarantee that the Respondents' exercise of discretion lays at the basis of the decision.

70. The public is entitled to know and receive information from the governmental authorities regarding their actions. This right has been expressly set forth in Israeli statutory and common law. The public's right to know is necessary for public review of governmental authorities; it is important if public trust in governmental authorities is to be maintained, for it is clear that public trust is impossible where matters are concealed. The public's right to know also includes the right of everyone to have independent access to information gathered by the governmental authorities in the course of carrying out their function and tasks. A corollary of the right of the public to know is "the duty of public functionaries to inform the public" (HCJ 1601-1604/90, *Shalit et al. v. Minister of the Interior et al., Piskei Din* 53 (2) 728, 767-768.

On the obligation to publish criteria and procedures see HCJ 5537/91, *Efrati v. Ostfeld et al.*, *Piskei Din* 46(3) 501; HCJ 3648/97, *Stamka et al. v. Minister of the Interior et al.*, *Piskei Din* 53(2) 728, 767-768.

Conclusion

71. As we have shown, the Respondents must act in cases involving residents' children, as to whom the Law does not apply, in accordance with the lines set forth in Article 12 of the Entry into Israel Regulations, and as set forth in the consent judgment in *Judah*. Thus, a child should be given the status in Israel that his parent or his custodial parent holds. In cases in which both parents have custodial rights, and only one of them has a status in Israel, the actual place of residence of the child may control, provided that his right to full and complete ties with both parents is not infringed. In that children are involved, it is important to ensure that the granting of the status is done in a simple and expeditious procedure, without difficult obstacles being placed before any segment of the population. The procedure must be published properly, and must be accessible to the entire population, and in Arabic.

The Court is requested, therefore, to order the Respondents to act in accordance with the rule of law and according to reasonable and fair criteria, in a manner that ensures the best interest and rights of the residents of the state and their children.

For the above reasons, the Honorable Court is requested to issue the Order Nisi as requested in the beginning of the petition, and after receiving the

Respondents' response to the Order Nisi make it absolute, and order the Respondents to pay the costs of suit.

Jerusalem, today, 10 November 2004

[signed]	*[signed]*
Yossi Wolfson, Attorney	Adi Landau, Attorney
Representing for the Petitioners	Representing for the Petitioners