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**At the Supreme Court**  
**Sitting as the High Court of Justice**

**H CJ 5717/13**

In the matter of:

1. \_\_\_\_\_ **Rajbi, ID No. \_\_\_\_\_**
2. \_\_\_\_\_ **Salimi, ID No. \_\_\_\_\_, born in 1996**
3. \_\_\_\_\_ **Salimi, ID No. \_\_\_\_\_, born in 1997**
4. \_\_\_\_\_ **Salimi, ID No. \_\_\_\_\_, born in 2002**
5. \_\_\_\_\_ **Salimi, ID No. \_\_\_\_\_, born in 2004**
6. \_\_\_\_\_ **Salimi, ID No. \_\_\_\_\_, born in 2006**
7. \_\_\_\_\_ **Salimi, ID No. \_\_\_\_\_, born in 2008**
8. **HaMoked: Center for the Defence of the Individual,  
founded by Dr. Lotte Salzberger**

all represented by counsel, Adv. Benjamin Agsteribbe (Lic. No. 58088) and/or Sigi Ben Ari (Lic. No. 37566) and/or Noa Diamond (Lic. No. 54665), and/or Hava Matras-Irron (Lic. No. 35174) and/or Daniel Shenhar (Lic. No. 41065) and/or Tal Steiner (Lic. No. 62448) and/or Bilal Sbihat (Lic. No. 49838) and/or Anat Gonen (Lic. No, 28359)

Of HaMoked Center for the Defence of the Individual,  
founded by Dr. Lotte Salzberger  
4 Abu Obeida St., Jerusalem, 97200  
Tel: 02-6283555; Fax: 02-6276317

**The Petitioners**

v.

1. **Chair of the Special Humanitarian Affairs Committee**
2. **East Jerusalem Population Administration Bureau**
3. **The Minister of Interior**
4. **Israel Police**

all represented by the State Attorney's Office  
29 Salah-a-din Street, Jerusalem  
Tel: 02-6466590; Fax: 02-6467011

**The Respondent**

## **Urgent Petition for Order Nisi**

An urgent petition for an *order nisi* is hereby filed which is directed at the respondents ordering them to appear and show cause:

### **To petitioners 1-3:**

- a. Why they should not make a decision in the application of petitioners 1-7, a mother and her minor children, and grant petitioner 1 a residency permit in Israel, based on special humanitarian grounds, following petitioners' application which was submitted to the respondents about five months ago.
- b. Why it should not be determined that in the applications submitted to respondent 1, the applicant will not be deported from Israel until a decision is made in his matter, as was determined with respect to applications submitted to the population administration bureaus of the respondent.

### **To respondent 4:**

- c. Why it should not refrain from deporting petitioner 1 from Israel in view of the fact that an application is pending in her matter before respondent 1 which has not yet been determined and in view of the harsh humanitarian circumstances which will be specified below.

## **Urgent Request for an Interim Order**

1. This honorable court is requested to issue an interim order which would prohibit the deportation of petitioner 1 (hereinafter: the **petitioner** or the **mother**), a widow of a permanent resident of Israel and a mother of six minor children, by the respondents from Jerusalem to the West Bank, based on her registered address in the Palestinian population registry, for the following reasons.
2. The petitioner, originally a Hebron resident, was born in 1975 and in 1994 married Mr. \_\_\_\_\_ Salimi, ID No. 028193712, a permanent resident (hereinafter: the **husband**). In 1995, the petitioner moved to live with her husband in Jerusalem and has been living in the city since then.
3. Over the years the petitioner and her husband had six children: \_\_\_\_\_, born on January 5, 1996; \_\_\_\_\_, born in July 12, 1997; \_\_\_\_\_, born in May 9, 2002; \_\_\_\_\_, born in February 13, 2004; \_\_\_\_\_, born in January 22, 2006 and \_\_\_\_\_, born in February 9, 2008. The children are all registered with the Israeli population registry like their father as permanent residents (hereinafter: the **children**).
4. As specified in detail in the petition below, the husband who was a disabled person, addicted to heavy drugs and alcohol, did not provide for his wife and children and has failed, for many years, to arrange the legal status of the petitioner in Israel. Only in 2006, the husband submitted for her a family unification application which was eventually approved by respondent 2 on June 24, 2012.
5. However, on January 23, 2013, a few months after the family unification application was approved the husband passed away. Following the husband's death, the petitioner was left with six minor children and with no legal status in Israel.
6. Due to the difficult situation in which the petitioner found herself, petitioner 8 submitted on March 28, 2013 an application in her matter to the chair of the advisory committee to the Minister of Interior on the grant of residency permits in Israel to residents of the Area for humanitarian reasons

(the **humanitarian committee**), respondent 1 to this petition. In addition to the application which was submitted to respondent 1, an application for the extension of the valid stay permit of petitioner 1 was submitted to respondent 2 on April 25, 2013, for the entire period during which her application to receive status for humanitarian reasons would be pending before respondent 1.

7. However, on June 12, 2013 respondent 2 refused to approve the application to extend the stay permits for the period during which the humanitarian application would be pending. Following respondent 2's refusal, the petitioner had to wait for respondent 1's decision without having legal status in Israel and being exposed to the risk of deportation.
8. On August 18, 2013, at 15:30, while still waiting for the decision of respondent 1 in her matter, the petitioner, together with two of her children, passed near the Jaffa gate in Jerusalem in a car. As they were passing by, all passengers of the car were demanded by the policemen of the Israel Border Police (hereinafter: the **policemen** or **BP**) to present identification cards. Since the petitioner does not have an identification card, she presented to the policemen a document which stated that petitioner 8 was handling her matter *vis-à-vis* the Israeli authorities and that a humanitarian application in her matter was currently pending before respondent 1.

A copy of petitioner 8's letter concerning petitioner's matter is attached and marked **P/1**.

9. After she had been waiting for three hours, the policemen notified the petitioner that her children could go back home. However, the children refused to leave their mother, who was required by the policemen to fill out a form in which she had to specify how she entered Israel, where she was living, how many years she has been living here etc.
10. At 18:30 while she was still standing in the street with the policemen, the petitioner received a telephone call which notified her that her eleven years old daughter was burnt and that she had to go with her to the hospital. About half an hour later, a police car arrived to the scene. The petitioner and her children were requested to enter the car and she was taken to the BP's headquarters in Atarot. About half an hour later, the petitioner was taken for an interrogation before two interrogators. The petitioner who was worried about her daughter's condition let the interrogators hear, through the phone, the screams of her daughter who was burnt. However, the interrogators told her that she had to wait.
11. After an interrogation of about ten minutes in which the petitioner was asked where she was going and whether she had a stay permit in Israel, the petitioner presented to the interrogators again petitioner 8's letter which stated that an application in her matter was pending before respondent 1. In response, the interrogators said that the letter did not interest them and instructed the petitioner to report to them again on the following day, at 10:00 am, and to bring with her any document which proved that she was living in Jerusalem and that they would decide what to do with her based on the documents which would be presented by her.
12. In the morning of August 19, 2013 the petitioner arrived to the offices of petitioner 8 which gave her an official document of respondent 1 attesting to the fact that an application was pending in her matter. From there the petitioner went to the BP's headquarters in Atarot. The interrogator who reviewed the document informed the petitioner that as far as he was concerned the document did not mean a thing.

A copy of respondent 1's confirmation that an application was submitted to the committee is attached and marked **P/2**.

13. At petitioner's request, Mr. Fried, the interrogations' coordinator, called the representative of petitioner 8, advocate Anat Gonen, who explained petitioner's situation to him. As the conversation

ended the interrogator informed the petitioner again that she was staying in Israel illegally and that she had to be deported. After an additional conversation which was held by the interrogator with a representative of respondent 2, he informed the petitioner that Ms. Galit, on behalf of respondent 2, also advised that the petitioner was staying illegally in Israel and that she should be deported forthwith. Only following petitioner's pleas who told the interrogator that she had six children and that there was no one who could take care of them, and particularly, of the daughter who was burnt a day earlier, the interrogator told the petitioner that she had to report to him not later than August 21, 2013 at 10:00 am, with a court order or judgment prohibiting her deportation, or else – she would be deported. In addition, the interrogator threatened the petitioner that should she fail to report to him on the prescribed date "then something not good will happen to her".

14. In view of the chain of events described above, petitioner 8 turned to the manager of respondent 2, Mrs. Hagit Weiss, in an attempt to understand whether her position was indeed – as was clarified to the BP interrogator in a telephone conversation which was held between him and respondent 2's representative, Ms. Galit – that a widow and a mother of six, who had been living in Israel legally until her husband's death, and in whose matter an application to receive status for humanitarian reasons was currently pending, should be deported.
15. Astonishingly enough the answer of respondent 2's manager was that although an application in petitioner's matter was pending before respondent 1, and although the petitioner was a mother of six minors, permanent residents of Israel, who was left without status despite her will, she was an illegal alien in Israel who should be deported. It should be noted, that following petitioner 8's application to respondent 2's manager, the latter requested to receive respondent 1's position on this matter. Respondent 1 notified that notwithstanding the fact that the petitioner did not have legal status in Israel, a person in whose matter an application was pending should not be deported. However, and although this position was transmitted by petitioner 8 to the representative of respondent 4, Mr. Kuan, deputy interrogation officer at the Israel Border Police in Atarot – he did accept said position and notified again that as far as they were concerned the petitioner was an illegal alien in Israel who should be deported.
16. So, we have before us a mother of children, in whose matter an application to receive status for humanitarian reasons was submitted following the death of her husband and the severance of the proceeding by virtue of which she was legally residing in Israel. This application is currently pending. Petitioner's deportation from Israel, where she lives as a single mother with her six children, is an unbearable measure the consequences of which cannot be foreseen. With each passing day, the fears and anxiety of the children and the petitioner, who was suddenly forced to cope not only with the death of her husband and the father of her children, but also with the risk of deportation, are growing, thus, causing the family severe damage.
17. The respondents, on the other hand, will suffer no harm if an interim order is issued. Not only that there is no security or criminal preclusion against the petitioner, but respondent 3's procedure No. 5.1.0001 which applies, *inter alia*, to anyone in whose matter a humanitarian application was submitted in one of respondent 3's bureaus, provides that a person should not be deported while his application is still pending. The only difference between the humanitarian applications to which the above procedure applies and petitioner's application which is submitted directly to respondent 1, is the place and manner by which the application is submitted. However, the rational underlying all humanitarian applications of this sort, and the need to enable the applicants to wait without the fear of deportation until their matter is examined by the different humanitarian committees, is just as valid.
18. For the legal tests concerning an interim order, the honorable court is referred, in particular, to HCJ 3330/97 **Or Yehuda Municipality v. The State of Israel et al.**, IsrSC 51(3) 472.

19. For the completion of the grounds for the request the honorable court is hereby referred to the petition.
20. In view of the above, the honorable court is requested to remove the risk of deportation from petitioner 1, until all remedies in the petition are exhausted.

### **The Petition**

1. This petition concerns the application of the petitioner and her minor children, to arrange petitioner's status in Israel, so that she would be able to continue to raise her six minor children, Israeli residents, whose father, who was an Israeli resident, passed away, and who have consequently become orphans, fatherless, with only their mother to take care of them.
2. The petitioner is a resident of the Area, who married \_\_\_\_\_ Salimi, an Israeli resident, in the mid 90's and has been living in Jerusalem since then. Over the years the spouses had six children, petitioners 2-7. The husband, who was a drug addict and an alcoholic most of his life, did not arrange the status of his wife in Jerusalem until 2006, when he submitted for her a family unification application. After various proceedings *vis-à-vis* respondent 2, the application was approved in 2012, and the petitioner received a stay permit in Israel.
3. In January 2013, the husband passed away and the petitioner was left with six minor children, in a difficult socio-economic condition, with no legal status in Israel, constantly fearing that she would be deported from Israel and separated from her children. Therefore, the petitioners submitted to respondent 1 a humanitarian application to arrange the status of the mother in Israel.
4. To date, five months following the submission of the humanitarian application, it seems that the deportation sword is indeed hanging closely over petitioner's head, as described in the request for an interim order.
5. Notwithstanding the application which is pending in her matter, which was submitted to respondent 1 five months ago and has not yet been answered, and notwithstanding the fact that the petitioner is a single mother of six children, respondent 4 intends to initiate enforcement proceedings against her and deport her from Israel.

### **The Filing of the Petition with the High Court of Justice**

6. On March 2, 2008, the Courts of Administrative Affairs Order (Amendment of the First Addendum of the Law), 5768-2007 entered into effect (published on December 6, 2007 volume 6626) (hereinafter: the "**order**"). The order provides that petitions on decisions made by authorities in accordance with the Entry into Israel Law, 5712-1952, and the Temporary Order Law, **with the exclusion of decisions made in accordance with section 3a1** (decisions of the humanitarian committee) and section 3c (individuals who made a special contribution to the State of Israel), would, henceforth, be adjudicated by the Courts of Administrative Affairs. Consequently, decisions made under sections 3a1 and 3c, will be adjudicated by the High Court of Justice [HCJ].
7. This petition concerns an application which was submitted to the committee for humanitarian affairs pursuant to section 3a1 of the Citizenship and Entry into Israel Law (Temporary Order) 5763-2003 (hereinafter: the "**Temporary Order Law**") and therefore this honorable court has the authority to adjudicate it.

## **The Parties to the Petition and Exhaustion of Remedies**

8. The petitioner is originally a resident of the Occupied Palestinian Territories [OPT], the widow of an Israeli resident and the mother of six minors, petitioners 2-7, Israeli residents, who live with her in Jerusalem.
9. Petitioner 8 is a not-for-profit association which acts to promote human rights and which has taken upon itself to protect, *inter alia*, the rights of residents of the West Bank and East Jerusalem *vis-à-vis* the Israeli authorities.
10. Respondent 1 is the chair of the humanitarian committee, which was established in accordance with section 3a1 of the Citizenship and Entry to Israel Law (Temporary Order), 5763-2003 (hereinafter: the "**Temporary Order Law**").
11. Respondent 2 is the population administration bureau in East Jerusalem, which is authorized to handle and approve applications for family unification of residents of East Jerusalem and to issue stay permits or residency permits to residents of the Area within the framework of family unification applications.
12. Respondent 3 is the minister authorized under the Temporary Order Law to accept or reject the recommendations of the humanitarian committee headed by respondent 1 and is the minister authorized under the Entry to Israel Law, 5712-1952, to handle all matters associated with this law.
13. Respondent 4 is in charge of maintaining the law and public order, *inter alia*, by the Border Police Unit.
14. On March 28, 2013 the petitioners submitted their application to arrange the status of the petitioner to the humanitarian committee. The facts underlying the application were supported, *inter alia*, by petitioner's affidavit which was attached to the application as exhibit A, and by a report of the social services bureau which treated the family and attested to its difficult condition, which was attached to the application as exhibit B.

A copy of the humanitarian application of March 28, 2013 together with its exhibits is attached and marked **P/3**.

15. On April 8, 2013 a confirmation regarding the submission of the application was sent to HaMoked by the humanitarian committee, which stated that the application would be put on the agenda for discussion in accordance with the order of the application's submission date (attached as Exhibit P/2).
16. On April 25, 2013 the petitioners submitted to respondent 2 a request to extend petitioner's stay permit in Israel in view of the tragic circumstances of a widow with six minors who depend on her and with no sources of income.

A copy of the request for a stay permit which was submitted to respondent 2 is attached and marked **P/4**.

17. On April 29, 2013 the same application was also sent to respondent 1.

A copy of the application sent to respondent 1 is attached and marked **P/5**.

18. On April 29, 2013 a reminder was sent to respondent 1 concerning petitioners' humanitarian application.

A copy of the reminder sent to respondent 1 is attached and marked **P/6**.

19. On May 9, 2013 a reminder was sent to respondent 2 concerning the request to extend petitioner's stay permit.

A copy of the reminder sent to respondent 2 is attached and marked **P/7**.

20. On May 29, 2013 another reminder was sent to respondent 1 concerning petitioners' humanitarian application and to respondent 2 concerning the request to extend the stay permit.

Copies of the reminders to respondents 1 and 2 are attached and marked **P/8 A-B**.

21. On June 12, 2013 respondent 2's response was given according to which petitioner's stay permit could not be extended after the death of her husband.

A copy of respondent 2's response is attached and marked **P/9**.

22. On June 30, 2013 and August 1, 2013 additional reminders were sent to respondent 1 concerning petitioners' humanitarian application.

### **Petitioners' Special Humanitarian Circumstances**

23. Mrs. \_\_\_\_\_ Rajbi, the petitioner, was born in Hebron on January 24, 1975. She spent her childhood and adulthood in Hebron as the sixth daughter in a family of 13 children. On June 28, 1994 the petitioner married Mr. \_\_\_\_\_ Salimi, an Israeli resident, ID No. 028193712 (hereinafter: the **husband**).
24. In 1995, the petitioner moved to live with her husband in his sister's house in Bab Al-Salsala (the Shalsholet Gate) in the old city of Jerusalem.
25. Over the years the spouses had six children: \_\_\_\_\_, born on January 5, 1996; \_\_\_\_\_, born in July 12, 1997; \_\_\_\_\_, born in May 9, 2002; \_\_\_\_\_, born in February 13, 2004; \_\_\_\_\_, born in January 22, 2006 and \_\_\_\_\_, born in February 9, 2008. As aforesaid, the children are all registered with the Israeli population registry like their father as permanent residents.
26. Only after her marriage the petitioner found out, for the first time, that she married a person who was suffering from severe epilepsy since he was a small child, as everybody in petitioner's close circle was very careful not to tell her anything about her husband's illness, before they were engaged to be married. Only after her husband had a severe seizure, a few months after their marriage, the petitioner became aware of his illness. And as if that was not enough, shortly thereafter she found out that he was addicted to alcohol and heavy drugs. When she was pregnant with her eldest daughter \_\_\_\_\_, the petitioner had to withstand marriage to a sick man who was also a drug addict and alcoholic.
27. In addition it should be emphasized, that the husband's health condition and addiction to drugs and alcohol turned him into a difficult and violent person, who was not home much and who did not provide for his family members. For many years the elder brother of petitioner's husband, \_\_\_\_\_, provided for the petitioner and her children, in consideration for the share of his brother, the husband, in their parents' inheritance. In 2009, when the husband was recognized as a disabled person and received disability allowances from the National Insurance Institute, \_\_\_\_\_ stopped providing for the petitioner and her children.

28. However, even after the husband started to receive allowances from the National Insurance Institute, he failed to provide for the petitioner and her children and did not cater for their needs. Accordingly, *inter alia*, instead of buying food for the children and the mother, who was appointed as their sole guardian, the deceased used to spend his disability allowances on gambling, drugs and alcohol. This state of affairs continued until his death.
29. For many years the husband neglected to arrange petitioner's status in Israel, although the petitioner, as specified above, moved to live with her husband in Jerusalem as early as 1995. Only in 2006 the husband submitted a family unification application for the petitioner, an application which was eventually approved in 2012.
30. As specified in petitioner's affidavit which was attached to the humanitarian application (exhibit A to the application) and in the opinion which was rendered by the social services authorities, which treated \_\_\_\_\_ and her family (exhibit B to the application), the petitioner and her children suffered throughout the years from emotional and physical violence which was exerted against them by the sick husband and father. Accordingly, *inter alia*, in addition to the severe neglect and failure to provide for his family and cater for its needs, petitioner's husband kept threatening her, time and again, that he would act to deport her from Jerusalem.
31. In conclusion, this petition concerns a widow and a mother of permanent residents of Israel, who after many years of suffering, neglect and economic, physical and emotional violence, managed to obtain stay permits. To date, after the death of the father of the family, the petitioner was left with no status in Israel and with no income which would enable her to provide for her family in a dignified manner. Other than a roof over their heads and the child and survivors allowances which the family receives from the National Insurance Institute, the family has nothing.
32. In addition to the difficult condition of the petitioner and her children, who literally struggle for a dignified existence, respondent 4 now comes and wishes to separate the petitioner from her children, to deport her from her home and leave the fatherless orphans, without their mother, as specified in the request for an interim order, while she is waiting for the decision of respondent 1 in the application to arrange her status in Israel.

### **The Legal Framework**

33. The petitioners will argue herein that notwithstanding the fact that, to date, respondent 1 acts within the time frame which was established in respondent 3's rules and procedures for the rendering of decisions, it is clear that petitioner's special case requires that an exception would be made and a decision rendered in her case forthwith. In addition, the petitioners will argue, that respondent 3, who does not provide the petitioner a safety net against her deportation from Israel while she is still waiting for a decision in her case, discriminates her and other residents of the Area in her condition, blatantly and without justification, as compared to applicants who submit humanitarian applications and who are not from the Area. In addition, respondent 4's outrageous conduct in petitioner's case is extremely unreasonable and unfair.

### **Granting Status to Widows of Citizens and Permanent Residents in Israel**

34. The procedure for the arrangement of the status in Israel for widows of Israeli citizens was established in a judgment dated August 2, 2009, which was rendered in HCJ 4711/02 **Daniella Hillel et al. v. The Minister of Interior et al.** (hereinafter: **Hillel**)(reported in Nevo) and a number of additional legal proceedings, which were joined together therewith and which concerned applications for status for widows, who were married to Israeli citizens. Following the **Hillel** judgment, procedure 5.1.0017 "**Procedure for Cessation of the Procedure for the Arrangement**



**of Status of Spouses of Israelis**" (hereinafter: the **procedure**) was amended, which concerns the disintegration of the family unit as a result of the spouses' divorce or the death of the Israeli spouse.

A copy of the "Procedure for Cessation of the Procedure for the Arrangement of Status of Spouses of Israelis" is attached and marked **P/10**.

35. It should be emphasized, that the Hillel judgment concerned widows of Israeli citizens, whose applications for status derived from section 7 of the citizenship law, rather than widows of permanent residents whose applications were submitted pursuant to the Entry into Israel Law, 5712-1952. Nevertheless, the underlying rationale is as equally relevant to widows of permanent residents.
36. It should be further noted, that whereas according to the procedure which was published following the Hillel judgment, the cases of widows are transferred for the examination of the **inter-ministerial committee**, the cases of widows who are residents of the Area, are transferred to the humanitarian committee which was established pursuant to section 3a1 of the Temporary Order Law, in view of the fact that to date, pursuant to section 2 of the **Temporary Order Law**, the inter-ministerial committee has no authority to examine their cases.

Section 2 of the Temporary Order Law provides that:

**For as long as this law shall remain in force, notwithstanding any other legal provision**, including section 7 of the Citizenship Law, **the Minister of the Interior shall not grant citizenship to an inhabitant of the Area** or a citizen or a resident of a country listed in the addendum pursuant to the Citizenship Law **and shall not grant any of the above a permit to stay in Israel pursuant to the Entry into Israel Law**, and the commander of the Area shall not grant a resident of the Area a permit to stay in Israel pursuant to the security legislation in the Area.

(emphases added, B.A.)

Section 3a1 of the Temporary Order Law provides that:

**Notwithstanding the provisions of section 2, the Minister of the Interior may**, for special humanitarian reasons, **with the recommendation of a professional committee** appointed by him for this purpose...

(emphases added, B.A.)

37. Therefore and accordingly, the cases of widows, residents of the Area, are transferred, if proper justification thereto is found, for the examination of respondent 1.
38. The application of the standards which were established in **Hillel** to widows of permanent residents, who are originally residents of the Area, was expressed in a decision which was rendered by this honorable court in HCJ 10041/08 **Hijaz v. Minister of the Interior** (still pending). In said case, which concerned a widow of a permanent resident, originally from the Area, who, before the death of her husband, did not take any part in the family unification proceeding as she was the second wife of her late husband, the honorable court held, in a decision dated February 10, 2011, that in its re-examination of the matter, the humanitarian committee should take into account, among its

considerations, "**the duration of stay in Israel, the fact that the petitioner is a widow** and that all her children live here in Israel", and referred to the guiding considerations set forth in **Hillel**. This, despite the fact that unlike the petitioner in this case, the status of the petitioner in the above referenced case has never been arranged.

### **Discrimination between Widows from the Area and Other Widows**

39. The applications submitted by widows from the Area also differ from those of other widows, in the manner and place in which the applications are submitted to the different committees. Whereas the applications of widows who are not from the Area which are submitted to the inter-ministerial committee, are submitted to respondent 3's bureaus, which, in turn, transfer the applications to the inter-ministerial committee, the applications of widows from the Area are submitted directly to the humanitarian committee without the intervention of respondent 3's bureaus.
40. Although it seems that the difference between the place and manner of submission of the different applications is merely a technical one and nothing more than that, this difference may work against the widows from the Area, as happened to the petitioner in the case at hand, who currently faces a real threat of deportation from Israel and separation from her children. We shall specify.
41. Section A.2. of respondent 3's procedure entitled "General Procedure concerning Receipt of all sorts of Applications by the Population Administration Bureaus and the Filing of an Appeal on the Decisions of the Bureaus" No. 5.1.000, provides that: "**Until a decision is rendered in the Application or in the Appeal the applicant/appellant will not be deported.**"

A copy of the "General Procedure concerning Receipt of all sorts of Applications by the Population Administration Bureaus and the Filing of an Appeal on the Decisions of the Bureaus" is attached and marked **P/11**.

42. Hence, according to the procedure, foreign widows who are not from the Area and accordingly, the applications of whom to the inter ministerial committee are submitted to respondent 3's bureaus, will not be deported from Israel while their application is still pending before the inter ministerial committee. On the other hand, widows from the Area who are in the same condition as those whose applications are submitted to the inter ministerial committee, are severely discriminated against and are not protected from deportation.
43. The conclusion which arises from all of the above is that an unbearable injustice is inflicted upon the petitioner – and other applicants from the Area. While waiting for respondent 1's decision in her case, hoping that it would enable her to legally stay in Israel with her minor children, respondent 3 knowingly deprives her of any safety net. It should be reiterated and emphasized again that any applicant who is not from the Area and in whose matter a humanitarian application is pending, is entitled to the above safety net.
44. There is no doubt that the petitioner too, who was left as a single mother of six children, is entitled to wait in Israel for a decision in her matter by respondent 1, without fearing that she would be deported from her home and is entitled to status in Israel which will enable her to continue to live with her children in her house in Jerusalem.
45. Regretfully, notwithstanding the above said, the respondents refused, jointly and severally, to secure petitioner's continued presence in Israel and to refrain from deporting her. On the contrary, the last notice which was given to her stated that without a court order she would be deported from her home to the Area.

## **Scandalous, Unreasonable and Unfair Conduct**

46. The administrative authority must act reasonably, proportionately and fairly and for the purpose of attaining a proper objective subject to governing principles which control the scope of respondents' discretion.
47. It is clear that respondent 4's conduct, which threatens to deport the petitioner from Israel, knowing that she is a widow with six children who is waiting for a decision in a humanitarian application which was submitted in her matter to respondent 1, constitutes a blatant conduct infected by extreme unreasonableness and unfairness which is practically scandalous.

On this issue see: HCJ 1689/94 **Harari et al. v. Minister of the Interior**, IsrSC 51(1), 15 and HCJ 840/79 **Builders and contractors Center in Israel v. The Government of Israel**, IsrSC 34(3), 729 and especially in pages 745-746, the words of the Honorable Justice (as then titled) A. Barak as follows:

The state, through those who act on its behalf, is the trustee of the public, and the public interest and properties were entrusted to it to be used for the benefit of the public at large... this special status imposes on the state the obligation to act reasonably, honestly, based on pure motives and in good faith. The state must not discriminate against, act arbitrarily or in bad faith, or be in a conflict of interests situation. Shortly, it must act fairly.

48. We would also like to note that like any proper administrative authority respondent 4 is also obligated to take into account humanitarian considerations while exercising its discretion. In HCJ 794/98 **Sheikh Abd al-Karim Obeid v. Minister of Defense**, IsrSC 55(5), 769 pages 773-774, judgment rendered by President Barak:

The State of Israel is a state of law; The State of Israel is a democracy which respects human rights and seriously weighs humanitarian considerations. We make these considerations because compassion and humanity constitute an integral part of our nature as a Jewish and democratic state; we make these considerations because the dignity of each person is valuable to us, even if he is our enemy (compare HCJ 320/80 **Qawasmeh v. Minister of Defense**, IsrSC 35(3), page 113, 132).

49. It is inconceivable that the respondents, jointly and severally, will give a hand to the abuse of a poverty stricken woman with small children who depend on her and will not prevent her deportation for as long as she is waiting for the decision of respondent 1.

## **Conclusion**

50. The petitioner, who lives in Israel with her six minor children, was left, after her husband's death, with no legal status in Israel and exposed to deportation. Therefore, immediately after her husband's death, the petitioner submitted an application to respondent 1 and requested to be allowed to continue to legally live in Israel, with her children. However, as specified in the petition, in view of the manner and place of submission of the application to respondent 1, the petitioner and others like her are being cruelly discriminated against as compared to other widows, so that unlike the latter, even if their applications for status are pending, they are not protected from the fear of being deported from Israel.
51. Said discrimination is doubled by the unreasonable and unfair conduct of respondent 4 which, despite of the fact that it is aware of petitioner's humanitarian condition and the application which is pending before the respondent in her matter, threatens to deport the petitioner within the next few days from Israel and leave the six children alone.
52. Notwithstanding the fact that respondent 1 acts in this case within the time frame which was established in respondent 3's rules and procedures, in view of petitioner's humanitarian circumstances and the situation encountered by her *vis-à-vis* respondent 4 which wishes to deport her from Israel, it would be appropriate that a decision in her matter be given in the very near future, and the sooner the better.
53. In view of the extremely short time frame within which the petitioners had to act before petitioner's deportation becomes an established fact, they did not have enough time to put all of their claims in writing within the framework of the petition. Therefore, the petitioners request this honorable court, to enable them, if and to the extent required, to complete their arguments at a later time.
54. In view of the above, the honorable court is hereby requested to issue an *order nisi* as requested, which will consist of the remedies requested in the beginning of this petition, and after hearing respondents' response, make the order absolute. In addition the court is requested to order the respondents to pay petitioners' costs and legal fees.

August 20, 2013

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Benjamin Agsteribbe, Advocate  
Counsel to petitioners

[File No. 71333]