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Jerusalem, December 11, 2014

Our number:
(Please cite in response)

To:
GOC Home Front Command
By fax: 08-9783349

Dear Sir,

Re: Assigned Residence Order
Mr. Abu Ghanem, ID No.

On behalf of my client in reference, whom I am representing on behalf of HaMoked: Center for the Defence of the Individual, I make the following communication:

1. My client in reference is a resident of East Jerusalem, born in 1977, married and father of three children ages five, six and seven.

The Order:

2. On December 4, 2014, a military unit arrived at my client's home in East Jerusalem, and in his absence, delivered the Order to his family members.
3. The Order prohibits my client from entering or remaining in Jerusalem due to an assessment that this is "necessary to ensure national security and public order and safety". The term of

the Order is six months beginning on November 30, 2014. The Order provides for an objection within seven days, and an oral hearing.

4. My client insists on his right to make his arguments against the Order. This right is of particular importance given the injurious, unreasonable and disproportionate Order which contravenes Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation, and harms my client by removing him from his home, family, work and natural environment.

The right to a hearing

5. **Yet, the right to a hearing awarded to my client in the Order suffers from a number of substantive flaws, which void it and render it completely ineffective. The conditions under which my client is required to exercise his right and defend against the Order fail to meet the principles established in law in general and in the case law generated by the Supreme Court in particular. As detailed below.**

Hearing after the fact:

6. The Order went into effect upon signing thereof. According to the rulings of the Supreme Court, hearings should generally be held prior to a decision rather than after its implementation. The authorities failed to demonstrate any reason why this rule should not have been followed in this instance and why my client should be deported from his home, removed from his family and cut off from his work and social milieu immediately, without being given an opportunity to plead his case **before** the Order went into effect.
7. It would seem that the right to a hearing, as offered today, is not extended with an open heart, but is rather lip service paid after the Order was issued and after the decision was made, and that the entire purpose of the hearing is to legitimize the Order.

A vague order:

8. The hearing must conform with the rules of natural justice and the authority's duty of fairness. These include the subject's right to know the reasons for the violation of his rights and the harm done to him. The Order mentions no specific facts, but rather cites the general causes and headings that appear in the Regulations. As such, the Order fails to meet the elementary duty to inform my client of the alleged facts which form the basis for issuance of the Order.

Additionally, my client was not provided with the evidence/information which form the basis for this Order. This is another flaw undermining the legality of the Order and denying my client a veritable, honest opportunity to make his arguments and disprove the allegations.

9. Such fundamental details are absent from the Order, and without them, the procedure offered to my client cannot be considered a "right to a hearing" in any way. In these conditions, my client would clearly remain in the dark with respect to the allegations against him and would be unable to make his arguments, refute the allegations, or bring forward contrasting evidence. This flaw goes to the core of the Order and, in effect, voids the right to a hearing.

Injurious order

10. This is all the more valid considering that my client is being removed from his home and the city in which he lives and maintains a center of life, from his source of work and livelihood and from his social milieu for a period of six months. Given the severe and disproportionate violation of his rights, property, livelihood and dignity, he must be granted a veritable right to make his arguments, and a proper, honest opportunity to confront the allegations against him.
11. It is not by chance that the power to issue the Order is found in the draconian, obsolete Mandatory era Defense Regulations, enacted in the previous century. The very use of the Defense Regulations in this manner is wrongful, discriminatory and incongruent with Basic Laws and or international law.
12. In view thereof, I request to have the Order revoked, or, at minimum, suspended, pending provision of information and details about the allegations and the cause for issuing the Order which go beyond the general headings appearing in the Order, including, the substance of the impugned actions, when they were committed, the evidence on which the allegations rely, etc., in order to allow my client an effective hearing with respect to the Order.
13. My client reserves the right to supplement and expand his arguments against the Order, both upon receipt of the requested information and during the oral hearing he seeks to hold.

Sincerely,

Labib Habib, Adv.