

Date: 24 March 2005

In the response please cite: 37342

Colonel Yair Lotshtein
Military Legal Advisor for the West Bank
Office of the Military Legal Advisor
P.O.B. 10482
Beit El 90300

By fax

Dear Sir,

Re: **Unacceptable attempt to deport two West Bank residents and unlawful detainment**
Mr. _____ Alwawi, ID No. _____
and Mr. _____ Alwawi, ID No. _____
residents of Abu Dis

1. On 9 March 2005, my clients, two brothers who have been living in the West Bank for 8 years, were detained for the entire day at the "container" checkpoint. The reason for their detainment was their deportation to Gaza. My clients committed no crime, and have never been arrested or interrogated. Their only "crime" is that their IDs list their registered address as "Gaza", which they left eight years ago.
2. **My client, _____ Alwawi, was on his way to meet his bride and celebrate the signing of their marriage contract. That day, which was supposed to be one of the most joyful and exciting days of his life, became a continuous nightmare.** That morning, he was detained along with his brother at the checkpoint. The soldiers took their IDs and ordered them to wait. Then, they asked for their mobile phone numbers. Someone, who the petitioners believe to be an ISA officer, called them on their mobile phone and spoke Arabic. He told them they had to wait to be picked up and taken to Gaza. My client's claims that he was getting married that day and that he lives in the West Bank were to no avail. Only in the evening, after HaMoked intervened, and after we explicitly stated our intention to submit an immediate petition to the HCJ, the relevant officials conceded, and my clients were released (after being told by a soldier to "go to Gaza").
3. **I request that you inform me of the identity of the officials responsible for the unlawful delay and of the measures taken in this regard.**
4. I emphasize again – **an attempt to deport Palestinians from the West Bank to the Gaza Strip on the basis of registered address is an act which lacks authority and is thus unlawful.** It lacks authority, as the West Bank and the Gaza Strip are a single territorial unit. It lacks authority, as in the absence of an individual security preclusion, every resident is entitled to change his place of residence as he sees fit. It lacks authority since the exclusive authority to change a registered address in the population registry belongs to the Palestinian Authority (which is only obligated to notify Israel). It lacks authority as the only legal means to deport a person from the West Bank to Gaza is an assigned residence order (for further details see our position in HCJ 10676/04, the Shamlakh case, still pending before the Court). There is no such thing as an "illegal alien" insofar as a Palestinian living in the West Bank or Gaza is concerned, regardless of registered address.

5. In light of this and considering the case at hand, **I request that you inform me what you intend to do to prevent such incidents from occurring in the future and to prevent people from being unlawfully deported from their place of residence in the West Bank to Gaza.**

Supererogatorily, enclosed are documents proving that my clients' center of life is in the West Bank:

A copy of an application by _____ Alwawi for change of address dated August 2004, appendix A.

A copy of an application by _____ Alwawi for change of address dated August 2003, appendix B.

A copy of _____ Alwawi's employee card, attached to appendix A.

A copy of a letter by Mr. _____ Alwawi's employer, appendix C.

Respectfully,

Gill Gan-Mor. Att.

Enclosed: A-C

Copies: Att. Yuval Roitman, HCJ Division