HCJ 282/88

Mubarak 'Awad

v.

1. **Yitzhak Shamir, Prime Minister and Minister of Interior**
2. **Police Minister**

At the Supreme Court Sitting as the High Court of Justice

(May 9, 1988, June 5, 1988)

Before Justices, A. Barak, G. Bach, S. Netanyahu

A. Gal, Y. Kutab - on behalf of the petitioner

N. Arad, Senior Deputy and Person in Charge of HCJ Division at the State Attorney's office, M. Blas Deputy State Attorney - on behalf of the respondents

Judgment

Justice A. Barak

On May 5, 1988, the Minister of Interior (respondent 1 in the petition, hereinafter: the respondent) issued an order for the deportation of the petitioner from Israel. At the same time, the petitioner was arrested. The petition before us is directed against the deportation order and the arrest order.

The facts

1. The petitioner was born in Jerusalem on August 22, 1943. After the Six Day War, he was enumerated in the census held on June 19, 1967 and was given an Israeli identity card. On May 10, 1970, the petitioner travelled, using a travel document issued by the ministry of interior, to the USA for the purpose of academic studies. In 1973, he completed his undergraduate studies (B.A.). He then applied for and received a permit to remain in the USA for the purposes of employment (also known as a green card). In 1978, he completed his graduate studies (M.A.) and in that year, received, as per his application, American citizenship. In 1982, the petitioner completed his PhD thesis. Throughout the period (i.e. since leaving Israel in 1970 until 1983), he visited Israel three or four times. These were short visits made with an American document (a reentry permit initially and an American passport subsequently). His status in the country was that of a tourist.

   Since 1983, the petitioner was in Israel some 15 times for periods spanning a few days to three

months. In all of these cases, the petitioner used an American passport to enter Israel. In 1984, the petitioner married a woman, a resident and citizen of the USA. The wedding took place in Israel.

2. On May 18, 1987, the petitioner contacted the ministry of interior requesting to replace his worn out identity card with a new one. His request was denied (on July 20, 1987). The reasoning for this decision was that the petitioner – who was in the country pursuant to a tourist visa – ceased to be an Israeli resident. The petitioner's last entry into Israel was on August 21, 1987 and the visa that was granted to him upon this entry expired on November 20, 1987.
   About a month prior to the expiry of this visa (on October 22, 1987), the petitioner applied to have his visa extended for six months. His application was denied (on October 30, 1987). The refusal letter stated that the visa would expire on November 20, 1987 and that the petitioner was to leave the country no later than that date. Since then, the petitioner has been present in Israel without his visa being extended. As stated, on May 9, 1988, some six months after the visa expired – the Minister of Interior ordered the petitioner's deportation from Israel. The reason for this was that during the time he spent in Israel, and particularly recently, while, according to the Minister of Interior, illegally present in Israel, the petitioner has been openly and intensively engaged in activism against Israeli control of the Judea, Samaria and Gaza Areas. The petitioner, according to the Minister of Interior, openly encouraged residents of the Areas to commit civil disobedience as expressed, *inter alia*, in breaking the law, disobeying the instructions of the administration and not cooperating with the administration. According to the respondent, the petitioner's actions go beyond this. In any case, the petitioner's open actions, which he does not deny, particularly those carried out against the backdrop of recent events, suffice to justify non-issuance of a visa and issuance of an order for the deportation of the petitioner from Israel.

3. In 1983, the petitioner published a book in Arabic and English entitled Non-Violent Resistance: A Strategy for the Occupied Territories. In January 1985, the petitioner established an institution, which he heads, in Jerusalem: The Institution for the Study of Non Violence. There are different versions as to the essence and worldview of the institution. The petitioner claims that he opposes Israel's control of the "held territories" but calls for action against it only by non-violent means. The petitioner noted methods of non-violent struggle such as a boycott of products, refusal to work in Israeli workplaces, refusal to pay taxes or fill out forms, yet, all these acts of resistance are to be carried out, according to the petitioner's worldview, on one condition: no act of physical violence is to be committed. The petitioner espouses the sovereign existence of the State of Israel along with the sovereign existence of a political entity for the Palestinians and the two states, according to his doctrine and opinions will live in peace and acceptance. The petitioner went so far as saying, on Israeli television (in early April) that:

   > One has to arrive at full reconciliation, including negotiations with the refugees regarding compensation for their abandoned property and to turn over a new leaf in the relationship between the Jewish people and the Palestinian people.

   The petitioner believes he is one of the moderates among Palestinian leaders. According to his principles, "violent reactions such as stone and Molotov cocktail throwing, which presently occur in the 'held territories' should be rejected and more violent actions all the more so." Conversely, "Yossi" who works for the Israel Security Agency's counter terrorism and insurgency division in the areas of Jerusalem, Judea and Samaria and whose affidavit was attached to the respondent's response notes that "the alleged moderate image the petitioner attempts to create for himself is no more than a facade which does not correspond to his real ambitions." According to "Yossi", the petitioner's political goal is "the liberation of the Areas from Israeli rule and thereafter the establishment of a bi-national Palestinian Israeli state which is to have a Palestinian character." According to "Yossi"'s version, the petitioner preaches for civil disobedience and calls and preaches for, *inter alia*, a boycott of Israeli products and services, refusal to pay taxes, organized abandonment of workplaces in Israel,

non-carrying of identity cards, boycott of collaborators and other such actions. Initially, the petitioner's actions did not reverberate among the Arab public. Ever since the beginning of the uprising in the Areas in December 1987, his ideas began to be expressed in public announcements issued by the uprising headquarters and as a result, in real actions taken by residents of the Area on the ground. These actions are, *inter alia*, laborers from the Areas refraining from going to work in Israel, non-payment of taxes, resignation of police officers, attacks on collaborators, calls for the resignation of mayors and more. "Yossi" notes that "the petitioner himself took part in the publication of announcements which included, *inter alia*, a call for violent and hostile actions against the state on the part of residents of the Area." In "Yossi"'s opinion, the petitioner's actions these very days constitute a substantive breach of security and public order and his ideas and goals have an immediate effect on events in the Areas. The petitioner's continued presence in Israel constitutes a substantive breach of security and public order." This opinion by "Yossi" guided the respondent when ordering the petitioner's deportation from Israel.

The legal argument

4. Petitioner's counsel's line of argument is as follows: once the law, jurisdiction and administration of Israel were applied to East Jerusalem and the surrounding area, the residents of East Jerusalem, petitioner included, attained a special status. This status grants him "quasi citizenship" or "constitutional residency". The Minister of Interior may not revoke this status of residents of East Jerusalem. The Entry into Israel Law, 5712-1952 does not at all apply, as East Jerusalem residents did not obtain their special status pursuant to the Entry into Israel Law and a power granted pursuant to this law cannot revoke this status. Thus, the petitioner has been and remains a resident of Israel and must not be deported from it. Alternatively, even if the special status of East Jerusalem residents were revocable, indeed the conditions for such have not been met. These conditions originate in English common law or international customary law and according thereto, the petitioner continues to be a resident of Israel for all intents and purposes. As another alternative, counsel for the petitioner claims that the petitioner is not to be deported even according to the Entry into Israel Law, since in the circumstances of the matter, he has not lost his residency and it remains intact. In any case, the Minister of Interior did not take the petitioner's case into consideration nor heard his arguments. True, according to the Entry into Israel Regulations 5734-1974, a permit for permanent residency expires if the holder of the permit settles in a country other than Israel. The regulations also stipulate what constitutes settlement in a country other than Israel (Regulations 11(c) and 11a). However, petitioner's counsel believes that these regulations are invalid since they exceed the power to enact secondary legislation granted to the Minister of Interior under the Entry into Israel Law. Finally, the deportation order is unacceptable as it was issued for inappropriate political reasons and discriminates against the petitioner. The deportation order is extremely unreasonable and hence must be revoked.

5. Respondent' counsel's arguments are as follows: with the application of Israel's law, jurisdiction and administration to East Jerusalem, the residents of East Jerusalem became permanent residents and they reside in Israel permanently pursuant to the provisions of the Entry into Israel Law. Under Regulations 11(c) and 11a of the Entry into Israel Regulations, the petitioner's permanent residency permit expired once he left Israel and settled in the USA. It was found that since the petitioner's permanent residency permit expired in November 1987, the petitioner has been present in Israel without a permit. These circumstances give rise to the Minister of Interior's power to deport him from Israel. This power is being lawfully exercised in the circumstances of the case, in view of the petitioner's activism.

6. This legal front raises three major difficulties: first, whether the Entry into Israel Law applies to the petitioner's permanent residency in Israel; second, whether the Minister of Interior is empowered to deport the petitioner pursuant to the Entry into Israel Law, if the same applies; third, whether the

power to deport was lawfully exercised. Each of these difficulties gives rise to secondary difficulties. We begin with the first question.

The application of the Entry into Israel Law

7. Sec. 11b of the Law and Administration Ordinance, 5708-1948 stipulates that: "the law, jurisdiction and administration of the state shall apply to any territory of the land of Israel which the government sets forth in an order." In the Law and Administration Order (No. 1) 5727-1967, the government set forth that "East Jerusalem" is a territory of the land of Israel wherein the law, jurisdiction and administration of the state apply. This determination created an integration of the area and its residents into the law, jurisdiction and administration system of the state. East Jerusalem was united with Jerusalem. This is the significance of the annexation of East Jerusalem to the state and its becoming part thereof (HCJ 283/69 [1] p. 424). With the application of the law, jurisdiction and administration, synchronicity was created between the state's law, jurisdiction and administration and Jerusalem and those who dwell therein. On some issues, this synchronicity gave rise to particular difficulties (see, for example, Prisoner Petition 687/69 [2]). There was a need for special arrangements to create a smooth transition of Israel's legal regime. For this purpose, the Law and Administration Law 5728-1968, later turned into the Law and Administration Law [incorporated version] 5730-1970) was enacted. It regulated particular problems related to license granting, the status of companies, certain occupations, the application of the Absentee Property Law 5710-1950, and other such issues regarding which special provisions were necessary in order to incorporate East Jerusalem and its residents into the state. In most other matters, there was no need for any coordinating arrangements as in terms of its internal provisions, Israeli legislation integrated well with the new reality (compare HCJ 205/82 [3]).

8. The Entry into Israel Law addresses two major issues: entry into Israel (Sec. 1(a)) and residency in Israel (Sec. 1(b)). On the issue of residency in Israel, the law stipulates:

> The residency in Israel of a person who is not a citizen of Israel or a holder of an oleh visa or an oleh certificate shall be by a residency permit under this law.

This provision does not apply exclusively to persons who entered Israel. It is an independent provision which applies to residency in Israel irrespective of the issue of entry into Israel. Thus, for example, this provision regulates the residency in Israel of newborns born in Israel to persons who are not Israeli citizens or holders of an oleh visa or certificate. Indeed, the law distinguishes between a visa (which addresses a permit to enter Israel) and a permit (which addresses residency in Israel). Residency permits are granted by the Minister of Interior for various periods of time. The farthest reaching of these is a permit for permanent residency (Sec. 2(a)(4)).

9. This is the background for the question regarding correspondence between the status of East Jerusalem residents pursuant to the application of the law, jurisdiction and administration of the state and the provisions of the Entry into Israel Law. Petitioner's counsel argues that the Entry into Israel Law does not apply, that the status of residents of East Jerusalem is a special status and that, in relation to residency in Israel, they have a special status of "quasi citizenship" or "constitutional residency". I do not favor this approach. The purpose of the legislation, as we have seen, was to create synchronicity between the law, jurisdiction and administration of the state and East Jerusalem and those present therein. The interpreter's goal is to validate this purpose inasmuch as this can be anchored in the words of the law. Such anchoring raises no difficulty, since the residents of East Jerusalem can be viewed as having been granted a permit for permanent residency. True, ordinarily, the permit is granted in an official document, but this is not imperative. The permit may be granted without an official document and the granting of the permit can be implied by the circumstances of the matter. Indeed, pursuant to this recognition of East Jerusalem residents who were enumerated in

the census held in 1967 as persons lawfully residing therein permanently, they were entered in the population registry and given identity cards. This interpretive approach realizes the purpose of the legislative pieces which applied the law, jurisdiction and administration of the state to East Jerusalem; it prevents the existence of legal "gaps"; it creates equality among all persons lawfully present in Israel (who are not citizens or holders of oleh certificates); it corresponds to the practices used throughout the years (see HCJ 293/87, HCJ Various Requests 418/87 [4]; HCJ 209/73 [5]; it prevents the existence of a new status of "constitutional residency" or "quasi citizenship" which are not mentioned in the law and whose rules are a mystery. Indeed, it is difficult to cohere the existence of a "quasi citizenship", as counsel for the petitioner argues. As known, for reasons relating to the interests of the residents of East Jerusalem, they were not granted citizenship without their consent and each was given the possibility to apply and receive Israeli citizenship according to his own wishes. Some applied and received Israeli citizenship. The petitioner, and many like him, did not. Since they refrained from obtaining Israeli citizenship, it is difficult to accept their claim regarding "quasi citizenship" which bears only rights and no duties. Furthermore: under certain conditions, it is possible to revoke the citizenship of a person who was naturalized (Sec. 11(a) of the Entry into Israel Law, 5712-1952). Yet, this "quasi citizenship" is irrevocable. Thus, an anomaly which is neither justified nor logical is created. In his arguments before us, counsel for the petitioner raised various notions according to which the "gap" created in the status of the residents of East Jerusalem is filled by English common law or the rules of customary public international law. As for us, we asked whether, in these circumstances, the gap could not be filled as per the Legal Foundations Law 5740-1980. Indeed, we have no need to examine the artificial legal constructs suggested by counsel for the petitioner. We are satisfied that there is correspondence between the application of the law, jurisdiction and administration of the state to East Jerusalem and the Entry into Israel Law and that this correspondence leaves no gap which requires the creation of dubious legal constructs. In this context, counsel for the petitioner claimed that applying the Entry into Israel Law to the permanent residency of the residents of East Jerusalem is inconceivable as this means that the Minister of Interior could, with a single breath, deport all the residents of East Jerusalem by way of revoking their permanent residency permit. This claim does not hold. The revocation power held by the minister does not turn permanent residency into residency by grace. Permanent residency is by law and only proper considerations may give rise to the exercise of the powers of the Minister of Interior. It is superfluous to note that the exercise of this power, is, in practice, subject to judicial review.

10. In conclusion: the law, jurisdiction and administration of the state apply to East Jerusalem. Pursuant to this application, the Entry into Israel Law also applies to East Jerusalem and according to the same, the presence in Israel of East Jerusalem residents who were not naturalized is by a residency permit and anyone who was enumerated in the census held in 1967 is considered as having been granted a permit for permanent residency. The petitioner is among those enumerated in 1967 and must therefore be viewed as having had a permit for permanent residency.

The power to deport from Israel

11. The Entry into Israel Law stipulates that the Minister of Interior may issue a deportation order against a person who is not an Israeli citizen or an oleh if he is "present in Israel without a residency permit" (Sec. 13(a)). It has been found that a condition for exercising the power to issue a deportation order is that the person is in Israel without a residency permit. As we have seen, the petitioner was granted a permit for permanent residency in 1967. It follows that the Minister of Interior's power to deport is subject to the petitioner's not possessing a permit for residency in Israel. According to everyone involved, his permit for residency in Israel expired (in November 1987) inasmuch as this permit was based on the tourist visa granted to the petitioner. However, did the residency permit the petitioner have since 1967 expire? All agree that the Minister of Interior did not revoke the petitioner's residency permit pursuant to the power vested in him under Sec. 11 of the Entry into Israel Law. The doubt is whether the residency permit expired of itself. On this issue, opinions differ. Petitioner's

counsel argues, as part of his alternate argument, that the petitioner holds a permanent residency permit which did not expire, despite the time he spent in the USA. Respondent's counsel, on the other hand, claims that the petitioner's permanent residency permit expired once the petitioner left Israel and settled in the USA.

12. The Entry into Israel Law does not stipulate any express provision that a permanent residency permit expires if the holder leaves Israel and settles in a country other than Israel. Provisions on this issue may be found in the Entry into Israel Regulations (hereinafter: the entry regulations), enacted pursuant to the Entry into Israel Law. Regulation 11(c) of the entry regulations stipulates that "the validity of the permanent residency permit expires if the holder leaves Israel and settles in a country other than Israel." Regulation 11a stipulates:

> …a person shall be considered as having settled in a country other than Israel if one of the following applies:
>
> (1) He remained outside Israel for a period of at least seven years… (2) He received a permit for permanent residency in that country; (3) He received the citizenship of that country by way of naturalization."

There is no doubt that the appellant comes under the terms of regulation 11a of the entry regulations as he meets each of the three conditions stipulated therein – conditions, any one of which would suffice to invalidate the permanent residency permit. The petitioner remained outside Israel since 1970; he received a permit for permanent residency in the USA; he received American citizenship (in 1978) by way of naturalization (HCJ 293/87, HCJ Various Requests 418/87 [4]).

Indeed, petitioner's counsel is aware of this difficulty which the petitioner faces. In order to overcome it, petitioner's counsel presented the argument that regulation 11(c) of the entry regulations and, it follows, regulation 11a – is null and void, as it exceeds the power of the Minister of Interior. Counsel for the respondent counters that the section is valid and pursuant thereto, the petitioner no longer holds a permit for permanent residency. However, counsel for the respondent adds that even without the aforesaid regulations, the petitioner's permanent residency permit expired as, in practice, his ties to Israel expired as the petitioner left Israel and settled in the USA while obtaining American citizenship. To this, petitioner's counsel replies that in practice, the petitioner remained connected to Israel, that he never rescinded his wish to return to it, that his time in the USA was for the purposes of studies only and that his settlement and naturalization in the USA were solely for the purpose of making these studies possible. Thus, two "disputed territories" arise between the parties: one regarding the validity of regulations 11(c) and 11a of the entry regulations; the other relating to the petitioner's status regardless of the regulations.

13. As we have seen, under regulations 11(c) and 11a of the entry regulations, a permanent residency permit expires if the permit holder leaves Israel and settles in a country other than Israel. According to counsel for the petitioner, the Minister of Interior was not empowered to issue these regulations and they are therefore null and void. I cannot accept this claim. The Entry into Israel Law expressly empowers the Minister of Interior to "prescribe, in a visa or permit of residence, conditions upon the fulfillment of which the validity of such visa or permit shall depend" (Sec. 6(2)). Such "terminating" conditions may be of an individual nature or a general nature. Regulations 11(c) and 11a must be considered as stipulating terminating conditions of a general nature. Indeed, during the [British] mandate and in the early days of the state, this legislative technique of an "internal" condition in the permit was apparently needed (see, for example, Sec. 7. of the Crafts and Industries Ordinance (regulation thereof), the validity of which was preserved in Sec. 43 of the Business Licensing Law 5728-1968). Later, the approach changed and conditions stipulated by the licensing authority were no longer viewed as "internal" conditions which lead to the expiration of the license of itself, but

"external" conditions empowering the licenser to render the license expired "externally" (compare Business Licensing Law, Secs. 9(74) to 11(c). The Entry into Israel Law uses the "internal condition" method and once it empowers the Minister of Interior to issue such conditions, I see no grounds for the claim regarding the regulations having been enacted *ultra vires*.

14. I have thus far examined the validity of the permanent residency permit under the entry regulations. In the arguments presented to us, the question of the validity of the permanent residency permit was also examined without reference to the regulations. Indeed, regulations 11 and 11a were issued in 1985 (Entry into Israel Regulations (Amendment No. 2) 5745-1985), and before they were issued the validity of the permit was examined pursuant to the Entry into Israel Law itself. I am of the opinion that one can also reach a conclusion regarding the expiration of the permanent residency permit without the regulations and pursuant to an interpretation of the Entry into Israel Law. As stated, the Entry into Israel Law empowers the Minister of Interior to grant a residency permit. This permit may be for the period of time enumerated therein (up to five days, up to three months, up to three years) and it may be for permanent residency.

    Obviously, a permit for a set period of time expires "of itself" once the period ends and there is no need for an "external" act of revocation. Can a permit for permanent residency expire "of itself" without an act of revocation by the Minister of Interior? I believe the answer to this is affirmative. A permit for permanent residency, when granted, is based on a reality of permanent residency. Once this reality no longer exists, the permit expires of itself. Indeed, a permit for permanent residency – as opposed to the act of naturalization – is a hybrid. On one hand, it has a constituting nature, creating the right to permanent residency; on the other hand, it is of a declarative nature, expressing the reality of permanent residency. Once this reality disappears, the permit no longer has anything to which to attach, and is, therefore, revoked of itself, without any need for a formal act of revocation (compare HCJ 81/62 [6]). Indeed "permanent residency", in essence, is a reality of life. The permit, once given, serves to provide legal validity to this reality. Yet, once the reality is gone, the permit no longer has any significance and it is therefore revoked of itself.

15. Once we have arrived at this point, the question is: what are the tests according to which permanent residency terminates? This question is not at all simple. The expression "permanent residency" – which we are to interpret – is a "vague" expression the scope of which must be determined as per the purpose and goal of the legislation. In the matter of the petition at bar, we need not examine all contexts of the expression. Suffice it to say, by negation – as indeed courts do in similar matters: HCJ 269/80 [7] – that a person who left the country for a long period of time (in our case, since 1970), acquired permanent residency status in a different country (compare HCJ 103/86 [8]) and even acquired, in that country, of his own will, citizenship whilst taking all the necessary actions in the USA for the purpose of acquiring American citizenship – is no longer a permanent resident in the country. This new reality reveals that the petitioner uprooted himself from the country and rooted himself in the USA. His center of life is no longer the country but the USA. It is superfluous to note that it is often difficult to point to a specific point in time at which a person ceased from permanently residing in the country and that there is certainly a span of time in which a person's center of life seemingly hovers between his previous place of residence and his new place of residence. This is not the case at hand. In his behavior, the petitioner demonstrated his wish to severe his tie of permanent residency with the country and create a new and strong tie – permanent residency initially and citizenship ultimately – with the USA. True, it may be that the motivation for this wish was obtaining certain advantages in the USA. It may be that in his heart of hearts he aspired to return to the country. Yet, the decisive test is reality of life as it transpires in practice. According to this test, the petitioner transferred his center of life to the USA at some point, and he is no longer to be considered as permanently residing in Israel.

16. I have therefore reached the conclusion that according to the provisions of the Entry into Israel Law, the petitioner is not lawfully present in the country as he is present therein without a residency permit. I have reached this conclusion in light of an examination of the primary argument made by counsel for the petitioner that the Entry into Israel Law does not apply to his case and on the basis of his alternative argument that according to the Entry into Israel Law, he holds a permanent residency permit. In view of this conclusion, I no longer need to review the preliminary question, whether the petitioner was permitted to make these arguments, as indeed, his own entry into Israel was made on the basis of American documents (first the reentry permit and then the American passport) and not on the basis of some claim to a right to permanent residency. Indeed, it is a worthy question, whether a person may present himself as someone who has no permit for permanent residency and gain, according to this presentation, visas and residency permits and later make an argument which is based on a completely different state of affairs. As stated, we have decided to review the petitioner's arguments on their merits and leave the question raised in this context for further review.

Was the deportation power lawfully exercised?

17. We have seen, therefore, that the petitioner – who is not a citizen of Israel – is present in Israel without a residency permit. Under these circumstances "the Minister of Interior may issue a deportation order against him…" (Sec. 13(a) of the Entry into Israel Law). Therefore, the Minister of Interior does have the power to deport. According to counsel for the petitioner, the deportation power was unlawfully exercised as the respondent made extraneous and unacceptable considerations. Moreover, the respondent's decision is tainted by extreme unreasonableness as the deportation of the petitioner would cause the state severe damage. Finally, the decision to deport is tainted by wrongful discrimination. In her response, the respondent's counsel notes that the respondent has absolute discretion which does not require reasoning. To the point of the matter, the respondent's consideration was lawful as the petitioner's actions may harm public order and safety.

18. The Minister of Interior's power to order the deportation of a person who is present in Israel without a residency permit is broad. However, it is not limitless. As any state power, it must be exercised within the scope of the purposes of the empowering law. The general considerations which disqualify any administrative discretion also disqualify the discretion of the Minister of Interior regarding the deportation of a person from Israel (HCJ 100/85, 136, 137[9]). As we have seen, the foundation for the respondent's discretion is the recognition that the petitioner's actions disrupt public order and safety, as he openly and intensively engages in activism against Israel's control of Judea, Samaria and the Gaza Strip. We need not resolve the factual differences between the parties regarding this issue, as, even according to the appellant's own version, he acts against Israel's control of Judea, Samaria and the Gaza Strip. We see no unlawfulness in the position of the Minister of Interior according to which a person who is not an Israeli citizen, is illegally present therein and is acting against state interests – should be deported from Israel. Counsel for the petitioner holds that the petitioner's deportation would do the state more damage than good. This question relates to the wisdom of the deportation and to a projection regarding its result. This matter is for the Minister of Interior, not us, to consider and we, of course, do not express any opinion on this matter. In his written arguments, counsel for the petitioner made an argument regarding wrongful discrimination. This argument was not proven by him and it remains vague, backed by nothing. On the contrary, counsel for the petitioner argued before us that the petitioner would have been deported from Israel even without his actions in the Area, since he is illegally present therein. This is how the Minister of Interior acts in other cases, as the case in HCJ 293/87, Various Requests HCJ 418/87 [4] proves. This is all the more so when the petitioner is illegally present in Israel and engages in activities which harm its interests. In conclusion: the respondent's decision to deport the petitioner was made within the scope of his authority under the Entry into Israel Law and we have not found that it is tainted with illegality which renders it null and void.

19. Upon issuance of the order for the petitioner's deportation, an order for his arrest was issued by an officer of the investigation division of the Israel Police. In the petition at hand, the petitioner's release from custody was requested as an interim relief. The respondent's position, which was endorsed by the officer who ordered the petitioner's arrest, was that there is no room for the petitioner's release as his release may cause substantive harm by unrest, public disorder and disruption of public safety. This position was presented to us on May 9, 1988 when we first heard the petition. After the next hearing in the petition was scheduled for May 23, 1988, we ruled in our decision "that it seems to us, considering the circumstances of the matter, including the expected period of arrest, that there is no room for our intervention in the arrest order that was issued."

    The result is that the petition must be denied.

    Justice G. Bach: I concur.

    Justice S. Netanyahu: I concur.

    Ordered as stated in the judgment of Justice Barak.

    Given today, 20 Sivan 5748 (5 June 1988).