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At the Supreme Court

H CJ 5263/08

Sitting as the High Court of Justice

Before:

Honorable President D. Beinisch

Honorable Justice M. Naor

Honorable Justice A. Rubinstein

The Petitioners:

1. _____ **Al-Harimi**

2. _____ **Al-Harimi**

3. _____ **Al-Harimi**

4. **HaMoked - Center for the Defence of the Individual, founded by Dr. Lotte Salzberger**

- Versus -

The Respondent:

Commander of the Military Forces in the Territories

Petition for *Order Nisi*

Session date:

17 Shvat 5769 (11 February 2009)

Representing the Petitioners:

Att. Abeer Jubran; Att. Ido Bloom

Representing the Respondent:

Att. Hila Gorny

Judgment

Counsel for the State has notified that she has not changed her fundamental position according to which visitation for the families of persons removed under the agreement in the Church of Nativity affair shall be permitted, but that this position is contingent on circumstances. Residents of the Area are currently not permitted passage for the purpose of meetings in Gaza, due to the particularly tense situation in Gaza at this time, following the military operation. This preclusion also applies to visits for the reasons requested here, of providing an opportunity for a wife and children to meet with the head of the family who is currently in Gaza as a result of a forced measure.

Passage to the Gaza Strip is presently prevented, yet, obviously, this matter is contingent on circumstances and at the present time, humanitarian permits for passage of the requested sort have been greatly reduced. In view of the small number of permits granted at this time due to the circumstances in the Area, we have found no cause to intervene in granting the relief sought by the Petitioners, although we are aware of the difficult position in which a family that is prevented from meeting with the husband and father finds itself. One can presume that if and when a change occurs in the security situation in this context, or if the policy which stems from the situation changes, a possibility of passage for the purpose of a meeting between the minor children and their father will be provided.

Therefore, the petition is denied.

Given today, 17 Shvat 5769 (11 February 2009) in the presence of Parties' counsels.

President

Justice

Justice

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