At the Supreme Court **AdmPA 2098/04**

In the matter of:

1. _____ **Ziyad**, has no identity number, of Abu Tor, Jerusalem
2. _____ **Ziyad**, of Abu Tor, Jerusalem
3. _____ **'Id**, of Abu Tor, Jerusalem
4. _____ **Ziyad**, of Abu Tor, Jerusalem
5. _____ **Ziyad**, of Abu Tor, Jerusalem
6. **HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger – Reg. Assoc.** of 4 Abu Obeidah Street, Jerusalem 97200

all represented by attorneys Adi Landau (Lic. No. 29189) and/or Yossi Wolfson (Lic. No. 26174) and/or Leena Abu-Mukh Zuabi (Lic. No. 33775) and/or Manal Hazzan (Lic. No. 28878) and/or Shirin Batshon (Lic. No. 32737)
whose address for service of process is
4 Abu Obeidah Street, Jerusalem 97200
Tel. 02-6283555; Fax 02-6276317

The Appellants

v.

The State of Israel:

1. **The Minister of the Interior**
2. **The Director of the Population Administration Office**
3. **The Director of the Population Administration Office in East Jerusalem**

represented by the Jerusalem District Attorney's Office
4 Uzi Hasson Street, Jerusalem 94152
Tel. 02-6208177; Fax 02-6222385

The Respondents

Notice of Appeal

Notice of appeal is hereby filed from the judgment of the Jerusalem District Court sitting as the Court for Administrative Matters (the Honorable Justice Moussia Arad) in AdmP Jerusalem 783/03, issued on 22 January 2004 and served on the Appellants on 27 January 2004.

A copy of the Trial Court's judgment is attached hereto and marked AP/1.

This Honorable Court is moved to reverse the Honorable Trial Court's judgment which dismissed the administrative petition. In accordance therewith, this Honorable Court is moved to order the Respondents to put the status of Appellant 1 as a permanent resident in Israel in order.

Table of Contents

Preamble

1. A young person's right to status [in a country] underlies this Appeal. Despite all of the links of Appellant 1, S., being to Israel alone, where he has lived since his childhood alongside his relatives and friends, Israeli residents, S. is without any status in the entire world. Formally there is no recognition of his existence and his belonging to any place or country in the world.

2. Being without status, S. has lived for years as a persecuted person, frequently exposed to detainments, arrests due to illegal residency and deportation. However there is no place to which it is possible to legally deport him and in which S could reside legally. From all perspectives, S. does not exist.

3. S. is not able to identify himself before the authorities, he has no right to work and to earn a living and he is unable to register property in his name or to officially inherit property. He is not able to acquire an education. He is not entitled to social rights including health insurance, he is not entitled to help with rehabilitation and there is no recognition of his right to privacy and a private life. His liberties are denied and his dignity has been trampled into the dirt.

4. The Respondents assert that S. has no right whatsoever to status in Israel. As far as they are concerned, he belongs is in the territories of the Palestinian Authority and it is there where he is required to put his status in order. Since putting the status of S. in order in the territories is not possible, the Respondents agree to grant S. a visiting permit in Israel, without rights, for one year. This being only on condition that he undertakes to submit a family unification application to the Palestinian Authority, and subject to an undertaking on the part of his brothers to take care of his rehabilitation.

5. The Respondents' proposal does not provide an answer to that described in the Petition. By conditioning the granting of a visiting permit to S. upon submitting a family unification application to the Palestinian Authority, the Respondents, in practice, are forcing an artificial link between S. and the territories. S has no connection with the Palestinian Authority; he does not know anybody there. The Respondents surely know that without family in the territories, it will not be possible to conduct family unification proceedings. This demand raises the fear that the Respondents wish to wash their hands of a person without status in the world, all of whose links are to Israel, who has no other place to which he can go and who lives herein since his childhood. The Respondents are pretending to present their agreement to grant a visiting permit for one year under conditions, as an appropriate

solution to S.'s distress. However granting a temporary permit to reside at his house with his brothers, his family and his friends is mocking the poor.

6. By refusing to put S.'s status in Israel in order, the Respondents are acting contrary to the international and local law. Pursuant to the international covenants on which the State of Israel signed, it is bound to put the status of the stateless person in its territory in order. The Respondents' refusal is also contrary to principles which derive from Hoq Yesod: Kevod ha-Adam we-Heruto [Basic Law: Human Dignity and Liberty], since the Respondents are not recognizing S., who has lived in Israel since childhood, as someone deserving of those rights prescribed in the Basic Law. Therefore, the Respondents' refusal to grant S. status is unconstitutional and inhuman.

7. The Appellants will explain below why the Honorable Trial Court erred in dismissing the Petition and ruling that "the Respondent's decision is not tainted by any of the defects which justify the Court's intervention." This judgment cannot stand.

The Grounds for the Appeal are as follows

8. The Appellants will assert that the Honorable Trial Court erred in accepting the Respondents' decision to be reasonable and ruling that it falls within Respondent 1's broad discretion, in which the court is not able to intervene.

9. The Honorable Trial Court erred in not ascribing importance to the fact that S. is stateless and not distinguishing the boundaries of the Minister of the Interior's discretion in relation to foreigners who arrived in Israel of their own will from their countries of citizenship from the case of S. who found himself in Israel since childhood without status.

10. The Honorable Trial Court erred in not ascribing any importance to his personal life circumstances which justifies intervening in the Respondents' decision, despite recognizing the difficult situation in which S. finds himself.

11. The Honorable Trial Court erred in not exercising judicial review and not giving its opinion on the question of the balance that the Respondents are required to create in the context of their decisions. The Trial Court did not examine the weight that was given by the Respondents to the violation of the Appellant's basic rights, against the benefit that the State of Israel derives as a consequence of their decision.

12. The Honorable Trial Court erred in accepting as reasonable the Respondents' attempt to artificially relate S. to the Palestinian Authority.

13. The Trial Court erred in ruling on this unique and compelling matter based only on a pretrial, without conducting in-depth proceedings to get to the root of the matter and

without obliging the Respondents to deliver their answer to the Petition (as opposed to their preliminary response).

Factual Background

14. The necessary facts in respect of this matter were specified in Articles 4-40 of the Petition, supported by affidavits, including the appendices thereto. The Honorable Court is moved to see the same as an integral part of this Notice of Appeal. For the Court's convenience, a summary of the facts is presented below. The Appellants will not repeat here all of the details of the chain of bureaucratic events between the Appellants and the Respondents, despite the importance thereof, as was specified in the Petition.

    A copy of the Petition including the appendices thereto is attached hereto and marked AP/2.

15. S. was born on 1 February 1978 to a father who was a resident of Israel and a mother who was a resident of the West Bank, in his mother's birth village, Beit Liqya. His parents married a year prior to his birth and divorced a year after he was born. During the first year of his life S. lived with his parents in Jerusalem. Due to neglect on the part of his parents S. was not given an identifying number close to his birth.

16. During the period of the marriage S.'s parents lived in the father's house in the Shu'fat neighborhood of Jerusalem. The father's sons from a previous marriage, S.'s brothers, Appellants 2-5, lived in an adjoining house. S.'s brothers would frequently come to the house of their father and his new wife, play with their baby brother and help to take care of him.

    (See the divorce contract executed between S.'s parents in which it is stated that the mother is indeed from Beit Liqya in the West Bank, although she is a resident of the Shu'fat neighborhood, attached to the Petition marked AP/2 – as Appendix P/1C).

17. Approximately one year after the divorce, S.'s father traveled to Jordan, where he lives up until today, and remarried. S.'s mother also remarried and abandoned him. After a period staying with his maternal grandmother in Beit Liqya, S. moved to live with his paternal brothers in Jerusalem. S. integrated into the family of Appellants 2-5 in the Abu Tor neighborhood and was placed in the Dar al-Aytam school in East Jerusalem. (The school's authorization is attached to the Petition marked AP/2 – marked P/2).

18. When he was in second grade S.'s brothers agreed that he return to the village in which his grandmother lived. He was sent by his maternal grandmother to work in

fields and kibbutzim and suffered serious neglect. After leaving the school in Jerusalem S. would occasionally come to his brothers' house in Abu Tor. When S. was approximately 13-years-old he moved to live at his brothers' house in Jerusalem again, which is his permanent address up until today.

19. Appellant 2, his older brother, acted as his actual guardian and in 1994 received formal guardianship of S. from the [Muslim] Shar'i Court in Jerusalem. (A copy of the guardianship judgment and the Jerusalem Mukhtar's authorization of S.'s living in the city are attached to the Petition marked AP/2 and marked as Appendix P/3 A-B).

20. From a young age S. worked in various jobs in the Mahane Yehuda market in Jerusalem and also in random jobs in other places in the country, mainly in the Ramla and Lod area. His abandonment and neglect by his parents over the years required an across-the-board treatment but his brothers' attempts to integrate him into a formal framework failed due to his being without an identifying number.

21. Whilst still a teenager S. moved to Tel Aviv and the vicinity thereof. He worked for part of the time in random jobs in Tel Aviv and the surrounding towns such as Ramla. He was not able to integrate into permanent employment due to not having an identity card. For this reason S. also does not hold any authorization regarding employment during the same period.

22. Over the years S.'s brothers pleaded with him to live at the family home in the Abu Tor neighborhood in Jerusalem on a permanent basis. The brothers built S. his own residential unit in the family home and made attempts to integrate him into places of work or a professional studies framework in Jerusalem. However S.'s suffering in view of the many detainments by the security forces in Jerusalem, the arrests and the humiliation had defeated him and prevented him from persisting and settling in Jerusalem for long periods.

23. As of today, S. resides the majority of the time in Tel Aviv. He sleeps at places of work, with friends that he has made, in public gardens and on the streets. Often, when his money runs out, S. comes to Jerusalem where he sleeps at his father's family house where his brothers, Appellants 2-5, live.

S.'s Situation

24. Since he was a baby S. has lived in conditions of absolute neglect. Due to the said neglect his status was not even put in order close to his birth. Whilst a small child, until he reached 13 years of age, S. lived alternately in his grandmother's village, Beit Liqya, and at his brothers' house in the Abu Tor neighborhood of Jerusalem, without

having a permanent place. Since moving to live in Jerusalem his brothers have not succeeded in having an influence on changing his wandering habits, and in the absence of an identity card they will not be able to find a rehabilitative framework for him. Thus, S. continued to work in different places in the country. Despite his personal difficulties S. integrated into the Israel society and speaks Hebrew fluently. The majority of his acquaintances and friends are Jewish, Israeli and in fact since the death of his grandmother, he does not know anybody outside of Israel well.

25. Lately, due to the security situation, S. has frequently been arrested and detained in custody due to illegal residency. The detention judges and the security forces remain helpless in respect of S.'s case since there is no place to which it is possible to deport him, and there is no place in which the Appellant can reside legally. However, S. does not agree to his brothers' pleadings and hide, as if under house arrest, at their house in Jerusalem. According to him, if this is the authorities' way of dealing with a person in his situation, then he will be in prison.

26. We should point out that apart from the criminal records regarding illegal residency, S. was arrested three and a half years ago for setting fire to a door during a dispute on romantic grounds (for which he was sentenced to eight months imprisonment) and for possession of soft drugs for personal use. A year and a half ago S. was arrested for six months for drug dealing after an undercover policeman asked him where he could purchase drugs for NIS 40 and S. showed him from whom he could purchase them.

27. S. is not a violent person and the fact that he has not got into trouble with the law despite his frequent stays in custody, his unstable mental condition, *inter alia* due to those arrests, and his living on the streets and in prison, attests to the human potential in him if he will be given rehabilitation and direction. As aforesaid, without an identity card, it will not be possible to offer S. help.

    Examples of Appellant 6's letters in an attempt to locate S. in the detention facility, to explain his situation to the arresting policemen, and its letter to the psychiatrist of the Abu Kabir detention facility for a request to receive mental help for him whilst detained are attached to the Petition - AP/2 and marked P/22.

The Appellants' Attempts to Put S.'s Status in Order

28. S.'s brothers attempted, whilst he was still a minor, to obtain permanent residency status for him. After receiving formal guardianship of S., Appellant 2 submitted two family unification applications for him (no. 3401/94 and 614/95). Both of the applications were immediately denied (within a month) in standard letters without giving any reasons.

29. After the Respondents denied the family unification application in late 1995, S.'s brothers continued applying to Respondent 3 and requested that its decision to deny the application be reconsidered. Thus, for example, in January 1998, Appellant 4 approached the Jerusalem Magistrate's Court, declared before the court that he is S.'s brother and filed a formal motion to grant S. status. (Appellant 4's motion is attached hereto and marked AP/2 - P/8).

30. In reply to the family unification applications and the Appellants' applications to reconsider the denial of the applications, Karen Abutbul's letter was sent on 21 February 1999 from Respondent 1's legal bureau, according to which the said family unification applications did not meet the Ministry of the Interior's criteria for family unification.

In Ms. Abutbul's letter, the Appellant's connection to his father was questioned. It states that late registration of a birth in the Population Registry requires a declaratory judgment in which it shall be stated that S. is the son of an Israeli resident. Only then, according to Ms. Abutbul, would S. be entitled to submit an application for an Israeli identity card. (Ms. Abutbul's letter is attached to the Petition - AP/2 and marked P/10.)

31. On 27 October 1999, in accordance with Ms. Abutbul's instructions, the father of Appellants 1-5, who resides in Jordan, approached the Shar'i Court, where he declared that he is S.'s father and requested that such notice be given formal validity. The judge of the court decided to accept this notice and to give it sanction as a judgment. (The declaratory judgment of the Shar'i Court is attached to the above Petition and marked P/11).

32. In addition, in accordance with Ms. Abutbul's instructions, Appellant 6 filed a claim on behalf of the Appellants with the Jerusalem Family Court for issuance of a declaratory judgment to the effect that S. is the son of M. Ziyad, Jerusalem resident. As a result of Appellant 6's claim, on 10 December 2000 a declaratory judgment was issued attesting to S. being the son of a Jerusalem resident. In the agreed judgment it was determined as follows:

> **It is hereby declared that the plaintiff is the son of M. Ziyad, holder of an Israeli identity number**.
>
> **The declaration is given for the purpose of considering the inclusion of the plaintiff in the Population Registry, and for this purpose alone**.

The Jerusalem Family Court's declaratory judgment on this matter is attached to the Petition attached hereto as Appendix AP/2 and marked as Appendix P/12.

On 4 April 2001, after a declaratory judgment was issued according to which S. is the son of a Jerusalem resident, Appellant 6 submitted an application to reconsider the application for family unification between S. and his brothers. This application was also denied within three months. In the notice from the Ministry of the Interior dated 9 July 2001 it was stated that the Ministry of the Interior's Inter-ministerial Committee had decided to deny the applications. No reasons were given for this notice either.

33. On 22 July 2002, after a series of letters from Appellant 6 in which it requested receipt of reasons for the refusal, Ms. Hagit Weiss, the head of the family unification branch in Respondent 3's office, approached Appellant 6 and requested to summon the Appellant to an inquiry at the office. Ms. Weiss informed the undersigned that the Ministry of the Interior agrees to positively consider granting S. status and therefore requested that the filing of a petition on the matter be delayed.

34. On 12 February 2003 an inquiry was held at Respondent 3's office at which S., Appellants 4 and 5, Ms. Weiss and the undersigned were present. Respondent 3 was also present for part of the hearing. At the end of the clarification conversation, Ms. Weiss stated that the matter of S.'s status would be examined at Respondent 3's office and would be referred to an Inter-ministerial Committee for decision.

35. On 24 April 2003 the decision of the Inter-ministerial Committee was delivered, according to which the Appellants' application to obtain status in Israel for S. had been denied. (The Committee's decision is attached hereto as Appendix AP/2 - P/21.

The Proceedings at the Trial Court

36. The administrative petition that is the subject matter of this Appeal was filed on 19 May 2003. The Appellants' claims focused on the argument that the Respondents are required to put the status of S. in Israel as a permanent resident in order. The Appellants based their claim on the fact that S., has no citizenship, the only family members with whom he has contact are his Israeli brothers and his residence in Israel since his childhood. The Appellants asserted that the Respondents' refusal to put S.'s status in order is contrary to the Israeli and the international law, by which the State of Israel is bound.

37. On 22 May 2003 the Honorable Trial Court issued an interim order, in accordance with the Appellants' motion, instructing abstention from deporting S. from Israel. On

this date, for the first time in S.'s life his residency anywhere was legitimized. The Trial Court further instructed the Respondents to file their preliminary response to the Petition within 30 days.

The motion to grant an interim order, S.'s affidavit which was attached thereto and the Trial Court's order are attached hereto and marked AP/3 A-C.

38. On 3 July 2003, since the Respondents' preliminary response had not been filed, the undersigned, on behalf of Appellant 6, contacted Att. Rosenfeld, the Respondents' legal counsel, via telephone, in order to inquire why their response had been delayed. The Respondents' counsel requested to file its preliminary response by the end of July. The undersigned took this opportunity to update Att. Rosenfeld regarding a decision of the Minister of the Interior in respect of a case, the circumstances of which are similar to the present case, and sent a newspaper clipping published in the newspaper *Haaretz* on the matter via fax.

The fax on behalf of Appellant 6 and the newspaper clipping that was sent are attached hereto and marked AP/4.

39. On 6 July 2003 the Respondents' counsel filed a stipulation to postpone the date for filing the Respondents' preliminary response. The Trial Court granted the motion. Since the Respondents' preliminary response was not filed by the agreed date, on 4 August 2003 the undersigned approached Att. Paddan, to whom the handling of the file had been transferred at the Office of the District Attorney. Att. Paddan requested an extension of 21 additional days. With regard to the Appellant's reference to the decision of the Minister of the Interior in respect of the case which was mentioned in *Haaretz* regarding the boy 'Amar, he stated that the Minister's decision to grant temporary residence in that case had been suspended.

40. On 4 August 2003 the Respondents' counsel filed an agreed motion with the Trial Court to postpone the date for filing the Respondents' preliminary response, this time until 1 September 2003. The Trial Court granted the motion.

The Respondents' motion in respect of which the decision of the Trial Court was issued is attached hereto and marked AP/5.

41. On 3 September 2003 Att. Paddan approached the undersigned via telephone and informed her that the Respondents are proposing a compromise. The Respondents refuse to grant S. status in Israel. Both now and in the future. According to the Respondents' proposal, therefore, S. would receive a six month visiting permit for an unlimited period, namely until the end of a period of 27 months or until it will be

possible to arrange family unification in the territories, whichever is earlier. In answer to the undersigned's question regarding what would happen after the 27 months have passed, Att. Paddan stated that he does not know. The Respondents have no solution for this matter and were not prepared to determine anything.

Att. Paddan emphasized that in the opinion of the Respondents, a claim of criminal preclusion would stand the test of reasonableness at court. According to him, the Respondents do not agree to commit to any proceeding that is determined in full in advance such as the arrangements existing in cases of family unification or granting status to refugees. He did not know to answer how a B/1 visiting permit, stamped as a visa in foreigners' passports, would be granted to S. when S. has no identifying document or travel certificates. Att. Paddan did not know how extensions of the visiting permits would be performed and according to which procedure.

After the undersigned had pointed out the problematic nature of the Respondents' proposal and primarily the fact that without formal status, the Respondents' proposal does not provide an appropriate solution, from a legal and human perspective, to S.'s situation, it was agreed that the Appellants would forward an alternative written proposal to the Respondents.

42. In a letter dated 14 September 2003 the undersigned notified Att. Paddan that the Appellants are rejecting the Respondents' proposal since the proposal does not in any way provide for the remedy requested in the Petition. The undersigned again proposed to Att. Paddan that the Respondents bring themselves up to date with the circumstances of the matter of 'Amar, in view of the Minister's authorization to grant him temporary status, authorization which, contrary to what Att. Paddan stated, remains in effect and was never suspended. Attached to the letter were letters on this matter from the Minister of the Interior and the Director of the Population Administration Office to the legal advice bureau of the Ministry of the Interior, in which the clerks were requested to operate according to the Minister's instructions. Accordingly, the undersigned requested that the Respondents also consider a similar solution in the present case.

The undersigned's letter and the letters of Respondents 1 and 2 on the matter of 'Amar that were attached thereto are attached hereto and marked AP/6 A-C.

43. After no answer was received on behalf of the Respondents, on 8 October 2003 the undersigned left a message on Att. Paddan's answering machine in an attempt to inquire why the Respondents' response to the undersigned's letter had not been

received or alternatively, why the Respondents had not delivered their response to the court when the date for filing the same had long since passed.

44. In a letter dated 14 October 2003 Att. Paddan informed the undersigned that he is awaiting an answer from all of the entities in respect of the Appellants' proposal that S. be given A/5 status. Att. Paddan further requested the undersigned's agreement to an extension being granted until 30 October 2003, in the event that an agreement would not be reached.

Att. Paddan's letter is attached hereto and marked AP/7.

45. On 20 October 2003 the undersigned sent a fax to Att. Paddan in which she reminded him that the Appellants are still awaiting the Respondents' position. In addition, the undersigned attached a follow-up article that had been published in the *Haaretz* newspaper on the matter of 'Amar. From the article it transpires that the legal advice bureau at the Ministry of the Interior is abstaining from implementing the decision of the Minister of the Interior with regard to granting temporary status to 'Amar, contrary to his express instructions.

The undersigned's letter and the article that was published on the matter in the *Haaretz* newspaper are attached hereto and marked AP/8 A and B.

46. On 18 November 2003, since no answer on behalf of the Respondents had been received, the undersigned approached Att. Paddan again via telephone in order to inquire about the meaning of the delay in receiving the Respondents' position. Att. Paddan stated that there is nothing new on the part of the Respondents and that he is unable to commit to a date on which a position would be received on their behalf.

47. The undersigned waited for a response from the Respondents for another week, and when none was received by 25 November 2003 she approached the Honorable Trial Court in a motion to schedule a date for a hearing on the Petition. In view of the time that had passed since the Respondents had originally been required to file their preliminary response (22 June 2003) the undersigned requested that the Honorable Court order that the Respondents file their answer to the Petition pursuant to Regulation 10 of Taqqanot Bet ha-Mishpat le-Inyanim Minhaliyyim (Sidre Din) [the Court for Administrative Matters (Procedure) Regulations] 5760-2000, according to which the Respondents are required to file their answer to the Petition on its merits, supported by a responding affidavit. The Trial Court decided to transfer the motion for the Respondents' response which was to be filed by 11 December 2003 – 16 days later.

Appellant 6's motion filed with the Trial Court, on which the Honorable Court's decision was issued, is attached hereto and marked AP/9.

48. On 11 December 2003 the Respondents filed their response to the Petition, according to which the Petition should be dismissed. In their response the Respondents did not dispute the facts detailed in the Petition and the fact that the Appellant has resided in Israel consecutively since the age of 13. The Respondents are also aware that S has no status in Israel, in the Authority's territories or any other place. However, in their opinion "the claim that his situation is like that of a 'person without status' [inverted commas not added – A.L.] in any place in the world" does not match the reality (Article 7 of the response). The Respondents added that:

> **the Appellant did not produce evidence to support his far-reaching claim that there is illegality to every place where he will reside (including in the Region)** (*id.*, Article 7)

The Respondents further add that in the current situation S. has no chance of obtaining status in the Palestinian Authority. According to the Respondents if it would have been possible to take part in such proceedings it would have been an appropriate solution for S. However, the authority to grant family unification applications in the territories is subject to Israeli authorization and since September 2003, the Israeli side has not heard family unification applications and has also not been prepared to receive them from the Palestinian side (see Article 10 *id.*). The Respondents further state that this policy was submitted to judicial review and was approved by the Supreme Court. (See references to judgments in Article 10 of the response).

After a specification regarding the Appellant's *prima facie* criminal dangerousness, the Respondents gave notice that until it will be possible to put his status in the Region in order, they agree to grant the Appellant a visiting permit valid for one year which will be extended each year subject to conditions, until it will be possible to put S.'s status in the territories in order. This is all subject to him submitting a family unification application to the Palestinian Authority and subject to his brothers' undertaking that they will help with his rehabilitation so long as he is in Israel.

The Respondents' response is attached hereto and marked AP/10.

49. In view of the Respondents' response, the Trial Court determined that a hearing would be conducted on the Petition on 19 January 2004 and also instructed the Appellants to file their written response within 10 days.

The Court's decision is attached hereto and marked AP/11.

50. On 29 December 2003 the Appellants filed their response to the preliminary response on behalf of the Respondents. With regard to the Respondents' claims regarding S.'s dangerousness, the Appellants mentioned that only recently had the Respondents authorized temporary resident status to be granted in another case in very similar circumstances to the present circumstances, whilst the criminal past of the person applying for status was far more serious and greater than that of S. The Appellants updated the Trial Court that that case concerned a young man, a resident of the Authority's territories in Gaza, registered in the Population Registry there, who had resided in Israel since childhood. The said young man, M. 'Amar, referred to as T., is not without status but rather has status elsewhere, his place of origin, Gaza. Unlike S. T has no family with which he is in contact in Israel. However, despite T.'s criminal past, which is far more extensive than that of S., the Minister of the Interior granted his application to put his status in Israel in order and ordered his Ministry to grant T. "temporary resident status for two years with the possibility of permanent residency at the end of that period". (See Respondent 1's letter which was attached as Appendix AP/6 B above)

The Appellants stated that a month and a half prior to the filing of their response, 'Amar was actually granted temporary status, valid for two consecutive years. The Appellants further stated that the fact that the Respondents' ignored the Appellants' reference to this case raises fears that, as in the case of 'Amar, also in this case there is a difference between the position of the legal advice bureau and the position of Minister and therefore, the Respondents have made no mention of this precedent.

The Appellants further asserted that even if there was a legal way to put S.'s status in a place other than Israel in order, in view of the fact that S. has lived in Israel since childhood, where his acquaintances, brothers and the only family members with whom he is in contact are found, there is no logic in such a step.

Therefore, the Appellants asserted that the Respondents' proposal does not serve to address S.'s distress. This proposal is contrary to the commitments of the State of Israel in relation to stateless persons, to the position of the Respondents themselves in other less clear-cut cases and to a governmental and human commitment to act fairly, reasonably and humanely.

The Appellants reiterated their motion that the Honorable Court instruct the Respondents to file a responding affidavit to the Petition on its merits, pursuant to Regulation 10 of the Court for Administrative Matters Regulations.

51. The Honorable Trial Court did not grant this motion.

The Appellants' response is attached hereto and marked AP/12.

The Hearing at the Trial Court

52. On 19 January 2004 a pretrial was conducted on the Petition at the Trial Court.

53. During the hearing the Respondents' counsel asserted new claims that had not been asserted prior thereto in the preliminary response on behalf of the Respondents, filed case law that had not been mentioned in the response, and also questioned the facts for the first time. This being despite the fact that the Respondents had not seen fit to refute the facts that were raised in the Petition in their preliminary response. The Respondents' counsel asserted that factual questions remained which required investigation and that the State's response did not purport to exhaust all of the claims (page 4 of the transcript). Since this was the pretrial, the position of the Respondents was not supported by an affidavit and the majority of it was not put into writing at all in the preliminary response, but rather only asserted orally during the hearing.

54. The Respondents' counsel compared the case of Palestinians who are residents of remote villages in the Palestinian Authority who have not been registered in the Population Registry there to the case of S. and asserted that just as these Palestinian residents are not entitled to status in Israel, the Appellant is also not entitled thereto. We learn that in the context of the Respondents' discretion there is little place for the applicant's life circumstances although his place of origin has decisive importance. The proper place for Palestinians is in the territories, whatever the circumstances.

55. The Respondents' counsel further asserted that since the Minister of the Interior has broad discretion on these issues, this is not "a discussion of rights in the ordinary legal sense". (See page 7 of the transcript of the hearing – attached hereto as Appendix AP/13).

56. The Respondents' counsel attempted to justify the Respondents' refusal to grant S. status through a number of examples. In the cases that the Respondents' counsel raised as examples, at the initial stages of the proceedings for receipt of the status, the applicant was given a visiting permit. Amongst the examples that the Respondents' counsel compared, terminal patients and childless elderly people were mentioned. In the examples that were brought by the Respondents, the visiting permit was given as an initial stage before receipt of the status, whilst the time frame within which a more solid status will be given is defined in advance. In addition, since the Respondents' counsel claimed regarding these categories of cases orally, without backing his

statements in an official procedure of the Ministry of the Interior, it is not at all clear by virtue of which proceedings the Ministry of the Interior puts the residency of these people in Israel in order and the facts in respect of these points remains obscure – oral statements of the Respondents' counsel. Moreover, all of the same examples concern applicants that have status and have also spent a significant part of their life, with all of the human contact entailed thereby, in another place outside of Israel. This is not true in the present case.

57. The Respondents' counsel also mentioned the issue of the criminal impediment and asserted that the Appellant's criminal record speaks for itself – the Appellant has two convictions. According to the Respondents' counsel: "**this issue also makes it difficult to give such a person any status in the State of Israel.**" (See page 8 of the transcript).

58. Despite the Respondents' refusal to put S.'s status in Israel in order, including after any trial period, the Respondents' counsel asserted that he does not see any need to refer to the international covenants including the Convention relating to the Status of Stateless Persons since he does not think that the covenants determine that "that citizenship is given in every case and upon any condition without a trial period". The Respondents' counsel requested that in the event that the Court does find it relevant, the State would be given leave to supplement the pleadings on this and additional points.

The court did not find it relevant.

59. The Appellants asserted that the Respondents' proposal is incompatible with Basic Law: Human Dignity and Liberty, with the international covenants by which Israel is bound and with the precedents of the Respondents themselves which were mentioned in their preliminary response. The Respondents' proposal is even incompatible with the solutions offered to applicants such as those mentioned by the Respondents' counsel in the hearing (refugees, adult children of family unification applicants) which start *proceedings* at the end of which status is given and not merely a temporary residency authorization.

60. At the end of the hearing the Honorable Judge gave notice that she is transferring the file for review and decision as to whether to grant the parties' motion to conduct a hearing on the Petition on its merits, which includes instructing the Respondents to file a Reply and allowing the parties to examine the affiants, or alternatively, to decide to issue a judgment based on the pretrial.

The transcript of the hearing is attached hereto and marked AP/13.

61. The Honorable Judge chose the latter option and on 22 January 2004 the judgment that is the subject matter of this Appeal was issued. In the judgment it was determined that:

> **The Respondent's decision is not tainted by any of the defects which justify the Court's intervention**.

62. The Appellants will assert that the Trial Court erred in its above conclusion. This will be extended upon below.

The Judgment that is the Subject Matter of the Appeal

63. Set forth below is a summary of the Honorable Trial Court's conclusions, as were expressed in the judgment that is the subject matter of the Appeal:

The Honorable Trial Court states that:

> **The Appellant's life circumstances are difficult and extraordinary… the Appellant also has no legal status in the Region or in Israel**.

Despite the Honorable Court's conclusion in view of the situation of a person without status, with all of the implications that such a situation has, it states:

> **Although I understand the Petitioner's distress, I am not able to intervene in the Respondents' decision**.

If that is the case, why, despite recognition of S.'s unique and humanitarian situation, is the Trial Court unable to intervene?

The Honorable Trial Court's reasons for its decision not to intervene in the Respondent's decision are as follows:

a. The Respondent's proposal to grant S. a visiting permit for a year upon conditions constitutes proper consideration of the Appellant's difficult situation. Therefore, there is no flaw in this proposal which justifies the Court's intervention.

b. The authority vested in the Minister of the Interior pursuant to Hoq ha-Kenisa le-Yisra'el [the Entry into Israel Law], 5712-1952, grants the Minister broad discretion in all matters concerning granting permits for residence in Israel (see Article 14 of the judgment).

The judgment is attached hereto as Appendix AP/1.

The Legal Argumentation

64. The Honorable Trial Court erred in accepting as reasonable the Respondents' proposal to grant the Appellant a visiting permit for one year subject to conditions including the demand that the Appellant submit a family unification application to the Palestinian Authority. A proposal that does not include a mechanism for extending the visas does not constitute a proceeding which includes a stage of granting a permit to reside in Israel and does not take into account that S. has no status on the one hand and has no link to the territories of the West Bank on the other hand.

65. Therefore, as will be discussed in detail below, the Trial Court's decision is contrary to the Israeli and the international law, according to which the State of Israel is required to grant status to the stateless persons in its territory, to honor the links that exist between a person and the place in which he lives, to act fairly and proportionately and to honor a person's dignity and liberty.

66. The Respondents are proposing that S.'s residency in Israel be put into order as a visitor only, in a manner that will leave him without status and rights. The Respondents are thus ignoring S.'s objective situation and his strong subjective link to Israel, and are creating a grave, immoral, and socially dangerous imparity, between S.'s actual situation for years and the lack of any formal status in the world. The Respondents are thus sentencing S. to a life without status, security and belonging, entirely humiliated, without rights that every person deserves. In its judgment the Honorable Trial Court accepts this inhuman conception as appropriate.

67. The Trial Court erred in determining in its ruling that the Respondents' proposal is suffice and shows consideration of S.'s difficult situation. A permit to visit a place is not tantamount to status. A visiting permit does not enable one to legally work. It does not confer social rights and health insurance. It does not enable one to take part in rehabilitation programs. It does not confer any civil security now and certainly does not confer any certainty as to the future.

The Respondents' Position – S.'s Place in the Territories

68. The Honorable Trial Court erred in accepting the Respondents' position according to which S. is to obtain status in the territories of the Palestinian Authority.

69. The Respondents propose, as a possibility, that S. request to obtain status in the West Bank through a family unification application that would be submitted there. They claim this to be the fitting solution to his problem. The Respondents, in their

proposal, are ignoring the fact that S. has no family in the Palestinian Authority with which he would be able to unite. Moreover, he has no contact with any person in the Authority's territories.

70. The Appellants will assert, and on this matter there is no dispute between them and the Respondents, that there is no practical possibility of registering S. in the [West] Bank. However, even if such a possibility existed, the proposal to isolate him from the only members of his family that support him, to uproot him from the only country he knows and to send him to the West Bank where he knows no-one, is unreasonable, unconstitutional and inhuman. (See Appendix P/10 to the Petition above).

71. Moreover, S.'s forced transfer to the [West] Bank constitutes a genuine life threat. His having lived in Israeli society since his childhood is reflected in S.'s speech and his accent in Arabic, which may raise suspicions in the Palestinian society in the [West] Bank that he is a collaborator. S. has no family clan in the territories which provides any safety net against suspicions of this sort. In addition, S.'s sexual relations with members of the same sex on the one hand, and his psychological problems which prevent him from censoring what he says in order to protect himself on the other hand, would also endanger his life if he were to be sent to the territories of the Palestinian Authority.

72. S. has been illegally deported to the territories of the West Bank several times in the past. Since no identity card exists on which his official place of residence is written, S. was sent by the security forces between the various barriers, as the security forces personnel pleased. Thus, for example, one time, after being released from prison, policemen left S. beyond the barrier in Jenin. S., who is not acquainted with the Jenin region, does not know anyone there and does not even speak the dialect, is perceived to be a foreigner there, and was scared that he would be suspected of being an undercover soldier or a collaborator. In absolute terror, without money or food, S. made his way to his brothers' house in Jerusalem.

73. It is unclear how the Respondents deduce that despite S. living in Israel amongst his Israeli family members from a young age, and despite his having no connection to the West Bank, he is required to refer an application to obtain status to the Palestinian Authority of all places. The Respondents' said position exhibits untold insensitivity and attests to a lack of educated discretion in respect of the matter of S.

74. It is impossible not to conclude that in the opinion of the Respondents, which was determined to be proper by the Trial Court, S. should be related to the Palestinian Authority because of his being of Palestinian origin. That and nothing more. This

conclusion is reinforced in view of the fact that the Trial Court does not doubt the Appellants' statements regarding the link between S. and Israel, in contrast to the absence of any link with any living soul in the West Bank. Nevertheless, the Trial Court ruled that the Respondent's position, according to which S. is required to obtain status in the territories, and that until it will be possible to do so, he will be given a temporary visiting permit in Israel is reasonable. The Trial Court did not base this ruling on any reasons, except the Respondents' broad discretion on the issue. The Appellants therefore assert that the Trial Court erred in its ruling.

The Legal Framework

Life without Status – Violation of Human Dignity

75. The Appellants will assert that the Honorable Trial Court erred in not ascribing importance to the fact that S. is without status, despite recognizing the same, and not seeing a need to intervene in the Respondents' decision to leave the situation as it is.

76. The right to citizenship is a basic right intertwined with a basic human right to dignity and liberty. By refusing to put S.'s status in order the Respondents are acting in absolute contradiction with their duty as a governmental authority to protect human life, body and dignity. See Articles 4 and 11 of Basic Law: Human Dignity and Liberty. Without status a person's civil rights are limited and his human existence is compromised. It is no wonder, therefore, that the international community, including the State of Israel, see that a person having status in the world is a basic condition to living a dignified life.

77. We see that from the perspective of the severity of the violation of the Appellant's basic rights, his being left without civil status has far-reaching consequences. The Respondents are consequently very gravely violating the Appellant's rights that are entrenched in Basic Law: Human Dignity and Liberty. The Trial Court does not see fit to intervene in this ruling.

Status in the State of Israel

78. The conferral of legal status, temporary or permanent, upon a person who is not entitled thereto by virtue of the provisions of Hoq ha-Shevut [the Law of Return] is done according to the provisions of Hoq ha-Ezrahut [the Nationality Law], 5712-1952 (hereinafter: **the Nationality Law**) and the provisions of the Entry into Israel Law, 5712-1952 (hereinafter: **the Entry into Israel Law**).

79. The Appellant was entitled to status in Israel during his childhood, due to his father being an Israeli resident, but his father abandoned him without putting his status in

order. Later he was entitled to residency in Israel since his guardian was an Israeli resident and his life center was in Israel, but the Respondent unlawfully denied this application. Nevertheless, Ms. Abutbul, from the department of the legal advisor of the Ministry of the Interior, instructed Appellant 6 in respect of the manner in which it is possible to put the Appellant's status in order, namely, by obtaining a declaratory judgment which constitutes evidence of his being the son of a Jerusalem resident and subsequently turning to the Respondents again with an application to put the status of S. in order. The Appellants acted in accordance with Ms. Abutbul's instructions, but the Respondents decided to deny the Applicant's application anyway, without giving any reasons, and subsequently, to deny his application "in view of his illegal residency and criminal past".

There is no doubt that due to his being the son of an Israeli resident, close to his birth the Appellant had the right and there was even a duty to put his status in order in the Population Registry.

80. Article 1 of Hoq Mirsham ha-Ukhlosin [the Population Registry Law], 5725-1965 (hereinafter: **the Law**) defines who is a resident in Israel:

> **a)** **…Whoever is in Israel as an Israeli citizen or according to a new immigrant visa or new immigrant certificate, or according to a permanent residence permit.**
>
> **b)** ***For the purposes of this law another person in Israel lawfully shall also be deemed a resident*, although a person who is found herein according to a transit residence or a visiting residence permit or according to a diplomatic foreign passport shall not be deemed a resident".** (My emphasis A.L.)

As the son of a permanent resident of the State of Israel, S. resided in Israel legally during the first year of his life, whilst living with his parents in Jerusalem. After his parents' abandonment of him, S. lived in Israel legally when his paternal brothers, residents of the State of Israel, took him under their wings and certainly after Appellant 2 was appointed as his formal guardian. Thus, the Respondents were also required to see the Appellant as a resident pursuant to the Population Registry Law.

81. Pursuant to Article 24 of the Population Registry Law, "a resident in Israel who is 16-years-old *must* receive an identity card; if he is not yet 16-years-old he is entitled to receive such with the consent of his representative according to the meaning thereof

in Article 80 of Hoq ha-Kashrut ha-Mishpatit weha-Apotropesut [the Legal Capacity and Guardianship Law], 5722-1962, or with the authorization of the Chief Registration Official." (My emphasis A.L.).

82. The Appellants shall assert that from the articles of the law mentioned it transpires that the authority is required to issue an identity card to every person who is in Israel lawfully and who does not hold one of the staying visas specified. Therefore the Respondents were required to put S.'s status as a permanent resident in order.

83. It should not be forgotten that the Appellant did not infiltrate or enter Israel illegally, that he has lived the majority of his life herein by virtue of his being the son of an Israeli resident and the brother of Israeli residents. The Appellant has resided in Israel since his childhood since it is the country of his father in which his brothers live, the only human beings who agreed to take care of him and look after him. It was not the Appellant's choice to grow up with his brothers without having a parent to look after him, and it was not he who chose as a child to live in Jerusalem of all places. This was forced upon him, after his parents abandoned him, having no other soul to look after him.

Determination of a Person's Link to a Place

84. In order that the Respondents will be able to serve the purpose of the Entry into Israel Law and to exercise their discretion reasonably, they are required to take S.'s link to Israel into consideration. The Trial Court erred in not ascribing importance to the Appellant's links to Israel.

85. As aforesaid, insofar as a person lives in a country for a longer time, his links thereto increase and his feeling of belonging thereto intensifies. This is particularly true in the case of a stateless person, without another country. The importance of the existence of a connection between the person applying for status in Israel and the centrality of the connection in forming the status, is expressed in the provisions of the Entry into Israel Law and the Court's ruling on this matter:

> **A permanent residence permit – as distinguished from the act of naturalization – is a hybrid. On the one hand it has a constitutional character which establishes the right to permanent residence; on the other hand it has a declarative nature** ***that expresses the reality of permanent residence… indeed "permanent residence" by its very nature means reality of life. The permit, once granted, gives legal validity to this***

reality Justice Barak in HCJ 282/88 *'Awad v. The Prime Minister*, *Pisqe Din* 42(2) 424, 426 (my emphasis – A.L.).

In accordance therewith, the Court has not once determined that once this reality disappears, the permanent residence permit automatically expires (see: Justice Barak, *id.*, page 427).

86. The legislator's assumption is that living in a foreign country for a long time, or in the language of the law, settling therein, irrespective of whether accompanied by the granting of formal status, by its very nature creates sentimental ties between the individual and the same country and its residents. When we are dealing with an extended period of time spent living in a foreign country, this may attest to the severance of the connection between him and the State of Israel and justify the cancellation of status as a permanent resident.

87. The Appellants will assert that an analogy should be drawn from the tests that were determined regarding severance of the residency link of people who have resided outside of Israel for a long period of time, to the determination of the tests according to which a residency link is created. The reality of life – long-term residence in Israel from childhood until adulthood, the absence of another country, adoption of the language and the culture and setting the life center herein – all teach of a residency link which require that a permanent residence permit be granted, and which express, according to the Honorable Justice Barak in the case of *'Awad*, "the reality of permanent residence".

88. The goal of the legislation is not only learned from its language, but also from broader normative circles, including other laws that deal with identical or supplementary issues. In the present case, it is possible to point to laws from the social legislation field, such as Hoq ha-Bittuah ha-Le'ummi [the National Insurance Law] and Hoq Bittuah Beri'ut Mamlakhti [the National Health Insurance Law], and to laws from the fiscal legislation field, such as Pequddat Mas Hakhnasa [the Income Tax Order]. These laws also use the term "resident" and were intended to govern the rights and duties of whoever has been recognized thereby as "residents". When we come to determine whether the Respondent is implementing a reasonable policy which is consistent with the language of the Entry into Israel law and is achieving the goal thereof, we are also aided, *inter alia*, by the various tests regarding residency which were formulated in these supplementary fields.

89. The definition of residency in the social legislation field was shaped by the Labor Court. The court, which has not once deliberated the issue of whether or not a certain

person meets the definition of a resident as it appears in the social legislation, formulated a number of subtests over the years, the accumulation of which establishes the link required to recognize a person as a resident.

90. Set forth below, in a nutshell, are the tests that were set in the Labor Court's judgment:

a. **The "actual link" test**: a test which checks the actual link to the place of residence as opposed to a link ***to the country*** of citizenship or country of birth (see: LCH 04-73/45 '*Aida Saquqa – The National Insurance Institute*, *Pisqe Din Avoda* 17 79, 84-85; LCH 140-0/51 *Musa Taha – The National Insurance Institute*, *Pisqe Din Avoda* 24 382; LCH 688-0/56 *Mandul Mati – The National Insurance Institute*, *Avoda Azori*, Volume 9, 976; LCH 2-04/53 *The National Insurance Institute – Jabrin Muhammad Abu Hani*, *Pisqe Din Avoda* 26 122).

b. **The "duration of time" test**: Similarly to the case law which discusses permanent residency status pursuant to the Entry into Israel Law, the judge-made test has also been determined here which examines whether the residency link has been severed as opposed to its being created. According to this test the court examines the duration of time during which the plaintiff stayed outside of Israel. The court determined that a residency of 6-7 years outside of Israel causes severance of the residency link (see: LCH 374/0/55 *Rewah – The National Insurance Institute*, *Avoda Azori*, Volume 5, 218).

c. **The permanent residence test**: This test is inextricably linked to the actual link test and the duration of the residency in Israel test. A resident is a person whose permanent place of residence is in Israel. A change is his status only occurs if the person severs his residence ties in Israel and acquires a permanent place of residence for himself abroad (see LCH 568-0 /56 (Jerusalem) *Jabarin Sa'ida – The National Insurance Institute*, *Avoda Azori*, Volume 9, 263; LCH 620-0 /56 (Tel Aviv) *Nisan Shelomo – The National Insurance Institute*, *Avoda Azori*, Volume 4, 614).

91. The residency issue is discussed in the fiscal field, as aforesaid, in the context of the Income Tax Order. Article 1 of the Order determines, commencing 1 January 2003, auxiliary tests in respect of the question who is a resident, as follows:

> **In respect of an individual – a person whose life center is in Israel; and for this purpose these provisions will apply**

In order to determine the place of the life center of an individual, the totality of his family, economic and social connections will be taken into account, including, *inter alia*,

His permanent abode;

His and his family members' place of residence;

His ordinary or permanent place of occupation or his permanent place of employment;

The place of his active and material economic interests;

The place of his activity in various organizations, unions or institutes;

The assumption is that the life center of an individual in the tax year is in Israel –

If he stayed in Israel for 183 days or more in the tax year…

92. The auxiliary tests which only recently came into force entrench in legislation that which was determined prior thereto by the court when the need arose to give content to the minimalist definition that appeared up until now in the Order for the term resident:

> **… it appears that in practice the case law has adopted the test of the place in which the life center of a person is found, which is a much more complicated test than the test that relates to the ratio between the days in which he resided in Israel to the days in which he was absent therefrom… on checking where a person's life center is found, it is necessary to take into account two criteria, the one physical: where the majority of the person's links are found and the second subjective, what was the person's intention and where he see his life center."** (ITA (Haifa) 2004/98 Gonen v. Haifa Assessing Officer, *Taqdin Mehozi* 2001(4), 1036 (hereinafter: **the Gonen Case**)).

See also: ITA 943/59 *Student v. Haifa Assessing Officer*, *Pesaqim Mehoziyyim* 53, 260; ITA 300/91 *Raz v. Tel Aviv Assessing Officer 1*, *Missim* 104/10.

93. In the *Gonen* Case, the court states that the life center test has also been adopted in other legal fields in which the issue of residency arises, including the extradition laws

field, entitlement to payments pursuant to Hoq Nekhe Redifot ha-Nazim [the Nazi Persecution Invalids Law], 5717-1957, membership in local council and religious council and the Entry into Israel Law.

94. It should be emphasized that the Appellants are not asserting that an extended period of time living within the State of Israel is sufficient in order to justify the granting of permanent resident status. This is one factor, central although not exclusive, out of the totality of factors that justify the Appellants' application being granted. Additional factors that support the granting of status to S. are his being without status, the fact that his illegal residency in Israel was not his fault, not to mention forced upon him when he was a minor due to his life circumstances, the absence of another legal place in which he could reside and in actual fact he has no other home in the entire world other than the State of Israel.

95. The Appellants are acquainted with the past case law of the Supreme Court according to which long residence in Israel does not in itself justify the granting of a permanent residence permit (see HCJ 656/87 *Menazzeah v. The Minister of the Interior*, *Taqdin Elyon* 88 (1) 70; HCJ 2400/00 *Limkol v. The State of Israel*, *Dinim Elyon*, Volume 61, 65). However this case law deals with adults who chose to reside unlawfully in Israel and here, as aforesaid, we are dealing with a minor who was born into a reality beyond his control, a reality which upon his becoming an adult inevitably became an illegal residency in every place.

96. To emphasize, this is not an insignificant difference. From a value-moral perspective, it is obvious that the Appellant has done no wrong. He is not to blame for being an illegal resident, and it is grave that this fact serves against him in the context of the Respondents' considerations in respect of whether to grant his application. From a social perspective, this obviates the fear that granting his application will serve to give legitimacy and encouragement to others to break the law, and due to the unique circumstances of the case, there is not even a fear that granting the application will constitute a precedent which will impact on the State of Israel in an undesirable fashion.

The Respondents' Policy Regarding Granting Permanent Residence Permits to Foreigners

97. The Honorable Trial Court erred in not giving any weight to the Respondents' Policy on the issue of granting permits for residence in Israel in cases that are less clear-cut than the Appellant's case.

98. Until recently the Respondents' policy was not to grant permanent residence visas to foreigners other than in exceptional cases in respect of which there are special considerations. In accordance with this policy, Respondent 1 only grants a permanent residence permit and visa in exceptional cases according to the following general criteria:

> **a. A spouse through lawful marriage to an Israeli citizen or permanent resident of the State of Israel who resides in Israel**
>
> **b. An elderly single parent of a citizen or permanent resident of Israel, who has no other children or spouse outside of Israel.**
>
> **c. A minor child, accompanied by a parent who obtained a right to permanent residence in Israel or Israeli citizenship, if said parent has lawful custody of the minor for a period of at least two years in proximity to arriving in Israel with him.**
>
> **d. Exceptional cases for humanitarian reasons or when the State of Israel has a special interest in giving the permanent residence permit.**

The criteria are specified in a document that was sent to Appellant 6 at its request, and which to the best of the Appellants' knowledge has not been published in any official context whatsoever. (A copy of the document is attached to the Petition AP/2 and marked P/23).

99. As transpires from the above criteria, S.'s life circumstances, also according to these broad criteria (a., c. and d.), constitute circumstances that justify the granting of a permanent residence permit and visa.

100. Notwithstanding, in an article published on 4 May 2003 in the newspaper *Yedioth Ahronoth*, Respondent 1 made the following statement on the legal status of children of foreigners residing in Israel illegally since childhood:

> **Whoever is past the age of adolescence may stay in Israel as far as I am concerned, since he is already an Israeli for all intents and purposes. I do not intend to deport a son of foreign workers who has reached 17 and the State of Israel is the only thing he knows…**

In reference to the question of *Yedioth Ahronoth* as to what he intends to do with the small children of the population of foreign workers, Respondent 1 said that there is no problem in deporting them with their parents.

> **… but it is not possible to do it to youngsters who have passed the age of adolescence.**

According to the article, these days the Respondents are checking whether to grant such children, who have attained majority, permanent residency status or citizenship and this is:

> **Not only children who were born in Israel but also those who came to Israel at a very young age and do not know any other country for living in.**

Nurit Falter's article in *Yedioth Ahronoth* is attached to the Petition AP/2 and marked P/24.

101. On 4 January 2004 Government Decision 1289 was issued regarding the appointment of a ministerial committee to examine proposals in the administration field. In this decision it was proposed, *inter alia*, that the Minister of the Interior be authorized to determine that status in Israel be granted to any person that has begun to take part in family unification proceedings even if the relationship has dissolved owing to death (Article B1) or divorce (if the couple have children together – Article B2). The Minister of the Interior is also entitled to grant permanent resident status to the minor child of a resident or citizen, even if the child was not in the parent's custody during the two years prior to his entry into Israel, provided that the Israeli parent has guardianship over the child and the other parent's consent has been given thereto (Article B6).

102. In addition, the committee will formulate a position in respect of granting status to children of illegal residents. The committee will determine criteria and the proceeding for granting any status (residency and work permit / temporary residency / permanent residency / citizenship) if it is decided that the policy standard today is to be changed (Article B of the Government Decision above). This trend joins the Respondents' policy to grant temporary residency before granting permanent residency to refugees and political asylum seekers.

Government Decision 1289 is attached hereto and marked AP/14.

103. It therefore appears, that in the opinion of Respondent 1, S.'s life circumstances are included in the "exceptional cases in respect of which there are special

considerations" that justify the granting of permanent residence status. This is also true according to the general criteria regarding humanitarian applications, and also according to Respondent 1's declaration in respect of the foreign workers' children, the rationale behind which certainly applies to this case. We found that Respondent 1's declaration on the issue of the foreign workers' children and additional humanitarian cases is today entrenched in the Government's decision.

104. From the aforesaid it transpires that Respondent 1's current declared policy is to see a foreign citizen who has resided in Israel for many years as a minor, and for whom Israel is his life center, as a person who is entitled to permanent residency status, or even citizenship, when he reaches maturity. It is therefore grave that this policy is not also applied to a person who is not a foreign citizen, and is not a citizen of any country, whose family members are Israeli residents and who has no link to any other place, or identity card or travel certificate therefrom.

105. Thus, Respondent 1, in the very same breath, both declares its willingness to put in order the status of hundreds of children whose situation is similar to S.'s situation, except for the fact that they are not without citizenship, on the one hand, and denies the individual humanitarian application of S., who is without status, on the other hand. This discriminatory approach raises considerable fears regarding the quality of the discretion that was exercised in S.'s case. The Trial Court is, however, ignoring the imparity between the Respondents' policy and their decision on this matter.

106. Moreover, as aforesaid, recently Respondent 1 granted an application to grant status to a person from Gaza, M. 'Amar referred to as T. M. was given a temporary residence permit for two consecutive years and there is willingness to grant him permanent status at the end of this period. It is impossible to ignore the similarity between S.'s case and that of M. The two cases concern boys who have resided in Israel from a young age. M. is a resident of the Palestinian Authority and S. has no status in any place and the only family members with whom he is in contact, his brothers, are Israeli residents. In addition, M. has a considerable number of criminal convictions, in respect of which, *inter alia*, he sat in prison for two years. S. has a very insignificant criminal past.

Therefore, the Appellants, throughout the litigation on the Petition, referred the Respondents to the case of M. and requested that due to the similarity between the cases, the matter of S.'s status be examined in view thereof. The extreme difference between Respondent 1's decision in the case of M. and the Respondents' decision in

the present case at the very least raises fears with regard to the discretion exercised by the Respondents.

The Honorable Trial Court did not find the Respondents' discretion in relation to other and less clear-cut cases than the compelling case of S. to be relevant to its decision.

International Law

107. The Trial Court erred in ignoring in its ruling the international commitments of the State of Israel, according to which it is required to grant status to the stateless persons in its territory.

108. Not putting S.'s status in Israel in order is contrary to the State's international commitments.

109. In Article 24(2) of the International Covenant on Civil and Political Rights, 1966, which was ratified by Israel on 18 August 1991 and came into force in respect of Israel on 3 January 1992, it is determined that:

> **Every child shall be registered immediately after birth and shall have a name**

The duty to register the child, therefore, is the authority's duty. This duty is not contingent upon the parents' cooperation.

110. The international law determines that it is necessary to improve and put in order the status of stateless persons. Thus in Article 27 of the Convention relating to the Status of Stateless Persons, *Ketav Amana* 213, dated 28 September 1954 (signed by Israel on 1 October 1954), it was declared that:

> **The *Contracting States shall issue identity papers to any stateless person in their territory* who does not possess a valid travel document** (My emphasis A.L.).

The State further undertook in Article 32 of the Convention that:

> **The Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.**

According to Article 12 of the Convention:

The personal status of a stateless person shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

111. The Respondents did not act in this manner in respect of the application of S. to obtain status in the State of Israel. On the contrary, the Respondents arbitrarily denied the family unification applications that Appellant 2 submitted for S. whilst he was still a minor and now they have casually decided that the place where the Appellant should seek status is the Palestinian Authority.

112. In Article 1 of the Convention relating to the Status of Stateless Persons, a person without citizenship is defined as:

a person who is not considered as a national by any State under the operation of its law.

Subsequently those to whom the Convention will not apply are defined. In Sub Article (3) it is written that:

[The Convention will not apply] To persons with respect to whom there are serious reasons for considering that:

(a) They have committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes;

(b) They have committed a serious non-political crime outside the country of their residence prior to their admission to that country;

(c) They have been guilty of acts contrary to the purposes and principles of the United Nations.

Nevertheless, the Respondents see the criminal offenses in respect of which S. was sentenced to imprisonment for only a number of months and his unavoidable illegal residency in Israel, as being sufficient reason to leave him without status in the world. The Appellants will assert that it is for good reason that the Convention chose to expressly relate solely to offences at the level of crimes against humanity and war crimes as reasons that justify its non-applicability to persons without citizenship.

113. Moreover, due to the Respondents' refusal to allow S. to obtain status in Israel, which was accepted by the Trial Court, the Appellant's most basic of freedoms, which Israel

undertook to protect when it signed and ratified the International Covenant on Economic, Social and Cultural Rights, which was ratified by Israel on 3 October 1991, are being violated.

In Article 6 of the Covenant:

> **The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.**

Pursuant to Article 9 of the Covenant:

> **The States Parties to the present Covenant recognize the right of everyone to social security…**

And in Article 12 of the Covenant:

> **The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.**

114. In addition, the Respondents are breaching their undertaking pursuant to the International Covenant on Civil and Political Rights (Article 63 [sic] above).

Pursuant to Article 16 of the Covenant:

> **Everyone shall have the right to recognition everywhere as a person before the law.**

Pursuant to Article 26 of the Covenant:

> **All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.**

In Article 9(1) of the Covenant:

> **Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds**

and in accordance with such procedure as are established by law.

115. The Respondents are ignoring and breaching their international commitments and turning the State's declarations – given upon execution of the conventions and in the majority of cases also ratified and valid in Israel – into empty promises.

116. The Honorable Trial Court also joins in ignoring the binding law. The Trial Court does not deem it relevant to order the Respondents to take note of the international covenants (see page 9 of the transcript marked as Appendix AP/13 and Article 58 above) nor does it deem fit to take note of such commitments of the State of Israel in its judgment.

The Discretion Exercised by the Respondents

117. Much has been written on the broad discretion given to Respondent 1 by virtue of the Entry into Israel Law, so much so that there is no longer any dispute that this discretion, even though it has not once been labeled "absolute", is not absolute at all, and that it is also "subject to judicial review like the discretion of any other authority" (Justice Beinish in HCJ 3403/97 *Ankin v. The Ministry of the Interior, Pisqe Din* 51(4) 522, 525):

> **As deeply as I have delved into the matter I know not why the Minister of the Interior's discretion in the Entry Law won – or why it was burdened with – the title of 'absolute' discretion. 'Absolute' discretion means, simply, discretion that is free of review, discretion after which there is in fact nothing… Consequently we find that the same 'absolute' discretion is not absolute at all and the number of grounds to review it is equal to the number of grounds to review any other discretion which is not 'absolute'** (Justice Cheshin, HCJ 758/88 *Kendell v. The Minister of the Interior*, *Pisqe Din* 46(4) 505, 527-528).

See also: HCJ 282/88 *'Awad v. The Prime Minister*, *Pisqe Din* 42(2) 424, 434.

118. Thus, Respondent 1 is subject to the primary duty to exercise his discretion in respect of the question of whether it is necessary to use his authority to give status, and the duty to conduct a fair hearing on an application to grant status, without prejudice, whilst carrying out a fair and methodical inquiry on the merits of the case before reaching the decision (see: HCJ *Berger v. The Minister of the Interior*, *Pisqe Din*

37(3) 29). The Appellants will assert that the Respondents did not fulfill their said duty, as evidenced by the fact that the family unification application was denied several times without a hearing being conducted for S., immediately and without any reasons being given, and later on, a main reason that was given for the denial is the actual illegal residency in Israel of S., who has no citizenship, and the Respondents' position on the Petition was already absolutely devoid of any reasons. All that the Respondents have asserted is that the Applicant is required to apply for status in the West Bank. This being without explaining why his having no connection to the Palestinian Authority prevails over his strong and exclusive connection to Israel and the nature of the balance according to which it was decided that the responsibility for his status is entrusted to the Palestinian Authority. As we have seen, the Respondents' answer, which lacked any reasons, satisfied the Honorable Trial Court, which found their feeble conclusion to be appropriate.

119. Therefore, the Appellants will assert that the Respondents' decision, which was accepted by the Trial Court, is utterly contrary to the goal of the Entry into Israel Law, in the context of which the Respondents are required to exercise their discretion. Reinforcement for this claim is provided by the Respondents' readiness, parallel to their decision to deny S.'s application to obtain status, to put in order the status of the foreign workers' children, who are in a very similar situation to that of S., apart from the fact that they have citizenship in their countries of origin, they have families in their countries of origin and they are a group which indeed constitutes, in the opinion of the Appellants, a category deserving of humanitarian treatment, but is not an individual and unique case like the case of S. The same is true of the case of the boy from Gaza, who, despite his criminal past, obtained status in Israel.

Lack of Purposefulness

120. The Legislation is presumed to be designed to give effect to the basic values of the system, besides the concrete goal which underlay the enactment thereof. Therefore, the goal of the legislation also includes the principle of preservation of human rights and the rule of law. The goal of the law also includes the desire to achieve proper administrative conduct such as sensibleness, reasonableness, fairness and good faith (see: Aharon Barak, *Parshanut ba-Mishpat - Parshanut ha-Haqiqa* [Interpretation in Law - Statutory Interpretation] (Nevo, 5753), 152).

121. If this is the case, what is the goal of the provisions of Article 2 of the Entry into Israel Law, which the Respondents are required to achieve when they come to consider the Appellants' application to grant a permanent resident visa?

The concrete goal of the Entry into Israel Law is to govern the entry of foreigners into and their stay in Israel, temporarily or permanently. The variety of visas that the Respondents have the authority to grant is designed to confer flexibility upon them when exercising their discretion and to ensure that the stay of foreign citizens in Israel will be regulated with reasonableness, fairness and in good faith, whilst preserving human rights and whilst considering national and economic interests. The variety of visas, therefore, is what ensures that the Respondents will be able to simultaneously achieve the concrete goal and the general goal of the Entry into Israel Law.

122. Only consideration of the personal circumstances of the person applying for the visa, together with the public interest, will constitute educated exercise of the Respondents' authority and will ensure full achievement of the goal of the law. The Respondents are not taking S.'s personal circumstances into account at all, and also err in assuming that they are serving the public interest by deciding to deny his application. The public interest, as well as S.'s life circumstances, require that his status be put in order as a permanent resident in Israel.

123. The Trial Court at least mentioned the unique and difficult situation in which S. finds himself but does not give any weight thereto and does not seek to learn anything therefrom. Despite the interpretive duty to consider the goal of the legislation, including that which confers broad discretion, in light of Basic Law: Human Dignity and Liberty, the Honorable Trial Court ignores the grave and ongoing violation of S.'s human rights, and finds the Respondents' refusal to grant him status in Israel to be appropriate.

The Respondents' Decision is Disproportionate

124. The Respondents did not exercise their discretion according to the criterion called for due to the person's right to status being a basic human right; and they did not give appropriate weight to the injury which S. will sustain. The Honorable Trial Court erred in ignoring in its judgment the grave violation of the Appellant's rights as a person versus the benefit that derives, if at all, from the Respondents' insistence on leaving him without status.

125. The administrative law includes constitutional restrictions on the exercise of authority which violates basic rights.

The Honorable President Barak ruled with regards to the test of proportionateness in respect of a violation of basic rights:

> **The governmental act is only proportionate if it realizes the proper goal by suitable means, which violates human rights to the smallest degree in proper proportion to the benefit they contribute in achieving the goal. This stems from the constitutional status of human rights, which a governmental act is not entitled to violate unless it is "for a proper goal and to an extent no greater than is required" (the restriction clause in the Basic Laws regarding human rights). This is also called for by our interpretive conception, according to which the realization of human rights is the (general) goal of every governmental act (see HCJ 953/87 Poraz v. The Mayor of Tel Aviv – Jaffa, Pisqe Din 42 (2) 309, 329; HCJ 693/91 Efrat v. The Population Registry Commissioner, Pisqe Din 47 (1) 729. Only if the governmental act violates human rights to the smallest (most moderate) extent, and its violation of human rights is in proper proportion (which is not excessive) to the proper goal can it be said that the goal of the governmental act – the general goal of which is to realize human rights and the specific goal of which is to achieve the specific goals that underlie it – is realized to the proper extent. In terms of reasonableness it could be said that a governmental act which realizes a proper goal through means which violate human rights beyond the extent required is unreasonable. The reasonableness requires that the governmental means be proportionate. Only thus is the proper balance between the conflicting values, that underlies the principle of reasonableness, assured in practice.** HCJ 4330/93 – *Landau v. The District Committee of the Bar Association*, *Pisqe Din* 50(4), 221 pages 232-233.

126. The Respondents' decision to deny the family unification application that S.'s brother submitted for him and their consent to allow him to visit Israel for one year only is not the way which prejudices the individual to the smallest extent. This decision severely and continuously violates S.'s most elementary basic rights to identity, liberty and security. Such a violation bears no proportion to the benefit that is supposed to derive therefrom.

The Respondent's Decision is Unreasonable

127. The Honorable Trial Court erred in not giving proper weight to S.'s life circumstances and to the fact that he is without citizenship and therefore it saw the Respondents' proposal to be a reasonable and appropriate solution to S.'s situation.

128. The Appellants will assert that not giving weight to S.'s unique life circumstances reflects an improper balance between the various interests which underlie the goal of the Entry into Israel Law and which are supposed to guide the Respondent when he comes to exercise the authority vested in him by virtue of this law and the court when it comes to exercise judicial review over the reasonableness of the Respondents' decision.

129. Preservation of the moral character of the State of Israel as a democratic country is the general public interest which is on the agenda in this case, which requires consideration of S.'s unique life circumstances and constitutes a central tier in establishing the Respondents' duty to grant S. legal status in Israel. A person who lives in a country for a long time without any legal status becomes a second class, inferior person without social and civil-political rights. Such a situation is unjustified, immoral and dangerous to democracy (see: Yaffa Zilbershats, "Reconsidering the Concept of Citizenship", 36 *Texas International Law Journal* 689 (2001), pp. 710-711).

130. The Respondents' decision which ignores the Appellant's personal interest, which stems, *inter alia*, from the extended period of time during which he has lived in Israel, is contrary to the great importance which the legislator, and as a result thereof the Supreme Court, ascribed to the existence of a continuous and consistent connection between the individual and his place of residence and his settling therein, when they came to define the concept of residency. Therefore, this decision prevents full achievement of the goal of the law.

131. When they decided to leave S. without status in the world and determined that he is required to apply for status in the Palestinian Authority of all places, where he knows no-one, according to the criteria called for by the nature of the right and the severity of the violation thereof, the Respondents exercised unreasonable discretion and their decision should be overruled. Therefore, the Trial Court erred in ruling that the factual infrastructure described justifies special consideration but concluded that leaving the situation as it is – leaving S. without status in the world, whilst only granting him a temporary permit – constitutes a reasonable solution, special consideration.

The Respondents' Decision is Unfair

132. The Honorable Justice Barak (as was his title then) ruled in HCJ 840/79:

> **The state, through those acting in its name, is the public's trustee, and it holds the public interest and public property for use that benefits the public… This special status is what imposes the duty on the state to act reasonably, honestly, with integrity, and in good faith. The state is forbidden to discriminate, act arbitrarily, or without good faith, or be in a conflict of interest. In brief, it must act fairly** (HCJ 840/79, *The Contractors and Builders Center in Israel v. The Israeli Government*, *Pisqe Din* 34(3), 729, on pages 745-746).

133. Moreover, the Respondents are bound to consider humanitarian considerations when they come to use their discretion. In HCJ 794/98 *Sheikh 'Abd al-Karim 'Ubeid et al. v. The Minister of Defense*, *Pisqe Din* 55(5), 769, pages 773-774, President Barak ruled:

> **The State of Israel is a law-abiding state; the State of Israel is a democracy which respects human rights, and seriously considers humanitarian considerations. We consider these considerations because of the compassion and humanism inherent in our nature as a Jewish and democratic state; we consider these considerations since in our eyes, the dignity of every human, even if he is counted among our enemies, is precious** (compare with HCJ 320/80 *Qawasima v. The Minister of Defense*, *Pisqe Din* 35(3), page 113, 132).

The Appellants will assert that the Respondents' decision to refuse to put S.'s status in order due to his criminal past and his illegal residency and the Honorable Trial Court's ruling which accepts this decision as reasonable, are clearly contrary to the State of Israel's said commitments.

Conclusion

134. S. is a person without status who grew up in Israel, which is his only home. The only relatives with whom he is in contact are found here. He does not know another country apart from Israel. The Respondents are consistently refusing to put his status in order and he has lived, throughout his life, without an identifying number and without any status at all. This situation has caused S. to live an inhuman existence.

Due to the Respondents' refusal to put S.'s status in order, which was found by the Trial Court to be appropriate, his most basic human rights have been violated.

135. In the absence of an identity card, the security authorities see S. as a criminal and the civil authorities such as the Ministry of the Interior and the National Insurance Institute prefer to simply ignore his existence. The way in which the Respondents deal with a person who has grown up and lives in Israel – whose father, who abandoned him, was an Israeli resident and whose brothers and guardians are also Israeli residents who raised him here – has amounted over the years to a laconic denial of an application to grant status without giving any reasons. Only after the Petition was filed with the Trial Court did the Respondents agree to give S. a visiting permit for a year, subject to a number of conditions. The Respondents' claim, which was accepted by the Honorable Trial Court, is that this is nothing but an appropriate solution to S.'s problem. This temporary solution was also given "*ex gratia*" until S. will be able to apply for family unification in the Palestinian Authority. With whom will S. apply to reunite in the same family unification application? This question does not bother the Respondents. Nor the Honorable Trial Court.

136. Thus the Respondents are shedding any responsibility for the desperate situation of S., who has no citizenship. S.'s parents' negligence and neglect, due to which he was not registered upon his birth, do not in any way justify the Respondents' refusal to put his status in order and were it not for his parents' negligence, S. would have been registered in the Israeli Population Registry by his father, close to his birth, pursuant to the Entry into Israel Law and the Population Registry Law and according to the policy of the Respondents themselves.

137. S. has no place to which he can belong with the exception of Israel. He has no identity and due thereto he is denied all human rights, being non-existent. S. is forced every day, and without the Court's intervention will continue until the day he dies, to deal with his lack of belonging to any place in the world. He is not entitled to any social right, medical treatments, freedom of movement and certainly not "luxuries", a person's right in modern society, such as the right to an education and freedom of occupation. As a consequence thereof, S. leads a life that bears no resemblance to that of a human being and his personal situation is deteriorating.

138. The Respondents are ignoring in their decision S.'s situation which has been presented to them in detail, and all that they are prepared to do, under the coercion of the Honorable Trial Court, is to grant S. a visiting permit. The Respondents did not even agree to S. taking part in family unification proceedings, which give some hope

of obtaining status at a certain point in time. The Honorable Trial Court recognizes, *prima facie*, S.'s unique circumstances but nevertheless prefers to leave the existing situation, according to which S. is not recognized as having status, as it is.

139. The Trial Court's ruling which entrenches the Respondents' said decision is not only unreasonable, unfair and disproportionate, but it is also contrary to the interests of the State, as the absence of a solution will lead to deterioration in S's situation instead of his rehabilitation. The Respondents are unable to deport S. from Israel since there is no place to which it is possible to deport him. Thus, S. will remain in Israel, the only place that he knows, but as a person whose existence is not recognized. He does not have those rights that were determined in the Basic Law: Human Dignity and Liberty as such that are available to any human being in his capacity as such. The Israeli Population Registry will continue to not reflect reality.

140. The Appellants will assert that the Respondents' decision to refuse to put S.'s status in order, which was accepted by the Honorable Trial Court, exhibits untold insensitivity, extreme unreasonableness and sins against the rules of natural justice. The Respondents' consistent refusal to put S.'s status in order is contrary to Basic Law: Human Dignity and Liberty, the international law and the decrees of humanism.

141. Therefore, the Honorable Court's intervention is required to reverse the Trial Court's judgment, which constitutes an unendurable edict, and to instruct the Respondents to put S.'s status as a permanent resident in order in the Population Registry.

The Requested Remedy

142. S. finds himself, against his interests and through no fault of his own, in a difficult situation and has come to be a nomad in Israel where he is persecuted and denied basic rights. The Respondents' decision, which was entrenched in the Trial Court's judgment, is not to recognize S.'s distress and his unique life circumstances as a reason that justifies the granting of a permanent residence permit and visa. When we come to examine S.'s link to Israel, his personal interest and the public interest, we find that putting his status in Israel in order by granting a permanent residence permit is the only reasonable and moral solution for the achievement of the goal of Basic Law: Human Dignity and Liberty, the Entry into Israel Law and Israel's international commitments.

For all of the reasons that have been specified, the Honorable Court is moved to reverse the Honorable Trial Court's judgment and to grant the Appellants the remedy sought by them in the Petition, which was detailed in the introduction

hereof. In addition, the Honorable Court is moved to charge the Respondents with payment of legal expenses and legal fees.

Jerusalem, Sunday, 29 February 2004

_____

Adi Landau, Attorney

Legal Counsel for the Appellants