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At the Supreme Court in Jerusalem
Sitting as the High Court of Justice

HCJ 8696/02

In the matter of: **M. Shahin *et al.***

represented by attorneys Tarek Ibrahim *et al.*
of HaMoked: Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger
4 Abu Obeidah Street, Jerusalem 97200
Tel. 02-6283555; Fax. 02-6276317

The Petitioners

v.

Commander of the IDF forces in the West Bank

by the State Attorney's Office
Ministry of Justice, Jerusalem

The Respondent

Application for Order Nisi

The Honorable Court is requested to issue an Order Nisi directed to the Respondent, as requested in the petition.

The grounds for the application are as follows:

1. The petition herein relates to the Petitioners' request that the family of Petitioner 1 be informed of the **place** where Petitioner 1, who was detained by the Respondent, is located and being held.
2. On 10 October 2002, the Petitioners filed the aforementioned petition. The same day, the Honorable Justice T. Strasberg-Cohen ordered that the Respondent file his response to the petition no later than 13 October 2002, at 2:00 P.M. Indeed, on 13 October 2002, the Respondent filed his response.
3. In his response, the Respondent states that Petitioner 1 was detained for questioning on 4 October 2002, and was presently being interrogated by the General Security Service, with the cooperation of the Israel Police. The Respondent further stated that correspondence and requests regarding Petitioner 1 could be directed to a person named Madi Hareb, head of the Hostile Terrorist Activity Unit in the Kishon

Detention Center. **However, the Respondent does not mention in his response where Petitioner 1 is being held.**

4. In a telephone conversation that took place today between Mr. Hareb and Ms. Mihal Leibel, who is in charge of locating detainees at Petitioner 2 (HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger), Ms. Leibel was told that Petitioner 1 is being held **in a secret facility attached to the Kishon Detention Center**; that a hearing on extending his detention is scheduled for tomorrow, 15 October, at 11:30 A.M.; and that an order had been issued prohibiting him from meeting with counsel until 17 October 2002. Furthermore, Mr. Hareb mentioned that all information regarding Petitioner 1 could be obtained **only** through him, and not through the registration office at Kishon Detention Center. Indeed, when Ms. Leibel inquired with the registration office at Kishon Detention Center, she was informed that he was not being held there.

The affidavit of Ms. Leibel regarding the said conversation is attached hereto as Appendix B/1.

5. Therefore, it appears that the Respondent is **concealing** from Petitioner 1's family the place where he is being held, in that the Respondent **refuses** to disclose to the Petitioners the location of Petitioner 1. The said refusal is in violation of his obligation under the defence legislation (see the **Legal Argument** chapter of the petition, Articles 3-7).
6. Holding a person in a secret location, which doubtfully was declared a prison facility in accordance with law, is inconsistent with a democratic regime. The Respondent must tell the court in which facility Petitioner 1 is being held, and explain the legal basis for holding detainees in that facility.
7. In light of the above, the Honorable Court is requested to issue an Order Nisi directed to the Respondent, as requested in the petition, and order the Respondent to respond urgently.
8. **Response of Respondent's counsel:** Counsel for Respondent consents to the filing of the application, reserving the right to respond substantively.

Jerusalem, 15 October 2002

[signed]

Tarek Ibrahim, Attorney
Counsel for Petitioners