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Date: April 15, 2015

In your response please note: 35685

To:

Assistant Commissioner Ilan Burda
Head of Intelligence Department
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Dear Sir,

Re: **The decisions of the Head of the Information Security Department
Barring Entry into a Prison**

شارع أبو عبيده ٤
القدس ٩٧٢٠٠
هاتف. ٦٢٨٣٥٥٥. ٠٢.
فاكس. ٦٢٧٦٣١٧. ٠٢.

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1. I hereby appeal to you on the above referenced matter as follow.
2. HaMoked: Center for the Defence of the Individual has for many years assisted family members of Palestinian prisoners incarcerated in Israel to realize their right to family life through visits to their imprisoned loved ones.
3. As part of this intensive work vis-à-vis the Israel Prison Service (IPS), we have repeatedly encountered cases in which family members of Palestinian prisoners are barred by IPS authorities from entering a prison for a visit although they are not prisoners or former prisoners. Often, both the family member and the prisoner do not understand why the visitor was barred from entry. Additionally, in many of the cases, the prisoner's relative was told that he was "banned from entry" until further notice. Clearly, prohibiting an individual from seeing a first-degree relative indefinitely constitutes a severe infringement of the right of that individual to have contact with the prisoner and vice versa.
4. Regulation 30(b) of the Prisons Regulations, 5738 -1978, grants the prison director the authority to prohibit the entry of an individual into the prison for a variety of specified reasons. In Article 23(a) of the Prisons Commissioner's Order 04.42.00 "Prisoner Visits Regulations" specifies the manner in which an individual's entry for a visit may be barred, including the role of the Head of the Data Security Department.
5. It is understandable that it is possible for an authority to ban the entry of an individual into a prison on the basis of various considerations. However, the

problem lies in **the manner in which this authority is implemented in practice**. This specifically refers to the fact that the application form titled “Request to bar the entry of a person into a prison not due to his being a prisoner or a former prisoner” that is attached as Appendix D to the aforementioned Prisons Commissioner’s Order makes it possible for the Head of Information Security to recommend barring a person from entering for a visit “indefinitely”.

6. Granting this kind of power to a public official is unreasonable. It is impossible that a person will be prohibited from entering a prison to meet an incarcerated relative without that person knowing how long the ban will remain in effect. A public official must not have absolute discretion, that is not subject to any balance whatsoever, when he denies an individual a basic, fundamental right. The Head of Information Security, who is vested with the discretion, must take into account considerations such as the family tie between the visitor and the prisoner, the circumstances for which it is sought to deny the visitor’s entry into the prison etc. The decision must take all of these and more into account, and in no case should it be possible to bar a person from seeing his relative forever.
7. Accordingly, we request that you alter the form implementing the order on the prohibition of entry so it does not include the authority to ban the entry of an individual into a prison indefinitely. In other words, we ask that in each case of disqualification, the relevant person will know until when the ban is expected to be in effect.
8. Beyond the fact that an alteration in this spirit will reflect the law, this step will avert many appeals to the courts that currently take place only due to the fact that decisions are taken on the detachment of prisoners from their families indefinitely.
9. I would be grateful for your attention and treatment of the matter.

Respectfully,
Daniel Shenhar, Adv.

Cc:

Assistant Commissioner Ehud Halevi, IPS Legal Advisor, fax: 08-9193840