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To:  
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Ministry of Justice  
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**By fax: 02-6467001**

**Urgent!**

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Dear Sir,

Re: **Private Member Bill tabled by MK Oren Hazan, scheduled to be brought before the Ministerial Committee for Legislation this coming Sunday, January 17, 2016**

Entry into Israel Bill (Amendment – Revocation of Residency of Persons who Breached Allegiance to the State of Israel or their Family Members) 5786-2016, tabled by MK Oren Asaf Hazan (p. 2463).

1. I hereby contact you on behalf of HaMoked: Center for the Defence of the Individual, a human rights organization, which has for many years defended the rights of residents of East Jerusalem and their family members, to caution that the bill in reference (hereinafter: **the Bill**) is unlawful and wrongful. The Bill is scheduled for discussion by the Ministerial Committee for Legislation this coming Sunday, January 17, 2016 at 1:00 P.M.

A copy of the bill and its explanatory notes is attached hereto and marked A.

2. HaMoked is currently representing four permanent residents from East Jerusalem who are subject to proceedings for status revocation launched by former Minister of Interior, Silvan Shalom, for their alleged involvement in security incidents. The proceedings were launched before criminal proceedings against them have been concluded and prior to their conviction.
3. In Sec. 1(c)(2), the Bill seeks to grant the Minister of Interior powers to revoke the permanent residency permit of persons “who have been convicted of an act that constitutes breach of allegiance to the State of Israel, or their family members”. According to the Bill, family members are “spouses, parents or children”. Breach of allegiance to the State of Israel is defined in the Bill “as defined in the Citizenship Law 5712-1952”.
4. This is a wrongful and unlawful bill for the reasons enumerated hereinafter:
5. **Distinction between citizens and residents** – the Bill draws a parallel between the status of residents and the status of citizens with respect to duties, including

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مكتب الشكاوي - جمعية مسجلة

the duty of allegiance to the country. However, only a person wishing to become a citizen of Israel is required to pledge allegiance to the country (see, Sec. 5(c) of the Citizenship Law 5712-1952) (hereinafter: the **Citizenship Law**). On the other hand, a person seeking permanent residency status in Israel is not required to pledge allegiance to the country at all.

To that, add that the Citizenship Law requires granting residency status to persons who have been deemed to have “breached allegiance” so seriously as to justify revocation of citizenship. It is our position that unlike citizenship status which does give rise to a duty of allegiance on the part of those holding said status, permanent residency does not entail such a duty. It stands to reason that if it had, persons whose citizenship was revoked due to breach of allegiance would not be granted residency status. If it were otherwise, it would have made no difference. The matter still concerns a breach of duty entailed in status, no matter whether this status is citizenship or residency.

6. **Residents of East Jerusalem and the duty of allegiance to the State of Israel** – Revoking permits for permanent residency of East Jerusalem residents for “breach of allegiance to the State of Israel” contradicts the historic reality of how permanent residency status was given to East Jerusalem residents originally, when the authorities knew full well they bore no “allegiance” to the State of Israel, but rather these residents were positively opposed to Israeli sovereignty over them. East Jerusalem residents were entered into the population registry and given Israeli identity cards with the full knowledge that they were subjects of an enemy state who, after intense fighting, found themselves under Israeli rule. Given the circumstances, no one expected them to declare or express loyalty to the State of Israel.

In this sense, the permanent residency permit was in essence a confirmation of an existing situation, a way of making this situation legal in the new territorial context of East Jerusalem’s annexation. Without this grant of status, Israel would have had to hold a massive expulsion of tens of thousands of people from East Jerusalem after the annexation.

This, in fact, was the reason why East Jerusalem residents were only given permanent residency rather than citizenship, which entails, among other things, pledging allegiance to the State of Israel.

7. **Revoking the residency of family members as collective punishment** – the Bill empowers the Minister of Interior to revoke the permanent residency of family members of persons who have breached their allegiance to the State of Israel. This constitutes wrongful collective punishment of innocents who have done nothing wrong. As is known, the state has the power to interrogate the family members and charge them if they took part in the incident. Revoking the residency of persons to whom no involvement is attributed – elderly parents, wives, even children – is an act of vengeance. We note again, that these individuals were granted their permanent residency permits by right rather than

as an act of good will, because they belong to East Jerusalem's native population.

This is a severe injury that does not meet the requirements of Israeli law, including the limitation clause of Basic Law: Human Dignity and Liberty, nor does it comply with the international conventions Israel has signed and ratified.

8. **Application of international law on East Jerusalem residents** – While East Jerusalem residents are considered residents of the State of Israel under domestic law, according to international law, East Jerusalem remains occupied territory and its residents are “protected persons”, who are entitled to the protections afforded by international humanitarian law, including the Fourth Geneva Convention of 1949 and the Hague Regulations of 1907. It is important to note that contrary to the premise underlying the Bill, that East Jerusalem residents bear a duty of allegiance toward the State of Israel, Art. 45 of the Hague Regulations and Art. 68 of the Fourth Geneva Convention **prohibit** the occupying power from **forcing residents of the occupied territory to pledge allegiance to it**.
9. We note, that the very existence of a power to revoke the status of East Jerusalem residents for breach of allegiance (and, by implication, the existence of such a duty of allegiance) is currently pending before the Supreme Court (HCJ 7803/06 **Abu ‘Arafah v. Minister of Interior**). The petition was heard by an extended panel and now awaits a ruling.
10. In light of all the aforesaid, I seek your intervention for the removal of the Bill, given its unlawfulness.

Sincerely,  
Abir Joubran-Dakwar, Adv.