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At the Supreme Court
Sitting as the High Court of Justice

HCJ 289/09

_____ **'Attar and 15 others**

Represented by attorneys Sigi Ben-Ari (lic. no. 37566) et al
Of HaMoked: Center for the Defence of the Individual founded by Dr. Lotte Salzberger - registered non profit organization
4 Abu Ovadiah Street, Jerusalem, 97200
Tel: 02-6273723; 050-5930245 Fax: 02-6281217

The Petitioners

- Versus -

The Israel Defence Forces et al
Represented by the State Attorneys,
Ministry of Justice, Jerusalem

The Respondents

Application by the Petitioners to reply to the Respondent's Reply

The Petitioners hereby request to briefly reply to the Respondent's Reply, which was filed on 11 January, 2009.

Counsel for the Respondents, Adv. Avi Licht leaves the application to the discretion of the honorable court.

1. The petition, which was filed on 8 January 2009, is concerned with the location of Petitioners 1-15, residents of the Gaza Strip, and with the delivery of information by the Respondents with respect to the fate of other Palestinians, residents of the Gaza Strip, whom to the best of our knowledge have been arrested by the forces deployed by Respondent 1.
2. In the Respondent's reply information was delivered with respect to some of the Petitioners. With respect to the 60 other persons, for whom an application was already made by HaMoked: Center for Defence of the Individual to the Detentions Control Center a week ago, a reply was received only today.

According to this reply 20 of the persons could not be located, 37 had been released from "Sde Teiman" and a few remained incarcerated in "Sde Teiman".

3. With respect to general relief we have been informed by the Respondents in paragraph 6 of their reply that all efforts shall be made to transfer the names of the detainees from Gaza to the Control Center no later than 48 hours from the time they are transferred to Israel.
4. The Respondent's reply with respect to general relief cannot be accepted by the Petitioners. The duty to release information on the detention of a person is an **urgent** obligation. It has thus been established in the law and in past rulings, as detailed in the writ of petition. In H CJ 6757/95 **Hirba'oy et al v. Commander of the IDF Forces in the Judea and Samaria Region** (paragraph 8 of the petition) it was held that **"the IDF Detention Control Center will receive from all persons ... updated information with respect to the detention and place of detention of detainees once in 24 hours, in such manner that one may locate a detainee before an application has been made by an outside party."** In the wake of this ruling an arrangement was drawn up, which has been operative for many years, in terms of which replies from the Detentions Control Center to location discovery applications from HaMoked: Center for Defence of the Individual would be received **within 24 hours**. This arrangement was put into writing on 3 March, 1996 by the Detentions Control Center Command in terms of which **"3. A reply shall be given within a 24-hour period, except for applications that are made on a Friday – to which a reply shall be given on Sunday"**. It should be noted, that as of 18 June, 1996 when responsibility for the Control Center was transferred to the authority of the Chief Military Police Command, First Lieutenant Gaby Blum announced, in the name of the assistant to the Military Advocate General in charge of international law, that **"3. The procedures for the identification of detainees that had already been put in place in the Detentions Control Center would also continue under the Chief Military Police Command"**.

A copy of the letter dated 3 March, 1996 is attached and marked **p/1**.

A copy of the letter dated 17 June, 1996 is attached and marked **p/2**.

5. In light of the aforesaid the Petitioners are of the opinion that information regarding the detention of Gaza residents should immediately be delivered to the Detention Control Center, in such a way that an application for information with regard to the fact of the detention and the place of the detention shall be given within a maximum time limit of 24 hours from the time of the detention. This, regardless of whether the detainees are being held in the Gaza Strip or within Israel proper.
6. It should be noted further that the delivery of information on the detention and place of detention of a person is a duty that rests upon the detaining authority, namely upon Respondent 1. HaMoked: Center for Defence of the Individual, which has been working at obtaining information from the Respondents and transferring it to the families while making huge investments of time and resources, are in actual fact doing the work of Respondent 1.

7. Moreover, it is not within the capacity of the Petitioners to establish contact with the detention facility which is referred to as "Sde Teiman". In the Respondents' reply it has not been noted where the Petitioners were being held before they were released and in the replies provided by the Detention Control Center it is noted, as stated, that a number of persons are being held at the place referred to as "Sde Teiman", while others have already been released from there. The application by a representative of HaMoked to the Detention Control Center to obtain details about the place in order to establish contact and to arrange for visits by an attorney to the place, has thus far not been answered. Mentioning only the name of the place of detention, so that there is no possibility of visiting the inmate, of determining the conditions of detention and of providing the assistance which he requires does not conform to the rationales that underlie the obligation to release information on the place of detention.

For the all above reasons, the honorable court is requested to order the Respondents to file a supplementary reply with respect to their obligation to release immediate information about the detention of a person and with regard to the place of detention that has been referred to as "Sde Teiman".

Jerusalem, 12 January 2009.

Sigi Ben-Ari, Attorney
Counsel for the Petitioners

(T.S. 58892)