

Petitioners:

1. **Yedidya Loewenthal, Adv.**
2. **David Izacsohn, Adv.**
3. **Moshe Lipel, Adv.**
4. **Zvi Zaks, Adv.**

v.

Respondents:

1. **Prime Minister Benjamin Netanyahu**
2. **Minister of Health Yaakov Litzman**
3. **Minister of Defense Naftali Bennet**
4. **Moshe Bar Simon, Director General, Ministry of Health**
5. **Minister of Public Security Gilad Erdan**
6. **Minister of the Treasury Moshe Kahlon**
7. **District Commander Roni Numa**
8. **National Emergency Network**
9. **Bnei Brak Municipality**
10. **Avraham Rubinstein, Mayor of Bnei Brak**

Attorney for the Petitioners: *Pro se*

Attorneys for Respondents 1-8: Nahi Benor, Adv.; Tehola Roth, Adv.

Attorneys for Respondents 9-10: Yehuda Leibowitz, Adv.; Ariel Yunger, Adv.

The Supreme Court sitting as High Court of Justice

Before: Justice I. Amit, Justice A. Baron, Justice Y. Elron

Petition for order nisi and interim order

Israeli Supreme Court cases cited:

- [1] HCJ 8938/11 *“All for Peace” v. Minister of Communications*, (Feb. 24, 2015)
- [2] HCJ 5263/16 *Nesher Israel Cement Enterprises v. Ministry of Environmental Protection*, (July 23, 2018)
- [3] HCJ 5438/19 *Jan Chibartkin v. Ministry of Justice of the State of Israel*, (Feb. 26, 2020)
- [4] HCJ 13/80 *Nun Canning Industries v. Ministry of Health*, IsrSC 34(2) 693 (1980)
- [5] HCJ 4675/03 *Pfizer Pharmaceuticals v. Director General of the Ministry of Health*, (May 12, 2011)
- [6] HCJ 1407/18 *Koffolk (1949) Ltd. v. Head of the Medical Preparations Registration Department*, (Aug. 19, 2019)
- [7] HCJ 703/19 *MBI Pharma v. Ministry of Health*, (Aug. 26, 2019)
- [8] LAA 2199/20 *Peshe Brook v. Ministry of Health*, (March 24, 2020) [<https://versa.cardozo.yu.edu/opinions/brook-v-ministry-health>]
- [9] HCJ 2233/20 *Pardes Hanna-Karkur Local Council v. Ministry of Health*, (March 26, 2020) [<https://versa.cardozo.yu.edu/opinions/pardes-hanna-karkur-local-council-v-ministry-health>]
- [10] HCJ 10203/03 *Hamifkad Haleumi v. Attorney General*, IsrSC 62(4) 715 (2008) [<https://versa.cardozo.yu.edu/opinions/hamifkad-haleumi-v-attorney-general>]
- [11] HCJ 1715/97 *Israel Investment Managers Association v. Minister of Finance*, IsrSC 51 (4) 367 (1997)

Judgment

(April 7, 2020)

Justice I. Amit:

1. The coronavirus epidemic leaves its mark on every area of life. Since the outbreak of the epidemic in December 2019, the world has been contending with the rapidly spreading virus,

which has, to date, left a long trail of over a million sick and tens of thousands of dead. Israel has not escaped this struggle, and sadly, as of the date of this writing, over 9,000 people have been diagnosed, and dozens have died.

From a legal standpoint, the epidemic leads us through a land not sown [Jeremiah 2:2], to legal and constitutional places and paths not imagined by our predecessors, nor even predicted by prophets of doom. Basic constitutional rights, like the right to privacy and property, freedom of occupation and freedom of movement in Israel are dumbfounded in the face of terms like closure, quarantine, encirclement, roadblocks, cellphone location tracking by the I.S.A., social distancing, etc. All of these file before us like a dystopian nightmare in a democratic state founded upon freedom of the individual. In normal times, such means would be summarily rejected as manifestly unlawful, but these are not normal times, and due to the “need of the hour” (TB Yevamoth 90b, Sanhedrin 46a), there is no alternative but to punish the public, although it did not sin and is not worthy of punishment.

2. The present petition was submitted by four lawyers, residents of Bnei Brak, who ask that we issue an order nisi requiring that the Respondents explain why Government Decision no. 4958 of April 2, 2020, which declared the Bnei Brak municipal district as a “restricted zone” for six days (hereinafter: the Government Decision) not be revoked. The Petitioners also ask that we issue an interim order instructing the Respondents to refrain from exercising their authority under the said declaration until the petition is decided.

Alternatively, the petition asks that we order the Respondents to provide basic food items to the city’s healthy and ailing residents, and to provide them with appropriate food, that is certified as kosher-for-Passover under rabbinical supervision acceptable to the city’s residents.

3. The petition was brought before me last night. Due to its urgency, and with Passover soon upon us, I ordered Respondents 1-8 (hereinafter: the State) to respond to the petition by this morning at 10:00 AM (which was extended several times at their request, and the response was ultimately submitted at about 4:00 PM). In addition, I also allowed Respondents 9-10 (the Bnei Brak Municipality and the Mayor (hereinafter, collectively: the Municipality)) to submit their response.

Arguments of the Petitioners and the Municipality

4. The Petitioners argue that the declaration of Bnei Brak as a “restricted zone” was intended only to prevent the spread of the virus to adjacent cities, but in no way relates to the prevention of its spread among the residents of Bnei Brak themselves. The Petitioners describe the severe consequences of the declaration, among them, they argue that the city’s residents have difficulty obtaining food, medicine, and medical treatment; that it mortally violates the residents’ freedom of occupation, their liberty, dignity and their freedom of movement. The harm is particularly severe given that we are concerned with a socially and economically deprived population that is characterized by large families and a low standard of living, given that the families have been imprisoned in their homes since several days prior to the imposition of the quarantine. The Petitioners describe the situation that has been created as “collective punishment”, and take this opportunity to complain of incitement against the ultra-Orthodox community in general, and the residents of Bnei Brak, in particular, and of the humiliation suffered by the city’s residents of ultra-Orthodox appearance, when they go out to purchase food and drugs.

In addition, the Petitioners argue that the declaration was made “contrary to the obligatory constitutional norms”, that its provisions violate the International Covenant on Civil and Political Rights, that the provisions should have been established in primary legislation, and that the declaration does not meet the tests of proportionality. Lastly, they argue that the declaration was made without public debate, without sufficient evidentiary grounds, and in violation of the right to be heard. According to the Petitioners, they addressed a demand to revoke the declaration to the Respondents, but received no reply (I would note that contrary to what is stated in the petition, the Petitioners’ letter to the Respondents was not appended to the petition).

5. The Municipality admitted, both at the beginning and at the end of its response, that all involved are working around the clock in the holy effort of aiding the residents of Bnei Brak.

On the merits, the Municipality supports the petition, and joined its arguments. In its response, it argued that “the blood of the residents of Bnei Brak is no less red than that of the residents of Israel’s other cities,” and that from the outset, the Municipality expressed its opinion to the authorities that “it is wrong to adopt the historically unparalleled, draconian measures taken against the city of Bnei Brak alone”.

The Municipality complained of the manner of making the decision that is the subject of the petition. It argues that before declaring Bnei Brak a restricted zone, the authorities should have heard its opinion, as it is better acquainted with the lifestyle of the city's residents than any regulator, and is deeply involved in the city's ongoing affairs. It claims that decisions affecting the fate of thousands of large families and thousands of elderly should not have been made without first obtaining complete, comprehensive information from the Municipality's social services department, and without familiarity with the unique characteristics of the city's population. For example, the Municipality (and the Petitioners) pointed out that a large portion of the city's residents rely on "kosher" phones that cannot receive SMS messages intended to provide information to the city's residents. Against this background, the Municipality asks that even if the Petition be denied, the Court order the end of the quarantine no later than the originally established date, and that no extension be made without prior, professional, interdepartmental consultation, and primarily, after consultation with the Municipality.

6. The Municipality listed the following failures, one by one: The 104 call center of the National Emergency Network did not undergo basic training in regard to the special character and needs of the residents, and was not available for hours; there was no food delivery, and as a result, residents thronged the food distribution centers; there was a lack of even a basic response for support and solutions for the many sick people throughout the city; large families struggled to obtain food, drugs, and medical services. Doctors and other essential workers and service providers cannot enter the city, and those who are willing to do so just give up in the face of demands for presenting permits that no one knows how to obtain, if they can be obtained at all; people sent into quarantine in hotels complain of being ignored and abandoned; and the lack of supply of goods and food items, hygiene and other basic needs prevents the residents from properly preparing for Passover. The Municipality further complains that there was no consideration of the possibility of forbidding soldiers and security forces from moving about the city with their weapons, nor consideration of the fact that the very presence of thousands of soldiers, police and border patrol officers had a traumatic effect upon many of the city's residents.

7. On the legal plane, it is argued that the means adopted are disproportionate, and that they, therefore, do not meet the conditions set out at the end of sec. 12 of [Basic Law: Human Dignity and Liberty](#), which establishes:

This Basic Law cannot be varied, suspended or made subject to conditions by emergency regulations; notwithstanding, when a state of emergency exists, by virtue of a declaration under section 9 of the Law and Administration Ordinance, 5708-1948, emergency regulations may be enacted by virtue of said section to deny or restrict rights under this Basic Law, *provided the denial or restriction shall be for a proper purpose and for a period and extent no greater than is required.*

According to the Municipality, the trampling of the public's basic rights to freedom of movement and liberty "for the medical needs of the handful of sick persons in Bnei Brak" is disproportionate. At the very least, no consideration was given to the possibility of isolating certain sick persons, given that their number is only about 900, some of whom are members of the same family, or to impose a quarantine only upon certain areas of the city rather than on the entire city. According to the Municipality, the harm caused by the quarantine outweighs its benefits, inasmuch as the overwhelming majority of the city's residents are completely healthy, but they, too, have been imprisoned in the city due to the quarantine, and people suffering from chronic ailments who require medicine and treatment have also been harmed. It is further argued that the purpose of the quarantine is to prevent the transmission of the virus outside the city, and thus the fear that the State seeks to use the city's residents as "guinea pigs" in order to test the herd effect, which is an improper purpose, and moreover, its effectiveness has not been proven.

8. Like the Petitioners, the Municipality also emphasizes in its response that in addition to the harm caused and that will be caused to each and every one of the city's residents, "no less important is the public harm and the stigma attaching to all the residents of Bnei Brak like a mark of Cain". It is argued that the quarantine has resulted in wild incitement against the Bnei Brak public, and that the residents may be stigmatized as lawbreakers and "spreaders of disease". Thus, the Municipality requests and demands that a message and declaration be sent out that "the fate of the residents of Bnei Brak is no different than that of all the citizens of the State of Israel".

The normative framework

9. In order to contend with the difficult situation created by the coronavirus epidemic, the Israeli Government exercised its authority under sec. 39 of [Basic Law: The Government](#), and promulgated emergency regulations in regard to a number of subjects, which were intended to mitigate the danger of the spreading of the virus (see, inter alia, Emergency Regulations (Novel Coronavirus – Restriction of Activity), 5780-2020 (March 21, 2020); Emergency Regulations (Novel Coronavirus) (Isolation in a State Assigned Place of Isolation), 5780-2020 (April 2, 2020)).

10. On April 2, 2020, the Israeli Government decided to promulgate Emergency Regulations (Novel Coronavirus) (Restricted Zone), 5780-2020 (hereinafter: the Regulations). This is the text of reg. 2(a) of the Regulations:

Declaration of a Restricted Zone

2(a) If the coronavirus has significantly spread in a particular area in Israel, and the Ministerial Committee is convinced of the need for restricting entry and exit therefrom in order to prevent the spread of the illness outside the said area, it may, with the consent of the Government, declare the area a restricted zone, on the condition that during the period when the declaration is in force, there will be appropriate supply of necessary goods and services in the area.

Pursuant to that, reg. 3 details a list of restrictions that would apply to a “restricted zone”, which treat of prohibiting exiting and entering the restricted zone, and a limited number of exceptions, among them: exiting for medical care, legal proceedings, the funeral of a first-degree relative, and entry by medical teams, social workers and the press, and entry for the purpose of supplying necessary goods and services.

In addition, reg. 4 details the authorities granted to the police for the purpose of enforcing the provisions of reg. 3. It should be noted that under reg. 7, the Regulations will remain in force for a period of 30 days from the day of publication.

[Parenthetically: Reg. 3 of the Regulations was amended in Emergency Regulations (Novel Coronavirus) (Restricted Zone) (Amendment), 5780-2020. The amendment establishes that where the Ministerial Committee declared a particular area as a restricted zone, it may also include in the declaration that “all or part of the restrictions listed in reg. 3 will apply, and it may establish

exceptions to the application of the said restrictions, in accordance with the circumstances of the restricted zone” (*Official Gazette* 8460 of April 6, 2020, p. 1036)].

11. In terms of authority, the promulgation of the Regulations is facially in accordance with the Governments’ authority under sec. 39 of Basic Law: The Government, subject to the various limitations as established by law and precedent. I see no need to address those limitations in the context of this petition, inasmuch as the Attorney General expressed his opinion on the matter in his letter to the Prime Minister of April 6, 2020, and a separate petition in this regard is currently pending before this Court (H CJ 2399/20 *Adalah v. Prime Minister*).

12. There was good reason for our lengthy presentation of the arguments of the Petitioners and the Municipality. This is the first time in the history of the State of Israel that a quarantine was imposed upon a city within the Green Line.¹ Naturally, this unprecedented decision raises a variety of problems for implementation in the field. This petition, although it misses the mark here and there in terms of exaggeration and analogies to dark periods of history that were better left unmentioned, expresses the authentic distress of the residents of the city of Bnei Brak, which was placed under quarantine, such that none may leave or enter its gates. It is a bitter irony that Passover has changed from the festival of freedom to a holiday of families sheltering together, imprisoned between the four walls of their homes. Indeed, the quarantine weighs heavily upon the residents of Bnei Brak, and their cries have risen to Jerusalem and the Supreme Court.

13. With all due understanding of the distress expressed in the petition and the Municipality’s response, in view of what is stated in the State’s response, the petition must be denied.

On April 4, 2020, the day the Regulations were promulgated, the Government made the decision to declare the Bnei Brak municipal area “restricted zone” for a period of six days. From that perspective, the petition was submitted late – four days after the declaration and two days before the end of the original date set for the end of the period. I would note that in their response,

¹ Editor’s Note: The city of Nazareth was placed under a thirty-day quarantine in Nov. 1948, due to an outbreak of smallpox (see: Mustafa Abbasi, *A City in Distress: Nazareth under Military Rule 1948-1949*, in 22 IYUNIM BITKUMAT ISRAEL - STUDIES IN ZIONISM, THE YISHUV AND THE STATE OF ISRAEL 399 (Ben Gurion Research Institute, 2012) (thanks to Advocate Dan Yakir, Chief Legal Counsel of the Association for Civil Rights in Israel, for bringing this to our attention).

the Respondents have informed us that the present intention is to extend the period until April 10, 2020.

14. In practice, due to the pace of events, with one decision following on the heels of another, the petition became partly “moot” within hours of its submission, due to the intention to impose a general closure upon the entire state, such that the residents of Bnei Brak will not stand alone in the campaign. However, the Municipality argues that precisely the fact that a quarantine is being imposed at this very hour upon other places throughout the country emphasizes the discrimination against the residents of Bnei Brak, inasmuch as the imposition of the quarantine to other places is more balanced and reasonable, and is more considerate of the needs of the residents.

15. The declaration of Bnei Brak as a “restricted zone” followed a large number of incidents of infection in the city, and the fear of the unrestrained transmission of the virus. As noted, the petition before us challenges the legality of that declaration. According to the Municipality, two preconditions for declaring the city a restricted zone were not met: the quarantine is not necessarily required to stop the spread of the virus, and there is an absence of “appropriate supply of necessary goods and services in the area”. In the Municipality’s view, a distinction should be drawn between sheltering-in-place and quarantine, and the decision was made without data and without information.

16. However, as we learn from the State’s response, the decision to impose a quarantine was not taken lightly, but was made only after consultation with the relevant professional bodies. Thus, the State pointed out that the decision was made on the basis of an expert epidemiological opinion of the Deputy Director of the Public Health Service in the Ministry of Health, Dr. Udi Kleiner, which was also signed on April 4, 2020.

In that opinion, appended to the State’s response (Appendix R/3), Dr. Kleiner addressed the illness caused by the coronavirus, its spread in the world and in Israel, and the steps that had been taken in Israel in order to contend with the virus. It was pointed out that Israel has adopted a general policy of “social distancing” to lessen the outbreak of the virus, and while this policy has proven itself in terms of slowing the pace of the rise in cases over the last few days, there are still areas and towns in which there are indications of significant concentrations of illness and high rates of transmission. It was also noted that these concentrations are of both local and national significance, inasmuch as they may become the source of morbidity. Dr. Kleiner emphasized that

imposing strict limits upon movement in a limited area in which there is significant morbidity and a high rate of transmission, inasmuch as this means “is more effective in preventing the spread of the epidemic than increasing the restrictions upon the entire state. This will make it possible to lower the rate of transmission in the restricted zone [...] and in other areas, due to a reduction in the export of infection from the restricted zone to other areas”.

Further on, the opinion sets out the criteria for establishing a restricted zone subject to additional limitations, which are: a high level of incidence relative to other areas; a significantly higher level of incidence than in the general population; high population density; and clear concentrations of respiratory ailment in the area in the report of the Israeli Center for Disease Control (hereinafter: ICDC). It was explained that meeting most or all of the criteria adds support for deciding to declare an area as a restricted zone.

The opinion listed the following data in regard to the city of Bnei Brak:

(-) The number of sick in the city stands at 966 to date (the 2nd highest rate of incidence and number of patients in the Israel), 418 of them were added over the last three days (about a fifth of the number of people testing positive over those days);

(-) The rate of incidence stands at 492.1 per 100,000 residents (no. 4 in Israel among towns with a population exceeding 5,000 persons), as opposed to a rate of 76.1 in Israel (according to a rate of incidence of 6,852 among 9 million residents);

(-) A population density of 26,368.4 persons per square kilometer (the most densely populated city in Israel by a significant margin among towns with a population exceeding 5000);

(-) A clear concentration of respiratory illness according to the ICDC analysis, and over time.

We should note that the opinion was accompanied by a report of concentrations of the ICDC, and a slide detailing the ten leading towns in terms of illness and number of patients in Israel as of April 1, 2020.

The position of the opinion’s author was that in weighing the data, “the city of Bnei Brak currently constitutes an exceptionally significant center of illness, which will undermine the national effort to lessen the coefficient of contagion”. It was noted that the city of Bnei Brak meets

all of the criteria for establishing a restricted zone, and accordingly, severe restrictions upon movement must be imposed.

As stated, on the basis of the opinion, the Government made a unanimous decision to declare the municipal area of Bnai Brak a restricted zone for a period of six days. It is that decision that is challenged by the petition.

17. It is settled law that when the Court reviews a decision by a governmental agency, it does not presume to stand in its shoes and make decisions for it in its area of expertise. It is not the practice of this Court to intervene in matters of the agency's policy, and this is particularly so in regard to policy that is based upon clearly professional data, and where the decision is of a clearly professional nature under the agency's authority and expertise. That is the case in general (see, among the many cases: H CJ 8938/11 "*All for Peace*" v. *Minister of Communications* [1], para. 18; H CJ 5263/16 *Nesher Israel Cement Enterprises v. Ministry of Environmental Protection* [2], para. 11; H CJ 5438/19 *Jan Chibartkin v. Ministry of Justice* [3], para. 16), and it is particularly the case in regard to professional matters concerning public health (H CJ 13/80 *Nun Canning Industries v. Ministry of Health* [4], 695-696; H CJ 4675/03 *Pfizer Pharmaceuticals v. Director General of the Ministry of Health* [5], para. 39; H CJ 1407/18 *Koffolk (1949) Ltd. v. Head of the Medical Preparations Registration Department* [6]; H CJ 703/19 *MBI Pharma v. Ministry of Health* [7], para. 19; and see the recent cases concerning the coronavirus epidemic: [LAA 2199/20 *Peshe Brook v. Ministry of Health*](#) [8], para. 6; [H CJ 2233/20 *Pardes Hanna-Karkur Local Council v. Ministry of Health*](#) [9]).

While we are not concerned with a regular administrative decision, but rather with a Government Decision by virtue of emergency regulations, we are concerned with a clearly professional matter. The Ministry of Health outlined a policy of reducing contact, to the extent possible, among the population, together with isolation of validated patients. In that framework, as fully explained in the response, various restrictions were imposed that were intended to prevent congregating, which is a fertile ground for infection, restricting movement in the public domain, closing educational, cultural and leisure institutions, and places of work and commerce. According to the data and the status report, this policy has borne fruit in the form of a slowing of the pace of the increase in patients. The general status report for the state shows areas and towns in which the concentration of incidence is significant and the rate of transmission high. This has both local and

national impact. Thus, the position of the professional organs is that severe restrictions on movement be imposed on these areas, in the form of declaring the area a “restricted zone”, with the resultant extreme limitations on going out in public areas and restrictions upon entering and exiting the area. This was done to reduce the “export” of infection to other areas, and to prevent the entry of infected persons who might further increase the number of those infected. As stated, as of the present time, the professional bodies have established a number of parameters for examining whether and when to declare a particular area a “restricted zone”: the number of infected persons in the area as compared to other areas; the rate of morbidity in the area relative to the general rate in the population; population density; and locating a clear concentration of respiratory illness in the area.

On the basis of these parameters, and as stated in the aforementioned expert opinion, the data showed that Bnei Brak is a significantly exceptional center of illness – the number of patients, the morbidity, and the population density required adopting the unprecedented step of declaring the city a “restricted zone”.

18. The stage theory that applies constitutional review is well known: a violation; the limitations clause with its four stages (by law or by virtue of a law, befitting the values of the State of Israel, for a proper purpose, and proportionality in accordance with the three subtests), and the remedy (Aharon Barak, *The Constitutional Right and its Violation: The Three-Stage Theory*, 19 MISHPAT UMEMSHAL 119 (2018) (Hebrew). I will now examine the challenged decision in accordance with the three-stage theory that applies to constitutional review, as briefly as possible, and without digressing into dissertations. The time for that will come after the plague has passed and the dust has settled, and we will leave it to the academic scholars to expand.

19. Clearly, the declaration of Bnei Brak as a restricted zone involves a number of violations of basic rights, like freedom of movement. The purpose of the severe restrictions imposed upon the city’s residents is clear – protecting the health and lives of the city’s residents and the residents of the entire State of Israel. In accordance with the professional discretion, and the data available to the decisionmakers – the scope of illness in the city, the rate of infection, and the population density – there was no recourse but to declare the city of Bnei Brak a “restricted zone”, and thus the declaration was made for a proper purpose.

20. The three subtests are well known: the rational connection test, the necessity test (the less harmful means), and the proportionality test *stricto sensu*.

There is a clear rational connection between the means and the purpose, and I see no need to elaborate. The second subtest – the less harmful means – examines the matter on a metaphoric ladder: was it possible to adopt a “lower” rung on the ladder that would be less harmful to the right? In the present case, there is no denying that the means of quarantine, or more precisely, declaring the city of Bnei Brak as a “restricted zone”, is a very high rung on the ladder. However, it is not sufficient to show that there are other means that would violate the right to a lesser degree. The requirement is that the means to achieve the purpose do so in an appropriate and necessary manner (see, among many: [HCJ 10203/03 Hamifkad Haleumi v. Attorney General](#) [10], para. 51 *per* Justice Naor). Weighing the less harmful means where there are several alternatives is contingent upon whether the means realize the law’s purpose equally ([HCJ 1715/97 Israel Investment Managers Association v. Minister of Finance](#) [11], 387).

The State proceeded up the ladder in adopting the means employed. The declaration did not appear as a bolt from the blue and as the first step adopted. It was adopted after less harmful means, of the type imposed on the general population, were imposed but did not yield the desired results. In view of the number of people infected and the rate of transmission, and against the background of the city’s extreme density, there were no the less harmful means available that could provide the necessary response for stemming the spread of the virus outside the Bnei Brak area at this time. Thus, the second subtest was met.

In regard to the proportionality *stricto sensu* test – a cost-and-benefit test – we can only rely upon the professionals, who are of the opinion that there was no recourse but to impose the restrictions of a “restricted zone” in order to stem the spread of the virus. The cost, which is certainly high from the perspective of the city’s residents, “is worthy of the king’s trouble” [Esther 7:4] when it is preserving the health and lives of the residents of city and the entire State of Israel.

21. The quarantine is not hermetic, as we see from the exceptions established in the regulations themselves, and in light of the details provided in the State’s response, *inter alia*: the National Emergency Network was authorized to permit individual requests in areas not listed in the Regulations; a mechanism was established for addressing exceptional cases; the SMS response of

the 104 call center can be received by “kosher” phones; and in addition, the development of a liaison system through the police is currently underway.

22. We have noted the State’s undertaking that the Homefront Command is acting and will continue to act to assist the city in regard to necessary goods and services. We were informed that, to date, 13,800 meals, including food packages for individuals and families, have been distributed; informational material appropriate to the city’s unique population was distributed; and special assistance was provided to at-risk populations, with emphasis on food and medicine. The State is working on the removal of validated and isolated patients from the city to dedicated apartment hotels that have been specially prepared for that purpose, in order to prevent circles of infection around the patients. The hotels were prepared and adapted with a mind toward the special needs of the ultra-Orthodox population in general, and in particularly in view of Passover.

We further note that there are ongoing evaluations of the situation in accordance with updated data, and where there is no further justification for the restrictions, or where it is possible to suffice with less restrictive means, the restrictions will be eased or removed.

23. We face an unprecedented situation of fear of the rapid spread of the coronavirus in large numbers, with all that portends in terms of morbidity, death, and the collapse of the health system. In the horizontal balancing of rights, we now place the violation of fundamental liberties and rights like freedom of movement against the right to life and physical integrity – an uncommon situation in our state. In that horizontal balance, the right to life prevails.

Before concluding

24. While we write these lines, the Petitioners have filed a request for an interim order and for an expedited hearing of the petition. This is brought in response to the State’s announcing its intention to extend the declaration for two additional days, until April 10, 2020, and that the Government will hold a teleconference to approve the extension.

That decision has not yet been made, but in any case, in view of the above, we find no cause for granting an interim order. It would not be superfluous to point out that, according to what

has been reported by the media, the extension of the various restrictions until April 10, 2020 is intended to apply to all residents of the Israel.

Conclusion

25. We see no grounds for intervening in the Government's decision. Even if we can understand the painful sense of humiliation expressed between the lines of the petition – the humiliation of the residents of Bnei Brak – we need only point to the State's response, which completely rejected the claim of discrimination against the residents of Bnei Brak for their social and religious affiliations. We act under the presumption that, in this matter, the Government made its decision on the basis of the recommendations of the professional organs, and solely for relevant reasons.

Although we have denied the petition, we find it proper to observe that the Government's response provided no real answer to the Municipality's claim that the decision was made without conferring with it. This may be because the Municipality's response was submitted shortly before the State submitted its response, and thus it did not have adequate time to respond in that regard. In any case, without addressing the factual veracity of the claim, if this was not done, it would seem that there is merit to the Municipality's complaint, and the State must take note of this, unless there are material reasons for not doing so.

26. This is a time of distress for all Israel, as is reflected in this petition. Let us hope that the coming festivals of Passover, Easter, Ramadan and the Prophet Jethro (Nabi Shu'eib) will mark a turning point.

The petition is denied without an order for costs.

Justice A. Baron:

I concur.

Justice Y. Elron:

I concur.

Decided as stated in the opinion of Justice I. Amit.

Given this day, 13 Nissan 5780 (April 7, 2020).