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October 7, 2015

To
Lieutenant Colonel Ra'anan Ben Yaakov
Deputy Commander of the Shomron Brigade
Acting on behalf of the Military Commander of IDF Forces
Headquarter Office Central Command
In the West Bank
Tel: 02-5305104

pniot-tzibur@mail.idf.il

Dear Sir,

Re: **Appeal against the intention to seize and demolish parts of the building in which lived _____ Abu Hashiyeh, ID No. _____**

The Military Commander has no authority to take injurious measures in Area A

1. Askar camp and the home of Abu Hashiyeh family are located in Area A, a Palestinian territory which is under full Palestinian control, including security control. It is highly doubtful whether your authority as a military commander applies to Area A and Regulation 119 of the Defence (Emergency) Regulations can be applied only in the area in which you exercise actual control.
2. Have you received the authorization of the Palestinian Authority for such a severe measure, have you coordinated your actions with the Authority?

Parts of the house in which the suspect lives

3. The entire family home is a two story house consisting of two apartments, one apartment on each floor. The apartment in which the family of the above suspect lives is located on the ground floor and has five rooms. The family which lives in the apartment consists of 7 members: five children and their parents.
4. It is a house in a refugee camp which was built on land allocated by the United Nations Relief and Rehabilitation Administration (UNRRA), in view of the fact that the family is a refugee family from Salame near Jaffa.
5. Ever since the house demolition policy has been restored you have strictly ensured that measures would be taken only against those parts of the house in which the suspect lived. The demolition which was the subject matter of H CJ 4597/14 Muhamad Hassan

Awawdeh et al.) was also approved only with respect to the specific apartment in which the suspect himself lived, rather than with respect to the entire residential home. The demolition orders which were issued at the same time to the residents of Hebron, against individuals who were ostensibly regarded by you as the collaborators of the suspect in said offense, Mr. Husam Qawasmeh and Mr. Amar Abu 'Easheh, were also issued against parts of the building in which they have personally lived.

6. A room and bathroom were allocated to the above suspect who is nineteen years old and his brother who is twenty two years old, and his use of the apartment was limited to said room only in the sense of separate dwelling.
7. Therefore you have mistakenly marked the entire building in the map which you attached instead of noting that you intend to take measures only against the place in which the above suspect lived, and you gave notice of the intention to demolish the entire apartment in which his other family members live.
8. You are well aware of the fact that the relationships between the above suspect and his family members were very bad for a long period of time and it was not a normative family unit.
9. According to the evidentiary material in the suspect's file, he wanted to put an end to his life due to his bad relationships with parents and siblings and the fact that he was isolated from his family. It is neither just nor appropriate to punish his parents and siblings.
10. If you intend to take injurious measures against the house, such measures should be taken only against that specific room.

The measures taken – an engineering opinion

11. You failed to specify how you intended to execute said demolition as this case concerns only the apartment on the first floor in a two story building.
12. According to previous experience – and should you realize the intention to take injurious measures against the house – you should propose a reasonable manner to seal or prevent the use of his residential room on the first floor for a long period of time, while the other parts of the house remain intact.

A suitable engineering plan is missing which I will be able to examine and – maybe - propose an alternative plan in the event that the appeal and petition are denied.

13. I shall certainly need an opinion of an expert engineer on behalf of the family.

The cause to take injurious measures against the house

14. According to the notice, the intention to take injurious measures against the house is based on the assumption that the suspect stabbed and murdered, on November 10, 2014, the late Sergeant Almog Shiloni. **As far as you know, the above suspicion is being currently examined by the Tel Aviv Jaffa District Court. Judgment has not yet been given.**

The defense argues in the trial that the suspect wanted to put an end to his life due to frequent fights he had with his family members, especially with his father, due to the fact

that he was alienated from his family and home and due to the fact that he had been severely bitten by his father.

15. According to said evidentiary material, the suspect was the black sheep of a completely normative family. The father worked in Israel, most of his life he received work permits on an ongoing basis, and he conducted himself impeccably. The other family members also conduct themselves in a normative manner.

The purpose of the demolition

16. You used to announce that the **demolition was intended to deter potential perpetrators and to assist in safeguarding the security of the Area.**

The mere manner by which the above statement is worded indicates that it is a very hesitant speculation. The above indicates that there is no certainty that such a severe harm would assist the security of the Area or deter perpetrators. It is only a possibility, and as determined by the Shani committee, **it is a very dubious possibility, the harm of which is much greater than its benefit.** Said committee was appointed by the IDF Chief of Staff and its conclusions were submitted to the Minister of Defense in 2005, and indeed, since then the use thereof has ceased in the territories of the West Bank.

17. Your notice fails to state its real purpose– un-relentless impingement and extraneous considerations of mere revenge following the killing of the late Henkin spouses near Nablus.
18. It is not a secret that a decision was made to take comprehensive injurious measures against anything which is on the agenda, without any consideration or reservation. The timing of your notice strengthens the suspicion that the injurious measure was considered in the heat of the moment with no long-term and pertinent thinking. The notice was not issued in real time upon the suspect's arrest about a year ago.

Collective punishment

19. It is known that the father of the above suspect and his siblings were detained, interrogated and released without any proof against them. On the contrary. Their interrogation indicates as aforesaid that the family had severe disagreements with the above suspect. Nevertheless, they are the ones who will be the main victims of said sanction, should it be approved.

It is a shame that the environmental punishment will harm innocent people who tried to change the suspect and his ways, while the suspect is expected to be sentenced for life in prison.

20. Is it necessary to remind after so many years that collective punishment of this sort is completely contrary to international humanitarian law, which prohibits collective punishment (see Article 33 of the Fourth Geneva Convention) and the infliction of any harm to private property (see Regulation 46 to the Hague Regulations and Article 35 of the Fourth Geneva Convention).

Discrimination in the implementation of punishment and deterrence

21. Without waiving any of the above arguments, and without retracting the scathing criticism against the lack of any justification and immorality involved in the taking of the above measures, we cannot ignore the fact that a murder not less horrific of an abducted Palestinian youth, **Muhammad Abu Khdeir**, was committed by at least three

Israelis. They were caught alive, interrogated, admitted to have committed the crime and re-enacted it and they currently stand trial before the Jerusalem District Court for membership of a terror organization, execution of an act of terror, nationalistic murder, etc. Nevertheless, no "notice regarding an intention to seize and demolish the building" in which each one of the three lived has been issued!

In addition, the security agencies know who committed the arson attack against the home of the Dawabsheh family in the village of Duma, in which the father, mother and son were murdered leaving a very young child burnt all over his body in the hospital. To this day the perpetrators of the terror attack have neither been caught nor put on trial, and no collective punishment has been imposed on them.

22. **And rightfully so.** Vindictive demolition and collective punishment are totally inappropriate. And if the state has not taken such an atrocious measure against the citizens of Israel, it is all the more so precluded from taking such a measure against the residents of an occupied territory.

Refraining from sanctions until all remedies are exhausted

23. It should be noted that if, God forbid, this appeal is denied, the family intends to turn to the Supreme Court and file a petition against the sanctions imposed by you.
24. Therefore, no action should be taken against the house until all legal proceedings shall have been exhausted. Beforehand, you must ensure that we **receive the technical specifications of your plans regarding the apartment on the first floor or the room and bathroom – should you decide to approve the injurious measures – and enable a response of an expert to your plan.**

In conclusion – you are requested to retract your intention to take injurious measures against the house in any way or manner whatsoever, and to at least be satisfied with the measure which injures to the least extent possible, and enable the judicial system to examine your decisions and make a decision in that regard.

Sincerely,

(Signed)

L. Tsemel, Advocate

Attached is a power of attorney.

CC: HaMoked: Center for the Defence of the Individual.