



November 12th, 2017

To:

Major General Roni Numa

Commander of the Central Command

By fax: 02-5305741

Re: Forced eviction of residents of the villages of Ein al Hilweh and Umm Jammal

1. We appeal to you to immediately cancel the order directing the residents of the villages of Ein al-Hilweh and Umm Jammal in the Jordan Valley to evacuate their area of residence from any property.
2. An article published today in Ha'aretz shows that on 1 November 2017 you signed an order that delineates the area of the villages of Ein al-Hilweh and Umm Jammal, and instructs their residents to remove their property from the enclosed area, and prohibits construction or entry for the purpose of construction. (Amira Hass, [The IDF intends to demolish the homes of hundreds of Palestinians in the Jordan Valley](#), Ha'aretz, 12 November 2017).
3. The order does not specify the nature of the "property" that the residents of the villages are supposed to remove from their villages, but from the response of COGAT to Ha'aretz newspaper it can be understood that these are the residential tents of the residents. According to COGAT the residents may stay in the area without their property. It also stated that the order would not be enforced against structures for which there are proceedings under the planning and building laws. According to the report, **the order was placed under a stone along the road eight days after it was signed**, and was not delivered personally to the residents of the village. The order also does not specify who it is intended for and where the residents of the villages are expected to live after they have evacuated their "property".

The prohibition on forcible displacement of protected persons

4. Although the order does not prohibit the residents from staying in the delineated area, there is no possibility of living there without any property, including residential tents. Forced displacement is not limited to transfer by using physical force. Creating circumstances such as the destruction of sources of livelihood or the demolition of residential structures causing the departure of residents also constitutes coercion.
5. Article 49(1) of the Geneva Convention establishes the principle that **any** deportation or forcible transfer of protected people is prohibited. This is a rule of customary law. As long as the West Bank is defined as an area under "belligerent occupation", the military commander's instructions should apply the principles of International Humanitarian Law and



comply with the provisions of belligerent occupation laws, in particular with the directives that have the status of customary law.

6. **The prohibition is sweeping and without any reservation - whatever its motive.** This firm prohibition was determined against the backdrop of the horrors of World War II, in order to prevent arbitrary deportations of people, which were widespread at the time. The accepted position today in international law literature and court cases is that the prohibition applies to eviction of individuals and groups alike.

7. One exception exists to the prohibition on forcible displacement of protected people. According to Article 49(2) **eviction** of protected people, as distinct from forced transfer or deportation, is permitted only in order to protect their safety from battles in the area or for necessary military operation which is disturbed by the presence of the residents, and even then, only temporarily while ensuring their resettlement immediately upon ending the battles in the area. Therefore, the permitted eviction is only **temporary and under emergency circumstances**. This is not the case in the Jordan Valley.

8. Thus, according to international law, forcible displacement of protected people is illegal, unless it is required temporarily to ensure the safety of the transferees or because of a concrete and real military need. All these are not currently taking place in the Jordan Valley. It is worth noting and warning that the constitution of the International Criminal Court (ICC) states that a serious violation of Article 49(1) amounts to "war crimes" and is under the jurisdiction of the court.

Rules of due process - the delivery of the orders

9. As stated, according to the abovementioned report, the order that is the subject of this appeal was placed under a rock. This is not a delivery duly carried out. The placing of an order, certainly an order that severely violates the rights of hundreds of women, men and children, under a rock on the road, effectively thwarts the possibility of the residents to object to the offensive decision which the order presents. Those who deliver the orders must be instructed that this is an unacceptable and illegal practice.

10. This is not the first time that orders have been delivered in an inappropriate manner. In November 2015 and in August 2016 we appealed to the head of the Civil Administration on the issue. We asked to clarify that placing a demolition order on the edge of a water cistern or next to it does not meet the conditions of lawful delivery. This is also the case of the order in question. Unfortunately, despite our recurring appeals the army has not ceased to use this unacceptable practice.

Enforcement of planning and building laws is the responsibility of the Civil Administration



11. If the "property" referred to in the order relates to structures, then the enforcement of illegal construction is under the authority of the Civil Administration and not of the GOC Central Command, since it concerns pure civil matters.

12. The principal way to enforce construction carried out without a permit is through planning and building procedures. This is the only way to examine whether a structure can be approved, to understand the degree of damage if a structure is not approved and to provide the right to be heard to any person that is affected.

13. One sweeping order does not specify whom will be affected by the order, and does not allow a real right to hearing for each of the offended. The order allows only eight days for objection and it was placed under the rock on the day that this period expired. All those undermine the right to a hearing and the right to due process.

In summary: The result of the order that is the subject of this appeal is the forcible displacement of the residents of the villages of Ein al-Hilweh and Umm Jammal and therefore it is illegal, its delivery to the residents was not done lawfully, and the authority to engage in planning and building is in the hands to the Civil Administration and not the GOC Central Command.

Due to all this, we call upon you to cancel the said order and to refrain from the forcible displacement of the residents of the villages of Ein al-Hilweh and Umm Jammal.

Sincerely,

Roni Peli, Adv.

CC: Legal Advisor for the Judea and Samaria Area, by Fax 02-9977326