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February 1, 2016

Ref: 30698

To:

Maj. Gen. Roni Numa
West Bank Commander

By e-mail: pniot-tzibur@mail.idf.il and fax: 02-5305724

Re: Extremely Urgent – Severe Restrictions on Entry and Exit from Ramallah

1. I am contacting you on behalf of HaMoked: Center for the Defence of the Individual, regarding severe restrictions on entry into and exit out of the city of Ramallah.
2. Inquiries made by HaMoked today, February 1, 2016, reveal that since the morning, severe travel restrictions have been imposed on the city of Ramallah. Entry into the city is allowed only to residents whose registered address is in the city, and exit is permitted only to residents whose registered address is not in the city.
3. In other words, the object is to cut off Ramallah and its residents from the rest of the West Bank.
4. According to a story published in the Haareez website this morning:

For the first time in the current terror wave, the Israel Defense Forces imposed a partial closure on Ramallah on Monday.

Exit from the city is permitted for laborers with Israeli work permits, the transfer of goods, humanitarian cases (the sick, pregnant women and others) and for Palestinian officials, in coordination with Israeli authorities. Entry to the city is blocked for anyone other than residents of the city and Israeli Arabs.

See: <http://www.haaretz.com/israel-news/.premium-1.700670>

5. This policy contradicts an express pledge made by the state before the Supreme Court in response to a petition filed by the Association for Civil Rights in Israel against a closure imposed on the city of Nablus (HCJ 7577/06). We note that the petition therein addressed a closure that included lighter restrictions than those currently imposed on Ramallah, as it

affected only a certain age group. According to the response submitted by the state on January 7, 2007:

On this matter, it is stressed at this early point, that the term “closure” does not generally mean a sweeping ban on entry and exit from a certain area, **but a requirement for a security check upon entry and exit into the area.** In other words, the closure on the city of Nablus means the installation of checkpoints and roadblocks that prevent free access to and from the city, **but allow access to and from it subject to a security check.**

Paragraph 15 of the Response on behalf of the State, available on HaMoked’s website (Hebrew): <http://www.hamoked.org.il/items/8711.pdf>

6. We note that Ramallah serves as an urban center for tens of thousands of people. It is a major Palestinian Authority government hub, many residents work in the city or study there. Ramallah is also home to academic institutions, a large array of high schools, hospitals, public institutions and more.
7. In the state response cited above, the following was said of the city of Nablus:

The Respondent, aware of the difficulties created as a result of imposing the closure on the city of Nablus, has taken several measures to help the population, detailed below. However, we begin by clarifying that the imposition of the closure on the city of Nablus has not created a humanitarian catastrophe, as alleged in the petition, given that it is a metropolis where all the relevant services required by residents are readily available. We provide a brief overview of the main services available inside Nablus and accessible to any resident, regardless of age and security information in his case:

Government services, Nablus serves as a Palestinian Authority government hub, and is home to many public and political institutions including a municipality, about 27 Palestinian Authority ministries, courts, all Palestinian security forces, the faction committee, the institution committee and more.

Finance and commerce. Nablus is the economic capital of Samaria, supplying some 30% of all jobs in the Judea and Samaria Area. There are some 5,000 merchants and businesspeople in Nablus, some 1,300 factories, 12 banks, insurance companies, dozens of oil presses and a large variety of businesses and stores. Moreover, Nablus is home to many financial institutions, such as the trade bureau, the Palestinian labor union, the Palestinian stock exchange, the masonry association and more. Indeed, according to Civil Administration figures, the events of the second intifada have significantly harmed the city’s economy (as they have in other cities),

but, over the last two years, the city's economy has shown significant signs of recuperation.

Health care. There are six central hospitals in Nablus, the offices of the Red Crescent and dozens of clinics, some of them specialty clinics, which make the city of Nablus a health care center serving not only residents of the city and the villages in its sector, but the entire Samaria area.

Education. Nablus has many schools (belonging to three school systems, public, private and UNRWA), many preschools, learning centers, a number of colleges, and the a-Najjah university, the largest Palestinian university, with a student body of 14,000, hailing from every sector of the Judea and Samaria Area. It also employs more than 300 lecturers holding B.A.s and up.

These are the main services accessible to all residents of Nablus, even during a closure that completely prevents certain individuals from leaving the city.

8. As evident, the state's argument with respect to Nablus addressed the fact that Nablus residents were able to receive all required services inside the city, but did not address the major difficulties facing residents who live outside the city and rely on the services they receive in it.
9. In response to the petitioner's claim that the closure constituted collective punishment, the state was very clear and unequivocal:

86. This argument must be rejected. There is no dispute that that rules of customary international law prohibit collective punishment. However, and as detailed above, in the case at hand, there is no punishment whatsoever, but rather preventative security measures, taken pursuant to the powers and duty of the military commander to protect all residents of the Judea and Samaria Area, as well as the State of Israel and its residents.

87. Just as installing checkpoints and conducting security checks around the city of Nablus do not constitute collective punishment, and arguments to that effect were raised in by the **Petition in Alawneh** and rejected by the Court, so the restrictions on movement imposed as part of this closure from time to time and in accordance to the changing security circumstances in the area, do not constitute collective punishment. The restrictions are not imposed for the purpose of causing harm, they are imposed for a security purpose and the harm is an incidental effect of the measure taken. We reiterate that it has been decided to currently impose restrictions on movement on residents of a certain age, based on concrete information about a terrorist who is seeking a way out of the area.

88. The Petitioner wishes to deduce from the fact that the restriction is sweeping that it is a collective punishment sanction, but this is not the case.
89. There is a distinction between security-preventative elements and punitive elements. The Honorable Court addressed this distinction in H CJ 1113/09 **Shawa v. IDF Commander in Gaza**, (IsrSC 44(4) 590), where the petition challenged a nightly curfew imposed on Gaza. The petitioners therein argued, inter alia, that the curfew was a sanction rather than a means to achieve an end of the type which the Respondent has power to pursue. The Supreme Court ruled in the judgment it issued in that petition that if it had been a sanction, it would have been prohibited.
10. Even if HaMoked does not agree with everything stated in these paragraphs from the state's response, it appears that the severe access restrictions imposed on Ramallah and the attendant severe violation of the rights of tens or hundreds of thousands of Palestinian residents who rely on access to Ramallah for work, education, health care and government services constitute a collective punishment sanction rather than a security-preventative element.
11. We note that HaMoked is aware of the quote from an unnamed military source included in the story published in Haaretz, according to which: "the restrictions were not only imposed because of Sunday's shooting but also due to security warnings issued for the area and shooting attack cases that have yet to be solved". However, vague warnings in the area and unsolved shooting attacks are not a reason to impose collective punishments on tens or hundreds of thousands of residents.
- 12. Given the aforesaid, HaMoked: Center for the Defence of the Individual demands the immediate removal of the restrictions imposed on entry into and exit out of Ramallah, and the cessation of the collective punishment of its residents and of residents outside the city who rely on its services.**
- 13. Should the closure not cease immediately, HaMoked intends to take legal action. For this purpose, we request that you provide us with the declaration or order pursuant to which the restrictions are being imposed and all the reasons for imposing same.**

Sincerely,
[signed]
Yadin Eilam, Adv.