



PALESTINIAN CENTRE FOR HUMAN RIGHTS

Fax: 02 582 8065

To: Mr Manuel Salazar
Consul General
Spanish Consulate
Jerusalem

From: Raji Sourani
Director
Palestinian Centre for Human Rights

Date: 15 January 2002

Re: URGENT ACTION – Updated Statistics

Dear Mr Salazar,

Due to the lack of access to Rafah immediately following the demolitions resulting from the Israeli military presence, and the difficulties encountered during PCHR's initial investigations, including appalling weather conditions and the general chaos at the scene, the initial statistics included in the letter sent to you yesterday were an estimation. Whilst PCHR's investigations are continuing, the updated statistics and details included in this version of the letter are accurate as of January 15, 2002.

PCHR has become increasingly alarmed in recent months regarding the policy of house and property demolition pursued by the Israeli military in the Occupied Palestinian Territories (OPTs). Since the beginning of the Intifada, in the Gaza Strip alone 405 homes have been entirely demolished by the Israeli military in acts which constitute a violation of international humanitarian law. The circumstances in which these demolitions are conducted, including failure to provide any warning of the demolition, thereby failing to allow residents time to remove belongings, conducting the demolitions at night, often accompanied by tanks and heavily-armed soldiers, and the manner in which all efforts are expended to ensure that all contents of the house are non-recoverable, including clothing, food, school books and toys, constitutes cruel, inhuman and degrading treatment as ruled by the UN Torture Committee in its report in November 2001.

The town of Rafah in the Gaza Strip has been repeatedly subjected to these violent and dramatic house demolitions; 102 houses on its periphery have been destroyed entirely during this Intifada. **However, the house demolition policy reached an unprecedented level last week when on Thursday, 10 January and Saturday, 12 January 2002, a total of 211 homes were attacked by the Israeli military, leaving them either entirely destroyed, rendered uninhabitable, or having sustained serious damage.**



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1). On January 10 at **approximately 2am, 59 homes** in “Block O” in the Rafah refugee camp were entirely destroyed and **one house was rendered uninhabitable** when Israeli bulldozers, accompanied by Israeli tanks and jeeps entered the area. Block O, which has now been entirely demolished, was located close to the Egyptian border.

2). **On January 12, at approximately 1:35am, an Israeli military attack using heavy tank shells and an as yet unidentified large explosion, left 40 homes completely destroyed in “Block J”, the block next to where Block O was located. A further 41 homes sustained serious structural and other damage rendering them uninhabitable and more than 70 other homes received less severe damage.**

This is an entirely civilian residential area, and as such, a military assault of this scale is a serious violation of international human rights and humanitarian law. The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (the Fourth Geneva Convention), to which Israel is a High Contracting Party, affords protected status to a civilian population under occupation (Article 4) and provides that no alternative agreement shall adversely affect this protected status. Article 47 further confirms that no peace agreement between Israel and the PLO alters the provision of protection for Palestinian civilians in the OPTs. Any attack on the civilian population in the OPTs remains unlawful under the Convention. The Convention also expressly prohibits the destruction of private or collectively-owned property or property owned by a public authority (article 53) except where “such destruction is rendered absolutely necessary by military operations”. The excuse of military necessity is regularly used by the Israeli military authorities to justify this kind of action. However, in this case, as in many incidences, there was no military necessity for the house destruction carried out last week. This is an entirely civilian residential area, no shooting by Palestinian gunmen had been reported for days prior to the attack and even if shooting had occurred this does not provide any legal justification for an attack on civilians and civilian property. Article 33 prohibits collective punishment, including reprisals against protected persons and their property. Additionally, Israeli claims that many of the properties were empty are untrue and irrelevant; they remain civilian properties entitled to the protection of the Convention (in some areas of the camp, families have evacuated their properties following months of military bombardment, sometimes every night for weeks, using tank shells, heavy machine gun fire and snipers¹. Some people left in fear of their lives but for the majority of the camp residents there is no alternative; they have no other place to evacuate to). The extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly is a grave breach of the Fourth Geneva Convention (Article 147), a war crime.

The destruction of civilian homes also violates the right to adequate housing, including as a violation of the International Covenant on Economic, Social and Cultural Rights (Article 11 (1)). The manner in which these demolitions are conducted, as described above, have inflicted a degree of suffering which constitutes cruel, inhuman or degrading treatment in violation of Article 16 of

¹ For further information regarding Israeli military assaults on civilian areas in the Gaza Strip and in Rafah in particular, please refer to PCHR's reports, published weekly since the beginning of the Intifada.



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the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (as indicated by the UN Torture Committee), and in violation of prohibitions on ill treatment provided for in other international human rights and humanitarian law treaties to which Israel is a State party. The unlawful nature of the Israeli actions was reaffirmed by UN Secretary General Kofi Annan, on January 11, 2002, who denounced the demolitions as collective punishment. Of further concern is the failure of the Israeli authorities to provide reparation, including compensation for the victims of house demolitions. Responses to complaints submitted by PCHR to the Israeli military legal advisor have denied any right of victims to claim compensation for such violations. This denial has been based on claims that the Hague Convention of 1907, rather than the Fourth Geneva Convention, is applicable to the OPTs and that this allows for such destruction without compensation. However, the Hague Convention 1907 applies only to a situation of war which is not the case in the OPTs; the Gaza Strip and the West Bank including Jerusalem remain under a belligerent military occupation. Furthermore, the Hague Convention 1907 does not in fact allow for the destruction of civilian property without compensation. The denial of compensation and reparation for violations is, itself, a violation of international human rights and humanitarian law.

Rafah refugee camp is the poorest area of the Gaza Strip and has the second largest refugee population in Gaza. Located on the border with Egypt, it has been repeatedly subjected to house demolition and military bombardment using tank shells and heavy machine gun fire. Many areas of the camp are unsafe both during the day and at night due to the prevalence of Israeli snipers. This latest demolition left **1742** people homeless, refugees from 1948 who have been made homeless for the second or even third time. The psychological impact of these events, including the particularly traumatic circumstances in which they were conducted, will have a lasting effect on those directly affected, their families and neighbours. Children, generally the majority in a household, and women are particularly vulnerable to the effects of these violent actions. House demolition has been used by the Israeli military as collective punishment, or to facilitate settlement and military expansion in the OPTs for decades. However, since the beginning of this Intifada, the house demolition policy has escalated and has been conducted in an increasingly violent manner.

PCHR has issued repeated warnings regarding the house demolition policy of the Israeli military and expressed particular concern for the safety of those residents of the peripheries of the camp in Rafah and also in the Al-Tuffah area in Khan Younis refugee camp. Sadly, PCHR's predictions have been borne out. It is clear from this action and from statements made by members of the Israeli military that Israel is pursuing a systematic policy of destruction of Palestinian homes, particularly in these peripheral areas, with the aim of creating a "buffer zone" around border areas and military posts and settlements. It is also clear that this systematic policy will continue; more homes will be demolished and more Palestinian men, women and children will be made homeless. This is one further example of the increasingly urgent need for immediate international protection for the Palestinian civilians living in the OPTs.

PCHR requests that the Spanish government take immediate action in this regard, including condemning the recent house demolitions as part of a systematic policy, expressing concern for



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the 1742 homeless, and calling on the international community to provide immediate independent international protection for Palestinian civilians living in the OPTs and to bring to justice those responsible for these unlawful acts, in particular General Doron Almog, Commander of the Israeli military in the Southern Gaza Strip and other military leaders, according to international standards. PCHR also hopes that in the capacity as current President of the European Union, the Spanish government take a leading role in the international community to ensure that effective action is taken to halt this and other systematic violations of international human rights and humanitarian law perpetrated by Israel against Palestinian civilians in the OPTs, including, but not limited to, immediate and effective protection for the Palestinian civilian population. The High Contracting Parties to the Fourth Geneva Convention, which include all member countries of the European Union, have a legal obligation, as defined in Article 1 of the Convention, “to respect and ensure respect for the Convention in all circumstances”. PCHR wishes to remind all of the High Contracting Parties that the meeting held on 5 December 2002, did not discharge the obligation in this article; concrete measures are now required to ensure the de facto and de jure implementation of the Convention in the OPTs and PCHR urges the High Contracting Parties to take any and all measures necessary to protect the civilian population in the OPTs.

I would like to take this opportunity to request a meeting with you to discuss these issues further. Unfortunately, due to the current restrictions on the freedom of movement of all Palestinians, it is impossible for me to travel to meet with you in Jerusalem. However, I wish to extend an invitation to you to visit the centre here in Gaza at your earliest convenience.

A further detailed report on these incidents will be available within the coming week and will be forwarded to you for your information. If you have any further questions, please do not hesitate to contact us.

Regards,

Raji Sourani
Director
Palestinian Centre for Human Rights