



**Palestinian Centre for Human Rights**

**Israel's violation of the Right to Adequate Housing in the Gaza Strip**

**Individual complaint presented to the United Nations Special Rapporteur on the  
Right to Adequate Housing.**

24 December 2012

Palestinian Centre for Human Rights (PCHR), Omar Al-Mukhtar St.  
P.O. Box 1328, Gaza City - Palestine  
[www.pchrgaza.org](http://www.pchrgaza.org)

## Case Summary

On 14 November 2012 the Israeli army launched a widespread offensive, code named 'Operation Pillar of Defense', on Gaza Strip. This operation lasted for 8 days and concluded with a ceasefire agreement on 21<sup>st</sup> November 2012. During this offensive the Israeli Air Force carried out around 1,500 air strikes, resulting in damages and destruction of numerous civilian buildings and properties.

On 16 November 2012 the Israeli Air Force twice bombarded the building of the Civil Department of the Ministry of Interior in Gaza City. The building is located in a densely populated residential area, close to many homes, 2 schools, and a hospital. The first attack was carried out at around 05:30 hours and the second attack took place at around 21:30 hours on the same day. The impact of both these attacks, especially the second one, caused immense damage and destruction to the surrounding civilian properties including civilian homes.

Mr. Mahmoud Nimee Al Bahtiti's 2-storey building, which is located just over 5 meters away from the Ministry of Interior's building, was severely damaged in these Israeli air strikes. The building is home to the 27 members of the Al Bahtiti family, and has the family-owned automobile workshop on the ground floor. The entire building was extensively damaged in the attack.

Part of the Al Bahtiti family has had to seek shelter elsewhere due to the extensive damage caused to their home.

We trust that this individual complaint provides you with the information necessary to make further inquiries, in your capacity as Special Rapporteur, into Israel's violations of the Al Bahtiti family's right to adequate housing. We would like to stress the importance of your attention to this case, as this incident forms part of a much larger pattern of Israeli violations of the right to adequate housing in the Gaza Strip.

Additionally, the Palestinian Centre for Human Rights (PCHR) would like to invite the Special Rapporteur to undertake a visit to the Gaza Strip and the larger occupied Palestine in order to assess in greater detail the Israeli violations of the right to adequate housing of the Palestinian people.

Finally, PCHR also wishes to express its willingness to cooperate with your possible follow-up on this matter, and to provide further information as required.

## I. Personal Details of Victim

**Family Name:** Al Bahtiti

**First Name(s):** Mahmoud Nimee

**Gender:** Male

**Date of Birth:** 1 February 1950

**Nationality:** Palestinian

**Civil Status:** Married

**ID document:** Issued by Palestinian Authority [Id No. 921200523]

**Date of Issuance:** 24 June 2006

**Profession and/or activity:** Mechanic and automobiles spare parts seller.

**Address:** Opposite the building of Ministry of Interior, Al – Khour Intersection,  
Tel Al Hawa, Gaza City, Gaza Strip, Palestine.  
(Mail can be sent via PCHR’s email or fax)

Mahmoud Nimee Al Bahtiti owns a 2 storey building in Tel Al Hawa area in southern Gaza City, just over 5 meters away from the building of Civil Department of the Ministry of Interior [“Ministry Building”]. His family resides on the first and the second level. On the ground floor the family owns an automobile workshop where they run a business of providing mechanical services for automobiles and store various automobile spare parts.

Details of 27 members of the Al Bahtiti family residing in the concerned building:

Name	Gender	Age	Marital Status	Occupation	Children
Mahmoud Nimee	Male	62	Married	Mechanic	7
Iyad	Male	33	Married	Mechanic	4
Ziyad	Male	33	Married	Mechanic	5
Imad	Male	28	Married	Mechanic	2
Jihad	Male	26	Married	Mechanic	2
Nihad	Male	24	Single	University Student	-
Ahmed	Male	22	Married	Mechanic	-
Ala	Female	16	Single	High School Student	-

## II. Information regarding the incidents

### Incident 1:

**Date:** 16 November 2012.

**Place:** The victim's residence. [Address: Opposite the building of Ministry of Interior, Al Khour Intersection, Tel Al Hawa, Gaza City, Gaza Strip, Palestine]

**Time:** Approximately 05:30 hours.

At around 05:30 on 16 November 2012, as a part of the Israeli offensive 'Operation Pillar of Defense' in the Gaza Strip, an Israeli airstrike hit the Ministry Building in the Tel Al Hawa neighborhood in southern Gaza City. Due to the collateral effects of this air strike Mahmoud Nimee's building sustained minor damages.

Mahmoud Nimee stated, *"During the first attack, we were all sleeping in the house as it was very early in the morning. When the attack happened, the windows of our house broke from the impact and, as they shattered, pieces of glass fell on some of the children. Because of this, they sustained minor injuries like cuts and bruises. Immediately after the first attack, the Civil Defence team arrived. They were busy trying to control the fire that had erupted in the Ministry Building when the electricity generator in the building burst into flames. The fire was not put out for a long time. After the first attack, my family took shelter with our relatives and friends in other parts of the city. We split up into small groups, as it was impossible for us to find a place where all of us could stay. Some of my sons went to their in-laws' houses with their wives and children."*

It is important to note that Mahmoud Nimee did not receive any warnings prior to the attack.

### Incident 2:

**Date:** 16 November 2012.

**Place:** The victim's residence. [Address: Opposite the building of Ministry of Interior, Al Khour Intersection, Tel Al Hawa, Gaza City, Gaza Strip, Palestine]

**Time:** Approximately 21:30 hours.

At around 21:30 hours, another Israeli air strike hit the Ministry Building. The impact of this second attack severely damaged the Al Bahtiti residence as well as their automobile workshop on the ground floor. Mahmoud Nimee was the only person present in his 2-storey building. He gives the following account of the event: *"The second attack was far more severe than the first one and it badly damaged my house and workshop. During the second attack, I was awake on the 2nd floor of the building. The attack caused a fire in the house. Debris from the Ministry building and my home fell everywhere. I took cover in a corner of the room and saw windows, doors, and bricks from the walls fall around me."*

It is important to note that Mahmoud Nimee did not receive any warnings prior to this attack either.

Being the Occupying Power of the Gaza Strip, Israel is compelled to observe its obligations under the international human rights treaties and covenants it has ratified. By carrying out attacks like these in densely populated areas in the Gaza Strip and causing the destruction of civilian homes, Israel violates the right to adequate housing, under Article 11(1) of the International Covenant on Economic, Social and Cultural Rights.

Moreover, under International Humanitarian Law, as per Article 53 of the Fourth Geneva Convention 1949,<sup>1</sup> any destruction by the Occupying Power [in this case, Israel] of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations. Additionally, Article 147 of the Fourth Geneva Convention says that such *extensive* destruction of property protected by the convention which cannot be justified by military necessity is a grave breach of International Humanitarian Law and; Article 8(2)(b)(iv) of the Rome Statute of the International Criminal Court<sup>2</sup> states that *intentionally* launching an attack *in the knowledge* that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be *clearly excessive in relation to the concrete and direct overall military advantage anticipated* is a war crime.

Also, according to the International Committee of the Red Cross a party to the conflict must give effective advance warning of attacks which may affect the civilian population, unless circumstances do not permit.<sup>3</sup> As stated above, the Al Bahtiti family did not receive any prior warnings of any nature before either attack was carried out.

### **III. Information related to perpetrators**

In both instances, the attacks were perpetrated by members of the Israeli Air Force.

PCHR is unable to further specify the ranks and functions of the individuals involved in the destruction of Mahmoud Nimee Al Bahtiti's property.

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<sup>1</sup> Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

<sup>2</sup> UN General Assembly, *Rome Statute of the International Criminal Court* (last amended 2010. 17 July 1998, ISBN No. 92-9227-227-6.

<sup>3</sup> Rule 20, Jean Marie Henckaerts and Louise Doswald Beck, *Customary International Humanitarian Law* Vol. 1, ICRC/Cambridge University Press, Geneva/Cambridge, 2005.

During the Israeli 'Operation Pillar of Defense' in the Gaza Strip, from 14 to 21 November 2012, the Israeli Air Force carried out approximately 1,500 air strikes. PCHR collected this information while the said operation was ongoing, and is currently further investigating certain events to maximize the accuracy of this number.

#### **IV. Steps taken by the victim or his family:**

Mr. Mahmoud Nimee Al Bahtiti has not filed any complaint with the Israeli authorities or taken recourse to legal action for the incidents on 16 November 2012. Al Bahtiti expresses that he lost all faith in the ineffective legal mechanisms, given prior experiences he has with such procedures.

Mr. Al Bahtiti owned another mechanical workshop on the Al Basateen Street, in the Asqoula of the Al Zaytoun neighborhood, Gaza City. This workshop was destroyed during the 2008-2009 Israeli offensive codenamed 'Operation Cast Lead'. Following this attack he filed a legal complaint with the relevant Israeli court claiming compensation and restoration of his property, but he has not received any results from these proceedings until now.

Due to such an unsuccessful experience with the judicial system, he has not filed any complaints or taken any legal actions with regard to the attacks that happened on 16 November 2012.

#### **V. Steps taken by the authorities:**

The Israeli authorities have not taken any steps to investigate the destruction of private civilian property which occurred while carrying out attacks during 'Operation Pillar of Defense'.

## VI. Identity of the person submitting the case

**Family name:** Al Alami

**First name(s):** Iyad

**Status:** non-governmental organization, Palestinian Centre for Human Rights (PCHR)

**Address:**

29 Omar Mukhtar Street, near Amal Hotel, al Rimal District,  
Gaza City, Gaza Strip, occupied Palestinian territory.

P.O. Box 1328. Telephone / Fax: 972 (0)8 2824776 / 2825893

Email: [pchr@pchrghaza.org](mailto:pchr@pchrghaza.org)

Date and place: 24 December 2012, Gaza City, Gaza Strip, occupied Palestine.

Signature of author:

A handwritten signature in blue ink, appearing to be 'Iyad Al Alami', written over a faint, illegible stamp or watermark.

**Pictures of the Al Bahtiti family's demolished building:**

1. Picture of the building:



2. Severely damaged staircase of the building:



3. First floor of the building:



4. Mahmoud Nimee standing outside the building:

