Confirm the Kill: IOF Killings of Children during the al Aqsa Intifada

Series Study No. 38
"Sentry: We spotted an Arab female about 100 meters below our emplacement, near the light armored vehicle gate.

Headquarters: Observation post "Spain," do you see it?

Observation Post: Affirmative, it's a young girl. She's now running east.

HQ: What is her position?

OP: She's currently north of the authorized zone.

Sentry: Very inappropriate location.

[Gunfire]

OP: She's now behind an embankment, 250 meters from the barracks. She keeps running east. The hits are right on her.

HQ: Are you talking about a girl under ten?

OP: Approximately a ten-year-old girl.

HQ: Roger.

OP: OP to HQ.

HQ: Receiving, over.

OP: She's behind the embankment, dying of fear, the hits are right on her, a centimeter from her.

Sentry: Our troops are storming toward her now. They are around 70 meters from her.

HQ: I understand that the company commander and his squad are out?

Sentry: Affirmative, with a few more soldiers.

OP: Received. Looks like one of the positions dropped her.

HQ: What, did you see the hit? Is she down?

OP: She's down. Right now she isn't moving.

Company Commander [to HQ]: Me and another soldier are going in. [to the squad] Forward, to confirm the kill!

CC [to HQ]: We fired and killed her. She is wearing pants, jeans and a shirt. Also she had a kaffiyeh on her head. I also confirmed the kill. Over.

HQ: Roger.

Company Commander [on general communications band]: Any motion, anyone who moves in the zone, even if it's a three-year-old, should be killed. Over." (1)
Inside The Study:

Letter of Introduction ........................................... 6

Summary ...................................................... 10

File one - Raghda‘Adnan al-‘Assar ................. 18

File Two - Iman al-Hams ................................. 26

File Three - Ghadeer Jaber Mukhaimer ............. 34

File Four - Beit Lahyia (deaths of eight children) .......... 44

File Five - Nouran Byad Deeb .............................. 52

Appendices - Maps and Satellite Images .............. 57
This report was conceived against a backdrop of increased occurrences of killings and injuries in the Occupied Palestinian Territory (OPT) during the Intifada.

The need for human rights organizations to take clear action and publicise the situation of Palestinian children took on an even greater urgency, when the Israeli military intensified their attacks against a number of schools in the southern Gaza Strip area of Khan Yunis.

The death of young girls sitting at their school desk shocked Palestinian and international society. Perhaps no event was so shocking as the death of 13-year-old Iman al Hams. The vicious recording of the soldier’s boast that he had emptied 15 bullets from his gun, and thus “confirmed the kill”, was one of the rare occasions when the brutality of the Israeli military filled headlines and television screens, at least for a short period of time.

In this context, PCHR sought
would allow, at the very least, the pattern to be placed on the record. The visit of the UN Independent Expert on Violence Against Children to the OPT was believed to be one such opportunity for achieving this. The cases detailed in this report will also be submitted to the UN Special Rapporteur for Extra-Judicial, Summary or Arbitrary Executions whose role is investigative and fact-finding. PCHR hopes that the Special Rapporteur will be able to visit the OPT and conduct a thorough investigation on these and on other potential cases.

The cases presented herein are presented in the same format as the files presented to the UN.

PCHR welcomes involvement by the international community, through the UN Human Rights mechanisms, in any efforts to end the suffering endured by the Palestinian civilian population in the OPT. PCHR also believes that the High Contracting Parties to the Fourth Geneva Convention take specific action to pursue and prosecute those responsible for grave breaches of the Convention, some of which amount to war crimes.

The High Contracting Parties are under a clear legal
obligation to “ensure respect” for the Convention and this was further elucidated, albeit in a different context, by the International Court of Justices’ Advisory Opinion on the Wall inside the West Bank.

Finally, PCHR acknowledges that the groundswell of support for the Palestinian people, which has continued to grow throughout the Intifada, will be a key factor in influencing governments to take genuine action to uphold international law in the OPT and to end this belligerent Israeli occupation.

I want to thank you for taking the time to read this report and for your ongoing support for the Palestinian right to self-determination and for protection of civilians.

Best regards

Raji Sourani
Director
PCHR
Summary

Since the start of the al Aqsa Intifada against the belligerent occupation of Palestine, the Israeli military has killed 679 children and injured thousands, many of whom have been injured permanently. This figure amounts to approximately one-third of all deaths over the course of the Intifada. Killings and injuries of children have continued since the declaration of a Hudna (Ceasefire) by the Palestinian factions following the much publicised Sharm el Sheikh summit.

The course of the Intifada has seen the emergence of a worrying pattern of attacks against schoolchildren and buildings where large numbers of children are situated, in particular schools.(2) This pattern has emerged against a background of
high-level impunity, which has been granted to the Israeli military for attacks against civilians. Human Rights Watch observed, in an investigation into impunity in the Israeli military, that the harshest punishment given to a soldier for their activities in the OPT during the entire Intifada was a seven-month prison sentence for “severe intentional harm.” (3)

This pattern of impunity represents a state of affairs where the lives of civilians and, in particular, children are not valued enough to warrant an efficient, effective or genuine investigation in the event of the killing or injury of a civilian. The consequences of this include the large numbers of civilian deaths which have been recorded by Palestinian and international civil society, as well as the drastic psychological effect of the conflict on children.

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The purpose of this report is to provide guidance on the pattern of violence against children over the course of the Intifada. The report, having illustrated this pattern, will seek to address five cases of willful killing of children, which took place in late 2004 and early 2005 resulting in the deaths of twelve children. The report does not intend to be comprehensive or to cover every case in which willful killing or injury of a child occurred. Nor does the report set out to provide in depth psychological details of the effects of the conflict on children - believing that other organisations are better suited to carry out this task. (4)

The primary focus of this report is five cases of killings of children, which PCHR staff forensically documented and recorded the details of over the course of a five-month period in the Gaza Strip. The report examines these five cases in which twelve children were killed.

The first case is that of Raghda ‘Adnan al-‘Assar, a ten-year-old Palestinian school girl, killed while sitting at her desk on the 7th of September 2004. Many schools in the Khan Yunis area have been subjected to indiscriminate and heavy firing during the Intifada and Raghda’s pockmarked school is no exception to this.

Raghda’s death was followed just under one month later by the killing of Iman al-Hams, a thirteen-year-old identified as a schoolgirl who entered an area
along the border of Gaza and Egypt. The transcript printed above, which was widely circulated in the Israeli media after the killing, has had no long term effect on the Israeli military. Although charges were brought against the company commander involved, none of the charges included murder.

Iman’s death was quickly followed by the killing of nine-year-old Ghadeer Jaber Mukhaimer, who was killed while sitting at her school-desk in an UNRWA school on the 12th of October 2004. She died one day later. The killing occurred during a time of complete quiet, when no military activity had been reported or recorded for over two hours. Ghadeer died from her injuries the following day. Her death had taken place in the context of a massive military incursion by the Israeli military into the Jabalya Refugee Camp. In the two weeks preceding Ghadeer’s death, thirty Palestinian children had been killed by the Israeli military.
The report finally focuses on the case of Nouran Deeb who was killed while in the playground of UNRWA School ‘B’ in Rafah, just before the school day started. As the photograph in this report indicates, the school ground is a crowded place at this time of day and is clearly distinguishable as a school ground. As such, the shooting of Nouran is clearly a willful killing.

This report, however, does not include a detailed examination of the many other incidents in which children were killed, injured or suffered from acts of violence during the Intifada.

On the 4th of January 2005, five days before the Palestinian Presidential elections, eight children from one family were killed during one incident in the northern Gaza Strip area of Beit Lahia. Although there had been recent activity by members of the Palestinian resistance in the area, there was a substantial gap between the conclusion of this military activity and the arrival of the children to the area. Seven children were killed instantly and seven others injured, one of whom died later.

It is important to observe that during one Israeli military incursion alone into the Jabalya Refugee Camp, in the north of the Gaza Strip, thirty seven children were killed. Nor are the killings of three children playing football in Rafah on the 9th of April 2005 investigated here.

However the pattern which emerges from the Intifada remains clear: that the killing of children has continued at a steady rate, often at times of complete quiet, and that the Israeli military grants
almost complete impunity to soldiers involved in such incidents.

Israel is an occupying power and the Occupied Palestinian Territory (OPT) have remained under a belligerent Israeli occupation since 1967. This fact has been repeatedly asserted by UN fora, the International Court of Justice, governments, and independent international institutions and bodies.

As such, the Fourth Geneva Convention, relative to the Protection of Civilian Persons in Time of War (August 12 1949), is the primary legal document that should guide all Israeli activity in the OPT.

Israel has clear duty under Article 27 to respect the fundamental rights of all protected persons and the right to life is clearly guaranteed by Article 3 of the Universal Declaration of Human Rights. Children are also afforded special protection under the Convention on the Rights of the Child.
Israel has continued to deny the applicability of international law to the OPT. It has continued to grant impunity to soldiers involved in a variety of acts of killing, injury and other forms of illegal behaviour. PCHR reminds the international community that children are afforded special protection under all forms of international law – including in the Fourth Geneva Convention – and that the right to life is sacrosanct and should not be violated. The High Contracting Parties to the Fourth Geneva Convention have obligations to “ensure respect” for the Convention and this includes through the pursuit and prosecution of war criminals and those responsible for other grave breaches. PCHR hopes that this report will have an impact to the degree that the international community will fulfill their obligations, especially in regard to the cases of children mentioned here and to the hundreds of other cases of dead children.
File One:
The Killing of Raghdha 'Adnan al-'Assar.

Information regarding the incident

Date:
07.09.2004
died
22.09.2004

Place:
UNRWA Elementary “C”
Girl’s
School in Khan Younis
(Gaza Strip)
Context of Attack

The attack took place at 07:45 on Tuesday, 7 September 2004, in Khan Younis refugee camp. A satellite image map has been included to help fully explain the incident, as has a diagram of the school in which Raghda was shot.\(^{(7)}\)

The context of this complaint is the indiscriminate firing by the IOF into heavily populated civilian areas. The attack took place in the wider context of a massive escalation in attacks by the Israeli military against civilians, and in particular against children. The incident must also be seen in the light of an escalation of negative public rhetoric from the Israeli military against UNRWA. Fears have been expressed that the verbal attacks against UNRWA may have fed into an atmosphere where soldiers, operating at a lower level on the chain of command, may have believed that it was acceptable to attack UNRWA property.

The attack occurred during a period of relative quiet, when the Israeli military were not under attack. The indiscriminate firing into civilian areas fails to adhere to the right to life of Palestinian civilians. The culture of impunity which permeates the Israeli military system has led to the circumstances where
violations of the right to life, violations of other fundamental rights (as enshrined in both human rights law and international humanitarian law) have become routine. This attack clearly violates these principles of international law including the Fourth Geneva Convention, Relative to the Protection of Civilians in Time of War and the UN Convention on the Rights of Child (to which Israel is a signatory), as well other human rights instruments.

There was no return of fire from the Palestinian side, as the militant groups had left the area at this stage. Despite this, however, several of the Israeli Military posts continued firing sporadically and indiscriminately into the refugee camp, which is a densely populated civilian area.

Thirty five minutes after the rocket was fired, the military continued to fire into the refugee camp. The firing continued despite the fact that there was no imminent threat to their safety or to the safety of people or property within the settlements. During this period of indiscriminate firing four Palestinian civilians were injured, including two children. At 07:45 Raghdha ‘Adnan al-‘Assar was in her classroom at UNRWA Elementary ‘C’ Girls school.

Chronology of the Incident

At approximately 07:10 hrs members of the Palestinian resistance fired a “home-made” Improvised Explosive Device (colloquially referred to as a Qassam Rocket) into the Neve Dekalim settlement, which is part of the Gush Katif settlement bloc. Immediately after the IED was fired, several of the Israeli military posts, located in the area around Khan Yunis refugee camp, opened fire in the direction of the western parts of the refugee camp.
She was sitting in the front row on the left hand side of the second aisle. The classroom was the fourth from the left in the main bloc of classrooms. A bullet from the Israeli military post (marked '2' on the map in Appendix 1) hit her in the head. This military post is 980 metres from UNRWA Elementary 'C' School for Girls.

Raghda was initially taken to Nasser Hospital but was then transferred to the newer European Gaza Hospital, where she underwent major surgery. PCHR's initial reports suggested that she was already clinically dead upon arrival at Nasser hospital. According to Raghda's father, she was denied permission to enter Israel in order to receive medical treatment there, which would have been of a higher standard. After three days in hospital Raghda's condition deteriorated further. She was declared dead on the 22nd of September in Gaza European Hospital.

This incident took place more than half an hour after militants fired a rocket into the Israeli settlement area. The map clearly illustrates the location of this settlement to the South East of Khan Younis. The rocket was fired from the south western area of Khan Younis, an area which has a reputation for armed clashes between the Israeli military and Palestinian militant groups. The Israeli military post from which the lethal shots were fired is located to the north west of Khan Younis. This military post is in excess of 1.2km from the location where the rocket was fired. The fact that the attacks by Palestinian militants had ended half an hour previously, also adds to the questions which must be raised regarding the use of indiscriminate and disproportionate gunfire into civilian areas. Such activity forms part of a policy of imposing collective punishment on the civilian population for activities which they are not individually responsible for.

Information regarding the victims of the incident:

Number of Victims: 1
Names, Ages, Occupations: Raghda ‘Adnan al-‘Assar, 10 years old,
Activities related to the imminent

The victim was not involved in any activities which related to the actual violation. She was sitting in her classroom at UNRWA Elementary ‘C’ school for girls. She was sitting in the front row on the left hand side of the second aisle. The classroom was the fourth classroom from the left in the main bloc of classrooms (see school map).

Information

Information regarding the alleged perpetrators

The Israeli military are positioned around the Khan Younis refugee camp on three sides. There are four principle military posts which surround the camp, as well as a military compound. Tanks are also routinely deployed to the north of al-Tuffah checkpoint, which is the only access point for Palestinian civilians to the sealed area of al Mawasi.

Israel has occupied the Gaza Strip and the West Bank since 1967. Construction began in Gush Katif settlement bloc in 1974 and building was accelerated in 1982.

The Israeli military does not carry out investigations into any reported or recorded deaths of civilians. The military consistently refuses to reveal details about soldiers on operational duty at the time of an incident. PCHR requested this information from the Israeli military but has not received any reply.
It is unclear to what extent the military chain of command is responsible for the activities of their soldiers in this incident. The Israeli military does not reveal operational orders or publish transcripts or documentation which might indicate chain of command responsibility.

Information regarding the steps taken by the victims or their families

Following Raghda’s death her father, ‘Adnan al-‘Assar, instructed a lawyer to initiate Court proceedings against the military on behalf of the family. At the time of PCHR’s last interview with him, however, he had received no further information on the process to date.

Information regarding steps taken by the authorities

Despite requests, PCHR has not been informed of any investigations undertaken by the Israeli military.

Given the pattern child fatalities outlined above, PCHR does not believe that the Israeli military has, or is, acting adequately to ensure further similar incidents are prevented.
File Two:
The Killing of Iman al-Hams

Information regarding the incident

Date:
15.05.2004
died
22.09.2004

Place:
100m west of Israeli military post in Tal Zo’rob area in the western part of Rafah, to the south of Tal as Sultan.
Context of Attack

On the night of the 4th of October 2004 intense shooting took place between Palestinians and Israelis in the Rafah area. Around Tal al Sultan the shooting came in from two main directions; the Israeli military post at Tal Zo’rob to the south, and ‘Rafi’akh Yam’ settlement to the west. Before day break on the 5th the shooting stopped, though there was still some indiscriminate fire from the Israelis.

Chronology of the Incident

The attack took place some time shortly after 06:30 hrs on Tuesday, the 5th of October 2004, just to the west of the Israeli military post in the Tal Zo’rob area. A satellite image map is included to help fully explain the incident as has a series of photos showing both the area where the incident occurred and Iman al-Hams body. (13) Iman left her home at her normal time of 06:15, to be in school for 06:40. At 06:30, when the streets were quite busy with students making their way to school, there was sporadic and indiscriminate fire from both the Israeli military post at Tal Zo’rob to the south, and Rafi’akh Yam settlement. The majority of the gunfire was directed at the Tal al Sultan area and came from the Israeli settlement. At this time Iman was on the main street, between 50 - 70 metres west of her school. Her position at this time was entirely consistent with the normal route that she walked to school.
Iman was now caught in the area at which the firing was directed.

It was reported that she sustained a light injury to her lower leg. As can be seen in the photograph, there is some bruising on the leg, though it is impossible to tell when this minor injury was sustained (she had not been shot at this point).(14)

From this point on it is extremely difficult to ascertain or comprehend her subsequent actions. It is possible that the bruising on the leg resulted from a ricochet from the firing. An eyewitness interviewed by PCHR staff described her as looking “dazed, confused and lost”. (15)

This eyewitness, who was also an eyewitness to the actual killing, was a farmer who owns land to the south of Tal al Sultan, west of the Israeli military post at Tal Zo’rob.

After the possible ricochet incident near her school, Iman walked south, passing the farmland of the above mentioned
This eyewitness reported that he called on her to stop as she was in danger. She carried on, ignoring his calls completely. The eyewitness in question tried to make his way towards her but could not approach, as he was afraid of being shot by the Israeli military post at Tal Zo’rob. This particular post is locally reputed to be a source of immense quantities of indiscriminate gunfire and attacks against civilians.

The farmer stopped about 250m short of the Israeli military post at Tal Zo’rob. Iman continued to walk south. She stopped about 100m west of the military post. This area was designated by the Israeli military as a closed military zone. There are no warning signs or visible indicators that this is the case.

PCHR’s eyewitness reported that four soldiers came out of a military post. They spoke to Iman and she knelt down. One of the soldiers then shot her at least four times. They then approached her body and shot her several more times thus ‘confirming the kill’.

PCHR believes that this killing constitutes a willful killing and, as such, amounts to the category of war crime under Article 147 of the Fourth Geneva Convention. Iman al-Hams was a distinctive blue and white striped UNRWA school uniform. She was clearly identified by the soldiers as being a schoolgirl. There was no Palestinian militant activity ongoing in the vicinity. The only military activity came from the Israeli military posts.

The Israeli military initially claimed that Iman may have been a suicide bomber. However, the subsequently released transcript indicates that the military were aware that she was a child. The transcript also indicates that the soldiers did not identify her as posing a direct threat.
Information regarding the victims of the incident:

Number of Victims:
1
Names, Ages, Occupations: Iman Samir al-Hams, 13,

Activities related to the imminent

The victim was not involved in any activity relating to the violation against her. Iman was on her way to school, taking her usual route. It appears that she became disorientated, following an injury she sustained prior to the lethal shooting (possibly from a ricochet from another firing) and deviated from her usual route to the area near the military post. She was clearly identifiable as a schoolgirl in her UNRWA uniform and did not pose any direct threat. There was no other military activity taking place in the area. (See map in Appendix 2).

Information regarding the alleged perpetrators:

The Israeli soldier responsible for "confirming the kill" has remained anonymous due to an order imposed by a military court. PCHR is not aware of other indictments issued to other soldiers who may have been involved in the incident.

Information regarding the steps taken by the victims or their families:

The family of Iman al Hams have instructed a lawyer to pursue their case through the Israeli court system.

Information regarding steps taken by the authorities:

The soldier in question, known as Captain R., went on trial for charges up to and including manslaughter, as well as conduct unbecoming of an officer. The verdict was reached in this trial in November 2005 and the
soldier was acquitted of all charges.

PCHR believes that a charge of manslaughter was inadequate given the strong evidence in this case, including accounts from other members of the Israeli military, that the killing was willful and the acquittal of the soldier of all charges clearly illustrates the extent to which a culture of impunity permeates the Israeli military system.

PCHR remains unsatisfied that the procedures for investigation within the army are adequate to ensure an efficient and effective investigation of the incident. Further to this, PCHR remains unsatisfied that the Israeli military has taken any steps which indicate a willingness to prevent similar incidents re-occurring. The acquittal of the soldier in question indicates that such crimes committed by Israeli military personnel can continue unchecked in the OPT.
File Three:
The Killing of Ghadeer Jaber Mukhaimer.

Information regarding the incident

Date:
12.10.04
died 13.10.04

Place:
UNRWA Co-Ed Elementary “D” School in Khan Younis
(Gaza Strip)
Context of Attack

The attack took place at 10:45 on Tuesday, the 12th of October 2004, in Khan Younis refugee camp. A satellite image map has been included to help fully explain the incident as has a diagram of the school in which Ghadeer was shot. (16)

The issue at the core of this complaint is the indiscriminate firing by the IOF into heavily populated civilian areas. This attack occurred at a time of complete quiet, there was no militant activity anywhere in Khan Younis at the time of the attack. This attack also took place in the wider context of a massive escalation of Israeli military attacks and human rights violations across the OPT, particularly in the Gaza Strip. The incident occurred on the last day of a wide scale and intensive incursion into Jabalya Refugee Camp. The incursion was launched under the pretext of the death of two children in the Israeli town of Sderot, just north of the border between the Gaza Strip and Israel. The children died as a result of indiscriminate fire by Palestinian militants using Improvised Explosive
(generally referred to as Qassam rockets).

In the two weeks days preceding the killing of Ghadeer, thirty Palestinian children who killed in the Gaza Strip by IOF and more than two hundred were wounded. The killing of Ghadeer also needs to viewed in the context of the above mentioned escalation in verbal attacks and defamatory statements by senior Israeli government officials against UNRWA. PCHR’s fieldworkers established that the incident occurred during a period of complete quiet and as such, PCHR believes that the attack once again fails to adhere to the principles of proportionality and distinction.

The attack violates fundamental principles of international law including the Fourth Geneva Convention Relative to the Protection of Civilians in Time of War (12th August 1949) and the UN Convention on the Rights of Child (to which Israel is a signatory), among other human rights instruments.

The attack was by no means the first Israeli attack on a Palestinian school. On Sunday the 10th of October, in the same area, 16-year-old Jihad Sa’id Sarhan was wounded in the hand while sitting at his desk in school. As detailed above, in the previous month 10-year-old Raghda ‘Adnan al-’Assar had been killed while sitting at her desk at UNRWA Elementary “C” Girl’s School in Khan Younis, also during a time of quite.

Chronology of the Incident

Early in the morning on the 12th of October 2004, a mortar attack was carried out by members of the Palestinian resistance from the south of Khan Younis into the Gush Katif settlement bloc. The attack was carried
08:00 hrs. The Israeli military fired into the area from which the mortars had been fired. There was no return fire from the militants. However, IOF began to indiscriminately fire into the Khan Younis refugee camp. This firing was extremely sporadic, following no set pattern nor restricted to certain areas. Such shooting, into such a densely populated civilian area, is in breach of the international legal principles that all military activity must be a proportionate response to the previous circumstances and must distinguish between civilians and combatants at any given time. At the time of the incident, none of the five main military posts which surround Khan Younis or any Israeli settlers were under attack.

At 10:45 two shots were fired from an Israeli
military post. Despite investigations, PCHR has been unable to establish with certainty the direction from which the shot was fired.

However, evidence indicates that it was either the military post marked '3' on the map (which is 1100 metres from UNRWA Co-Ed Elementary "D") or the military post marked '2' (which is 550 metres from UNRWA Co-Ed Elementary "D"). However, most of the anecdotal evidence suggests that the military post marked '3' on the map was the most likely source of the gunfire. One of these shots hit Ghadeer Mukhaimer in the abdomen. She was sitting at her desk in the third row of the third classroom, on the right of the main classroom block in UNRWA Co-Ed Elementary "D" School. Despite undergoing emergency surgery, Ghadeer died at 09:15 on the 13th of October as a result of her injuries.

UNRWA Co-Ed Elementary 'D' School in Khan Younis has frequently come under attack from the Israeli military. It is near the "tip" of Khan Younis refugee camp, and is within 600 metres of three Israeli military posts. All the homes and land to the north of the school have been razed and bulldozed up to the edge of the school. Because of the extensive military activity in the locality, the school is frequently closed. The school has been closed since the 25th December 2004, as a result of the killing and the extensive demolition of property caused by military incursions inside the school grounds.

Information regarding the victims of the incident:

Number of Victims: 1
Names, Ages, Occupations: Ghadeer Jaber Mukhaimer, 9 years old, School Girl
Activities related to the imminent

The victim was not involved in any activity relating to the violation against her. Ghadeer was sitting at her desk in the third row of the third classroom on the right of the main classroom block in UNRWA Co-Ed Elementary "D" School (see school map in Appendix 3).

Information

Information regarding the alleged perpetrators:
The Israeli military are positioned around the Khan Younis refugee camp on three sides. There are four principle military posts which surround the camp, as well as a military compound. Tanks are also routinely deployed
to the north of al-Tuffah checkpoint which is the only access point for Palestinian civilians to the sealed area of al Mawasi. The Israeli military does not carry out investigations into any reported or recorded deaths of civilians. The military consistently refuses to reveal details about soldiers on operational duty at the time of an incident. PCHR requested this information from the Israeli military but has not received any reply. It is unclear to what extent the military chain of command is responsible for the activities of their soldiers in this particular incident. The Israeli military does not reveal operational orders or publish transcripts which might indicate chain of command responsibility.

Information regarding the
steps taken by the victims or their families:

The family has hired an Israeli lawyer but to date no progress has been made in this case, which has been lodged with the Israeli authorities.

Information regarding steps taken by the authorities:

Despite requests, PCHR has not been informed of any investigations undertaken by the Israeli military. Given the pattern of deaths of children outlined above, PCHR does not believe that the Israeli military has, or is, acting adequately to ensure further similar incidents are prevented.
File Four:
Beit Lahiya
(Deaths of 8 children)

Information regarding the incident

Date:
04.01.2005

Place:
Beit Lahiya,
Northern Gaza Strip
Chronology of the Incident

This attack took place at 07:45hrs in an area on the northern outskirts of Beit Lahiya, in the northern Gaza Strip. Included in this report is a map and a selection of photos to help fully explain the incident and the events surrounding it. A satellite image of the area has also been included to convey a fuller impression of the surrounding area. (17)

The essence of this complaint is that the use of force by the IOF was both excessive and indiscriminate, and was used in a situation which did not justify it, as neither the crew of the tank nor any Israeli citizens were in danger. PCHR believes that this is another example of an attack fostered in the culture of impunity which permeates the military and judicial system.

At 07:15 a group of militants from al-Aqsa and Islamic Jihad - operating under the auspices of the Popular Resistance Committees - fired two Improvised Explosive Devices (Qassam rockets) from 'area 1' (as indicated on the appendix 4). Between 07:15 and 07:25 they fired a further four rockets, in pairs, on two distinct occasions. The militant groups had dispersed and cleared the area by 07:30. Between 07:15 and 07:30 the Israeli military situated in the Israeli watchtower 'point 3' opened
fire. The watchtower is on higher land and approximately 950 metres from the area where the Palestinian militants were firing. The military did not directly hit the militants and none of them were killed or were known to be injured. The militants fired the Qassam rockets from behind an embankment which helps to contain the lake. The embankment made their position difficult to return fire to from the Israeli military post.

Just after 07:40, some 15 minutes after the last pair of rockets were fired and at least 10-12 minutes after the militants had completely left the area, an Israeli tank was brought forward (see aerial photograph in Appendix 4, area marked as Area 4).

In the time between 07:15 and 07:45, members of the Palestinian civilian population, mostly men, left their strawberry fields and began to return to their homes - fearful of Israeli reprisals. (Strawberry fields are located all around the outskirts of Beit Lahiya and they need to be tended to in the early morning, as farmers must remove plastic sheeting used to prevent crop damage from cold temperatures during the
night.) These men witnessed the attack itself. At the same time a group of children, mostly from houses in the locality (on the road) gathered at 'Point 6', to see what was going on.

Almost immediately upon arrival at 'Area 4', the Israeli tank opened fire. At 07:45 it fired one tank shell into the group of children standing at 'Point 6', at a range of approximately 1200 metres. Seven children died almost immediately and seven were severely injured. One of the injured children died on the 03rd of February 2005, as a result of injuries sustained during the attack, bringing the total number of fatalities to 8 and left 6 others seriously injured. The group consisted entirely of children - the attack did not result in any adult deaths or injuries.

This attack on these eight children does not adhere to the principle of distinction which obliges any combatant to distinguish between the civilian population and other combatants.

The Palestinian militant groups who fired the I.E.Ds. at the Israeli military position and settlement were wearing distinctive markings which
The distance between the children and the tank, 1200 metres, ensures that the threat level to the Israeli military from this group of unarmed civilian children would have been negligible to non-existent. The Israeli tank would have been able to see and coordinate clearly what action it was taking thanks to a "battlefield manager" [which] assists the commander in effective combat and data management. (18)

Despite this advanced technology, the military’s initial claim was that they had fired on, and hit, a group of militants who were engaged in attacking the settlements and associated military posts. PCHR believes that the tank crew would have known that they were firing into a group of children. This means that the substance of this complaint is one of willful killing, which is a grave breach of the Fourth Geneva Convention and a war crime.

If the tank crew did not invest the required time to establish who they were firing at, then they are in violation of the principles of proportionality and distinction and are guilty of excessive use of force. It would be an illogical assumption to make, even in real-time, that the group of militants would have moved away from their covered attack position to an uncovered position, where they were not attacking, fifteen minutes after the last Qassam was fired.
Information regarding the victims of the incident:

Number of Victims: 8
Names, Ages, Occupations:

- Hani Mohammed Kamel Ghaben, 17;
- Mohammed Hassan Mousa Ghaben, 17;
- Rajeh Ghassan Kamel Ghaben, 10;
- Jaber 'Abdullah Ghaben, 16;
- Bassam Kamel Mohammed Ghaben, 17;
- Mahmoud Kamel Mohammed Ghaben, 12;
- Jibril 'Abdul Fattah al-Kaseeh, 16 and
- Mohammed Kamel Ghaben, 17 (declared dead

Activities related to the imminent

None of the victims were involved in the military activity relating to the incident.
All of the eight children came and stood at 'Point 6' to see what was happening. This is at least 250 metres away from the point where the militants had launched their rockets. None of the children had gathered at 'Point 6' until after the rockets had begun to be fired, and most did not arrive until after 07:30.

Information

Information regarding the alleged perpetrators:

This attack was carried out by the Israeli military stationed in a tank, which fired one shell into the group of children at 'Point 6' from 'Area 4'.

The military unit involved was, in all likelihood, stationed
at ‘Nissanit’ settlement, as they were able to arrive at its edges just over 25 minutes after the first rocket was launched by Palestinian militants. Despite requests for information, the Israeli military has failed to provide PCHR with details of who was on duty during the incident.

Information regarding the steps taken by the victims or their families:

The Palestinian Centre for Human Rights in Gaza have submitted complaints regarding the deaths of each of the children on behalf of the two families who were effected by this attack.

To date no substantive response has been received from the Israeli military.

Information regarding steps taken by the authorities:

PCHR is not aware of any investigations launched by the Israeli military.
Information regarding the incident

Date:
31.01.2005

Place:
UNRWA Co_Ed “B” School in Rafah, Gaza Strip
Context of Attack

The issue at the core of this complaint is the indiscriminate firing by the IOF into heavily populated civilian areas. This attack took place in the wider context of a culture of impunity for Israeli soldiers operating in the OPT, a culture of hostility towards UNRWA (promulgated by the Israeli government), and disregard to the right of life of Palestinians by the IOF. The Israeli military was not under any form of attack and indiscriminate firing into civilian areas is clearly excessive and illegal.

Chronology of the Incident

The attack took place at 12:03 on Monday the 31st of January 2005 in Rafah, on the edge of al Brazil refugee camp. A satellite image map has been included in appendix 5 to help fully explain the incident as has a diagram of the school in which Nouran was shot.

Nouran attended school in Rafah in the second ‘shift’ of the day. Her school day started at 12:00 (the ‘shift’ system being required due to the large numbers of children and relatively little classroom space). At the start of each day all the children line up in the playground, they do some stretches in unison and announcements are read out before the children file into school. In UNRWA Co-Ed “B” School in Rafah this lining up is done in three blocks around a central podium where a staff member and senior students stand.

At 12:03, while the children were conducting their stretches, two shots were fired by the Israeli military from the border area, near the ‘Philadelphi
route’. Nouran was hit in the head by one shot, while a fellow student was hit in the hand. An ambulance was called, but not used, as Nouran was taken directly to Abu Yousef al-Najar hospital - where she was declared dead.

The Israeli military initially claimed that Nouran and the other student were hit by fire from militants. However there was no firing in the near vicinity at all on that day. Although there had been an earlier incident involving militants, it had taken place two hours previously, at 10:00, near the Rafah International Crossing Point, some 4km away.

It is very hard to determine from exactly which point along the border that the shooting came. Most gunfire from the Israeli military, in this part of Rafah, originates from the Salah al Din Gate and Qishta quarter, where the IOF frequently positions between 2-5 tanks (both areas are marked on the satellite map and picture).

There were no tanks stationed in Qishta quarter. In an interview with Nouran’s father, he said that he believed the bullets came from Salah al Din Gate. However, it is possible that the rifle fire came from anywhere along the fortified wall. Firing into the densely populated civilian areas of Rafah is extremely frequent and it is difficult for any eyewitness to establish the exact origin.

The degree of firing is partially attested to by the fact that most of the buildings within a one kilometer of the wall are pockmarked with bullet holes. The headmistress of UNRWA Co-Ed “B” has a box of IOF bullets that have been picked out of the schools walls in the last few months.

Information regarding the victims of the incident:

Number of Victims: 1
Names, Ages, Occupations: Nouran Eyad Deeb, 11 years old, School Girl
Activities related to the imminent

The victim was not involved in any activities relating to the violation against her. Nouran was lined up with the rest of her school waiting to enter the school for the start of the day, when she was hit in the head by a bullet fired by IOF.

Information

Information regarding the alleged perpetrators

The Israeli military are positioned around the Khan Younis. Despite requests to the Israeli military, PCHR has been unable to identify individuals or commanders who may be responsible for the death of Nouran.

Information regarding the steps taken by the victims or their families:

Nouran’s parents have contacted an Israeli lawyer, Leah Samel. At the time of speaking to them he had not, as of yet, initiated legal proceedings through the Israeli court system.

Information regarding steps taken by the authorities:

The findings of the initial investigation, carried out by the soldiers from the unit responsible for the killing, have been borne out as false.

PCHR is not aware of any further investigation, despite making requests to the Israeli military.
Endnotes

(1) In the Zone, Harper’s Magazine, May 2005, translated from the Hebrew by Nomi Friedman. This is the military communications transcript of the killing of Iman al Hams.
(2) PCHR fieldworkers have also registered incidents where the Israeli military attacked hospitals damaging children’s wards and other occasions when bulldozers and tanks have moved into schoolgrounds wantonly destroying property inside.
(3) Promoting Impunity: The Israeli Military’s Failure to Investigate Wrongdoing, Human Rights Watch June 2005.
(5) For more information on the Jabalya incursion please see PCHR’s Press Releases and, especially, the Weekly Reports throughout September and October 2004.
(6) See PCHR’s Press Release 52/2005, 14 Palestinians Dead Since Sharm el Sheikh, including 3 children in Rafah yesterday.
(7) See Appendix 1 of this report.
(8) The Gush Katif is the largest settlement area in the Gaza Strip and is located along the western coastline of the Gaza Strip from the southern border with Egypt to the eastern borders with Khan Yunis Refugee camp. Settlements, or the transfer of the civilian population, constitute a grave breach of the Fourth Geneva Convention.
(9) See the Satellite Photograph , Appendix 1 of this report.
(10) See the Map of the School, Appendix 1 of this report.
(11) Interview conducted by PCHR staff 20/02/2005.
(12) Collective Punishment is a grave breach of Article 33 of the Fourth Geneva Convention.
(13) See Map in Appendix 2 of this report.
(14) See Photo section of this report.
(15) Interviews with this eyewitness conducted by PCHR staff during January 2005. (16) The eyewitness prefers to remain confidential though full name and details are on file with PCHR.
(17) Please see Appendix 3 of this report.
(18) See Appendix 4 of this report.
(20) Please see Appendix 5 of this report.
(21) Interview with PCHR field-staff 28/02/05.
(22) Interview with PCHR field-staff 28/02/05.