

Report

International Mission of Investigation

War Crimes in Rafah.

Violations of International Humanitarian Law and International Human Rights during the " Rainbow " operation (13-25 May 2004)

Mission of investigation in the Gaza Strip

I. Introduction	3
II. The geographical situation of Rafah	5
III. Chronology of "Operation Rainbow"	8
IV. The applicable law: international humanitarian law and international human rights law Treatment of the civilian population	13
V. Treatment of the civilian population	14
VI. Attacks on the property of the civilian population	17
VII. The use of "human shields"	26
VIII. Obstacles to medical aid	27
IX. Conclusions and recommendations	29

Acronyms

FIDH: International Federation for Human Rights
MDM: Médecins du monde /Doctors of the World
ICRC: International Committee of the Red Cross
WHO: World Health Organisation
IDF: Israeli Defence Forces / Forces de défense israéliennes
OCHA: United Nations Office for the Coordination of Humanitarian Affairs
PAM/WFP: Programme alimentaire mondial/World Food Program
UNRWA: United Nations Relief and Works Agency for Palestine Refugees
UNICEF: United Nations Children's Fund
PRCS: Palestinian Red Crescent Society
NGO: Non-Governmental Organisation
DCO: District coordination office
DCL: District coordination liaison

I. Introduction

1. Purpose of the mission

The International Federation for Human Rights (FIDH) and Médecins du monde (MDM) sent two simultaneous and complementary missions of investigation on the human rights and humanitarian law situation in Rafah, in the South of the Gaza Strip, following the beginning of military operation "Rainbow" conducted by the Israeli Defense Forces (IDF) in May 2004. The operation took place in several stages. The mission investigated the events that occurred between 13 May 2004, date of the first series of Israeli army's incursions into Rafah, and 25 May, when they finally withdrew from the last district of Rafah that they were occupying.

The task of the FIDH mission was to identify possible violations of international humanitarian law and of international human rights law committed during the "Rainbow" operation. This report, which is based on an investigation in the field carried out jointly with MDM, upon the examination of documents and a legal analysis, does not claim to be an exhaustive account of the situation in the Occupied Palestinian Territories.

The investigative missions took place from 5 to 11 June 2004, and were composed of Olivier De Schutter, FIDH Secretary general, Professor of law at the Louvain Catholic University and New-York University, and Laurence Weerts, from the Center of international law at the Free University of Brussels, for FIDH. For MDM, two medical doctors, Marie Rajablat and Alain Dufranc, conducted the mission.

This report will be completed by a parallel report from MDM.

2. The organisation of the mission

For the purpose of the missions, the team visited Jerusalem, Gaza City, and spent more time at Khan Yunis and Rafah. They collected numerous testimonies from the civil population at Rafah, in particular from the families of victims or eye-witnesses, including journalists, doctors and nursing staff. Numerous members of the medical and paramedical professions were interviewed, in particular ambulance staff and the medical and management personnel at the An-Najjar hospital¹. International Committee of the Red Cross (ICRC) personnel were interviewed. The members of the mission also met staff members of the United Nations agencies present in Gaza, the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

Most of the persons interviewed expressed no objection to their testimony being attributed to them, and to their name appearing in the report. We were careful however to ensure anonymity when requested – and the question was asked systematically to all persons interviewed –, and also in exceptional cases when we had some doubt regarding the reality of the person's consent. We paid attention to crosschecking testimonies, not only by comparing testimonies but also by consulting the medical registers at An-Najjar hospital, which are complete for the period concerned, with the identity, age and nature of the injury for all persons admitted.

In addition, the team members carried out field visits in the city of Rafah, in the bombed out districts of Tel al Sultan, Bloc O and Brazil, in the private dwellings in Tel al Sultan, Bloc O and Brazil. They visited the schools where UNRWA provides shelter for families obliged to leave their homes that have been either destroyed or likely to be. They visited An-Najjar hospital. They followed the route followed by demonstration of 19 May 2004, from Rafah City to Tel al Sultan. They analysed the registers and medical files available for the period concerned. They viewed several videos, in particular relating to the 19 May demonstration. They had access to numerous photographic documents. They were able to consult OCHA's extensive collection of maps.

The members of the mission discussed the "Rainbow" operation events with the representatives of Médecins du Monde in Gaza and Jerusalem, where the organisation has a permanent presence. They also gathered information from several human rights non-governmental organisations, in particular the Palestinian Centre for Human Rights (PCHR), which has offices in Gaza City and Rafah, the Al Mezan Centre for Human Rights (Gaza City), B'Tselem (Jerusalem), and the Association for Civil Rights in Israel (ACRI). They would in particular like to express their gratitude to PCHR for the help of the staff and the quality of the assistance provided to the mission.

The team met with members of the Palestinian National Authority, including the governor of Rafah, and with several members of the Rafah city council. During their stay in Israel and in the Occupied Palestinian Territories, on several occasions the team members contacted members of the Israeli Defence Forces (IDF). In particular one of the members of the mission had a long telephone conversation on 9 June 2004 with Sec. Lt. Erel Eran, Assistant Head of Foreign Relations Dept. of the IDF District Coordination and Liaison Office – Gaza Strip. These contacts however did not seem sufficient. On 15 June 2004 the mission members therefore wrote to the office of the IDF spokesperson, asking for comments on a series of questions. An answer to the list of questions reached FIDH on 15 July 2004².

During a telephone conversation held on 9 June 2004, the IDF representative suggested that the draft of the mission report be sent to IDF for review in order to eliminate "possible factual errors". For reasons of objectivity FIDH declined the invitation. FIDH takes full responsibility for the findings set out below.

¹ This hospital is very close to the center of Rafah and receives the victims of the Israeli incursions into Rafah when it is impossible to send them to European hospital in Khan Yunis-

² See the answer from IDF in Annex of the report

3. Structure of the report

This report is divided in six parts. The next section describes the geographical situation of Rafah (II). It aims at providing readers unfamiliar with the region with the essential elements required in order to understand the events described in the report. The report then gives the sequence of events from 13 to 25 May (III). The sequence aims at being purely descriptive. It is based on the reports of non-governmental organisations present in the field at the time, on the reports by United Nations agencies, and by accounts published in the Israeli daily press. The subsequent sections analyse the events from the angle of the international obligations incumbent on Israel under international humanitarian law and international Human Rights law. After recalling the standards that apply, the report describes the violations of such legal standards resulting from the treatment of the civil population in Rafah (IV), the destruction of houses, of cultivated plots of land and other civilian infrastructures during the period considered (V), the use of "human shields" by the Israeli Defence Forces during the operation (VI), and lastly hindrances to access to medical assistance (VII). Section VIII contains the conclusions and recommendations of the mission.

II. The geographical situation of Rafah



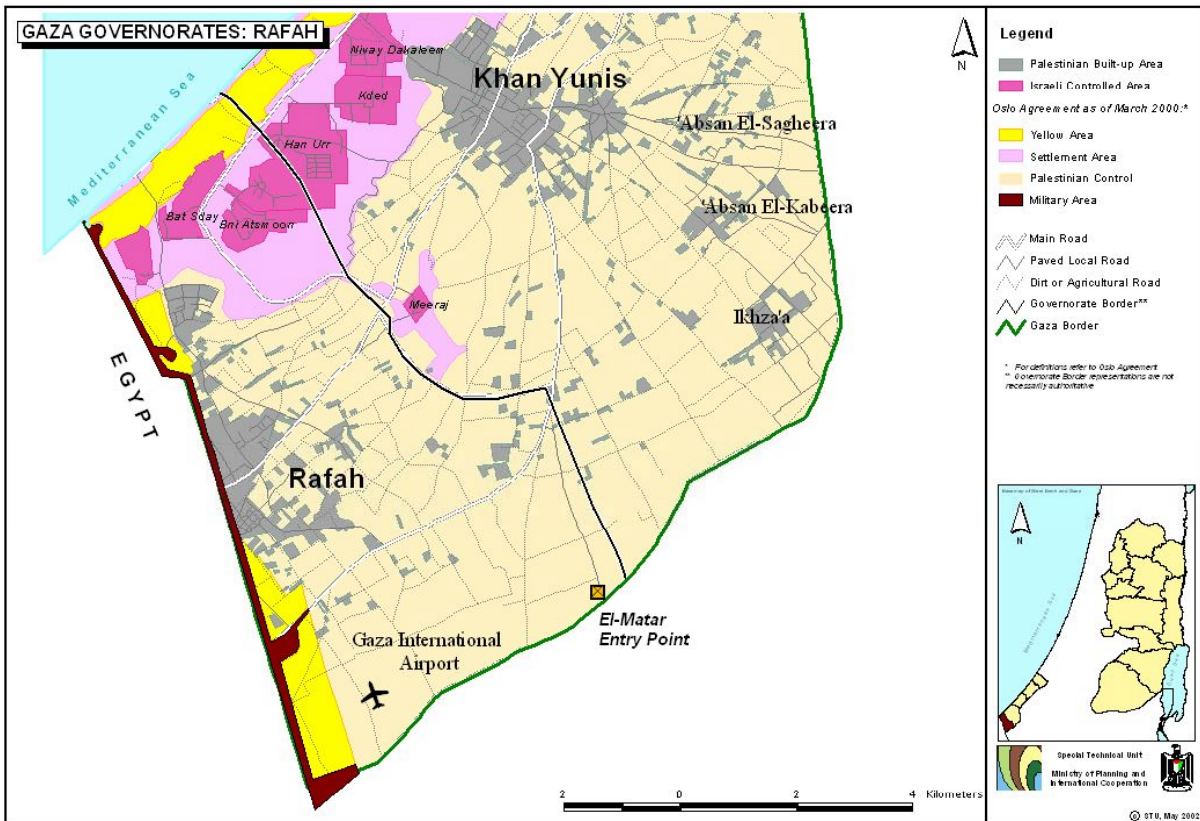
<http://www.monde-diplomatique.fr/cartes/cisjordaniedp12000>

1. The Gaza Strip

The Gaza Strip covers 360 square kilometers along the Mediterranean coast, between Egypt and Israel. 1.4 million people live there. Almost half of them are under the age of 15. The population density is one of the highest in the world. Over a third of the territory of the Gaza Strip is inaccessible to the Palestinian population, being occupied by 6 to 7,000 settlers and the Israeli army. The socio-economic conditions of the Palestinian population are very bad. At least 28% of the inhabitants of Gaza are unemployed. 75% of the population live below the poverty line. In view of the obstacles to communications with the outside world, as the Gaza port and airport are unusable, the enclave only subsists thanks to international aid, in particular that of the European Union, and the work of UNRWA.

The Gaza Strip is entirely enclosed by a frontier that is "materialised" by walls, fences and buffer zones. Entry and exit can only take place via a few crossing points, some of which are reserved for the inhabitants of the Israeli settlements in Gaza. The Erez crossing point is open to persons – Palestinian and foreign -, whereas the Karni crossing point is used for goods only. On the Egyptian border the Rafah terminal, which under the Oslo Agreements (1993) was to be under joint Palestinian and Israeli control, was closed by the Israeli army shortly after the beginning of the second Intifada in September 2000. It was subsequently re-opened, but is now subject to temporary closure by the Israeli authorities.

Salah El Din road, which constitutes the main artery, goes through the Gaza Strip from North to South. The road is regularly closed by Israeli military checkpoints located opposite the Netzarim settlement, South of Gaza City, and opposite the Kfar Darum settlement between Deir al Balah and Khan Yunis. By this arrangement the Gaza Strip is divided up into three entirely separate segments. The Israeli military forces control the checkpoints, and can decide, anytime, to cut off the segments from each other, preventing any movement from one sector of the Gaza Strip to another. This is a serious hindrance to local economic activities, by preventing the supply of services, the transit of goods and the movement of persons.



Map OCHA - <http://www.reliefweb.int/hic-opt/>

2. The governorate and the city of Rafah

The Rafah governorate is located in the South of the Gaza Strip, along the Egyptian border.

166,700 out of the 127,400 inhabitants live in the city of Rafah. 80% of the population of Rafah are refugees living in "camps". The camps were initially formed of tents during the refugee influxes in 1948 and 1967, and are now composed of proper dwellings. They are made up of several districts, some of which are on the frontier.

To the North of Rafah, the area bordering the Mediterranean sea is occupied by the Gush Katif complex, composed of 11 Israeli settlements. The area is entirely controlled by the Israeli army. The Tel al Sultan district, at the north-western end of Rafah, is the district closest to the settlements: it is located a few hundred meters from Rafiah Yam settlement.

To the East of Rafah, the proximity of Meeraj settlement led to the closure of one of the two roads between Khan Yunis and Rafah. The shortest route (7 km) between the two towns ran close to Meeraj, and was closed to traffic. There only remains *Salah el Din* road, which places the two cities 15 km apart; the road is controlled by the Israeli army at the *Sufa-Morag Junction* checkpoint. As *Salah el Din* road is the only access to Rafah, the *checkpoint* can seal off the whole of Rafah governorate from the rest of the Gaza Strip.

The Rafah region has been particularly affected by the destruction of houses by the Israeli army. It is estimated that since October 2000 1497 dwellings have been wholly or partially destroyed in Rafah, involving around 15,000 people³. The Rafah districts located on the Egyptian border and that have been subjected to destructions are gradually giving way to "buffer zones". A buffer zone is around 50 metres wide, although the width can vary from place to place. It is controlled by the Israeli army. It extends from the border (the international frontier between Egypt and Gaza), and a steel and concrete wall, nearly 8 meters high, built to protect IDF patrols from Palestinian activists. The Israeli army has built several "watching towers" in these zones.

Despite the general nature of this presentation, the question of medical assistance in Rafah is worth a special mention. Access to patients, to the injured and victims in a zone of military operations is arranged through "co-ordination" with the Israeli military authorities⁴. Under the co-ordination system, the public service medical emergency teams of the Palestinian Ministry of Health get in touch with the designated Palestinian authority via the District Coordination Office (DCO), which in turn gets in touch with Israeli army via the District Coordination Liaison (DCL). The DCL then sends down the army line of command the request for transport of casualties, which eventually reaches the soldier at the checkpoint, who then authorises the passage of the ambulance. The medical emergency teams of associations or NGOs go through the International Committee of the Red Cross, which contacts the Israeli army (DCL). These requests for co-ordination are recorded by the Palestinian Red Crescent Society (PCRS) that notes the time of the call, the identities of the persons to be taken in charge, their location, the type of injury, the time of departure of the ambulance, the time of its arrival, and any incidents that occur. The authorisation to enter a conflict zone does not automatically mean that authorisation will be given to leave it. In principle, all co-ordinations for access to persons who are sick, injured or deceased are recorded either by the DCO or the ICRC.

An-Najjar hospital at Rafah has two operating theaters and can only accommodate 40 casualties. When the Sufa Morag *checkpoint* is closed, the transfer of injured persons to the hospitals situated to the North – the *European Hospital* and the *Nasser* hospital at Khan Yunis, which are larger and better equipped - is impossible.

³ To this must be added over 2,000 dwellings damaged or in need of repair, in all over 31,000 people are affected. See UNRWA, Statistical Report (Oct. 2000 – 31 May 2004), 15.06.2004. . See also, in the same vein, UN News Centre, 26 May 2004, <http://www.un.org/apps/news>.

⁴ Transport facilities are: Ministry of Health of the Palestinian authority, 9 ambulances, out of which 2 are equipped as intensive care units; PRCS (Palestinian Red Crescent Society), 6 ambulances, UNRWA 2, and a local NGO, Al Kital Walsonna, 2.

III. Chronology of “Operation Rainbow”

The Israeli army frequently carried out raids and incursions into the Gaza Strip⁵. “Operation Rainbow” was however particularly impressive because of its magnitude and the conditions in which it was carried out. The strike was launched on Thursday, 13 May 2004, following an explosion of a military vehicle that killed five Israeli soldiers on Philadelphia Road, along the Egyptian border, on 12 May. Two other soldiers were killed as they came to recover the body parts of the dead Israeli soldiers. The evening before, on 11 May, six Israeli soldiers had been killed when their vehicle was blown up during an incursion into Gaza City, North of the Gaza Strip. The military operation, which was dubbed “Operation Rainbow” on 17 May, was launched after a level meeting between Prime Minister Ariel Sharon and Defence Minister Shaul Mofaz was held on 13 May⁶. “Operation Rainbow” proceeded in three phases.

First phase

On 12, 13 and 14 May 2004, the Israeli army divided the Gaza Strip into three segments⁷. *Salah el Din* – the only road into Rafah – was closed at *check point* Sufa-Morag, thereby isolating Rafah from the city of Khan Yunis. The *Karni* crossing point, the transit point for merchandise, was closed on 11 May.

A few minutes after an Israeli armoured vehicle exploded on *Philadelphia Road* on 12 May, helicopters flew over *Salah el Din Gate*. Fearing retaliation and destruction, people living in that area fled to the nearest Egyptian border area. Israeli soldiers invaded and ransacked their houses⁸. Israeli armed forces invaded districts along the border - *Block O* and *Brazil* – during the night of 12 to 13 May. In *Block O*, around 1 a.m. tanks shelled houses, and then had them demolished by bulldozers⁹. At that same time, taking the residents of the *Brazil* district by surprise in the middle of the night, there was more tank fire and bulldozers started destroying certain homes¹⁰. Around 1 a.m. on 13 May, and during the morning around 10 a.m., *Apache* helicopter gunships launched missiles that killed 11 Palestinians, including one child, and wounded 15 others¹¹. Tanks and bulldozers, with support from the helicopters, completely demolished 68 houses, and partly destroyed around 20 more¹². Reports indicated that 23 shops, a bank and a mosque were also destroyed¹³.

On 14 May, spokespersons of the Office of the United Nations Secretary General condemned the home demolition going on in Rafah and called upon Israel to stop this type of action immediately¹⁴. At the same time, the Palestinian Centre for Human Rights (PCHR) petitioned to the Israeli High Court to order the IDF to stop demolishing the houses it had attacked in *Block O* in Rafah. The request was submitted on Friday, 14 May at 5 p.m. on behalf of the 13 families whose houses were threatened to be destroyed. At 11:30 p.m. the High Court issued a temporary injunction against the order and the demolition operation was stopped.

Between 13 and 15 May, 14 Palestinians, including two children were killed and 48 were wounded¹⁵. Eleven victims died of shrapnel from missiles fired from the helicopter. One of the victims—Ahmed Mohammed Al-Yaqubi, 19 years old—died from a shot in the back¹⁶. During those three days, the houses of 198 families (1,160 people) were destroyed or damaged¹⁷. On 15 May, after assessing the hospital capacity, the ICRC called for immediate dispatch of two surgical kits to treat 100 wounded persons¹⁸. On that same day, the Israeli army withdrew from *Block O* and *Brazil*. Then on Sunday, 16 May the Israeli High Court lifted the order given two days before in response to a plea from 13 families, represented by the PCHR. The families argued that their homes could not be subject to a demolition order without reasonable time for filing an appeal. The supreme jurisdiction stated that it was not necessary to maintain

⁵ The increased number of raids was denounced, in particular by the U.N. Deputy Secretary General for Political Affairs, UN Press Release, SC/8100, 21 May 2004.

⁶ “IDF to raze hundreds of Rafah homes; Sarid: move would be war crime”, Haaretz, 14 May 2004, www.haaretzdaily.com.

⁷ Gaza Strip was effectively divided into three segments when the Israeli army close the Abu Holi check point and the check point on Beach Road near Netzarim settlement; see OCHA, OCHA Weekly Briefing Notes, Update for OPT 12-18 May 2004.

⁸ T. N°4.

⁹ T. N°9; T. N°13.

¹⁰ T. N°5.

¹¹ See PCHR, Weekly Report, 13-19 May 2004, N°19/2004, p. 4.

¹² United Nations, Office for the Coordination of Humanitarian Affairs (hereafter called OCHA), OCHA Weekly Briefing Notes, Update for OPT 05-11, May 2004

¹³ PCHR, Weekly Report, N°19, 13-19 May 2004, p. 5.

¹⁴ Statement attributable to the Spokesman for the Secretary General on Gaza, New York, 14 May 2004, <http://www.un.org/apps/sg/printsgstats.asp?nid=923>

¹⁵ PCHR, Weekly Report, 13-19 May 2004, N°19/2004. For the period from 12 to 14 May, UNRWA spoke of 12 dead and 52 wounded (See Supplementary appeal for Rafah, p. 2).

¹⁶ PCHR, Weekly Report, 13-19 May 2004, N°19/2004, p. 5.

¹⁷ The PCHR speaks of 221 families, in other words 1,300 persons, 99 homes destroyed (72 completely); PCHR, Weekly Report, 13-19 May 2004, N°19/2004, p. 5.

¹⁸ see. ICRC press release of 25 May 2004.

the demolition suspension order since the IDF had given the necessary assurances, yet, in the meantime, the IDF had crushed 2 houses, in violation of the order. During the hearing in the morning of 16 May, the IDF representatives stated that that IDF was not intending to continue destroying homes. Yet, when leaving the hearing, public statements were made, especially by the IDF Chief of staff, General Moshe Ya'alon, saying the opposite. The next morning, destruction operations resumed.

Second phase

The second IDF offensive occurred during the night of 17-18 May. "Operation Rainbow" officially started at that point. Shaul Mofaz, the Israeli Defence Minister and Moshe Ya'alon, IDF Chief of staff, told journalists that the operation was aiming at destroying hundreds of houses near the Egyptian border. The spokesman of the Israeli army added that the objective was to arrest Palestinian terrorists and destroy tunnels used to smuggle weapons between Egypt and the Gaza Strip. The U.N. Secretary General, in the meantime said that Israel should stop this type of collective punishment immediately¹⁹.

On 17 May, around 1 p.m. tanks entered Gaza from the Sufa border post and from the village of Meeraj and blocked the Sufa-Morag checkpoint leading to Rafah region²⁰. Rumours of imminent offensives spread rapidly in the area. Tanks and bulldozers headed to Tel al Sultan, Brazil, Bloc O and Es Salaam, destroying farmland on their way²¹.

Missiles were fired on Block O during the night of 17-18 May, first hitting around midnight and then around 3 a.m. Towards 8:30 p.m., Tuesday, 18 May, tanks and bulldozers that came from Salah el Din Gate and the cemetery gate circled Brazil. In the morning of 19 May, the army started destroying houses²². The U.N. Office for the Coordination of Humanitarian Affairs (OCHA) also reported that on 19 May, an Israeli army bulldozer destroyed 20 dunums (1 dunum = 1000 m²) of farmland North-East of Rafah near the Meeraj settlement²³.

The incursion into Tel al-Sultan

The offensive against Tel al-Sultan started on Tuesday, 18 May, at about 3 a.m. Twenty armoured tanks and four bulldozers coming from Morag and Rafiah Yam settlements entered Tel al-Sultan. Helicopters provided air cover. During the trek to Tel al-Sultan, the armoured vehicles and the bulldozers destroyed cultivated land on their way²⁴. The Israeli troops formed a military cordon around the town, isolating it from other districts of Rafah²⁵. A curfew was imposed in the morning of 18 May when the army was moving in. There was little Palestinian resistance within the city, but helicopters fired missiles three times, wounding many victims²⁶. The helicopters shot at an ambulance that had entered the area before it had been sealed off at 4:15 a.m. Israeli snipers targeted a convoy of four ambulances.²⁷ A 4 a.m. a missile was launched at the *Bilal Ben Rabah* mosque located across from the Tel al-Sultan clinic. A few minutes later, two tanks barged into the outer wall of the clinics, firing from machine guns that destroyed the medical supply area of the clinic²⁸. Although they were within the clinic grounds, 13 ambulance drivers, doctors and nurses became the target of Israeli snipers. The tanks that were stationed outside these grounds forced the people to stay inside the building for more than 12 hours in a row, and threatened to shoot should anyone move. Throughout the Tel al Sultan neighbourhood, Israeli soldiers occupied certain houses, clustering the families on the ground floor and staking out on the higher floors after damaging the premises and shooting holes in the walls²⁹. Electricity and water were cut off throughout the area, and many roads inside Tel al-Sultan were completely destroyed.

On 18 May, towards 11 a.m., two children—Asmaa Muhammad Al Mughaiar (16) and Ahmad Muhammad Al Mughaiar (13),—were killed by snipers staking out in a house 80 meters away while the young girl was folding the laundry and her brother was feeding the pigeons on the terrace. On that same day, 19 persons were died, including seven under the age of 18, and 27 wounded, all from helicopters fire (a technique called "spraying"), shrapnel from missiles and snipers' shooting³⁰. The ICRC called for coordination three times on 18 May, but the Israeli DCL and the coordinating officer systematically refused.

At night, the Israeli army used human shields to occupy other houses and make their way further into Tel al Sultan³¹.

¹⁹ UN News Centre, 17 May 1994, <http://www.un.org/apps/news>.

²⁰ See esp. UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p. 2; PCHR, Weekly Report, 13-19 May 2004, N°19/2004, p. 15.

²¹ PCHR, Weekly Report, 13-19 May 2004, N°19/2004, p. 5.

²² T. N°11.

²³ OCHA, 19-25 May.

²⁴ See esp. UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p 2.

²⁵ See esp. UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p 2.

²⁶ See esp. UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p 2.

²⁷ T. N°7.

²⁸ T. N°3; T. N°7. See also World Health Organization, Rafah District Health Group Meeting, Rafah, 3 June 2004.

²⁹ Along the same lines, see, PCHR, Weekly Report, 13-19 May 2004, N°19/2004, p. 6.

³⁰ PCHR, Weekly Rreport, 13-19 May 2004, N°19/2004, pp. 5-6. [Three men were killed by Israeli snipers: Zyad Hussein Shabana (22), Imad Fadel Al-Mghari (34) and Mahmud Ismail Abu Touq (34)].

³¹ From testimony and Al Mezan, 19 May 2.30 p.m.

In the morning of 19 May, the Israeli army announced that they would be carrying out a house-by-house search for weapons, and would be making certain arrests. They called for all men over 16 to come out in the street and go to the Almarija School. Many men were shot dead because they hesitated to follow those who were going to the school.³²

The demonstration of 19 May 2004

On 19 May, shortly after 2 p.m., a peaceful demonstration spontaneously started in the center of Rafah. A protest march headed to the besieged Tel al Sultan area. Calls from the population were broadcast on the local radio, Radio-Shebab. The marchers had reached the outskirts and were a few hundred meters from the Tel al Sultan area when a combat helicopter, a few dozen meters overhead, started firing. A few moments later, a tank nearby opened fire at the marchers; shrapnel killed 8 people, including three children between 10 and 13 years old³³. 61 people were wounded, including 37 under the age of 18³⁴. Within three minutes, the helicopter fired two missiles and a tank opened fire as the first ambulances were racing to the scene. An-Najjar Hospital, the only hospital in Rafah, could not cope with too many wounded, nor could it handle the transfer of bodies to other hospitals in the region. The bodies that were in the hospital morgue were transported in refrigerated containers for vegetables, in order to make room for the victims of 19 May.

The Israeli Defence Minister, Shaul Mofaz told the daily newspaper *Haaretz* that “Operation Rainbow” would go on “as long as necessary”³⁵. As a reaction to the destructions and killings, the U.N. Secretary General firmly condemned “the killing and injury of Palestinians demonstrators” and called upon Israel to stop these military operations immediately³⁶.

On that same day, the United Nations Security Council adopted Resolution 1544 (2004), by 14 votes for, and one abstention (U.S.). The resolution condemned the killing of Palestinian civilians in Rafah³⁷ and called upon Israel to respect its obligations towards international humanitarian law, in particular its obligation not to undertake demolition of homes contrary to that law³⁸.

The ICRC published a press release describing the intensification of Israeli Defence Forces operations in the Gaza Strip on 18 May and in Rafah on 19 May and “condemning deliberate attacks against persons who do not participate directly in the hostilities”³⁹. The ICRC also sent two surgical kits for two hundred war victims to An-Najjar Hospital. The Palestinian Red Crescent set up an advance medical post near the hospital⁴⁰. Within a few hours after hearing news of the attack on the Rafah demonstration and the destruction of houses, especially in the Brazil area, ACRI, the Association for Civil Rights in Israel, on its own behalf and on behalf of three other human rights organisation (Physicians for Human Rights – Israel (PHR-Israel), Ha' Moked – Center for the Defense of the Individual, and B'Tselem) filed an urgent petition with the Israel High Court of Justice. The petition was formally presented on 20 May and led to the conduction of an immediate hearing. At the hearing, the IDF staff present were asked to provide the Court with a detailed explanation as to how the sufferings inflicted upon the civilian populations of Rafah during the operation were minimized. The Court concluded the hearing by finding that the army had taken certain measures to meet the particular demands formulated by the petitioners, excluding the request to allow Israeli doctors to enter the area and the immediate opening of a military investigation of the shelling of the gathering of 19 May. On these last two points, the Court agreed with the IDF that allowing Israeli doctors into the combat area would put them at a high risk of kidnapping, and secondly, that the Judge Advocate General would examine the results of the preliminary internal investigation being conducted by the IDF unit in question before deciding whether to launch his own investigation.⁴¹

The High Court of Justice finally took its decision on 30 May, after the end of “Operation Rainbow”. It obliged the Israeli forces occupying the Palestinian territory to respect the Fourth Convention of The Hague (1907) although it has not been formally ratified by the State of Israel, and the Fourth Geneva Convention which Israel ratified on 6 July 1951. The High Court of Justice recognised the obligation of the military authorities to prevent violations of civilian rights, as set out in these instruments.⁴²

The Third Phase

On 20 May, tanks and bulldozers entered As Salam and Brazil areas around 1 a.m. In As Salam, missile fired from a helicopter killed

³² Al Mezan, 19, 2 p.m. PCHR report 4 dead, See Weekly Report, 13-19 May 2004, N°19/2004, p. 7.

³³ The demonstrators who were killed are: Walid Naji Abu Qamar (10), Mubarak Salim al-Hashash (11), Mahmoud Tariq Mansour (13), Mohammed Talal Abu Sha'ar (20), Alaa' Musalam al-Sheikh 'Eid (20), Fuad Khamis al-Saqqa (31), Ahmed Jamal Abu al-Said (18), and Rajab Nemer Barhoum (18).

³⁴ See UNRWA figures, Doc. Supplementary Appeal for Rafah, June 2004, pp 2-3. [A RECOUPER]

³⁵ “IDF Kills at least 20 Palestinians in Rafah Operation”, *Haaretz*, 19 May 2004.

³⁶ UN Press Release, SG/SM/9316, PAL 1984, 19 May 2004.

³⁷ Res. 1544(2004), 19 May 2004, Fifth “considering”.

³⁸ Res. 1544(2004), 19 May 2004, § 1.

³⁹ ICRC, Press Release, 19 May 2004, <http://www.icrc.org>

⁴⁰ See ICRC, ICRC News 04/68, 25 May 2004, <http://www.icrc.org>.

⁴¹ The authors of the report are grateful to ACRI for the information they kindly provided on the context of this litigation.

⁴² The conclusions of this report also dwell on the lessons to be learned from this decision.

two people. Around 1:30 a.m, a missile killed three men and wounded two in Brazil⁴³. House demolitions started towards 7:30 a.m in the morning in Brazil. Some premises were destroyed without any warning⁴⁴, several families were ordered to leave their house waving a white flag. The Israeli army opened fire on a father and his children as they were leaving their house which was being destroyed by a tank. Two children were wounded. An ambulance sent by the Palestinian Ministry of Health on its way to providing help, was blocked, although it had got clearance and was subsequently partly covered by sand from two bulldozer operations although it was only 50 meters from the house. Several houses were destroyed without prior warning, and their inhabitants were only able to escape with the help of neighbours⁴⁵.

The people suffered from the destruction of the water supply lines and the electricity grid and were beginning to grow short of drinking water and food⁴⁶. Physicians for Human Rights, ICRC and UNRWA emphasised the deterioration of the humanitarian situation⁴⁷. The Israeli army delayed humanitarian aid and refused Tel al-Sultan to have access to any aid.⁴⁸ On 20 May, a convoy of vehicles from WHO, WFP, OCHA, UNICEF and UNRWA was denied permission to travel on Salah el Din road to Rafah in the North. Establishing coordination with the Israeli military authorities and getting authorisation took five hours⁴⁹. The ICRC negotiated access for three employees from Rafah to Tel al Sultan to carry out emergency repairs on the water lines⁵⁰.

During the night of 20-21 May, the Israeli army drew back, but maintained a foothold in Tel al-Sultan and Brazil⁵¹. The curfew on Tel al-Sultan was lifted. The ICRC and UNRWA humanitarian aid convoys were authorised to enter Tel al-Sultan. Tens of thousands of liters of water and large amounts of food were taken to Tel al-Sultan. In its report on the health situation on 21 May, WHO points out that since the beginning of the incursion on 17 May, over 70% of the population in the Rafah governate (the city of Rafah, Rafah camps and Tel al-Sultan) had been “suffering from complete severance of water, electricity and communications systems”⁵². On that day, the army bulldozers destroyed 25 greenhouses and uprooted olive trees in the Zurub region⁵³. Bertrand Ramcharan, U.N. acting High Commissioner for Human Rights, published a press release firmly condemning the actions of the Israeli army since the beginning of “Operation Rainbow” and called upon Israel to respect its international obligations. After speaking on house demolitions and the attacks on the demonstrators on 19 May, the release read: “It is of paramount importance to ensure that all civilians and their property are protected at all times. [Even] when there are security-related considerations, there is no such thing as a licence to kill”.

On 22 May, the Israeli army continued its way into *Brazil* and occupied several houses⁵⁴. In that same district, a three-year old girl, Rawan Muhammad Abu Zaid was killed by an Israeli sniper that shot her in the head and the neck.

On 22 May, the UNRWA convoy bearing water and powdered milk to Tel al-Sultan got pelted by stones as it was entering the city. The windows of the vehicle were broken and the driver was wounded by shattered glass. OCHA explained that the wrath of Tel al Sultan residents against UNRWA was caused by the Israeli army’s constant refusal to authorise victims’ bodies to be returned to their families for proper burial. The inhabitants of Tel al Sultan usually take it out on UNRWA which, in their eyes, should levy pressure on the Israeli military authorities. The convoy withdrew to calm the atmosphere. The Israeli army refused passage to a CARE International convoy that was trying to bring in a “tanker” with a reservoir of 10,000 liters of water, while it usually takes the Palestinian Authorities several hours to get permission to bring in five reservoirs of 5,000 litres⁵⁵.

On 24 May, the Israeli army lifted the siege and withdrew completely from Tel al-Sultan. On 25 May, it withdrew from Brazil⁵⁶. This step ended “Operation Rainbow” in the field.

43 Al Mezan, 20 May, 3 p.m.; PCHR, Weekly Report, N°20/2004, 20-26 May 2004, p. 4.

44 T. N°14.

45 Testimony and Al Mezan, 20 May, 11.00 p.m.

46 UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p 3.

47 See UNRWA Press Release, N° HQ/G/12/2004, 20 May 2004; ICRC News, 04/68, 25 May 2004. See also Resolution 1544(2004) adopted by the Security Council on 19 May: “2. Expresses grave concern regarding the humanitarian situation of Palestinians made homeless in the Rafah area and calls for the provision of emergency assistance to them”.

48 WHO, Health Situation Report, Rafah, 21 May 2004.

49 Discussion with Stuart Shepherd, Humanitarian Affairs Officer, OCHA, on 9 June 2004.

50 ICRC, ICRC News 04/68, 25 May 2004, <http://www.icrc.org>.

51 UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p 3.

52 WHO, Health Situation Report, Rafah, 21 2004.

53 OCHA, Weekly Briefing Notes, Update for OPT (19-25 May 2004).

54 See esp. UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p 3.

55 OCHA, Humanitarian Situation Report, Rafah, 22 May 2004, 19.00.

56 UNRWA, Doc. Supplementary Appeal for Rafah, June 2004, p. 3.

Destructions during 'Operation Rainbow'

On May 26, 2004, Haaretz newspaper quoted military sources that mentioned the discovery of three tunnels during military operations⁵⁷. These tunnels might be used to facilitate arms traffic from Egypt. The members of the mission were unable to find the places where the alleged tunnels were located; in fact it seems that there were two tunnel entries and the beginning of a third one.

The Israeli general staff had already mentioned three tunnels during the massive demolition of houses in Rafah on October 10 to 13 2003. More than 130 houses were affected by this operation and almost 1200 Palestinians, mostly women and children, remained homeless.⁵⁸ According to official statements made at the time, three tunnels used mainly for smuggling arms were then destroyed⁵⁹. The same arguments were used during 'Operation Rainbow'. The following question was included in a questionnaire that contained nine of them and that was sent to the offices of the IDF spokesperson after the mission on June 15 2004 : "We understand that the « Operation Rainbow » led the IDF to uncover tunnels through which smuggling could have taken place from Egypt. Where precisely were these tunnels located? » The letter sent to FIDH on the 15th of July contained no answer to this question. Though the lack of answer is regrettable, this does not mean that these tunnels do not exist, nor that « Operation Rainbow » was unable to uncover such tunnels and destroy them. However, the members of the mission are convinced that this sole purpose cannot justify the destruction caused by the operation, considering both the magnitude of destruction and the manner in which it was carried out. The report will revert to this point later.

Between May 18 and 24, 2004, « Operation Rainbow » caused the demolition of 167 houses, thus affecting 379 families, or 2065 people, in the neighborhoods of Tel al-Sultan, Brazil and As Salam.⁶⁰ These figures correspond to those of OCHA, that found that 117 buildings were totally destroyed and 50 others partly destroyed in Tel al-Sultan, Brazil and As Salam from May 19 to 23.⁶¹ B'Tselem mentions 183 houses totally destroyed and dozens partly destroyed between May 13 and 24 ; 116 other houses were allegedly destroyed along the border: 44 in Brazil, 18 in As Salam and 5 in Tel al-Sultan.⁶²

A total number of 3800 persons had their house entirely demolished or rendered uninhabitable. About a thousand persons found refuge in four schools organized by UNRWA. The others went to members of their families or friends. UNRWA mentioned that 2500 people were taken in by family or acquaintances or by local solidarity networks.⁶³ According to the ICRC, 1200 inhabitants of Brazil whose homes were destroyed received relief packages containing hygienic products, blankets, heaters and cooking implements provided by the ICRC and the Red Crescent.⁶⁴

According to the ICRC, Tel al-Sultan and Brazil are two neighborhoods where the population and the infrastructure suffered the greatest damage during military operations⁶⁵. During the siege of Tel al-Sultan, eleven houses were destroyed. This is a relatively low figure compared to the house demolition in the neighborhoods of the city of Rafah. Furthermore, during the operations, the road infrastructure was severely damaged as well as the water and electricity mains and the sewage system.⁶⁶ A UNRWA school was also badly damaged and partly destroyed.⁶⁷

⁵⁷ UNRWAA 45 homes razed in Rafah during Operation Rainbow ", Haaretz, May26, 2004.

⁵⁸ According to UNRWA, 76 houses were destroyed during this raid, 44 were partly destroyed and 117 others were damaged.

⁵⁹ <http://www.idf.il/english/announcements/2003/October/16.stm>

⁶⁰ UN News center, May 26 2004, <http://www.un.org>

⁶¹ OCHA, May 19-25 2004

⁶² B'Tselem, 13-24 May : Scorched earth in Rafah, www.btselem.org/English/Special/040325.rafah.asp.

⁶³ UNRWA, Doc. Supplementary appeal for Rafah, June 2004, p. 4

⁶⁴ CICR, CICR News 04/68, May 25 2004, <http://www.icrc.org>

⁶⁵ CICR, CICR News 04/68, May 25 2004, <http://www.icrc.org>

⁶⁶ See UNRWA, Doc. Supplementary appeal for Rafah, June 2004, p. 3

⁶⁷ UNRWA, Doc. Supplementary appeal for Rafah, June 2004, p. 3

IV. The applicable law: international humanitarian law and international human rights law Treatment of the civilian population

The Fourth Geneva Convention on the Protection of Civilian Persons in Time of War (referred to hereafter as : 'Fourth Geneva Convention') of 12 August 1949 is, according to article 154, meant to supplement sections II and III of the Hague Regulations adopted in 1907 which are now considered to be of customary value.⁶⁸ The Fourth Geneva Convention was ratified by the State of Israel on July 6 1951. The Convention applies to the territory occupied by Israel after the six-day war in June 1967. Furthermore, in its decision dated May 30 2004, the Israeli Supreme Court itself, sitting as High Court of Justice, formally admitted the applicability of the IVth Convention in the OPTs. The advisory opinion issued by the International Court of Justice of July 9 2004, on the legal consequences of the construction of a wall in the occupied Palestinian territory is an additional confirmation of the fact⁶⁹. Though the opinion concerns the occupied territories on the West Bank that were taken from Jordan during the 1967 conflict, the conclusions pertaining to the applicability of the Fourth Geneva Convention are equally valid concerning the occupied territories of the Gaza Strip.

The first Protocol Additional to the Geneva Conventions dated April 8 1977 (referred to below as « Protocol I ») clarifies the provisions of the Convention relating to the Protection of Victims of International Armed Conflicts by recalling that the provisions of the Conventions and the Protocol must be fully applied in all circumstances to all persons protected 'without any unfavorable distinction based on the nature or origin of the armed conflict or on the causes defended by the parties to the conflict or attributed to them.'⁷⁰ This protocol has not been ratified by Israel. However, its provisions have an indisputable customary applicability.⁷¹

Several international treaties pertaining to human rights are also in force vis-a-vis Israel. On October 3 1991, Israel ratified the International Covenant on Civil and Political Rights as well as the International Covenant on Economic, Social and Cultural Rights, which were both opened to signature and ratification by the United Nations General Assembly on December 16, 1966. Israel is also party to the International Convention on the Elimination of all Forms of Racial Discrimination of December 12, 1965, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of December 10, 1984 as well as to the Convention on the Rights of the Child of November 20 1989. The International Court of Justice confirmed the views of UN treaty bodies responsible for ensuring the respect of these treaties, which committees stated that the application of international humanitarian law in situations of armed conflict could not exclude the application of international treaties on human rights.⁷² Furthermore, State Parties must respect such treaties on all territories over which they have jurisdiction, even when such territories are located outside the national territory.⁷³ The International Court of Justice therefore specifically stated that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child were applicable to the Palestinian territories occupied by Israel.

Under the Oslo agreements, the largest and most densely populated part of the Gaza Strip is administered by the Palestinian Authority. The remainder of the area holds the settlements and the military bases of the IDF and is controlled by Israel. This cannot be construed to mean that Israel does not have to abide by the international obligations stemming from its ratification of the United Nations human rights treaties. Though civilian matters such as health care, education or town and country planning are under the responsibility of the Palestinian Authority, the Israeli army actually controls the territory. It restricts travel in the area as it wishes. It can intervene at any time, for instance to arrest people or destroy property. During Operation Rainbow, the Israeli armed forces committed acts that are serious violations of international humanitarian law and international law on human rights. Israel is responsible for such acts despite the fact that under the Oslo agreements, the management of civilian affairs is under the responsibility of the Palestinian Authority and that the Israeli army is not always present in the Palestinian areas. Israel has the obligation to act in conformity with its status as an occupying power under article 47 of the Fourth Geneva Convention. It is obliged to act in accordance with international treaties on human rights that are in force in Israel, because of the case law referred to above invoked by the committee of experts under these treaties.⁷⁴

Thus, it is pursuant to these standards, all binding for Israel under the international legal system, that the following sections will consider the events that took place in and around Rafah between May 13 and 25, 2004.

⁶⁸ According to the International Military Tribunal of Nuremberg, expressed in its decision of September 30 and October 1st 1946, p. 65 and confirmed later by the International Court of Justice in its Advisory opinion dated July 8 1996 on the Legality of the Threat or Use of Nuclear Weapons ICJ Rep. 1996-I, p. 256, para. 75 (according to the court, these are untransgressible principles of customary international law a large number of the rules of humanitarian law applicable in armed conflict ". Rec. , p. 256, para. 75) and more recently in its Advisory opinion dated July 8 2004 on the Legal Consequences of the construction of a wall in occupied Palestinian territory, para. 89.

⁶⁹ See paragraphs 89 and following of the advisory opinion of July 9 2004

⁷⁰ Additional Protocol to the Geneva Convention of August 12 1948, preamble.

⁷¹ DAVID, Eric, *Principes du droit des conflits armés*, Bruxelles, Bruylant, 1994.

⁷² See the Advisory Opinion dated July 8 1996 on the Permissibility of the threat or use of nuclear weapons mentioned above, p. 240, para. 73 and the Advisory Opinion of July 8 2004 on the Legal consequences of the construction of a wall on occupied Palestinian territory., para 105-106.

⁷³ See the Advisory Opinion of July 8 2004 on the Legal consequences of the construction of a wall on occupied Palestinian territory, para 107-113. The Committee on economic, social and cultural rights stated explicitly that Israel's obligations pursuant to the International covenant on economic, social and cultural rights covered the occupied Palestinian territories : see CESCR, F/C. 12/1/Add27, para. 32 and F/C. 12/1/Add. 90, paras. 15 and 31 the Human Rights Committee responsible for ensuring the respect of the International Covenant on Civil and Political Rights has always adopted the same position: CCPR/CO/78/ISR, para. 11.

⁷⁴ Thus, for instance, the Human Rights Committee did not hesitate to condemn the extra judiciary execution of Palestinian militants committed by Israel, though these executions took place in areas under the civilian administration of the Palestinian Authority. See (2003) UN doc. CCPR/CO/78/ISR, particularly para. 15

Grave breaches of International Humanitarian Law

Certain acts perpetrated by the Israeli Defense Forces during the operation « Rainbow », between 13 and 25 May 2004 constitute grave breaches of the Fourth Geneva Convention. According to article 147 of the Convention, certain acts such as wilful killing, wilfully causing great suffering or serious injury to body or health, or extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, constitute grave breaches when they are committed against persons or property protected by the Fourth Convention.

The statutes of the international criminal jurisdictions- and particularly article 8 of the International Criminal Court's Statute- consider that such grave breaches may amount to war crimes.

V. Treatment of the civilian population

Deliberate attacks against life and physical integrity

During Operation « Rainbow », the civilian population of Rafah was under fire from the Israeli army. Soldiers with sub-machine guns and snipers hiding in the different neighbourhoods shot at children and defenceless adults. In the urban areas, tanks and helicopters fired at many people, killing or seriously wounding them.

The right to life and physical integrity is a fundamental right embodied in article 3 of all four Geneva Conventions of August 12, 1949. International humanitarian law is based on the essential distinction between civilians and combatants. This principle is also laid down in article 48 of the Protocol Additional I which states that operations may only be leveled at military objectives. Civilians ought to be completely protected. This prohibits any form of attack, any violent offensive or defensive act.⁷⁵ 'Indiscriminate attacks' are also prohibited⁷⁶ as well as 'attacks used as reprisals against civilian populations.'⁷⁷

These basic standards have been violated systematically and repeatedly by the Israeli forces during operations in Rafah between May 13 and 25, 2004. After hearing the testimony of many people, the members of the mission were convinced that several acts committed by the IDF had no military justification; their sole motive was to terrify the civilian population and commit reprisals against it. Furthermore, these attacks against the people were indiscriminate, without any distinction between civilians and combatants. They are arbitrary infringements of the right to life and violate the obligations imposed on Israel by the International Covenant on civil and political rights. These are serious charges and must be soundly documented.

Violation of the prohibition of acts the main aim of which is to terrify the population.

The information that the mission was able to collect in Rafah shows that the Israelis have directly and deliberately shot at civilians, including children, at a time where they were nowhere standing near any military objective. It seems that acts of this kind only aim at terrifying the civilian population.

On May 18, 2004, first day of the raid in Tel al-Sultan, curfew was announced and children of the Al Mughaiar family had to stay at home after lunch because they could not go to school. Ali, 24, who is the brother of the two victims of Israeli snipers, Asmaa Muhammad Al Mughaiar (16) and Ahmad Muhammad Al Mughaiar (13) told us their story:

« I woke up in the morning on May 18, and my mother told me there was a curfew. Around 9 a.m, the children were dressed up, had had breakfast and were playing. Ahmad went up on the terrace several times. My mother asked him not to. At 11:30 a.m I tried to get a little sleep. The shooting stopped for about 15 or 30 minutes so my sister wanted to go up and get the laundry that was drying on the terrace. Ahmad wanted to go up to feed his pigeons. We did not know there were snipers less that 80 meters away. We heard two shots. The first hit Asmaa on the head. Her head was simply cut in two parts. Ahmad saw her and started shouting « Ali, Ali, help, come quick! ». He tried to get away. I found him in the staircase. There were bits and pieces of his brains all over. I squatted next to him, the shooting was still going on, I saw his head was open. My mother asked me to try and get him downstairs. I tried to hold his head and tie it up with a piece of cloth. I laid him down in the room. Then I went back upstairs and crawled to my sister's body. That was even worse. I picked up the pieces of her skull and brought her body down. »

Another inhabitant told us about the events in Brazil, and confirmed that the Israeli army committed acts that are prohibited since their main aim is to terrify the civilian population:

« At 8 o'clock in the morning of Thursday May 20, we heard the bulldozers and the tanks. One tank hit the wall of the house twice. The third time, the wall crumbled. I grabbed a white flag and asked to be allowed to leave the house with my little girl. The canon of the tank moved to show that I could leave. The tanks had been on the corner of the street since 11 o'clock the night before. We walked 100 meters towards the tank and they started firing at us with a machine gun. The children started screaming and we turned back to the house. My son was hit by a bullet, his arm was covered in blood. We held the T-shirt up to show the tank that someone had been wounded. They revved up to scare us. »

In these cases, just as during the May 19 events, the attacks were aimed at civilians or people 'who were not taking part directly in the

⁷⁵ Additional Protocol no. I to the Geneva Conventions of August 12 1949, article 51 § 2

⁷⁶ Additional Protocol no. I to the Geneva Conventions of August 12 1949, article 51 § 4

⁷⁷ Additional Protocol no. I to the Geneva Conventions of August 12 1949, article 51 § 6

hostilities'.⁷⁸ During the spontaneous demonstration in Rafah on May 19, an armored vehicle and a helicopter of the Israeli armed forces shot at the crowd of civilians, among which many children who were heading the march. The Israeli forces killed 8 people; among which 4 children. and injured 61 more. A witness, a photographer from Associated Press told us the following:

"The march started after the noon prayer. There were more than 1500 people, say between 1500 and 3000. We got to the 'Zorab' crossing. The children were in the front. We heard a few shots, not many, that came from the tank and the snipers in the buildings. The Apache helicopter flew lower. Then the tank fired a shell. I was filming. It was obvious that they were aiming at the children. There were no warning shots, no warning on the loud speaker. Then, just as the wounded were being carried away, there was another explosion, another shell from the tank and some more shots from the helicopter ».

The shooting of missiles and shells can be likened to acts the sole aim of which is to terrify the population, for they had no military reason whatsoever. Israeli military sources even stated that the aim of the firing was to dissuade the demonstrators from coming close to Tel al-Sultan⁷⁹. According to the same sources, the tank was aiming at an empty building nearby and the shots had gone astray due to human error. In a press release on May 19, the ICRC explicitly condemned the attacks perpetrated by the Israeli army. According to the press release : 'Due to the increase of Israeli armed forces operations in the Gaza Strip (May 18) and Rafah (May 19) during which many civilians were killed and even more were wounded, the ICRC calls upon the forces to respect international humanitarian law and condemns the deliberate attacks against persons who are not participating directly in hostilities. Such attacks are prohibited in all circumstances⁸⁰. In a resolution on May 19 2004, the United Nations Security Council used the following terms in relation to Israel: « Condemning the killing of Palestinian civilians that took place in the Rafah area »⁸¹ Terrifying the civilian population through acts of violence or even the threat of violence constitutes a violation of article 51 § 2 or the Protocol Additional I to the Geneva Conventions.

Violation of the prohibition of indiscriminate attacks

Some Israeli sources have reported that one of the victims in the shooting on the crowd of demonstrators was a « terrorist », suggesting that this individual was armed⁸². The mission view films of the demonstration, shot from several angles. They also looked at pictures of the demonstration. The film made during the demonstration shows that the demonstration was proceeding peacefully and that there was no sign of armed demonstrators. Also IDF officers never mentioned in their statements anyone being armed in the demonstration. In addition, article 50 of Protocol I stipulates that where there is any doubt, a person is presumed to be a civilian (art. 50, §1) and that the presence of individual fighting elements in the civilian population does not detract from its « civilian » nature (art. 50, §3) and its protection. That being the case, even when there is one individual fighting element, firing shells and missiles on a peaceful crowd of people tantamounts to an indiscriminate attack that is prohibited by article 51 § 4 of Protocol I. Under the terms of this provision the expression « indiscriminate attacks » are « a) those which are not directed at a specific military objective; b) those which employ a method or means of combat which cannot be directed at a specific military objective; or c) those which employ a method or means of combat the effects of which cannot be limited [...] »(art. 51, §4). Obviously, firing a shell towards or near a crowd constitutes an indiscriminate attack. By launching such an attack, the authorities have consciously accepted the risk that they would cause loss of life to the civilian population and injury to civilians; these would be extreme losses of life and injury compared to the positive and direct military advantage expected (see. art. 51,§5, b)).

Violation of the prohibition on attacks carried out as reprisals

The sequence of events that took place in May 2004 at Rafah is evidence of the kind of attacks carried out as reprisals against the civilian population by the Israeli army. Just like the indiscriminate attacks and the activity designed to spread terror amongst the civilian population , the attacks carried out as reprisals are categorically prohibited by article 51 § 6 of Protocole I as it prohibits « attacks carried out as a reprisal against the civilian population ».

Ever since the armoured vehicle was blown up, causing the death of five soldiers, the Israeli army have targeted the civilian population in Rafah. According to a witness:

"On 12th May at 18.00, ever since the blowing-up of the armoured vehicle on Philadelphi Road, the Israelis have begun to direct bursts of gunfire from their watching towers. Several tanks arrived. Families tried to keep safe. The gunfire did not stop. The operation started, they made sand dunes and started the destruction. Helicopters flew over. Eight people amongst those who fled died. On Thursday 13 May, at about 10 a.m, two children were killed by a missile; one of them Ala Njili was 10 and the other child, Muhammad Mussa Muwassi, 13. Another person, Ashraf Gushta, around 35 year old, even died in the rubble of his house."

This account reveals the fact that the shots were fired by the Israeli army – immediately after the armoured vehicle was blown up and indiscriminately targeting the civilian population, and thus amount to a retaliatory action. Since 14 May, official statements by members of the Israeli government, announcing the launch of a large-scale operation to « raze to the ground dozens of houses » following losses suffered by the army, show that the losses suffered by the Israeli army in the attack on Philadelphi Road was a direct cause of the decision to attack the population in Rafah. The disproportionate nature of the operation is additional evidence for the motive behind the attacks – an act of reprisal – that consequently could not but target a civilian population. The Israeli military authorities have justified the operation because of their need « to clean » the area of « terrorists » and to dismantle the tunnels

⁷⁸ See article 3 of all four Geneva Conventions of August 12 1949.

⁷⁹ Al Mezan, May 19, 11pm. See also www.idf.il, on June 14 2004.

⁸⁰ ICRC, May 19 2004. The press release of the Secretary General of the United Nations denounced " the killing of peaceful demonstrators, many of them women and children ". UN Press Release, SG/SM/9316PAL/1984, May 19 2004.

⁸¹ CS NU, Res. 1544 (2004), May 19 2004, 5th Recital of the Preamble.

⁸² See. www.idf.il, consulted on 14 June 2004.

through which the weapons come into Gaza. On the Israeli army web site one can read the following :

« On Monday, May 17, 2004, the IDF began with a comprehensive operation in the city of Rafah aiming at targeting the terrorists, wanted operatives and at locating and dismantling weapon smuggling tunnels. The aim of the operation was to secure the neighbourhoods along the Philadelphi road and to make sure that they are **clean** from terrorists and wanted operatives »⁸³.

However, the way in which the operation was conducted indicates that behind the objective announced publicly, the main reason was the carrying out of reprisals. The « Rainbow » operation resulted in the death of 58 Palestinian civilians. Many houses were destroyed by bulldozers and tanks without even any searches being made to establish the effective existence of weapons or the entrance to a tunnel used to smuggle such weapons. The residents had to leave their houses very rapidly, with the soldiers of the IDF (Israeli Defence Forces) in the conflict zone not caring to check who the residents were so as to be able to see whether there were people they were looking for.

Principle of precaution

The general and effective protection of the civilian population, being the aim of international humanitarian law, requires parties, even when this requirement to grant protection is violated, to adopt the following precautionary measures, imposed by article 57 of the First Additional Protocol, requiring to: a) do everything feasible to verify that the objectives to be attacked are neither civilian objects and are not subject to special protection but are military objectives; b) take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects; c) refrain from deciding to launch any attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects or a combination which would be excessive in relation to the concrete and direct military advantage anticipated (art. 57, §2,a)).

Arbitrary violations of the right to life

Acts aiming at spreading terror amongst the population, indiscriminate attacks making no distinction between civilians and those involved in the hostilities, reprisal strategies: these serious violations of international humanitarian law are also violations of international human rights law. Article 6 of the International Covenant on Civil and Political Rights prohibits arbitrary violations of the right to life. The Human Rights Committee pointed out, in the general Comment it dedicated to the right to life⁸⁴ :

The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance. The Committee considers that State parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities.

During the « Rainbow » operation, the civilian population was targeted by the Israeli armed forces. With no prior warning, an Israeli tank fired on a peaceful crowd of demonstrators from a few meters away, killing 8 people and wounding many others. In the pretext of imposing the curfew, IDF snipers fired on residents of Tel al-Sultan, including children of about 10 years old. These acts constitute grave breaches of the right to life. Extra-judicial killings are prohibited in international law, even when they involve « wanted » people because they are « suspected », for example of having committed acts of terrorism or preparing to commit them⁸⁵. This ought very reasonably apply to deliberate attacks on the life of people who do not present a threat to security. Such acts should result in independent fast-track and effective investigations in order to identify those who are responsible for deciding and carrying them out.

⁸³ <http://www1.idf.il/DOVER/site/mainpage>, site consulted on 14 June 2004 (italics added).

⁸⁴ General Comment no. 6(16th session, 1982): Right to life, para. 3.

⁸⁵ The UN Human Rights Committee has had the opportunity to condemn the recourse by Israel to the extra-judicial procedures made by people suspected of having committed terrorist acts or preparing to commit them: see (2003) UN doc. CCPR/CO/78/ISR.

VI. Attacks on the property of the civilian population

UNWRA report on the destruction of 167 houses during the « Rainbow » operation, affecting 379 families, and 2,066 people among whom more than 1 000 had to take refuge in schools that were equipped by UNRWA as emergency accommodation⁸⁶. The destruction carried out by the Israeli army targeted, apart from the houses of whole families, water and electricity infrastructures, public roads and some farms. Such acts are similar to the destruction prohibited by international humanitarian law in so far as they are directed at « property of a civil nature », property or possessions that enjoy a similar immunity to that enjoyed by civilians. The definition of property of a civil nature is a negative definition: according to article 52 § 1st of Protocol I additional to the Geneva Convention, property of a civil nature is all the property that is not a military objective. The rules relating to the protection of property of a civil nature have been broken right through the course of the operation « Rainbow ». The destruction of the houses or civil infrastructure constitute a violation of the International Covenant on Civil and Political Rights and of the International Covenant on Economic, Social and Cultural Rights and also a violation of the Convention against torture and other cruel, inhuman or degrading suffering or treatment. ».

So as to explain the destruction of the houses, the official line from the Israeli authorities by preference resorts to neutral terms : they are not « houses » or « dwellings », but « structures » or « buildings ». Moreover, the line taken claims to justify the destruction perpetrated because of the link that the houses targeted might have with terrorist activity directed against the Israeli armed forces or against the Israeli civilian population, especially the settlers. So, in the letter which IDF spokesman sent to FIDH on 15 July , he said :

The following are the conditions under which a structure may be demolished :

Gunmen using the structure as shelter from which to attack forces. International law states that in cases in which structures are used as a shelter for hostile operations, they lose their immunity and may be targeted.

Movement of heavy vehicles forced off the main routes. Main routes were heavily rigged with explosives (150 kg at times), proving fatal and dangerous for the forces. Therefore, the vehicles were forced to use side roads and back yards. Being heavy armored vehicles travelling through narrow alleys and yards, damage to the surrounding structures was inevitable. If it were not for Palestinians rigging the roads with explosive devices, the IDF would not have been forced to travel through narrow alleys and yards.

Wire for explosive materials leading to a structure.

Structures providing cover for weapons smuggling tunnels.

The justifications put forward call for the following comments. Firstly, this set of statements does not correspond to the public statements made by military officers or by the Israeli government's spokesmen which state that the objective in demolishing houses in the area along the border with Egypt is to expand the « safety corridor » to help the Israeli army to control this area. In an interview on January 16, 2002 to explain the demolition of about 60 houses in the Rafah refugee camp on the 9th and 10th January 2002, Major-general Yom Tov Samiah stated the following on the Israeli radio:

« These houses should have been demolished and evacuated a long time ago... Three hundred meters of the Strip along the two sides of the border must be evacuated... Three hundred meters, no matter how many houses, period».

The aim of extending the safety area also appears in official statements made more recently and issued by the press:

« It's a measure that we are taking to provide better protection for armoured personnel carriers and the soldiers, and to reshape that theatre of war so we will enjoy an advantage and not the Palestinians »⁸⁷

Haaretz newspaper attributes to an « Israeli political source », with no other detail, the suggestion according to which:

« ...the army intends to destroy 'dozens or perhaps hundreds' of homes and widen the 9-km long buffer zone [...] »⁸⁸.

« The representatives of the FIDH having conducted the inquiry mission have arrived at the conclusion during their mission that this objective, although not publicly admitted, was in fact the real objective of house demolishing. The apparently selective way they went about demolishing the houses – which entailed for example demolishing six or seven houses in a street of ten and leaving three or four other houses intact – makes this fairly obvious. The selective way they destroyed the houses is a result of the concern the Israeli armed forces had not to once more create the terrible impression that the absolute destruction of the al-Hawashin district in the Jenin refugee camp in April 2002 had on world opinion ; this created an area of devastation of 400 x 500 meters and put 800 families out on to the streets, that is something like about 4,000 people. The devastation that the official representatives of the FIDH saw in Rafah was not so spectacular, as even in the districts most affected, some of the houses were spared. However, this systematic devastation occurs at regular intervals in Rafah ; for example, before 167 houses were destroyed during the « Rainbow » operation, 60 houses had been destroyed on 9 and 10 October 2003. In February 2004, the UN Human Rights Commission special

⁸⁶ UNRWA News Centre, 26 May 2004.

⁸⁷ HAARETZ, 14/05/2004.

⁸⁸ HAARETZ, 14/05/2004.

representative in the Palestinian Occupied Territories estimated that since 2000, some 1,063 houses had been destroyed in Rafah, putting out in to the street 1,846 families and almost 9,970 people . Periods of massive house destruction followed one after the other, straining the ability of the UNRWA to cope with the resultant humanitarian emergencies. The repetitive nature of this devastation and the resultant outcome - in other words clearing a « buffer zone » free of any housing along the international border with Egypt – appears as the deliberate objective of the army. The way in which the armed forces operated during this operation tallies with this objective. According to the reports and the films showing destroyed houses that the FIDH mission was able to see, it appears that the decision to destroy certain houses was made in an arbitrary fashion or was guided by exclusively practical considerations – the highest buildings for example were more usually spared, having considered the difficulty the bulldozers and the tanks would have in destroying these buildings. The maps , especially those drawn up and regularly updated by OCHA, leave no doubt as to the fact that this devastation affected in particular those houses along the edge of Philadelphi Road, creating little by little the security area which the IDF general staff claim to be for evident security reasons. It is also notable that the Israeli armed forces do not have any record of the houses that were destroyed, of the identity of the owners of these houses or of the people who lived in the houses.

There is therefore reason to question statements by the IDF spokesman that indicate that no house demolition took place if this was not in one of the four illustrated cases made known in the letter of 15 July 2004 previously mentioned (« Only under specific operational circumstances is it necessary to demolish structures, and this only when there is no other alternative »). Furthermore, even if it was necessary to give credence to this statement, it displays a misunderstanding and a tendentious interpretation of international humanitarian law as well as a total absence of the appreciation of the bounds on the demolition of private houses set by international human rights law.

The demolition of houses cannot be justified just because those houses could have or could be used to shelter armed Palestinian militants that pose a threat to the lives of soldiers of the Israeli armed forces. Article 52 § 2 of the Protocol I , additional to the Geneva Conventions prescribes that « attacks have to be strictly confined to military objectives. As far as property is concerned, military objectives are confined to property that, because of its nature, its location, its purpose or its use, can effectively contribute to assist military activity and its complete or partial demolition, its seizure or neutralisation can provide, as it happens, a specific military advantage ». Article 52 § 3 of Protocol I prescribe also that:

Where there is any doubt, a piece of property that is normally assigned for civil use such as a place of worship, a house, other types of living accommodation or a school, is presumed not to be used to effectively contribute to military activity.

The protection enjoyed by civil houses has to be strictly interpreted and conflicts with any kind of precautionary demolition. This kind of demolition can only be undertaken if the piece of property that is to be destroyed can effectively contribute to the other party's military activity, in other words a real and not a potential contribution.⁸⁹ A house is presumed not to contribute to any military activity even when it is situated in a front-line area - which consequently requires the armed forces to display restraint and care⁹⁰. A house could only be demolished in a situation where demolition is the only way of neutralising or disabling a fighter, as long as this fighter represents a real and immediate threat to the Israeli armed forces.

None of the reports gathered by the representatives of FIDH mention armed resistance against the IDF during the « Rainbow »operation. The Israeli forces also did not suffer any casualties during this operation. However, while some armed men did use some houses to check on the Israeli army, this does not justify in any way such actions, taken by the Israeli army, that could be recorded by the FIDH mission. The methods used by the Israeli army to demolish houses along the *Philadelphi road*, especially in the Bloc O district, are tantamount to systematic and indiscriminate demolition, with the indiscriminate hitting of military targets and civil property. The Bloc O district was especially affected, and this has been the case ever since the 13th May. A father whose house was destroyed relates as follows:

« I live in a house in Bloc O with my wife, my sister and my five children. The previous day an armoured vehicle was blown up on the Philadelphi Road. There was a terrible explosion. Metal debris was thrown everywhere. My 66 year old sister was injured by one of these metal splinters. During the night , tanks and helicopters came firing missiles in all directions. There was panic. Some people came out of their houses with white flags and I brought out my family. There was a tank a hundred meters away. It fired a shell at my house, and at other houses as well. No announcements had been made over the loudspeaker. We had not been told anything. All the children were screaming. There were dead and wounded. A quarter of an hour later a bulldozer arrived and this completed the demolition of the houses. We were not able to save anything. As far as I was concerned, this was an act of reprisal against the blowing up of the vehicle the day before. We went to the school as I know the janitor and I know that UNWRA opens up the school if houses are demolished⁹¹. »

Another Bloc O resident gave a systematic account of the demolition activity:

« On the 13th May at about three o'clock in the morning , the bulldozers drove around the house Two bulldozers were in the process of demolishing Abu Samir's house. They stopped the demolition of another house and went towards mine. Two bulldozers approached from the South , two others from the North. My house was pushed over to Abu Samir's and Abu Samir's was pushed over to mine. Many had left the area just after the armoured vehicle had been blown up on Philadelphi Road. It was to be expected. They demolished the two rows of houses on both sides of the road. On the right side some houses were demolished last April. There is only one house left standing⁹² »

⁸⁹ See in this connection DAVID, Eric, *Principles ...*, op. cit., p. 233.

⁹⁰ DAVID, Eric, *Principles ...*, op. cit., p. 237.

⁹¹ Interview N°9.

⁹² Interview N°25.

This kind of story is corroborated by facts appearing in OCHA's last report and especially satellite images. The full extent of the demolition work does not let you doubt the evidently indiscriminate nature of the attacks on the districts situated along the border and and of the systematic demolition of civilian property carried out in that area in breach of articles 51 and 52 of the Protocol I, additional to the Geneva Conventions.

One other justification claimed by the Israeli army in support of this house demolition was to present this as a means of destroying the tunnels that these houses sheltered, and that allowed smuggling of, in particular, weapons from Egypt. In fact, this is the main justification put forward by the authorities in official statements. Yet, this could only partly explain why the demolition was carried out: finding three tunnels cannot justify the demolition of 167 houses. Also, the flagrant contradiction between this justification and the way in which the house demolition was done is only too evident: no house searches to establish the existence of tunnel entrances or weapons were carried out before the demolition; in the vast majority of cases the IDF soldiers did not take the trouble to even leave their tanks or bulldozers before they started the demolition work. In his reply to the questions asked by the mission, the Israeli army spokesman linked the reason for the « Rainbow » operation to the fact that there were tunnels being used for gun smuggling and also to the need to « uncover » these tunnels:

« On May 18, 2004, the IDF began an operation to uncover weapon-smuggling tunnels. The operation began following a week in which Palestinians fired anti-tank missiles at army vehicles, resulting in the deaths of 11 IDF soldiers. These missiles were smuggled into Gaza Strip via the tunnels, thus heightening the urgent need to operate against the infrastructure facilitating such weapons smuggling tunnels »⁹³.

This justification also appears on the Internet sites of the Israeli government and army.⁹⁴

However, when the demolition of houses is not preceded by any house searches whatsoever, the demolition cannot be explained by a desire to « uncover » tunnels : on the contrary, once they are buried under the rubble the « tunnel » entrances that the demolished houses are supposed to have sheltered become impossible to see. The explanation provided is therefore not convincing. What is more, although a significant part of the demolition work had been carried out in those districts running alongside the international border with Egypt, only some hundred or so meters away from the border – which makes you think that tunnels could have been dug right up to the houses - , there had been other demolition work done on houses that were too far away from the border to make tunnel digging possible. As an example, 11 houses were demolished at Tel al-Sultan, but the distance separating this district from the border (about 600 meters) excludes the possibility of a tunnel connecting these two places, especially as the ground in this area is sandy, making it impossible to build a tunnel for technical reasons. The IDF spokesman has not answered the following question which the FIDH asked on 15th June 2004: « Which military objective was served by the destruction or damaging of civilian infrastructures in Tel al-Sultan, in the North-Eastern part of Rafah ? ». This question still remains. Finally, as the special envoy for the Human Rights Commission of the United Nations, M.J. Dugard, has pointed out in his report of the 27th February 2004, one can wonder why surveys done in the area between the border and the approaches to the town of Rafah were not enough to pinpoint possible tunnels in the area, and these tunnels could then be filled in so making them unusable⁹⁵.

The argument tending to justify the demolition of the houses based on the need to uncover tunnels that these houses had been sheltering does not match the actual situation that the FIDH mission representatives experienced in the field. Also, by resorting to this justification the Israeli army are incorrectly interpreting International Humanitarian Law, although this law has been invoked at this precise juncture by the IDF. The principle of the prohibition of indiscriminate attacks in effect prohibits a number of clearly spaced out and distinct military objectives in a town or an area with a similar concentration of civil property being treated as a single military objective (art. 51, §5, a), of the Protocol I additional to the Geneva Conventions. This means that few tunnels cannot justify the demolition of several dozen houses. In accordance with the same principle - the prohibition of indiscriminate attacks - attacks that are expected to cause damage to civil property that would be excessive in relation to the clear and direct military advantage gained are prohibited (article 51 §5, b), of Protocol I). The Israeli armed forces, while refraining from revealing the precise location – confusing the FIDH representatives,- they claim that they had discovered, during the « Rainbow » operation, three tunnels – in fact , two completed tunnels and a 8 meter hole⁹⁶. During this operation, 167 houses were demolished. The demolition appears evidently excessive in relation to the military advantage gained.

The IDF spokesman finally cited that , in some cases, army tanks had to leave the road and cross private property so as not to run the risk of landing on mines placed under the tracks of tanks by Palestinian militants. This is particularly the case when there was demolition work in the northern part of the Brazil district. The FIDH mission was not able to verify these claims, and in particular whether there were any mines. However, the mission observed that the civilian vehicles or ambulances used these roads without any report of any vehicles being blown up. However, it does appear, when you compare the route taken by the army tanks and the other possible access roads that the tanks did not choose the routes causing the least damage to civil property, whether this was housing or land under cultivation. On the contrary, it would appear that the tanks sometimes deliberately made a diversion away from their route to destroy some of the civil property situated nearby, without any apparent reason.

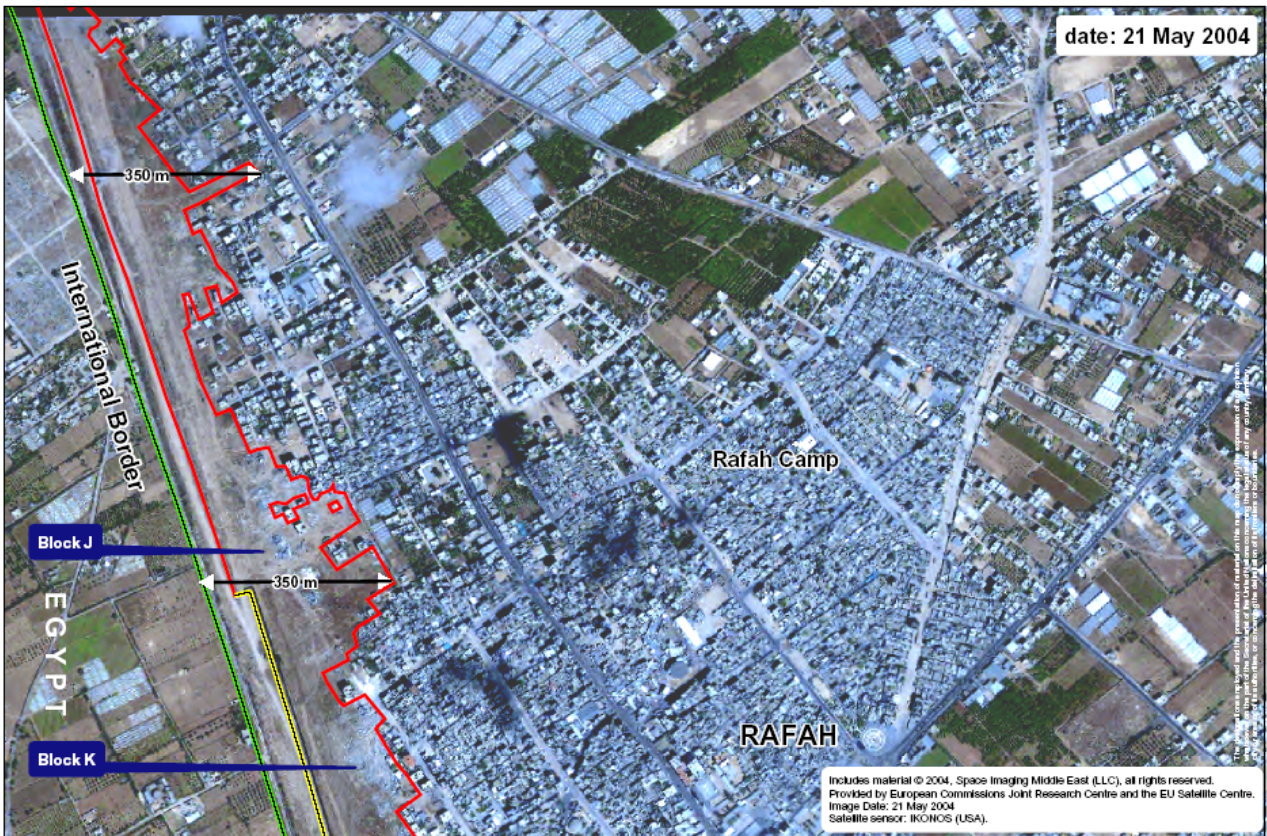
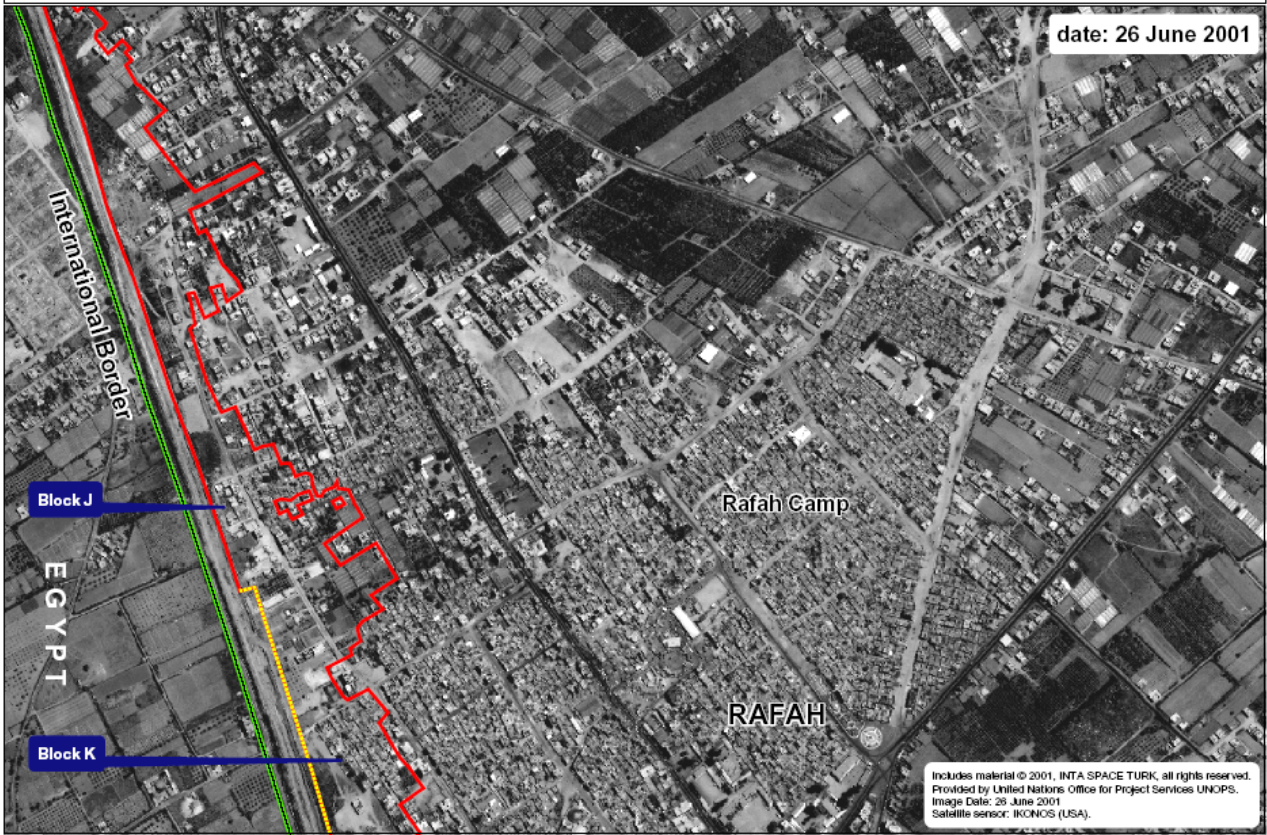
⁹³ IDF Spokesperson, letter dated of the 15 July 2004.

⁹⁴ Cf See. <http://www1.idf.il/DOVER/site/mainpage>, site consulted on 14 June 2004.

⁹⁵ Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the human rights situation in the Palestinian territories occupied by Israel since 1967, Commission on Human Rights, UN doc. E/CN.4/2004/6/Add.1, 27 February 2004, para. 6.


⁹⁶ Cf See. <http://www1.idf.il/DOVER/site/mainpage>, site consulted on 14 June 2004.

Inset Map A: Rafah - Demolished and Cleared Areas - Block K & J
26 June 2001 and 21 May 2004

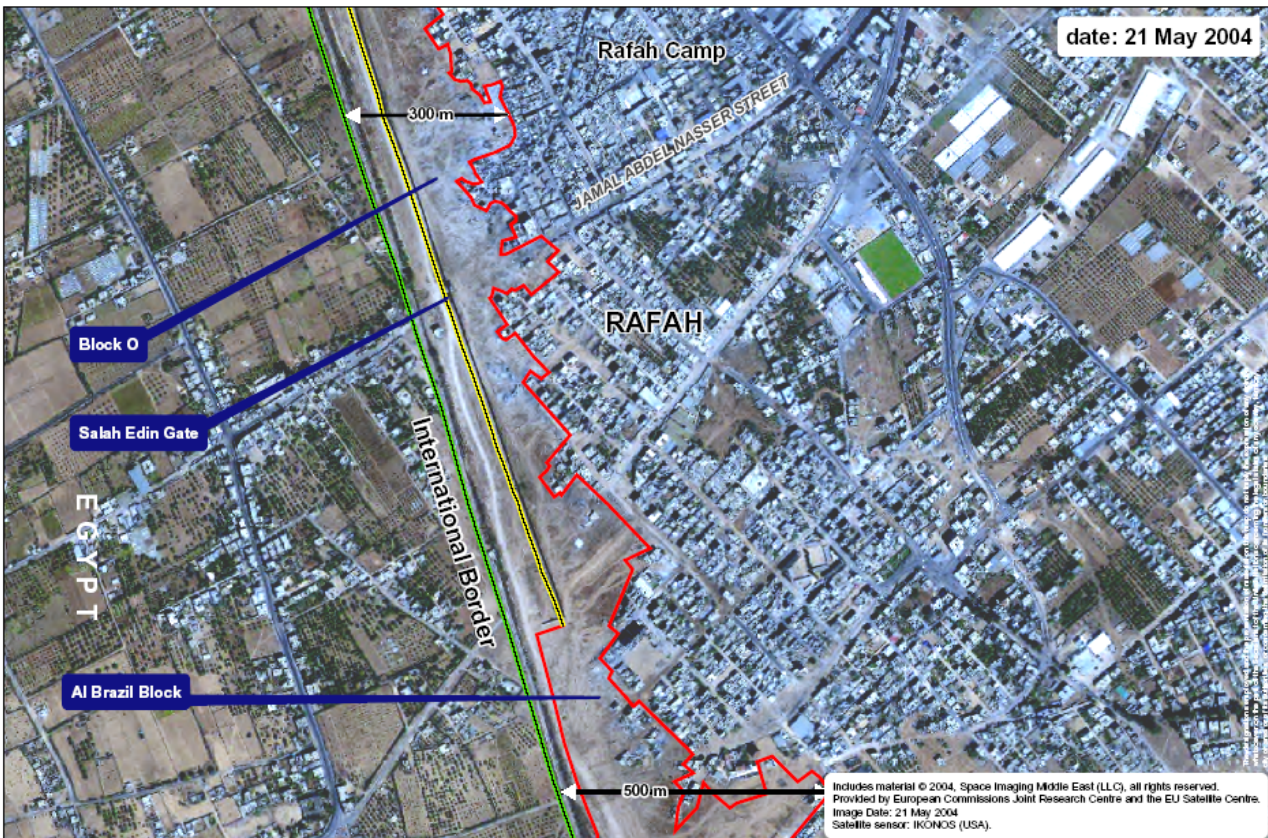
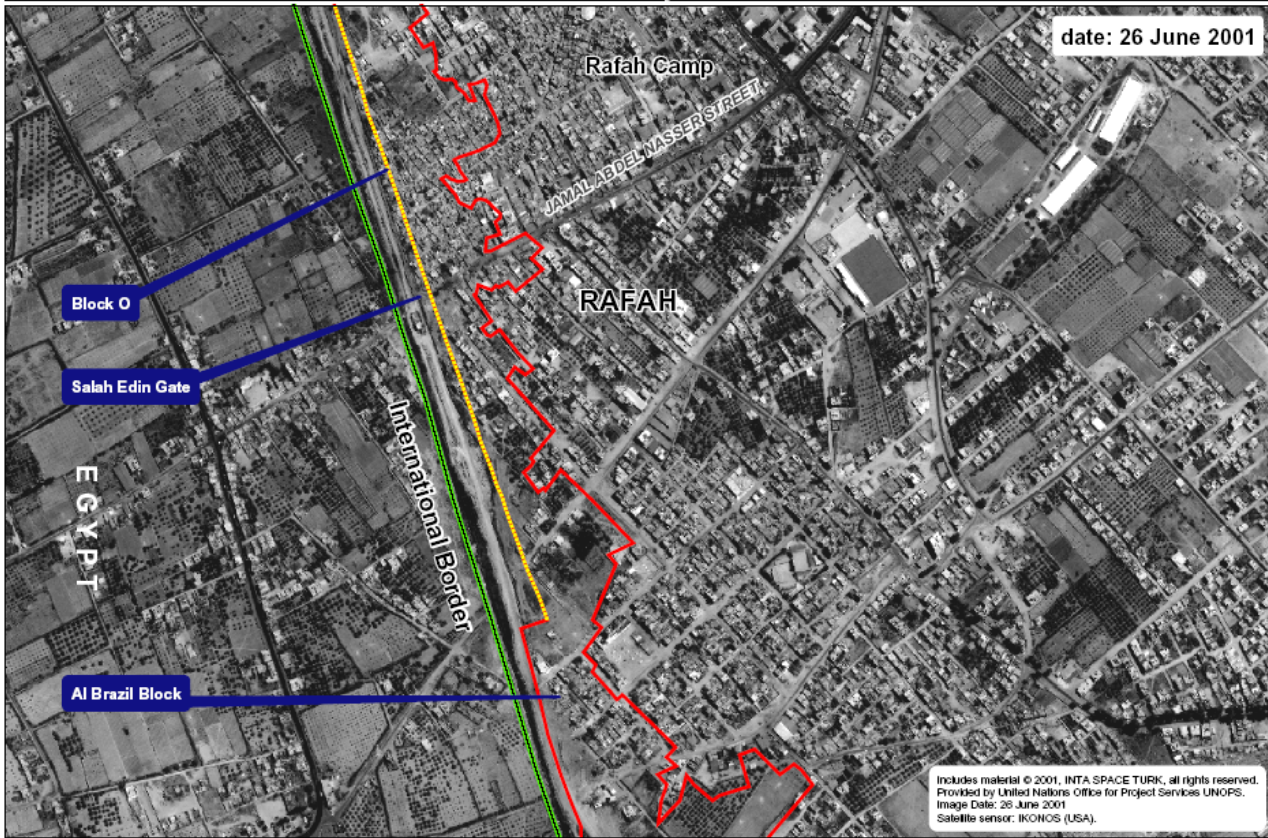


Cleared Areas, June 2001 to May 2004 (Cleared areas include residential, agricultural and other land use areas)
 Metal Barrier
 International Border

0 250 500 Meters

OCHA  Cartography: OCHA oPt Humanitarian Information Centre - June 2004
 Base data: OCHA update 2004
 For comments contact <ochaopt@un.org> or Tel. +972 (02) 582-9962
<http://www.ochaopt.org>

Inset Map B: Rafah - Demolished and Cleared Areas - Block O & Al Brazil
 26 June 2001 and 21 May 2004



Cleared Areas, June 2001 to May 2004 (Cleared areas include residential, agricultural and other land use areas)
 Metal Barrier
 International Border

0 250 500
 Meters

OCHA Cartography: OCHA oPt Humanitarian Information Centre - June 2004
 Base data: OCHA update 2004
 For comments contact ochaopt@un.org or Tel. +972 (02) 582-0962
<http://www.ochaopt.org>

Violation of the prohibition on collective punishment

Officially, the Israeli army admitted the demolition of 56 « structures » during the « Rainbow » operation : 20 houses have been destroyed because they were situated near tunnels ; 29 houses have been destroyed in other districts where the army operated ; and 7 other houses have been destroyed as reprisals against the attack on a family of settlers in the North of the Gaza Strip (the house of the person who had perpetrated the attack and 6 other houses located in the surrounding area⁹⁷). It should be noted that the latest list of reasons that has been provided to substantiate the demolition activity during the operation did not appear in the letters sent by the IDF spokesperson to the FIDH, by the end of the mission. It is particularly difficult to justify these reasons for the house demolitions. It would be appropriate to recall that on the 14th May and then on the 17th May, the United Nations Secretary General called on Israel to stop immediately such collective punishment. The Special Representative from the Human Rights Commission declared that as far as he was concerned, those acts perpetrated in Rafah «[...] also amount to collective punishment which violate both humanitarian law and international human rights law⁹⁸. It is impossible to accept the Israeli argument that these actions are justified by military necessity. On the contrary, in the wording of article 147 of the Fourth Geneva Convention, they are ‘carried out unlawfully and wantonly⁹⁹»
UNRWA estimate that 167 houses were destroyed during the « Rainbow » operation.

Precautionary measures

This report has already mentioned the text relating to the obligation to take precautions prescribed by Protocol I additional to the Geneva Conventions of 12 August 1949. By virtue of article 57,§1 of the aforementioned Protocol, military operations have to be conducted whilst ensuring constantly that property of a civil nature is spared. Precautionary measures as prescribed by article 57 apply to those who are preparing or determining the attack to do everything feasible to verify that the objectives to be attacked are neither civilian nor civilian objects, but indeed a military objective , and to refrain from launching any attack which may be expected to cause incidental loss of civilian life, damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated (art. 57 § 2, a). Also, the spirit of the regulations implies that neutralising the military objective is preferable to its destruction¹⁰⁰.

As the mission representatives had already noted, many accounts gathered indicated that houses had been demolished without any prior search in order to check whether the houses were hiding a tunnel. On the contrary, in many cases, the houses have been demolished arbitrarily. A resident in the town of Brazil described the demolition that has been carried out in his street which is 350 meters from the border; i.e in an area that is too far away to be able to contain the entrance to a tunnel :

« It was Thursday and I knew that there had been some demolition activity in my district. I wanted to go there but it was impossible to enter the district. When I was able to go, my house had been demolished with others. Over an area of 100 meters, 10 houses had been demolished. In my house there lived 9 people. This was a collective demolition. My house was 350 meters from the border. My future is desperate. I am waiting to be re-housed. »
¹⁰¹

The story from another resident in Brazil confirms the random way in which some of the demolitions were carried out without checks being made:

*« It was 9a.m. I brought home on my shoulders a neighbour of 85 years of age who lived between Abu Ahmed and our selves, while the demolition of his house was in progress. We could hear Abu Ahmed's cries. My window overlooks his house. They began to demolish our kitchen, while the women were in it. Everybody started to cry. We came down. The bulldozer approached from the other side . The bulldozer lifted up our car and blocked the gate with the car. We could not come out because of the tanks. I called the Red Crescent . With the help of a metal ladder we managed to get to a neighbour's house. And the bulldozer demolished everything after we left. This lasted a few minutes. The bulldozer did not go back to the street but continued towards another house. There were 9 tanks in the street ; They did not give us any time or warning. We came out with white scarves and the soldiers asked us to raise our hands; we walked between the tanks. I carried the old man of 85 ; he was unable to walk. We walked like this to the second street and there an ambulance took us to Al Najjar. In our block of houses, 9 houses were demolished and they left two or three houses standing; everybody has been affected. Here, we are 800 meters away from the border ». »*¹⁰²

These words were heard at the places where the demolition took place. The members of the mission were able to confirm, on the basis of the course taken by the bulldozer, that the demolition work was not prompted by a tunnel search nor for a search for weapons or armed insurgents. Excessively high buildings of more than three stores high appeared to be spared from demolition. The decision as to which houses be destroyed was an arbitrary one with no connection with the obvious objective. The demolition was done with no attempt to check for the existence of tunnels or weapons. This account and the following one like so many others illustrate a recurrent feature of the house demolition by the Israeli army - the lack of any prior warning given to the population. :

⁹⁷ See. <http://www1.idf.il/DOVER/site/mainpage>, site consulted on 14 June 2004.

⁹⁸ Press release SG/SM/9308 PAL/1983, 17 May 2004.

⁹⁹ Press release SG/SM/9308 PAL/1983, 17 May 2004.

¹⁰⁰ See. DAVID, Eric, op. cit., pp. 236-237 ; Baxter, « Comportement des combattants et conduite des hostilités », in : *Les dimensions internationales du droit humanitaire*, Genève and Paris, Institut Henry Dunant, UNESCO, Pedone, 1986, p. 153.

¹⁰¹ Interview N°10.

¹⁰² Interview N°21.

« I live in the Brazil district in a house with my seven children and my mother who is old and infirm. I am 800 meters from the Egyptian border. This place is quiet. On Wednesday the 18th May, the tanks arrived at about 8.30 p.m. They encircled the district approaching from two directions : the gate of Salah El Din and the cemetery gate. There were tanks, one bulldozer and helicopters with snipers. There was no order over the loud speaker for a curfew or to announce the house demolition. On the other hand all the residents lay low in their houses.

On Thursday 19 at about 7.30 a.m, I heard the bulldozer. It was 50 meters away and in five minutes time it had arrived in front of my home and had knocked down the front of the house. I just had the time to leave with the children through an entrance I had made with the help of my neighbours at the back of the house. I took my mother, who is 80 years old and unable to move herself, in my arms. My wife took the children and we went to our neighbour's house 100 meters away. We stayed there for a day and a half because of the curfew. I tried to shout out to the driver of the bulldozer to stop. It was a woman. Then a tank fired on my house – it had already been demolished. When the curfew was lifted, I went to School B [the UNRWA one] - because my house had already been demolished by the Israeli army in 1967 at Rafah and because ever since I have had a UNWRA card and I know that schools are places of refuge.

[...]

In the street, 14 houses were demolished.»¹⁰³.

It also emerges from this account as in the following account that , in some cases, the bulldozers and the tanks started the demolition while the residents were still inside their homes. According to another resident in Brazil,

« On the 19th May, the attack on Brazil began at 9.00 p.m. The people living beside the border moved off because they were frightened of the tanks. They went off towards Shabura. I saw the tanks arriving ; this was the first time that they had come from that direction, from Djnina , the district to the north-east of Brazil. They were planning a siege. We heard the sound of helicopters and tanks. We stayed the whole night long at home with this going on around us. At 8.00 a.m., we heard on the radio that the Israelis were in the process of demolishing Abu Ahmed's house (he 75 years old), two houses away from here. The telephone rang, people were calling me to find out what the news was. I was trying to find out. I heard the cries of women and I tried to see what was happening through the window which looks out on to the street. Just as I was looking a tank pointed its gun and I ran to the back of the house . The tanks were everywhere around us. A bulldozer started to demolish the house of Abu Ahmed. There were also shots fired in the direction of this house [...]. At our house, a bulldozer started to demolish the front rooms, it also fired at the mounds of debris. The driver told us to go back in to the back room, but we were scared, we put ourselves in a place of shelter and in a place where we could be seen. There were two men on the bulldozer, one was sitting, the other was standing with a gun, they were laughing. My brother asked the the women to make white flags, the driver of the bulldozer laughed.. He sounded the horn of the bulldozer and waved to us to leave the house. One of the men tried to talk to the driver of the tank that was behind the bulldozer, but the bulldozer completed the demolition work. There were 5 women and 15 children.

We left for School B, 2 and a half kilometers from here, where we arrived at about 11.30 a.m. »¹⁰⁴.

From what is heard from the accounts reported, it is relevant to question the statements made by the Israeli army press office stating that « Throughout the operation, and as a guiding rule, no structure is ever demolished while innocent civilians are still inside, and were not warned of the upcoming demolition »¹⁰⁵. The type of demolitions done with no warning and that was reported to the FIDH mission representatives, and confirmed by many matching accounts, is prohibited formally by the Protocol I additional to the Geneva Conventions. Included among the precautionary measures, this protocol prescribes that « where an attack has the capability of affecting the civilian population , a warning has to be given in good time and by effective means , unless circumstance do not permit this » (article 57 § 2, c))

The demolition works carried out in the districts that are adjacent to the border, but also those carried out in the areas of Rafah that are further away from the border (Tel al Sultan or Brazil), are tantamount to demolition activity that is perhaps systematic, perhaps arbitrary and prohibited by international humanitarian law. Also, by proceeding to demolish property of a civilian nature - more than a hundred or so houses in Rafah – the Israeli army has clearly violated articles 51 § 8 and 57 § 2 of the Protocol I, that require that precautionary measures be taken to spare civilian property.

The demolition of houses during the « Rainbow » operation constitutes a breach of the international humanitarian law that applies to Occupied Palestinian Territory. However, this demolition activity also constitutes a violation of current international human rights legislation by Israel. This demolition activity constitutes forced eviction, as defined by the United Nations Committee on economic, social and cultural rights, which is defined as:

“The permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights.”¹⁰⁶.

The Committee on economic, social and cultural rights has noted that the prohibition on forced evictions that ensues from article 11, § 1st of the International Covenant on Economic, Social and Cultural Rights complements the international humanitarian legislation

¹⁰³ Interview N°11.

¹⁰⁴ Interview N°20.

¹⁰⁵ IDF Spokesperson, letter dated 15 July 2004.

¹⁰⁶ UN Committee on Economic, Social and Cultural Rights, General Comment n°7 : The right to adequate housing (art. 11 (1) of the Covenant): forced evictions, adopted at the 16th session of the Committee (1997), UN doc. C/1998/22, para. 3.

provisions that aim to protect private property¹⁰⁷ :

Forced eviction and house demolition as a punitive measure are (...) inconsistent with the norms of the Covenant. Likewise, the Committee takes note of the obligations enshrined in the Geneva Conventions of 1949 and Protocols thereto of 1977 concerning prohibitions on the displacement of the civilian population and the destruction of private property as these relate to the practice of forced eviction.

The Committee on economic, social and cultural rights subordinates forced evictions to compliance with strict conditions, including situations where these evictions can be justified, in accordance with article 4 of the International Covenant on economic, social and cultural rights, as measures that are strictly necessary for achieving objectives of general interest¹⁰⁸ :

States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2.3 of the International Covenant on Civil and Political Rights, which requires States parties to ensure "an effective remedy" for persons whose rights have been violated and the obligation upon the "competent authorities (to) enforce such remedies when granted".

The reference to the demand to guarantee a useful remedy to the parties involved, provided by article 2 § 3 of the International Covenant on Civil and Political Rights, can be explained by the fact that forced evictions can be summarized as being an interference the right to respect the home guaranteed by article 17 of the said Covenant. Taking into consideration the breaches, that forced evictions risk causing, of a large number of recognized rights in the International Covenant on Civil and Political Rights, the Committee on economic, social and cultural rights has drawn up the following conditions :

« Appropriate procedural protection and due process are essential aspects of all human rights but are especially pertinent in relation to a matter such as forced evictions which directly invokes a large number of the rights recognized in both the International Covenants on Human Rights. The Committee considers that the procedural protections which should be applied in relation to forced evictions include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives to be present during an eviction; (e) all persons carrying out the eviction to be properly identified; (f) evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) provision of legal remedies; and (h) provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts. »

As the reference made by the 'Committee on economic, social and cultural rights indicates in the General Comment n°7 (the right to adequate housing) relating to forced eviction' to the obligations imposed by the Geneva Convention of 12 August 1949 and the Protocol additional in the context of armed conflicts or to the obligations imposed on the occupying power, the Committee had in particular in mind a situation such as the one presented by the Palestinian territory under Israeli occupation. It is now clearly evident that the stated guarantees have not been kept. The conditions under which the house demolition was carried out - with no prior warning being given and with no administrative decision whatsoever being made by the occupying power - render, in the majority of cases, the bringing of an appeal to stop the demolition as fanciful. It is only in these exceptional circumstances that Palestinian families, facing the threat of seeing their houses demolished and in view of the military operations started by the IDF, have been able to apply to the Israeli Supreme Court sitting as the High Court of Justice for the suspension of this demolition. Except in some isolated decisions, the Court has nevertheless legitimised these demolitions, systematically lining up behind arguments that are based on « military needs » so justifying the demolition activity and abandoning any demands to comply with certain procedural conditions, especially the possibility of families involved to appeal against the demolition before they have finished. Also, the residents are not informed of the identity of the people carrying out the demolition work. The families do not receive any information as to the reason which the military authorities claim to provide. There is an impediment to them being able to effectively claim compensation for damages or to bring an action. If there is no change to this legal environment, the arbitrary demolitions, which seriously undermine respect for the right of domicile, private and family life and constitutes a negation of the right to an adequate accommodation as guaranteed by article 11 of the International Covenant on Economic, Social and Cultural Rights, will continue. FIDH requested that no further house demolition take place before basic legal guarantees, that need to cover such demolition activity, are formally recognised.

During its investigations at Rafah, the FIDH mission met many families directly affected by the house demolitions. Most of the victims were women and children. Often awakened by the noise of tanks and bulldozers beginning their demolishing work, they were forced to leave their houses in the middle of the night. Even when the demolition work was taking place during the day they were obliged to leave in a hurry, only taking with them a few necessary papers and leaving behind all their personal things. The trauma suffered is considerable. This is why the United Nations Committee against torture, which monitors compliance by party States - which includes Israel - of the obligations imposed by the Convention against Torture and Other Cruel, Inhuman or Degrading

¹⁰⁷ UN Committee on Economic, Social and Cultural Rights, General Comment n°7 : The right to adequate housing (art. 11 (1) of the Covenant): forced evictions, adopted at the 16th session of the Committee (1997), UN doc. C/1998/22, para. 12.

¹⁰⁸ UN Committee on Economic, Social and Cultural Rights, General Comment n°7 : The right to adequate housing (art. 11 (1) of the Covenant): forced evictions, adopted at the 16th session of the Committee (1997), UN doc. C/1998/22, para. 13.

Treatment or Punishment”, has condemned the forced demolition of houses, in such circumstances as especially those in Rafah.¹⁰⁹

The demolition of objects indispensable to the survival of the civilian population

In international humanitarian law, the objects indispensable to the survival of the civilian population also enjoy specific protection. Article 54 of Protocol I, additional to the Geneva Conventions, prescribes that « it is prohibited to attack, to destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs [...] drinking water installations and supplies and irrigation works [...], for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away or for any other motive ». This prohibition is especially important in the Gaza Strip as, since the uprising of the second intifada in September 2000, it has become practically impossible for almost all the residents in the enclave to work in Israel ; this has increased the dependence of the population on agriculture. In these circumstances, the destruction of plots of cultivated land, the uprooting of olive trees or other fruit trees, the demolition of greenhouses – all types of destruction for which there is no military justification – constitute a violation of the right to food and it is up to the Israeli authorities to justify their action. Article 11 of the International Covenant on Economic, Social and Cultural Rights, by guarantees the right of each person to adequate food requires that States Parties to the Covenant abstain from taking any taking ‘any measures that result in preventing such access’¹¹⁰.

In total, during the «Rainbow » operation, about 50% of agricultural land in the Governorate of Rafah was destroyed. In West Rafah, more than 70% of horticultural greenhouses were completely demolished. In East Rafah, about 30% of the greenhouses and agricultural land were destroyed. More than 70% of the electricity supply system was damaged at Tel al-Sultan and Brazil. One of the effects of this damage was the lack of drinking water throughout Rafah, all the wells being located in these two districts.

Demolition of the water supply and sewerage system (source MDM)

DISTRICTS	WATER SYSTEM IN KMS	WATER SYSTEM DAMAGED IN KMS	SEWERAGE SYSTEM IN KMS	SEWERAGE SYSTEM DAMAGED IN KMS	COST OF THE DEMOLITION OF THE WATER AND SEWERAGE SYSTEMS IN USD
Tel al Sultan	30	17	20	15	713 900
Brazil & As Salam	25	19	15	12	428 150
Total	55	36	35	27	1 142 050

Demolition of tarred roads (source :MDM) (51.2% of the roads were destroyed)

DISTRICTS	EXISTING ROADS IN METERS	ROADS DESTROYED IN METERS	ESTIMATE FOR REBUILDING (USD)
Tel al Sultan	15375	12775	3597000
Canada		about 75.8%	
Bader			
Western Rafah			
Brazil	17000	7500	1688600
As Salam		about 29.8%	
Ber Qeshta			

Moreover, during the operation, the Tel al Sultan and Brazil telephone lines and systems were completely destroyed. The main underground line and the surface system were destroyed. The questions put by the FIDH to the IDF spokesman regarding the military justification for this demolition activity remain unanswered.

¹⁰⁹ Conclusions and recommendations of the Committee against torture :Israel, adopted on 23 November 2001 CAT/C/XXVII/Concl.5 (para. 6, j), et 7, g)).

¹¹⁰ Committee on economic social and cultural rights. General observation n°12 : the right to have sufficient food » by « General comment No. 12: The right to adequate food (art. 11).

VII. The use of « human shields »

During the siege of Tel al Sultan, the Israeli army occupied various family houses so as to be able to post inside soldiers armed with high precision weapons; the population called them « snipers ». In order to make advance through the district the Israeli soldiers moved mainly at night and by using human shields to « protect » them . Hesham Al Karazon, a lawyer by profession and a father of nine children , recalls that some twenty soldiers surrounded his house on the 28th May at 3.00 a.m. He was then forced to walk before the soldiers as they advanced, threatened with a weapon:

« They stayed there until 5 p.m. They then asked me to go with them, and tied up my hands with plastic explosive. The soldier who tied up my hands was nervous, he asked the officer

Is he wanted for anything?

The officer gave a sign as if to say no

A bulldozer arrived and began to demolish the northern face of the house. All the soldiers were getting ready to leave the house. The demolition then followed for an hour. The officer in charge explained to the bulldozer driver how it should manoeuvre to make the hole. Then a tank entered the house to pick up the soldiers. A part of the tank entered the 6 m room. In the tank there were one dozen of men; they were all crammed in. The tank started to move - this lasted three hours. It destroyed the gate of a house. They ordered me to climb down and to walk in front of them; a weapon was pointed at my neck. I went into Ismail Abu Rahaj's house. It is a three-storey building 100 meters away from my home. But at that precise moment, I was not aware where I was. It was 9.30-10.00 p.m. We went up to the first floor, as down below there is a mini-supermarket. The first floor was empty. They forced me to walk around, shouting out « Is anyone there? ». The other soldiers completed a tour of the second and third floors. They gathered up everyone on the ground floor, about 15 people (men, women and children) and the same type of demolition began, destroying the tiling; etc.. They broke the windows, bored holes in the walls.

They untied me once the situation was under control, at about 11 p.m. At about 2.00 or 3.00 a.m , they asked me to go with them, that is to say about 10 soldiers. We walked towards the house belonging to the Bayiomi family , 50 meters away. They walked along the walls, I walked in front with a rifle pointed at my neck. The door of the house was forced. The soldiers said to me

Go in and call them !.

They were not looking for anyone ; they wanted to occupy the house. There were three or four stories , and we ended the night on the third floor. We stayed there from Wednesday morning to Wednesday evening, then they tied up our hands, my hands and the hands of Bayioumi's son. A tank arrived , and it opened up a hole to let it half way in. We climbed on to the tank with our eyes blindfolded ».

According to article 28 of the Fourth Geneva Convention, « the presence of a protected person may not be used to render certain points or areas immune from military operations ». The holding of Hesham Al Kharazon and the treatment inflicted on him constitute a violation of the international humanitarian law provisions prohibiting the use of civilians for protecting military operations. This type of practice shows more generally the violation of the protection of civilians from dangers resulting from military operations being violated, which must be understood as a « general, effective protection », which rules shall be observed « in all circumstances »¹¹¹.

¹¹¹ Protocol I additional to the Geneva Conventions of 12 August 1949 Art. 51, § 1.

VIII. Obstacles to medical aid

As underlined above in the report, a number of ambulances but also the medical personnel and even a clinic were attacked by the Israeli army. The prohibition on attacks on personnel and the health service facilities requires that buildings, vehicles and people working to provide medical aid be respected and protected.

The accounts by ambulance staff of the Palestinian Red Crescent Society (PRCS) reveal that regulation health vehicles, marked with clear signs were targeted:

« Since the day before (the 13th May 2004, at about 3 p.m.), there were some missiles fired on the district. In that situation, you place yourself beforehand near the areas where you assume that you will have to do something. That day (the 14th May, at about 4.30 p.m.), three of our ambulances were positioned near the area. At one point, there were missile shots. It had become dangerous because everyone was fleeing and running in all directions. Then Fathi (the driver) and I decided to go and seek more shelter by placing ourselves near our colleagues' ambulance. As it was a little more quiet there and there were no crowds, we called the two others on the radio (M and H) in the third ambulance to join us. From where we were we could see two Apaches [helicopters] and a « drone ». We knew that there were tanks in the nearby streets but we could not see them. Our colleagues had joined us in front of the grocer's shop. We were sitting on the ground and asked the grocer for water and I was just about to have a drink when a missile landed. I was flat on my stomach with no understanding how I got there. There was dust everywhere. There was so much dust that we could not breathe. People were running everywhere to find cover but also to come to our aid because from the end of the street where the UNRWA clinic is situated everyone thought we were dead. In order to avoid forming a crowd that might become a target, we got up and rushed as best we could into the ambulance. I was injured in the right leg. I had received some missile projectiles and bits of wall. Fathi evacuated us to an area that was a little less dangerous so that he could look at my wound. I cast a quick glance downwards and as there was some smoke I became frightened and started to cry out. Fathi he did some bandaging. We were very scared. We were all the more scared as we did not expect to be taken for a target as we had taken the precaution of moving away from the line of fire »¹¹².

A nurse witnessed some events that took place at Tel al-Sultan from 17 or 18 May. While the Israeli army was laying siege to the district and shutting off any access to Tel al-Sultan, tanks started to demolish a part of the clinic, just as the medical staff were coming under fire from the army :

« As the rumour of an imminent attack on Tel al-Sultan went the rounds, preparations had been made to open up the clinic's emergency service 24 hours/24 hours (normally we open 12 hours/12 hours) since the day before (17th May 2004). To us it was rather a surprise because we knew that the IDF usually would look for tunnels but the sub-soil right up to Egypt is sand [making it impracticable to dig a tunnel]. So, the objective must have been something else.

That night, I had reported for duty on Monday at 8.00a.m. I returned home at 2.30 p.m. and returned in the evening at 7.00p.m to prepare for emergencies. Up until 1.00 p.m. there was nothing out of the ordinary. There were just helicopters flying around. At about 4.00 a.m. (we were having our morning prayers) missiles were fired on the mosque opposite. There was an electricity supply failure. We got out torches, then candles and lit the gas lamps. We were so scared that we knocked them over and broke them. There were two tanks parked just besides us. They fired. We were very scared. A quarter of an hour later, we heard a big explosion. The windows had been blown in by the explosion. There were two tanks parked on each side of the clinic and the noise we heard was the tank ramming the outside wall of the clinic. There had been no warning and sub machine gun fire was directed into the inside. It continued to move forwards and demolished the wall of the pharmacy. You can see the broken window and the impact of the bullets on the wall. We were about nine meters away from the barrel. We took the gas lamp and ran to hide ourselves right at the back of the infirmary. This was the safest room. We were in a state of extreme fear and stress. We expected to be killed at any moment. The ambulance staff there at the time in the corner saw that there were two tanks and a bulldozer. They tried to avoid the tanks but this was impossible, they were everywhere and they had returned. Opposite there was a sniper on the roof. He could see us moving around with the lamps and could fire on sight »¹¹³.

Moreover, on 20 May in Brazil, an authorised ambulance was buried in the sand and the rubble by two bulldozers on the Israeli army. The ambulance driver gives an account :

« I was in contact with the DCO. I followed the DCO's instructions until I approached the house, about 50 meters away. We were also in touch with the family. There were two tanks in front of the house, one in front of the door and the other beside it in the street near the mosque. I called the DCO to tell them that people in the house could not leave it. The DCO told me to wait. The tank fired a burst of sub-machine gun fire at a spot just beside me. I ran back to the crossroads in contact with the DCO explaining that there were shots being fired. The DCO ordered me to wait. This was about 10.30 a.m. or 11.00 a.m. A bulldozer had blocked off the road behind us with some sand and all exits were shut off. Another bulldozer approached me from the other side and began to blow its horn. I thought that I should give way to it and that it wanted to remove the sand that blocked the road. Its horn blew increasingly louder and I did not know why. It began to force me towards the sand dune. My ambulance was blocked by the dune. It fired on us (I was with two volunteers). I was in contact with the DCO when the bulldozer pushed me aside. I was stuck in the sand. The bulldozer began to pour sand on to the ambulance. We were stuck. I waited to die. We stayed for an hour and a quarter in the sand. I tried to do everything : to contact the DCO who did not

¹¹² Account N°1.

¹¹³ Account N°3.

receive any news through the Israelis; to contact another ambulance to contact the CICR »

All of these accounts reported that hospitals, vehicles and the staff involved in protecting and caring for the sick and injured were targeted by the Israeli armed forces. These forces have since then infringed a whole raft of important provisions of international humanitarian legislation that requires genuine inviolability of health establishments and units, as well as the protection of the medical staff. Article 18 of the Fourth Geneva Convention prescribes in effect that « civil hospitals set up to care for the wounded, the sick, the infirm and women in labour cannot in any circumstances be subject to attack ; they will at all time be respected by those parties in conflict with one another ». As far as the staff in the hospitals are concerned article 20 in the same Convention is worded as follows : « Staff regularly and solely assigned to the running and the administration of civil hospitals , including staff involved in research, picking up, transport and treatment of the civilian injured and sick, the infirm and women in labour will be respected and protected ».

Article 21 of the Fourth Geneva Convention states that the convoys of vehicles « conveying wounded and sick civilians...shall be respected and protected in the same manner as the hospitals[...] ». This provision has been violated on numerous occasions by the Israeli State when gunshots or even bulldozers have prevented ambulances from proceeding. Article 15 of Protocol I has also been violated , in particular paragraph 3, which requires « the Occupying Power shall afford civilian medical personnel in occupied territories every assistance to enable them to perform...their humanitarian functions». It is appropriate to add to the acts of violence reported above the facts relating to the coordinated effort that was refused or delayed¹¹⁴. In any case, the delays forced on the coordinated effort cannot be compared to the control and security measures as prescribed by § 4 of the same article. The emergency first aid services but also the emergency funeral services are, under the terms of article 62 of Protocol I, «entitled to perform their civil defence tasks except in case of imperative military necessity ». On 18 May , at Tel al Sultan, more than 4 hours were required to clear the bodies of two children who were killed on the roof of their home. The brother of the two victims gives the account :

« The two bodies remained there in the room for 4 hours. We called the Red Crescent , we called for an ambulance on the radio. That was Radio Chebab. Azmi Bichara [deputy arable member of the Knesset] called us even, he promised an ambulance in ten minutes. He called [the Israeli Minister of Defence, Mr Shaul] Mofaz...The ambulance arrived 4 hours later, with four other bodies inside, They were lying one on top of the other. They tried to carry out a coordinated effort for the funeral arrangements, However all coordinated activity was forbidden. My father asked his cousins to bury them at the cemetery ».

The fact that the evacuation of the wounded and the bodies of dead people was prevented constitutes an obstacle to the execution of humanitarian tasks aimed at protecting the population from the dangers of hostilities and aimed at overcoming their immediate effects. The closing of the *Sufa Morag checkpoint* had similar consequences , in particular on 19 May when the bodies and the wounded that were surging into the An- Najjar hospital following the bombing of the demonstration could not be moved to the hospitals to the North of Rafah. These obstacles on the way of medical assistance do not only constitute breaches of international humanitarian legislation. They can lead to a breach of the right to health as guaranteed by article 21 of the International Covenant on Economic, Social and Cultural Rights ; the Committee of independent experts responsible for ensuring that this Covenant is observed has noted for example that

The State can evade the obligation to observe any provisions through actions, policies or even laws contrary to the standards stated at article 12 of the Agreement and likely to undermine the well being of the person, to cause incapacity, and death which it would be possible to prevent. One can cite as an example the denial of access to health facilities and to other various goods and services relating to health suffered by certain individuals and groups.¹¹⁵

Apart from the health and medical aid , the protection of civilians that are subject to armed conflict suggests that these civilians can be provided with food and other essential commodities for survival. During the rainbow operation , UNRWA, WHO, and CICR and many NGOs gave warning of the deterioration of the humanitarian situation in Rafah and of the lack of drinking water and food. Humanitarian convoys from these various organisations were delayed or were prevented from continuing¹¹⁶. Article 23 of the Fourth Geneva Convention requires that free passage be given to any drugs being despatched and that it be authorised to despatch essential foodstuffs, and clothes etc. Where the civilian population cannot be adequately provided for « the occupying Power will agree to assistance to help the population and will ensure that this aid is provided as far as possible.¹¹⁷ ». By delaying the humanitarian aid that was on its way to Rafah and by refusing humanitarian aid to enter Tel al Sultan¹¹⁸, the Israeli army has clearly violated the obligations that are incumbent to it by virtue of international humanitarian legislation.

It has not been possible to establish with accuracy the number of victims who, during the « Rainbow » operation , could have been saved if the Israeli armed forces had helped along, as they were obliged to do, the transportation of the wounded. It is clear however that such situations took place. The Palestinian population saw those obstacles to access to medical aid as being purely annoying, and an additional demonstration of the collective punitive policy carried out against it by the occupying Israeli power. This view is shared by several of the representatives of United Nations agencies in the field, that the mission representatives came across.

¹¹⁴ See. *Supra*.

¹¹⁵ Committee on economic, social and cultural rights, General observation n°14 (2000): the right to have a better state of health (article 1`2 of the Agreement), para 50

¹¹⁶ See: the sequence of events above

¹¹⁷ Article 59, CGI.

¹¹⁸ WHO, *Health Situation Report, Rafah, 21 May 2004*.

IX. Conclusions and recommendations

The FIDH report follows upon several other recent reports dealing with attacks committed by the Israeli Defence Forces in the Palestinian enclaves of the West Bank or Gaza.¹¹⁹ The statements made in these reports match one another. These reports denounce the arbitrary large-scale demolition of private houses without there being any convincing reason relating to « military necessity ». The reports talk of cultivated plots of land, greenhouses being destroyed and trees especially olive trees being uprooted. They describe the obstacles deliberately placed in the way of the wounded during military operations. In brief, they present a picture of a Palestinian civilian population being punished for attacks made by certain armed Palestinian militants, and against which Israel has launched a campaign of reprisals hardly concealed behind the justifications it offers for the behaviour of its armed forces. The challenge is not in establishing the facts. It is in estimating the repercussions.

The FIDH urges the authorities of the State of Israel to:

- Stop immediately its policy of house demolitions by the Israeli Defence Forces and to draw up an appropriate legal framework, in accordance with the international obligations of the State of Israel, before any further demolition activity. Such a legal framework must in particular provide for prior notification of the decision to carry out any further demolition, together with an explanation relating to the military necessities that justify this in the eyes of the authorities, and the possibility of appealing against this decision, before a court recognized the power to suspend the decision to proceed to demolitions.
- Prepare, before any incursion of the Israeli Defence Forces in to the Occupied Palestinian Territories, a humanitarian plan that implements the obligation to take precautionary measures following from article 57 of the Protocol I additional to the Geneva Conventions of 12 August 1949. Such a plan should especially include provisions relating to the evacuation of the wounded in areas of operation to hospitals that are equipped and with the required capability as well as an accurate description of the military objectives being pursued; this would allow an assessment as to whether the means chosen are appropriate and proportionate with regard to the military objectives pursued, and whether the objectives designated as targets have been adequately chosen.
- During the « Rainbow » operation, the residents of Rafah have suffered from arbitrary deprivation of life. This must lead to a prompt, independent, and impartial investigation, which should be launched as soon as possible. The investigation must be in the hands of an instance recognized the necessary powers to conduct it effectively. The FIDH requests to be informed of the investigations which the Rainbow operation will lead to, as well as of the conclusions these investigations lead to. This applies in particular to the firing of shells on the demonstrators at the North-East Rafah exit on Wednesday 19th May 2004, but also to the executions of civilians during the curfew at Tel al Sultan between the 18th and the 20th May¹²⁰.
- As an organ of the State, the Judiciary of Israel is bound by its international obligations. It must therefore contribute to the full compliance with these obligations, within the boundaries of its attributed powers. The judiciary should remind the Chief of Staff of the IDF of the obligations which the international treaties it has ratified impose on Israel. The judiciary should also facilitate compliance with these international obligations by specifying in detail the implications these obligations may have, in the context of operations carried out by the armed forces.

The FIDH recommends that the members of the IDF receive improved training in international humanitarian law, and that the highest military and civilian authorities publicly reaffirms their commitment to ensure that this law is complied with in field operations.

FIDH also considers that it is the duty of the Palestinian authority:

To take every reasonable step proper to avoid that civilian buildings, or a building in which civilians are located, be used for launching attacks against the Israeli armed forces. Should such attacks take place, they would place the Palestinian civilian population, including people not taking any part in the hostilities, in a particularly dangerous and vulnerable situation. The Palestinian authorities must prevent such activity, just as it must prevent, generally, attacks being perpetrated against Israeli civilians, civilians being inside the Israeli territory or Israeli settlers occupying, in violation of international law, parts of the Palestinian territory.

FIDH considers that the international community must also assume its responsibility for the events in Rafah and for the similar operations that take place at regular intervals in the the occupied Palestinian territories. FIDH regrets having to observe that States act too often, in relation to violations of international humanitarian legislation and international human rights legislation committed by Israel in the occupied Palestinian territory, in a way like university research centres or like non-governmental organisations :

¹¹⁹ See especially B'Tselem, Policy of Destruction, House Demolition and Destruction of Agricultural Land in the Gaza Strip, February 2002; Amnesty International, Israel and the Occupied Territories: Demolition and dispossession: the destruction of Palestinian homes, December 1999, AI Index MDE 15/59/99; Amnesty International, Israel and the Occupied Territories: Shielded from scrutiny: IDF violations in Jenin and Nablus, November 2002, AI Index MDE 15/143/2002; Amnesty International, Israel/Occupied Territories: Wanton destruction constitutes a war crime, October 2003, AI Index MDE 15/091/2003; Amnesty International, Israel and the Occupied Territories. Under the rubble : House demolitions and the destruction of land and property, May 2004, AI Index MDE 15/033/2004.

¹²⁰ Seven people were killed when they were at home, by bullets fired by an IDF sniper. Of those killed were Ahmed Mohammed al-Mughayar and Asmaa Mohammed al-Mughayar. The FIDH representatives obtained an account of these deaths from their brother. Five men were killed when they responded to an appeal from the authorities asking all men between 16 and 60 years of age to make their way to schools in order to gather there.

although they are informed of these violations and although, should the opportunity arise, they condemn and appeal to Israel for this State to comply with international law, they do not take the action that would contribute towards compliance of this international law. The following action especially appears to the FIDH to be what may be needed to encourage Israel to meet its international obligations, and to encourage a return to political dialogue with the Palestinian authority rather than continuing a unilateral policy based on intimidation.

FIDH urges States of the international community to:

- Decree an embargo on weapons destined for Israel as suggested by the UN Human Rights Commission Special Representative for the Occupied Palestinian Territories.
- Impose an embargo on equipment used for demolition of houses by the Israeli armed forces. The United States, where Caterpillar Inc. is located, has a particular responsibility in this regard; Caterpillar provides Israel with bulldozers with which the IDF carry out the house demolition work that has already been recorded. It is inconsistent to condemn this demolition activity and not to take any steps, against an economic player over which the United States has some influence, to discourage it continuing this action.

The FIDH notes that Caterpillar, Inc. is incorporated and has its headquarters in the United States of America. As such, it is civilly liable under the Alien Tort Claims Act 1789 (28 U.S.C 1350) for any damage caused to non-US citizens by the violation of the law of nations which it may have committed. Under the precedent set in other cases presented to the US federal courts, its joint action with the Israeli Government, to which Caterpillar Inc. sells bulldozers while knowing that they shall be used to demolish houses as prohibited under the Fourth Geneva Convention, may imply such a liability. Caterpillar Inc. is requested to cease immediately its relationship with the Israeli Government.

- Give mandate to international observers in the field, to report the actions of each of the parties in a comprehensive and objective manner. These observers should be given a guarantee of safety by both parties and an unrestricted freedom to move throughout the whole of the occupied territories should be guaranteed. There should be a sufficient number of them to be able to observe rigorously all significant developments in the field.
- Decide to send in an international protection force mandated to prevent a continuation of the violations and to ensure the implementation of adequate Security Council resolutions, only possible condition for restoring peace in the region. The sending of such a force is part of the obligation by States party to the Fourth Geneva Convention to “take measures necessary for the suppression of all acts contrary to the provisions of the (...) Convention”.
- Demand from Israel total reimbursement of the additional costs faced by UNRWA following the demolition of houses and for the obligation it had to meet in providing humanitarian care and re housing of the victims involved. It is unusual and inconsistent that Israel can with complete impunity continue to let the international community, by way of UNRWA, bear the heavy budgetary burden of a policy of destroying civil property, a policy that is being pursued in violation of international law.
- Prosecute those who are responsible for war crimes. Article 146 of the Fourth Geneva Convention of 12 August 1949, extended by article 85 of Protocol I addendum of 1977, imposes an obligation on States party to these Conventions to search for and prosecute people guilty of war crimes. It is unacceptable that those responsible for the crimes condemned in this report, and in numerous reports that have preceded it, continue to take advantage of their immunity from punishment.

The FIDH calls upon the States of the European Union to:

Make use of article 2 -the clause relating to Human Rights- of the Association Agreement between the EU and Israel.

Paris, 15 June 2004,

To Israeli Defense Forces Spokesperson Unit

Re: International Federation for Human Rights mission to the Gaza strip - June 2004

The International Federation for Human Rights is an international non-governmental organisation created in 1922, which has consultative status with the United Nations, the UNESCO, and the Council of Europe, of which 142 human rights organisations are members, covering all the regions of the world. In June 2004, a mission of the FIDH conducted an investigation into the "Rainbow operation" led by the Israeli Defence Forces in Rafah (16 May-24 May). This set of questions has been prepared for the IDF upon the suggestion of the officer whom the mission could speak to, but who was unable to answer a number of questions which were submitted to him. The FIDH is extremely grateful to the IDF authorities for their cooperation. It would request an answer for Wednesday, June 23. The answers may be sent either by telefax to the FIDH (00 33 - 1 43 55 18 80), or by e-mail to Ms Stéphanie David, sdavid@fidh.org.

- 1- At which date was the "Rainbow" operation decided?
- 2- What was the purpose of the operation when it was decided?
- 3- In the view of the Israeli authorities, was the operation successful, i.e., did it adequately fulfil its objectives?
- 4- Which military objective was served by the destruction or damaging of civilian infrastructures in Tal-es-Sultan, in the North-Eastern part of Rafah?
- 5- The investigation mission of the FIDH examined in particular the demolition of houses in Rafah. Were the inhabitants of the houses targeted by those demolitions given previous warning, and did they have time to prepare themselves to leave?
- 6- Which houses were targeted for demolition in Rafah?
- 7- We understand that the "Rainbow" operation led the IDF to uncover three tunnels through which smuggling could have taken place from Egypt. Where precisely were these tunnels located?
- 8- Were wanted persons or others arrested during the "Rainbow" operation? In the affirmative, how many arrestations took place during the operation? On which basis are these arrests justified?
- 9- Did the Israeli Defence Forces suffer any casualty during the "Rainbow" operation?

Israeli IDF Int.	Defense Spokesperson Org.	Forces Unit Desk
Tel:	972-3-6080220/358	
Fax:	972-3-6080343	
2083		N-1
15 th	July	2004



Dear Mr. De Schutter,

Thank you for your inquiry.

Attached is the IDF's response regarding the questions you had raised in your letter concerning "Operation Rainbow" in Rafah.

Should you have any further questions, please feel free to contact our office.

Sincerely,

Maj.

Sharon Feingold

Head of Foreign Press and Public Affairs

IDF Media and Communications Division

Re: Response to Query

On May 18, 2004, the IDF began an operation to uncover weapon- smuggling tunnels. The operation began following a week in which Palestinians fired anti-tank missiles at army vehicles, resulting in the deaths of 11 IDF soldiers. These missiles were smuggled into the Gaza Strip via the tunnels, thus heightening the urgent need to operate against the infrastructure facilitating such weapon smuggling tunnels. The operation was dubbed "Operation Rainbow."

The IDF uncovered three weapons smuggling tunnels during the operation, and arrested key operatives, striking at the terror and weapons-smuggling infrastructure.

Only under specific operational circumstances is it necessary, to demolish structures, and this only when there is no other alternative. The following are the conditions under which a structure may be demolished:

1. Gunmen using the structures as shelter from which to attack forces.
International law states that in cases in which structures are used as shelter for hostile operations, they lose their immunity and may be targeted.
2. Movement of heavy vehicles forced off the main routes. Main routes were heavily rigged with explosives (150 kg. at times), proving fatal and dangerous for the forces. Therefore, the vehicles were forced to use side roads and back yards. Being heavy armored vehicles raveling through narrow alleys and yards, damage to the surrounding structures was inevitable. If it were not for Palestinians rigging the roads with explosive devices, the IDF would not have been forced to travel through narrow alleys and yards.
3. Wires for explosive materials leading to a structure.
4. Structures providing cover for weapons smuggling tunnels.

Throughout the operation, and as a guiding rule, no structure is ever demolished while innocent civilians are still inside, and were not warned of the upcoming demolition.

Several Palestinians were questioned in the framework of the operation, targeted at the terrorist infrastructure in Rafah. Those questioned were suspected to be involved in terrorist activity, most of them were released during the operation, and other central operatives were taken for further investigation. The arrest of the terror operatives has

lead to uncovering additional tunnels following the operation and contributed greatly to fighting the terror infrastructure in Gaza.

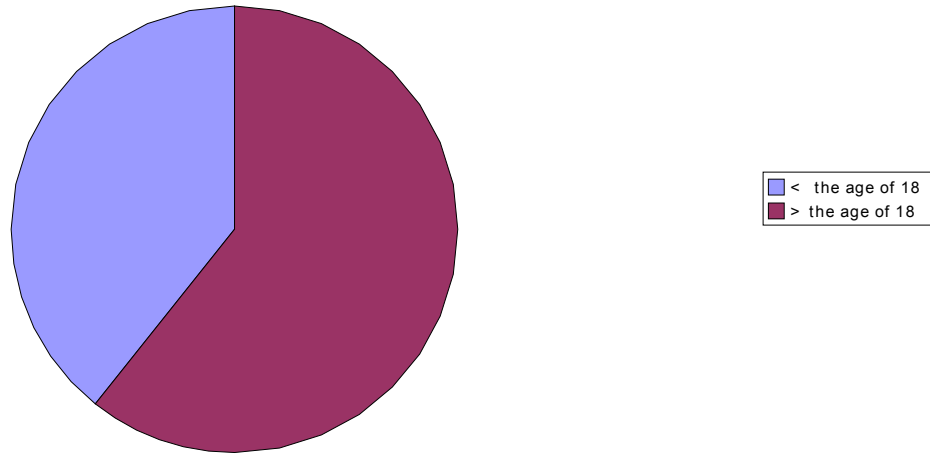
It should be stressed that during the operation, the IDF did everything in its power to minimize the harm caused to the non-combatant population. Many humanitarian steps were taken, among them coordinating the passage of dozens of ambulances, trucks with food, water, medicine and medical supplies, mattresses and blankets. In addition, many oxygen tanks were able to cross and get to the hospital in Gaza. When possible, wounded Palestinians were able to receive medical treatment in Israel.

In addition, in the midst of the fighting and clashes, IDF officers were in constant contact with the Palestinian factors and ICRC workers involved in humanitarian aid. As part of this relationship, every combat battalion was assigned a liaison officer whose task was to attend to any humanitarian need that arises.

As to your question regarding casualties to IDF forces, it should be noted that throughout the operation IDF forces encountered a lot of hostile activity such as explosive devices, throwing hand grenades, firing at the forces and firing anti-tank missiles. While there were no fatalities, it does not mean the forces were not in grave danger during the operation.

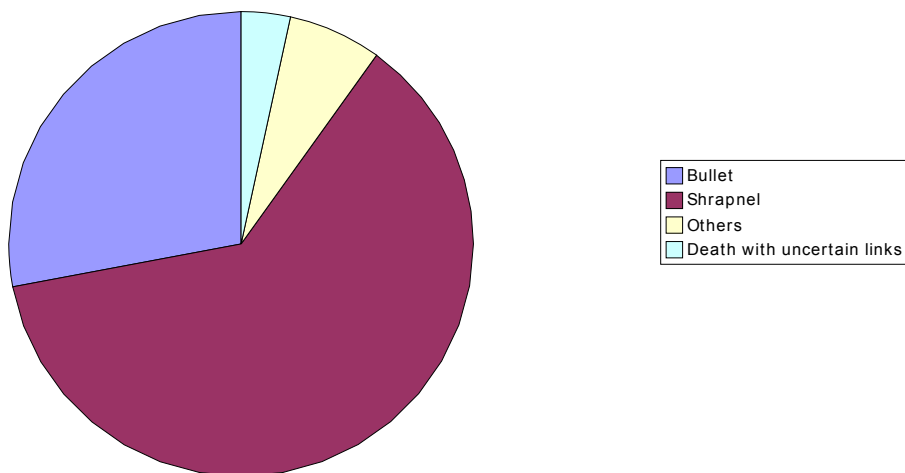
Pie charts established by Médecins du monde (MDM), from An-Najjar Hospital records for Operation “Rainbow”

Deceased according to age group (under and above the age of 18)



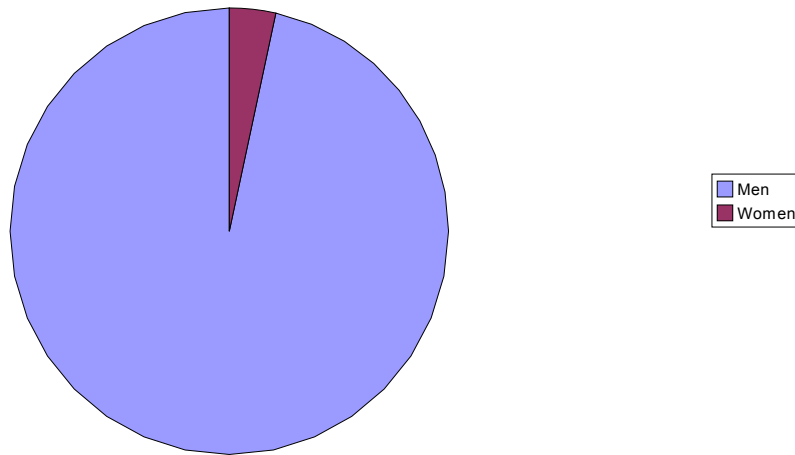
< the age of 18	> the age of 18
24	37

causes of death



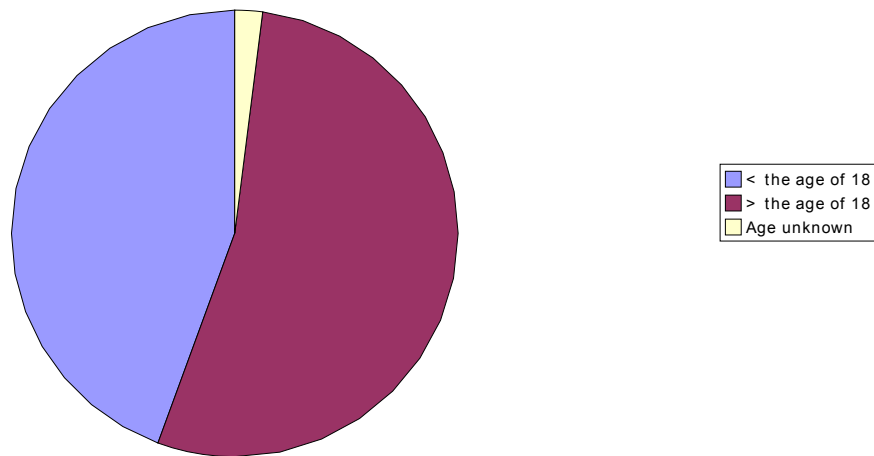
Bullet	Shrapnel	Others	Death with uncertain links
17	38	4	2

Breakdown of deceased people according to the gender



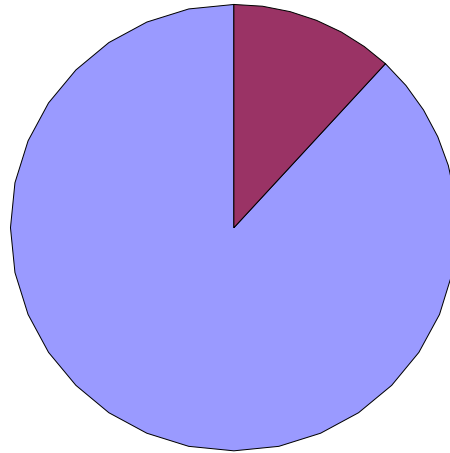
<u>Men</u>	<u>Women</u>
<u>59</u>	<u>2</u>

Injured people by age



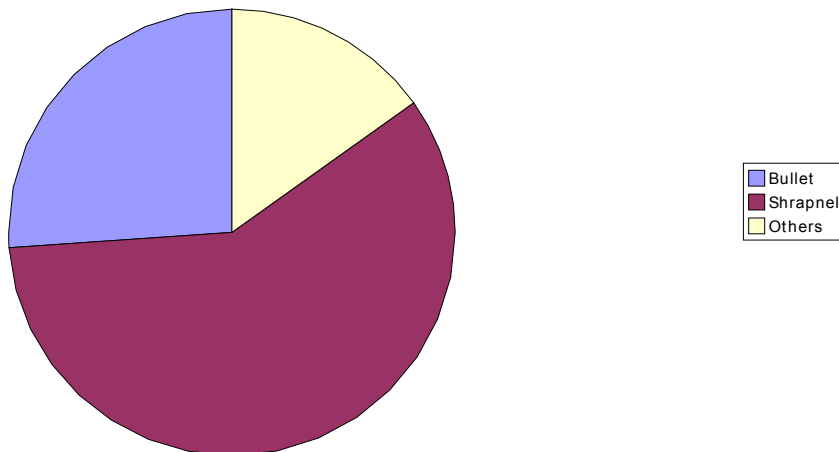
<u>< the age of 18</u>	<u>> the age of 18</u>	<u>Age unknown</u>
94	113	4

Injured people by gender



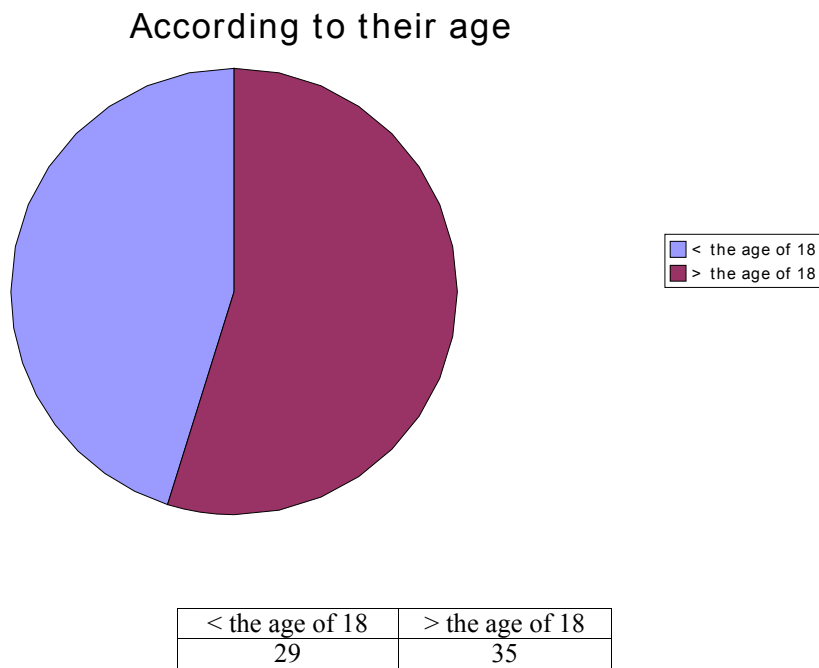
Men	Women
186	25

Injured people by type of wounds

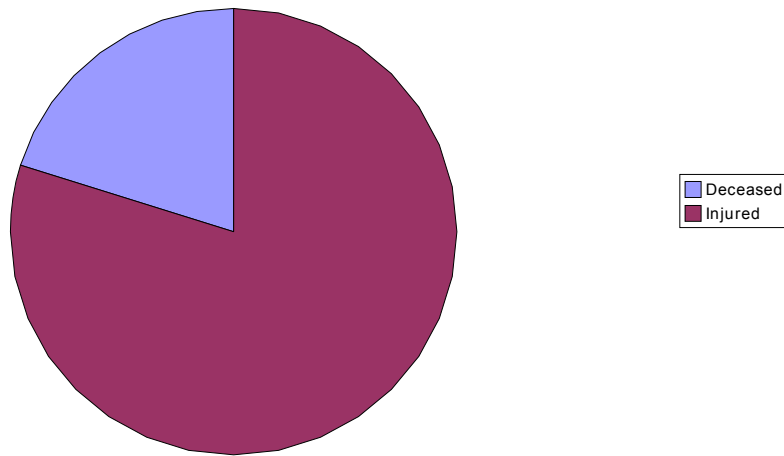


Bullet	Shrapnel	Others
55	124	32

Victims of the repression of the pacific demonstration on 19 May 2004:

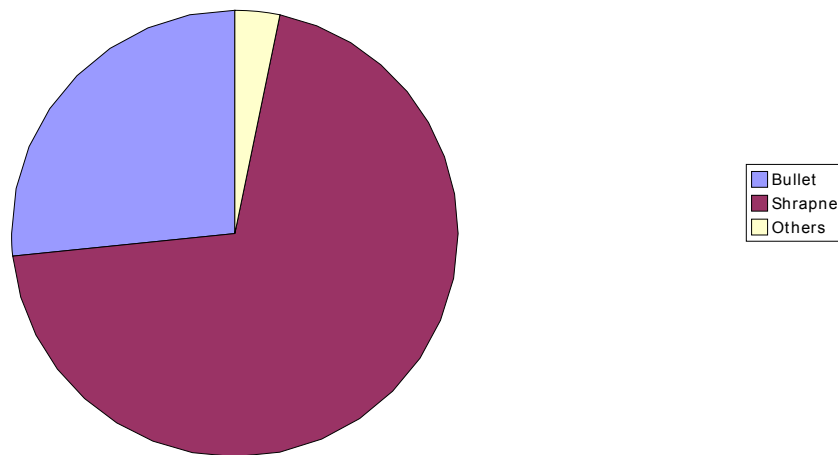


Breakdown according to deceased and injured people:



Deceased	Injured
13	51

According to the type of wounds



Bullet	Shrapnel	Others
17	45	2

FIDH represents 141 Human Rights organisations

141 organisations

- Afrique du Sud**-Human Rights Committee of South Africa
Albanie-Albanian Human Rights Group
Algérie-Ligue Algérienne de Défense des Droits de L'Homme
Algérie-Ligue Algérienne des Droits de L'Homme
Allemagne-Internationale Liga für Menschenrechte
Argentine-Centro de Estudios Legales y Sociales
Argentine-Comite de Accion Juridica
Argentine-Liga Argentina por los Derechos del Hombre
Autriche-Osterreichische Liga für Menschenrechte
Azerbaïjan-Human Rights Center of Azerbaijan
Bahrein-Bahrain Human Rights Society
Bangladesh-Odhikar
Bélarus-Human Rights Center Viasna
Belgique-Liga Voor Menschenrechten
Belgique-Ligue des Droits de L'Homme
Bénin-Ligue pour la Defense des Droits de L'Homme Au Bénin
Bhutan-People's Forum for Human Rights in Bhutan (Nepal)
Bolivie-Asamblea Permanente de los Derechos Humanos de Bolivia
Brésil-Centro de Justicia Global
Brésil-Movimento Nacional de Direitos Humanos
Burkina Faso-Mouvement Burkinabe des Droits de L'Homme & des Peuples
Burundi-Ligue Burundaise des Droits de L'Homme
Cambodge-Cambodian Human Rights and Development Association
Cambodge-Ligue Cambodgienne de Défense des Droits de L'Homme
Laos (France)-Mouvement Lao pour Les Droits de L'Homme
Cameroun-Maison des Droits de L'Homme
Cameroun (France)-Ligue Camerounaise des Droits de L'Homme
Canada-Ligue des Droits et des Libertés du Québec
Centrafrique-Ligue Centrafricaine des Droits de L'Homme
Chili-Comite de Defensa de los Derechos del Pueblo
Chine-Human Rights in China
Colombie-Comite Permanente por la Defensa de los Derechos Humanos
Colombie-Corporacion Colectiva de Abogados Jose Alvear Restrepo
Colombie-Instituto Latinoamericano de Servicios Legales Alternativos
Congo Brazzaville-Observatoire Congolais des Droits de L'Homme
Côte d'Ivoire-Ligue Ivoirienne des Droits de L'Homme
Côte d'Ivoire-Mouvement Ivoirien des Droits de L'Homme
Croatie-Civic Committee for Human Rights
Cuba-Comision Cubana de Derechos Humanos y Reconciliacion National
Ecosse-Scottish Human Rights Centre
Egypte-Egyptian Organization for Human Rights
Egypte-Human Rights Association for the Assistance of Prisoners
El Salvador-Comision de Derechos Humanos de El Salvador
Equateur-Centro de Derechos Economicos y Sociales
Equateur-Comision Ecumenica de Derechos Humanos
Equateur-Fundacion Regional de Asesoría en Derechos Humanos
Espagne-Asociacion Pro Derechos Humanos
Espagne-Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos
Etats Unis-Center for Constitutional Rights
Ethiopie-Ethiopian Human Rights Council
Finlande-Finnish League for Human Rights
France-Ligue des Droits de L'Homme et du Citoyen
Georgie-Human Rights Information and Documentation Center
Grèce-Ligue Hellenique des Droits de L'Homme
Guatemala-Centro Para la Accion Legal en Derechos Humanos
Guatemala-Comision de Derechos Humanos de Guatemala
Guinée-Organisation Guineenne pour la Defense des Droits de L'Homme
Guinée Bissau-Liga Guineense dos Direitos do Homen
Irak (Royaume Uni)-Iraqi Network for Human Rights Culture and Development
Iran-Centre des Defendeurs des Droits de L'Homme en Iran
Iran (France)-Ligue de Defense des Droits de L'Homme en Iran
Irlande-Irish Council for Civil Liberties
Irlande du Nord-Committee On the Administration of Justice
Israël-Adalah
Israël-Association for Civil Rights in Israel
Israël-B'tselem
Israël-Public Committee Against Torture in Israel
Italie-Liga Italiana Dei Diritti Dell'uomo
Italie-Unione Forense Per la Tutela Dei Diritti Dell'uomo
Jordanie-Amman Center for Human Rights Studies
Jordanie-Jordan Society for Human Rights
Kenya-Kenya Human Rights Commission
Kosovo-Conseil pour la Defense des Droits de L'Homme et des Libertés
Kyrgistan-Kyrgyz Committee for Human Rights
Lettonie-Latvian Human Rights Committee
Liban-Association Libanaise des Droits de L'Homme
Liban-Foundation for Human and Humanitarian Rights in Lebanon
Liban-Palestinian Human Rights Organization
Liberia-Liberia Watch for Human Rights
Libye (Suisse)-Libyan League for Human Rights
Lithuanie-Lithuanian Human Rights Association
Malaisie-Suaram
Mali-Association Malienne des Droits de L'Homme
Malte-Malta Association of Human Rights
Maroc-Association Marocaine des Droits Humains
Maroc-Organisation Marocaine des Droits Humains
Mauritanie-Association Mauritanienne des Droits de L'Homme
Mexique-Comision Mexicana de Defensa y Promocion de los Derechos Humanos
Mexique-Liga Mexicana por la Defensa de los Derechos Humanos
Moldova-League for the Defence of Human Rights
Mozambique-Liga Mocancicana Dos Direitos Humanos
Nicaragua-Centro Nicaraguense de Derechos Humanos
Niger-Association Nigérienne des Droits de L'Homme
Nigeria-Civil Liberties Organisation
Nouvelle Calédonie-Ligue des Droits de L'Homme de Nouvelle Calédonie
Ouganda-Foundation for Human Rights Initiative
Pakistan-Human Rights Commission of Pakistan
Palestine-Al Haq
Palestine-Palestinian Centre for Human Rights
Panama-Centro de Capacitacion Social
Pays Bas-Liga Voor de Rechten Van de Mens
Pérou-Asociacion Pro Derechos Humanos
Pérou-Centro de Asesoría Laboral
Philippines-Philippine Alliance of Human Rights Advocates
Polynésie Française-Ligue Polynésienne des Droits Humains
Portugal-Civitas
RDC-Ligue des Electeurs
RDC-Association Africaine des Droits de L'Homme
RDC-Groupe Lotus
République de Djibouti-Ligue Djiboutienne des Droits Humains
République Tchèque-Human Rights League
Roumanie-Ligue pour la Defense des Droits de L'Homme
Royaume-Uni-Liberty
Russie-Citizen's Watch
Russie-Moscow Research Center for Human Rights
Rwanda-Association pour la Defense des Droits des Personnes et Libertés Publiques
Rwanda-Collectif des Ligues pour la Defense des Droits de L'Homme Au Rwanda
Rwanda-Ligue Rwandaise pour la Promotion et la Defense des Droits de L'Homme
Sénégal-Organisation Nationale des Droits de L'Homme
Sénégal-Rencontre Africaine pour la Defense des Droits de L'Homme
Serbie et Montenegro-Center for Antirwar Action - Council for Human Rights
Soudan (Royaume Uni)-Sudan Organisation Against Torture
Soudan (Royaume-Uni)-Sudan Human Rights Organization
Suisse-Ligue Suisse des Droits de L'Homme
Syrie-Comite pour la Defense des Droits de L'Homme en Syrie
Tanzanie-The Legal & Human Rights Centre
Tchad-Association Tchadienne pour la Promotion et la Defense des Droits de L'Homme
Tchad-Ligue Tchadienne des Droits de L'Homme
Thaïlande-Union for Civil Liberty
Togo-Ligue Togolaise des Droits de L'Homme
Tunisie-Conseil National pour Les Libertés en Tunisie
Tunisie-Ligue Tunisienne des Droits de L'Homme
Turquie-Human Rights Foundation of Turkey
Turquie-Insan Haklari Demegi / Ankara
Turquie-Insan Haklari Demegi / Diyarbakir
Union européenne-FIDH AE
Uzbekistan-Legal Aid Society
Vietnam (France)-Comite Vietnam pour la Defense des Droits de L'Homme
Yemen-Human Rights Information and Training Center
Yemen-Sisters' Arabic Forum for Human Rights
Zimbabwe-Zimbabwe Human Rights Association Zimrights

The International Federation for Human Rights (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, the FIDH has 141 national affiliates in all regions. To date, the FIDH has undertaken more than a thousand international fact-finding, judicial, mediation or training missions in over one hundred countries.

La Lettre

is published by Fédération Internationale des Ligues des Droits de l'Homme (FIDH), founded by Pierre Dupuy. It is sent to subscribers, to member organisations of the FIDH, to international organisations, to State representatives and the media.

17, passage de la Main d'Or - 75011 - Paris - France
 CCP Paris : 76 76 Z
 Tel : (33-1) 43 55 25 18 / Fax : (33-1) 43 55 18 80
 E-mail: fidh@fidh.org/ Internet site: <http://www.fidh.org>

ABONNEMENTS - (Euros)

La Lettre - France - Europe : 25 Euros - Etudiant - Bibliothèque : 20 Euros - Hors Europe : 30 Euros
Les rapports - France - Europe : 50 Euros - Etudiant - Bibliothèque : 30 Euros
 Hors Europe : 60 Euros - **La Lettre** et les rapports de mission - France - Europe : 75 Euros
 Etudiant - Bibliothèque : 50 Euros - Hors Europe : 90 Euros

Director of the publication: Sidiki Kaba
 Editor: Antoine Bernard
 Assistant of publication: Céline Ballereau-Tetu
 Authors of this report : Olivier De Schutter, Laurence Weerts.
 Original : French - ISSN en cours.
 Printing by the FIDH.
 Dépot légal October 2004 - Commission paritaire N°0904P11341
 Fichier informatique conforme à la loi du 6 janvier 1978
 (Déclaration N° 330 675)

prix : 4 Euros / £ 2.50