



المركز الفلسطيني لحقوق الإنسان
PALESTINIAN CENTRE FOR HUMAN
RIGHTS

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PCHR welcomes the Spanish National Court's decision to continue investigating suspected Israeli war criminals

Today, 4 May 2009, Judge Fernando Andreu of the Spanish *Audencia Nacional* (National Court) announced his decision to continue the investigation into the events surrounding the al-Daraj bombing of July 2002. This attack resulted in the deaths of 16 Palestinians, including 14 civilians. The decision represents a major step towards achieving justice for victims. It opens the door for accountability, whereby suspected Israeli war criminals may be held responsible for the suffering they have inflicted on the Gazan people.

The Palestinian Centre for Human Rights (PCHR), the victims of this attack, and all Palestinians who have suffered at the hands of Israel's brutal and illegal occupation, wholeheartedly welcome this decision.

The Spanish Court explicitly rejected the arguments of the Spanish Prosecutor and the State of Israel, claiming that Israel had adequately investigated the crime. The judge has confirmed that this position is incorrect, and contrary to the rule of law. The Court ruled that, in view of the status of Gaza as an occupied territory (i.e. not part of Israel), Spanish criminal law does not accord Israel primary jurisdiction over suspected Israeli war criminals.

The victims and their legal team have placed their trust in the criminal justice system, believing that this is the only mechanism whereby accountability can be pursued and Israel's impunity combated. Judge Fernando Andreu's judgment indicates that, even in the face of considerable political pressure – including statements made by the Spanish Foreign Minister Moratinos – this trust in the rule of law is justified. This decision confirms the credibility and independence of the Spanish Courts.

On 22 July 2002, at approximately 11:55 pm, an Israeli Air Force F16 fighter jet dropped a 985 kilogramme bomb on a three-storey apartment building. The attack was intended to kill Salah Shehade, the suspected leader of the *Izzidin al-Qassam* Brigade, Hamas' military wing. The apartment building was located within the densely populated Al Daraj district, a residential neighbourhood in Gaza City. At the time of the attack, Shehade was on the upper floor of the building. As a result of the blast impact, eight other adjoining and nearby apartment buildings were completely destroyed, nine were partially destroyed, and another 21 sustained considerable damage. Excluding Shehade and his guard, a total of 14 civilians were killed, including eight children. Approximately 150 civilians were injured.

Israeli Occupation Force (IOF) officials have acknowledged that they decided to drop the bomb on Shehadeh's house knowing his wife was with him, intentionally killing her as well. The decision to attack apparently also took into consideration the possibility that, along with Shehadeh, approximately 10 civilians would also be killed.

This attack was planned in advance, targeted a densely populated residential area, and was conducted at a time when it could reasonably be expected that there would be an extremely high number of civilians present. This attack constitutes a grave breach of the Geneva Conventions of 1949, and as part of wide spread and systematic war crimes, it also classifies as a crime against humanity.



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This case was taken before the Spanish Courts by a legal team consisting of Gonzalo Boye, Antonio Segura, their Spanish associates, PCHR, and Hickman & Rose in London.

The legal team will redouble its efforts to demonstrate that the al-Daraj bombing was only one of a number of widespread and systematic Israeli war crimes committed against Palestinian civilians in the occupied Palestinian territory since June 1967. The commission of these crimes intensified consequent to the beginning of the second *intifada* in September 2002. The Court will have sufficient evidence to judge that, as part of a policy of widespread and systematic attacks directed against a civilian population, the al-Daraj bombing was a crime against humanity.

A Spanish language version of the judgment is available on PCHR's website.