



PALESTINIAN CENTRE FOR HUMAN RIGHTS

Raji Sourani
Director
Palestinian Centre for Human Rights
Gaza
Occupied Palestinian Territories

Recipient

16 May 2002

Subject: Urgent Intervention

Dear Sir or Madam,

I am writing to bring to your attention the case of the al-Ghussain Oxygen & Gas Factory in the Gaza strip, which is under imminent threat of destruction by Israeli occupying forces and to ask for urgent intervention to end Israel's policy of destroying property, including businesses, houses, and agricultural land, in the Occupied Palestinian Territories (OPT).

The al-Ghussain factory is a family-owned business located east of Gaza city near the Karni crossing and is the sole supplier of oxygen to hospitals in the Gaza strip. The factory consists of two buildings, one of which was partially demolished by Israeli occupying forces on 12 May 2001. The total worth of the facility, which employs 20 people, is approximately \$US 2 million. Since 5 January 2002, Israeli forces have fired at anyone approaching the factory, making it impossible for operations there to continue. Since that time, all medical facilities in the Gaza strip have been entirely dependent on oxygen supplies imported from Israel. Due to the restrictive and often arbitrary nature of border closures imposed by Israeli occupation forces, however, the flow of such products into the Gaza strip from Israel has been insufficient and unreliable.

On 20 April, Yusuf Mohammed al-Ghussain, the owner of the factory, was informed by the Israeli army that he had until 23 April to evacuate all of the contents of the factory, including its industrial equipment and stored oxygen supplies, and that the factory would be demolished. The next day, lawyers from PCHR's Legal Unit, acting on behalf of the Ghussain family, sent a letter to the Israeli military legal adviser in the Gaza strip asking for the order to be cancelled. PCHR asserted that there was no compelling military reason requiring the factory's destruction and that three days was insufficient time to move all of the contents of the factory.

On 15 May, PCHR received a response from the military legal adviser rejecting PCHR's request for the cancellation of the order. The military legal adviser claimed that the area had witnessed attacks against Israelis using a nearby settler road and that, based on Article 23 of the Hague Conventions of 1907, the Israeli army intended to destroy the factory as a precautionary measure. According to the letter, PCHR has until 19 May to appeal the matter to the Israeli Supreme Court.



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Israeli occupying forces have not accused anyone associated with the al-Ghussain factory of participating in armed activities, nor have they provided any evidence to suggest that the factory has been used by armed groups attacking Israeli targets.

Israeli occupying forces have destroyed approximately 60 factories, businesses, and other commercial establishments in the Gaza strip during the al-Aqsa Intifada, in addition to demolishing approximately 550 houses and razing some 16 million square meters of mostly agricultural land. This policy of destruction has left thousands of Palestinians homeless or unemployed. Much of this destruction takes place near Israeli settlements or settler-only roads in the OPT. Israeli settlements and associated infrastructure are illegal under Article 49 of the Fourth Geneva Convention and a grave breach of the Convention (war crime), as clarified by Article 85 of the First Additional Protocols to the Geneva Conventions. The international community, through two meetings of High Contracting Parties to the Fourth Geneva Convention and numerous UN resolutions, has repeatedly affirmed the applicability of the Convention to the entirety of the Occupied Palestinian Territories, as well as Israel's legal obligation to respect the Convention.

Under Article 53 of the Fourth Geneva Convention, the destruction of property by the Occupying Power is prohibited unless "rendered absolutely necessary by military operations." Moreover, the extensive, unlawful, and wanton destruction of property not justified by military necessity is a grave breach under Article 147 of the Convention.

Moreover, the cessation of operations at the al-Ghussain factory has had a dramatic humanitarian impact on the entire Gaza strip. As mentioned above, the Israeli closure policy makes the importation of oxygen supplies into the Gaza strip from outside extremely difficult. PCHR is deeply concerned that the destruction of the factory will severely affect the ability of hospitals throughout the Gaza strip to treat patients. PCHR also asserts that the destruction of the factory would constitute a form of collective punishment, which is prohibited under Article 33 of the Fourth Geneva Convention.

Although PCHR is pursuing this matter with the Israeli Supreme Court, Israel's refusal to recognise the de jure applicability of the Fourth Geneva Convention in the OPT deprives Palestinian civilians of important legal protections in the Israeli legal system. In the past, the Court has sought to legalise rather than ban practices that violate the Convention, including the house demolition policy.

For this reason, we ask that the European Union and its member states act immediately to halt Israel's property destruction policy, including through the following steps:

1. To demand that the government of Israel cease its policy of property destruction in the OPT and guarantee that the al-Ghussain factory will not be demolished.
2. To demand that the government of Israel apply the Fourth Geneva Convention in the OPT, de jure and de facto.
3. To ensure Israel's respect for the Convention through various concrete measures, including suspension of the Euro-Israel Association Agreement and gradual adoption of comprehensive economic and diplomatic sanctions.



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4. To search for and investigate those responsible for committing grave breaches of the Convention and to remind Israel of its obligation to do so under Article 146 of the Convention.
5. To demand that Israel ends its illegal 35-year belligerent occupation of the Gaza Strip and West Bank (including east Jerusalem) in accordance with binding UN Security Council resolutions.

PCHR reiterates its call for the international community to ensure the protection of Palestinian civilians in the OPT in accordance with their status as protected persons under the Convention.

If you require any additional information on this urgent matter, please do not hesitate to contact me. I look forward to your response.

Yours sincerely,

Raji Sourani
Director,
Palestinian Centre for Human Rights

Sent (with minor modifications) to:

HRRV Froger, Dutch Ambassador, Tel Aviv
Catharina Kipp, Swedish Consul General, Jerusalem
Geir O. Pedersen, Norwegian Representative Office, Jerusalem
Denis Pietton, French Consul General, Jerusalem
William Roebuck, US Embassy, Tel Aviv
Manuel Salazar, Spanish Consul General, Jerusalem
Adin Talbar, Danish Consul General, Jerusalem