

**Civil Action No. CV-05192-FDB
Corrie et al v. Caterpillar, Inc.
United States District Court Western District of Washington**

Background

The 16th of March 2005 marked the two year anniversary of the death of a young American peace activist, Rachel Corrie, who was killed with a Caterpillar bulldozer while protesting the demolition of a Palestinian home in Rafah, in the Occupied Palestinian Territory (OPT) by the Israeli military. Caterpillar bulldozers are being used by the Israeli military as part of a wider policy of collective punishment which involves the demolition of Palestinian homes.

On this anniversary the Center for Constitutional Rights (CCR) and partnering law firms filed a federal lawsuit against US based Caterpillar, Inc. The complaint was filed on behalf of Cynthia and Craig Corrie (the parents of Rachel Corrie) alleging that Caterpillar, Inc. violated international and US state law by providing the specially designed bulldozers (D9) to the Israeli military in the knowledge that they would be used to demolish homes and endanger civilians.

On the 2nd of May 2005, PCHR joined CCR and other partnering law firms in filing an amended complaint. The complaint added members of four Palestinian families to the federal lawsuit against Caterpillar. The amended complaint details the stories of an additional ten Palestinians who were killed and another nine who were injured when Caterpillar's bulldozers were used to demolish their homes.

PCHR has been involved in this case since the tragic death of Rachel Corrie. Our early work included taking affidavits from eyewitnesses and collecting evidence immediately following Rachel's death.

PCHR's Legal Unit, comprising of five lawyers, undertakes *pro bono* cases on behalf of a range of victims of human rights violations in the OPT. In 2004 PCHR submitted at least 967 complaints from Palestinian civilians to the Israeli authorities and judiciary. The complaints on behalf of Palestinians regarded killings, injuries, destruction of property, restrictions on freedom of movement, retention of victim's bodies and body parts (as far back as the first *Intifada*), attacks on Palestinian fisherman and other violations, including torture, of the rights of Palestinian prisoners.

Israeli Military Home Demolition Policy and Plaintiffs

The amended complaint details the home demolition policy of the Israeli military which has resulted in tens of thousands Palestinian homes being destroyed since 1967 and rendered countless thousands of men, women and children homeless. The complaint details how home demolitions in both the Gaza Strip and West Bank often take place without adequate warning to the occupants and in violation of due process rights. Further, the overwhelming majority of Palestinians who have lost their homes due to demolitions are civilians.

The complaint describes how these house demolitions are widely recognized as illegal under international law. Under the Fourth Geneva Convention and other international humanitarian law, property can only be destroyed if it is "rendered absolutely necessary by military operations" (Article 53, Fourth Geneva Convention). Whereas the policy of the Israeli military policy is arbitrary, does not discriminate between civilians and participants in military activity (actually the Israeli military policy targets civilians) and is a disproportionate response to the level of threat faced.

The stories of Rachel Corrie and the four Palestinian families (Fayed, Al Shopi, Abu Hussein and Khalafallah) are also detailed in the complaint. Rachel Corrie, an international peace activist and human rights defender, was killed after a Caterpillar bulldozer ran her over and crushed her beneath its blade. Rachel was killed whilst trying to prevent a Palestinian home in Rafah from being demolished.

The suffering of the four new Palestinian family plaintiffs included the death of 10 family members and the injury to a further nine persons during home demolitions carried out by Caterpillar bulldozers. The complaint outlines how the Palestinian homes were destroyed without warning and often in the middle of the night. It describes how family members often begged the driver of the Caterpillar bulldozer to stop demolishing the house as there were still people inside and how these warnings were not headed or came too late. Two of the plaintiffs were unable to get out of their homes because of physical disabilities and were killed. Members of two other families were killed or injured when their homes were bulldozed in the middle of the night.

Amended Complaint

The lawsuit is a civil action for compensatory and punitive damages against Caterpillar, Inc. and sets out the following claims for relief: (1) war crimes; (2) complicity in extra-judicial killings; (3) complicity in cruel, inhuman or degrading treatment or punishment that resulted in deaths and injuries; (4) violation of the Racketeer Influenced and Corrupt Organizations Act; (5) wrongful death; (6) public nuisance; and (7) negligence.

Caterpillar's role

The lawsuit alleges that Caterpillar, Inc (incorporated in the State of Illinois) has aided and abetted or otherwise been complicit in the Israeli military's human rights' violations and war crimes by providing the bulldozers (and/or parts or other assistance related to the bulldozers) used to demolish the homes.

The complaint describes how Caterpillar had:

- constructive notice of such violations since at least 1989, and likely before, when human rights groups began to publicly condemn the demolitions; and
- actual notice that the bulldozers it was supplying have been used to commit crimes in violation of international law since 2001 when human rights groups and concerned US citizens began notifying Caterpillar that it was aiding and abetting violations of international law.

And despite this, Caterpillar continued to:

- supply bulldozers used to demolish houses;
- lease bulldozers/renew leases;
- supply significant parts for the bulldozers or repairs made to bulldozers or provide training manuals regarding the equipment; and/or
- Caterpillar had a right to recall, redesign, cancel or suspend the lease and/or sales of the bulldozers and failed to do so.

Caterpillar's actions occurred after Caterpillar was on actual or constructive notice that its bulldozers were being used to commit human rights violations. Caterpillar's actions allowed the Israeli military to use Caterpillar bulldozers to commit the human rights abuses that, along with the injuries, are the subject of the lawsuit.

The lawsuit alleges that Caterpillar, through their actions are:

1. Directly responsible for war crimes against the Plaintiffs. Caterpillar knew or should have known that bulldozers it was supplying would be used to commit violations of the Geneva Conventions, which they were. Alternatively/in addition to, the Israeli military's actions constitute a war crime against the Palestinian civilian population at large and Caterpillar has aided, abetted, conspired in, confirmed, or ratified the war crimes of the Israeli military.
2. The killings of Rachel Corrie and 10 other Palestinians were deliberate and not authorized by a previous judgment and constitute extrajudicial killings as defined by the US Torture Victim Protection Act, customary international law and treaty law. Through their actions, Caterpillar aided and abetted, conspired in, confirmed, and/or ratified the extrajudicial killings. Caterpillar's actions were a proximate cause of the extrajudicial killing and the Decedents were foreseeable victims.
3. The abuses committed against the Plaintiffs and Decedents each separately constitutes cruel, inhuman, or degrading treatment or punishment (CIDTP). Through their actions, Caterpillar aided and abetted, conspired in, confirmed, and/or ratified this CIDTP. Caterpillar's actions were a proximate cause to the injuries complained of in the complaint and the Decedents were foreseeable victims.
4. From not later than 1999 to present, Caterpillar, Inc. has formed, with its agents and/or co-conspirators (including the Israeli military), formed an "enterprise" as defined in the US Racketeer Influenced and Corrupt Organization Act. At all times relevant to the amended complaint, Caterpillar conducted and participated in the conduct of the affairs of the enterprise through a pattern of racketeering activity. The pattern of racketeering activity included the following specific acts: murder, robbery, extortion and physical violence.
5. Caterpillar owed a duty to the Decedents because they were foreseeable victims of the Israeli military's illegal use of the bulldozers based on previous notice. As a direct and proximate cause of the Caterpillar's breach of duty, the Decedents were killed and it was reasonably foreseeable that the use of Caterpillar's bulldozers would cause such death.
6. The Israeli military interfered with Palestinian public rights to health, public safety, public comfort and public convenience. Caterpillar has also interfered with these rights through their actions.
7. Caterpillar owed a duty to Palestinians and Decedents because they were foreseeable victims of the Israeli military illegal use of the Caterpillar bulldozers. Caterpillar breached that duty and as a direct and proximate cause the Plaintiffs and Decedents were harmed.

Conclusion

CCR and PCHR together with partnering organizations hope that the lawsuit will give the Corrie, Al Shopi, Fayed, Abu Hussein and Khalafallah families access to justice.

Caterpillar must be held accountable for its violations of international human rights and war crimes. International law clearly provides that corporations, such as Caterpillar, Inc. can be held accountable for violations of international law. The four Palestinian families are representative of scores of other Palestinians who have suffered and continue to suffer as a result of Caterpillar's actions.

For further information, including the amended complaint and press releases on the lawsuit please visit the CCR's and PCHR's websites: www.ccr-ny.org and www.pchrgaza.org.