



مركز الميزان لحقوق الإنسان
AL MEZAN CENTER FOR HUMAN RIGHTS



Adalah The Legal Center for Arab Minority Rights in Israel
عدالة المركز القانوني لحقوق الاقلية العربية في اسرائيل
عدالة المركز المسפטי לזכויות המיעוט הערבי בישראל



Gisha - Legal Center for Freedom of Movement
גישא - מרכז לשמירה על הזכות לנוע (ע"ר)
مسلك - مركز للدفاع عن حرية الحركة

7.1.2019

To
Mr. Binyamin Netanyahu,
Minister of Defense
By Fax No. 03-6976711

To
Adv. Sharon Afek,
Military Advocate General
By Fax No. 03-5694526

To
Dr. Avichai Mandelblit,
Attorney General
By Fax No. 02-6467001

Dear Sirs,

**Re: Spraying in the Gaza Strip resulting in damage to crops and harm to
the health of Gaza residents**

We hereby write to you with an urgent request to refrain from conducting further aerial spraying in and near the Gaza Strip, which damages crops and risks the health of Gaza residents, as follows:

1. According to media reports and accounts from Gaza Strip residents, on December 4, 2018, the Israeli army renewed aerial spraying inside the Gaza Strip and in areas adjacent to it on the Israeli side. The spraying has resulted in damage to a variety of crops grown in fields near the fence between Gaza and Israel.
2. Many Palestinian farmers with lands located in proximity to the fence with Israel now fear that their crops, the source of their livelihoods, will be severely damaged due to the spraying conducted by the army. This is because the farmers have sustained massive losses in the past as a result of spraying, and been exposed to the health risks associated with the chemical agents used in the spraying.
3. We remind you that we have contacted you previously with respect to this matter, in the cases of eight farmers, requesting, *inter alia*, that you halt all spraying causing severe damage to lands owned by farmers in the Gaza Strip. Nevertheless, the aerial spraying has continued in a manner resulting in damage to crops near the border in Gaza.

A copy of one of the eight letters dated June 27, 2016, and a reminder from June 6, 2017, are attached and marked A and B, respectively.

4. We again emphasize that the aerial spraying constitutes a destructive measure which contravenes both Israeli and international law, as explained in detail in our previous complaints, and that the Israeli army has no legal authority to employ such practices.
5. We further reiterate that contrary to your position, accounts given by local farmers indicate that planes do, in fact, conduct spraying inside Gaza. In any event, even if spraying were only to be conducted from within Israeli territory, the chemical agents used are carried by winds into the Strip, causing severe damage to crops.
6. The fact that no precautions are taken during the aerial spraying can also be gathered from the contract between the Ministry of Defense and the company hired to carry out the spraying. The contract explicitly states that the Ministry of Defense “assumes no obligation to provide the contractor with information regarding crops in areas on the other side of the Gaza Strip fence that are adjacent to the area to which the contract pertains” (page 5 of the contract). Furthermore, according to local reports, the Israeli army and/or any party working on its behalf set tires on fire in order to check the direction of the wind and ascertain that it is blowing toward Gaza, so that the chemical agent is carried over to Gaza rather than to Israeli farmland. Indeed, the aforementioned contract provides that: “ground teams working for the contractor shall install flags, **tires to be set on fire**, or any other measure required for the proper execution of herbicide spraying on the day of the operation and/or one day prior to it.” This provides further proof that the spraying is undertaken without due consideration for the damage caused to farmland in the Gaza Strip, the harm to local residents and the risks associated with the spraying.
7. Moreover, a Freedom of Information petition filed by Gisha in AP 36043-07-16 **Gisha v. State of Israel** revealed that one of the agents used in the spraying is glyphosate, under the brand name Roundup. This particular agent has been declared a **carcinogen** by the World Health Organization and has been banned in many countries around the world. Many guidelines on the use of this agent entirely prohibit aerial spraying due to the high level of health risks associated with it.
8. In H CJ 2887/04 **Salim Abu Madigham v. Israel Land Administration**, IsrSC 62 (2) 57 (2007) (hereinafter: **Abu Madigham**), the court disqualified state spraying of crops in unrecognized villages in the Negev, on the grounds that it might harm the rights of people

residing in the affected areas to health and to dignity. Justice Joubran held that the state **may not** use herbicide spraying as a “means to enforce any right, all the more so when the party claiming such right has no power to use herbicides.” Justices Arbel and Naor held that the measure was disproportionate since its effects on the population, crops and livestock could not be ignored even if operating procedures were to be put in place. As such, even if the state is authorized to employ the measure, it remains disproportionate.

9. An expert opinion regarding the use of Roundup written by Dr. Eliahu Richter in 2004 and submitted in the **Abu Madigham** case stated that:

- The spraying of Roundup in the vicinity of inhabited communities clearly defies the warning label;
- Roundup spraying carries a potential risk of exposure as a result of spray drift;
- The agent is a suspected carcinogen and has a disruptive endocrinal (hormonal) effect;
- Aerial spraying of Roundup is a public health hazard. The safety advisory for the agent reads: “This agent should not be used in aerial spraying equipment.” According to the expert opinion, “This advisory is given due to the risk of spray drift into nearby residential areas and the exposure of humans to the agent,” and even minuscule amounts of the agent “could cause severe damage or destruction of nearby crops.... or other undesirable outcomes.”

A copy of the expert opinion is attached and marked C.

10. In light of the aforesaid, we call on you to refrain from all spraying in the Gaza Strip, and to use other, proportionate measures, **only within Israeli territory**, that do not harm farmers in the Gaza Strip or put their crops or their health at risk.

We would be grateful for your swift response.

Sincerely,

Osnat Cohen-Lifshitz, Advocate

Sawsan Zaher, Advocate