



## Al Mezan Center for Human Rights

### So Close Yet Unattainable: Lack of Access to Healthcare outside Gaza

April 26, 2009

#### Introduction

Khalid Sakir Ebid (33) is suffering from follicular non-hodgkin's lymphoma, a form of cancer. He was diagnosed in October 2008 after a biopsy at Al Mutala'a Hospital in Jerusalem. He needs to undergo radiotherapy immediately, a treatment that is unavailable in Gaza. He had an appointment on 8 April in Jerusalem, and though he has both a referral and financial coverage from the Ministry of Health in Ramallah (MoH-R), he was not allowed to leave Gaza. The longer he waits before undergoing radiotherapy, the more the cancer will spread. He came to Al Mezan Center's office seeking advice and aid; two services that have become extremely difficult to provide during the past few weeks.

This is yet another consequence of the situation caused by occupation and the Hamas-Fatah political rift.<sup>1</sup> Because of the lack of adequate medical healthcare Gazan patients often need to seek treatment abroad. While some patients try to apply for permits to receive care in Egypt, Jordan, or elsewhere abroad, others try to seek treatment in Israel because of the high quality of the hospitals and the short distance they need to travel to access them. The process to get a permit for the treatment has become more difficult and time-consuming as the checkpoints have become harder to cross under the complex closure regime Israel imposes, and as the political situation has become more tense.

On 22 March 2009 Hamas took over the Department of Referrals Abroad (DRA) in Gaza, which resulted in the Israel government refusing to accept referrals issued by the DRA.<sup>2</sup> The MoH-R and the Ministry of Health in Gaza (MoH-G) have failed to cooperate with each other to resolve this issue, even after negotiations this month, which resulted in an initial agreement between them to cooperate, due to pressure exerted by many NGOs, the UN and the WHO.

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<sup>1</sup> Because of this rift, there are now two Palestinian governments in the OPT: one based in Ramallah, West bank, and led by Fatah Movement; and one in the Gaza Strip led by Hamas movement.

<sup>2</sup> Referrals refer to the MoH granting financial coverage for patients to receive medical care from non-MoH hospitals and clinics. For more information on the issue of medical referrals and the recent problems that have arisen refer to: Al Mezan Center for Human Rights, "Al Mezan Urges the Governments in Ramallah and Gaza to Resolve the 'Medical Referrals' Profile, Respect their Responsibilities and Protect the Lives of Patients in Need of Medical Access Immediately." Press Release, 15 April 2009.

[http://www.mezan.org/en/details.php?id=8652&ddname=crossings&id2=9&id\\_dept=9&p=center](http://www.mezan.org/en/details.php?id=8652&ddname=crossings&id2=9&id_dept=9&p=center)

Over 41 Gazans have died for reasons that can be owed to the collapse of the referral process in the last year,<sup>3</sup> while the health of hundreds of Gazan patients' is deteriorating rapidly. This is the consequence of continued conflict between the political powers in the OPT as well as the Israeli government, and the lack of their respect for the lives of Palestinian civilians and their right to health. The majority of the 41 deaths were results of the delays in, or failure to, permit the patients access to hospitals in Israel and/or the West Bank. Gazans can only access these hospitals via Erez Crossing, which is controlled by the Israel. In addition to already strict restrictions, Gazans have started to experience more difficulties since 22 March 2009, when the Gaza Government took over the DRA at the MoH-G. The following report attempts to shed light on the impact of such developments on the right to health and the right to life in Gaza.

### **The Ongoing Medical Crisis in Gaza**

The Israeli imposed siege has depleted the medical resources in Gaza, eliminating hospitals' capacity to provide Gazans with adequate healthcare. There are acute shortages of medicine, equipment, replacement parts for broken equipment and trained medics. As of January 2008, 105 of a list of 460 essential medications were no longer in stock in Gazan pharmacies<sup>4</sup> - since then the situation has deteriorated significantly. Between September and November 2008 only three trucks carrying medical supplies were sent by the MoH-R, leading to the lack of 20% of essential medication.<sup>5</sup> Another problem is the lack of continuous electricity, it is another major hindrance for Gazan hospitals to keep crucial medical equipment functional. Due to the power shortages the Gaza Power Plant had to be shut down multiple times during 2008 and as a result, hospitals and clinics were greatly affected. Not only did they suffer from suspension of surgery sections and ICUs, but also from the damage of thousands of vaccines and serums that are preserved in fridges. Due to all of the shortages in electricity, medicine and equipment, advanced health care has become virtually non-existent in the Gaza Strip.

During Operation Cast Lead, which lasted for 23 days from Dec 08/Jan 09, the lack of access to medical care during IOF attacks resulted in the death of 1,201 civilians; hundreds of whom might have survived had they been able to reach a hospital in time. However on multiple occasions Israeli tanks blocked the passage of ambulances, and opened fire on medics that were trying to rescue the wounded, as well as targeting medical facilities. During the Offensive 15 hospitals and 41 PHC centers were partially damaged and 2 PHC centers were destroyed. In addition, 29 ambulances were partially damaged or destroyed and 16 health staff were killed and 22 were injured while on duty.<sup>6</sup> The targeting of medics and ambulances in specific meant that

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<sup>3</sup> Data provided by the WHO office in Gaza. Al Mezan has received 10 complaints of lack of access to healthcare abroad since January 2009.

<sup>4</sup> World Health Organization statement on 12 January 2008.

<sup>5</sup> OCHA, "Gaza Humanitarian Situation Report: The Impact of the Blockade on the Gaza Strip." 15 December 2008.

<sup>6</sup> WHO, "Health situation in Gaza." 4 February 2009.  
[http://www.who.int/hac/crises/international/wbgs/sitreps/gaza\\_4feb2009/en/index.html](http://www.who.int/hac/crises/international/wbgs/sitreps/gaza_4feb2009/en/index.html); For more

many injured people had to wait hours or days until they were able to access medical aid, and in many cases this resulted in their death. Of the wounded who survived the Offensive, many are in need of treatment abroad and yet the main process for referrals has come from individual NGO efforts to send patients abroad, mainly to Europe, independent of the local governments.

Because of the lack of accessible medical treatment for Gazans in Gaza, many need to travel abroad to receive specialized medical treatment. Because of the restrictions of movement imposed on Gazans by Israel, until recently there was a long and complicated process to receive referrals to receive treatment in Israel. On 22 March 2009 Hamas took over the DRA at the MoH-G, which for years has been functioning in coordination with the Government in Ramallah, and since then Gazans have not been able to receive any permission for healthcare in Israel.

### **The Process for Referrals before 22 March 2009**

The process to receive permission for a referral to a medical facility in Israel has always been complicated, but the bureaucracy has increased as the rules for crossing Erez have become more restrictive following the disengagement in 2005, and then Hamas's victory in the 2006 elections.

Since 2006 the following process needed to be followed: once local doctors determine that patients need to be referred abroad, they needed to first be put in contact by their doctor with the DRA. This department then arranged an appointment with an Israeli hospital before issuing a referral abroad request. Then the patient contacted the Palestinian health District Co-ordination Office (DCO), which directly contacted the Israeli health DCO for a permit to pass through the Erez crossing. The request was then sent to the office of the Coordinator of Government Activities in the Territories (COGAT) where Israel's domestic security service (Shin Bet) evaluated the 'security risk' posed by the patient. Finally, if permission was granted, the patient would travel to Erez crossing, where a Palestinian Liaison Officer would co-ordinate with an Israeli Liaison Officer to get the patient across.

Even after this long and complicated process a patient might not be allowed to enter Israel if there was a delay in the process which led him/her to miss his/her hospital appointment, or if the Israeli military decides to close the crossing for security or other reasons. If this happened, the patient needed to initiate the entire process again from the beginning. Nevertheless, the treatment of Palestinian patients at Erez crossing remained highly unpredictable. In many cases, patients who went through this process, received their permits and reached Erez crossing when it was open were denied entry into Israel by the Israeli security.

Because of the time-consuming nature of the process, and the fact that many patients were denied permission to leave for their treatment, hundreds of Gazans died, mostly

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information on the targeting of medical teams refer to: Al Mezan Center for Human Rights, "The Targeting of Medical Centers, Ambulance Teams and Civil Defense Teams during the Israeli Offensive 'Operation Cast Lead' against the Gaza Strip." 27 December 2008 – 18 January 2009 Report, 17 March 2009. <http://www.mezan.org/upload/8632.pdf>

before they reach the point where they can apply for a permit to leave Gaza. The Ministry of Health of the Government in Gaza estimates that at least 322 Gazans died for health reasons due to the Israeli closure of Gaza since the Israeli siege of the Gaza Strip began in 2006<sup>7</sup>, including patients whose requests for permits were rejected by the Israeli authorities. Between March 2008 and March 2009 at least 41 patients died because they were not able to leave Gaza to receive medical care, 10 of them were under the age of 16, according to WHO data.<sup>8</sup>

The World Health Organization gathered data on the situation of access to healthcare in Gaza: 32 patients died between October 2007 and March 2008 while waiting for travel permits, to which WHO's head of office for the West Bank and Gaza, Ambrogio Manenti, responded that 'All these tragedies could have been easily avoided.' In 2006 4,932 permits were granted and 538 denied, the following year 7,176 granted and 1,627 denied. The proportion of permits denied increased from 10% in 2006 to 18.5% in 2007. By the end of 2007 the amount increased to 38% according to the Israeli human rights organization Physicians for Human Rights (PHR-Israel).

In addition to the other flaws in the referral system, Israel abused its power when deciding to grant Gazans permission to seek treatment in Israel. On numerous occasions the Shin Bet (Shabak)<sup>9</sup> pressured Palestinians in need of external medical treatment to become informants in exchange for permission to leave Gaza.<sup>10</sup> According to reports by Al Mezan Center and PHR-Israel, Israeli agents interrogated Gazans who wanted to enter Israel for medical care about their relatives, neighbors and friends; those who did not cooperate often did not get travel clearance. PHR-Israel received reports from 32 patients in Gaza who said that they were denied permission to leave for refusing to cooperate with Israeli questioners at the Erez Crossing by answering questions about the political affiliations of relatives, friends and acquaintances; there were multiple accounts of interrogators demanding information in return for permission to access care. In some cases, patients were asked to collaborate on a regular basis.<sup>11</sup>

### **The Situation in 2009**

On 18 January 2009 the Minister of Health of the Ramallah Government, Dr. Fathi Abu Moghli, decided to stop all referrals for treatment in Israeli hospitals. This decision was applied to all patients, without taking into account individual cases in

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<sup>7</sup> According to the Ministry of Health.

<http://www.moh.gov.ps/newsite/en/index.php?action=view&page=homepage>

<sup>8</sup> Data provided by the WHO office in Gaza.

<sup>9</sup> Israeli internal secret service.

<sup>10</sup> Al Mezan Center for Human Rights, "Obstruction of Access to Healthcare, Yet Another Child Casualty Due to Israel's Closure Policies." 18 March 2009. <http://www.mezan.org/upload/8571.pdf>

<sup>11</sup> PHR-Israel "Holding Health to Ransom: GSS Interrogation and Extortion of Palestinian Patients at Erez Crossing." 4 August 2008.

which patients had been previously receiving treatment in Israeli hospitals and would face serious consequences if they do not return to continue their treatment or for checkups. Between January and April 11 patients died because they were not able to receive treatment abroad.<sup>12</sup>

Rafat Zahir Azzaaneen is a young boy of 6 years old, suffering from a disorder where one of his eyelids droops so much so that he needs to tilt his head back to see out of his eye. He went to the eye clinic in Gaza in July 2008, and was informed that the clinic does not have the facilities to carry out the necessary surgery. He was referred to St. Johns Hospital in Jerusalem and had an appointment on 18 August but was not allowed to leave Gaza, then again in September, and was again denied. He had a new appointment on 20 January and was yet again denied permission to leave.

The situation further escalated on Sunday, 22 March 2009 when the MoH-G assumed control of the DRA. Dr. Bassam Albadri, who had been running the department, was ordered to vacate his office and to hand over his files to the MoH-R by Minister of Health in Gaza, Dr. Basim Naim. This act halted all efforts to coordinate healthcare for Gazan patients in Israel or the West Bank because the Israeli government refuses to have any contact with the Hamas-led Gaza government, it will not accept any documents issued by this government's bodies. Israel only will coordinate with the Ramallah government on the issue of referrals, among other issues. Between March 22 and 31 three patients died because they were not able to exit the Gaza Strip for treatment, in addition, numbers point at four more deaths in April, which are still to be confirmed. During the period between 22 March and 21 April 191 Gazans were able to get referrals for treatment abroad, 81 through Israeli organizations, and the other 110 held old permits from the MoH-R. Though the coordination office in Gaza has stopped functioning, the patients were contacted by the liaison officer working from home to coordinate the exit of those patients who have old referrals; i.e. referrals issued by the DRA prior to Hamas' takeover. Since April 16 however, no more patients have been able to exit using MoH-R-issued permits. One sees the stark contrast when one looks at the numbers of previous years, in March 2008 664 Gazans traveled abroad for medical care, and in April 2008 622. This number dropped to 325 in March 2009,<sup>13</sup> even though the number of civilians injured during Operation Cast Lead reached more than 4,000.

The Gaza government justified its takeover of the DRA with claims that the Ramallah Government's staff in the DRA was using double standards when granting referrals, basing their decisions on corrupt criteria and favoring certain families over others, instead of medical need. It said that some families struggled for months to get the signatures needed, while others were able to receive them in weeks by paying a bribe. In return, the Ramallah Government leveled the same accusations at the Gaza Government, claiming that it is trying to process referrals for people who do not require treatment abroad.

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<sup>12</sup> Data provided by the WHO office in Gaza.

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The freeze on referrals has also affected Gazans with valid referrals who had already started receiving treatment in Israeli and West Bank hospitals, prior to the Ramallah Government's decision to prohibit referrals to Israel, and need to return to Israel to receive further treatment- their referrals have become invalid.

Isra Abu Qoura is 13 years old. She was diagnosed with an enlarged spleen and liver. She received a permit for treatment at Tel Hashomer hospital outside Tel Aviv and underwent an arthroscopy in September 2007. She returned to the hospital for two checkups and then in September 2008 she underwent surgery to have a small tube inserted into her neck to stimulate blood circulation. The surgery was not very effective and it resulted in her bleeding out of her mouth, a symptom she is suffering with today. Isra returned to Gaza on 26 November 2008, and must return to Tel Hashomer every 3 months for checkups. In late February when she tried to travel to Israel for her checkup she was forbidden to enter Israel though her permit was still valid. The doctors need to carry out another surgery in her esophagus to stop the bleeding, and eventually she needs a liver transplant- that is the only way to actually improve her condition, all the other surgeries are just to prevent her condition from getting worse. The MoH-R has informed the family that the Ministry does not cover the expenses of liver transplant surgeries as a general policy.<sup>14</sup>

The new DRA that the MoH-G installed has been issuing referrals, which are needed by patients trying to leave the Gaza Strip to Egypt and Jordan. Patients with MoH-R-issued referrals trying to leave the Strip from Rafah are denied passageway by the security staff on the Palestinian side of the Crossing, which is controlled by the Gaza Government, under the pretext that their referrals are not valid and must be issued by the MoH-G, and not from the 'illegitimate' Ramallah Government. The patients then need to restart the entire process including getting all of the medical signatures needed, as well as new permission from the MoH-G. However, once in Egypt, according to a number of patients, the Egyptian hospitals only accept the MoH-R-issued referrals for proof of financial coverage of medical expenses. Rafah Crossing opened for medical cases on April 18<sup>th</sup> for four days and 80% of the patients that were let through held referrals issued by the MoH-G, whereas 20% held referrals from the Ramallah MoH-R. Once they arrived at hospitals in Egypt, those that held the MoH-G's referrals were informed that these were invalid for financial coverage; therefore hospitals in Egypt could not admit them. Egyptian charities had to step in to cover the medical costs and transfer the patients to private hospitals and clinics.<sup>15</sup>

### **Efforts to Resolve the Situation**

Immediate efforts to remedy the situation were launched by a committee of NGOs, the WHO, and national bodies. The negotiations with the MoH-G and the MoH-R

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<sup>14</sup> Based on Palestinian law the practice of organ transplants is forbidden in accordance with the Palestinian Constitution Article 27. Al Mezan has been able to help Isra get a permit to travel to Israel on 28 April to continue her treatment and has put her in contact with NGOs that are looking into alternative ways of funding her medical expenses.

<sup>15</sup> Data provided by the WHO office in Gaza.

resulted in the decision issued on Tuesday, 14 April 2009 by Dr. Basim Naim to return the DRA to the MoH-R. In return, Dr. Fathi Abu Moghli was meant to simultaneously issue a decision to establish a High Medical Committee on External Treatment in the Gaza Strip made up of seven doctors selected from a list of ten candidates approved by Ramallah and Gaza, which would handle the entire process without influence from either government. On Wednesday, 15 April 2009, Dr. Fathi Abu Moghli informed the NGOs involved in negotiations as well as the MoH-G that he had already established the High Medical Committee on External Treatment. He had selected seven doctors, four of whom were not on the list that had been agreed on. The MoH-G examined the four doctors and found that three were not acceptable choices and therefore rejected the Committee and efforts to resolve the freeze have yet again come to a standstill.

### **The Right to Health**

Every Palestinian has the right to health, which is enshrined in Article 25 of the Universal Declaration of Human Rights as a component of the right to an adequate standard of living: “Everyone has the right to a standard of living adequate for the health of himself and his family, including food, clothing, housing and medical care and necessary social services.” The right to health has been recognized in numerous other international human rights treaties including the ICESCR and as a State Party that ratified the ICESCR in 1991, Israel is legally bound by its provisions, which applicability extends in cases of belligerent occupation and/or conflict. The right has four factors:

*Availability-* functioning public health-care facilities, goods and services have to be available in adequate quantity.

*Accessibility-* health-care facilities, goods and services have to be accessible to everyone without discrimination, physical accessibility, economic accessibility (affordability) and there must be information accessibility as well for patients.

*Acceptability-* all health facilities, goods and services must be sensitive to gender and respectful of medical ethics as well as individual and community culture.

*Quality-* health facilities, goods and services must be of good quality, e.g. skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water and sufficient sanitation.

The Committee on Economic, Social and Cultural Rights, the body supervising the implementation of the Covenant, in its Concluding Observations on Israel has repeatedly emphasized that Israel’s obligations under the Covenant apply to all territories and populations under its effective control. The International Court of Justice in its Advisory Opinion on the Wall also stressed the ICESCR’s applicability to the OPT.

In addition to Israel, the Occupying Power, the governments in Gaza and Ramallah bear a clear obligation to respect this right and to make sure that the issue of access to health is not marginalized in the midst of their struggle for political power. Both governments have the obligation to resolve this standstill in the referral process without delay, using all resources at their disposal. They have the obligation to protect the right to health and not to impede it in anyway under international legal principles

as well as under Palestinian Basic Law, which ensures the right to enjoy the highest attainable level of health, including access to health services necessary to preserve life.

### **Conclusion**

The cost of lives due to political differences in the OPT is unacceptable. Al Mezan urges intensified efforts to resolve the problems facing the Gazans and demands an immediate and permanent solution to be reached on the issue of referrals. The three governmental parties involved are violating the right to health, at the cost of Palestinian civilian lives.

While the three involved parties need to fix the referral procedure, this will only act as a band aid for the problem, not a lasting solution. Israel must allow the medical personnel, equipment and goods needed into Gaza so that the hospitals can provide the care needed by the population. It must also allow medical staff to travel abroad to receive additional advanced medical training to ensure that the level of the medical care remains at a high level. Most importantly, Israel must be held accountable for its targeting of medical staff and medical facilities during the 08/09 Offensive and if there are future hostilities it must refrain from repeating such attacks.

The MoH-R and the MoH-G must bring the current crisis to an end by installing a sustainable referral mechanism that can function adequately without being affected by internal political differences. They must ensure that their decisions and/or conduct do not impede Palestinian patients' access to health care inside or outside Gaza. Both governments bear full responsibility for the impact of their actions on citizens' lives and wellbeing. Al Mezan therefore calls on the two governments to make sure that the health sector remains neutral and unaffected by any changes in the political system. People's right to life and health cannot be sacrificed at the expense of the struggle for political power, regardless of the claims of either party's legitimacy.