



Al Mezan Center For Human Rights

MEDICAL CARE UNDER SIEGE

Israel's Systematic Violation of Gaza's Patient Rights

Gaza
February 2018

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MEDICAL CARE UNDER SIEGE

ISRAEL'S SYSTEMATIC VIOLATION OF GAZA'S PATIENT RIGHTS

The UN Secretary General¹ and the International Committee of the Red Cross,² among others, have found the closure of Gaza to contravene international humanitarian law, as its restrictions target and impose hardship on the civilian population, effectively penalizing them for acts they have not committed. The impact of this collective punishment has been extreme economic decline, de-development and a wholly preventable, human-made humanitarian disaster in the Gaza Strip. No part of the civilian population is spared the severe, negative consequences of the current closure regime.³

- Excerpt from Al Mezan's joint communication to the International Criminal Court on the Israeli government's Gaza closure policy

INTRODUCTION

The protracted humanitarian crisis in the Gaza Strip is principally the combined result of the Israeli-imposed closure and blockade, and its systematic destruction of public and private infrastructure. The deterioration of Gaza's health sector is rooted in these practices and is maintained through the severe restriction on movement of people and goods. By consequence, the closure has also strained the ability of Palestinian authorities to respond to the increasing health needs of Gaza's residents. Included in this report are the profiles of the 20 medical patients from Gaza, including 11 women and three children, who died after their permit requests to exit Gaza for medical care were delayed or rejected by Israeli authorities. This figure, which covers the cases Al Mezan was able to document and is not to be taken as inclusive of all deaths in 2017, is up from two patient deaths in 2016 and speaks to the stringency of Israel's current closure restrictions.

- 1 Report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, UNA/71/421, 2015, paras. 23- 29; Report of the Secretary-General on the Human Rights Situation in the Occupied Palestinian Territory, including East Jerusalem, A/HRC/31/44, 2016, para. 40. See Secretary-General's Remarks at Press Encounter, (2016), available at <https://www.un.org/sg/en/content/sg/press-encounter/2016-06-28/secretary-generals-remarks-press-encounter> ("The closure of Gaza suffocates its people, stifles its economy and impedes reconstruction efforts. It is a collective punishment for which there must be accountability.")
- 2 ICRC, "Gaza closure: not another year!" (2010), available at <https://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm>. See also ICRC, "Gaza: a never-ending effort to relieve suffering," (28 July 2011), available at <https://www.icrc.org/eng/resources/documents/update/2011/palestine-update-2011-07-28.htm>
- 3 Al Mezan, Al Haq, Palestinian Centre for Human Rights and Al Dameer joint communication to the International Criminal Court, on the closure of Gaza. Available here: <http://www.mezan.org/en/post/21630>

The process of reconciliation between Palestinian political powers, which is based on the reconciliation agreement formed in Cairo and pursued from October 2017, may lead to improved engagement with the Gaza Strip and its residents.⁴ The situation would produce genuine change if new developments lead to the complete lifting of Israel's closure and blockade. However, at the time of drafting, the closure remains at its most stringent—and notably so on the grave and increasing movement restrictions for patients that form the basis of this urgent report.

This report presents information documented by Al Mezan and collected from victims and witnesses. It also present documentation from specialized entities that interact with Gaza patients' movement and access cases. Together they frame how Israel's closure restrictions hinder the civilian population's right to access adequate medical care and in an increasing number of grave cases impact their fundamental right to life. This should be viewed and acted upon as an urgent and grave human rights issue that requires immediate remediation.

With total control over Gaza's border crossings with Israel, the Israeli authorities use Erez crossing to regulate movement in and out of Gaza, with individuals—particularly patients—often detained, and sometimes ill-treated and coerced by Israeli security agents to give information in exchange for crossing permits. Patients who secure referrals and financial coverage from the Palestinian Authority and appointments at hospitals are allowed to submit requests for permits that, if issued, would allow them access to hospitals. Increasingly, permit requests are delayed or rejected by Israeli authorities, leaving patients to face a serious deterioration in their health condition, or death.

The movement restrictions also prohibit Gaza's doctors and nurses from leaving the territory in order to receive training, while the flow of critical medicines and medical equipment is severely hindered. The tight restrictions imposed by the Israeli authorities on movement make Palestinian patients one of the most vulnerable groups in Gaza as patients rely on exit from Gaza for specialist and often-times lifesaving medical care.

Israel's attacks on medical infrastructure have played a severe, detrimental role in adequate access to hospitals and medical care in Gaza. Between Israel's 2008/09 assault on Gaza "Cast Lead" and its 2014 campaign "Operation Protective Edge", Israeli forces damaged and destroyed 32 hospitals and 99 primary care clinics. In the three assaults from 2008, 80 ambulances in Gaza were damaged and destroyed by Israeli forces.⁵ Critically, 511 of the 2,219 Palestinians who were killed in the 2014 assault never received medical assistance due to the Israeli military obstructing ambulance access to victims.⁶

4 Nickolay Mladenov, Security Council Briefing 20 November 2017:

<https://unsco.unmissions.org/security-council-briefing-20-november-2017>

5 Al Mezan, Lawyers for Palestinian Human Rights, and Medical Aid for Palestinians' joint report "No More Impunity: Gaza's Health Sector Under Attack". Available here <http://www.mezan.org/en/uploads/files/14683072331625.pdf>.

6 Al Mezan, Medical Aid for Palestinians, Lawyers for Palestinian Human Rights, 'No More Impunity: Gaza's Health Sector Under Attack'. Available here: <http://mezan.org/en/post/21441>

By imposing a system that severely restricts access to healthcare within a framework of collective punishment, Israel is in serious violation of its obligations, as an occupying power and a duty bearer, under international human rights law and international humanitarian law. This significantly includes the fundamental human rights obligations of the right to life and the absolute prohibition on the use of torture and other cruel, inhuman or degrading treatment or punishment. While restrictions on movement can be applied in certain conditions that respond to justified military necessity and/or for the benefit of the civilian population, a blanket ban on the movement of the entire civilian population with limited exceptions stands out as a form of unlawful collective punishment.

CONTEXT

PUBLIC HEALTH: ELECTRICITY, WATER AND SANITATION

The endemic power cuts in Gaza remain a barrier in access to the right to health.⁷ The power cuts, alarmingly, allow for only between four and eight hours of electricity per day. Originally an outcome of the Israeli closure, the electricity crisis has been exacerbated by ten years of intra-Palestinian political division. The lack of power has further impeded the work of hospitals, particularly surgery rooms and dialysis departments that are heavily dependent on electricity supply for the operation of machinery. The Palestinian Ministry of Health and health service providers in Gaza also lack the necessary financial resources required to purchase sufficient generators, the fuel to operate generators, and batteries to safely operate backup systems.

The power outages also exacerbate the effects of the water and sanitation crisis in Gaza. The lack of potable water, reduced ability to filter water, and water pollution-spread diseases, worsen existing illnesses, and prevent effective address of medical conditions. Of particular concern is the lack of equipment and resources to properly treat sewage, wastewater and solid waste. The result is increased air and sea pollution that puts Gaza's population of two million at risk of water- and air-borne disease, and further weighs down the collapsing health sector.

AVAILABILITY & ACCESSIBILITY: LEAVING GAZA FOR MEDICAL TREATMENT

When access to specialist and/or lifesaving medical care is unavailable inside Gaza, doctors must refer their patients to hospitals in the West Bank and Israel, or elsewhere abroad, at the cost of the Palestinian Authority. Upon referral, the patient enters a long, onerous and opaque permit process that begins with an application to local authorities and hinges on the approval of the Israeli security authorities at Erez crossing. Due to the total closure of Gaza, without these crossing permits provided at the discretion of Israeli authorities, patients are unable to access the specialist medical care they require. Patients are the only vulnerable group that receive some leniency in regard to the blanket travel ban that Israel imposes on Gaza; however, while the "humanitarian exemption" applied by the Israeli authorities allows for the majority of patients to access hospitals, hundreds of them are prevented from exiting every month due to the delay or

7 Al Mezan Study on Electricity Crisis in Gaza: (in Arabic) <http://www.mezan.org/post/23193>

rejection of their permit request. Moreover, the process inevitably entails stress, anxiety and sometimes trauma of the patients and their families.

Patients have for years endured delayed and denied medical treatment, and in recent months, Israel has tightened the already-stringent restrictions without explanation or justification. Despite following the procedures set out by the Israeli authorities and proving, through medical reports, the absolute necessity of referral, patients continue to die from the delay and denial of their permits, which is often accompanied by the vague security justification.

Israel's supposed underlying security motives for its policy regarding patients are called into question by its continued practice of granting security clearance to patients and allowing them to travel and then later stalling or rejecting permits for the same patients on the pretext of security requirements. Also, permit rejection decisions are often overturned at the involvement of legal representatives.

The work of Gaza Community Mental Health Program in support of referred patients' mental health has shown that despite mounting barriers, patients are maintaining hope for permit approval and continue to engage with the unpredictable system. The likely reason is that there is no other option for their healthcare needs. The waiting and related powerlessness to change the situation has serious psychological repercussions on patients, who often request medication in order to manage the psychological duress that comes with the process.⁸

BRINGING GOODS AND SERVICES INTO GAZA

The closure of Gaza was tightened on 9 October 2000, initially with restrictions on travel through Israeli controlled crossings and restrictions on fishing activities in the sea. In 2007, Israel tightened the closure further and imposed a naval blockade on Gaza after declaring the Gaza Strip to be a "hostile entity".⁹

A recent example of the restrictions imposed on healthcare-related goods is Israel's temporary ban on the import of the nitrous oxide gas, which was put into force in early 2017. Nitrous oxide is a gas known for its anesthetic and analgesic effects and its vital usage during surgical procedures. The gas cannot be produced locally. After three weeks, hospitals in Gaza were on the verge of canceling surgeries when the ban was removed, allowing the gas' importation. Further examples of materials that have been reportedly prevented from entering Gaza include ethylene oxide, used in instrument sterilization, and medical radioisotopes, used in cancer biopsy.

The closure has also severely affected the ability of the Palestinian authorities and the international community to develop Gaza's health sector as the import of advanced medical equipment and spare parts has been hampered or fully banned.¹⁰ Due to restrictions on

8 Hassan Ziada, psychologist at Gaza Mental Health Program, interviewed on 22 February 2017

9 Israeli Government officially declared the Gaza Strip a hostile entity on 19 September 2007

10 Refer to Al Mezan's report on renal failure and cancer patients in Gaza, August 2008

movement, healthcare professionals are unable to attend specialized training and conferences outside of the Gaza Strip, or importantly, exchange experience with colleagues in the West Bank. The entry of international medical experts to Gaza is also increasingly restricted, which hinders the delivery of specialized trainings within Gaza and deprives both patients and doctors of the opportunity to benefit from their expertise.

The few visiting international medical teams that have gained access to Gaza have filled a crucial gap by conducting critical surgeries. Still, the Palestinian Ministry of Health has had to refer patients to hospitals outside Gaza at a much higher cost, while also not having control over whether the patients can access the hospitals and whether they can be protected as they attempt to do so.

In this context, the World Health Organization stressed that restrictions are not only imposed on local institutions, but also extend to the health sector as a whole. In its December 2016 monthly report, the World Health Organization noted that out of 11 permit requests for humanitarian health workers to travel via Erez crossing, the Israeli authorities issued only three permits. Eight of the permit requests were made for World Health Organization staff to exit Gaza and three were made for medical professionals with Jerusalem ID cards to enter Gaza.¹¹

These challenges are amplified by policies of the Palestinian authorities. For example, the shortage of medical staff and specialists increased following the Palestinian National Consensus Government's refusal to recruit new doctors in the then Hamas-run territory. Only temporary contracts to non-medical staff were offered through the Ministry of Labor temporary employment program.¹²

LEGAL FRAMEWORK AND PRACTICE

Israel's policy of denying patients timely access to adequate medical care is a clear violation of the state's legal obligations as the occupying power under international humanitarian and human rights law.

INTERNATIONAL HUMANITARIAN LAW

Article 55 of the Fourth Geneva Convention of 1949, relative to protection of civilian persons in time of war, obligates the occupying power to the fullest extent of the means available to it, to ensure the medical supplies of the population; Israel must, in particular, bring in the necessary medical stores and other articles if the resources of the occupied territory are inadequate, according to this article.¹³

11 World Health Organization, occupied Palestinian territory, December 2016: Health Access for Referral Patients from the Gaza Strip. <https://goo.gl/Qgnlfx>

12 Abdel Latif Al Haaj, General Director of Hospitals at the Ministry of Health, interviewed on 9 February 2017

13 Geneva Convention IV, Article 55

According to article 55 of the Fourth Geneva Convention of 1949, if the whole or part of the population of the occupied territory is inadequately supplied, Israel must agree to relief schemes on behalf of the population, and facilitate them by all the means at its disposal. Such schemes, which can be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross (ICRC), should consist, in particular, of the provision of consignments of *inter alia* medical supplies, according to article 55.¹⁴

INTERNATIONAL HUMAN RIGHTS LAW

The right to health is principally defined by the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.¹⁵ This right is however also contextualized by the inclusion of factors—such as the environment and ability to access other relevant basic rights—that Israel is further obliged to respect, protect and fulfil as the occupying power. Such determinants include access to safe and potable water and adequate sanitation, food and nutrition, housing, safe and healthy working conditions, and a healthy environment. This right is not being met by Israel due to the occupying powers' policies on closure and regular full-scale military operations.¹⁶

The right to life, the most fundamental human right, is directly engaged by the denial of patient permits.¹⁷ By severely restricting the movement of civilians in Gaza, the closure policy violates the right to life, which requires freedom of movement. The Israeli permit system and closure and blockade policy further obstruct the movement of health workers and import of medicine and medical equipment, which could be life-saving. By denying the rights to freedom of movement and health, which results in loss of life and physical integrity, the Israeli authorities are in clear violation of the right to life.

In addition, Al Mezan holds the position that the Israeli authorities' current practice of denying medical patients timely access to treatment, including urgent cases, constitutes a violation of the absolute prohibition of torture and other ill-treatment enshrined in the UN Convention against Torture (UNCAT) and International Covenant on Civil and Political Rights. The medical treatment sought by the critically-ill patients is not available in Gaza and in order to be accessed requires the timely granting of permission to leave Gaza by the Israeli authorities through the Israeli-controlled border.

14 Geneva Convention IV, Article 59

15 International Covenant on Economic, Social and Cultural Rights, Article 12: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

16 General comments adopted by the Committee on Economic, Social and Cultural Rights: Twenty-second session (2000), General Comment No. 14: The right to the highest attainable standard of health (art. 12)

17 International Covenant on Civil and Political Rights, Article 6: "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

Article 1, UNCAT, definition of torture and cruel, inhuman and degrading treatment:

...the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The definition of torture in UNCAT is made up of four constituent criteria: the nature of the act; intention of the perpetrator; purpose; and involvement of public officials. Al Mezan submits that the Israeli government's policy vis-à-vis Gaza's patients is implemented despite the severe pain and suffering that is the documented result of the authorities' official practices. Further, this policy specifically targets the Palestinian population of Gaza, which is a vulnerable and dependent population, and is therefore considered an act of discrimination. The policy thus clearly meets three of the four constitutive criteria.

In regard to the final element, of intent within the Committee against Torture's definition of torture, the European Court of Human Rights has taken the position that where the purpose or intention of the State's action or inaction may not have been to degrade, humiliate or punish the victim, but where this was nevertheless the outcome, that a violation of the prohibition of torture may have occurred.¹⁸ International jurisprudence therefore supports the conclusion that the denial of timely medical care to Gaza's patients is a violation of the absolute prohibition on torture and other ill-treatment.

Al Mezan further notes that the Committee against Torture expressed "serious concern at the many allegations provided to the Committee from non-governmental sources on degrading treatment at checkpoints, undue delays and denial of entry, including for persons with urgent health needs."¹⁹ This concern was reiterated in 2016 when the Committee recalled "its previous concluding observations [and] remain[ed] concerned at allegations of instances of degrading treatment at checkpoints and of undue delays or denials of passage, including in emergency cases."²⁰

In this regard, Al Mezan submits that the procedures that the State takes at Erez crossing regarding Palestinian patients must be conducted in accordance with the Convention Against Torture. Where there has been a violation of international law, the individuals who are

18 See *Peers v. Greece*, Application No. 28524/95 (2001), paras. 68, 74; *Groni v. Albania*, Application No. 25336/04 (2009), para. 125.

19 CAT Concluding Observations (CAT/C/ISR/CO/4), 2009 available here: <http://www2.ohchr.org/english/bodies/cat/docs/cobs/CAT.C.ISR.CO.4.pdf>. Para. 31

20 CAT Concluding Observations (CAT/C/ISR/CO/5), 2016 available here: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsmEKqNh dzbZr4kqou1ZPE79BvBJe97SSM1KP2v4ng3Dhx74ohsby7x4AlEgvGhwtvav7rPvZmtwpwObldkyK%2bM9cNY7svWLIYmp6PB4chW8O>. Para. 36

responsible must be held to account and access to justice and reparations must be made available to the victims.

SUMMARY

In practice, the Israeli authorities disregard their obligations under the laws of war and human rights law by maintaining frameworks, such as the collective punishment policy that is implemented through the closure and blockade, that run directly counter to their treaty and customary international law obligations. The closure framework, and its associated policies, necessarily ensures that Israel will not meet international standards vis-à-vis the occupied population's health.

Al Mezan and partners' third submission of information to the International Criminal Court elucidated that:

*Israel's closure of the Gaza Strip has been disproportionate, discriminatory and not justified by military purposes: in fact, the current restrictions on movement of goods and persons into and out of the Gaza Strip are not imposed for security reasons or military necessity; they constitute punitive and persecutory measures.*²¹

Israel is entitled to restrict a limited number of individual entries into Israel from Gaza on the basis of a specific, well-defined threat to the security of the occupying power—a right also recognized in the agreements between Israel and the Palestinian Liberation Organization concerning the operation of crossing points between the territory under Palestinian control and Israel. However, this report shows that Israel's closure policy reflects the opposite structure whereby the entire two million population is banned from exiting Gaza, with a limited number of exceptions. The application of a blanket policy to the entire Gaza Strip amounts to a collective punishment that violates fundamental human rights, including civil, political, economic, social and cultural rights of the civilian population, and international humanitarian law obligations owed by Israel as the occupying power.

MEDICAL REFERRALS IN PRACTICE

According to the General Director of Hospitals at the Ministry of Health, Dr. Abdel Latif Al Haaj, due to the economic situation in Gaza,²² the Ministry has had to support an increased number of patients who require free public health services, while the demand for private healthcare has dropped significantly. He noted that the Ministry of Health has a long list of patients awaiting

21 Al Mezan, Al Haq, Palestinian Centre for Human Rights and Al Dameer joint communication to the International Criminal Court, on the closure of Gaza. Available here:
<http://www.mezan.org/en/post/21630>

22 Al Mezan Factsheet on the State of Economic Sectors in Gaza: (in Arabic)
<http://www.mezan.org/post/23190>

surgery this year²³, while the list of surgeries reserved in advance extends to 2020.²⁴ The types of serious illnesses regularly referred for treatment outside Gaza are listed as follows:

Cancer patients needing at least one of three medical interventions: surgery, chemotherapy, or radiotherapy. Hospitals in Gaza offer surgical interventions but lack the equipment for holistic care. For instance, health facilities lack PET and radio-isotope scanners that play a vital part in the diagnosis and treatment of cancer. Thus, cancer patients must be referred to hospitals outside Gaza to receive full treatment.

Heart patients: On average, about 500 adult patients in Gaza need open-heart surgery every year. The Ministry of Health would need two specialized heart surgery centers to be able to manage them. However, Gaza only has one heart surgery center, which can perform 196 open-heart surgeries annually. Since most heart patients require prompt medical intervention, with time being a critical factor for treatment to be successful, patients who are beyond the capacity that is manageable by the local heart center are referred to hospitals outside Gaza. In addition, patients who undergo heart surgery in Gaza and suffer post-surgical complications need to be referred to a more advanced medical center than is present in Gaza.

Child patients: The Ministry of Health annually refers about 300 children who suffer from metabolic disorders—genetic abnormalities affecting metabolic and biochemical processes in the body—and congenital defects to receive treatment outside of Gaza. In the past, visiting Arab and international doctors played a major role in providing treatment for children with such conditions, and delivered specialized medical care for about 30 patients annually. However, in recent years, the number of visiting doctors has dropped drastically due to closure restrictions.

Eye patients: Especially patients in need of surgery in the posterior chamber of the eyeball, as well as cornea transplants must be referred, as hospitals in Gaza neither have appropriate equipment nor relevant expertise to treat such conditions.

Patients with bone diseases: Shortage of prosthetic joints in local hospitals—particularly hip and knee joints—is the main determining factor for referrals to hospitals outside of Gaza. Shortage of prosthetic joints has increased after Israel began to block medical convoys—that usually deliver prosthetics into Gaza— from entering.

Neurosurgical patients: Gaza lacks both equipment and expertise in this type of microsurgery, thus referrals outside of Gaza are required.

23 “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”, International Covenant on Economic, Social and Cultural Rights

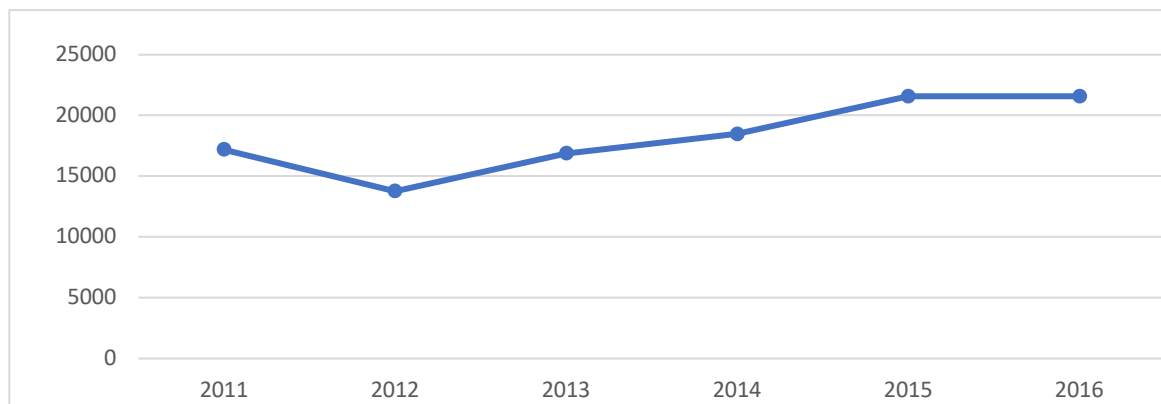
24 Al Haaj, interviewed by Al Mezan on 9 February 2017.

Pituitary gland and renal diseases: Such diseases are diagnosed through biopsy analysis; however, capabilities of the Ministry of Health facilities in Gaza do not include processing and analyzing sampled tissues, which is why all biopsy samples must be sent to laboratories outside of Gaza for analysis. The blood samples of patients with renal failure are also sent outside of Gaza to match their blood type and to be put on a kidney transplant list.²⁵

According to the Coordination and Liaison Directorate at the Ministry of Health, referrals outside the Gaza Strip, which included 1,727 children in 2016—distributed by type of illnesses—are listed as follows:

- 5,424 patients with tumors;
- 1,613 patients needing bone surgery;
- 1,561 eye ophthalmology patients;
- 1,291 patients requiring nuclear medicine treatment;
- 1,264 patients for MRI scans;
- 1,867 hematology patients;
- 1,074 patients requiring heart catheterization;
- 880 neurosurgery patients; and
- 6,899 referrals for other treatments.²⁶

FIGURE (1): NO. OF REFERRALS OUTSIDE OF THE GAZA STRIP BETWEEN 2011 AND 2016



Source: Ministry of Health Gaza, Specialized Treatment Annual Report

²⁵ Ibid

²⁶ Rifat Mohessin, Director of the Coordination and Liaison Directorate at the Ministry of Health, interviewed on 6 February 2017

REFERRAL CRITERIA AND PROCESS

According to established practice, patients must go through a series of medical and administrative procedures before qualifying for medical referral outside of Gaza. Policies of the Ministry of Health dictate that a “medical committee” verifies that the patient’s required treatment is not available in Gaza. Palestinian public and private hospitals in the West Bank, including East Jerusalem, are the priority destination for patient referrals, followed by hospitals in Egypt, Jordan, or Israel, while in some cases patients are referred to Turkey and other countries that offer help to patients from Gaza.

A patient from Gaza goes through the following process to obtain a medical referral:²⁷

Step 1: A medical examination at a Ministry of Health hospital in Gaza, including undergoing necessary medical tests. If the patient’s condition cannot be treated locally, the examining doctor and the head of the department co-sign a medical report (AKA Form No. 1) to request a medical referral. The form is then sent to the Medical Referral Directorate at the Ministry of Health, together with medical reports, medical analysis results (CT scans, X-ray scans, MRI, gastroscopy...etc.), and the patient’s identification.

Step 2: The application is then reviewed by one of two medical committees: The General Higher Medical Committee, which convenes twice a week (Mondays and Thursdays), or the Higher Medical Committee for Oncology, which convenes once a week (Wednesdays). The committees assess applications, evaluate relevant documentation, and then decide whether the patient’s condition could be treated locally.

Step 3: The Medical Referrals Directorate then sorts applications based on illnesses and conditions covered by health insurance. Based on their assessment, cases are referred to either private hospitals in Gaza or to hospitals outside of Gaza. The preferred referral location is the West Bank, including East Jerusalem, and, if no treatment is available there, to hospitals in Israel or abroad. Israeli hospitals receive about 15% of the total referrals.

Step 4: The medical dossier is sent to the Coordination and Liaison Directorate at the Ministry of Health containing: the hospital appointment, medical reports in English, the patient and the patient companion’s identification, and proof of financial coverage.

Step 5: Finally, after verifying that all supporting documents have been provided, the Coordination and Liaison Directorate sends a softcopy of the patient’s medical dossier to the Israeli authorities to request a permit for the patient and her/his companion to exit Gaza by crossing through Erez and reaching a hospital outside of Gaza.

Figures from the Ministry of Health show a significant rise in the number of referrals in recent years. The rise is attributed to the expanding population and factors linked with the continued closure and occupation which has led to the deterioration of health determinants, such as the quality of water and sanitation services, and the erosion of the healthcare sector. According to

²⁷ Bassam Al Badri, Head of Medical Referral Directorate at the Ministry of Health, interviewed on 22 February 2017

the Ministry of Health, the number of referrals has been steadily rising, reaching 21,152 in 2016—a marked increase compared to the 13,764 referrals in 2012.²⁸

OUTCOMES OF THE APPLICATION PROCESS

Al Mezan's monitoring indicates that even if patients follow all required procedures in the lengthy permit application process and have been referred for care outside of Gaza, they are not guaranteed a permit. The policies stemming from severe Israeli restrictions on movement remain an insurmountable barrier for many patients, even if the hospital is a mere one- or two-hour drive away. Generally, when a patient from Gaza applies through the Coordination and Liaison Directorate to Israeli authorities for a travel permit, the outcome of the application process falls into one of three categories: an approval, a rejection, or a delay/no response. Each is elaborated upon below:

Approval

The Coordination and Liaison Directorate receives a reply from the Israeli authorities that the passage through Erez for the patient in question was granted. In 2017, Palestinian authorities sent 25,812 travel permit requests on behalf of patients to the Israeli authorities, and only 53% were granted access to healthcare outside of Gaza. The lowest monthly approval rate of 2017 (47%) was recorded in January and the highest (59%) was recorded in February. The World Health Organization reported that December 2016 saw the lowest approval rate (41.7%) recorded since April 2009.²⁹

According to information that Al Mezan obtained from the Medical Referrals Directorate in the Ministry of Civil Affairs, there are three tracks that a permit request can take:

Priority applications submitted by patients who require immediate medical intervention enter an expedited process that bypasses the above-mentioned deciding committees and can produce a referral from the Ministry of Health within 24 hours. If the permit request is rejected by the Israeli authorities, another expedited process is quickly pursued. This track is not sufficient for patients who cannot afford a one- or two-day wait.

Urgent applications for patients whose condition is considered critical, e.g. cancer patients, but does not qualify as necessitating immediate medical intervention are reviewed by a deciding committee in the Ministry of Health that convenes twice weekly. If a referral is issued, a permit request is submitted by the Medical Referrals Directorate to the Israeli authorities, with a hospital appointment dated two weeks from the request. Each delay on the part of the Israeli authorities beyond this the two-week period requires the patient to obtain a new hospital appointment and re-start the application process.

28 Hanni Al Wihidi, Information Systems Unit at the Ministry of Health in Gaza, interviewed on 12 February 2017

29 World Health Organization, occupied Palestinian territory, Summary: December 2016, Health Access for Referral Patients from the Gaza Strip. <https://goo.gl/Qgnlfx>

During this period, patients and/or their companions may be called for a security interview at Erez crossing.

Normal applications for patients who are considered less urgent undergo a referral and permit request process of over two weeks to often several months. Each delay beyond the hospital appointment or permit rejection by the Israeli authorities require the patient to obtain a new hospital appointment and re-start this process.

It is important to note that an approved application does not always translate into successful arrival to the hospital, because patients and/or their companions may face questioning, delays, harassment, arrest and detention at Erez crossing on the way to the hospital. In the last four years, Al Mezan documented several cases of arrest at Erez: four patients and three companions were arrested in 2014; four patients were arrested in 2015; five patients and five companions were arrested in 2016; and three patients and three companions were arrested in 2017). Once a patient is arrested, they fall under the purview of the Israeli prison services and their request for medical care is then decided by the prison doctors. The practice of arresting companions also has serious effects on patients, as they are subsequently forced to complete the arduous journey to the hospital without the assistance of the companion. The presence of the person accompanying a severely ill patient is crucial, since the patient is often too sick to manage his/her own affairs during the trip to and from the hospital, and during his/her stay.

Rejection

In many cases Israeli authorities refuse to grant an exit permit for patients. The rejection decision is always based on vague, “security-related” reasons, claiming that some people may use the exit permit to carry out attacks against Israel.³⁰

Figures obtained from the Coordination and Liaison Directorate reflect the outcome of permit requests for patients in 2017 and the last four years as follows:

2014: 18,101 applications were submitted to Israeli authorities—535 were rejected (approximately 3%);

2015: 21,873 applications were submitted to Israeli authorities—1,244 were rejected (approximately 5.7%);

2016: 26,276 applications were submitted to Israeli authorities—1,725 were rejected (approximately 6.6%);

2017: 25,812 applications were submitted to Israeli authorities—721 were rejected (approximately 3%).

In many cases, Israeli authorities rejected a permit for a cancer patient who had already undergone one course of treatment outside of Gaza—i.e. being halfway through their treatment

30 KHOURY, J., Gaza Cancer Patients: Israel's Refusal to Let Us in for Treatment Is a 'Death Sentence', Haaretz. [Electronic Version], 2017, 07 January, available online at <https://goo.gl/VjQklr>, last accessed on 31 July 2017.

plan—thereby terminating the course of the prescribed treatment while the application process is started from the beginning. Such practices clearly refute Israel’s claims of security concerns, since the patient had already been allowed passage through Erez at least once before the rejection.

Delayed/no response

Figures obtained from the Coordination and Liaison Directorate show a steady increase in the rate of delayed permit applications in recent years: 2014 (14%), 2015 (17%), 2016 (31%). This trend continued in 2017, which exhibited a sharp rise averaging 44% delayed applications of the total permit requests submitted. Despite the thorough examination of the patients’ medical files by specialized Palestinian medical committees, followed by the prompt transfer of qualified applicants, the Israeli authorities are increasingly stalling patients and withholding responses³¹

This is considered to be the most burdensome response to patients as patients have the additional stress of being uncertain of whether or not they will receive a response to their application in time for the day of their hospital appointment.

When the patient has no response from the authorities, they are at that point forced to seek another appointment at the hospital. If a new appointment is confirmed, the patient is then asked to reapply for an exit permit. This sequence could be repeated several times, with appointments expiring, new appointments acquired, and permit requests resubmitted, without an exit permit being granted.

During this process, patients could be instructed by the Israeli security authorities to appear for an interview with the Israeli security service at Erez Crossing. The interview becomes a prerequisite for the permit request to be processed. This issue is dealt with in the next section.

Interviews

The Israeli security authorities’ interview of patients and/or their companions at Erez crossing puts the individuals in a very vulnerable position. The interview is considered part of the security screening, and failure to appear means that the patient’s request for a permit is automatically denied.

Over 1,660 patients and patient companions were called for interviews between 2014 and 2017. Many of them reported being subject to interrogations and asked to provide information about the security situation in Gaza and about their relatives, neighbors and friends. Some patients were asked to collaborate with the Israeli security services in exchange for access to medical care. According to Al Mezan’s documentation, at least one patient was beaten by Israeli security agents, notably in the parts of the body for which medical treatment was being sought, during the interview process. Hamza Temraz gave the following testimony:

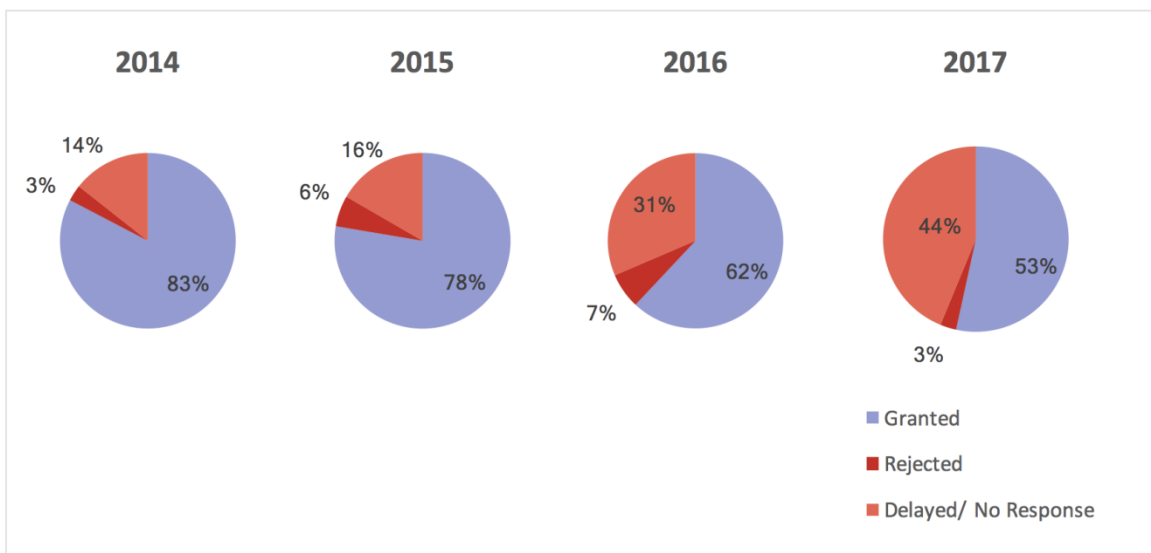
31 Mohessin, interview, supra ft 15.

“...[the Israeli security agent] asked me which of my legs hurt. I uncovered it and showed it to him. While we were talking he suddenly beat me with the heel of his shoe on the spot that hurt. I fainted.” ³²

Al Mezan documented cases where patients who refused to collaborate had their permit request rejected by the Israeli authorities. International law prohibits the use of physical and moral coercion against protected persons, that is used in particular to obtain information from them or third parties.³³ The use of such coercion also fulfils one of the four constitutive criteria of UNCAT’s definition of torture.

Al Mezan also documented cases where the Israeli intelligence services called patients for an interview, only to return them to Gaza because they did to bring their mobile phones with them, which are often used by interrogators to collect data and obtain private information.

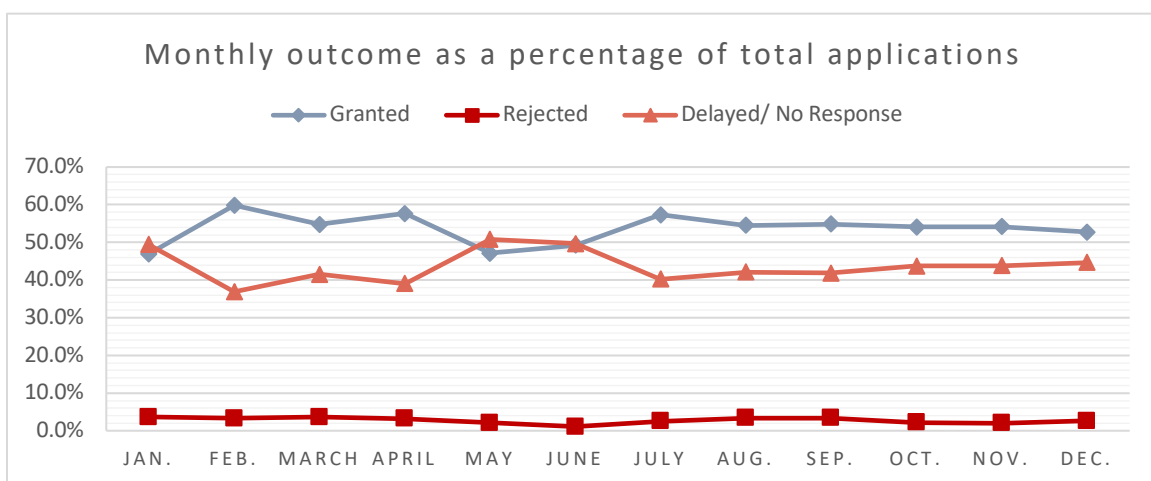
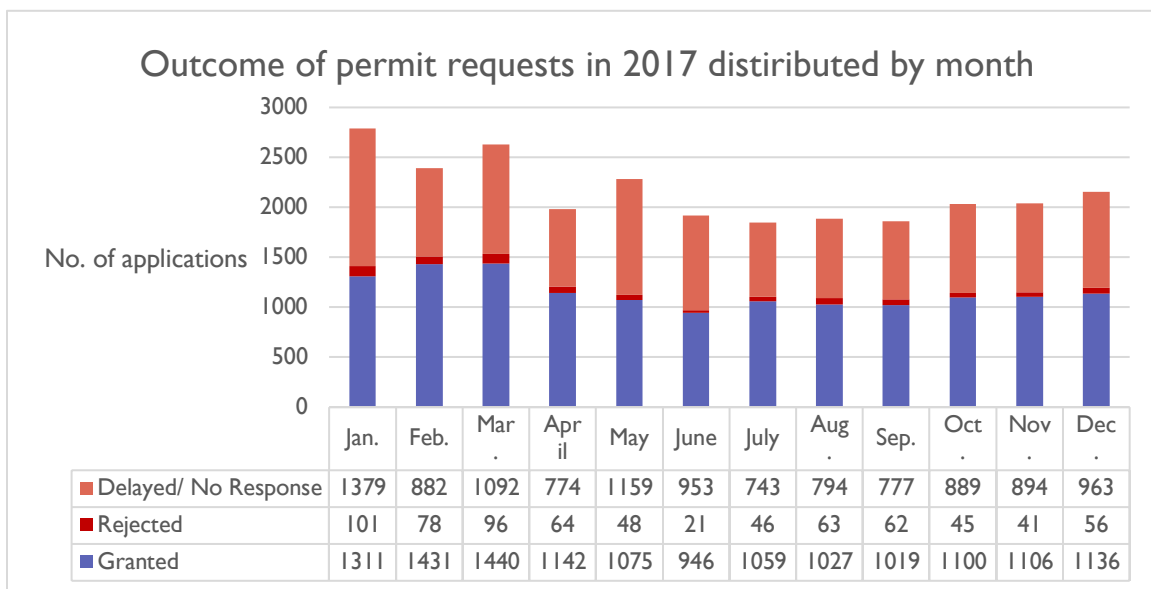
Outcome of patient permit requests to Israeli authorities 2014-2017



Source: Coordination and Liaison Directorate at the Palestinian Ministry of Health

³² Watch Hamza Temraz’s interview in Al Mezan’s short film “Under Security Check”. Available here: <https://youtu.be/ehe8S9o3ZR0>

³³ See Article 31, Fourth Geneva Convention (1949): “No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.”



TESTIMONIES

Ahmed Ziyad Al Haitham, 21—a patient whose health condition is critical—was refused a permit that would grant him access to lifesaving medical treatment. Ahmed, who is from Al Nasser neighborhood in Gaza City, fell from the sixth floor of a building at a construction site in Al Zahra where he was working. He sustained critical injuries that included bleeding in the brain, severe bleeding in the chest, bruising of the lungs, tears to the lungs, spleen, colon, and kidney, bleeding in the abdominal cavity, a complicated pelvis fracture and bleeding, and an unfixed bone fracture in his right thigh. The following text is from a testimony given to Al Mezan by his brother³⁴:

³⁴ Adham Al Haitham, Ahmed's brother, testimony to Al Mezan on 24 January 2017

“At around 12:30pm on Sunday, 15 January 2017, I received a phone call from my brother Ahmed’s employer. He told me that Ahmed had fallen to the ground from the sixth floor while he was working on connecting electricity lines in the town of Al Zahra. My brother was admitted to Al Aqsa hospital in Dier Al Balah. Due to his critical condition, he was transferred to Al Shifa Hospital in Gaza City. Recognizing the urgency of the required treatment—that was unavailable in Gaza—the doctors there decided to immediately refer him to a hospital outside of the Gaza Strip. I went to the Coordination and Liaison Directorate at the Ministry of Health to obtain an appointment with doctors at the Ichilov Hospital in Israel. The hospital administration agreed to receive my brother. The appointment was set for 18 January 2017.

I then went back to the Coordination and Liaison Directorate to start a permit process that would allow me to exit Gaza and take my brother to the hospital. I submitted all necessary documents that clearly described the urgency of Ahmed’s health condition, together with the confirmation of the appointment from the hospital. On 17 January 2017, my mother, Fatma Husni Al Haitham, 57, received a phone call from someone who introduced himself as an employee of the Coordination and Liaison Directorate and informed her that the Israeli authorities had refused to issue a permit to my brother—without giving reason for the refusal. My family applied for a permit a second time and, again, we received a phone call informing us that the permit request had been denied. Without having any other option, we submitted a third request on the same day.

My brother is not politically active; he was a student, and then took a job after his studies. My father worked as an electrician in Israel before he died. The reasons behind the refusal of my brother’s permit are still unknown. My brother Ahmed is still in the intensive care unit at Shifa Hospital. He is afraid he will die if the Israeli authorities continue to deny him a permit.”

In another case documented by Al Mezan, a mother of five is anxiously awaiting a permit to travel to Makassed Hospital (also called Augusta Victoria Hospital)³⁵ in Jerusalem to determine the nature of the tumors that have been found in several parts of her body. She feared for her life after her permit application stalled for the third time. The following are excerpts from Al Mezan’s interview with the patient:³⁶

“I fell ill in 2007 and medical exams at the time revealed breast fibrosis. I underwent surgery at the European Hospital in Khan Younis to remove the lumps. The doctors said that I needed periodic check-ups to be conducted every three months. The lumps reemerged, this time in both breasts, and the doctors advised a surgery once again to extract the lumps but I was afraid of undergoing surgery again. In June 2016, doctors

35 The names ‘Makassed Hospital’ and ‘Augusta Victoria Hospital’ are used interchangeably within this report in order to accurately reflect the terminology used by witnesses.

36 The patient’s name is withheld upon her request. She was interviewed on 25 January 2017

recommended more medical exams and a biopsy, and warned of the possibility of the lumps being malignant. I underwent more medical examinations at the Palestinian Red Crescent Hospital in Khan Younis where the doctors again stressed the need for periodic check-ups, and recommended that I be transferred to the Augusta Victoria Hospital in Jerusalem. They had detected new lumps in my shoulder and my health had further deteriorated.

On 20 December 2016, I filed a request for a permit through the Coordination and Liaison Directorate at the Ministry of Health containing all the necessary documents. I did not receive any reply from the Israeli side, and was told to book a new appointment. I reapplied on 17 January 2017 with a new appointment that was set for 31 January 2017, but my application remained under security consideration, forcing me once again to miss my hospital appointment. My only option was to reapply for the third time on 28 February 2017. Now, I feel constantly tired and exhausted; I'm in despair. I am worried about the future of my five children, especially my youngest, who is only six years old and needs care that I presently cannot provide. I hope to get treatment and go back to my normal life, so that I can take care of my children..."

According to the Coordination and Liaison Directorate, in the years from 2014 through 2016 the number of permit requests submitted on behalf of children amounted to 19,417, of which 208 requests were rejected and 2,466 were still under security consideration on the date of the hospital appointment.³⁷ Ahmed Hasan Shbeir, 17, died on Saturday, 14 January 2017, after his health deteriorated while he waited to obtain a medical permit. His father, Hasan Jamil Shbeir, stated the following to Al Mezan:

"My son was born with a congenital defect. His mother accompanied him to hospitals outside Gaza several times throughout the history of his medical treatment. She went with him to Tel Hashomer, Schneider, and Al Makassed Hospitals. Just when his health was slowly starting to stabilize—and after an extended period of medical treatment—Israeli authorities delayed his request to exit Gaza, disregarding his need to continue crucial treatment. Since the beginning of February 2016, Ahmed has not received a reply regarding the permit requests that we submitted.

The Israeli authorities had summoned my wife [Ahmed's mother] to a security interview at Erez crossing on 18 February 2016. During the interrogation, the Israeli intelligence agent told her that our son would pass Erez crossing if she cooperated [i.e. collaborated] with Israeli security agents. She refused. The Israeli forces then ordered her to wait, which she did for long hours, and eventually she and Ahmed were allowed to pass through the crossing.

A new appointment was set at the hospital for 10 October 2016, yet the permit request was denied once again. We then applied for the third time on 3 November 2016, however the Israeli authorities refused the application and summoned Ahmed for an interview at

37 Mohessin interview, supra ft 15.

Erez crossing. Ahmed went for the interview, and he was coerced to cooperate with the Israeli intelligence in order that he be allowed passage through the crossing and reach the hospital. As he refused, the Israeli authorities consequently refused his permit request. We obtained a new appointment for 30 January 2017, at the hospital, however Ahmed died on 14 January 2017 as his health deteriorated to the point of no return.”

RECORDED DEATHS

In 2017, at least 20 patients, including 11 women and three children, died while waiting for exit permits to be granted by Israeli authorities in order to access medical treatment outside of Gaza. This figure, which covers the cases Al Mezan was able to document and is not to be taken as inclusive of all deaths in 2017, is up from two patient deaths in 2016.

The phrase “under security consideration” was often the pretext given for exit permits to be delayed beyond the appointment date. The following information is based on witness statements:

Ahmed Hasan Shbeir, 17, died on Saturday, 14 January 2017, after his health deteriorated while he waited to obtain his medical permit. His full story is described by his father, Hasan Jamil Shbeir, in the previous section.

Shirin Mohamed Al-Ali, 39, who is a resident of North Gaza district, died on 9 January 2017. She was repeatedly denied a permit to pass through Erez crossing to receive medical treatment for cancer at the Makassed Hospital in East Jerusalem. Due to the lack of treatment in Gaza, the Medical Referrals Directorate at the Palestinian Ministry of Health referred the patient to the Makassed Hospital on 8 December 2015. She applied through the Coordination and Liaison Directorate to the Israeli authorities to request a permit; however, she did not receive a reply. She reapplied on four different occasions, but she received no response. The cancer metastasized to other parts of her body, and her family kept rebooking new hospital appointments almost every month, the last of which was on 9 January 2017. On that day, her health severely deteriorated and she was rushed to a local hospital in Gaza, where she died.

Eman Saleem Al Kahlout, 48, from Gaza City, died on the evening of 11 February 2017 from complications from a heart attack. She was granted an urgent referral by the Palestinian Ministry of Health to the Makassed Hospital in East Jerusalem, and a permit request was made to the Israeli authorities on the morning of 11 February 2017. The Israeli authorities’ response was delayed. Her condition deteriorated, and by the end of the evening, she died.

Kholoud Salama Al S’aidni, 36, from the Middle Gaza district, died on 13 March 2017. The mother of two had been battling cancer since April 2016. On 15 January 2017, she obtained a referral to the Makassed Hospital in East Jerusalem to receive specialized medical treatment. Within days, she applied for a permit to the Israeli authorities, but the application stalled. Her health deteriorated and she began to use a wheel chair to get around. She was then summoned for an interview on 22 February 2017 by the Israeli security authorities at

Erez crossing. She was interrogated. The interrogator sat with her a few meters away from a bus that he said was waiting to take her to the hospital that would give her the course of treatment that would probably keep her alive. He then showed her a photo and asked her to identify the person in it. She told him that she did not know who the person in the photo was. The interrogator presented her with two options: either to identify the person in the photo in order to be allowed to board the bus, or to return to Gaza. Kholuod was sent back to Gaza and passed away on 13 March 2017.

Farha Abdel Fatah Al Fayomi, 51, from Gaza City, died on 15 April 2017 waiting for a permit to travel to the Makassed Hospital in Jerusalem. The breast cancer patient had missed three previous appointments at the hospital on 14 February, 7 March, and 6 April 2017 after receiving the response that the application was under security consideration for all three permit requests that she had made to the Israeli authorities.

Aya Khalil Abu Mutlaq, 5, from Khan Younis, died on 17 April 2017. Aya was born with a metabolic disorder, the treatment of which required admittance to a hospital outside of Gaza. She obtained a medical referral from the Palestinian Ministry of Health to receive treatment at the Makassed Hospital in East Jerusalem. After receiving confirmation from the hospital for a medical appointment on 5 February 2017, Aya's family applied for a permit through the Coordination and Liaison Directorate to exit Gaza. She had to miss the appointment after the Israeli authorities failed to respond to her request on time. Her family was then told to seek another appointment at the hospital, and received a new date for 19 March 2017. The family went through the same application procedure, and again received no answer from the Israeli authorities. Finally, Aya was scheduled a third appointment on 27 April 2017. While the family was waiting for an answer to the third permit request, Aya's health deteriorated. She was rushed to the Nasser Hospital in Khan Younis city and died on 17 April 2017.

Walid Mohamed Qa'oud, 59, resident of Khan Younis, died on 2 May 2017. His son told Al Mezan that back in 2015, during a regular medical follow-up, cancerous cells were detected in his father's lungs. At the time, he was granted a permit to travel to the Makassed Hospital in Jerusalem where, on 10 November 2015, he underwent advanced scanning of his lungs. On his way back to Gaza, the Israeli security service detained him for around six hours at Erez crossing. There, he was interrogated, and was told that he would not be allowed to travel again and receive medical treatment unless he brought his sons to be interviewed by Israeli intelligence agents. In-line with his treatment plan, after returning from Gaza Walid booked a new appointment at the same hospital in Jerusalem. He was not granted the permit. He proceeded to apply several more times. His requests were either rejected or delayed under the pretext of a security check. Walid attempted to obtain a permit for over a year, while his health continued to deteriorate. His numerous applications received the same reply: "under security consideration". His last permit request was on 9 February 2017, to which he received a reply that he was "to attend an interview with the Israeli security services on 21 March 2017." Walid could not attend the interview at Erez as his health was continuing to rapidly deteriorate. The cancer had metastasized to several parts of his body and he lost his memory and his ability to move or speak. He died on the evening of Tuesday, 2 May 2017.

Tal'at Mahmoud Al-Shawi, 52, from Rafah, died on 28 May 2017. Tal'at had been battling renal cancer, which had metastasized to his lower back leaving him paralyzed from the waist down. Tal'at's requests for an exit permit received no reply and as a result he missed several scheduled appointments in 2016 and 2017 at the Makassed Hospital.

Abeer Ismael Abu-Jayab, 46, from Al Maghazi refugee camp, in the Middle Gaza district, died on 8 June 2017. Abeer had booked several appointments at the Makassed Hospital in Jerusalem to receive treatment for breast cancer. She missed those appointments, the last of which was on 24 April 2017, after a series of responses stating that the application was under security consideration by the Israeli authorities.

Jameel Hasan Mahmoud Tafish, 60, from Al Zaytoun in eastern Gaza City, died at 6:30 am on 3 July 2017 in Al Rantisi Hospital in Gaza City. On 24 May 2017, Jameel applied through the Ministry of Health for a crossing permit to receive treatment at the Makassed Hospital in Jerusalem. He was scheduled for surgery to remove the malignant tumors in his liver; however, Israeli authorities kept his application for an exit permit under security consideration through the date of his surgery. Jameel's surgery was re-scheduled for 6 June 2017 and he once again applied for an exit permit—which also remained under security consideration. Jameel's health deteriorated and the cancer progressed, spreading to his lungs, kidneys and other parts of his body. The Tafish family submitted an urgent request to the Medical Referral Directorate for transfer to the Makassed Hospital. They also submitted another application for an exit permit on 21 June 2017, but Israeli authorities did not respond to the request. On 2 July 2017, the Ministry of Health approved Jameel's request for transfer. The Israeli authorities did not issue an exit permit.

Youssef Omar Zourub, 21, from Rafah, died on 16 June 2017. Youssef had been suffering from Gaucher's disease since birth and had complication following a severe case of pneumonia which was unresponsive to treatment administered in Gaza. Youssef had to be referred to Makassed Hospital in Jerusalem for advanced treatment. Youssef missed several appointments at the hospital in March and June 2017 after all his applications for travel permit were still pending at the date of the appointment.

Yara Ismail Bakheet, 4, died on 13 July 2017. On 16 January 2017, Yara was taken to Naser Hospital in Khan Younis after vomiting. The doctors diagnosed her with a stomach flu. Three days later, her health deteriorated further. The new diagnosis determined that she suffered from a weak heart. Following unsuccessful treatment in Gaza, a medical referral was issued to transfer her to the Makassed Hospital in Jerusalem. However, she was unable to travel to her first appointment, on 29 January 2017, because her father, who was to accompany her, was denied permission to cross Erez by Israeli authorities. Another request for permission was submitted listing her 70-year-old grandmother as her companion. On 23 February 2017, she arrived at the Makassed Hospital and stayed there for three days; the doctors told her to continue with most of the medications prescribed to her in Gaza. She continued her treatment in the Gaza European Hospital but her health remained unstable for months. On 23 May 2017, she was supposed to go to the Makassed Hospital to continue her scheduled treatment, but her request for an exit permit was rejected by Israeli authorities. During this

period, Yara's health continued deteriorating. Her doctor in Gaza informed her father that she needed a procedure to support her weak heart muscle through a surgery at a hospital outside Gaza. Yara's father obtained a medical referral for her in late May. An appointment at the Makassed Hospital, where the surgery was to be done, was scheduled for 16 June 2017; however, this appointment was rescheduled to 20 July 2017 due to the delay by the Israeli authorities in issuing an exit permit for her. During this waiting period, Yara's health deteriorated further and she died on 13 July 2017 at the European Gaza Hospital.

Mohamed Abdel Rahman Abu Sultan, 64, from Al Nussairat refugee camp in Middle Gaza district, died on 20 July 2017. His application for a permit was still pending on the day of his appointment at the Makassed Hospital in Jerusalem. Mohamed reapplied twice, on 13 June and 13 July 2017, but those applications had similar negative outcomes.

Itimad Fathi Rabi', 44, from Rafah, died on 8 August 2017 after a battle with colon cancer. She was granted a conditional approval for a permit on the day of her death. The Israeli authorities requested that her companion be changed. Itimad had already missed three previous hospital appointments (29 June; 4 July; and 24 July 2017) when her permit applications were still pending on the day of the hospital appointments.

Faten Nadir Ahmed, 26, from Jabalia, died on 23 August 2017. She experienced a long ordeal with the permit application process; she missed her first three hospital appointments (on 24 November 2016, 22 December 2016, and 19 January 2017) as her applications for travel permit were still pending a security check on those dates. She then missed a fourth hospital appointment (on 13 February 2017) when her permit application was rejected. Faten was finally granted a permit on her fifth attempt and successfully crossed Erez and accessed the Makassed Hospital in Jerusalem on 20 April 2017, where she received treatment for 22 days before returning to Gaza. Faten was scheduled for another course of chemotherapy starting on 4 June 2017 but her permit application remained under security consideration. Her last two attempts to acquire a permit (on 18 June and 1 August 2017) had the same outcome. In total, Faten's permit applications were delayed seven times and rejected once, which resulted in eight hospital appointments missed.

Nadia Mosa Hamad, 53, from Beit Hanoun, died on 25 August 2017. She died from breast cancer after missing five consecutive appointments at the Makassed Hospital in 2017 due to delays in processing her permit applications. Her applications remained under security consideration.

Kaenat Mustafa Ja'rur, 42, died on 28 August 2017 after missing at least two hospital appointments (on 15 June and 24 August 2017) in Jerusalem to treat cancer. Her applications for a travel permit were still under security consideration at the time of the hospital appointments.

Ibtesam Nabhan, 53, from Al Nusseirat refugee camp, died on 10 September 2017. On 28 September 2016, Ibtesam was issued a permit by the Israeli authorities to cross Erez for breast cancer treatment at the Makassed Hospital in Jerusalem. She returned to Gaza after

treatment. Between 18 October 2016 and 28 February 2017, she submitted six requests for permits with the Israeli authorities to access the same hospital again and continue her medical treatment; however, the status of her requests remained under security consideration. On 22 March 2017, her permit request was processed successfully and she was allowed to access the hospital. On 1 April 2017, Ibtesam and her husband were summoned for an interview with the Israeli security service. She then applied twice to get an exit permit from the Israeli authorities between 4 May and 6 June 2017, but the status of her requests remained under security consideration. On 11 July 2017, she was issued an exit permit, but her husband's request for a permit as her companion was rejected. He was unable to accompany her. Ibtesam's 8 and 22 August 2017 requests remained under security consideration until her death on 10 September 2017. Her permit was issued on 27 September 2017.

Samar Youssef Al-Louh, 24, from Deir Al Balah, died on 22 October 2017 after missing at least one hospital appointment due to Israeli authorities' slow processing of her application. Samar had been diagnosed with renal failure since July 2016 for which she underwent many dialysis sessions in Gaza hospitals. On 22 August 2017, her body became unresponsive to treatment, at which point the doctors referred her for treatment outside the Gaza Strip. The Ministry of Health granted Samar a medical referral with financial coverage, and booked her an appointment on 30 August 2017 at Nablus Specialized Hospital in the West Bank. Samar waited for the Israeli authorities to grant her a travel permit to cross Erez but her application remained under processing and she missed her hospital appointment. At that point, a new referral and appointment had to be obtained before reapplying for a travel permit. The Palestinian Ministry of Health granted her a new referral with financial coverage to the Makassed Hospital in Jerusalem, and continued to contact the hospital to set an appointment for her. Samar's health continued to deteriorate and she died on 22 October 2017 waiting for an appointment that never came.

Abdul-Fattah Lutfi Al Sbakh, 66, from Al Nussairat refugee camp in Middle Gaza, died on 26 December 2017 in Shifa Hospital. Doctors in Shifa Hospital had discovered tumors on his bronchial tubes on 12 April 2016. On 27 April 2016, Abdul-Fattah was granted a referral to Assuta Hospital in Tel Aviv, and he attended his appointment. On 2 June 2016, he was given a second exit permit, after which he started chemotherapy at the Makassed Hospital. On 27 September 2016, Abdul-Fattah underwent an endoscopic retrograde cholangiopancreatography (ERCP) surgery at St. Joseph's Hospital in Jerusalem. The surgery was unsuccessful and another surgery was needed. On 4 October 2016, Abdul-Fattah received a referral and his travel was scheduled for 19 October 2016. However, the application remained under security consideration. An appointment for 15 November 2016 was scheduled, but the permit was not granted. Three more appointments were scheduled and passed without response. Pressed by the deterioration of his health, Abdul-Fattah tried the ERCP surgery at Shifa Hospital in Gaza. His health continued to deteriorate. On 25 May 2017, he was granted a crossing permit for Assuta Hospital. The doctors there told him that his condition had been aggravated by the delay and irregularity of treatment. On 24 September 2017, Abdul-Fattah underwent a chemotherapy treatment at the Makassed Hospital, but when he returned to Gaza, his health deteriorated dramatically. The next two

permit requests received no response and Abdul-Fattah missed his appointments on 21 November and 5 December. Gisha—Legal Center for Freedom of Movement intervened and on 17 December 2017 Abdul-Fattah was granted an exit permit. On 21 December 2017, Abdul-Fattah was transferred back to Gaza as the doctors had decided that treatment would no longer be effective. He stayed in Shifa Hospital until his death.

RECENT STUDY: CANCER PATIENTS IN GAZA

A recent study, by Dr. Alaa Mattar of Al Israa University in Gaza, on the violation of the right to health of patients with breast cancer in the Gaza Strip shows a severe shortage of medications needed for chemotherapy reaching up to 40% in some months and leaving 66.5% of women without the possibility to obtain the required doses for treatment. The study also revealed a severe shortage of mammogram scanners and contrast dyes, as well as a complete absence of nuclear scanners necessary to assess the spread of the cancer, including PET scanners. To make things worse, the available medical diagnostic equipment, including CT and MRI scanners, remain out of order for extended periods of time after a reported malfunction because it is extremely difficult to bring necessary spare parts into Gaza due to the crippling closure. A significant majority of breast cancer patients (76.4%) were told that their treatment is only available outside of the Strip. The study also revealed that out of 548 breast cancer patients who applied for travel permits to receive treatment in the West Bank and Jerusalem in 2016, about 75% either received no reply by the time their appointment expired, or had their permit requests rejected by the Israeli authorities. An overwhelming majority of those patients cannot afford medication since 94% of them are unemployed.³⁸

For the last five years, cancer has been the second most lethal disease in Palestine, second only to heart and vascular diseases. Figures from the Ministry of Health show that 52.5% of cancer patients in Palestine are female and 47.5% are male. Breast cancer is the most common type, with 17.8% of total cancer cases, followed by colon cancer, with 9.4%. The cancer rate in Palestine is 83.8 patients per 100,000, and in the Gaza Strip it is 83.9 patients per 100,000. Figures also show that 59.8% of cancer patients are between 15 and 64 years of age, 34.4% of cancer patients are over 65, while the remaining 6.8% are below 15. Leukemia is the most prevalent form of cancer among children in Palestine, affecting 30.2% of all cancer cases among children, followed by brain cancer that affects 18.5% of child cancer patients. Finally, 58.6% of cancer deaths are caused by five forms of cancer: breast cancer, lung cancer, colon cancer, brain cancer, and leukemia.³⁹

38 Alaa Matter, "Health rights violations against breast cancer patients in Gaza", Jil Magazine for Human Rights, April 2017, Issue 18, Page 29

39 The Ministry of Health, 'On World Cancer Day', 3 February 2017, available online at: <http://www.moh.ps/index/ArticleView/ArticleId/3668/Language/ar>, last accessed on 31 July 2017.

INCAPABILITY IN GAZA'S HOSPITALS

In this context, Dr. Khalid Thabit, the head of the Oncology Department at the Al Rantisi Hospital, stated that the oncology patients in Gaza face harsh reality pertaining to their treatment schedules. He stressed that the current situation signals towards a looming disaster given the number of critical cases in need of urgent medical intervention. He added that, due to limited capabilities of hospitals in Gaza, patients are referred outside of Gaza to receive advanced services such as radiotherapy, chemotherapy, and nuclear scanning, none of which are available in Gaza where hospitals do not have the capacity to provide for detection and examination of all stages of the cancer treatment protocol. They can only provide for one, initial stage, and only partially. Dr. Thabit also added that the situation gets even further exacerbated because of the increasing number of delays and rejections of permit requests. These rejections are unjustified, and clearly lead to unnecessary deterioration of patients' health to the extent that some cancer patients had lost the battle with their disease. The only option offered to cancer patients in Gaza is to be admitted to the Oncology Department at the Al Rantisi Hospital while waiting for their travel permits.⁴⁰

In her remarks about the situation of female patients, Mrs. Eman Shannan, Director General at the Aid and Hope Program for Cancer Patients Care, said that women feel anxious throughout the period prior their medical treatment. They are only concerned about receiving the permit and hardly have time to think about their health. The hope to receive a permit to pass through the Erez crossing and access the necessary medical treatment always remains alive.

Mrs. Shannan added that the lack of the Herceptin dosage in Gaza—persistent since June 2016—threatened more lives. Every cancer patient needs between 7 to 10 dosages of Herceptin throughout their treatment, with the period between each dosage set at 21 days. Most women who have cancer are young and maintain hope that they will be able to lead better family lives after treatment and after regaining their health. When the Israeli authorities refuse to grant permits for them to access hospitals, the patients cannot receive adequate medical treatment, and their suffering exacerbates. The Israeli authorities also impose restrictions on who can accompany patients to the hospital, requiring that their companions must be over 55 years old. Many women do not have first-degree relatives who are over 55 years old who are able to accompany them.⁴¹

CONCLUSION

The information laid out in this report sheds light on the desperate situation that patients find themselves in as a result of Israel's closure and blockade of the Gaza Strip. These factors have greatly contributed to the deterioration of Gaza's health sector and heavily strained the local authorities' response to increasing health needs of the population in Gaza.

40 Khalid Thabit, head of Oncology Department at Al Rantisi Hospital, interviewed on 6 February 2017.

41 Eman Shannan, General Director of Aid and Hope Program for Cancer Patients Care, interviewed by Basim Abu Jrai on 23 February 2017.

The Israeli authorities, through the imposition of a set of regulations that hinder and prevent access to medical care for Gaza patients, violate patients' human rights and Israel's legal obligations towards the civilian population whose welfare it is obliged to protect as the occupying power. The Israeli policies and practices that form its illegal closure and blockade of Gaza deny Palestinians the rights to free movement, to the highest attainable standards of health, and ultimately, in a number of tragic and preventable cases, to life.

To support patient rights in Gaza, Al Mezan increased its legal representation of patients and international advocacy on behalf of patients in cooperation with Palestinian, Israeli and international human rights organizations. However, without the international community's effective intervention to end the general travel ban on patients from accessing specialist and in many cases life-saving treatment outside of Gaza, the grave violations it produces are expected to continue. The international community must also support the use of international accountability mechanisms to secure legal accountability for the serious violations of international law created by the illegal closure regime and to provide redress for victims.

RECOMMENDATIONS

The violations laid out in this report must cease without further delay so that Gaza's population can receive the basic protections of the human rights system and international law. In particular, free movement of people, especially patients, must be restored. Israel, the occupying power, must be pressured by the international community to bring the arbitrary collective punishment measures to an end, and instead make use of reasonable and proportionate measures that can effectively ensure its security. Where specific and identifiable threats can be credibly proven, targeted restrictions affecting individuals may be introduced following a legally sound process that ensures the protection of basic human rights.

Based on the information provided in this report, Al Mezan recommends that:

- The international community and international organizations and agencies respect their obligations towards Palestinian civilians in the oPt, including the Gaza Strip, in accordance with international law. International humanitarian law must be respected and human rights should not be politicized.
- The international community promptly intervenes to end the Israeli closure and blockade imposed on the Gaza Strip. The closure and blockade represent a form of collective punishment under which systematic violations of human rights are committed, with no effective recourse of redress available for the victims. The policies themselves contribute to the further degradation of the already deteriorated human rights situation that the residents of Gaza find themselves in—a fact that is asserted in the report issued in 2012 by the UN warning that the Gaza Strip would cease being able to support human life by 2020.
- The international community work towards ending Israel's violations and efforts to prevent Palestinians from effectively enjoying their right to health; to enhance work that

would improve Gaza's health sector; to secure unimpeded access of patients to hospitals, especially Palestinian hospitals in the West Bank, including East Jerusalem; and to prevent detention and inhuman and degrading treatment of Gaza's patients at Erez crossing.

- The High Contracting Parties to the Fourth Geneva Convention should take effective steps to ensure the application of the Convention's humanitarian provisions regarding protected persons' access to adequate medical care in Gaza; and
- The international community take action to ensure that international justice mechanisms are used to seek accountability and to bring those who are found to have committed gross human rights violations and/or grave breaches of international humanitarian law to justice.