Access to health care and protection of the medical services in the Occupied and Autonomous Palestinian Territories

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CONTENTS

Summary ......................................................................................................................... p. 2

Report on access to the care and protection of the medical services in the Occupied and Autonomous Palestinian territories. .................................................. p. 3

1- Restrictions on the population’s access to health care facilities .................................... p. 9

2- Restrictions on access to patients by medical personnel and health care vehicles ............... p. 16

3- Disregard for the respect and protection of the medical services ....................................... p. 22

Appendix 1 : Articles of the 1949 Fourth Geneva Convention and the 1977 Additional Protocol I ........................................................................................................ p. 34

Appendix 2 : Index of testimonies ......................................................................................... p. 40

Appendix 3 : Maps .............................................................................................................. p. 42

Appendix 4 : Médecins du Monde press release of 13 May 2003 ........................................... p. 44

Cover photo: ambulance blocked by the Israeli army near a trench encircling the village of Salem

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SUMMARY

Médecins du Monde has been present in the Palestinian Territories since 1995 and was forced to strengthen its programmes in 2001 in order to respond more effectively to the consequences of the escalation of violence associated with the Israeli-Palestinian conflict. The general aim of its actions is to overcome the medical and sanitary consequences of the restrictions affecting the civilian Palestinian population’s free access to health care.

In fact, in the Occupied Territories, limitations on access to care are numerous and take various forms. The purpose of the present report is to testify to this, based on the real-life experiences of Médecins du Monde medical staff and their partners in their workplaces, between January and June 2003. A series of observations is used to bring to light different aspects of these obstacles to health care access in the West Bank (Nablus) and the Gaza Strip: difficulties for the population in gaining access to medical organisations, restrictions imposed on access to the patients by medical personnel, and failure to protect the medical services (medical personnel, health care vehicles and hospital facilities).

The association wishes to draw the attention of Israeli and international government institutions and the Israeli army, and also of Israeli civilian society, to the daily obstacles which the military occupation is imposing upon the Palestinian population, as well as to the health-related consequences of a prolonged occupation.

Consequently, Médecins du Monde hereby calls upon the Israeli Defence Forces (hereinafter referred to as the “IDF”) to take note of this statement of fact, and requests that they immediately comply with elementary principles of humanity and the fundamental rules of International Humanitarian Law.

Furthermore, Médecins du Monde draws attention, yet again, to the disastrous effects upon the civilian population of these violations of International Humanitarian Law: medical consequences, physical or psychological, hardening of behaviour, people and public opinion, aggravating the cycle of violence and the hatred between the populations.

Finally, Médecins du Monde reminds the Parties to the conflict of their obligations:

- to comply with, and ensure compliance with, International Humanitarian Law,

- to respect and guarantee the protection and neutrality of every medical structure (ambulance, dispensary, hospital, etc.) and their personnel.

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1 Only the testimonies from Mawassi extend to September 2003
2 See article 1 common to the 4 Geneva Conventions
ALL TESTIMONIES ARE RE-TRANSCRIBED ANONYMOUSLY IN ORDER TO PROTECT THE PEOPLE CONCERNED.

Context:

The work of Médecins du Monde in the Occupied and Autonomous Palestinian Territories (the West Bank and the Gaza Strip) forms part of a rapidly changing situation, the main aspects of which are currently as follows:
- on the one hand, sweeping military operations conducted by the Israeli army have greatly increased, with destruction of Palestinian Authority infrastructures and dwellings, reoccupation of the main towns, and the imposition of a curfew in zones which are theoretically under Palestinian control, all in the course of 2002;
- on the other, armed Palestinian groups have claimed responsibility for numerous attacks both in Israel and in the Occupied Territories.

The beginning of 2003 was marked by a progressive lifting of the curfew and by the very gradual opening of certain villages in the West Bank. But the violence of military incursions has increased. Assassinations of Palestinian political leaders have multiplied. Attacks and assaults by armed Palestinian groups targeting Israeli civilian populations have intensified. Finally, the northern Gaza Strip was occupied for a period of two months, in May and June 2003.

On 30 April 2003, a new peace plan was established by the “Quartet” of the United States, Russia, the United Nations and the European Union, and presented to the Israeli Government and the Palestinian Authorities. This “Road map” made provisions for a peaceful settlement of the Israeli-Palestinian conflict, an end to occupation of the Territories, and the constitution of an independent Palestinian state by 2005. But the latest developments in the political and military situation seem to have put an end to this initiative.

In parallel with this, since the beginning of the Second Intifada, the humanitarian situation in the Palestinian Territories is extremely precarious and continues to deteriorate. A wall or “security fence”, started a year ago and planned for completion by the end of 2003, which sometimes penetrates several kilometres into Palestinian Territories, is intended to separate Israel from the West Bank and threatens to limit even further the freedom of movement of the civilian populations. Certain villages will thus be totally isolated. Access to medical facilities, and to health care in general, will be even further hindered. It goes without saying that the risk of aggravating the humanitarian situation within the Occupied Territories is real.

Médecins du Monde, which has been present in the Palestinian Territories since 1995, was obliged to strengthen its programmes in 2001 in order to cope more effectively with the consequences of the rising violence. The general aim of its actions is to overcome the medical and health-related consequences of restrictions on the Palestinian civilian population’s free access to health care.
Medical programmes of Médecins du Monde

In the Gaza Strip, Médecins du Monde has been developing a medical emergency programme since March 2002, aimed at improving the equipment and pre-hospital care in ambulances, and at training Emergency Medical Technician (EMT) teams of the Palestinian Red Crescent. In addition, a training programme for the trainers on medical care in the event of a catastrophe, developed in cooperation with the Ministry of Health, enables Palestinian doctors to strengthen their skills in this area. In response to the major military operations of April 2002, Médecins du Monde also provided emergency kits for the population in the Gaza Strip and Nablus, as well as in the surrounding camps and villages. Surgical teams are sent to the main public hospitals in order to work in cooperation with the Palestinian personnel.

In Nablus (West Bank), Médecins du Monde has been conducting a mental health programme since 1999, in partnership with the Palestinian Youth Union (PYU), in order to offer psychological support to the population of the Nablus region. Médecins du Monde is also working to improve the provision of primary health care to the population of Nablus, by supporting the operation of the dispensary in the Old Town, opened in April 2002, and by developing a mother and child health programme in the surrounding villages.

The staff of Médecins du Monde travelling in the Palestinian Territories with protective equipment

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3 Programme for the improvement of pre and postnatal care in the form of assistance from Palestinian midwives in the dispensaries of the villages around Nablus.
**Purpose of the report:**

In the Palestinian Territories, the obstacles to health-care access are numerous and take different forms. The purpose of the present report is to bear witness to the restriction on access to health care endured by the civilian population of the Occupied Territories between January and June 2003. It is the experiences of Médecins du Monde medical teams and their partners in their workplaces that have made possible the writing of this report. Representative examples are given, to highlight various aspects of the obstacles to health-care access in the West Bank (Nablus) and in the Gaza Strip: difficulties for the population in gaining access to the medical facilities, restrictions imposed on medical personnel attempting to gain access to patients, and failure to protect the medical services (medical personnel, health care vehicles and hospital facilities).

Restrictions on the freedom of movement of people and goods are part of daily life for the population of the Territories. These are imposed by the Israeli army for reasons of military security, and take various forms: checkpoints in the middle of the road, submitting people and their property to strict controls, heaps of earth blocking access to a road, trenches encircling a village, curfews of variable duration⁴, or “military zones” to which all access is forbidden.

The effects of these restrictions are numerous, and all affect the daily life of civilians in

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⁴ The curfews can last from a few hours to several months, depending on the length of the military operations. During the summer of 2002, Nablus was subjected to a total curfew lasting 109 consecutive days, broken sporadically for a few hours to allow the population to re-supply with the urgent necessities of life.
the Territories. It is particularly the consequences on access to health care which Médecins du Monde intends to illustrate in this report.

**Legal basis:**

The International Humanitarian Law applicable in this context is contained in the Fourth Geneva Convention (hereinafter referred to as "CG4") of 12 August 1949, relating to the protection of civilian population in time of war, to which the State of Israel has been party since 6 July 1951, and in customary international law. The General Assembly of the United Nations has asked, in numerous resolutions, for the full application of this Convention by Israel in the Territories.

The subject of these legal provisions is the protection of civilian population, in this case the populations of the Occupied Territories, against the arbitrary actions of the occupying state. Specifically, the articles applicable to the question of access to health care and protection of the health-related services are as follows:

- articles 3, 13, 16, 17, 18, 20, 21, 22, 23, 27, 33, 55, 56 and 59 of the Fourth Geneva Convention of 12 August 1949, relating to protection of civilian persons in time of armed conflict,

- articles 48, 50, 51, 52, 54, 56 and 75 of Additional Protocol I of 1977 relating to protection of victims of international armed conflicts.

The Protocol strengthens and complements the protection provided by the Fourth Geneva Convention for the benefit of victims, in particular reaffirming the principle by which the Parties to the conflict must, in all circumstances and at all times, make the distinction between combatants and non-combatants. Even though Israel is not a party to this protocol, the above-mentioned provisions apply because they have acquired the value of customary law.

International Humanitarian Law (IHL) is based on, among others, the principle of distinction. This principle is intended to protect the civilian population and all property of a civilian nature, and establishes a distinction between combatants and non-combatants. Thus, the category of people defined as "civilian" includes all people not, or no longer, taking part directly in hostilities. Of these, the wounded and the sick are protected and must receive particular attention. For this reason, International Humanitarian Law provides for access and assistance to protected people (of which the wounded and sick form part) and to the civilian population of the occupied territories in general. In particular, it stipulates free medical access, with protection for vehicles, personnel and health-related installations, and allows the evacuation or exchange of the wounded and sick from a zone which is under siege or encircled, and the passage of personnel and medical equipment intended for this zone.

Freedom of movement is an individual right to which people are entitled in time of war.

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5 International custom and practice is a general and repeated practice which is accepted as law (see article 38 of the statute of the International Court of Justice). It is recognised as legitimate by all States, and applies to everyone. Failure to comply with it is a violation of international law.


7 See appendix 1 for the content of the articles of CG4.

8 See appendix 1 for the content of the articles of Protocol I.
and peace alike. It enables any citizen of a State to move freely in his or her own territory. This right is subject to some limitations, however. In fact, according to the stipulations of the International Convenant on Civil and Political Rights, the State can restrict the exercise of this right in order to protect national security, public order, health or public morals, and the rights and freedoms of others. Israel therefore has the right to take necessary and reasonable measures in order to guarantee its security. It can also restrict access to its territory. Nevertheless, these measures must under no circumstances constitute collective and discriminatory punishments against the Palestinian civilian population. It should also be noted that, as the occupying power, Israel is obliged to guarantee freedom of movement to the population of the Occupied Territories. Finally, and in application of the Fourth Geneva Convention, Israel must ensure that the essential needs of the civilian population are met.

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9 See article 12 of the 1966 International Pact concerning civilian and political rights. Israel has been party to this since 3 October 1991.
INTRODUCTION

Freedom of movement is a right which can be limited in time of armed conflict. Under the terms of article 27 paragraph 4 CG4, the armed forces may impose restrictive measures in the interest of security, thus limiting the freedom of movement of the civilian population. However, this article implies that these restrictions must be in proportion to the security goal to be attained, in order not to affect adversely the fundamental rights of the Palestinian civilian population. In fact, although the IDF has the right to introduce checkpoints in order to control the movement of people and goods, it must still respect and protect the people and civilian property as defined in IHL. Particular care and protection are obviously accorded to women and children. The medical and assistance personnel, and their vehicles, must also be protected, in the IHL sense.

Restrictions on the freedom of movement of the civilian population must therefore be evaluated in the light of the rules of International Humanitarian Law in general, in order to ensure their legitimacy as well as their legality.
1 - RESTRICTIONS ON THE POPULATION’S ACCESS TO HEALTH CARE FACILITIES

In the West Bank, in the Nablus region, the Israeli authorities sometimes block main access roads, as a defence measure against assaults. Villages can thus be in a situation of extreme isolation. People entering and leaving are very closely controlled. In too many cases, these restrictions constitute an obstacle to free passage of the wounded, the sick or pregnant women, who then find it impossible to travel to the health care centres. These restrictions imposed by Israel can then be considered as discriminatory measures, constituting collective punishment of the Palestinian population. It can also be argued that, when the total or partial closure of villages occurs in reaction to the actions of the armed Palestinian groups, it constitutes reprisal. IHL formally forbids collective punishments and reprisal measures10.

Moreover, articles 16 and 17 of the Fourth Geneva Convention establish the principle that the wounded and the sick, as well as handicapped people and pregnant women (people whose lack of strength calls for particular concern) must be respected and protected. The Parties to the conflict have an obligation to allow their evacuation within the shortest time possible and their transportation to a health care establishment.

The staff of Médecins du Monde in Nablus has been able to observe that the sick (chronic patients or emergency cases) are encountering constant obstacles to their freedom of movement, thus preventing or delaying their reaching the hospitals in Nablus.

Pregnant women

Pregnant women, who ought to receive particular care and protection11, sometimes encounter considerable difficulty with the monitoring of their pregnancy, and during the approach of the birth. In fact, many, unable to go freely to the maternity hospital, give birth in conditions which do not meet the health and safety conditions appropriate to their condition.

During periods of closure or of curfew, women in labour run risks which are all the greater because they have no guarantee that they will be able to get through a checkpoint12. Abusive delays can amount to inhuman treatment in view of their state of health.

A Médecins du Monde midwife, working in Nablus, assists and trains the Palestinian medical personnel during pre- and postnatal consultations in the neighbouring villages. With the beginning of the Intifada, the Palestinian Health Ministry developed and improved the medical facilities in the villages in order to cope with the restrictions on freedom of movement and travel imposed upon the rural populations. As a consequence, the number of dispensaries increased and some of these are now more functional and better equipped. However, women in labour always need to attend hospital to give birth, while restrictive measures blocking free passage continue to exist, as testified by the staff of Médecins du Monde and their partners.

10 Article 33 of the CG4.
11 Article 16 of the CG4.
12 Military road block
“Last week (May 2003), I had to attend three home births in a single day. The women were unable to go to hospital. The soldiers did not want to let anyone through, so these three women had to turn round and return home. Where I work, there is no ambulance, but there is one in the next village. This ambulance went to fetch them from home to take them to the checkpoint. The soldiers threatened the ambulance with their guns and forced it to turn round. The ambulance took them all home and they called me to assist with the births. Fortunately, there were no complications. I had no equipment available and, in the event of a complication, I would have been able to do nothing.”

B., nurse midwife (testimony 1)

“One night, a woman came to my house at midnight, as she was on the point of giving birth, the contractions having already started. She had called an ambulance. However, at that time, there were 2 checkpoints between villages X and Y [the two villages are 1 km from each other]. She walked to the first checkpoint, but the ambulance was blocked behind the second checkpoint. (There were about 100 metres between the 2 checkpoints.) She could see the ambulance. She never succeeded in getting past the checkpoint, and neither did the ambulance. She therefore returned to the village after several hours of waiting. And she came to my house to give birth.”

D., nurse midwife (testimony 2)
“A year and a half ago, I was 5 months pregnant. I was bleeding a lot, and needed to go to the hospital in Nablus. I had all the papers and the prescriptions, in order, from the dispensary to effect my transfer to the hospital. At that time, there were 2 checkpoints between villages X and Y. I walked to the first checkpoint, still bleeding a lot. I managed to reach the second checkpoint, but the soldiers would then not let me pass. I had to wait for three hours before getting authorisation. When the ambulance arrived, they were able to verify that my authorisations were correct and allowed me to pass.”

N., woman in a pre-natal consultation (testimony 3)

“On 28/05/03, I wanted to go to Nablus with my husband. At the checkpoint, however, there was a tank blocking the road, so we decided to cross the fields. Suddenly, soldiers hidden behind the trees chased us. We ran as fast as we could, but I fell and hurt my ankle. I am here for the consultation today because I am afraid for the state of my baby as a result of my fall.”

S., woman in pre-natal consultation (testimony 4)

**Chronic patients**

The psychiatric nurse working for Médecins du Monde in Nablus reports cases in which patients do not have access to treatments they need. The medical facilities (dispensaries or pharmacies) in rural areas do not have all of the space to cater for specialised treatments or even a specialist doctor. The medicines and care facilities exist and are available in the towns but the obstacles to movement directly affect access to these specialist centres. Yet it is essential that patients be able to attend them according to their needs.

“I went to see a patient in a village, who was supposed to be receiving psychiatric treatment. The medicines were not available at the closest pharmacy to home, but were at the Nablus branch of the Ministry of Health. For the simple reason that this person was unable to pass through the checkpoint in order to get to Nablus, he had run out of medicine and been obliged to stop his treatment. This is a recurring problem, confirmed by the general practitioners of mobile clinics.

In another village, a patient was suffering from chronic delirium. He had been treated for 10 years. The only psychiatric hospital available in the West Bank is that at Bethlehem. In order to be admitted, he had to be taken first to the psychiatric consultation department in Nablus. The roads between his village, Nablus and Bethlehem are interrupted by numerous checkpoints which are very difficult for him to get through. Because of this and the lack of a specialist care network in the villages, he no longer has access to his treatment.

Furthermore, the psychiatric hospital at Bethlehem has only one ambulance to go and fetch the patients in the whole of the West Bank. It is therefore impossible to send the ambulance to bring him to the hospital. (Priority is given to emergency cases.) A private ambulance could be the solution for those who have the resources, since the journey costs 400 shekels14, but the passage through the checkpoints is not guaranteed. Following our medical assessment report indicating the need for his hospitalisation, we were able to exert pressure so that the patient could be admitted to the hospital in

14 400 shekels are worth about 82 euros.
Patients for whom treatment is not available in the West Bank have even more
difficulties in crossing an international border to receive suitable treatment. The
intervention of international and Israeli NGOs is therefore absolutely necessary for
regularisation of the administrative formalities.

"A patient was suffering from Tourette's Syndrome – a neurological illness. She lived in
Nablus and had been following treatment in Jordan. At present, there is no specialist
sufficiently skilled in neurology in Nablus (or in the West Bank in general), but treatment
is available in Israel and in Jordan. In order to allow her to receive specialist care,
Médecins du Monde had to organise a "coordination" with an Israeli medical
association." (testimony 6)

**Emergency cases**

Emergency cases do not necessarily receive any special treatment crossing a checkpoint.
In April 2003, Médecins du Monde staff, using their own car, transported a woman
suffering from a pulmonary oedema, whose state called for emergency hospitalisation.
When they arrived at the checkpoint at the exit from the village, the Médecins du Monde
car remained blocked while it awaited the authorisation to pass. A tank was placed
across the road, preventing any passage and pointing its gun in the direction of the car.
They had to wait for almost an hour until authorisation was given and for the tanks to
free the passage. (testimony 7)

**Special case of the Mawassi enclave in the Gaza Strip**

The Médecins du Monde team has paid several assessment visits to the Mawassi
enclave, and currently supports the PRCS team working in the area, by giving training
courses on improved handling of emergencies. By this regular presence, the staff are
able to observe the extreme restrictions on health care access with which the population
of Mawassi must cope in order to reach the hospitals at Khan Younis or Rafah (southern
Gaza Strip).

The Mawassi area is located in the southwest of the Gaza Strip. It is a narrow parcel of
territory separated from the rest of the Gaza Strip to the east by the Israeli settlement
of Gush Katif, and from the rest of the world to the west by the coast. Because of the
presence of this settlement, access by the population of Mawassi to the rest of the Gaza
Strip is subject to conditions imposed by the Israeli army. The only points of passage
between Mawassi and Gaza are two Israeli military checkpoints: Tofah, which offers
access to the town of Khan Younis, and Tel El Sultan which leads to Rafah.
Almost 7000 Palestinians live in Mawassi. Conditions of passage for Palestinians at the
checkpoint are very restrictive. Between January and June 2003, men under 35 could
neither enter nor leave the enclave. Women under 25 could not leave unless they were

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15 Coordination with the Israeli medical association consists of organising transportation; and admission of
the patient to an Israeli hospital. A Palestinian ambulance takes the patient to the border between Israel
and the West Bank, and an Israeli ambulance transports the patient on the other side of the border. An
administrative procedure has to be followed, in order for the patient to remain on Israeli soil for the duration
of his or her stay in hospital.

16 In the absence of any recent census, the numbers vary from one estimate to the next.
accompanied by an under-three-year-old child, or if they were married for those over 20. Over and above these criteria, which vary regularly, a bar to passage at the checkpoint can also be imposed on anyone for reasons of security, irrevocably and without reason. (See testimonies 9 and 10).

The access regime to the Mawassi area is very limiting, helping to turn Mawassi into an enclave within the enclave which the Gaza Strip already is. Such restrictive criteria based on age and sex are discriminatory, and are therefore prohibited by humanitarian law17. Passage through the checkpoint is in any case subject to prior authorisation, which must be requested from the Israeli authorities, even if the person already meets the prerequisites. Waiting to obtain such an authorisation may take several hours or several days, either to enter or to leave the Mawassi enclave.

Health services within the enclave are very restricted. Two dispensaries provide for primary health care, one in the northern zone of Mawassi (the Mawassi – Khan Younis dispensary), and the other in the southern zone (the Mawassi – Rafah dispensary). In the absence of regular supplies of electricity and running water, vaccines cannot be stored. The equipment in the dispensaries is basic. There is no laboratory in which to perform analyses. In these conditions, access to the hospitals of the Gaza Strip (in particular those of Khan Younis and Rafah) is essential for numerous pathologies, for any surgical operation, and for emergency hospital cases.

17 The non-discrimination clause is contained in articles 3 and 13 of the CG4.
One PRCS ambulance covers the entire Mawassi area. Two volunteers (an EMT and a driver) deal with the emergency cases and transportation to the dispensary or transfers to the hospitals. The severe passage restrictions at the checkpoint also apply to transfers to the hospitals on the other side. When the ambulance arrives at the checkpoint with a patient to be transferred to a hospital, passage is allowed only subject to coordination with the Israeli army, regardless of the seriousness of the case. For the ambulances too, acquisition of this authorisation can take several hours. Once again, the exit of the patient can be refused for reasons of security, or on the basis of age criteria imposed by the Israelis. Moreover, since vehicles with Palestinian number plates do not have authorisation to cross the checkpoint, transfers of patients to the Gaza Strip hospitals are carried out “back-to-back”, a procedure in which the ambulance staff carry the patient on a stretcher from one vehicle, through the checkpoint, to the PRCS ambulance from the station of Khan Younis or Rafah which is waiting on the other side.

The wait to obtain authorisation to cross through the checkpoint can have dramatic consequences for the patient’s health, especially in emergency cases. A member of the health staff from the Mawassi area provided Médecins du Monde with examples of difficulties in gaining access to emergency care and their implications:

“In mid-July, a man of about 70 suffered an infarctus. The ambulance immediately transported him to the Tofah checkpoint and the ambulance staff requested coordination with the Israeli army in order to be able to take him urgently to the Khan Younis hospital. As usual, the request for coordination detailed the medical case of the patient and was accompanied by a medical report. The ambulance approached the checkpoint, and halted to await permission to remove the patient in order to transport him on a stretcher to the other ambulance, which was waiting on the other side of the checkpoint. The soldiers first searched the ambulance, with the tank pointing its gun at us, even though the ambulance was not due to cross itself. They then checked the car, and made us wait while they ensured that the car would not move, and that everything was happening under their eyes. While we waited, the state of the patient deteriorated. His pulse weakened, and soon we could no longer feel it. It was finally possible to transport him in the ambulance which was waiting on the other side after more than an hour of waiting. He was dead on arrival at the hospital, because he could not be helped in time.”
(testimony 8)

The fact that a patient who arrives at the Tofah checkpoint in order to travel to the hospital with prior authorisation is in a state of medical emergency, in most cases, does not constitute sufficient grounds for allowing the passage procedures to be accelerated:

“Every day, between 1 and 2 pm, while the soldiers take lunch, they provide no coordination in order to enter or leave Mawassi, even in emergency cases. On the 8th of last June, a little girl of 5 who had been knocked down by a truck arrived in the ambulance at the Tofah checkpoint at 1 pm. She had a broken leg, and had sustained serious head injuries. She was losing a lot of blood and we were unable to give her a transfusion in the ambulance. But since the soldiers were having lunch, it was impossible to take her to the hospital right away. They made us wait for one hour before allowing the transfer to the other side. We learned later that she had to spend more than ten days at the hospital.”
M., member of the health staff at Mawassi (testimony 9)
This extreme isolation also has serious consequences for access to suitable health care in cases other than emergencies:

"Just over one month ago, I fell ill and suffered very violent pain in the kidney with burning when I urinated. I went to the dispensary at Mawassi, but they could not help me and could only give me injections for the pain. One day, I was in such a bad state that I could no longer move. It was necessary that I go to the hospital because at the dispensary at Mawassi they were unable to make a diagnosis and so were unable to offer any treatment. The doctor at Mawassi told me that I had to have tests and x-rays, which are impossible here. The ambulance took me to the Tofah checkpoint at 2 pm. I had a doctor’s report with me, which specified that I should travel urgently to the hospital. My father went with the ambulance man to show this report to the soldiers at the checkpoint, but they refused to let me pass. My father begged them to let me go for just two hours so that they could do the tests at the hospital, but the soldier did not want to know, because I was not of the right age. It was therefore necessary to ask for coordination, and this was refused for reasons of security. I do not know why. I have no “security file” and I have never been arrested, but my brother has a security file. Perhaps that is the reason, I don’t know. I was therefore unable to go to the hospital, and could only have more injections for the pain at the dispensary. One month later, I again tried to go to the hospital because I was very ill again. The ambulance staff again tried to get coordination with the Israeli army, but it was again refused after an hour of waiting. I am very worried, because I have no way of finding out here what I am suffering from, and therefore of obtaining appropriate treatment. I sometimes experience very violent pain episodes, but all I can do is to get more injections to subdue the pain. All I want is to have the right to go and get treatment at the hospital, and then to return, since my family is here."

A., inhabitant of Mawassi (testimony 10)

These daily obstructions imposed by the Israeli army on the Mawassi population’s access to health care, eventually dissuade the inhabitants from seeking the services of the hospital, leading to their becoming resigned to giving up their fundamental right to health care:

"In Mawassi, with all these difficulties getting to the hospital, there are more and more people who prefer to suffer here rather than attempt to leave. They become resigned. And, once they have left, it is very difficult for them to get back through the checkpoint to return home. This means that many people prefer to suffer here rather than spend hours waiting at the checkpoint for nothing, or find themselves stuck on the other side for two or three weeks, waiting for a coordination to get home, with nowhere to go in the meantime."

M., inhabitant of Mawassi (testimony 11)
2- RESTRICTIONS ON ACCESS OF THE MEDICAL PERSONNEL AND HEALTH CARE VEHICLES TO PATIENTS

Articles 17, 23 and 55 of the Fourth Geneva Convention specify that free passage of medical personnel and medical equipment must be guaranteed in the occupied territory. The protection of the wounded and the sick provided for by articles 16 and 17 of CG4 only has any meaning in practice if the health-related services are themselves protected and are free to carry out their activities in conditions of security. International Humanitarian Law therefore grants protection to medical personnel and to medical transportation resources, and guarantees the re-supply of medicines as well as free passage for emergency medical help.

Difficulties faced by medical personnel in reaching their place of work

Obstacles to freedom of movement affect the West Bank in particular, where checkpoints leading to rural areas are virtually systematic. Medical personnel are also directly affected by the roadblocks. There is not always free passage to reach one’s place of work, and this despite the presentation of professional cards at the checkpoints. The re-supply of medicines to the villages is also the subject of regular obstruction.

The medical personnel in the village dispensaries around Nablus are regularly refused passage or subjected to unreasonable waits at the checkpoints. On several occasions, Médecins du Monde staff have been able to observe a queue of patients at a dispensary waiting for hours for a doctor who is unable to come because he has been refused passage at the checkpoint (testimony 12).

During curfews, restrictions are even more severe\(^{18}\). They are imposed frequently and unpredictably, by day or night. Civilians are forbidden to leave their homes on pain of arrest. Authorisations to leave are rare, even for the medical staff. During these periods, the nurses, who often live in the villages where they work, try to open dispensaries as soon as possible, in order to administer basic health care.

"If there is a curfew, there is no medical care available. The doctor is unable to open the clinic. As there is no doctor living here, he must come from the next village. This is 1 or 2 kilometres away at most, but he is unable to pass between the 2 villages when there is a curfew. If I can go to the dispensary during the curfew (while the soldiers are not watching), I open it in order to prescribe medicines. I am only qualified to give medicines to chronically ill people. Depending on the timing of the curfew, I can come before it starts and I can open the clinic. But if the curfew lasts for several days, I cannot go there at all."

A., nurse (testimony 13)

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\(^{18}\) The villages have suffered periods of curfew and prolonged closure, particularly during 2002 and up to April 2003. The population was authorised to leave their homes for a few hours each day only. The total closure of some villages around Nablus was suspended in April 2003, after a year of closure. Since that date, temporary curfews may have been decreed in certain villages, and in Nablus the night curfew has never been lifted officially.
"Previously, there was a primary and paediatric health care doctor who used to come every week. He no longer does so. There were also family planning sessions once a week (doctor and nurses), but this is no longer the case. The medical personnel very frequently try to pass through the checkpoints but don’t often manage to get through, even though they come in white coats and show their professional cards. That’s why the people become discouraged too.

D., nurse (testimony 14)

**Difficulties in the re-supply of medicines and medical equipment**

Village pharmacies or dispensaries sometimes have to wait for supplies of medicines and medical equipment because of transport delays at the warehouses or the checkpoints. For example, UNFPA delivery kits, which Médecins du Monde should distribute in the villages around Nablus, had been held up at Tel Aviv customs since April 2003, and were unable to reach the West Bank. The branch of the Palestinian Ministry of Health in Nablus has been waiting for delivery kits since February 2003, during which time they have been delayed. In order to cope with these excessively late deliveries, the pharmacies and the dispensaries keep sufficient stocks to supply the population for an average of three months.

**Obstacles to free passage of health care vehicles for evacuation of the wounded**

Evacuation of sick and wounded people is provided for by article 17 of the CG4. The Parties to the conflict thus have an obligation to respect and protect the personnel and the health care vehicles, as well as to guarantee free passage for them.

Ambulances are frequently subjected to unnecessarily long delays at checkpoints. IHL stipulates that evacuation of the wounded and sick must occur, as far as possible, within the shortest possible time. In this regard, the recommendations contained in the report of the United Nations Special Envoy, Catherine Bertini, in August 2002, set a maximum waiting time of thirty minutes at each checkpoint. For information, to this delay one has to add the journey time between the ambulance station and the place of evacuation of the wounded or sick person, as well as the time for transportation to the nearest hospital. The Palestinian Red Crescent Society records all incidents with which the ambulances are confronted.

"A few days ago (around 15 June 2003), I went to fetch a patient who was in cardiac difficulties from the other side of a checkpoint. I had to wait for authorisation to cross, after coordination between the ICRC and the liaison service of the Israeli army, from noon until to 7 pm, before it was possible to reach the sick person."

19 UNFPA : United Nations Population Fund
20 The recommendations are available on the web site, [www.reliefweb.int/hic-opt/docs/UN/OCHA](http://www.reliefweb.int/hic-opt/docs/UN/OCHA)
21 Checks on people and on vehicles are carried out without exception at each passage through the checkpoint, in each direction. Thus 30 minutes is the time required to pass one single checkpoint. Verification of the vehicle and/or the ambulance staff takes place on every passage, at every checkpoint.
22 Incident reports of the PRCS (Palestine Red Crescent Society). For information, see [www.palestinercs.org](http://www.palestinercs.org).
23 Coordination takes the form of verbal communication between the International Committee of the Red Cross (ICRC) and the liaison service of the Israeli army, in order to obtain authorisation for passage in a military zone. In practice, an ambulance which has to evacuate the wounded or sick in such a zone contacts the ICRC, which then arranges the coordination. The length of the coordination is very variable and its incidence of success is random.
A., Emergency Medical Technician *(testimony 15)*

"The day before yesterday (27/05/03), at 9 pm, cars were blocked at the checkpoint leading to Khan Younis (southern Gaza Strip). Two women in one of the cars fell ill because of the heat and the wait (they were both cancer sufferers). Our ambulance arrived at the checkpoint. The IDF asked the driver and the ambulance attendant to come forward, lifting their clothes to confirm that they had no weapons. They allowed us to go to the car on foot, but forbade us to take them to the hospital in the ambulance. The two women remained trapped there between the two checkpoints until 3 am."

S., Emergency Medical Technician *(testimony 16)*

In order to facilitate and accelerate the passage of ambulances at the checkpoints, Médecins du Monde has adopted a code of conduct which expatriates must follow at each checkpoint crossing. The Médecins du Monde vehicle always gives priority to ambulances which arrive at a checkpoint, so that they can pass as quickly as possible if they are responding to an emergency call (i.e. fetching or retrieving a patient) or carrying out a medical transfer to health care facilities. If a Médecins du Monde vehicle arrives at a checkpoint to find one or more ambulances waiting, the Médecins du Monde expatriates begin by reminding the soldiers present on the site that the ambulance is a priority vehicle. In the event of refusal, coordination is set up with the liaison service of the Israeli army.

The Médecins du Monde staff intervene regularly to facilitate the passage of numerous

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24 Code of conduct for the staff of Médecins du Monde in order to facilitate the access of ambulances to checkpoints, an internal document, dated Wednesday 29 January 2003.
ambulances being subjected to excessive waiting times at checkpoints.

In fact, there are no established rules to follow for those who pass a checkpoint, whether they be Palestinian or international. The decision to allow passage rests with the soldiers present at the roadblock, which leaves extremely broad scope for arbitrary decisions.

“In May 2003, there was a call to an ambulance station to transport an old woman of 78, who had cardiac problems. She lived right next to a settlement. When calling the ambulance, the patient’s family explained that they were unable to go anywhere, even with a private car, because of the high military presence that day25. Coordination was therefore necessary, so that the ambulance could drive by the settlement to reach the patient’s house26. I called the ICRC, giving all the necessary information, as required by the procedure27. The ICRC contacted the army liaison office and then sent me the following message: “The ambulance station must change the ambulance attendant assigned to this job, because of his first name.” The person concerned had a first name which means “liberation” in Arabic.

The ambulance station therefore gave the references of another ambulance attendant who would carry out the task. At that moment, however, the liaison office indicated to the ICRC that the patient was not sick and that the operation was therefore not necessary. The soldiers said this without any medical opinion! This patient was even known to the ambulance stations as someone with chronic heart problems. In the end, it was necessary to wait for almost 4 hours before the ambulance could reach the patient and transport her to a hospital. In normal circumstances, it would have needed less than 5 minutes to go from the ambulance station to the district in which this patient lived. Coordination takes a minimum of 45 minutes – never less.”

K., doctor (testimony 17)

Ambulances are sometimes forced to wait for wounded people on the other side of the checkpoint or of the tank, obliging them to cross on foot in order to reach the ambulance. In the event of infirmity or of invalidity, evacuation of the patient can be problematical, and in IHL terms, this can constitute a form of inhuman treatment28.

“On 28/05/03, a woman who lived in the northern Gaza Strip was on the point of giving birth. The ambulance came to fetch her, but a tank blocked the road between Beit Lahia and Gaza, preventing vehicles from passing. The tank switched on its floodlight to signal us to stop. The husband was obliged to take his wife on foot to the tank so that she could enter the ambulance and travel to the hospital.”

N., ambulance driver (testimony 18)

25 A military operation had taken place on the previous day, and this had strengthened the military set-up in the district.

26 The settlement is guarded by military guard posts all along it. The soldiers allow no vehicle to pass without prior authorisation from the army liaison service. In the absence of authorisation, the soldiers do not hesitate to fire.

27 The coordination procedure required that information is given concerning the ambulance (model of the vehicle and its licence plate), on the staff in the ambulance (names and identity numbers of the drivers, the ambulance attendants and any volunteers), on the route to be followed by the ambulance and on the patient (name, age, pathology, place of residence with the street name and sometimes the house number, which can be very difficult to ascertain, given that the cards in Hebrew and Arabic are very different).

28 A fundamental principle of international humanitarian law states that the wounded and the sick should be treated with humanity in all circumstances (article 3 common to the 4 Geneva Conventions, articles 8 and 10 of Additional Protocol I).
Ambulance crews working in partnership with Médecins du Monde have reported that, during military operations, tanks or armoured vehicles have blocked the entrances and exits of ambulance stations, both in the Gaza Strip and in Nablus. In addition to denying the health services free passage²⁹, these blockages represent a violation of article 18 of the CG4, which accords respect and protection to health-related units.

"In February 2003, during a military operation in the district, a tank blocked the ambulance exit, placing itself in front of our station from 11 pm until 5 am. When a tank blocked the entrance of the ambulance station, the soldiers shouted at us to come out with our hands up, showing our identity cards. They asked if there were any sick people in the station. There never are, because it is just an ambulance station. We were unable to leave until 5 in the morning. The soldiers told us: "if you leave, we will shoot you". We were always receiving calls from wounded or sick people. Fortunately, the head of station had gone home with an ambulance, so he was able to provide assistance for the sick, and take them to the hospital."

M., Emergency Medical Technician (testimony 19)

"That evening (20/04/03), we had 3 crews at work. In the event of incursion, the tanks pass along our street, in front of the station, heading towards the town. At the beginning of this incursion, a first tank stationed itself in front of the station. We saw several tanks and several bulldozers go by. The tank remained stationed in front of our station for the full duration of the operation. We then contacted the PRCS³⁰ and the ICRC to explain that we could no longer leave. The ICRC sent us a message that we must not leave, in case we were fired upon. We therefore remained stuck in the station with no ability to respond to calls from the wounded and the sick."

S., Emergency Medical Technician (testimony 20)

The Rafidia hospital in Nablus has also found itself encircled several times (since the beginning of the Intifada) by military vehicles, which blocked the ambulances’ entrance and exit for several hours. These blockages occur during military operations, when the hospital has to receive more wounded people than in normal times. As a result, ambulances are no longer able to carry out the removal of the wounded and the sick. They can no longer go to fetch the wounded and the sick, and cannot take them to the hospital.

Obstacles to free access by the humanitarian staff

To a lesser extent, the Médecins du Monde teams are also confronted with restrictions on their freedom of movement. At checkpoint crossings, the Israeli army generally facilitates the passage of humanitarian vehicles, giving them priority. Nevertheless, the vehicles of Médecins du Monde are subject to the arbitrary process of passage authorisation. When they are refused access to villages by the soldiers present at a roadblock, coordination is then organised with the army liaison office, which authorises passage of the vehicle in the great majority of cases. But this is at the cost of a wait which can sometimes amount to several hours. The correct operation of medical programmes is affected by this, and in the end it is the treated populations who are the first victims. The rural areas are the most difficult to reach because of the random success rate of checkpoint crossings to reach the villages. All this has an impact on the implementation of our programmes (maternity programmes, for example).

²⁹ Articles 16 and 17 of the CG4.
³⁰ PRCS: Palestine Red Crescent Society
These access restrictions have sometimes led Médecins du Monde to reduce the volume of its activities, or even to temporarily suspend its programmes in the Gaza Strip in May 2003. At the end of April 2003, the entrance to the Gaza Strip via the Erez border was subjected to a reinforcing of checks, controls now becoming systematic, where passage had previously occurred without difficulty. From 12 to 18 May 2003, all movement into and out of the Gaza Strip was blocked to all foreigners except diplomats. Moreover, the occupation by the Israeli army of the northern Gaza Strip at the beginning of May 2003 made it even more difficult for the medical crews to travel.

Demonstration by the health services of the Gaza Strip to protest against the access restrictions imposed upon the international medical organisations in May 2003. Médecins du Monde had been forced to suspend its medical activities in the Gaza Strip.

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31 See the press release dated 13 May 2003 in appendix 4, announcing suspension of the activities of Médecins du Monde in the Gaza Strip.
3- DISREGARD FOR THE RESPECT AND PROTECTION OF THE MEDICAL SERVICES

Attacks on the protection of the medical services are frequent in the Territories. These services are composed of all the medical personnel, the establishments and the health-related vehicles.

As mentioned previously, medical personnel occupy a neutral position in the conflict, in as much as they play no part in the hostilities. The belligerents must therefore do everything possible to save them from attack and to allow them to accomplish their functions under the terms of articles 17, 20 and 56 of the CG4.

As protected property, hospitals and ambulances must not be subjected to attacks either.

In times of armed conflict, evacuation of the wounded and sick can prove dangerous for the medical personnel when they have to transport them out of the military zones. In the event of military operations, military vehicles encircle areas or districts within which there can be wounded people (due to the confrontations) or chronically sick people. The evacuation of these zones then becomes difficult for the ambulance staff, who then find themselves right in the middle of the battlefield.

Medical personnel can become the indirect victims of accidental shooting while they are evacuating the wounded or the sick out of a military zone. They can also be victims of indiscriminate attacks on the civilian population. But sometimes they are directly targeted by the armed forces.

One of the fundamental rules of international humanitarian law is the principle of distinction. According to this principle, which has the value of custom and practice (as specified in articles 51 and 52 of Protocol I), any attack must be directed against military objectives only. Civilian people and property must be protected, and must not be targeted under any circumstances.

"At midnight, an incursion occurred in the district. The wounded were being evacuated up to 6 in the morning. The tanks were at a crossroad, so it was difficult to get into the zone which they were surrounding. At 6 am, the tanks began to withdraw, but rockets were still being fired at a house which caught fire. Firemen arrived at the site to extinguish the fire. A crowd of children had gathered in front of the house to watch the scene. We were close to the house, standing by in order to evacuate the wounded from the house if required. The tanks were still withdrawing in a line when suddenly, the last tank in the line began to fire into the crowd in which the children were gathered. After bursts from a machine gun, the tank fired a multiple-dart type shell. The windscreen of our ambulance fractured under the blast of the explosion. Some ten or so children were on the ground. My colleague [Emergency Medical Technician] and I did not even feel that we had been wounded. We were protected by our bulletproof vests, and this reduced injuries from flying glass. We had to take care of the children. The first that I raised up had been decapitated. Then we tried to sort out those who were still alive. I could not say whether the tanks continued to fire at the time.

We evacuated three children to the hospital at Chifa, the reference hospital of Gaza. When we got to the hospital however, they were already dead. All three had head injuries. I fainted in the hospital because of my own wounds and from the shock of the
spectacle of horror which I had just witnessed.” [...] 

Ambulance driver (testimony 21)

Testimony 21. The burnt-out house and the ambulance on the day after the military incursion
A nurse was wounded by a bullet in the Nasser hospital where he was working on night shift. This hospital was the scene of shootings during a military operation at Khan Younis, a town in the southern Gaza Strip.

“That evening (2 March 2003), I was not on shift, but the hospital service called me because they feared an incursion into the town. I arrived at the hospital before the incursion occurred at 11 pm. The clashes then began, and we took in the first of the wounded. There was constant shooting between midnight and 7am. The firing was very heavy. We could not tell where the clashes were occurring, but we realised that the tanks were surrounding the hospital. Nobody dared leave the buildings.

At 5 am, we were still collecting the wounded. Bullets burst into the emergency reception building. Everyone threw themselves flat onto the floor - visitors, sick, medical personnel and even journalists who were present. It was very dramatic.

At that moment, I found myself close to the entrance of the emergency department. A bullet pierced the door, and hit me in the leg. The doctors came to my aid immediately. Nobody any longer dared go near the doors because it was too dangerous. The sick people were put in the corridors so as to remove them from the vicinity of the doors and windows.”

N., nurse (testimony 22)

In Nablus, a 42-year-old nurse was wounded by a bomb blast at a checkpoint, while returning home from work. The psychiatric nurse of Médecins du Monde, who was called for a consultation following this accident, was able to confirm her state of shock.

“On 2 April 2003, I was on my way to administer vaccinations in the villages around Nablus, together with a vaccination team. On completion of the vaccinations, we left the village taking all the medical equipment with us. We walked for 2 km.

There were jeeps waiting at the checkpoint at the exit from a village. With another woman (a colleague), we handed our identity papers to the soldiers. They let these fall into the water on the ground, because it was raining. One of the soldiers told us that we could not pass, and that we had to stay in the village. We insisted that we had to return to the Ministry of Health in Nablus with the medical equipment. A soldier pointed his gun at my colleague’s head, saying “You cannot pass, you must stay in the village”. She began to cry. Then we recovered our identity papers and sat on the ground to wait until they allowed us to pass. We waited there for more than an hour.

While we were sitting just a little way from the checkpoint, a man arrived at the roadblock, saying that he needed to go to Nablus to see a doctor. The soldiers refused, and began to shoot.

Then I felt something push me very hard in my back. It was burning, and my clothes had caught fire. My colleague removed the clothes from my body. I smelled the burning from the bomb, and I vomited. I then fainted, and felt no more. I was so afraid that I had lost part of my body. I woke up in the hospital. I was still vomiting. I no longer recognised the people (my family) who visited me at the hospital.

Even now, my ears and my head still feel bad – and I hear a constant buzzing noise. I no longer have any balance, especially when I get up in the morning.

I still have to go to the doctor regularly for my ear trouble.”

S., nurse (testimony 23)

Ambulance staff are sometimes the target of shots fired by the armed forces, despite

32 Explosive device giving off an extremely loud noise, which can rupture the eardrums of people in the vicinity.
the identification on their vehicles and their uniforms. The ambulances of the Palestinian Red Crescent bear the emblem of the Red Crescent and always use their flashing lights whenever they are travelling, in order to improve their visibility. The ambulance staff and the drivers always wear a regulatory uniform, also in order to be easily identifiable by the army, even at night.

"We were working after some shooting in the northern Gaza Strip. We had recovered the first wounded person. At that moment, a tank positioned some way off fired on us. We had clearly shown that we were ambulance staff driving an ambulance. When we tried to retrieve a second wounded person, the tank fired a continuous burst at us. We already had the first wounded person in the ambulance, together with one person assisting him. The shots hit the person assisting the wounded person. We then got back into the ambulance, unable to retrieve the second wounded person."

K., Emergency Medical Technician (testimony 24)

"This happened on 11 March 2003. We received a call to collect a wounded person in the Rafah district. The wounded person was in a zone quite close to the Israeli settlement. People told us that this person was in a garage. We stopped about 5 metres from the garage. I got out of the ambulance to go and look for the wounded person. I had barely opened the door when there was shooting aimed directly at the ambulance. Up to that moment, there had been no shooting or confrontations (the district was quiet). We then tried to move the ambulance into shelter. We were in a narrow alleyway, and the bullets were bouncing off the walls. The driver was hit in the left hand by wall debris. We then moved into the shelter of another alleyway. I bandaged the driver’s wounds. We then made a detour to be able to reach the wounded person and were able to evacuate him within 10 minutes."

A., Emergency Medical Technician (testimony 25)

**Disregard for the respect and protection of health care vehicles**

As indicated by the above evidence, Israeli armed forces sometimes directly target the ambulances evacuating the wounded from military zones. A zone becomes military when it is encircled by tanks which block access to it. According to article 17 of the CG4, evacuation of the wounded or of the sick from this zone must, as far as possible, take place in the shortest possible time, following arrangements with the belligerents. In the Gaza Strip, when an ambulance is called for evacuation from a military zone, coordination\(^{33}\) with the service of the Israeli army is necessary in order to obtain authorisation for passage. However, such coordination does not appear to provide protection to ambulances in the process of performing their functions in all circumstances.

"Two months ago (March 2003), a very large explosion occurred on a bridge. A house located alongside fell down. With the blast of the explosion, the corrugated roof was blown off the house and wounded several people.

\(^{33}\) Coordination is verbal communication which leads to authorisation from the IDF to pass into a military zone. In practice, any ambulance wanting to enter into such a zone contacts the International Committee of the Red Cross (ICRC), and this communicates with the Israeli army liaison service. The latter then sends the order to the soldiers stationed in the military zone to allow passage, and informs the ICRC that the order has been given. On conclusion of this process, the ambulance receives the go-ahead to proceed and evacuate the wounded.
The station sent two ambulances, but the access roadway was blocked by tanks. We therefore requested coordination with the ICRC, and we were given the green light to pass within 10 minutes. The two ambulances were in line, one behind the other and I was in the second one. The soldiers in the tank indicated that we should advance, using light signals. When we got within 10 metres of the tank, the soldiers began to fire continuous bursts at us. We panicked completely, and didn’t know what to do. They saw us in their floodlight, and they knew that we were not armed. We tried to show them our hands and tried to anticipate their reactions.

After the shooting, the first ambulance had been hit and returned to the station. I reversed with the ambulance I was driving, and we again asked for coordination, telling the ICRC what had just happened. Finally, we were able to pass, but it took us almost three hours to get assistance to the wounded.”

J., ambulance driver (testimony 26)
In front of an ambulance station in the Gaza Strip, a tank and a bulldozer destroyed an ambulance which was in their path, as well as all the medical equipment that it contained.

“That evening (20/04/03), there was a military operation in the town. At the end of the incursion, the tanks withdrew, going down our street34. Sixty-three tanks passed in front of us – we counted them! The last tank was damaged and was being towed by a bulldozer which had difficulty turning in the street. After a quarter of an hour of manoeuvring, the bulldozer finally took the easiest route and drove right over one of the ambulances, which was parked on the pavement opposite. The bulldozer and the tank passed over the ambulance, one after the other. It was completely crushed, and all of the equipment inside it was completely destroyed.”

N., Emergency Medical Technician (testimony 27)

Disregard for the respect and protection of medical establishments:

According to article 18 of the CG4, civilian hospitals must be respected and protected. Under the principle established by this article, not only must hospital facilities not be the target of military attacks, but the belligerents have the general obligation to do everything possible to protect them from any attack.

On 2 March 2003, the Nasser hospital at Khan Younis (southern Gaza Strip) was targeted during a military operation. The establishment is regularly in the first line of fire, given its geographical location between the town of Khan Younis and an Israeli

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34 The ambulance station at Rafah is geographically very close to the Egyptian border and to an Israeli settlement. It is about 300 metres from the border (in a prolongation of the street). In the event of an incursion into the town, the tanks go down this street and regularly pass in front of the ambulance station.
settlement. The belligerents have an obligation to take precautions during the attack, in accordance with the articles of Protocol I. The principle of precaution during an attack has the value of customary international law and practice. The military operations must be conducted while taking care to spare the civilian population and any property of a civilian character\(^{35}\). On this basis, and despite its position close to military objectives, the hospital and its medical personnel must be protected from any military attack. This attack is the most recent of fifteen since the beginning of the second Intifada. On each occasion, patients, visitors and medical personnel have been wounded by firing which has penetrated even into the interior of the hospital.

"On this occasion, the hospital had been surrounded on 3 sides - south, east and west. Tanks coming from the settlement alongside penetrated some twenty or so metres into the enclosure of the hospital itself on all three sides. 150 metres of the enclosure wall was reduced to rubble. Then there was heavy firing followed by rocket shelling. The loss of equipment was very considerable. One bullet hit the generator cable, causing a generator breakdown which lasted 10 minutes. All of the equipment therefore shut down, the incubators of the maternity ward in particular. The telephone switchboard was also hit. It was impossible to communicate for 3 or 4 hours, either to or from the hospital. The administrative building was in the first line of fire. There were bullet holes on the outer walls and even inside in the stairwell. Nobody could leave the buildings, because of the danger. We could not communicate at all with each other between buildings. But above all, one of our nurses was wounded by a bullet, while he was working in the emergency department. The bullet hit him in the leg while he was behind the door of the entrance for emergency cases, inside the building."

F., member of the administrative staff (testimony 28)

\(^{35}\) Article 57 of Protocol I.
During the night of 11 to 12 May 2003, the Rafidia hospital was invaded by Israeli troops who were looking for individuals within the enclosure of the hospital.

"At 3 am in the night of 11 to 12 May, soldiers came right into the hospital enclosure, with small tanks and jeeps. They also surrounded the hospital with security vehicles. Then they came in via the main entrance holding their weapons. They violently attacked the security department of the hospital and then the telephone exchange. The security staff were handcuffed and made to lie on the ground, as were those of the telephone exchange. Four nurses of the emergency department were also attacked.

Soldiers took the nursing supervisor, twisted his arm, made him lie on the ground, and then made him go with them on a tour of the hospital (still with his arm twisted). They stopped in front of the morgue, broke down its doors and inspected it.

On the ground floor, they broke down all the doors, inspected the infectious diseases ward (the equipment in this ward is very expensive) and searched among the stock. Alongside this department, two men of the maintenance crew who sleep in the basement of the hospital were threatened. The soldiers continued their inspection with them, and searched the boiler room.

The two people from the maintenance department tried to stop them from breaking down the doors, offering to open them with their keys, but the soldiers refused and went on to break all of the doors.

The door of the room in which the oxygen generator was located was also broken. They broke no medical equipment, but all the doors and cupboards on the ground floor were damaged.

Another group of soldiers attacked the nurses’ accommodation. They made everyone leave, checked their identities, and made them wait for about three hours (up to the end of the inspection at 5.45 am). They also insulted them. They were trying to verify the medical staff and the stock. They showed the photo of a person whom they were seeking, but they found nobody here and nobody was arrested."

G., member of the administrative staff (testimony 29)
“In the old clinic where I worked (before the opening of the new dispensary in the village), the soldiers entered to look for a young man. They came in and saw my uniform (my jacket with the emblem of the Red Crescent), but they showed no respect either to me or even to the patients. There was a woman in consultation, but they came in anyway, and turned the whole clinic upside down. They damaged no equipment but their search was brutal.”

S., nurse (testimony 30)
CONCLUDING REMARKS

After more than three years of Intifada, the violence of certain military operations, the impact of the occupation and of the closures of Gaza and of the West Bank on the health of the Palestinian population is alarming.

In the context of its general medicine, disaster medicine, and surgical programmes in the Occupied and Autonomous Palestinian Territories, Médecins du Monde has noted in the last few years significant increases in the numbers not only of victims of war injuries but also of patients whose state of health has been seriously affected by absence of or delay in receiving treatment (deterioration of a chronic illness for lack of medicines, complications during delivery because it is impossible to reach the hospital facilities, and so on). In addition, the association notes a general deterioration in the state of health of patients received in medical centres, related to the limit of access to health care.

In the psychological field, most adults and children present clinical symptoms of suffering associated with psychological trauma and stress, namely anxiety, nervous breakdown, enuresis, sleeping difficulties, concentration and behavioural problems, difficulties in school, etc. Such an environment leads to serious psychological disorganisation on both individual and collective levels. The first victims are the children. They grow up with permanent feelings of insecurity, helplessness, persecution and isolation. Individual and collective psychological disturbances intermix. The future consequences for a whole generation of young Palestinians will have to be taken into consideration.

The general reduction in the quality and the availability of health care provided for the civilian population can be directly linked to the conflict. Obstacles to the free movement of civilians (checkpoints, occupation of the towns, curfews – 109 consecutive days for Nablus in 2002) have direct medical consequences, such as ambulance delays, limitation or denial of access to medical facilities for the population, inability of medical teams to reach their hospitals, and blockage of fresh medical supplies.

As a medical association at the service of the whole civilian population, whoever and wherever they may be, Médecins du Monde points out that the violations of International Humanitarian Law by Parties to the conflict have disastrous effects on the physical and mental health of the people who are its victims, and maintain the violent circle of incomprehension and hatred within their respective civilian societies.

At the present time, the priorities of MDM in the Palestinian Territories are to contribute to improving the quality of health care provided to the population, to promote better access to health care for patients, to denounce publicly, on a daily basis, the attacks on the freedom of movement of the medical teams.
Through this report, which is not exhaustive, Médecins du Monde:

- wishes to draw the attention of Israeli and international governmental Institutions, of the Israeli army and also of Israeli civilian society to the daily obstacles which the military occupation is imposing upon the Palestinian population and to the medical consequences of prolonged occupation.

- seeks to raise awareness in the Israeli Defence Forces of the facts presented in this report, and asks them to comply immediately with elementary principles of humanity and the fundamental rules of International Humanitarian Law.

Médecins du Monde reminds the Parties to the conflict of their international obligations:

- to comply with International Humanitarian Law, and ensure that it is complied with,

- to respect and guarantee the protection and the neutrality of all medical facilities (ambulances, dispensaries, hospitals, etc.) and their personnel.
ACRONYMS EMPLOYED:

ICRC: International Committee of the Red Cross

CG4: the 1949 Fourth Geneva Convention relating to protection of the civilian population in time of war.

IHL: International Humanitarian Law

NGO: non-governmental organisation

PRCS: Palestine Red Crescent Society
APPENDIX 1

Fourth Geneva Convention dated 12 August 1949 relating to protection of the civilian population in time of war:

ARTICLE 16
The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect. As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

ARTICLE 17
The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

ARTICLE 18
Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict. States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, but only if so authorized by the State. The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

ARTICLE 20
Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on the left arm while carrying out their duties. This armlet shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Other personnel who are engaged in the operation and administration of civilian
hospitals shall be entitled to respect and protection and to wear the armlet, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed. The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

ARTICLE 23
Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases. The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:
(a) That the consignments may be diverted from their destination;
(b) That the control may not be effective; or
(c) That a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods. The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited there by being made under the local supervision of the Protecting Powers. Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

ARTICLE 27
Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity. Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault. Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion. However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

ARTICLE 33
No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited. Pillage is prohibited. Reprisals against protected persons and their property are prohibited.
ARTICLE 55
To the fullest extent of the means available to it the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate. The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in Occupied Territories, except where temporary restrictions are made necessary by imperative military requirements.

ARTICLE 56
To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

ARTICLE 59
If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing. All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection.

A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.
1977 Additional Protocol relating to the protection of victims of international armed conflicts

ARTICLE 48
In order to ensure respect for and protection of the civilian population and civilian objects, the Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives.

ARTICLE 49
1. "Attacks" means acts of violence against the adversary, whether in offence or in defence.
2. The provisions of this Protocol with respect to attacks apply to all attacks in whatever territory conducted, including the national territory belonging to a Party to the conflict but under the control of an adverse Party.
3. The provisions of this Section apply to any land, air or sea warfare which may affect the civilian population, individual civilians or civilian objects on land. They further apply to all attacks from the sea or from the air against objectives on land but do not otherwise affect the rules of international law applicable in armed conflict at sea or in the air.
4. The provisions of this Section are additional to the rules concerning humanitarian protection contained in the Fourth Convention, particularly in Part II thereof, and in other international agreements binding upon the High Contracting Parties, as well as to other rules of international law relating to the protection of civilians and civilian objects on land, at sea or in the air against the effects of hostilities.

ARTICLE 50
1. A civilian is any person who does not belong to one of the categories of persons referred to in Article 4 A (1), (2), (3) and (6) of the Third Convention and in Article 43 of this Protocol. In case of doubt whether a person is a civilian, that person shall be considered to be a civilian.
2. The civilian population comprises all persons who are civilians.
3. The presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.

ARTICLE 51
1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in circumstances.
2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.
3. Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities.
4. Indiscriminate attacks are prohibited. Indiscriminate attacks are:
   (a) Those which are not directed at a specific military objective;
   (b) Those which employ a method or means of combat which cannot be directed at a specific military objective; or
   (c) Those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a
nature to strike military objectives and civilians or civilian objects without distinction.
5. Among others, the following types of attacks are to be considered as indiscriminate:
(a) An attack by bombardment by any methods or means which treats as a single
military objective a number of clearly separated and distinct military objectives located in
a city, town, village or other area containing a similar concentration of civilians or civilian
objects; and
(b) An attack which may be expected to cause incidental loss of civilian life, injury to
civilians, damage to civilian objects, or a combination thereof, which would be excessive
in relation to the concrete and direct military advantage anticipated.
6. Attacks against the civilian population or civilians by way of reprisals are prohibited.
7. The presence or movements of the civilian population or individual civilians shall not
be used to render certain points or areas immune from military operations, in particular
in attempts to shield military objectives from attacks or to shield, favour or impede
military operations. The Parties to the conflict shall not direct the movement of the
civilian population or individual civilians in order to attempt to shield military objectives
from attacks or to shield military operations.
8. Any violation of these prohibitions shall not release the Parties to the conflict from
their legal obligations with respect to the civilian population and civilians, including the
obligation to take the precautionary measures provided for in Article 57.

ARTICLE 52
1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all
objects which are not military objectives as defined in paragraph 2.
2. Attacks shall be limited strictly to military objectives. In so far as objects are
concerned, military objectives are limited to those objects which by their nature,
location, purpose or use make an effective contribution to military action and whose
total or partial destruction, capture or neutralization, in the circumstances ruling at the
time, offers a definite military of advantage.
3. In case of doubt whether an object which is normally dedicated to civilian purposes,
such as a place of worship, a house or other dwelling or a school, is being used to make
an effective contribution to military action, it shall be presumed not to be so used.

ARTICLE 57
1. In the conduct of military operations, constant care shall be taken to spare the civilian
population, civilians and civilian objects.
2. With respect to attacks, the following precautions shall be taken:
(a) Those who plan or decide upon an attack shall:
(i) Do everything feasible to verify that the objectives to be attacked are neither civilians
nor civilian objects and are not subject to special protection but are military objectives
within the meaning of paragraph 2 of Article 52 and that it is not prohibited by the
provisions of this Protocol to attack them;
(ii) Take all feasible precautions in the choice of means and methods of attack with a
view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to
civilians and damage to civilian objects;
(iii) Refrain from deciding to launch any attack which may be expected to cause
incidental loss of civilian life, injury to civilians, damage to civilian objects, or a
combination thereof, which would be excessive in relation to the concrete and direct
military advantage anticipated;
(b) An attack shall be cancelled or suspended if it becomes apparent that the objective
is not a military one or is subject to special protection or that the attack may be
expected to cause incidental loss of civilian life, injury to civilians, damage to civilian
objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated;
(c) Effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit.
3. When a choice is possible between several military objectives for obtaining a similar military advantage, the objective to be selected shall be that the attack on which may be expected to cause the least danger to civilian lives and to civilian objects.
4. In the conduct of military operations at sea or in the air, each Party to the conflict shall, in conformity with its rights and duties under the rules of international law applicable in armed conflict, take all reasonable precautions to avoid losses of civilian lives and damage to civilian objects.
5. No provision of this Article may be construed as authorizing any attacks against the civilian population, civilians or civilian objects.

**ARTICLE 75**
1. In so far as they are affected by a situation referred to in Article 1 of this Protocol, persons who are in the power of a Party to the conflict and who do not benefit from more favourable treatment under the Conventions or under this Protocol shall be treated humanely in all circumstances and shall enjoy, as a minimum, the protection provided by this Article without any adverse distinction based upon race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria. Each Party shall respect the person, honour, convictions and religious practices of all such persons.
2. The following acts are and shall remain prohibited at any time and in any place whatsoever, whether committed by civilian or by military agents:
   (a) Violence to the life, health, or physical or mental well-being of persons, in particular:
      (i) Murder;
      (ii) Torture of all kinds, whether physical or mental;
      (iii) Corporal punishment; and
      (iv) Mutilation;
   (b) Outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault;
   (c) The taking of hostages;
   (d) Collective punishments; and
   (e) Threats to commit any of the foregoing acts.
(....)
APPENDIX 2:

All of the testimonies listed below were obtained by the author of this report in the villages around Nablus, in the ambulance stations and hospitals of the Gaza Strip. The interpreters working for Médecins du Monde (one interpreter in Nablus and one in Gaza) were present during the interviews to make the necessary translations. The identity of the people interviewed is confidential, and the interviews have been retranscribed anonymously. Only the initial of a first name has been retained (which in fact is not the first name of the person interviewed).

Testimony 1:
Interview conducted on 19 May 2003, at Beita, close to Nablus

Testimony 2:
Interview conducted on 14 May 2003, at Beit Fouriq, close to Nablus

Testimony 3:
Interview conducted on 14 May 2003, at Beit Dajan, close to Nablus

Testimony 4:
Interview conducted on 10 June 2003, at Deir El Atab, close to Nablus

Testimony 5:
Interview conducted on 22 May 2003, in Nablus

Testimony 6:
Interview conducted on 22 May 2003, in Nablus

Testimony 7:
Interview conducted on 20 May 2003, in Nablus

Testimony 8:
Interview conducted on 23 September 2003, at Mawassi, southern Gaza Strip

Testimony 9:
Interview conducted on 23 September 2003, at Mawassi, southern Gaza Strip

Testimony 10:
Interview conducted on 23 September 2003, at Mawassi, southern Gaza Strip

Testimony 11:
Interview conducted on 23 September 2003, at Mawassi, southern Gaza Strip

Testimony 12:
Interview conducted on 20 May 2003, in Nablus

Testimony 13:
Interview conducted on 14 May 2003, at Beit Dajan, close to Nablus

Testimony 14:
Interview conducted on 10 May 2003, at Deir El Atab, close to Nablus
Testimony 15:
Interview conducted on 29 May 2003, Deir El Balah, centre of the Gaza Strip

Testimony 16:
Interview conducted on 29 May 2003, Deir El Balah, centre of the Gaza Strip

Testimony 17:
Interview conducted on 4 June 2003, Gaza city

Testimony 18:
Interview conducted on 30 May 2003, Jabalia, northern Gaza Strip

Testimony 19:
Interview conducted on 29 May, Deir El Balah, central Gaza Strip

Testimony 20:
Interview conducted on 1 June 2003, Rafah, southern Gaza Strip

Testimony 21:
Interview conducted on 28 May 2003, Jabalia, northern Gaza Strip

Testimony 22:
Interview conducted on 3 June 2003, Khan Younis, southern Gaza Strip

Testimony 23:
Interview conducted on 22 May 2003, in Nablus

Testimony 24:
Interview conducted on 30 May 2003, Jabalia, northern Gaza Strip

Testimony 25:
Interview conducted on 1 June 2003, Rafah, southern Gaza Strip

Testimony 26:
Interview conducted on 28 May 2003, Jabalia, northern Gaza Strip

Testimony 27:
Interview conducted on 1 June 2003, Rafah, southern Gaza Strip

Testimony 28:
Interview conducted on 3 June 2003, Khan Younis, southern Gaza Strip

Testimony 29:
Interview conducted on 12 May 2003, in Nablus

Testimony 30:
Interview conducted on 14 May 2003, at Beit Dajan, close to Nablus
APPENDIX 3

Maps:

The West Bank and the Gaza Strip, 2000
PRESS RELEASE...PRESS RELEASE...PRESS RELEASE...PRESS RELEASE

Subject: Médecins du Monde – France suspends its activities in the Gaza Strip

The new access restrictions imposed by the Israeli authorities on all international humanitarian organisations has obliged Médecins du Monde France to suspend its medical activities in the Gaza Strip.

Since Monday, a total siege has prevented all Palestinian and foreign nationals from entering or leaving the Gaza Strip. On 9 May last, the Israeli authorities distributed a notice to international staff entering the Gaza Strip in which they renounce all responsibility in the event of death, injury or damage to equipment associated with military activities, and prohibiting access to certain zones in the Gaza Strip.

These restrictions, which are incompatible with the implementation of our humanitarian programmes, are imposed at a time when our staff working in the Palestinian Territories are having to cope with security incidents, the number of which has been increasing rapidly during recent months.

As a consequence, Médecins du Monde France notes that the conditions imposed by the Israeli authorities constitute violations of the principles of international humanitarian law as specified in the Geneva Conventions and their Additional Protocols.

Médecins du Monde France requests that the Parties to the conflict should guarantee respect and protection of the humanitarian staff, in order that they may have unrestricted access to the civilian population.