



Holding Health to Ransom

GSS Interrogation and Extortion of Palestinian Patients at Erez Crossing

August 2008

רופאים לזכויות אדם - ישראל (ע"ר)
أطباء لحقوق الإنسان-إسرائيل
Physicians For Human Rights - Israel



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Special thanks are due to eleven patients from Gaza, who were interrogated by the GSS, for agreeing to expose their stories and provide testimony regarding what they underwent in the course of the interrogations. Their identifying details have been withheld in order to protect their safety and prevent the use of any information against them.

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“...The doorkeeper can see the man’s come to his end, his hearing has faded, and so, so that he can be heard, he shouts to him: ‘Nobody else could have got in this way, as this entrance was meant only for you. Now I’ll go and close it’.”

(Franz Kafka, The Trial)

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Introduction

The increasing restrictions imposed by the State of Israel on entry and exit of money, goods, services and persons via Gaza crossings and the closure of Rafah Crossing into Egypt since June 2007 have led to a sharp decline in the ability of Gaza's healthcare system to provide services to patients.

The results have been a sharp increase in the number of patients referred to external medical centers (in Israel, the West Bank, East Jerusalem and Jordan) via Israeli-controlled Erez Crossing, and a much sharper increase in the proportion of patients denied exit permits: **from 10% in the first half of 2007 to 35% in the first half of 2008.**

Whereas this process raises urgent questions regarding the responsibility of the State of Israel, as Occupying Power, to ensure the health and welfare of the civilian population of Gaza, the present report focuses rather on the mechanisms of denial of access to medical care, on the increasingly central role played by the Israeli General Security Service (GSS, *shabac*)¹ within this mechanism, and on the coercion of patients in the course of this process.

The report first provides a detailed description of the permits mechanism instituted by Israel at Erez Crossing and of the growing restrictions placed by this mechanism on the access of patients to medical care unavailable in Gaza. Statistical data is provided, based on Physicians for Human Rights-Israel (PHR-Israel)'s casework with Gaza patients between January 2007 and April 2008.

The central part of the report describes the policy employed over the past year by the GSS, whereby **patients are detained for interrogation at Erez Crossing, and requested either to provide information or to act as collaborators on a regular basis as a condition for permission to exit Gaza for medical treatment. Over the past year, more than 30 patients' testimonies have been received by PHR-Israel, demonstrating this procedure.** The methods of coercion employed by the GSS are examined in detail and a description of the growing formalization of the interrogation process is provided, including an attempt by the GSS to coerce PHR-Israel into cooperation with the mechanism described.

¹ The Israeli secret police, known in Israel by the acronym *shabac*, better known in English as *Shin Bet*, and recently officially renamed the 'Israel Security Agency.' For the sake of clarity, the acronym GSS, commonly used until now in reports of this type, will be used throughout this report.

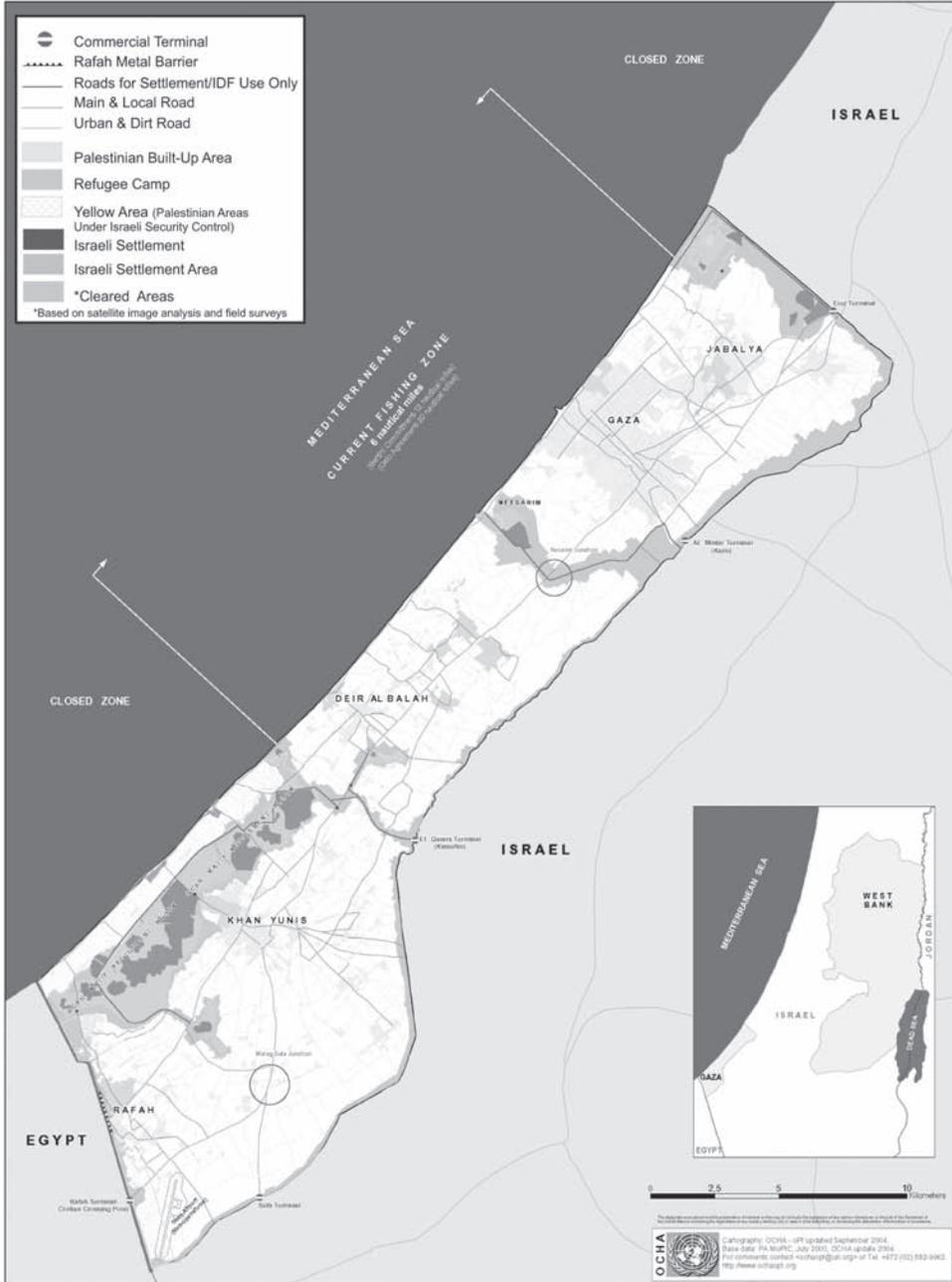
The **legal implications** of the policy and practice of the GSS at Erez Crossing are next explored, employing the definitions of coercion and extortion, the provisions of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment, and obligations pertaining to the right to health.

Following a discussion of the **medical-ethical repercussions** of GSS policy and a description of the responses of the Israeli High Court of Justice, the Israel Medical Association and PHR-Israel itself to this policy, the report concludes with PHR-Israel's demand that GSS immediately cease exploiting the medical needs of Gaza patients for purposes of intelligence-gathering; that the GSS and the army desist from their attempt to coerce PHR-Israel to coordinate patients' interrogations as a condition for handling applications; and that the Israeli medical community and the Israel Medical Association exercise their influence to bring about an end to the coercive policies of the GSS at Erez Crossing.

Finally, an extensive **appendix** provides **eleven detailed first-person testimonies** by patients who underwent interrogation at Erez Crossing, an expert opinion issued by Dr. Bob Brecher of Brighton University, and the responses of the GSS itself and of the Israeli Coordinator of Government Operations in the Occupied Territories to the report.

GAZA STRIP MAP

September 2004



Background

Gaza's healthcare system is currently unable to provide adequate responses to its residents' healthcare needs. The system suffers from a shortage of skilled, professional manpower in most medical fields, lacks appropriate equipment and instrumentation, and suffers from a scarcity of drugs. As a result, Gaza's healthcare system depends upon external healthcare systems – in the West Bank, East Jerusalem, Egypt, Jordan and Israel – for the provision of a broad range of medical treatments.²

These shortcomings in the system are attributable in part to the legacies of Israeli policy in the Gaza Strip³, characterized not only by prolonged neglect of the system, but also by the isolation of the Gaza Strip, which has denied medical staff the opportunity to pursue advanced study and specialization in various medical fields through contact with the Israeli and international medical communities, and thus prevented the development of a reserve of trained medical personnel. Furthermore, Israel for years prohibited the entry of some types of medical instrumentation and equipment (for example: radiation equipment and isotopic materials for cancer patients) into Gaza. More recent shortages are due to the financial freeze imposed by Israel and the Quartet on the Hamas government since its election in 2006.⁴

Since the Hamas takeover in the Gaza Strip in June 2007, we have witnessed a worsening of Israeli policy. In its declared attempt to weaken and topple the Hamas regime through exertion of pressure on the civilian population, Israel has further restricted the entry of medical equipment, spare parts and other essential supplies into Gaza, and, moreover, has taken an official policy since September 2007 of reducing the fuel and electricity supply to the Gaza Strip, in turn seriously disrupting the functioning of hospitals and clinics, and precluding the maintenance of a normal work routine.⁵

2 For details on this see, for example, a recent report by the World Health Organisation, *Health Sector Surveillance Indicators: Monitoring the Health Sector in the OPT* Issue No. 23: Apr-May 2008.

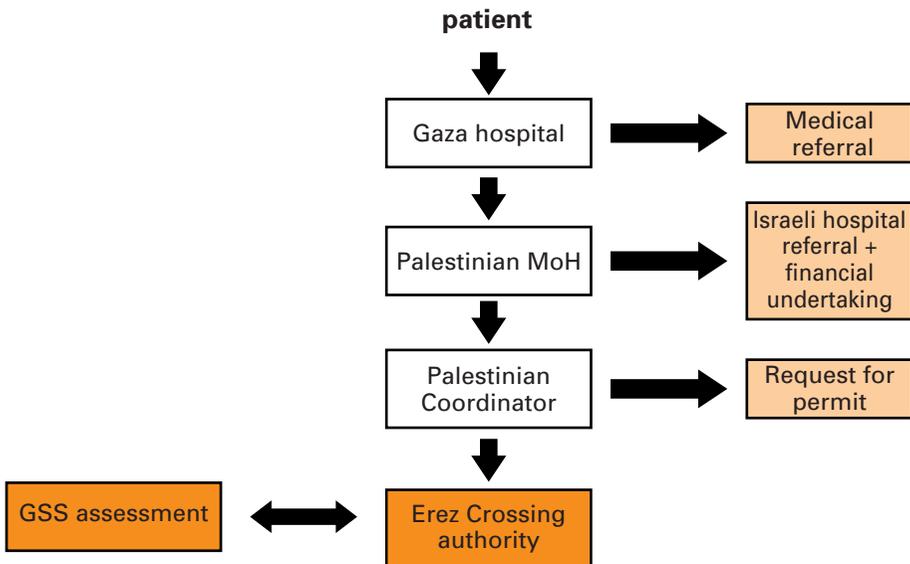
3 On this see Ziv, Hadas, PHR-Israel, *A Legacy of Injustice*, November 2002; Bendel, Maskit, PHR-Israel, *The Disengagement Plan and its Repercussions on the Right to Health in the Gaza Strip*, January 2005.

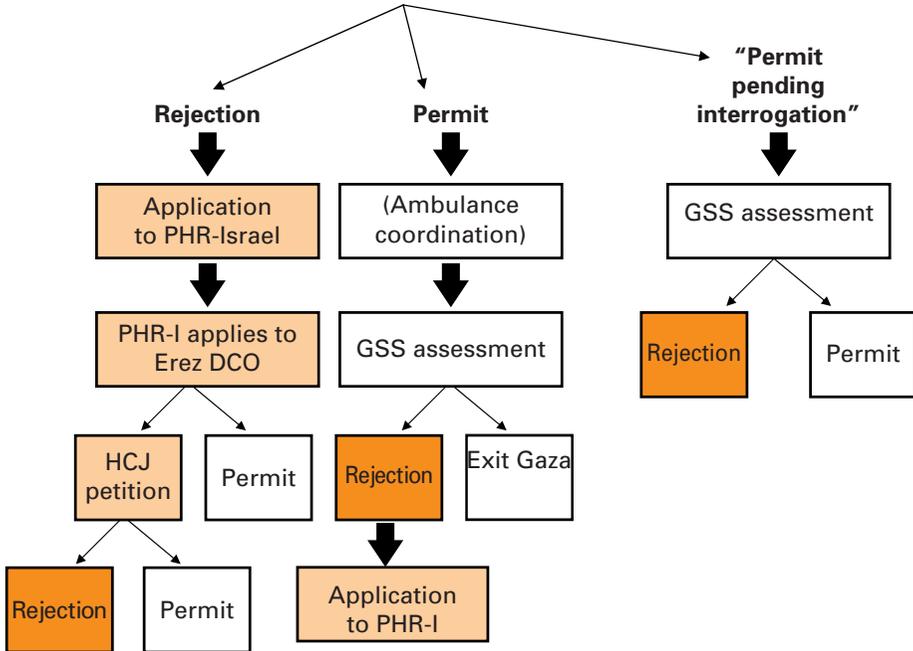
4 On this see, for example, Report of the Special Rapporteur on the Situation of the Human Rights in the Palestinian Territories Occupied Since 1967, Prof. John Dugard, 21.1.2008, *Human rights situation in Palestine and other occupied Arab territories*: http://www.mezan.org/site_en/resource_center/link_reports/UN_docs.php

5 On 19.9.08, The Israeli Political-Security Cabinet declared the Gaza Strip a "hostile entity". The Cabinet decision stated that "additional restrictions will be imposed on the Hamas government in a manner restricting passage of goods to the Gaza Strip, restriction of electricity and fuel supplies, and restriction of movement of persons to Gaza and from it." These sanctions were imposed following the firing of Kassam rockets on southern Israeli communities. For further details on the "hostile entity" decision see <http://news.nana10.co.il/Article/?ArticleID=513646&TypeID=1&sid=126> (Hebrew), and on the decision to restrict fuel see, <http://news.nana10.co.il/Article/?ArticleID=518180&sid=126> (Hebrew). On the effect of the cuts on health delivery see e.g., WHO, *Health Sector Surveillance Indicators: Monitoring the Health Sector in the OPT* Issue No. 23: Apr-May 2008.

In this state of affairs, many patients are unable to receive the medical care they need within the framework of the Gaza healthcare system, and are referred, instead, to medical centers outside the Gaza Strip: in Israel, East Jerusalem, the West Bank, Egypt and Jordan. Budgetary considerations are not the sole obstacle for such referrals; in order to get to medical treatment, a patient is required to go through a series of fixed bureaucratic procedures, first within the Palestinian healthcare system, then vis-à-vis the Israeli authorities. The entire procedure is subject to Israel's security and political considerations, and more recently, to internal Palestinian power struggles as well. Thus the patient's arrival at a medical center for appropriate treatment within a reasonable period time is impeded or prevented. The Israeli General Security Service (GSS) exerts control over this procedure, and the absence of public or judiciary review of its considerations leaves patients defenseless and takes its toll on their health, sometimes risking the lives of the weakest parts of a population already made vulnerable by siege.

The Procedure for Receiving an Exit Permit from Gaza for Medical Reasons





Step I: The Patient and the Palestinian Healthcare System

The patient goes to a Gaza hospital with her or his medical problem. The administering physician decides whether s/he needs to be referred for treatment outside the Gaza Strip, if the Gaza system is unable to provide a response to the medical problem. The physician’s decision requires the approval of a medical committee that convenes once a week at governmental hospitals, which is chaired by the institution’s director, the director of the relevant department and the administering physician.⁶

If the committee sees fit to refer the patient to a medical center outside the Gaza Strip, the patient is given a medical document known as a “referral report” that describes the medical diagnosis and the required treatment. With this document, the patient applies to the Palestinian Ministry of Health in Gaza (the Referrals Abroad Department), requesting financial coverage for the treatment and coordination of an appointment at the relevant hospital. Providing financial coverage is contingent upon the further approval of the Palestinian Ministry of Health in Ramallah, which is the sole authority for approval of

⁶ The committee convenes once a week for cases that are not defined as urgent. In urgent cases, the committee’s approval procedure is shortened; approval is given following the relevant physicians’ signatures on the medical opinion. Source: numerous phone conversations between PHR-Israel’s staff members, the Palestinian Ministry of Health in Ramallah and Gaza hospital directors.

coverage for the medical treatments. The entire procedure, from the moment a patient sees his or her administering physician at the hospital to receipt of guarantee of financial coverage and an appointment at the hospital, takes a week on average.

These procedures are demanded by Israel of the Palestinian authorities, and requesting an exit permit is contingent upon fulfilling them. Only at the end of this protracted procedure, after obtaining all the required medical documents, may the patient request the permit for his medical needs.

Step II: The Patient and the Palestinian Coordination Mechanism

The 1995 Oslo Accords⁷ stipulated that Palestinians' exit from the Gaza Strip, including that of medical patients, requires prior coordination, which is done by the Medical Referrals Department of the Palestinian side of the Joint Regional Civil Affairs Subcommittee for the Gaza Strip (RCAC). Only this Subcommittee, which includes representatives from the Palestinian Health Ministry, may contact the Israeli authorities and submit the above-described documents. The patient receives no documentation of his request, nor does he know whether and when the request is submitted by the Palestinian side of the Subcommittee to the Israeli side. He can do nothing but wait for the Subcommittee to inform him of the response.

Step III: Consideration of the Request by the Israeli Coordination Mechanism

The Palestinian side of the RCAC Subcommittee applies to the Health Coordinator for the Israeli side of the Subcommittee, Mr. Menachem Weinberger, who is located at Erez Crossing. The Israeli Subcommittee then transfers the request to the GSS for a security check. Rejecting or approving a patient's request to exit depends almost completely on the GSS opinion; in fact, the GSS has the final say on every request. The Israeli side of the Subcommittee then transfers the response back to the Palestinian side.

As the three steps described here demonstrate, every referral goes through numerous procedures that delay rapid transfer from the Gaza Strip to the relevant outside hospital. In view of the prolonged waiting period for receipt of the exit permit, irreversible medical damage, as well as considerable physical and emotional suffering, is often incurred by patients.

⁷ *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (1995)*, Annex III, Article I, 'Liaison and Coordination in Civil Affairs', and Appendix I, Article 17, 'Health'.

The Connection between PHR-Israel and Gaza's Patient Population

PHR-Israel is the address to which patients and/or their relatives turn when they encounter difficulties in obtaining exit permits for medical treatment. Difficulties may occur at various points along the process:

- a. The Palestinian side of the RCAC Subcommittee refuses to submit a request to the Erez Crossing authorities on behalf of the patient.
- b. The Erez Crossing authorities' response to the request submitted by the Palestinian Subcommittee is delayed.
- c. The request submitted by the patient to the Palestinian Subcommittee is rejected by the GSS for "security reasons".
- d. At Erez Crossing, at the last minute, the GSS requires the patient to return to the Gaza Strip, although he has received an exit permit for medical treatment from the authorities at Erez Crossing. Patients are turned away either after undergoing an interrogation by the GSS or without interrogation or any form of explanation.

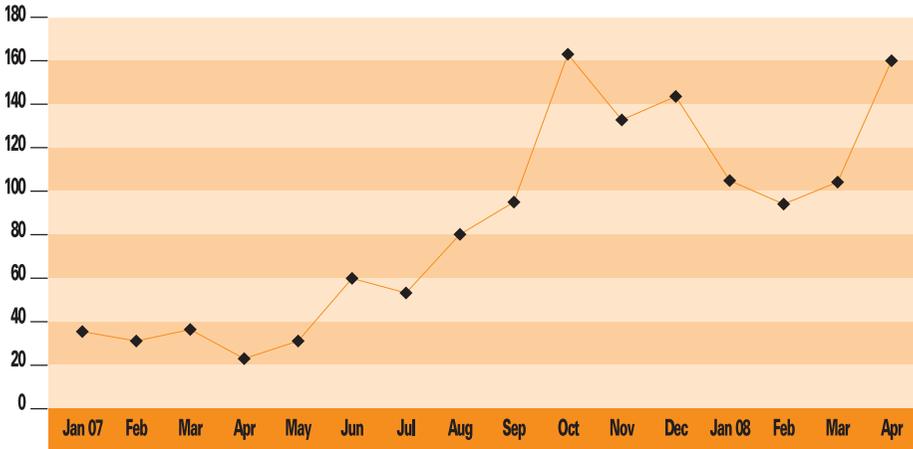
In any of the above situations, patients telephone PHR-Israel requesting assistance in obtaining exit permits from Gaza, and send all relevant documents via fax.

In response, PHR-Israel submits individual correspondence regarding each patient to the Israeli District Coordination Office (DCO), which is a military entity established under the Oslo Accords⁸, subordinate to the Israeli army and located at "Julis" military base in southern Israel, and requests that the decision be reversed, based on the medical needs of the patient.

Since Hamas took control over the Gaza Strip in June 2007, there has been a significant increase in applications to PHR-Israel from patients in need of referrals to medical centers outside the Gaza Strip. A further dramatic increase was recorded in September 2007. The following table illustrates the increase in the number of applications to PHR-Israel, from June 2007 to April 2008:

8 Ibid., Annex I, Article III, 'Coordination and Cooperation in Mutual Security Matters'.

Patient Applications to PHR-Israel from January 2007 to April 2008



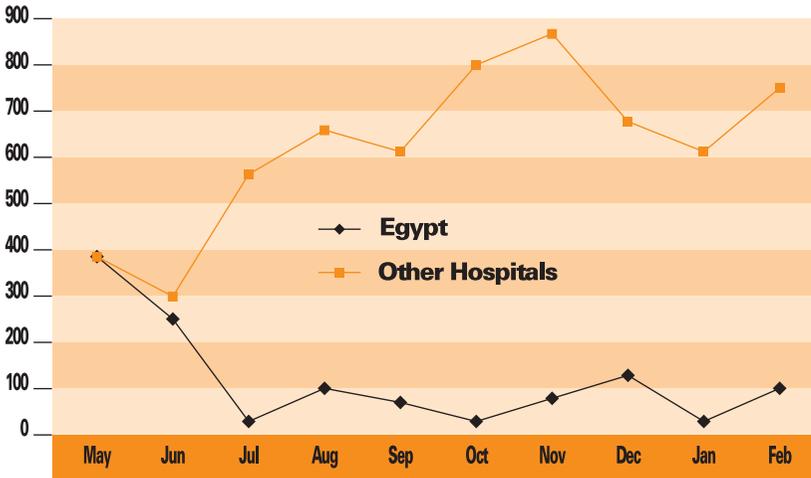
The increase in the number of applications during 2007 was the result of two processes: the closing of Rafah Crossing into Egypt, which led to a doubling of the number of patients referred to external medical care via Israeli-controlled Erez Crossing; and the tightening of Israeli policy regarding the approval of patients' requests to exit Gaza via Erez, immediately following the Hamas takeover in Gaza Strip in June 2007, and again in September 2007, when Israel declared Gaza a "hostile entity". The GSS is the primary mechanism for implementation of this policy.

June 2007 – Changes in the Israeli Permits Regime

Thousands were injured in the internal struggle between Hamas and Fatah in the Gaza Strip in June 2007, following which Hamas took over Gaza's government. The sick and injured required medical treatment that the local health system could not provide. Consequently, hundreds of patients were referred for treatment outside the Gaza Strip. In response to the Hamas takeover, Israel closed Erez Crossing for one week, from the 14th to the 20th of June, thus denying the civilian population, including the sick and injured, any passage into or through Israel.

Rafah Crossing, the only point of passage into Egypt, was shut down completely on the 9th of June 2007. Subsequently, the Palestinian Health Ministry in Gaza significantly reduced the number of patient referrals to hospitals in Egypt through Rafah Crossing. At the same time, the number of referrals to hospitals in Israel, the West Bank and Jordan doubled.

Referrals by Gaza's Health Ministry to Hospitals Outside the Gaza Strip: May 2007-February 2008⁹

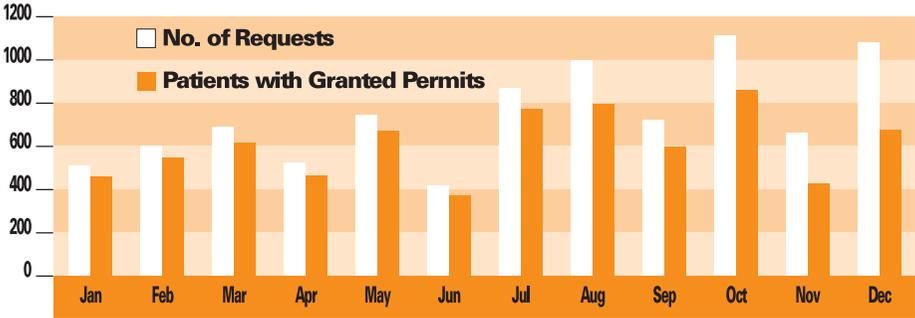


Following the closure of the crossings, along with the increasing need for patients' treatment outside the Strip - whether those injured in internal conflicts or others - PHR-Israel and another human rights organisation, "Gisha," petitioned the Israeli High Court of Justice (HCJ) demanding the opening of Erez Crossing to enable the exit of patients for medical treatment (HCJ 5429/07). In a court hearing, the state announced a policy change as regards the exit of Palestinian civilians from the Gaza Strip through Erez Crossing, stating that from now on exit would only be allowed as a humanitarian gesture, and not as a right. This policy prohibited the exit of civilians who had been previously allowed to exit (for example, workers, merchants, business people, etc.). With regard to patients, it was decided to permit exit only for those defined as life-threatening and medically urgent cases.

Indeed, data from the Palestinian Ministry of Health (MoH) and the World Health Organization (WHO) on the number of patients referred by the Palestinian MoH for treatment outside the Gaza Strip shows a clear increase in the number of patients whose exit for treatment has been prevented. According to this data, from an average approval rate of 90% for exit requests from patients between January and July 2007, a decline was seen in the proportion of patients who were permitted to leave the Gaza Strip, beginning in August (79%), and down to 62% by the end of 2007.

⁹ As published in a report released by the World Health Organization: *Health Sector Surveillance Indicators: Monitoring the Health Sector in the OPT*, Issue No. 22: Feb-Mar 2008, <http://www.emro.who.int/palestine/>

Gaza MoH Data: Ratio of Number of Requests Filed to Number of Permits Received, 2007¹⁰



¹⁰ *Ibid*, *ibid*.

GSS Questioning: from Rumor to Rule

July 2007 – Emergence of Testimonies on GSS Questioning of Patients

The GSS has always been involved in Israel's policy on the Occupied Palestinian Territory, including issues concerning the closure and Israeli policies at the various border crossings, including Erez Crossing. This involvement has included anything from the examination of Palestinians' requests to enter Israel to direct contact with the Palestinian population.



Photograph: Fred Abrahams, HRW

As a result of the tightening of Israeli policy, exit of civilians from the Gaza Strip has been permitted since mid-July 2007 to patients and their escorts only. For this reason, patients are the only part of the Gaza population to arrive at Erez Crossing, and have subsequently become an accessible and important target for the GSS for the purposes of recruiting and gathering information. This situation is due both to the infrequency of direct contact between the Israeli authorities and Palestinian residents at Erez Crossing and to the vulnerability of the patient population to pressure, due to its medical distress.

Since July 2007, PHR-Israel has received testimonies from Gaza patients who were prevented from exiting Gaza for medical treatment after undergoing GSS questioning at Erez Crossing. The testimonies illustrate a more or less consistent picture:¹¹ after submitting a request, the patient receives notice from the Palestinian Subcommittee, according to which a permit to exit the Gaza Strip has been issued for him at Erez Crossing, and that he is to arrive there on the day of his medical appointment. When he arrives at Erez Crossing, he is brought to a building, receives an exit permit and goes through the body-check procedure. Afterwards, he arrives at a large waiting room, where soldiers take away his exit permit and ID card, and he is asked to wait, without receiving additional information about the time or reason for this wait.

The waiting time is not fixed, and may range from several minutes to a number of hours. Afterwards, the patient is led, typically by persons in civilian dress, through winding corridors to an underground room. There he is asked to undress and is physically searched once again. He is then placed in a small room with a desk and computer, opposite a GSS interrogator in civilian clothing, who is sometimes backed by additional colleagues.

According to the GSS, the goal of the questioning session is “to estimate the degree of danger posed by the applicant”.¹² In practice, the GSS collects intelligence from patients on what it defines as security issues. The questions are initially of a general nature, on the general situation in Gaza. Soon the questions become more personal and invasive: about patients’ relatives, neighbors, and acquaintances; their occupations; their political affiliations and positions; their familiarity with active members of various Palestinian organizations; or their witnessing of military activity against Israel. Patients’ mobile phones are sometimes temporarily confiscated and relatives’ and acquaintances’ phone numbers are taken from their memories. In some cases, GSS interrogators propose to patients directly and openly to collaborate and/or provide them with information on an ongoing basis, to their agent operator. In other cases, money has been offered to patients during questioning as part of the collaboration proposal.¹³

The duration of questioning varies from patient to patient, ranging from half an hour to two hours, in addition to the waiting period prior to questioning.

11 So far, 32 such testimonies have been received, from both men and women. The description in the text is in the masculine form for reasons of convenience only, and applies to both.

12 From the response of the Prime Minister’s Office to PHR-Israel on the subject of this report, dated 22 May 2008. See below, Appendix III.

13 See Appendix I below, Testimony 1

In this situation, the patient is subject to considerable pressure, both implicit and explicit. On the implicit level, the patient knows that inadequate responses and/or refusal to respond to the GSS interrogator's questions and satisfy his demands will ruin his chances to access medical treatment. Explicit pressure is expressed in the GSS interrogator's direct statement that refusal or inability to divulge information and/or collaborate in the future will prevent the patient's exit for treatment.

As stated above, PHR-Israel receives applications from patients who have been denied exit for medical treatment. These include patients who have gone through GSS questioning and have been turned away after having already received an exit permit from Gaza. According to their testimony, at the end of questioning, patients were taken out of the room and returned to the central waiting room, where they waited again, until the soldiers at the Crossing returned their ID card and informed them that they were to return home, and that they were not allowed to exit for treatment.

A., a resident of Gaza about 38 years of age, was a diagnosed cancer patient with Hodgkin's lymphoma, who had recently developed a new lump in the neck. In order to clarify the nature of the lump, he was referred urgently for a PET/CT scan - a test that is not available in Gaza - at Ichilov Hospital in Tel Aviv. Following a petition submitted by PHR-Israel to the High Court of Justice in November 2007 (HCJ 9522/07), the state announced that it would allow the patient to enter for treatment in Israel and that he was required to undergo GSS questioning at Erez Crossing. The patient received an appointment for Ichilov Hospital for the 2nd of December 2007 at 14:00 p.m., in order to allow him sufficient time to arrive for treatment. The appointment's timing was essential as the isotopes needed for treatment die out within minutes of the appointed time, until they are no longer usable for treatment. The patient arrived at Erez Crossing early in the morning, and was made to wait there for hours. When he finally went in for questioning, his interrogators demanded that he collaborate and threatened that unless he responded to their demand they would prevent his entry into Israel. "Then he said, you have cancer, and it will soon spread to your brain. As long as you don't help us, wait for Rafah Crossing."¹⁴ After the end of his interrogation, A. was forced to continue waiting at the crossing for hours, until 15:30, ten hours after arriving there when it opened. He was then informed that his entry into

14 For the full testimony see Appendix I, Testimony 5 below

Israel was approved. Unfortunately, there was no longer any use for his entry permit, as the hospital informed the patient by phone that since he had missed his appointment the isotopes had died out completely within a short period of time, therefore a new appointment had to be made.

October 2007 – Formalization of GSS Questioning at Erez Crossing

Beginning in October 2007, the Israeli authorities at Erez Crossing informed PHR-Israel that some patients, for whom PHR-Israel had submitted a request for a permit following a “security prohibition”, would be requested to undergo GSS security questioning at Erez Crossing before leaving Gaza for medical treatment. The questioning was set for the day of the medical appointment. Thus the questioning became an official, recognized part of the exit procedure from Gaza for medical treatment.

On October 5th, at the initiative of PHR-Israel, the weekend supplement of Israeli daily newspaper *Ma'ariv* devoted a cover feature including a detailed, 8-page-long report to the new methods of the GSS for recruiting informers and collaborators. The report quoted a claim made by the GSS according to which “the organization’s policy regarding the granting of exit permits is not a function of consent to collaborate.”¹⁵ This response involves considerable cynicism: during this period, exit permits were indeed given to patients, and they arrived at Erez Crossing after being informed that their requests had been approved. However, on the Israeli side of Erez Crossing, their permit was taken away and they were taken underground for GSS questioning. According to patients’ testimonies, if their responses did not satisfy the GSS interrogators, they were returned to their homes in Gaza. The very receipt of a permit has become a merely preliminary step that is not as significant as it may seem in the procedure for exiting through the Crossing. In other words, the receipt of a document approving exit does not guarantee physical exit through the Crossing.

During the month of October, whether in response to the *Ma'ariv* report or not, female soldiers from the “humanitarian hotline” of the Israeli DCO at Erez Crossing informed PHR-Israel that from then on, security questioning would be an integral part of the exit

¹⁵ Cohen, Amit, “Ear, Nose, Deep Throat”, *Ma'ariv* Weekend Supplement 5.10.2007 (Hebrew only).

procedure for some of the patients who were defined as “prevented entry for security reasons”, at the discretion of the Israeli security apparatus.¹⁶ From this point onwards, the GSS could not deny the connection between the granting of exit permits and the consent to provide security-related information and collaboration with the GSS. The situation whereby people were being made to wait for hours at Erez Crossing for a meeting with GSS representatives, some of them made late for their medical treatment and some ultimately barred from leaving altogether, had now received indirect official authorization. All of this is a direct result of the policy of GSS questioning at Erez Crossing.

“A man approached me and called me to another room for interrogation. He asked me to sit down, and presented himself as Moshe. He began asking me if I like my entry permit, and continued with other questions about my work. I replied that my business was of no interest to him, and that he was only interested in knowing who fires missiles. He asked me about people and military figures in Hamas, then went on to other movements. I replied that I did not know them personally and had no information about them, except for the reports about them on broadcasts or in newspapers. He continued with questions about recent events in Gaza, and asked about [my] personal activity in this framework. I replied that I was active in civilian life, especially activity that had to do with the status of women. After all my responses he said to me, “I want to talk to you openly when you return from Israel so that you will have an acceptable reputation on the Israeli side. I am giving you a cell phone number and when you come back, call me, and a man called Yossef or Moshe will answer. After you call and we’re sure you returned safely, we’ll make sure you are a freelance journalist. If you see or hear about terrorist activity against Israel, let me know immediately and leave the area.” “I am not interested in your dictating such things to me,” [I said.] “Alongside the medical authorisation, you are asking me illegal things.” He responded angrily and said, “I decide and set the rules, and you’ll see that if you do as I say, I’ll let you go to Ichilov Hospital even without a permit. We’ll give you medical treatment and forget about Saint John’s Hospital.”¹⁷ He said, “It depends if you accept my demands.”¹⁸

From the testimony of B.

¹⁶ Telephone conversation with PHR-Israel caseworker, 14th of October 2007.

¹⁷ A Palestinian hospital in East Jerusalem specializing in ophthalmology.

¹⁸ See Appendix I, Testimony 7 below.

November 2007 – “Approval Pending Interrogation”

On the 8th of November, Gaza DCO soldiers informed PHR-Israel’s staff that from then on, security questioning would be separated from possible exit from Gaza for medical treatment. That is, in the case of a patient who receives a “permit pending interrogation” – a new category for the DCO’s responses to PHR’s requests – the patient must arrive at Erez Crossing for questioning, following which he is not allowed to cross Erez Crossing to Israel, but is rather sent home to await a reply regarding his exit.¹⁹

From then on, in every case, the patient must go to Erez Crossing at least twice: once for GSS questioning, and again, if the GSS approves his request, to physically enter through the crossing. Sometimes patients are required to come for questioning more than once to “complete information”. In other cases, patients’ relatives are asked to come for questioning, in the framework of the procedure of the patient’s request for an entry permit.



Photograph: PHR-Israel

¹⁹ Telephone conversation with PHR-Israel caseworker, 8th of November, 2007.

The Israeli army has claimed that this change was effected in response to PHR-Israel's complaints about patients missing appointments due to the demand to arrive for questioning and the prolonged wait involved. In fact, the timing of the questioning is disconnected from the medical appointment, and does not take into consideration the patient's medical needs: it is sometimes set before the medical appointment and often, after it.

Inserting PHR-Israel into the process

From the moment that GSS interrogations were formalized, PHR-Israel caseworkers were requested to inform patients of interrogations and coordinate their arrival at Erez Crossing. Since this coordination was not for the purpose of exit for medical care, and since PHR-Israel's workers knew what was happening in the course of such interrogations, they refused to coordinate the arrival of the patients. Once PHR-Israel's employees had made clear to the Gaza DCO that they would not coordinate arrival for questioning, but only arrival at Erez in order to exit the Strip, the DCO announced that it was closing the said files and that permits would not be given for these patients.

At the time, the refusal of the DCO and GSS to update the patients themselves regarding questioning appeared peculiar, as the DCO had made the handling of PHR-Israel's applications for permits contingent on receipt of patients' and relatives' phone numbers. Until then, PHR-Israel had been under the impression that this demand was meant to facilitate DCO/GSS communication with patients. When the issue of questioning arose, however, and PHR-Israel's staff explained to the DCO that ethically they could not coordinate arrival for questioning, the Gaza DCO made it clear that the purpose of submitting patients' phone numbers was not to allow communication but rather for "other" GSS purposes.²⁰

The two phases in which GSS questioning has been instituted constitute a significant obstacle to patients' ability to exit Gaza and impair the ability of PHR-Israel, as an independent body, to help patients. The more significant challenge, however, has to do with what occurs during the questioning, and how to define and respond to this practice.

²⁰ Telephone conversation with PHR-Israel caseworker, 8th of November, 2007.

Discussion

The current situation, whereby patients are obliged to exit Gaza in order to seek care in external medical centers, is harsh and complex in every aspect. The very encounter between helpless patients and members of the military, agents of the GSS and other civilian bodies (such as the private security company positioned at the crossing) at Erez Crossing raises ethical problems, and challenges primarily the parties wielding the power to decide.

Pressure as a Means of Extortion

The population of patients arriving at Erez Crossing is considered especially vulnerable. Due to the substandard state of the Palestinian healthcare system, this population is completely dependent on the will of those responsible for entry and exit through the crossing. As described in the previous chapter, GSS involvement in decisions on exit of patients for medical treatment has increased considerably. In fact, it is the GSS that has the final say on these matters. The conduct and policy of the GSS have turned patients' vulnerability into a primary means for obtaining security information. The previously abstract threat to patients has been made very real through the GSS' transition from its prior mode of indirect involvement, i.e., submitting its response via the Subcommittee without meeting the patients, to direct involvement involving face-to-face contact with them.

Long waiting times, questioning of the patient about himself and his acquaintances, and appropriation of cell phones to extract phone numbers of family members and acquaintances, are all part of the harsh atmosphere, in which the patient is aware that his refusal to respond may bar him from exiting Gaza for much-needed treatment.

Once the GSS has established control over a patient, permitting medical treatment is **explicitly** or **implicitly** made contingent upon collaboration:

Implicit Proposal to Collaborate:

The patient is aware that providing inadequate responses and/or refusal to respond to the interrogator's questions and demands will ruin his chances to access medical treatment.

"He told me that he had information that confirmed that I belonged to Hamas, but I denied it. He said that he had made an agreement with my father that I would work with them. I said that was impossible, because my father was mentally ill, and it was impossible that contact was made with him, and that in view of my health, no advantage could be gained from me. He said to me, "Do you want or need something?" I said I wanted to get treatment at the hospital, and that my brother M [REDACTED] should escort me. At the end of the conversation, he told me that anyone who wanted to enter Israel had no choice but to sit with us and get to know us."²¹

From the testimony of A.

"Then there was a turning point in the interrogation, when the interrogator began directing questions to me about my political orientation and my prisoner brother, and I responded to these questions as well.

I was then questioned about the Kataib Shuhada al-Aqsa organization. I responded that I had no connection with this organization, but the interrogation was focused on this point. Then the interrogator began accusing me of lying, and said that we in the Gaza Strip did not deserve to live, and that if he had the power, he would have disconnected us from electricity and water, and even prevented entry of food into the Gaza Strip."²²

From the testimony of R.

"He asked me a few questions about the internal situation in Gaza. I told him I didn't know, because of my illness. I remember that the questions were about my connection with Hamas. I said that I had no connection with them. He asked me about my friends, and I collected my papers in order to leave. I told him, if you want to decide on my entry for passage through Israel to the hospital or prevent it on the basis of collaboration with you, I will not collaborate. He asked me again to sit down."²³

From the testimony of M.

21 See Appendix I, Testimony 9 below for the full testimony.

22 See Appendix I, Testimony 4 below for the full testimony.

23 See Appendix I, Testimony 10 below for the full testimony

Explicit Proposal to Collaborate/Explicit Conditioning of Medical Care on Compliance:

"After the conversation with the officer, a GSS agent, around 27 years old, arrived, and asked, "Do you need to get treatment at the hospital?" I replied, "Yes." He said, "You have to answer a number of questions." I said, "Let's hear." He said, "Which members of the Executive Force do you know from [redacted] Refugee camp?" I replied, "I know people by face, not by name." The GSS agent asked, "Who is the main person in charge in the central area?" I replied, "I don't know." Then he spoke in Hebrew and I did not understand. The GSS agent said to me, "If you want to go to the hospital, take my private cell phone number, talk to me and give me information about people."²⁴

From the testimony of A.

Questioning as Bait for Arrest

In addition to the pressure to collaborate, in recent months cases have been revealed in which the summoning of Gaza patients, ostensibly to receive exit permits or undergo GSS questioning, merely served as bait for the GSS. Upon their arrival at Erez Crossing, these patients were arrested and taken to Israeli detention centers. In other words, by exploiting patients' complete dependence upon Israel for medical treatment, the GSS deceives patients by summoning them for a security questioning, thus setting a trap for them at Erez Crossing:

S. suffered from a liver injury, and was referred for medical treatment at al-Maqassed Hospital in East Jerusalem. An appointment was set for him for the 30th of January 2008. His request for an exit permit from the Gaza Strip was approved, and the Palestinian Medical Referrals Department informed him that he was to arrive at Erez Crossing on the day of his medical appointment. When he arrived that day at the crossing, S. was arrested according to GSS orders, and transferred for detention at Shikma Prison in Ashqelon, Israel.

²⁴ See Appendix I, Testimony 1 below for the full testimony

H. suffered from an eye disease, and the Palestinian Ministry of Health referred him to medical treatment at Hadassah Ein Karem Hospital in Jerusalem. The patient was told to report to Erez Crossing on 23 August 2007 and to continue from there to the hospital. He arrived and was arrested at Erez Crossing and taken to Ohalei Keidar Prison.

M., father of 9 children, was diagnosed with stomach cancer and possible metastasis in the liver. He was referred for urgent medical treatment at Ichilov Hospital in Tel Aviv. The patient was informed that he was to go for GSS questioning at Erez Crossing, following which he would possibly be approved for exit for treatment in Israel. On 12 May 2008, the patient arrived at Erez Crossing, accompanied by his brother, mother and wife. He was separated from his family members and brought into the crossing. After waiting nine hours without food or water, during which, according to other patients' reports, he vomited blood a number of times, he was taken for security questioning at 17:00. His family members waited on the Palestinian side of the Crossing all day, not knowing what had happened to him. At 22:00 the family was asked to leave the Crossing without receiving any information about their loved one. PHR-Israel followed up on the case and received confirmation from the Israel Prison Service Command Center that M. had been taken to Shikma Prison in Ashqelon.

As a result, some patients who are summoned for questioning prefer to give up medical treatment, in order to avoid undergoing a GSS interrogation:

M. is 33 years old, the father of six children. In February 2008 he was diagnosed with a malignant brain tumor. On the 7th of April 2008, PHR-Israel made an urgent request of Gaza DCO to allow M. to go to Ichilov Hospital in Tel Aviv, to which he had been referred. On the 21st of April 2008, Gaza DCO stated that the patient was to arrive at Erez Crossing for GSS security questioning. The questioning was set for the 5th of May 2008. On the 30th of April 2008, the patient's brother called PHR-Israel and informed us that the patient had passed away from his illness. PHR-Israel's comprehensive examination found

that the brother had given us misleading information, and that the patient was in fact still alive. When the misinformation was revealed, PHR-Israel made direct contact with the patient himself. M. told PHR-Israel that his brother had given incorrect information due to his concern about the security check, and the possibility that the patient would be arrested or inform on his relatives.

Legal Analysis

Coercion of protected persons

International Humanitarian Law prohibits the use of civilian populations of a party to a conflict against their state. This rule has been stipulated in the Constitution of the International Criminal Court and its breach is considered a war crime. Further, Article 31 of the Fourth Geneva Convention makes a sweeping prohibition against obtaining information from protected persons by coercion or force: “No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties”.²⁵

Former President of the Israeli Supreme Court, Prof. Aharon Barak, expressed his opinion at length on the stance of international law on the use of local populations for military action in a territory under belligerent occupation. In HCJ 3799/02, Adalah-The Legal Center for Arab Minority Rights in Israel vs. Commander of IDF Central Command (also known as the “Human Shield” or “Neighbor Procedure” case) he wrote:

“... What is the rule for using a local resident to give an “early warning”, according to the procedure in this matter, if the resident consents to this, and no damage will be caused to him by giving the warning? [...] considerations prohibiting the army from using the local resident, predominate. At the basis of my opinion are a number of fundamental reasons. First, the basic principle, a leitmotif of the laws of belligerent occupation, is the prohibition on using protected persons as part of the

²⁵ Article 147 of the Fourth Geneva Convention strengthens this argument by specifying grave breaches of the Convention, most of which may be used as grounds for definition as war crimes. Among others, Article 147 defines “compelling a protected person to serve in the forces of a hostile Power” as a “grave breach” of the Convention. According to the interpretation of the International Committee of the Red Cross of the Convention, not only are recruiting to the army and assistive forces prohibited, but also any kind of pressure whose aim is to recruit protected persons. Article 147 stipulates: “Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: [...] compelling a protected person to serve in the forces of a hostile Power [...] not justified by military necessity and carried out unlawfully and wantonly.”

occupying army's war effort. The civilian population may not be exploited for the occupying army's military needs (see Falk, p. 218). They are not to be "volunteered" to collaborate with the army (see Article 23(b) of the Hague Regulations and Article 51 of the Fourth Geneva Convention; see also Pictet, p. 292). From this general principle is derived the specific prohibition on using local residents as "human shields". Also derived from this principle is the prohibition of use of coercion (physical or moral) against protected persons, for the purpose of obtaining information (Article 31 of the Fourth Geneva Convention; Pictet, p. 219)...(HCJ 3799/02, Adalah-The Legal Center for Arab Minority Rights in Israel v. Commander of IDF Central Command (not yet published) pp. 14-15 of the judgment.)



Photograph: PHR-Israel

While Justice Barak addressed the use of Palestinians for collaboration generally, in the case of patients these acts are far graver. The GSS chooses the most vulnerable population among the protected persons and exploits its distress, suffering and weakness for its security needs.

Extortion

Extortion, defined as obtaining property or services from a person through coercion or intimidation or threats of physical or other harm, is a criminal offense and is punishable by Israeli law.²⁶

Questioning as an Instrument of Torture and/or Cruel, Inhuman or Degrading Treatment

The GSS' exploitation of patients' medical distress and of their need for an exit permit for medical purposes constitutes coercion, which, as stated above, is a grave breach of the Fourth Geneva convention. Worse, PHR-Israel believes that the fact that refusal to collaborate leads to prevention of treatment, may constitute a breach of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as it contributes to physical suffering and may even lead to death, where a person's life could have been saved or his suffering alleviated by receiving treatment.²⁷

The British Medical Association specifically addressed prevention of treatment in its book "Medicine Betrayed", published in 1992. According to this book, purposely preventing medical treatment for non-medical reasons can be considered in extreme cases cruel, inhuman and degrading treatment.²⁸ Although the case study described by the BMA was that of a prisoner, PHR-Israel is of the belief that the cases are comparable, since the Israeli authorities at Erez Crossing are the sole holders of the power to enable or prevent access of Palestinians to medical care that is not available in Gaza.

As described, the questioning procedure fulfills, in our opinion, the definition of the term "Torture and/or Cruel, Inhuman or Degrading Treatment", as it involves making the provision of medical treatment contingent upon collaboration and preventing medical treatment or threatening to do so from persons who do not collaborate. Psychologically, the person under questioning finds himself in a difficult dilemma between his medical needs and his desire to access medical treatment, and his loyalty to his family, his relatives

26 See Par. 428 of Israeli Criminal Law (crimes of fraud, extortion and exploitation), 1963.

27 Article 1 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person [...] when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

28 British Medical Association, *Medicine Betrayed: The Participation of Doctors in Human Rights Abuses*, second impression 1988, Zed Books Ltd, London & NY, p.138.

and his community. Physically, it is clear that preventing or delaying medical treatment aggravates and prolongs the patient's suffering and delays or reduces his chances for recovery. Sometimes, death looms over the patient from two directions: on the one hand, his fate may be sealed if medical treatment is prevented, but on the other, in Gaza, collaborating with the GSS is considered treason punishable by death. This dilemma causes the patient great distress and can in itself be considered a violation of the Convention Against Torture.

The GSS conducts its activity on the backdrop of security problems and threats posed by Palestinian military organizations in Gaza to Israeli citizens and soldiers. However, according to the UN Convention Against Torture, this situation does not justify applying emotional pressure and exploiting patients' distress as an instrument in the Israeli security establishment's efforts.²⁹ Further, the fact that the state of Israel does not protect these persons is in itself a violation of the Convention.³⁰

Violation of the Right to Health

As Occupying Power in effective control over the Gaza Strip,³¹ Israel is obliged to provide health services and ensure the right to health of the civilian population of Gaza.³² As a bare minimum, Israel is prohibited from denying access to health services. The denial of medical care to the residents of Gaza, whether through GSS interrogation processes or by other means, constitutes a grave violation of the Right to Health.

29 Article 2 of the Convention explicitly states that torture is unjustifiable: a state of war, threat of war, political instability or any state of public emergency cannot justify the use of torture.

30 Article 13 of the Convention stipulates that "any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." *ibid*, *ibid*.

31 Israel's effective control over Gaza is expressed, inter alia, in its control over Gaza's sea and air space, over the majority of land crossings for persons and over all crossings for goods, over the influx of fuel, electricity and essential goods, and over the Palestinian population registry.

32 UN Convention on Economic, Social and Cultural Rights, Article 12, "The right to the highest attainable standard of health".

Medical-Ethical Discussion

The GSS and the security apparatus operate a selection process based on non-medical considerations

In hearings held at the Israeli High Court of Justice in Jerusalem during the past two years, the state has admitted that there are no physicians involved on behalf of the system in the process of examining Gazan patients' requests for exit permits. Not physicians but military soldiers and GSS staff who lack any medical training are the sole deciders on medical issues: who accesses treatment and who does not. Clearly, in this state of affairs neither medical considerations nor the degree of the case's urgency determine the decision to approve or deny exit.³³

Thus the patient is required to participate in an interrogation by a GSS agent who lacks any medical knowledge, unable to read and understand the medical documents presented to him, and certainly unequipped to decide on medical urgency and the risks of preventing treatment, but who is nonetheless authorized to make the decision that may seal a person's fate medically. The procedure of decision-making by people who are not medical professionals, in a situation where there is no alternative solution for those denied the right to exit Gaza, is a clear violation of the protection and neutral status afforded to medical matters by international norms for times of conflict.

Even if doctors had been employed by the current mechanism, they would have found themselves in an almost impossible quandary, in that they would have to navigate between the good of the patients and the diametrically opposite interests of the security apparatus, their employer. In fact, in the current situation in Gaza, any mechanism of selection or screening, whether by medical professionals or not, would be ethically untenable, since it would by definition leave some patients untreated, for reasons that are not medical.³⁴

33 Prior to the first *intifada* in 1987, a medical committee of referring Palestinian physicians and an Israeli physician was in operation, and discussed referrals of patients from Gaza Strip to Israel for diagnoses and medical treatment. This committee functioned well, and it was due to the policy of the political echelon to control and punish Palestinians for the *intifada* that power to decide was gradually transferred to the Financial Officer. Later, physicians were neutralized and decision-making was transferred to officials and interrogators. For more on this see PHR-Israel, Ziv, Hadas, *A Legacy of Injustice*.

34 For a comprehensive discussion of this issue see Weingarten, Michael and Weingarten, Miri, PHR-Israel: *Israeli Policies at Erez Crossing, Gaza: Medical-Ethical Position Paper*, August 2007.

Coercing medical human rights organizations

The GSS and the army have demanded that PHR-Israel coordinate the arrival for questioning of patients whose appeals against prevention of their exit for treatment are being handled by PHR-Israel. Otherwise, according to the DCO, the requests will not be dealt with at all. As an independent human rights organization, PHR-Israel believes that it is improper for it to coordinate interrogations. The grounds for our argument, which were submitted to the Israeli High Court of Justice, are as follows:

The current practice of questioning is illegitimate: As may be learned from the patients' testimonies (see Appendix I), interrogations are often unrelated to the assurance of medical treatment, and are aimed instead at gathering intelligence for the GSS' security purposes. As PHR-Israel believes that the use of patients to gather security intelligence is entirely wrong, we do not wish to cooperate with such practices.

The demand harms the relations of trust between PHR-Israel and patients: Involving PHR-Israel in the coordination of GSS interrogations makes PHR-Israel's physicians and employees appear, in the eyes of patients, inseparable from the military and security establishment, while in fact PHR-Israel is a fully independent body. The attempt to integrate PHR-Israel into the GSS work procedures impairs the patient-physician relationship of trust upon which sound medical treatment is based. The procedure also undermines the relationship between the patient and PHR-Israel's employees, who are typically the patients' last resort for obtaining immediate access to healthcare or to legal representation.

The Response of the High Court of Justice

As no response was received (nor has it been received to this day) to its requests from the Ministry of Defense and the Coordinator of Government Operations in the Territories (COGAT),³⁵ PHR-Israel petitioned the Israeli High Court of Justice on 8 November 2007. The petition, requesting that eleven Gazan patients be allowed to go for urgent medical treatment outside of Gaza, was also intended to prohibit the GSS from making exit for medical treatment contingent upon informing and collaborating in the framework of "security questioning", and from including PHR-Israel in the process.

³⁵ The first request was sent on 3 December 2007. An additional letter was sent on 11 December 2007. Two reminders were sent on 4 March 2008 and 20 March 2008.

Three of the eleven patients testified before us that they had undergone “security questioning” during which they were asked to provide information on security matters and to inform on their relatives as a condition for their exit for medical treatment. In the two hearings that took place on the 12th and the 17th of November 2007, the judges were satisfied by the fact that individual solutions were found for most of the patients³⁶, and avoided directly addressing the phenomenon of GSS “security questioning” at Erez Crossing, as described by the petitioners and as expressed during the legal proceedings.

PHR-Israel submitted four additional affidavits to the petition describing the same phenomenon (in the framework of a notice of update to the court on the 14th of January 2008), and reiterated its demand for remedy from the court on the issues in principle. In response, the court commented: **“We have also taken note of the security bodies’ statement, that no use is made of a person’s illness in order to obtain information in the realm of security.”**³⁷ Thus the HCJ was content with a short comment based entirely on the GSS’ statement, given verbally and not in an affidavit, and ignored the testimonies contradicting the statement.

As no remedy was given by the High Court of Justice, PHR-Israel’s dilemma remained, whether to take part in coordination of patients’ interrogations, knowing that this constitutes a condition for the handling of its appeals. The decision that has been made for the time being is to inform the relevant patients about the nature of the questioning and to give them the option of choosing. The central consideration that guided PHR-Israel in making this decision was the patient’s welfare, intending to maximize his or her chances to access medical treatment, while, at the same time, continuing to take action against the questioning.

The Responsibility of the Israel Medical Association

Since the practices defined above are so closely bound to medical issues, and involve the denial of access to existing medical care for non-medical reasons, PHR-Israel is of the opinion that the Israel Medical Association has a responsibility to voice a clear opposition

36 Apart from one patient who passed away while awaiting the judges’ decision, the entry of five patients through Erez Crossing was approved during the proceedings. Three additional patients went for treatment in Egypt after the Rafah border wall was breached in late January 2008. Two were ultimately treated in Gaza.

37 From HCJ 9522/07 PHR-Israel vs. Commander of IDF Southern Command and Southern Brigadier General. See decision from 28 November 2007 and Ruling from 12 February 2008.

to them.³⁸ In a letter dated 11 October 2007, PHR-Israel requested the Israel Medical Association (IMA) to express its opinion on the phenomenon by which exit for medical treatment is made contingent upon submitting information to the GSS. This request was done in the hopes that the IMA would intervene and assist in preventing this phenomenon. In its reply dated 24 October 2007, it was promised that “the IMA is examining and checking possibilities for various plans of action”. A draft copy of this report was sent to IMA as well, but to date no response has been received.³⁹

The Response of PHR-Israel

PHR-Israel’s past activity against torture and other human rights violations has been based upon exposing the facts and making unremitting efforts to change abusive policies. It is our opinion that the entire medical community should now rally against the current pressure on patients to collaborate while exploiting their distress, due to the severe, extensive abuses of various human rights caused by the practice, including the right to human dignity, the right to health, and freedom from discrimination.⁴⁰ Like past activities we engaged in during the 1990’s, when the GSS denied the fact that it was torturing Palestinian detainees, here too we encounter denial by the GSS of the conduct described in this report.⁴¹ Naturally, many people have an interest in silencing the voice of those exposing this practice. Thus, one course of action is to publicize testimony given by patients, demonstrating the GSS’ practice.

38 For a detailed discussion of this point see the opinion of Dr. Bob Brecher below, Appendix II.

39 A letter to IMA was first sent on 18.5.08, and a second reminder was sent on the 16.6.08.

40 As defined in Articles 1, 7 and 25 of the Universal Declaration of Human Rights.

41 On torture in the 1990s see, for example, *Torture: Human Rights, Medical Ethics and the Case of Israel*, eds. Ruchama Marton and Neve Gordon, London, Zed Books:1995.

Summary and PHR-Israel's Demands

Despite the GSS' statement to the Israeli High Court of Justice, GSS questioning procedures continued during the months following the Court ruling, and continue to this day. Furthermore, testimonies suggest that interrogators' demands from patients during questioning have become increasingly blunt, direct and open. This development raises suspicions, that the decision taken by the HCJ to avoid a ruling on the principle issue of how the questioning is conducted, was understood by the GSS as a green light to continue with its policy with increased force.

We are of the opinion that this failure has been made possible because the GSS has been allowed to become the sole body authorized to define "security", and because it has become the maker of policy instead of its executor.⁴²

For many patients, accessing medical treatment outside the Gaza Strip is a matter of life or death. For others, it is essential to alleviate suffering and ensure their right to health. In any case, the patient is in a helpless position when faced with GSS interrogations, knowing that his health and life depend on whether or not he acquiesces to the interrogators' demands. The exploitation of ill people who are helpless in the face of the demand to inform and report on their relatives, acquaintances and others, constitutes intolerable intimidation and a moral problem of serious magnitude.

Preventing medical treatment and threatening the most helpless members of society not only violates the rules of international law and the basic tenets of human rights, including the right to health; It also undermines the standards of medical ethics, as well as the moral standards of Israeli society, as of all societies in general.

Physicians for Human Rights Demands:

1. That the medical needs of the patient population of Gaza not be exploited for information-gathering by the GSS.

⁴² This idea was best expressed by Dr. Matti Steinberg, former advisor to four heads of the Israeli General Security Service: "...the tables have been turned, and the operative levels, by virtue of their accumulated tactical activity, are causing, almost unawares, the worst possible strategic consequences for Israel." *Ha'aretz*, 19.6.2008.

2. That the GSS and the army revoke their demand that PHR-Israel coordinate patients' questioning as a condition for handling applications.
3. That the Israeli medical community and the Israel Medical Association exercise their influence to do away with the conditioning of patients' exit for medical treatment upon submitting information and collaboration with the GSS in the framework of questioning of patients at Erez Crossing.

Appendix I - Testimonies

Testimony 1

Name: A [REDACTED] [REDACTED]

Age: 26

ID #: [REDACTED]

Marital Status: Single

Date of Birth: [REDACTED]

Address: Gaza, [REDACTED]

Through a phone call from an undisclosed number, I was informed regarding my [medical] treatment in Israel, [and told] to arrive at Erez Crossing for an interrogation with the Israeli GSS in order to enter Israel for treatment at Ichilov Hospital.

The first date for questioning was 25 February 2008 at Erez, but it did not take place, because of the demonstrations in the streets, especially near the crossings, protesting our difficult situation [in Gaza].

When I was about a hundred meters away from Erez Crossing, I called the Israeli Liaison Office at phone number 08-6741411, regarding my coordination. I was told, "You must coordinate with Rif'at Muhaisen", the person in charge of coordination from the Ministry of Health [the Palestinian Subcommittee – PHR-I], located at Funduk al-Amal (Hope Hotel) in Gaza.

A while later, I received notice from the Health Ministry, from an undisclosed number, that "you must report to Erez Crossing on Tuesday, 18 March 2009, at 12:00 noon."

After [going through] Erez Crossing's outer part, the "hamsa hamsa", I received notice from the "container" [the site of the liaison representatives on the Palestinian side of Erez crossing – PHR-I] that my entrance had been approved, at 12:30 noon. I went in for a meeting with the Israeli GSS. Following a security check prior to entrance, and after submitting my ID card to people at the crossing, they sat me down in the waiting hall for about half an hour.

Afterwards, three men approached me, that is, Israeli GSS security agents. After taking my ID card, they went in, leaving me sitting in the waiting room for half an hour longer. I was taken to the examination room. The examination room looked

very strange: It contained a small chair, the floor was made of iron and when I stood up, I could see the storey below. After a thorough examination, and full removal of my clothing, they took all my documents. My money remained with me.

I was taken to a cellar beneath the ground by underground passageways that led to the GSS room, through narrow corridors 130 meters long. After going up the stairs, I was isolated in a room of about 3 X 3 meters, in which there was a chair.

I was held in the room for no more than an hour. An official came in and took me to the Israeli GSS.

The questioning opened with greetings. The GSS agent was 45 to 50 years of age. Then he said, "Give me complete, precise information about A [REDACTED] B [REDACTED]". The conversation with him went on. I replied that I was a student. The GSS agent took a sum of money out of his blue bag, 590 Jordanian Dinars. A medium-sized sum of money. The GSS agent said, "For you to complete your payments for university." Of course, I refused the money.

Then the GSS agent asked me, "Do you need to get to the hospital?" I replied, "Yes. I want to go for treatment." Then the GSS agent said, "It would be better for you to be treated in Egypt." I said, "I went to Egypt illegally when the crossing opened. The Egyptians caught me in Isma'ilia in Egypt, put me in jail and transferred me to al-Arish for treatment at Mubarak Military Hospital."

After the conversation with the officer, a GSS agent, around 27 years old, arrived, and asked, "Do you need to get treatment at the hospital?" I replied, "Yes." He said, "You have to answer a number of questions." I said, "Let's hear." He said, "Which members of the Executive Force do you know from [REDACTED] Refugee camp?" I replied, "I know people by face, not by name." The GSS agent asked, "Who is the main person in charge in the central area?" I replied, "I don't know." Then he spoke in Hebrew and I did not understand. The GSS agent said to me, "If you want to go to the hospital, take my private cell phone number, talk to me and give me information about people." I told him, "It is not my business to say what I know. I'm only asking to go out for treatment, no more. I have nothing to say about anyone. If you don't want to help me, just say no. I prefer to die in Gaza and not to collaborate with you through your pressure on an ill person who needs treatment in Israel." I said, "You have to take care of the sick, according to your claim that you are a democratic state." Then he asked me about my neighbors and my friends, and took down their cell phone numbers. He asked about my friends and the nature of the friendship between us. After I went out from one room to the other, they asked

me again about friends whose names he [the agent] had mentioned. Again they offered me money, and the GSS agent's personal phone number. I sat in the room. The officer went out for five to ten minutes. He asked about neighbors and other people, and proposed again that I collaborate. I refused. After I returned to the room, I waited there for half an hour. Then two GSS security agents came in and gave me my documents and my jacket. I went out to the waiting room at 20:00 in the evening. I requested a document from the GSS so that no one from the Hamas or the Executive Force would give me any trouble. The GSS agent refused and said, "We don't have any." Then he gave me my ID card and said, "Go to Gaza, and we'll let you know what we're going to do with you."

Before leaving the Israeli GSS facility at Erez, I sat with them and told them that not only did I suffer from cancer of the pancreas, but also from injury to my knee joint. I suffer from it a great deal, especially during the winter. The GSS agent looked at my leg. I explained to him how I got my leg problem. I said that there had been a fight between two clans: the first was the [REDACTED] family and the second, [REDACTED]. I got involved in order to end the conflict, and one of the people fighting struck me in the knee joint with a butcher's knife. This caused a tear of arteries and blood vessels, and a deep wound to the outer part of my right knee, 8 cm long on the knee joint. It was later discovered that the knee was fractured as well, and my leg was placed in a cast for five months, in addition to getting thirty stitches in my leg. Today I suffer from constant pain.

In conclusion, I thank Physicians for Human Rights.

Thank you from Gaza Strip's sick,

Who pray to God to help you so that you may help them recover from their illnesses,

When Gaza lacks professional progress,

Especially medical development in our society in Gaza Strip.

We thank you for monitoring medical cases in the Gaza Strip. On behalf of Gaza's sick, we thank you for your good efforts to bring us to treatment.

The patient A [REDACTED] [REDACTED]

Location: Gaza Strip

[Signature]

Cell phone number: [REDACTED]

Fax number: [REDACTED]

Testimony 2

Affidavit

I the undersigned, T [REDACTED], holder of ID card # [REDACTED] hereby give the attached affidavit after being informed of the laws and cautioned as regards their violation, stating as follows:

I am a resident of Jebalya, of the [REDACTED] area, born [REDACTED] [REDACTED] 19 [REDACTED].

On 15 May 2007, I was injured by a number of bullets in my left calf, as a result of the internal events in Gaza.

The injury caused me a double fracture of the lower fibula and endangered my health. As a member of the Palestinian Security Service, I was referred by the Military Health Services (Al-Hidmat al-Tabia al-Askaria) to Palestine Hospital in Egypt, on 1 June 2007. I remained there for about four days, and underwent the necessary medical tests, including placement of a cast extending beyond the thigh and fixation of the calf fracture. The physicians there decided that it would be necessary to conduct follow-up two months later, in order to complete treatment.

Due to the closure of Rafah crossing [on the 9th of June – PHR-I], I could not travel to Egypt to complete my treatment. Therefore, Gazan physicians decided to refer me to Al-Makassad Hospital in Jerusalem. I completed all the procedures required for receiving permission for treatment.

Twice I was denied permission by the Israeli side in September 2007, who prevented my entrance for treatment without any explanation. Following this refusal, I contacted the International Committee of the Red Cross in Gaza, as well as Physicians for Human Rights, in order to receive their assistance in obtaining permission to receive treatment. Within a few hours of contacting them, I received a phone call from someone named Ran, who introduced himself as an employee of Physicians for Human Rights.

Ran asked me to make a new appointment with the hospital so that he could help me. In fact I received an appointment for 15 October 2007. I would be able to fulfill my appointment on the condition that I agreed to be questioned by the Israeli General Security Service (GSS). I told him [Ran - PHR-I] that there was no reason for me not to do so. I was told by Physicians for Human Rights that I would be

able to receive permission to receive treatment on 15 October 2007. On 15 October 2007, I arrived at Erez Crossing at around 8:00 a.m. After a long wait, during which I received a number of phone calls from Physicians for Human Rights, from someone named Naomi, they let me in at about 15:50 p.m. After the security examination procedure, I was told that there was no permit for me, and that I had to return the following day to receive a permit.

I called Naomi from Physicians for Human Rights and told her what had happened to me, and that my not entering had canceled the appointment that had been made for me at al-Makassad Hospital. She told me she would help me make a new appointment. In fact, that evening I received a phone call from her, telling me that she had obtained a new appointment for me, and that the Israeli GSS would interrogate me in the future.

The next day, at about 9:00 a.m., I arrived at Erez crossing. At about 11:30 noon, I was called in by two people who took me to a room, where they conducted a security examination, after which I was taken down the stairs to a room underground. I sat alone in the room for ten minutes, and then I was transferred to an office, where there was someone who introduced himself as an Israeli GSS officer and who spoke Arabic, and another person who spoke only Hebrew, and I don't speak any Hebrew.

I was interrogated by the GSS officer. The questions were as follows:

Q: What is the cause of your injury?

Q: How many people are there in your family, and what are their occupations, in detail?

I was also asked about some of my relatives, especially one who works in the Popular Resistance Committee, whose name I do not wish to mention. As for the GSS officer's questions about him, I started to give incorrect answers about him, because he is wanted by the Israeli side.

The Israeli GSS officer informed me that the reason I did not receive permission for treatment was that I knew someone from the Resistance.

I was also asked whether I knew someone from the Hamas movement, and who were my neighbors? I stated that I knew no one.

He told me, word for word and directly: we collect information before we target a certain person. I was surprised by his statement. He told me plainly, if I wanted to

tell about someone from the Hamas movement or from the Resistance, "call us". He gave me a [telephone] number. I refused to take the number from him.

I was also asked about the hospital where I was to receive treatment, and I said al-Makassad in Jerusalem. At the end of the interrogation, which went on from 11:30 noon to 14:00, he told me that I would not receive permission for treatment, because I was not helping them. The GSS officer said to me, word for word: "You will not be able to receive treatment in Israel if you don't give us additional information." I told him that I knew nothing, that I had told him everything I knew. He told me, "In half an hour we'll verify your information."

I was returned to the waiting hall, and within less than fifteen minutes, I received my ID card from one of the female soldiers in the waiting hall. She told me that I had to bring a new referral for a medical appointment for the following week and coordinate again.

When I left Erez, Naomi from Physicians for Human Rights called me and asked me to bring in a new referral for a medical appointment, and that they would help me receive permission. In fact, I made a new appointment for 12 November 2007. When I sent the referral to Naomi, she said I would undergo further GSS questioning. I informed her that I didn't want to go through an interview with the GSS and that I would not return to Erez.

At this moment, I suffer from medical problems and require treatment very urgently. If they continue to prevent my entry into Israel for treatment, I will suffer considerable damage.

I give this attached affidavit before an attorney from the Palestinian Center for Human Rights, in order to use it vis-à-vis the relevant bodies to help me with treatment.

Testimony 3

Affidavit

I the undersigned, 'A [REDACTED], holder of ID card # [REDACTED] hereby give the attached affidavit after being informed of the laws and cautioned as regards their violation, and state as follows:

1. I am a resident of the city of Jebalya, born [REDACTED] [REDACTED] 19 [REDACTED], married with two children, employed by the Palestinian National Security Forces.
2. On 14 June 2007, in the course of internal events in the Gaza Strip between Fatah and Hamas, I was on guard on Jabel al-Kashef. A group of armed Hamas militants attacked us and fired a mortar, which caused injury to my left calf. They fired directly at both my calves, and as a result my right calf was broken and I sustained various injuries to my left calf.
3. I sustained a dangerous injury. I stayed at Shifaa' Hospital for 23 days, during which my wounds were cleaned. Afterwards, I was referred on 5 July 2007, to Ichilov Hospital in Israel, where I stayed for 70 days. I underwent surgery on my right leg and metal plates were put in place. At the physician's recommendation, an appointment was made for my return to the hospital in Israel.
4. On the morning of 16 December 2007, we received a phone call from the Palestinian Liaison [the Palestinian Subcommittee – PHR-I], informing us of the Israeli side's authorization of my entrance through Erez Crossing, on the basis of the date of my follow-up appointment at Ichilov Hospital, after I had submitted a request for coordination of this matter. At around 12:00 I entered the crossing with my father as my escort. Upon completion of the security check procedure, we submitted our ID cards at the window and sat in the waiting room. At about 15:30 noon, I was asked to go for an interrogation with the GSS. I was brought to the private examination room and was asked to remove all my clothes and shoes. They took my cell phone and number, and then accompanied me through passages underground. I sat in the waiting room for five minutes. Afterwards they placed me in a room where there was an interrogator behind a desk. He asked me to sit down, and began asking me about my life history, and requested my medical documents. He said, abruptly, that all my medical records were forged. He asked me the name of the physician who wrote the

medical opinion for me. I told him that all the medical documents were reliable, and that there was no way I could forge documents printed at Ichilov Hospital, that I was registered with you as having gone through Erez Crossing during the month of July for treatment there. You know that. Then he started asking about people who work for al-Aqsa Martyrs' Brigade, and saying that I worked with them, and asking about people close to me and my relatives, who worked in the al-Aqsa Martyrs' Brigade. I told him [REDACTED] [REDACTED], my wife's friend, with whom I went to receive my initial treatment, and [REDACTED] [REDACTED], a former detainee, and [REDACTED] [REDACTED]. Then the interrogator said that I worked for Al-Aqsa Martyrs' Brigade, and I denied this. Then he started asking questions about my injury, how it occurred and about the incidents with Hamas, and I responded to all his questions. Throughout the interrogation, he said that I was not cooperating and that I was lying, although I had already answered everything. When the interrogation was over, he asked me to leave the room and [said] that he would allow me to enter Ichilov Hospital. I returned to the waiting room, and they called my name and that of my father, and told us to return to Gaza Strip. I objected, saying that the interrogator had told me I could go the hospital, but they [didn't] listen to me and we left Erez Crossing at around 18:30 in the evening. To this day I am in Gaza Strip, and walk with the help of crutches.

5. When I returned to Gaza Strip, I contacted the Palestinian Liaison and they informed me that nothing could be done. Ultimately, I contacted Physicians for Human Rights, and sent them all the necessary medical documents, in order to appeal the decision preventing me from leaving the Gaza Strip for treatment, through Erez Crossing.
6. Preventing me from receiving treatment at Ichilov Hospital is unjust and violates my rights, because they had initially allowed me to receive treatment there and are preventing me from completing my treatment, contrary to the recommendations of the hospital's physicians. He accused me of forgery and this has caused me serious damage.
7. I hereby give the affidavit detailed above before an attorney, in order to use it vis-à-vis the relevant bodies, and to conduct all necessary legal proceedings to guarantee my entrance for treatment in Israel, and for use before the Israeli Supreme Court.

Testimony 4

Affidavit

I the undersigned, R [REDACTED], holder of ID card # [REDACTED], after being cautioned that I must tell the truth, otherwise I will be liable for punishment by law, state herein as follows:

1. I am a resident of Gaza – [REDACTED], born [REDACTED] 19 [REDACTED], married, and work as a government official in the General Information Authority.
2. Since the month of August or September 2007, I began feeling pain in the upper part of my right thighbone, as well as pain in my legs and back, constantly. In the past, about two years ago, I suffered from the same pain, but infrequently. Then I took painkillers as treatment for this pain, but recently it has begun to intensify and has become constant, especially during the night hours.

In October, I was examined by physicians in Gaza, and x-rays were done on my right thigh. A tumor was found on the upper part of my right thighbone, but the type of tumor was not identified.

3. At the physicians' recommendation, I was referred for an MRI test to diagnose my illness, at Al-Raiyeh al-Arabieh in Ramallah in the West Bank, as it was impossible to conduct the exam in the Gaza Strip. Therefore, I submitted a request to the Palestinian side, according to an appointment that was set for me at the Ramallah hospital for 4 December 2007.

On 3 December 2007, I was informed by the Palestinian side that the Israeli side had approved the request I submitted, and that I was to go to Erez Crossing the following day.

4. At about 7:00 a.m., I reported at Erez Crossing with my mother H [REDACTED] 'A [REDACTED], who escorted me, and received permission from the Palestinian side.

Half an hour later, we entered the crossing. After going through the security check procedure, I submitted my ID card and permit. It was 8:00 a.m., and I waited in the hall until 14:00 p.m.

At 14:00, I was approached by two Israelis in civilian dress, who held my ID card. One of them asked my name. I was then taken to an examining room,

where I was asked to remove my pants and shoes. They recorded my voice as well. I was led through corridors underground, and they put me in a waiting room for about twenty minutes.

Afterwards, one of the two Israelis placed me in a room with a desk and chairs. There were two others there who asked me to sit down, and began asking questions. At first, the questions had to do with me personally. Afterwards, I was surprised by a question one of them asked: "Do you intend to go to the West Bank in order to work with Abu Mazen?"

At one point, the questions became questions about my relatives, my friends, and their phone numbers. I responded in full to these questions.

Then there was a turning point in the interrogation, when an interrogator began directing questions to me about my political orientation and my prisoner brother, and I responded to these questions as well.

I was then questioned about the Kataib Shuhada al-Aqsa organization. I responded that I had no connection with this organization, but the interrogation was focused on this point. Then the interrogator began accusing me of lying, and said that we in the Gaza Strip did not deserve to live, and that if he had the power, he would have disconnected us from electricity and water, and even prevented entry of food into the Gaza Strip.

Then the interrogator informed me that it was impossible to allow me to enter Israel, but I said I had no intention of entering Israel but rather Ramallah. He replied, "It is impossible for us to approve your entry. Security issues are in our hands, and your entry into Ramallah requires passage through Israel, and I am sorry but I cannot approve it for you," although he had reviewed all my medical documents and I had explained my medical condition to him. He was not convinced by my documents and claimed that I did not appear to suffer from any illness. I replied that my medical documents testified to my medical state, although I did not appear to suffer from any illness, and that I had to go to Ramallah to undergo a certain test to diagnose my illness. But the interrogator accused me of paying bribes in order to obtain my medical document.

5. The GSS interrogation lasted for about two and one quarter hours, and after it ended, I was asked to return to the Gaza Strip. I returned to the [waiting] hall, took my things, and my mother and I left Erez Crossing, and went back to Gaza. It was about 17:00 p.m.

6. After I returned to the Gaza Strip, I contacted the Bureau of Civil Affairs [the Palestinian Subcommittee – PHR-I] and explained to them what had happened. They responded that they did not deal with ill people's affairs. Then I contacted Physicians for Human Rights, who opposed the Israeli side's decision to prevent me from receiving medical treatment, and submitted an application on my behalf to the [Israeli] High Court of Justice on this issue.
7. I hereby submit this affidavit before an attorney, in order to use it before the official authorities and to use the full extent of the necessary legal proceedings to enable me to enter the West Bank, and to present it before the Israeli Supreme Court.

It should be noted that my new appointment for my test is 8 January 2008, and that if I am prevented from undergoing this test, I will suffer considerable damage.

Testimony 5

Affidavit

I am the undersigned, A [REDACTED] [REDACTED], holder of ID card # [REDACTED]. I hereby state under oath after being cautioned according to the law. I hereby testify:

I was born in 1969, a laborer, married with two children, and live in the [REDACTED] area.

About a year ago, I was diagnosed with cancer of the lymph glands and began chemotherapy. After going through one course, my body was vulnerable and the state of my health deteriorated, and I was transferred to Ichilov Hospital in Tel Aviv, in January 2007. I received treatment. After my health improved, I returned to Gaza for the remainder of my chemotherapy.

In September 2007, an appointment was made for me at Tel Hashomer Hospital, but the Israeli authorities refused to allow me to enter Israel; this was done through the Ministry of Health Liaison [the Palestinian Subcommittee – PHR-I]. A new date was set for ten days later, but I was refused entry again without any reason being stated.

In October 2007, a new appointment was made at Ichilov Hospital in Tel Aviv and again, I was refused permission to enter Israel for treatment.

I then contacted Physicians for Human Rights [PHR] in Israel for help on this issue. I sent them all the necessary medical documentation. After checking with the relevant Israeli authorities, PHR told me I was prevented from entering for security reasons.

After demonstrating to them that I had done no illegal deed that would prevent my entry into Israel, I submitted a petition to the High Court of Justice through PHR, to allow me to enter Israel for treatment.

Around mid-November 2007, I received a phone call from PHR. They informed me that the court had made an affirmative decision, allowing me to enter for treatment in Israel. They asked me to contact the Liaison in the Palestinian Ministry of Health [the Palestinian Subcommittee – PHR-I], in order to submit an application to obtain permission. I did so. I submitted a request, and PHR continued to handle the case in order to ensure that the permit would be obtained.

Afterwards, PHR informed me of a new appointment that had been made at Ichilov Hospital for 2 December 2007, at 14:00 noon, that I had received permission to enter Israel for treatment, and that I had to go to Erez Crossing on this date with all the necessary documents.

On 2 December 2007, I arrived at 7:00 in the morning at Erez Crossing, escorted by my brother A■■■■■, age 36. After the security check procedure, they placed me in an inner room, at about 11:00 in the morning. I approached a window and gave them my ID card and my brother A■■■■■'s ID card.

They checked the ID card and the permits, then put my permit in my ID card and did the same with my brother's. Then one of them checked on the computer and asked my brother to sit down.

We stayed like that for about half an hour until two people in civilian clothes approached. One of them called my name. He wore jeans and a white shirt, and led me through a passageway in the middle of which was a table on which manual security checks were done. He started to check me, after ordering me to remove my belt, my pants and my shoes. Then I got dressed and placed the personal belongings that had been in my pocket in a black sack that I was given. My cell phone remained in my hand. One of them asked me for my cell phone number. I gave it to him. He called me and said, "You're lying, it's a wrong number." He asked me to call his number: 0548056328. I found this number in my cell phone after they returned it to me. They put me in a small room with an iron floor. I phoned him from there, he answered and then hung up.

I was taken out of the room and led through corridors, until we reached a room that looked like a waiting room of about 4 by 3 meters. It contained eight chairs, a closed door, a reflecting glass window and an air conditioner. Besides myself, there was an ill man there of about 50-60 years of age. I stayed there for about half an hour. I was then taken to a room of 4 by 4 meters with a desk and a computer, opposite which sat an officer of about 30 in civilian clothes. Someone similar-looking sat next to him. There were two more chairs next to the desk. They asked me to sit on one of them. The man sitting next to the desk began questioning me, and the other one began writing on the computer.

There were many questions, of which I remember: questions about my place of residence, personal questions, my brother's names, workplaces and phone

numbers; my sisters, their husbands their workplaces and phone numbers, my friends, their workplaces and phone numbers, and also why I had submitted a petition to the Supreme Court against the state of Israel. He asked me whether my brother A [redacted], who escorted me, was from the Izz a-din al Qassam Brigades, and whether I was from the al-Aqsa Martyrs' Brigades. He asked me about the al-Aqsa Martyrs' Brigades in the Bani Suheila area. He took away my cell phone and began checking the names and numbers there were in it, and wrote most of them on the computer.

This took about an hour and a half. Then he said to me, "You have cancer, and it will soon spread to your brain, as long as you don't help us, or else wait for Rafah Crossing". I said, "No problem. That is my fate." During the conversation, a third man of about 40 entered, and told the one who was questioning me, "That's it. Let him go". The [other one] said, "No, he's al-Aqsa Martyrs' Brigades". Then the [first one] said, "Then no, send him back."

Then the two security officials who had brought me in the beginning arrived, and took me back the room from before, the one with eight chairs. I remained there until 15:00 in the afternoon. Then they brought me back to the first room with the window. One of them gave me my cell phone and the black sack with things I had left inside. It was about 15:00.

Then they gave me my ID card and the entry permit and asked me to go to Israel.

I spoke with Physicians for Human Rights and told them what had happened, and that it was now after 15:00 and that my appointment at the hospital was for 14:00. I asked them if there was any use in entering Israel. They asked me to wait for them to call the hospital and that they would call me back. At about 15:30, I was informed by PHR that there was no use for me to come because I would not be able to be admitted to the hospital. They asked me to go back to Gaza until a new appointment was set for me.

I returned to Gaza, leaving the checkpoint at about 16:00.

There was no reason or excuse for me to be late for the appointment that had been set for me at the hospital. I am sure it was intentional.

Testimony 6

Affidavit

I, the undersigned, A [REDACTED] [REDACTED], ID card # [REDACTED], after being cautioned to tell the truth, or otherwise be liable for punishment by law, hereby testify as follows:

1. I am a resident of the city of Jebalya, [REDACTED], a second-year student of accountancy and business management at the Islamic University in Gaza.
2. Since June 2002, I began suffering from medical problems of the stomach and colon, following which I saw a large number of physicians in Gaza, but as of yet a diagnosis has not been made of my medical problem.
3. As a result of deterioration in my medical condition, the Palestinian Ministry of Health decided to refer me to the Internal Medicine department at Ichilov Hospital for diagnosis of the problem.
4. On 31 October 2007, at around 6:30 in the morning, I went with my escort, my father M [REDACTED] M [REDACTED], to Erez Crossing. We had been informed by the Center for Patient Referrals that belongs to the Ministry of Health [the Palestinian Subcommittee – PHR-I] that a permit for entry into Israel had been issued for us.
5. Around 8:30 we were allowed to enter the hall inside the crossing, where we submitted our ID cards and the permits we received before entering the hall. We waited there for about an hour, without anyone talking to us. Afterwards I was told that entry was denied and I was asked to leave the hall, without any explanation being given.
6. Upon our return, my father and I immediately contacted the International Committee of the Red Cross, and the Palestinian Center for Human Rights for help on this issue.
7. On 2 November 2007, my father received a phone call from Physicians for Human Rights, from someone named Naomi, who asked me to submit the documents to the official authorities in order to receive an entry permit, in order to help us on this issue.

Two days later, my father received another phone call from her, and she informed us that there was no problem to receive the permit, but that the GSS

wanted to interrogate me, and I expressed my consent and stated that I had no opposition to undergo the requested interrogation.

8. On 20 November 2007, around 7:30 a.m., my father and I went to Erez Crossing, where we had gone through the previous procedures. About two hours after arriving at the hall, two soldiers approached and called me. They took me to the examination room, where they performed a search on me. Then they brought me to another room, where I waited for about two hours, and then I was transferred to an office, which was apparently a GSS office. There were two people there, one of whom spoke Arabic and the other spoke Hebrew. They began asking questions:

Q: Where do you want to go? What do you suffer from? I replied to the questions.

Q: Do you know anyone from the Hamas movement in your family? I replied that I knew no one.

Q: Do you know people who belong to the Popular Front or Fatah in your family? So I replied that I knew one family member who belonged to the Popular Front, and I was surprised that he knew information about that person's family.

Q: Where do you pray? I replied that I prayed at the local Abu al-Khir mosque.

I was also asked about a number of people, such as A [redacted] J [redacted], M [redacted] S [redacted], M [redacted] 'A [redacted], M [redacted] S [redacted], all of whom belonged to the Hamas movement. Whoever I knew among them, I replied, "Yes, I know him".

The interrogation went on for about half an hour, and afterwards I was transferred to a room where I waited alone for about two hours. I was then transferred to the hall where I saw my father waiting for me.

Again my father and I sat to wait for a long time, until they called us and returned our ID cards and informed us that they did not approve our entry.

We left the Crossing at about 19:00 in the evening, and the following day I contacted Naomi from Physicians for Human Rights and told her what had happened to me. She asked me to make a new appointment in order to submit another request.

I received an appointment to Ichilov Hospital without a time restriction, and then I submitted the request for an entry permit into Israel to the Palestinian Liaison Office, and I informed Physicians for Human Rights of this.

On 17 December 2007, I was informed by the Referral Center of the Ministry of Health that my application was being checked on the Israeli side. But until the date of this affidavit, I have not yet received a response on the issue. Today I suffer from medical problems and require urgent medical treatment, in order to diagnose my illness and to treat it as soon as possible.

Here I should note that the continued refusal by the Israeli side to approve my entry into Israel in order to receive treatment, causes me considerable damage, especially as my illness prevents me from continuing my studies, and I have even had to discontinue my studies this semester.

9. I hereby submit this affidavit before the attorney of the Palestinian Center for Human Rights, to be used before the official authorities in order to assist me in medical treatment.

Testimony 7

Affidavit

I the undersigned, B [REDACTED] [REDACTED], holder of ID card # [REDACTED], give this sworn affidavit, after being warned that I must tell the truth, otherwise I will be liable for the punishment by law, and hereby state as follows:

1. I am a resident of Gaza. I live on [REDACTED] Road, born [REDACTED] [REDACTED] [REDACTED], 19[REDACTED], married, work as a journalism official at the Palestinian Journalists Association.
2. On 27 August 2007, suffering badly from the retina of my right eye, I visited physicians in the Gaza Strip, who decided that my condition required urgent medical attention abroad, and that if I did not receive treatment within a short time period, the eye could not be operated on. Surgery cannot be performed in the Gaza Strip.
3. On 12 September 2007, I had an appointment at St. John's Hospital, which was to be funded by a medical association abroad. I submitted a request to the Palestinian side to receive an entry permit from Erez Checkpoint.
4. The Palestinian Authority [the Palestinian Subcommittee – PHR-I] informed me at midnight by phone, that I was to arrive at Erez Checkpoint at 8:00 a.m., and that a license and entry permit would be there for me. At 8:00 in the morning, I reported to the checkpoint and was allowed in. After general security checks at the checkpoint, when I arrived at the waiting hall, I submitted my ID card, and waited until 10:15. Then two people wearing civilian clothing approached me, and I accompanied them for an additional security check. After they completed the check, they took me through underground passages and made me sit in another waiting room for almost 45 minutes. A man approached me and called me to another room for interrogation. He asked me to sit down, and presented himself as Moshe. He began asking me if I like my entry permit, and continued with other questions about my work. I replied that my business was of no interest to him, and that he was only interested in knowing who fires missiles. He asked me about people and military figures in Hamas, then went on to other movements. I replied that I did not know them personally and had no information about them, except for the reports about them on broadcasts or in newspapers. He

continued with questions about recent events in Gaza, and asked about personal activity in this framework. I replied that I was active in civilian life, especially activity that had to do with the status of women. After all my responses he said to me, "I want to talk to you openly when you return from Israel so that you will have an acceptable reputation on the Israeli side. I am giving you a cell phone number and when you come back, call me, and a man called Yossef or Moshe will answer. After you call and we're sure you returned safely, we'll make sure you are a freelance journalist. If you see or hear about terrorist activity against Israel, let me know immediately and leave the area." [I answered,] I am not interested in your dictating such things to me. Alongside the medical permit, you are asking me illegal things. He responded angrily and said, "I decide and set the rules, and you'll see that if you do as I say, I'll let you go to Ichilov Hospital even without a permit. We'll give you medical treatment and forget about Saint John's Hospital." He said, "It depends if you accept my demands."

I asked that he allow me to enter today for surgery at St. John's, and said, when I got back I will coordinate a meeting with you. He said he would not approve it unless he got an affirmative response from me.

5. I stayed until 15:00 in the afternoon. I realized that the hour of the surgery had passed and that I wouldn't have time to get to the surgery, so I responded that there was a human rights organization inside the state of Israel that would help me get treatment. He mocked me, and said that it was the Israeli army that decided who enters and who exits, and ended the interrogation with the condition: either you make contact with me and agree to my demands, or you will not get any medical treatment, which will cause you to be blind and you will become a burden to your family and friends.
6. My interrogation continued until 16:20 in the evening. I left the room to the crossing's main hall. I received the belongings that I had carried and at 17:10 in the evening I returned to the Gaza Strip from Erez checkpoint.
7. When I returned to the Gaza Strip, I contacted the medical association that refers abroad, and I explained to them what I went through at Erez checkpoint. They responded that they could not help me on this matter. I contacted the Red Cross, but they could do nothing either. Afterwards I contacted the Physicians for Human Rights organization, who turned to the authorities to find out why I was prevented from receiving treatment by the Israeli side. I sent all the necessary documents.

8. tried again, and obtained financial coverage and an appointment for 19 September 2007 from the Ministry of Health's Referral Center, for treatment in Jordan. All the documents were sent to the Jordanian hospital to get an appointment. They responded to my request, saying that my condition did not allow for postponement and that I was to report there immediately. I contacted the Palestinian Liaison, and the Israeli authorities denied my request although I received a Palestinian entry permit allowing me to enter Jordan.
9. As they have refused to approve my treatment, my condition has worsened, and there is a real risk of permanent loss of sight in my left eye. This is discrimination that violates my rights as a human being in need of treatment, although I have committed no offense that would prevent me from fulfilling it.
10. I hereby give this sworn affidavit before an attorney, for use with the official authorities in order to take any legal proceedings required for me to enter for treatment in the West Bank, and for use in the High Court of Justice, in case of continued denial of my right to receive medical treatment, which would cause me considerable and irreversible damage.

Testimony 8

Testimony

I, A [REDACTED] [REDACTED] [REDACTED], holder of ID card # [REDACTED]

On 14 January 2008, I went to Israel for treatment. At Erez, I went through security check until I arrived at the place where the soldier was. I gave him my ID card and my permit, and the soldier told me, "Sit. You and the person with you, here on the chair." We sat for about three hours. After three hours, two people wearing civilian clothing arrived, and said: "A [REDACTED] [REDACTED] [REDACTED]". I said, "Me". They said: "Bring your documents." They took me to a room. They checked me very thoroughly, and after I was checked they took me to an underground passage with stairs, then another passage with stairs, until I arrived a building, and we walked up. Then I entered a room for five minutes, and then they took me to a room on the other side. I entered the room, where I found a man of 40 years, bald, who said to me, "A [REDACTED], how are you?" I answered, "Praised be God." He asked me, "How is your health now?" I said, "Better, praised be God." He asked me, "Are you married?" I answered, "Yes. I have five children, three sons and two daughters." Then he laughed and turned on the computer, turned the screen towards me and asked, "Who is in this photograph?" I looked, and replied, "That is a photograph of my brother." He asked me, "What does he do?" I replied, "He sells cheese." He said, "You're lying," and said that he worked for the Hamas police. I replied, "Yes, he used to sell roasted seeds and nuts, then he sold cheese, but that wasn't enough for him. Then he started working for Hamas, because he has eight children. He worked as a driver." Then he asked me, "Who rides with him?" I told him I did not know. I go from home to the mosque. He asked me, "Do you know which of your neighbors works for Hamas?" I replied that I knew no one, that I was on my own. Then he said: "You are a humanitarian case, you have to help us so that we help you." I told him: "Do you know how I was injured? I was injured on the farm." He said, "I know, you want to get treatment in Israel, and you don't want to go to Haniyeh for him to take care of you?" I said: "I want to get treatment in Israel." Then he mentioned two names of my [Palestinian neighbors], and asked: "Do you know them?" I said, "Yes, they're my neighbors." He asked me, "Which of [your neighbors] works for Hamas?" I answered that I did not know. Then he told me, "Don't interfere". I was taken out of the room to another room for five minutes. Then they took me outside, and after sitting down for five minutes, a soldier called my name and said, "You must back to Gaza."

Testimony 9

Affidavit

I the undersigned, H [REDACTED] [REDACTED], holder of ID card # [REDACTED]

I give this sworn affidavit, after being cautioned and informed of the law, stating as follows:

1. I was born on 10 April 1983, a resident of Beit Lahiya, the [REDACTED] area, house number [REDACTED], unmarried, a university graduate. Currently unemployed. Since childhood, I have suffered from a vision disability and poor vision that is a result of a genetic illness in the family. In the past, I had two surgeries (vitrectomy) at St. John's Hospital in Jerusalem in 1985 and afterwards in 1997, I suffered retinal detachment in my right eye and my medical condition deteriorated, causing a hemorrhage of the eye. Afterwards, I lost my vision in this eye and I am currently in need of a lens transplant in my left eye.
2. At the recommendation of physicians in the Gaza Strip, I submitted a financial undertaking in October 2007 for performance of this surgery at Rambam Hospital in Haifa, as this treatment is not available in the Gaza Strip.
3. On 21 October 2007, I received a referral to Rambam Hospital, and I submitted a request to the Palestinian side to receive an entry permit into Israel for treatment, but the Israeli side refused my request. I received another appointment for 28 October 2007, and I submitted this request according to procedure, but again, the Israeli side refused to allow me to enter Israel.
4. Afterwards I contacted Physicians for Human Rights in Israel. They informed me that I must go urgently to Erez Crossing in order to arrive for a meeting with the Israeli GSS. The appointment was postponed both the first and the second time. I went to Erez and after going through the security check procedures, Israelis wearing civilian clothes led me into a room with an office. A GSS officer asked me sit behind the desk, and began interrogating me. The interrogation was on all my personal information. Then he asked if I belonged to Hamas. I told him I was not affiliated with any organization. He told me that he had information that confirmed that I belonged to Hamas, but I denied it. He said that he had made an agreement with my father that I would work with them. I said that was impossible, because my father was mentally ill, and it was impossible that contact was made with him, and that in view of my health, no advantage could

be gained from me. He said to me, "Do you want or need something?" I said I wanted to get treatment at the hospital, and that my brother M■■■■ escort me. At the end of the conversation, he told me that anyone who wanted to enter Israel, he had no choice but to sit with us and get to know us. The meeting, that had gone on for twenty minutes or half an hour, ended, and he asked someone there to take me out of the room. They led me to the passage's main hall, and gave me and my brother M■■■■ our ID cards. After half an hours' wait, they requested that we return to Gaza Strip. This was in November 2007.

5. I stayed in contact with Physicians for Human Rights due to the Israeli side's refusal of my entry for treatment in Israel to this day, knowing that I have not committed any offense that justifies preventing treatment from me and thus endangering my health, which is deteriorating such that I will lose my sight in my left eye with which I can hardly see today. In the future I will lose my vision completely. Now the organization is appealing again in order to submit a petition to the Israeli Supreme Court.
6. In December 2007, Physicians for Human Rights informed me that the Israeli side consented to allow me to go to Egypt through Nitzana Border Crossing for treatment. However, I refused, because I did not have a financial undertaking [for an Egyptian hospital – PHR-I] and due to my lack of financial ability.
7. A number of members of my family suffer from various levels of the same problem as mine. They are my brother ■■■■ and my sisters ■■■■. They are currently all refused by the Israeli side to receive treatment in Israel.

Testimony 10

Affidavit

I the undersigned, M [REDACTED] [REDACTED] [REDACTED], holder of ID card # [REDACTED], give this sworn affidavit, after being cautioned.

I was born in 19 [REDACTED]. I am married with two children. I live in Rafah, in the [REDACTED]. I work for the Palestinian Authority, in the National Guard, and am of the rank of colonel. I suffer from cardiovascular disease in addition to high blood pressure and diabetes. In July 2007, my condition deteriorated following a hardening of the arteries. It was subsequently decided to perform catheterization, prior to performing bypass surgery. As this could not be done in Gaza, the physicians referred me to a hospital in Nablus on 30 July 2007, to perform the catheterization. I went through the Palestinian Ministry of Health's Liaison Office [Palestinian Subcommittee – PHR-I], with all the documents, in order to obtain permission for passage [through] Israel to Nablus. I was refused by the Israeli authorities, without any explanation.

On 30 November 2007, due to further deterioration of my health, I was referred to the cardiac surgery department at al-Makassed Hospital in Jerusalem. An appointment was made for 5 December 2007. On 12 November 2007, I contacted the Ministry of Health's Liaison Office to receive permission for passage to Jerusalem, through the Israeli authorities. I received a permit.

On 5 December 2007, I arrived at Erez Crossing at 7:30 in the morning. They let me in the checkpoint at around 9:30. Inside the checkpoint, after the security check, I submitted my permit for passage and my ID card to the soldier who sat inside the glass room located at Gate 10. The soldier sat opposite the computer. After checking on the computer, he told me that I had to wait in the room in order to meet with Israeli GSS agents.

I sat and waited until about 12:00 noon. Two men in civilian clothes appeared, and led me through a passage to a side room. There, one of them ordered me to remove my clothes, including my underclothes. I refused, saying, "if you behave like this towards me, a colonel in the Palestinian National Guard, how do you behave towards an ordinary civilian?" In the end, I had no choice but to remove my clothes, due to the pressure of my poor medical condition and my urgent need for treatment. When I was undressed, they examined me manually and using a

manual examining device, including sensitive areas of the body. This went on for about twenty minutes. Afterwards, they ordered me to get dressed, and led me a second time into one of the passages, until they placed me in a room with two people. One had a laptop computer, and a security official in civilian clothes sat at the same desk. There were two chairs next to the desk. Next to the door there stood a man in black, wearing civilian clothes, next to another desk, on which there was a regular computer.

The security officer mentioned above asked me sit on a chair opposite him. He presented himself as Officer Abu Rajeb of the Israeli GSS. He informed me that the permit for passage had been given to me without the GSS' knowledge. I told him this was not true, because it was written on the permit that "although he is prevented he is allowed to enter a hospital in the West Bank", and such a permit could not have been issued without your knowledge. He said that I had been wanted by the Israeli authorities for the past five years, but that in accordance with the conversation we would hold between us, headquarters would decide whether to let me in or not.

He asked me a few questions about the internal situation in Gaza. I told him I didn't know, because of my illness. I remember that the questions were about my connection with Hamas. I said that I had no connection with them. He asked me about my friends, and I collected my papers in order to leave. I told him, if you want to decide on my entry for passage through Israel to the hospital or prevent it on the basis of collaboration with you, I will not collaborate. He asked me again to sit down. When the meeting with him ended, he asked me to leave with the security agents who led me to an adjacent room of 5 by 3 meters, which had a T-shaped office. A GSS officer in civilian clothes sat in the room, next to a computer. He asked me to sit, ordered a cup of coffee for me and asked me where I worked in the Palestinian Authority. He asked me about some friends of mine: about M [redacted] and R [redacted] 'A [redacted] I replied, "Yes, I know them, because they are friends of mine." The meeting went on until 14:00 noon. During the meeting, he asked me to leave the office and wait in the waiting area for about half an hour. At the end of the meeting he told me to wait outside for a response.

A security agent led me to a waiting room containing eight chairs, a trash can, and a window with a curtain. I stayed there for about half an hour, until two security men appeared, and led me again to the glass room called Gate 10. I was then led

to the passage leading [back] to Gaza, and was told that I could not pass through Israel, and that I had to go back to Gaza, and that it was no use to protest or appeal. I was forced to go to an external passage at 20:00 in the evening, hoping to be allowed through, but to no avail.

After a new appointment was made for me at al-Makassed Hospital in Jerusalem for 25 December 2007, I turned once again to the Health Ministry's Liaison Office, to submit a [request for a permit] for passage to Israel.

On 15 December 2007, I called Naomi from Physicians for Human Rights and told her what had happened to me. I faxed her all the required documentation, in the hopes that she would be able to help me.

On 24 December 2007, I received a phone call from an official from the Liaison Office of the Palestinian Health Ministry, who informed me that the Israeli authorities had refused my request for permission for passage to the hospital. The next day, I called Naomi from Physicians for Human Rights, informing her of the refusal I received. She promised to take legal action against the relevant Israeli authorities on this matter.

Two days later, I received a message from Naomi, who informed me that the security authorities had refused to give me permission for passage. I requested that the organization submit an appeal to the High Court of Justice on my behalf, so that I could receive permission for passage to the hospital, knowing that postponement of my surgery was continually worsening my medical condition.

Therefore, I give this sworn affidavit before an attorney from the Palestinian Center for Human Rights for use before the Israeli court, so that I may obtain permission for passage to the hospital.

Testimony 11

Testimony

Name: A [REDACTED] [REDACTED]

ID #: [REDACTED]

Date of Birth: [REDACTED] [REDACTED] 19 [REDACTED]

Address: [REDACTED] [REDACTED]

In the name of Allah, the Merciful, the Compassionate.

I went to Erez, after my entry [into Israel] had been coordinated, I went to the checking point, and after the security search, I sat in a room. After that I was placed in a room with two people. They knew my name, my home address, knew my medical documents and the treatment I needed. They asked me: "Do you know M [REDACTED]? Do you go around with him? Who goes around with him?" They asked me about one or two other people. They asked: "Who do you know from Hamas?" They asked about two names, one of which I knew, but not for certain. They asked "Does he know M [REDACTED]?" Then they asked: "What do you know about Ran [Ran Yaron, PHR-Israel staff member, the author of this report – PHR-I]? Did you know Ran before?" I answered. They asked "What is the main reason you want to enter for care?" I answered "Only for medical care". "Do you know people from the N [REDACTED] family?" I answered "I don't know [them]". "Do you know people from the H [REDACTED] family?" I answered "I don't know [them]". They said, "That can't be, they live next to you and you [plural] have contacts to them. If you don't speak the truth and help us, we will not be able to progress and help you". I answered them again, that I don't know them personally, and that I only heard about them from afar. The interrogation went on for about 20 minutes, and after it they took me out of the room, I got my ID card back, and they told me I had to return to Gaza.

A [REDACTED] [REDACTED]

Monday, 31.3.2008

Appendix II - Ethical opinion of Dr. Bob Brecher

PHR-Israel report regarding the Israeli policy of putting pressure on Gazan patients to become informers for the Israeli GSS (General Security Services) agents, as a condition of leaving Gaza for their medical care

FORMAL ETHICAL OPINION

Given by Dr Bob Brecher

Reader in Moral Philosophy and

Director, Centre for Applied Philosophy, Politics & Ethics, University of Brighton, UK

Member, NHS South East Research Ethics Committee (UK) and Brighton and Sussex Universities NHS Trust Clinical Ethics Committee

Introduction

There are three areas that raise substantial moral issues.

1. PHR-Israel's policy regarding the co-ordination of patients' questioning.
2. The impact of the State of Israel's conduct on the extent to which medical and associated personnel are able to fulfill their ethical obligations to the patients concerned.
3. The position of the Israeli Medical Association regarding the matters detailed in the Report.

I shall comment on each in turn, with reference to the World Medical Association's International Code of Medical Ethics, as endorsed by the Israeli Medical Association.⁴³

1. PHR-Israel's policy regarding the co-ordination of patients' questioning

The solution offered to the 'dilemma' identified in the Report (**The Response of the High Court of Justice**) is in my view ethically sound, indeed ethically mandated: faced by the GSS and army demand that PHR-Israel 'coordinate

43 IMA position paper: Assurance of Medical and Health Services During the Armed Conflict between Israelis and Palestinians (2004), para. 3: 'The IMA remains firmly committed to declarations of the World Medical Association and international agreements of which it is a signatory, including those related to the protection of human life.'

the arrival for questioning of patients whose appeals against prevention of their exit for treatment' in order that these 'be dealt with at all' (**§Inserting PHR-Israel into the process**), there is no ethical alternative to the decision 'to inform the relevant patients about the nature of the questioning and (to) give them the option of choosing' (**§The Response of the High Court of Justice**).

2. **The impact of the State of Israel's conduct on the extent to which medical and associated personnel are able to fulfill their ethical obligations to the patients concerned**

While noting that it is clear that the State of Israel's conduct, and in particular that of its agent in this matter, the GSS, raises serious ethical, as well as legal, issues in respect of the State of Israel's international obligations, I shall not comment directly on this matter, but only on its impact on medical personnel attempting to fulfill their ethical obligations to patients living in Gaza.

It is clear that the procedures detailed in the Report make it impossible for the relevant medical personnel to 'act in the patient's best interest when providing medical care'⁴⁴ and that they contravene the WMA code of ethics, which states that medical personnel must 'not permit considerations of age, disease or disability, creed, ethnic origin, gender, nationality, political affiliation, race, sexual orientation or any other factor to intervene between my duty and my patient'.⁴⁵ Particularly relevant in this regard are the following §§ of the Report, as attested by the Affidavits appended: **Step III: Consideration of the Request by the Israeli Coordination Mechanism**, para. 1; **June 2007 – Changes in the Israeli Permits Regime**, para. 1; **July 2007: Emergence of Testimonies on GSS Questioning of Patients**, para. 5; **October 2007: Formalization of GSS Questioning at Erez Crossing**, para. 2; and **Questioning as Bait for Arrest**.

It is clear that certain acts of the GSS constitute inhumane and degrading treatment, and in some instances may amount to torture, as indicated in the Report. I shall comment below on the IMA's failure to respond to PHR-Israel's request that it 'express its opinion on the phenomenon by which exit for medical

44 World Medical Association International Code of Medical Ethics.

45 Ibid.

questioning' (" Questioning as an Instrument of Torture, para. 4).

3. The position of the Israeli Medical Association regarding the matters detailed in the Report

(a) It is clear from the Report that the IMA is violating its own principles, as enunciated in its 2004 Position Paper and its attendant Declaration by its President, Dr Blachar Yoram.

(b) It is clear from that Position Paper both that the IMA, despite its claim (see para. 3) fully to endorse the WMA's code of ethics, fails in certain respects clearly to do so; and furthermore, that the IMA is committed to positions that contradict each other.

(a) The IMA 'reasserts its conviction that life is a supreme value, together with its commitment to this value with respect to each and every individual, regardless of differences in race, religion or nationality';⁴⁶ and it 'views the provision of medical and health care services to the civilian population and treatment of the wounded and injured as an integral part of its commitment to the preservation of human life'.⁴⁷ Together with para. 3, these declarations require the IMA to do whatever it can to ensure that Gazan civilians who require treatment unavailable in Gaza on account of Israel's blockade receive it outside Gaza; and to ensure that such civilians are not blackmailed, terrorized, subject to inhumane and degrading treatment and possibly even tortured by the GSS, an arm of the State of Israel of which members of the IMA are citizens and for whose policies as they impact on their own professional practice they bear a particular responsibility.

The fourth paragraph of the IMA position paper 'expresses its satisfaction with the Israeli Defense Forces' acknowledgement ... of its commitment to the continued assurance of these [para. 4], medical and health services, even in a period of armed conflict'.⁴⁸ Unless, therefore, it is of what would be the highly eccentric view that the GSS and the IDF are unrelated, then, on the evidence presented in the Report, this paragraph, simply contradicts the second and third commitments quoted above. Not to rescind it constitutes in my view a grave ethical failure. Furthermore, the IMA also 'calls upon the Israeli Defense Forces, in the context of this [para. 5] commitment ... to take all possible action to ensure the continuation of essential medical services

⁴⁶ IMA position paper, para. 2.

⁴⁷ Ibid., para. 4.

⁴⁸ Ibid., para. 5.

in general, and hospital services in particular, including those in areas of fighting.⁴⁹ Its continued acquiescence in the GSS practices detailed in the Report amounts to a withdrawal of this call and makes a mockery of its Declaration that 'We hereby declare that our obligation as doctors and as human beings to the people of both nations [Israeli and Palestinian] takes precedence over any dispute or confrontation'⁵⁰ (my emphasis).

It is my view that, as representative of the Israeli medical profession, the IMA is acting unethically in refusing to express an opinion on GSS practice and/or the policies of the State of Israel in respect of the medical treatment of the citizens of Gaza, let alone in failing to take practical steps to put an end to these. That refusal also contradicts its claim that 'The IMA supports all medical teams engaged in the saving of human life and treating the victims of this conflict ...'⁵¹ insofar as the various activities of PHR-Israel in assisting citizens of Gaza to obtain the medical treatment they need are consonant with its being regarded as such a team. It may or may not be the case that the ethical failure of the IMA in these regards is to be explained, at least in part, by the shortcomings of the 'Assurance' of its Position Paper.

- (b) Para. 11 of the IMA Position paper 'denounces any unnecessary restriction, obstruction or attempt to interfere with the activities of medical personnel in the course of their professional duties'; and the third paragraph of its Declaration states that 'We strenuously condemn any restriction, constraint, or attempt to hinder the work of medical teams in the performance of their professional duties, which is not necessitated by the realities of the situation'. These wordings are quite unlike anything to be found in the WMA's code of ethics (or, for that matter, in the codes of ethics of the American or British Medical Associations). Standard codes of medical ethics admit of no exception to 'providing competent medical service in full professional and moral independence'; nor, as has already been noted, may 'considerations of age, disease or disability, creed, ethnic origin, gender, nationality, political affiliation, race, sexual orientation or any other factor to intervene between my duty and my patient'.⁵² The IMA says nothing about who is to decide what is 'unnecessary' and what is not, nor about the relevant criteria of necessity; the 'realities of the situation' are left similarly undetermined. It is

⁴⁹ *Ibid.*, para. 6.

⁵⁰ Declaration, Dr. Blachar Yoram, President of the IMA, para. 2.

⁵¹ *Op. cit.*, para. 9.

⁵² World Medical Association International Code of Medical Ethics.

unlikely in the extreme that these grave ethical shortcomings are the result of poor phrasing or careless editing, and one has therefore to conclude that these wordings are fully intentional. In that case, the IMA's continuing silence about the situation described in the Report is not difficult to explain; it remains, however, ethically unjustifiable.

Finally, I note that para. 13 of the Position Paper, which states that the 'IMA is aware of the need to strike a balance between the assurance of medical and health services and the need for security', has, like those discussed in the paragraph above, no equivalent in the WMA code of ethics. At the same time this paragraph both lends credence to the supposition that the IMA's refusal to take an ethical stand in this matter is quite deliberate and flatly contradicts paras. 2 and 3 of the same IMA Position Paper, as quoted earlier.

Conclusion

The ethical principles governing the practice of medicine, whether in London, New York, Guantanamo Bay, Baghram, Tel Aviv, Jerusalem or Gaza, require medical personnel to serve the needs of their civilian patients. These principles are no different from those governing our relations quite generally, and may be understood as appropriate variants of the Kantian injunction that 'all rational beings stand under the law that each of them is to treat himself and all others never merely as a means but always at the same time as ends in themselves'.⁵³

The practices of the State of Israel, as carried out by the GSS, relating to the conditions under which medical treatment may be given to or withheld from civilians living in Gaza contravene these principles. It is the ethical duty of the IMA and its individual members to take all possible steps to end a state of affairs that prevents its members from fulfilling their ethical responsibilities as medical personnel. These include both those requested by PHR-Israel and the revision of those of its own positions that run counter to its international commitments and obligations and/or contradict each other.

53 Immanuel Kant, *Groundwork of the Metaphysics of Morals*, p. 41 [4:433].

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Appendix III - Responses

[Translated from the Hebrew by PHR-Israel]

Prime Minister's Office

Public Affairs Department

gov www.gov.il

17 Iyar 5768

22 May 2008

Our ref: 52598

To

Mr. Ran Yaron

Physicians for Human Rights

52 Golomb St.

Tel Aviv-Jaffa 66171

Via fax: 03-6873029

Greetings,

Re: GSS Response to Physicians for Human Rights Report

Pursuant to your letter of 18 May 2008, following is the response of the relevant bodies:

- In order to enable us to seriously and thoroughly address individual cases mentioned in the draft report that was attached to your letter, you are requested to transmit complainants' details to us (which were deleted for some reason from the appendices attached to the draft report). Needless to say, after your completion of the missing information, we will require an additional reasonable interval to examine the claims and formulate our response.
- As for the general work procedure on this issue, as has been made clear to you on more than one occasion, the Service is required daily to conduct security evaluations of Gaza Strip residents who wish to enter Israel for humanitarian reasons.

- The entry of most applicants, with emphasis on those requiring life-saving medical treatment, is permitted following the security evaluation, as far as the Service is concerned, despite the complex security circumstances that exist in the Gaza Strip and despite the array of examples testifying to the exploitation of these entrances to promote terrorist activity.

Following are two of many such examples:

1. In May 2007, two female suicide bombers who had received an authentic permit to enter Israel on false medical grounds and who planned to carry out a double suicide bombing in Tel Aviv and Netanya were arrested at Erez Crossing.
 2. In June 2005, a female suicide bomber was arrested at Erez Crossing with an explosive belt on her body. She was supposed to enter Israel for the purpose of medical follow-up. It became clear that she was sent by the al-Aqsa Martyrs in order to carry out a suicide attack on a hospital in Israel by exploiting the permit for passage that was issued to her for medical reasons.
- It should be made clear, in order to remove any doubt, that the Service does not make receipt of an entry permit into Israel for humanitarian reasons contingent on an applicant's willingness to submit any information, except for reliable information on his medical condition.
 - The evaluation procedure, of which the security questioning is part, is a professional procedure intended to evaluate the degree of danger posed by the applicant. The Service determines its position on each specific case by making the proper balance between risk assessment and medical necessity. The dilemma resulting from a conflict between these interests is clear to all.
 - Among Service agents dealing with this matter, there is a deep awareness of the human rights aspect, primarily of the right to life involved. Accordingly, this aspect is being continually assimilated, as is a procedure to make internal work procedures more efficient as regards the handling of these applications.
 - Furthermore, due to the considerable importance attributed by the Service to handling this matter, senior Service directors participate in it on an ongoing basis, as does the Head of the Service himself.

- It should be further noted that this issue is handled in a multi-systemic manner, and that the Service is but one of the elements participating in it, not the only one. For example, we mention in this context the matter of the need for accompaniment that is supposed to be provided by other bodies, for applicants who pose a security threat necessitating such accompaniment as a condition for their entry into Israel. These bodies often avoid providing accompaniment, thus actually preventing entry of applicants whose entry into Israel has been approved in principle by the Service.
- We emphasize that communication with the General Security Service is to be conducted through the accepted work channels, that is, through the Prime Minister's Office.

For your information.

Sincerely,

Shoshi Golan

Public Affairs Department

רופאים לזכויות אדם - ישראל (ע"ר)
أطباء لحقوق الإنسان-إسرائيل
Physicians For Human Rights - Israel



[Translated from the Hebrew by PHR-Israel]

1 June 2008

To

Ms. Shoshi Golan
Public Affairs Department
Prime Minister's Office

Via Fax 02-6705475

Greetings,

Re: **Response of the General Security Service to Physicians for Human Rights Report**

Pursuant to your response of the above-stated date, we would like to bring to your attention that the matter of six patients, whose testimonies appear in the appendix to the stated report, was recently addressed in petitions that were submitted by Physicians for Human Rights to the High Court of Justice.

Accordingly, the patients' personal details, as well as those testimonies that appear in the report that has been submitted to you, may be viewed in the following petitions:

- a. HCJ 9522/07: one case
- b. Complementary notice to the High Court of Justice in 9522/07: four cases
- c. HCJ 4503/08: one case

If you would like to submit your response, please do so no later than 9 June 2008.

Sincerely,

Ran Yaron

Physicians for Human Rights

Cc: Major Kobi Gerzwolf, Assistant to the Coordinator of Government Activities in the Territories, via fax 03-6976306

[Translated from the Hebrew by PHR-Israel]

Prime Minister's Office

Public Affairs Department

gov www. gov.il

2 Sivan 5768

5 June 2008

Our ref: 52598

To

Mr. Ran Yaron

Physicians for Human Rights

52 Golomb St.

Tel Aviv-Jaffa 66171

Greetings,

Re: Physicians for Human Rights report

In reference to your letter on the above-stated matter, following is the GSS' response:

"As per your letter dated 1 June 2008, in which you refrained again from specifying the complainants' names, we understand that their matter is being examined in the framework of petitions that were submitted to the High Court of Justice.

Accordingly, we wish to refer you to the notices that were submitted - it may be assumed - by the State, in the framework of the hearings on these petitions, in which each of the cases has been addressed, following its examination."

Respectfully,

Sigal Malka

Senior Public Affairs Coordinator

3 Kaplan St., Jerusalem 91950 Tel: 03-6109898 Fax: 02-6546717

pmo.heb@it.pmo.gov.il

[Translated from the Hebrew by PHR-Israel]

**-Unclassified -
State of Israel
Ministry of Defense**

Coordination of Activities in the Territories

Operations Branch

Tel: 03-6977465

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CL-141655

1 Sivan 5768

4 June 2008

PHR-Israel – Mr. Ran Yaron

**Re: PHR-Israel Report on GSS Questioning at Erez Crossing – Response of
Coordinator of Activities in the Territories**

- 1. Physicians for Human Rights' report on the abovementioned subject has been submitted for our consideration.**
- 2. Following a thorough review of the report, we can indicate** inaccuracies in some of the data and in the manner in which the issues and accompanying arguments are presented.
- 3. Following are our feedback and reaction to the substantive issues found in the body of the report, across the various claims:**
 - a. **Claim:** (introduction, p.1) "The Gazan health care system is unable to adequately respond to its residents' health care needs...":

Response:

- 1) **Generally, gaps exist in the health care system** (manpower, budget, equipment, etc.) **in the Gaza Strip that** impede its ongoing operations. **Holding Israel responsible for the state of the Palestinian health system overall** and in Gaza particularly, is inappropriate and misleading.

- 2) **Since October 1994**, in the framework of the interim agreements, responsibility and full autonomy for health issues in the Gaza Strip **have been transferred to the Palestinians. Accordingly**, Israel's policy guideline on this issue is non-intervention in Palestinian discretion, **as long as clear security interests are not harmed.**
 - 3) **The state of Israel** does not prevent representatives **from medical fields to exit** for professional study **for other than security grounds.**
 - 4) **In addition, the bureaucratic procedure described in the report, that the Palestinian patient must go through in order to receive an** entrance permit for medical treatment, **is grounded in the interim agreements, and reflects the rationale of preserving** Palestinian autonomy on health issues. **We must remember that the money used for funding medical treatment given to Palestinians who receive approval from the Palestinian Authority, is the Authority's money, and it is the Authority's responsibility** to prioritize the Palestinian budget, **including the health budget. Therefore, the Authority indeed diagnoses the cases and decides for whom referral for treatment in Israel is approved and for whom it is not**, without Israeli intervention.
 - 5) **As for the claim that Israel** prevents entry of equipment for radiation therapy and isotopic materials, **we wish to inform you (as has been done on more than one occasion, including in the framework of the State's responses to PHR-Israel's petitions to the High Court of Justice), that Israel permits the entry of such equipment and materials, but only as subject to** individual coordination, **where there is a high degree of assurance that these dangerous materials are not intended (as has been the case in the past) for** terrorist purposes. **Evidence of this is that** MRI devices and linear accelerators were brought into the Strip five years ago and isotopic materials were brought in three years ago. **A gap that indeed exists is precisely in the professional medical staff that is required to operate these systems. As we have already stated,** responsibility for health issues in the Strip was transferred 14 years ago to the Palestinian Authority, and it is the Authority **that has failed to send employees for courses, training and professional specialization in these fields.**
- b) **Claim:** (Chapter 1, p. 1) "Israel's policy of reducing the provision of fuel and electricity disrupts the work of hospitals and clinics":

Response:

- 1) The decision of the political/security cabinet of 19 September 2007, **outlining Israel's reduction policy as regards the supply of fuel and electricity to Gaza Strip, was made on the backdrop of the Hamas organization's violent takeover of the territory of Gaza Strip last June, continued terrorist activity in the Strip, and incessant firing of projectiles from the Strip into Israel.**
 - 2) **As per this decision, restrictions would be imposed following legal assessment, in consideration of the humanitarian conditions in the Strip,** with the aim of preventing a humanitarian crisis.
 - 3) **Israel's fuel reduction policy vis-à-vis the Gaza Strip was reviewed by the Israeli Supreme Court in the framework of HCJ 9132/07 Al-Bassiouni v. the Prime Minister (not yet published, handed down on 30 January 2008) (hereinafter: "The Al-Bassiouni Case"), approved in principle and recognized by the Court as conforming to the rules of international law and providing a sufficient response to Gaza's humanitarian needs.**
 - 4) **It should not be ignored that the factor responsible for the injury (if such exists at all) to the various systems in the Gaza Strip is the Hamas government,** which controls the economy of fuel (of various types) that enters the Strip, cynically preventing fuel's arrival at its destination.
- c) **Claim:** (page 5) "The closure of Erez crossing in June 2007 to persons, including the ill and injured, in response to the rise in the number of applicants to exit the Strip for treatment in Israel":

Response:

- 1) **In contrast to the claim made in your report, as if following Hamas' violent takeover of the Strip,** closure of Erez Crossing was meant to prevent entry of numerous Palestinians to receive treatment in Israel, **in the Israeli Supreme Court decision on your petition HCJ 5429/07 Physicians for Human Rights v. The Ministry of Defense, the Court accepted the State's position that** closure of the crossing during the days immediately following Hamas' violent takeover of the Gaza Strip resulted from the difficult security situation existing in the crossing's vicinity; due, among other reasons, to Hamas' takeover of the crossings between Gaza and Israel, the ousting of the Palestinian police and the absence of coordinating elements on the Palestinian side.

- 2) **Furthermore, the State's response to the petition even contradicts the claim you raise in your report, that the crossing was sealed off "hermetically" and cases were presented before the Court in which entry of Palestinians was permitted for medical treatment in Israel, where life-saving medical treatment was required.**
 - 3) **In this context it should be noted, that even prior to Hamas' takeover of the Strip and certainly following it, a significant rise has been documented in the incidence of attacks on Erez Crossing and on the other passages between Israel and the Strip. These attacks constituted an ongoing threat to the civilian and military staff involved in coordination and passage activity.**
 - 4) **In this context, we also note that over the last year, more than 150 mortar shells and Qassam rockets were fired on Erez Crossing and its vicinity (causing injury to DCO personnel employees, both civilian and military); a significant number of anti-tank missiles were fired; attempts at terrorist infiltration were made (about 30), with terrorist agents making cynical use of humanitarian intermediation, and the final attempt, an attempt to penetrate Erez Crossing with a truck loaded with about 4.5 tons of explosives. Miraculously, this attempt ended with the truck's explosion some distance away from the crossing, causing massive damage to the Crossing's facility and the systems it contained, and to the adjacent Erez DCO.**
 - 5) **We find puzzling the reason for your avoidance of mentioning in your report, even in a sentence, the escalation of the said attacks, as well as the State's position that was stated in the petitions by your organization to the HCJ, all the more so as this position was adopted by the Court. This casts a heavy shadow over the reliability of the entire report.**
- d) **Claim:** (p. 5): "There has been an increase in the number of patients and their escorts whose requests to enter Israel for medical treatment have been denied":

Response:

- 1) **In recent years, there has been a continual increase in the number of people exiting the Strip for treatment in Israel. Thus for example, in 2005, 8325 persons exited the Strip; in 2006, 9520 exited; and in 2007,**

15,148 exited! (This data was also presented before PHR-Israel in the framework of the hearings held in its HCJ petitions).

- e) **Claim:** (p. 2) **“The lack of consideration of the medical factor as part of the procedure for handling requests by the Palestinian side to exit the Strip”, and “violation of medical ethics”:**

Response:

- 1) **In your report, the claim is raised that the absence or non-intervention of physicians in the procedure for examining requests by Palestinian applicants, leads to violation of applicants’ rights and to a situation where it is not the medical consideration that determines whose exit for medical treatment is approved.**
- 2) **This claim is puzzling, particularly in view of the contradictions that exist in your organization’s policy on this issue. On the one hand, in a petition you submitted to the Supreme Court (HCJ 7094/05 Physicians for Human Rights v. Coordinator of Government Activities in the Territories), which is still pending, you demanded that prior to making a decision in the matter of a request for entry into Israel for medical treatment, security agents consult with a medical specialist.**
- 3) **While the petition was pending, a letter was released on 12 August 2007 by the Executive Director of Physicians for Human Rights, Mr. [sic] Hadas Ziv, and sent to the Minister of Health, the Minister of Defense and the Chairman of the Israel Medical Association, with a copy for the Coordinator of Government Activities in the Territories, so that they prevent any involvement by medical personnel in the decision-making process as regards Palestinians’ applications. The reason, it was claimed, was that they should not participate in “medical prioritizing”, which is a violation of medical ethics.**
- 4) **After the letter’s release was presented before the Court, in a hearing on the petition held 22 October 2007, your organization stated that it was withdrawing its demand for obligatory consultation as part of the process of handling Palestinians’ applications for entry into Israel for medical treatment.**

- 5) **Further, also this policy on the issue of patients' entry, expresses the rationale of non-intervention in medical considerations, for better or for worse, with only security factors being considered. The medical opinion conveyed by the Palestinian side is accepted as is, not prioritized on the basis of medical condition. The State has declared this position on many occasions. The GSS and the army are not experts on medical issues; therefore, they are required to take only security considerations into account.**
 - 6) **Therefore, we do not see fit to continue to address the said claims, and refer you to the State's position, which was extensively set forth before the Court in the said petition.**
- f. **Claim: (p. 8) The security questioning procedure at Erez – separation of the questioning date and the exit date, which in fact, burdens the patients:**

Response:

1. The procedure whereby **the date of questioning and the date of exit** were separated was set following PHR-Israel's past claim that conducting **questioning on the day of exit** for treatment/examination impeded the patient's **ability to arrive** at the medical facility to which he was referred. At the same time, this decision was meant **to prevent the Palestinian resident's** sense that his expectation to exit for a certain purpose was prevented that same day.
- g. **Claim: (p. 14) "The DCO completes its handling of PHR's applications by responding regarding the date of questioning. PHR is unwilling to convey the response that the resident must arrive for questioning."**

Response:

- 1) Your claim of **excessively involving PHR** in handling Palestinians' applications is also puzzling, because Physicians for Human Rights is not at all **part of Israel's official coordination process** vis-à-vis the Palestinian Authority, and Israeli agents are not obligated to work with PHR. Involving PHR in the coordination procedure vis-à-vis Palestinian agents has resulted from PHR's insistence that this be done, in its various

petitions to the HCJ, while from the perspective of military agents, it is not obligatory at all.

- 2) **Military agents** can themselves conduct the entire **coordination process** vis-à-vis the Palestinian side. Furthermore, **intervention** by PHR's members, who do not come into direct contact with the Palestinian applicants, but rather are involved in submitting petitions to the HCJ with medical opinions of Israeli physicians, based on written referrals only, may introduce a dimension of uncertainty and security risk into the handling of Palestinians' applications.
 - 3) This notwithstanding, the DCO has seen and still sees itself **obligated** to respond with appropriate gravity to **every application and query** submitted by PHR. Therefore, and because PHR makes applications on behalf of residents, the DCO submits its responses to PHR, and expects that **PHR** treat its responses with the **appropriate gravity** and seriousness, and transmit it to the resident as part of the service that it purports to provide.
- h. We conclude with the general argument, set down by the Israeli Supreme Court on more than one occasion, that **it is the State's sovereign right** to determine who enters its gates, and that the extent of discretion granted to the authorities on this matter is very broad. This position of the Court is the leitmotif of its rulings from the distant and recent past; on this matter see, for example, HCJ 482/71 **Clark v. Minister of Interior**, PD 27 (1), 113.
- 1) This is all the truer **at the present time, as since 12 September 2005 midnight, the IDF's military regime** over Gaza Strip territory ended, as did **the IDF's belligerent occupation** of the Gaza Strip, with all of the **political, security and legal** ramifications involved.
 - 2) From this date on, **the IDF no longer exercises powers of military government** in the Gaza Strip, including those **resulting from security legislation**. Beginning on this date, full government powers throughout Gaza Strip territory were transferred to the **Palestinian Authority**.
 - 3) Thus it was determined recently as well, in the Supreme Court's ruling in the Al-Bassiouni case, that "Israel does not have a general duty to take care of the welfare of Strip residents", and that **the State's obligations**

are derived, among other things, from the rules of war, and from the scope of its control over border crossings between it and the Gaza Strip.

- 4) On the matter of **medical treatment** as well, the Court determined that residents of the Palestinian Authority **have no acquired right to enter Israel** for medical treatment; on this issue see HCJ 4920/06 **Physicians for Human Rights v. IDF Commander in Judea and Samaria** (not yet published, handed down 25 June 2006).
 - 5) These arguments' validity is further supported by the fact that the government powers that were transferred to the Palestinian Authority are in fact currently exercised by **a terrorist organization** that took over the government in the Strip by force, less than a year ago.
4. In addition to all that was stated above, we request that you immediately remove the name of the DCO **Health Coordinator** from the report that you intend to publish.

Sincerely,

Shlomi Muchtar, Colonel

Head of Coordination Department and Operations Branch

“...The doorkeeper can see the man's come to his end, his hearing has faded, and so, so that he can be heard, he shouts to him: 'Nobody else could have got in this way, as this entrance was meant only for you. Now I'll go and close it'.”

Franz Kafka, “The Trial”

Physicians for Human Rights-Israel (PHR-Israel) believes that every person has the right to health in its widest possible sense, as defined by the principles of human rights, social justice and medical ethics. It is the responsibility of the State of Israel to ensure the fulfillment of this right in an egalitarian manner for all populations under its legal or effective control: residents of Israel who are eligible for National Health Insurance, Bedouin residents of unrecognized villages in the Negev desert, prisoners and detainees, migrant workers, refugees and asylum seekers, and Palestinian residents of the occupied Palestinian territory.

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