



Al Mezan Center for Human Rights

Obstruction of Access to Healthcare

Yet Another Child Casualty Due to Israel's Closure Policies

18 March 2009

Seventeen-year-old Maher Mohammed Ash-Sheikh died in Gaza on Sunday January 25 waiting for the Israeli government to give him clearance to receive treatment for his leukemia in Israel.

On 8 May 2008 Maher was diagnosed with leukemia at Shifa Hospital in Gaza City. He was granted a referral to Israel and after waiting for 40 days he was able to travel with his father to Tel HaShomer Hospital outside Tel Aviv on 17 June 2008. There he underwent chemotherapy treatment, after which the doctors concluded that he needed a bone marrow transplant. His family traveled to the hospital to be tested for a suitable bone marrow match. On 19 November 2008 the transplant was carried out successfully using his two brothers' bone marrow.

When he returned to Gaza after a recovery period of one and a half months, on 1 January 2009, he was in good health and showed signs of a stable recovery. However, less than a week later, his condition began to deteriorate and he started vomiting, developed a fever and had severe diarrhea. His family took him to Shifa hospital in Gaza City to be treated, but the doctors informed them that he needed treatment for severe infections that he had contracted. After putting Maher on antibiotics that did not improve his condition, the Shifa hospital doctors and the doctors that had treated Maher in Israel felt that it was imperative for him to return to Israel to carry out the treatment at Tel HaShomer Hospital.

Maher submitted his urgent request for permission to enter Israel to the Israeli authorities on 12 January 2009. He passed away on 25 January without having received a response to his request. According to Maan News Agency, the Palestinian Authority's Minister of Health, Fathi Abu Moghli, contacted the Israeli government to inquire about the reason for Maher not receiving a permit in time. According to Abu Moghli there has been no response yet from the government.

Applying for medical treatment in Israel from Gaza is a long and complicated process. The patient must first be put in contact by their doctor with the Palestinian Referral Abroad Department. This department then arranges an appointment with an Israeli hospital before issuing a referral abroad request. Then the patient must contact the Palestinian health District Co-ordination Office (DCO), which directly contacts the



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Israeli health DCO for a permit to pass through the Erez crossing. The request is then sent to the office of the Coordinator of Government Activities in the Territories (COGAT) where Israel's domestic security service (Shin Bet) evaluates the security risk posed by the patient. Finally, if permission is granted, the patient travels to Erez crossing, where a Palestinian Liaison Officer co-ordinates with an Israeli Liaison Officer to get the patient across.

Even after this long and complicated process a patient might not be allowed to enter Israel if there was a delay in the process which led him to miss his hospital appointment, or if the Israeli military decides to close the crossing for security reasons. If this happens, the patient needs to initiate the entire process again from the beginning.

Maher's case is one of hundreds that fits into the Israeli governmental policy to often delay or refuse to give Gazans permission to enter Israel in order to receive vital medical treatment. The Ministry of Health of the Government in Gaza estimates that at least 274 Gazans have died for health reasons due to the Israeli closure of Gaza since the Israeli siege of the Gaza Strip began in 2006, including patients whose requests for permits were rejected by the Israeli authorities. The number of Gazans being denied permits is increasing each year.

The World Health Organization has gathered data on the situation of access to healthcare in Gaza: 32 patients died between October 2007 and March 2008 while waiting for travel permits, to which WHO's head of office for the West Bank and Gaza, Ambrogio Manenti, responded that "All these tragedies could have been easily avoided." In 2006 4932 permits were granted and 538 denied, the following year 7176 granted and 1627 denied. The proportion of permits denied increased from 10% in 2006 to 18.5% in 2007. By the end of 2007 the number increased to 38% according to the Israeli human rights organization Physicians for Human Rights.

Because of the siege Israel has imposed, there are acute shortages of medicine, equipment, replacement parts for broken equipment and trained medics. As of January 2008, 105 of a list of 460 essential medications are no longer in stock in Gazan pharmacies - since then the situation has deteriorated significantly. The lack of continuous electricity, as a result of Israeli restrictions on the amount of fuel entering Gaza, is another major hindrance for Gazan hospitals to keep crucial medical equipment functional. Due to all of the shortages, advanced health care is virtually non-existent in the Gaza Strip. Because of the lack of accessible medical treatment for Gazans in Gaza, Israel must allow Gazan patients to exit the Strip to receive specialized medical treatment.

Every Palestinian has the right to health, which is enshrined in Article 25 of the Universal Declaration of Human Rights as a component of the right to an adequate standard of living: "Everyone has the right to a standard of living adequate for the health of himself



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and his family, including food, clothing, housing and medical care and necessary social services.” The right to health has been recognized in numerous other international human rights treaties including the ICESCR and as a State Party that ratified the ICESCR in 1991, Israel is legally bound by its provisions, which applicability extends in cases of belligerent occupation and/or conflict. The right has four factors:

- Availability- functioning public health-care facilities, goods and services have to be available in adequate quantity.
- Accessibility- health-care facilities, goods and services have to be accessible to everyone without discrimination, physical accessibility, economic accessibility (affordability) and there must be information accessibility as well for patients.
- Acceptability- all health facilities, goods and services must be sensitive to gender and respectful of medical ethics as well as individual and community culture.
- Quality- health facilities, goods and services must be of good quality, e.g. skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, safe and potable water and sufficient sanitation.

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

This right must be provided without any conditions hinged to it, a principle that Israel repeatedly violates. The Shin Bet has on numerous occasions pressured Palestinians in need of external medical treatment to become informants in exchange for permission to leave Gaza. According Physicians for Human Rights, agents interrogate Gazans who want to enter Israel for medical care about their relatives, neighbors and friends; those who don't cooperate often don't get travel clearance. It has received reports from 32 patients in Gaza who say they were denied permission to leave for refusing to cooperate with Israeli questioners at the Erez Crossing by answering questions about the political affiliations of relatives, friends and acquaintances; "Interrogators ... question the patient and demand information in return for permission to access care. In some cases, patients are asked to collaborate ... on a regular basis."

Al Mezan has also taken on several cases of Gazans who were offered permits in exchange for collaboration with the Shin Bet, the most recent of which occurred in September 2008. Khalid Abdel-Rahman Hussein Abu Shamala, a 38 year-old man was suffering severe portal vein thrombosis and underwent surgery at Ain Shams Specialized Hospital in Cairo to prevent the vein from closing by inserting a plastic tube. Because of the seriousness of his condition, he needed further treatment after the surgery and was referred to a specialist at Tel HaShomer Hospital in July 2008. On September 9, at which time his health had seriously deteriorated and he was visibly in a very bad condition, he traveled to Erez and was interviewed by the Shin Bet. He was initially told that he would be given permission to go to Israel, however shortly afterwards he was contacted by an



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Israeli security agent and told to return to Erez for a second round of questioning, at which point he was told that in order to get permission to enter Israel he must cooperate by passing on information about people from his local community. Upon his refusal he tried to return to Cairo, but because of the closure of the Rafah checkpoint, he was unable to reach the hospital in time and passed away on 28 November 2008.

This case highlights a policy that falls in grave breach of the Geneva Conventions and the U.N. Convention Against Torture; international law forbids the use of civilians in conflict

to damage an enemy state and collaboration, a crime punishable by death under Palestinian law.

For more information on Gazans' access to medical care:

[http://www.emro.who.int/Palestine/reports/monitoring/WHO_special_monitoring/access/access%20to%20health%20services%20\(April%202008\).pdf](http://www.emro.who.int/Palestine/reports/monitoring/WHO_special_monitoring/access/access%20to%20health%20services%20(April%202008).pdf)
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