

CHRONIC IMPUNITY: GAZA'S HEALTH SECTOR UNDER REPEATED ATTACK



مركز الميزان لحقوق الإنسان
AL Mezan Center for Human Rights



LAWYERS FOR PALESTINIAN
HUMAN RIGHTS



MAP
MEDICAL AID FOR PALESTINIANS

INCLUDES CASE UPDATES TO 2015 NO MORE IMPUNITY REPORT



OVERVIEW

Palestinian paramedic Musa Abu-Hassanin was the first health worker to be fatally shot by Israeli forces at the large-scale 'Great March of Return' civilian protests in Gaza. Musa was killed in the course of his duties on 14 May 2018, shortly after rescuing an international doctor who had been shot in both legs.

Ambulance driver Mohammed Al Abadla was one of 23 health workers killed during Israel's seven-week military offensive on Gaza in 2014. Mohammed, like Musa, was killed while carrying out medical duties. Mohammed's case was one of six attacks during that offensive detailed by the Al Mezan Center for Human Rights (Al Mezan), Lawyers for Palestinian Human Rights (LPHR), and Medical Aid for Palestinians (MAP) in our June 2015 report, *No More Impunity: Gaza's health sector under attack*.¹ In 2016, we published our first update² that demonstrated serious concern about investigations being carried out by Israel into these cases.

The tragic connection between Musa and Mohammed goes beyond being direct, fatal victims of Israel's pattern of military attacks on Gaza's health sector. They, along with other individuals gravely impacted by attacks on healthcare, are also foreseeable victims of a system of impunity accorded to the actions of Israel's government leaders and military forces by Israel's military investigation system. In our 2015 report, we strongly warned that this systemic impunity fosters the recurrence of attacks. Musa's killing, and other subsequent such attacks, gravely underscored our warning.

Against the urgent backdrop of continuing protests and deteriorating living conditions, and six years on from the 2014 military offensive, we reiterate our joint call for no more impunity. In this significant second update to our 2015 report we:

- Present updates on the status of each of the legal cases highlighted in that report, illustrating the ongoing systematic denial of legal accountability and justice for alleged serious international law violations, and reinforcing significant evidence-based concerns that Israel's military investigations are not genuine;
- Demonstrate how systemic impunity dangerously fuels recurrence, highlighting further fatalities of Palestinian health workers since March 2018;
- Feature a testimony from a survivor of the 2014 military offensive, Nurse Eman Abu Janyab, detailing the long-term impact of living with a catastrophic injury and the obstruction of effective legal remedies; and
- Assess the impact on Gaza's health sector of 13 years of closure and recurring military attacks.

This update is a joint call for urgent concerted action. On page 11 we present five recommendations to end the grave cycle of chronic impunity and repeated attacks on Gaza's health sector, to transform the unliveable conditions in Gaza, and to ensure that its population can access an effective system of healthcare.

INTRODUCTION



2014 ATTACKS ON HEALTHCARE NO ACCOUNTABILITY, NO REMEDY FOR VICTIMS

Between 7 July and 26 August 2014, Israel conducted a large-scale military offensive on Gaza. In total, 2,219 Palestinians were killed, including 1,545 civilians, 556 of whom were children.³ Attacks on healthcare were a recurring feature of Israel's military operation. 23 medical workers were killed and 78 were injured. 17 hospitals, 56 primary healthcare centres and 45 ambulances were damaged or destroyed.⁴

The June 2015 report of the UN independent Commission of Inquiry into the 2014 Gaza Conflict stated that "the Commission was able to gather substantial information pointing to serious violations of international humanitarian law and international human rights law... these violations may amount to war crimes."⁵

Genuine criminal investigations into alleged serious violations of international humanitarian and human rights law – leading to potential criminal charges, prosecutions and convictions – are

essential for ensuring legal accountability and justice for victims, survivors and their families. They are also vital so as to provide the most effective possible deterrent against the commission of future such violations.

Yet six years on from the pervasive and well-documented serious international law violations allegedly committed during Israel's military offensive on Gaza in 2014, including against healthcare facilities and personnel, no criminal charges, prosecutions or convictions have resulted from Israel's military investigation system.

The following six case updates on incidents featured in our 2015 No More Impunity report⁶ are emblematic of how Israel's military investigation system has up to now delivered impunity for serious individual incidents. Al Mezan has submitted hundreds of criminal and civil complaints in the pursuit of legal accountability and justice, including for five of the incidents here.

THE DUTY TO INVESTIGATE UNDER INTERNATIONAL LAW

States are obliged to investigate potentially serious violations of international humanitarian and human rights law committed by their agents. Human rights treaties, treaty bodies and international guidelines and protocols elaborate standards against which these investigations are evaluated in order to determine compliance with the duty to investigate. A genuine investigation is one that meets the core standards of: independence, impartiality, thoroughness, effectiveness, promptness, and transparency.

International human rights law further sets out the obligation to ensure that individuals have accessible and effective remedies for gross violations of international human rights law and serious violations of international humanitarian law. Remedies include the victim's right to: (a) equal and effective access to justice; (b) adequate, effective and prompt reparation for harm suffered; and (c) access to relevant information concerning violations and reparation mechanisms. Reparations include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

NO MORE IMPUNITY CASE UPDATES ON 2014 ATTACKS

CASE 1: BOMBARDMENT OF AL-AQSA HOSPITAL

STATUS: No decision by Israel on whether to open investigation

Military attack on Al-Aqsa hospital on 21 July 2014 which killed two civilians, one of them a child: Alaa Abdel Majeed Abu Dahrouj, 15 years old, and Khalid Awad Bayoumi, 34 years old. Tens of patients, visitors and staff were injured, including Eman Abu Jyyab, a nurse, who sustained a severe arm injury. An operation saved her arm from amputation, but Eman is now permanently disabled. The long-term impact on Eman's life is featured on page 5.

In July 2014, Al Mezan and partner organisation Adalah – The Legal Center for Arab Minority Rights in Israel (Adalah) submitted a criminal complaint. Almost two years later in June 2016, Israel's Military Advocate General (MAG) – a central component of Israel's military investigation system – informed Al Mezan and Adalah that the incident was being examined by the Fact-Finding Assessment Mechanism (FFAM). The FFAM was established by Israel's military authorities ostensibly to determine facts on individual incidents and enable the MAG to reach decisions regarding whether or not to open a criminal investigation.

Nearly four years since its opening, there has been no reported activity or progress in relation to the FFAM examination. This excessive delay, coupled with the longstanding and widely recognised lack of independence and impartiality of Israel's military investigation system, raises substantial concern as to whether a genuine assessment is being carried out.⁷ This case warrants a thorough and independent investigation.

CASE 2: DESTRUCTION OF AL-WAFA REHABILITATION HOSPITAL

STATUS: Decision by Israel to not open a criminal investigation

Multiple military attacks on Al-Wafa hospital – the only specialist rehabilitation hospital in Gaza, with 80 beds, state-of-the-art equipment and a therapeutic garden – from 11 July until 23 July 2014 when it was completely destroyed. (All 17 inpatients were evacuated from Al-Wafa hospital on 17 July).

Al Mezan and Adalah were informed by the MAG of its decision not to open a criminal investigation on 7 December 2014. The MAG asserted that the hospital was used by Palestinian armed groups for military purposes which permitted the Israeli military to classify it as a legitimate military target. However, this assertion was not supported by Al Mezan's investigations on the ground. In addition, the 2015 UN Commission of Inquiry reported: "all relevant witnesses interviewed by the commission, including medical staff, rejected the allegation that the hospital was being used for military purposes before its evacuation".⁸

Even if there was military activity in or around the hospital, its complete destruction on 23 July raises a clear question as to whether Israel's military attack was disproportionate and therefore in violation of international humanitarian law. The multiple military attacks against Al Wafa hospital, both before and after evacuation, warrant a thorough and transparent investigation.



Basman Alashi, Executive Director of the Al Wafa Hospital, on the site of its destruction

CASE 3: ATTACK ON MEBARAT PALESTINE CENTRE FOR PEOPLE WITH DISABILITIES

STATUS: Decision by Israel to not open a criminal investigation

Military attack on Mebarat Palestine Centre for People with Disabilities on 12 July 2014 which killed two women with disabilities: Suha Abu Sa'da, 38; and Ola Wishahi, 31. Three residents with disabilities and a care support worker were severely injured. The attack destroyed the residential care centre supporting people with complex cognitive and intellectual impairments.

Al Mezan and Adalah submitted a criminal complaint in July 2014. On 7 December 2014, the MAG notified the organisations of its decision to close the case without criminal investigation. The MAG asserted that all precautions were taken and the site was a legitimate military target. However, this assertion was not supported by Al Mezan's investigations on the ground. Further, the MAG said that operating forces had no information indicating the existence of a care centre. This raises a clear question over the adequacy of the Israeli military's due diligence in the targeting of the centre. This question, however, was not addressed by the MAG in its prompt decision not to open a criminal investigation into this fatal military attack.

In July 2015, Al Mezan and Adalah sent a letter to the MAG requesting access to the case materials. In November 2015, the MAG denied the organisations' request and stated that it saw no need for reconsidering its decision not to open a criminal investigation. Six years after the fatal and destructive attack, this case still requires a thorough and independent investigation.

CASE 4: KILLING OF MEDICAL WORKERS IN MSABBEH NEIGHBOURHOOD

CASE UPDATE: No response to complaint, no fact-finding assessment or criminal investigation opened by Israel

Attack on ambulance crew in Msabbeh neighbourhood, in north-eastern Rafah, on 1 August 2014. Three medical workers were killed by a drone strike on their ambulance in a 'double tap' attack that followed the original strike: Atef Saleh Ibrahim Al Zamli, 42; Yousef Ejme'an Nasrallah Al Sheikh Al Eid, 33; and Yousef Jaber Hassan Darabieh, 27. A mother and three children were also killed by the same drone strike. The use of such "double tap" attacks during the 2014 military offensive increased the risks faced by first responders.

In February 2015, Al Mezan submitted a criminal complaint. The MAG has not confirmed receipt of the complaint, despite repeated requests made in 2016, 2017, 2018 and 2019. The delay, apparent inaction and lack of transparency raise substantial concerns, including as to whether Al Mezan's complaint is among the several that have been misplaced or lost by the MAG. No reference to this case is made in any of the six public updates published by the MAG.



45 ambulances were damaged or destroyed in Gaza in 2014

CASE 5: KILLING OF AMBULANCE DRIVER MOHAMMED AL ABADLA

CASE UPDATE: No progress reported by Israel since criminal investigation opened December 2014

Military attack on a paramedic crew on 25 July 2014 which killed the Palestinian Red Crescent Service (PRCS) ambulance driver, Mohammed Al Abadla. Mohammed was fatally shot in the chest and leg despite complying with agreed coordination protocols between the International Committee of the Red Cross, the Israel military and the PRCS. 336975

The MAG announced in December 2014 that following an initial Fact-Finding Assessment, it had opened a criminal investigation into the killing of Mohammed Al Abadla. It is one of only eight incidents spanning a range of alleged serious violations from the 2014 hostilities in Gaza that the MAG has opened a criminal investigation into following an assessment by the FFAM (220 incidents have been referred to the FFAM by the MAG); and five of those eight incidents have subsequently been closed without further action. No decision has been announced on the outcome of the criminal investigation into Mohammed Al Abadla's case, nor has there been any public update by the MAG on his case since December 2014. This excessive delay underlines concerns over whether the criminal investigation opened by the MAG into the killing of ambulance driver Mohammed Al Abadla is genuine.

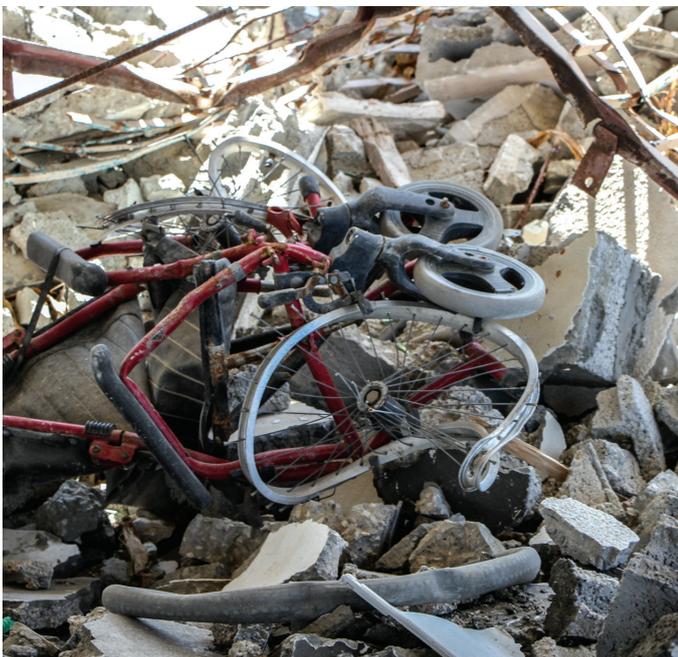
CASE 6: OBSTRUCTED ACCESS TO MEDICAL TREATMENT – BADER QDEIH

CASE UPDATE: Criminal investigation only recently opened by Israel

Seven-year-old Anas 'Bader' Hatem Suleiman Qdeih was killed on 24 July 2014 during the bombardment and ground assault on Khuza'a in the southern Gaza strip.

At approximately 8am, Bader was severely wounded by shrapnel to the stomach that left his abdomen exposed. He could not be carried away from the area due to the prevention of access to the area by the Israeli military and was bleeding heavily. Bader was not reached by an ambulance until approximately 11:57am, when he was found still alive and conscious by the first ICRC ambulance to be permitted entry to the area by the Israeli military. Just over half an hour later, after being unexplainably held at an Israeli checkpoint for a further 27 minutes before being transferred to a PRCS ambulance, Bader died just before reaching the hospital during transportation. He is among the 511 Palestinians who died during the offensive after their medical assistance was obstructed.

In March 2016, Al Mezan sent a request to the MAG to open a criminal investigation into the impeding of emergency medical access and movement. In May 2016, a response was received by the MAG confirming that the FFAM had opened an examination. In August 2018, the MAG publicly asserted that they could not shed light on the circumstances of Bader's death because a witness declined a request for a meeting and that the legal representatives to the family did not reply to a request for information.⁹ These assertions are incorrect, as communicated by Al Mezan to the MAG. The MAG has since opened a criminal investigation. The excessive delay in this case, coupled with the apparent lack of care and diligence that led to the incorrect announcement by the MAG in its sixth public update in August 2018,¹⁰ does however underline substantial concerns over the adequacy and effectiveness of this investigation.



A wheelchair in the ruins of the Mebarat Al Rahma Centre



An ambulance, damaged in the 2014 military offensive

The above case updates illustrate that little has changed since the UN independent Commission of Inquiry into the 2014 Gaza Conflict warned in its 2015 report that *"impunity prevails across the board for violations of international humanitarian and human rights law allegedly committed by Israeli forces"*.¹¹

Legal accountability is critically required to end the 'prevailing impunity' described by the UN Commission of Inquiry. The above six cases however exemplify that legal accountability and justice is systemically denied by Israel's military investigation system being unwilling or unable to provide genuine investigations into alleged serious international crimes. To reiterate, there have been no criminal charges, convictions or prosecutions for any of the serious international crimes allegedly committed during the 2014 military offensive on Gaza. This also fits a longstanding pattern of institutionalised impunity as identified by authoritative local and international human rights organisations and UN mechanisms.¹²

Ending impunity for attacks on civilians, medical facilities and personnel is an urgent and critical imperative. All available international legal avenues must be pursued given the systemic failings of Israel's military investigation system to undertake genuine investigations. This is essential to fulfil the core fundamental rights of victims, survivors and their family members to have access to justice, and also to provide the most effective deterrence against repetition of such attacks in the future. The grave repercussions of ongoing blanket impunity are starkly illustrated by the repeated killing and injuring of medical personnel and unarmed protesters by Israeli forces since 30 March 2018.

IN FOCUS:


CONTINUING IMPACT OF 2014 ATTACKS NURSE EMAN ABU JAYYAB, INJURED IN AL AQSA HOSPITAL ATTACK

Eman is a mother of two boys and a girl, the youngest is 13 years old and the oldest is 15. Eman has worked as a nurse at Al Aqsa hospital in Gaza since 2005. She is the only breadwinner of the family after her husband was killed by shrapnel during the Israeli military offensive on Gaza in 2008.

Israel's forces shelled Al Aqsa Hospital with artillery on 21 July 2014. In the attack, Eman's right arm was struck by a large piece of shrapnel, leaving it permanently disabled with no remaining functioning. Like all other survivors from the 2014 military offensive on Gaza, Eman has not received any legal remedies, such as effective access to justice and compensation. In an interview with us five years after the attack, Eman explains the profound ongoing impact of the severe injury on her life. Hers is one story among many thousands of survivors of catastrophic injuries in Gaza: individuals whose lives have been wholly impacted by physical and psychological trauma caused by extreme violence perpetrated with impunity.

"I am still working as a nurse. Before the injury I was a nurse in the intensive care unit, but now [due to the injury] I am a nurse in the outpatient clinic. I have no other option [but to work]. Who will feed my kids?"

"I feel so humiliated when I have to open a medication or a needle for a doctor. I have to turn my face away from the doctor and open it with my mouth [because I can't use my right arm and hand]. Or, when I have to measure the blood pressure of a patient,

the patient has to do most of the work... But I'm fighting and I'm doing my best to keep my job. The only positive thing I've taken from my injury is an amplified feeling of sympathy and empathy towards the patients. I now feel the pain of all of the patients and I work hard to ease it.

"I am worn out. My arm is still aching as if it were on fire. It becomes swollen every day from hours of standing, because with no muscles to carry it, it has become a heavy burden on my body. I just take vitamins and painkillers, which I buy at my own expense. Sometimes I wish my arm was amputated so that I could be relieved of the pain, but then I say no, thank God it is still there, as it makes me look more like a normal human being.

"I wake up a lot. I can't remember the last time I slept deeply. I've lost my appetite, but I still have to cook for the kids. It's so hard to cook and chop vegetables with one hand, especially my left hand. My kids or sister sometimes help me. But many other times I spend hours cooking. When the food is on the table, I feel exhausted and frustrated to the point that I run to my room and burst into tears and lock myself there for hours.

"It's true that the injury brought me closer to the patients, but it has distanced me from my kids. I don't know why, but I've lost connection with my own children. I have no energy to communicate with them. I don't know what the reason is for us growing apart. I considered seeing a therapist for a long time. But I don't have the time. I have to work, cook, clean and take care of myself and my kids with one hand."

IMPUNITY FUELS RECURRENCE

HEALTH WORKERS AGAIN UNDER ATTACK

IN 2018 - 2020

“The international response to the Commission of Inquiry into the 2014 Gaza Conflict must finally put an end to impunity for attacks on civilians, medical facilities and medical personnel in order to deter recurrence of these attacks in the future.”

Al Mezan, LPHR and MAP in the 2015 ‘No More Impunity’ report.

As warned in our 2015 *No More Impunity* report, chronic impunity for attacks on healthcare makes recurrence more likely. It is gravely predictable that Palestinian health workers continue to be killed and injured by Israeli military forces in the absence of genuine investigations and legal accountability.

This has been tragically borne out during the ‘Great March of Return’ demonstrations; a series of widespread, civil society-initiated demonstrations that demand the lifting of the 13-year illegal closure of Gaza and stress the right of return of Palestinian refugees to lands that were expelled or fled from in 1947/48.

Between 30 March 2018 and 31 December 2019, at least three health-workers died and 845 health workers were injured amid Israel’s widespread and systematic use of excessive force against civilian protesters in Gaza. In the same period, 112 ambulances and seven health facilities were damaged.¹³

The UN independent Commission of Inquiry on the 2018 protests in the occupied Palestinian territory confirmed in its March 2019 report that the applicable legal framework which should govern

Israel’s policing and use of force at the civilian protests is “law enforcement, based in international human rights law”. This framework respects and protects fundamental human rights under international human rights law, including the right to life, the prohibition on cruel and inhuman treatment, and the rights to freedom of peaceful assembly and association. It provides that use of firearms shall only be used against an individual posing an imminent threat to life or serious injury. In addition, health-workers operating under the context of military occupation are accorded special protected status under international humanitarian law.

Immediately below we outline the circumstances of the fatal shooting of three health workers performing their duties at the civilian protests in Gaza, as well as a fourth who died one month after being shot. This includes a focus on the killing of Musa Abu-Hassanin, a Palestinian Civil Defence field paramedic, which features powerful testimonies from his brother and colleagues. We also outline the details of the killing of a 17-year-old medical volunteer, Sajed Mizher, in the West Bank in March 2019.



Between 30 March and 31 December 2019, at least three health workers were killed and 845 injured in Gaza

PALESTINIAN HEALTH WORKER FATALITIES SINCE MARCH 2018



GAZA MUSA ABU-HASSANIN

On 14 May 2018, Musa Abu-Hassanin, 34, a Palestinian Civil Defence field paramedic, was fatally shot in the upper right shoulder while trying to evacuate wounded demonstrators east of Gaza City. The 2019 UN independent Commission of Inquiry found that Musa was 250-300 metres from the Gaza perimeter fence and was wearing a high visibility Civil Defence vest. Shortly before his death, Musa helped rescue a member of his team, Tarek Loubani a Canadian-Palestinian doctor, who had been shot in both legs while working at the protests.¹⁴ No criminal investigation has been announced by the Israeli authorities into Musa's death. (More detail on Musa's killing is provided on page 9).

"Musa's my rescuer. He was a very bright guy. Incredible man. About an hour after he rescued me, he was trying to get another patient, and ended up getting shot in the chest. Unfortunately, he died. It's unfortunate because we, as a medical team, always hope for and expect some protection." Dr Tarek Loubani¹⁵

RAZAN AL-NAJJAR

On 1 June 2018, Razan al-Najjar, 20, a Palestinian Medical Relief Society medical volunteer, was fatally shot while attending injured demonstrators close to the perimeter fence in Khuza'a, southeast Gaza. The 2019 Independent UN Commission of Inquiry found that Razan had gone closer to the fence with three colleagues to provide medical assistance to two injured protesters. As they approached, they held their hands up in the air. Razan was wearing a white vest clearly marking her as a paramedic when she was shot in the chest. On 29 October 2018, the Israeli Military Attorney General (MAG) announced it had launched a criminal investigation.

"My daughter was performing a humanitarian job. What gives you [the Israeli sniper] the right to kill her and directly target her while she only had her vest and ID as her weapon?" Sabreen al-Najjar, Razan's mother¹⁶



ABDALLAH AL-QUTATI

On 10 August 2018, Abdallah al-Qutati, 22, a first responder with Nabd Al-Hayat (Life's Pulse), was fatally shot while providing care to a man who had been shot by Israeli forces in eastern Rafah, south Gaza. The 2019 UN independent Commission of Inquiry found that Abdallah was wearing a white paramedic jacket and carrying a red first-aid kit when he was shot. No criminal investigation has been announced by the Israeli authorities.

"Abdallah was performing a humanitarian job. He didn't hold a gun. He was not a militant, nor a terrorist. He had medical solution and gauze to help the injured. This is a war crime. They must be held accountable in front of the world." Mohammed al-Qutati, Abdallah's brother¹⁷



MOHAMMED AL-JEDEILI

On 3 May 2019, Mohammed al-Jedeili, 36, a PRCS paramedic, was shot at the 'Great March of Return' demonstrations in Gaza. He was struck in the face by a rubber-coated steel bullet while in medical uniform helping an injured protester into an ambulance.¹⁸ Having suffered multiple nasal fractures, he was treated at hospital in Gaza, then returned to his home. However, on 3 June he suffered a sudden cardio-pulmonary arrest. Mohammed was transferred to al-Ahli hospital in Hebron, in the West Bank. He died on 10 June. No criminal investigation has been announced by the Israeli authorities.

"They wear a humanitarian uniform that visibly marks them. They are standing there to provide medical services and first aid. I really wish to know why anyone would target a paramedic in such a way. He carried a stretcher, but then he was carried on one." Kefaya Al-Jedaili, Mohammed's mother¹⁹



WEST BANK

SAJED MIZHER, A TEENAGE VOLUNTEER HEALTH WORKER KILLED IN DHEISHEH CAMP



It is not only in the context of Gaza that the lives of Palestinian health workers are endangered. On 27 March 2019, Sajed Mizher, 17, a Palestinian Medical Relief Society volunteer health worker, was fatally shot in the abdomen by Israeli soldiers while providing care to people injured during clashes at Dheisheh Camp, near Bethlehem, in the West Bank.²⁰ No criminal investigation has been announced by the Israeli authorities. It must be added that Sajed had additional special protections under international law at the time of his killing, as he was a child.

“He told me that he cannot abandon the wounded at this moment, saying he was trained to provide humanitarian aid at times like this. He told me not to worry and that he was protected under international law wearing his official uniform.” Abdul-Hakeem Mizher, father of Sajed²¹



Colleagues of Abdallah al-Qutati at his funeral

INJURIES: HEALTH WORKERS IN THE FIRING LINE

Hundreds of Palestinian health workers have been injured by the excessive use of force by Israeli forces in 2018 and 2019. Injuries are caused by the following: live ammunition, rubber bullets, direct hits of tear gas canisters, tear gas inhalation, and shrapnel.

“One of the bullets came through the ambulance’s door and then hit my leg. The injury has greatly affected my life. I am afraid and remain shaken. Whenever I hear bullets, loud voices or bombings, I get triggered. I send a message to the international community to pressure Israel through the United Nations and other international organisations to respect medical teams working in the field. This is enshrined in international law, and particularly the Fourth Geneva Convention.” Emad Al-Buhaisi, PRCS Medical Volunteer in Gaza, Injured on 9 April 2018²²

“I was targeted directly with a tear gas canister while providing care to injured people at the ‘Great March of Return’. The canister directly hit my leg and caused a patellar fracture (broken kneecap). This affected me a lot. I will not be able to continue my work at the ‘Great march of Return’. I was clearly visible; I had my vest on. While I was receiving first aid from one of my colleagues, who was also wearing the same vest and was clearly marked as a paramedic, he was also targeted by a live bullet that caused a bone fracture. He underwent a surgery and now has an external fixator.” Ahmad Wafi, 24, Medical Volunteer with the Palestinian Medical Relief Society, Injured on 10 August 2018

The attacks on Musa Abu-Hassanin, Razan al-Najjar, Abdallah al-Qutati, Mohammed al-Jedaili and Sajed Mizher are closely connected to the continuing impunity for attacks on Palestinian healthcare personnel over the past decade. The empirical record is clear: grave violations against the rights to life and physical integrity of health workers carrying out their duties do recur without the deterrent effect of legal accountability and justice.

Our significant concerns have been underscored by the 2019 UN Commission of Inquiry finding that “[b]ased on numerous interviews with victims and witnesses and corroboration of video footage in a number of instances, the Commission found reasonable grounds to believe that Israeli snipers intentionally shot health workers, despite seeing that they were clearly marked as such.”²³ It concluded that the occupied Palestinian territory is “is one of the most dangerous places in the world to be a health worker”²⁴

Critically, it found “reasonable grounds to believe that some violations constitute international crimes”²⁵, including potential war crimes and crimes against humanity. The latter is due to the evidence of the widespread and systematic nature of the use of excessive force by Israeli forces. The only one of the five fatal cases from 2018/19 that has resulted in the opening of a criminal investigation is the killing of Razan al-Najjar, whose case attracted global media attention. No explanation has been provided by Israel’s military investigation system as to why Razan’s killing is the only military attack against a health worker that has been opened for criminal investigation.

IN FOCUS:



THE KILLING OF PARAMEDIC MUSA ABU-HASSANIN

Musa Abu-Hassanin, 34, was the first health worker to be killed by Israeli forces in the context of the 'Great March of Return' protests.

He was fatally shot on the deadliest day in Gaza since the 2014 military offensive, with 60 Palestinians killed and more than 2,700 injured²⁶. The grave circumstances of the killing of Musa Abu-Hassanin, and an insight into who he was as a paramedic and as a person, are detailed below.

Musa's elder brother, Mahdi Abu-Hassanin, told us:

"Musa was a beautiful human being by all means. He chose to be a paramedic because he cared about others. He always strived to alleviate the suffering of others. Everyone who knew Musa would describe him as the man with the best sense of humour. Musa loved life and wanted others to feel the same."

"During the Israeli war on Gaza in 2009, Musa was critically injured. As a paramedic with the Civil Defence he went inside a bombarded building to save people, but the Israelis shelled the building again while he was inside it. Musa never fully recovered from his wounds. He was unable to play football again after having been a strong candidate to play for the Palestinian national team, as he suffered from continuous shortness of breath."

"In May 2018, Musa was a father of four children, the oldest was seven years old, and the youngest was two months old at that time. Ramadan started a few days after Musa's death. Musa's wife had to sit at the table with her four kids and explain why their father was not present. I have to spend the rest of my life without my closest brother."

Musa's colleague at the Civil Defence, Shafeq Salem, was with Musa on the day he was killed. Shafeq told us:

"It was the most intense day of the weekly demonstrations. Starting from 09:30, we were receiving two injuries every minute. At 13:20, the intensity of the fire was indescribable. Tens of people were wounded or killed within seconds. Then I heard people screaming saying that a paramedic had been shot. I then saw Musa, a few metres away, on the ground. I was lying down on the floor to avoid the bullets. I could not reach Musa. I immediately asked for medical help using the radio. But none of the medical teams or ambulances was able to enter the area."

Another paramedic in the field that day with Musa, Alaa' Abu Ghanye, told us:

"The bullet hit Musa in the shoulder and exited through his back. The only thing we could do as paramedics was stop the bleeding. Musa's mum [who was attending the protests that day] heard that her son was shot. She was screaming "my son is a paramedic can't you get him an ambulance?"

"From the moment Musa was hit, I knew we'd become a target. We managed to stop the external bleeding. He was conscious. He kept saying that he couldn't breathe. Musa was left on the floor for 30 minutes with no medical evacuation. Then with the help of the people around us we carried Musa on our shoulders and ran until we saw a civilian car. He kept whispering that he couldn't breathe. A few minutes later his eyes rolled over. We reached the Indonesian hospital, which was four kilometres away, at around 14:30, where Musa was pronounced dead. Musa's mum witnessed her son bleed to death. Musa was always the one saving lives. But when his life was at risk, no one was able to save him."

"Most probably Musa's family won't get justice, and the case won't be investigated."

GAZA'S HEALTH SECTOR UNDER CLOSURE

Healthcare in Gaza is harmed and impeded not only by a decade of recurring military attacks on healthcare personnel, facilities, services and patients, among others, but also by other policies that breach international humanitarian and human rights law. Foremost among these is Israel's 13-year closure and blockade.

In 2016, then UN Secretary-General Ban Ki-moon stated that "the closure of Gaza suffocates its people, stifles its economy and impedes reconstruction efforts. It is collective punishment for which there must be accountability." Beset by severe restrictions on movement of people and goods in and out of Gaza, and accompanying impoverishment, Gaza's health services are unable to develop in line with the needs of its population. The UN Office of the Special Coordinator for the Middle East Peace Process has highlighted that "while the population in Gaza has doubled since 2000, the number of functioning primary health care clinics in Gaza has decreased from 56 to 49, resulting in crowded conditions, decreased doctor-patient time and reduced quality of service."²⁷

The closure regime imposed on Gaza by Israel impedes the movement, professional development and the safety of Palestinian health workers. They are commonly denied travel permits to allow them to take up training and development opportunities outside of Gaza, adding to shortages of doctors and nurses in key specialisms. In 2018, for example, the World Health Organization (WHO) recorded that only "15% of applications to exit the Gaza Strip on behalf of health partners and the Ministry of Health were approved."²⁸ Their safety is also reduced by Israeli restrictions on the availability of communications equipment for ambulance coordination and emergency response and protective equipment, including helmets and protective vests.²⁹

Equipment required more widely by the health sector is similarly impacted by Israel's closure of Gaza. Israel's onerous "dual use list" of materials it classifies as having a potential military use – implemented through the problematic Gaza Reconstruction Mechanism³⁰ – denies or substantially reduces the entry of medical materials and equipment. These include X-ray scanners, carbon fibre components for the stabilisation and treatment of complex limb injuries, and carbon fibre and epoxy resins used in the production of artificial limbs.³¹ For patients with serious limb injuries – including the many incurred at the 'Great March of Return' (see below) – consequences include being fitted with heavier, less comfortable metal frames during treatment, or with less-comfortable prosthetics if their limbs are amputated.

The depleted quality and availability of healthcare in Gaza means that referrals are needed for treatment at more advanced centres of care elsewhere in the occupied Palestinian territory or abroad. However, exit permits for patients are frequently either denied or substantially delayed by Israeli authorities through a procedure the WHO has

deemed "neither transparent nor timely."³² Thousands of scheduled medical appointments are missed yearly as a result by people from Gaza, some 10,000 in 2018 according to the WHO. Consequences can be grave. When, in 2017, Israel approved just 54% of exit permits for patients referred for treatments outside Gaza, 54 patients were recorded as having died after being forced to so miss scheduled appointments, 46 of whom had cancer.³³

This all underscores the central finding made in March 2018 by the UN Special Rapporteur for Human Rights in the occupied Palestinian territory, Michael Lynk, that Israel is in "profound breach" of its international obligations concerning Palestinians' right to health.³⁴ Despite such an authoritative and critical finding, Israel continues to perpetuate serious breaches of the right to health regardless of its international obligations and of the widespread physical and mental suffering they cause.

Even before the 'Great March of Return' protests began, the WHO warned that Gaza's health system was "on the brink of collapse" with depleted fuel, essential drugs, essential medical disposables and human resources.³⁵ During the protests, at least 28,000 people have been injured, more than 7,300 of them with gunshot wounds and of these up to 1,746³⁶ require specialised limb reconstruction treatment including as many as seven surgeries with extensive rehabilitation over two years or more. The massive influx of trauma patients, whether injured by bullets, rubber-coated steel bullets, direct hits from tear-gas canisters, or shrapnel has had severe knock-on effects for the already-depleted healthcare system and the wider population of 2 million people it serves, including the postponement of some 8,000 elective surgeries in 2018.³⁷

Despite this diminished local healthcare capacity, in April 2018 the Israeli government created a policy to ban injured protesters from receiving permits to exit for healthcare as a general rule. Consequently, just 17% of applications for patients seriously injured during the 'Great March of Return' protests were approved between 30 March 2018 and 31 December 2019.³⁸ One year into the protests, some 80% of children injured at them and requiring emergency medical treatment outside Gaza had their permit requests rejected or delayed, leading to worsening health conditions including amputations.³⁹

The mental health as well as physical health of Gaza's population is unquestionably worsened by these and other political determinants. Research demonstrates profound negative impacts of the closure, military attacks and the violent response to the Great March of Return protests, particularly on children, as well as inadequate provision of services.⁴⁰

These staggering health and healthcare needs, and the policies and violations that drive them, underscore yet again the urgent legal and humanitarian demand for no more impunity.

RECOMMENDATIONS

The evidence presented in this update must be urgently followed up with decisive action by the international community. Al Mezan, MAP and LPHR urge all states to address systemic impunity, and relieve the protracted health crisis in Gaza, by taking the following imperative actions:

RECOMMENDATIONS TO ALL STATES:

- 1 Recognise that persistent impunity for serious violations of international humanitarian and human rights law embolden their grave perpetuation and is a root cause of chronic humanitarian needs in Gaza;
- 2 Support genuine investigations into, and legal accountability for, military attacks on medical personnel and infrastructure, as a way to prevent future violations and to provide justice;
- 3 Independently monitor, assess and make public findings on the compliance of Israel's internal investigations with the core international standards of independence, impartiality, thoroughness, effectiveness, transparency and promptness; and the extent to which these investigations have resulted in legal accountability and justice for victims, survivors and their families;
- 4 Support efforts to strengthen compliance with international law regarding the protection of healthcare personnel and infrastructure, including through monitoring the compliance ensuring respect for UN Security Council resolution 2286 (2016) on healthcare in armed conflict; and
- 5 Launch a concerted diplomatic initiative for a complete lifting of the 13-year illegal closure and blockade of Gaza with immediate effect, including allowing the free and unimpeded movement in and out for patients, medicines, medical equipment, and health workers.



Medical Aid for Palestinians (MAP) works for the health and dignity of Palestinians living under occupation and as refugees.

www.map-uk.org

Registered Charity no: 1045315

مركز الميزان لحقوق الإنسان
AL Mezan Center for Human Rights



AL Mezan Center for Human Rights is a Palestinian non-governmental human rights organization that works for the protection and promotion of Palestinian human rights in Gaza as part of occupied Palestine.

www.mezan.org

Registered Charity no: 563130798

LAWYERS FOR PALESTINIAN
HUMAN RIGHTS



Lawyers for Palestinian Human Rights (LPHR) is a lawyer-based legal charity in the United Kingdom that works on projects focused on protecting and promoting Palestinian human rights.

www.lphr.org.uk

Registered Charity no: 1142158

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