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Medical Aid for Palestinians (MAP)

Universal Periodic Review of Israel

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Submission: Right to health for Palestinians in the occupied Palestinian territory (oPt)

Submitted by:

Medical Aid for Palestinians (MAP).

MAP works for the health and dignity of Palestinians living under occupation and as refugees. Founded in 1984, MAP provides immediate medical aid to those in need at times of crisis, while also developing local capacity and skills to ensure the long-term development of the Palestinian healthcare system. MAP is committed to bearing witness to the impact of occupation, displacement and conflict on Palestinian health and wellbeing, and campaigns for the realisation of Palestinian rights to health and dignity.

Executive Summary:

This submission documents Israel's violations of Palestinians' rights to health, and the right of Palestinians with disabilities to full and equal participation in society. Section one demonstrates how Israel, as the occupying power, has failed to ensure the Palestinian population's access to adequate medical treatment through bureaucratic and physical barriers which restrict the free movement of Palestinian patients. Section two demonstrates Israel's failure to protect Palestinian medical facilities and personnel, to ensure respect for international humanitarian law and to combat impunity. Sections one and two of this report were compiled from research undertaken by MAP and includes references to sources from the World Health Organization (WHO), the Palestinian Red Crescent Society (PRCS), and Al Mezan Centre for Human Rights. Section three, demonstrates Israel's violations of Palestinian economic, social and cultural rights, including the right to health and specific barriers to the rights of people with disabilities. In July 2017, MAP's Inclusive and Accessible Society project team met with 12 Palestinians with disabilities in Gaza, three of whom had been disabled by indirect or direct shelling by the Israeli military. The group discussed the barriers they face in seeking to obtain full and equal participation in society, and played an active role in raising the issues and recommendations outlined in the final section.

Normative framework

International humanitarian law (IHL) stipulates that, as the occupying power, Israel is responsible for the health and welfare of the Palestinian population under its control. As a State Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR), Israel has also recognised "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" and committed to take steps to achieve the full realisation of this right.

1. The right to health

1.1 Palestinian residents who need medical care outside of their region of residence require an exit permit from the Government of Israel. This is primarily an issue for residents of the West Bank and Gaza, who are often referred for treatment in East Jerusalem, where six specialist Palestinian hospitals are located.

1.2 Each year tens of thousands of patients are referred for treatment outside the Palestinian healthcare system when the medical treatment they require is unavailable in the oPt. In 2015, approximately 87,000 patients received such referrals. Of these, some 52,000 (over half) needed an Israeli permit in order to access treatment.¹ As stated by the WHO, obtaining Israeli permits is a process that is, "neither transparent nor timely".² Security services frequently deny travel permits, at times after reportedly making travel conditional on the patients or their carers working as "collaborators".³

1.3 Despite the medical need for referrals for Palestinian patients and for Israel to accept recommendation (136.67.) in the second UPR cycle, *"to take steps to ensure the rights to health, education, and other rights dependent on freedom of movement are protected"*, WHO figures have shown that Israeli permit approval rates have consistently fallen, from 92 per cent in 2012 to an average of 66 per cent in 2016.⁴ They have continued to decline in 2017, with almost half (46 per cent) of patients applying to leave Gaza via the Erez Crossing

in March being refused a permit by the Israeli authorities, or not receiving a response in time to attend their appointments.⁵ The United Nations has defined ‘individuals in need of medical referrals’ as a vulnerable Palestinian group, who, when delayed or denied access to specialised medical services, “*can suffer from deteriorating medical conditions which can affect their quality of life and contribute to death in some cases.*”⁶ Between January and July 2017, Al Mezan Centre for Human Rights and the WHO recorded eight cases of patients who died after being refused a permit or not receiving a response in time for them to reach hospital.⁷

1.4 A Memorandum of Understanding signed in 2005 between the Palestinian Red Crescent Society (PRCS) and the Israeli Magen David Adom (MDA) stipulates that the area of free operation of PRCS ambulances should include all areas of the oPt, including East Jerusalem, as per the framework of the 4th Geneva Convention. Nevertheless, the Independent Monitor of the ICRC Movement has stated that “*the rules and restrictions imposed by the occupying authority do not allow the PRCS to perform its duties in a satisfactory way*”.⁸ In all but a few cases, the Israeli government does not allow Palestinian patients, even emergency cases or those receiving critical care, to enter East Jerusalem from the West Bank in a Palestinian registered (PRCS) ambulance. Instead, they must undergo a procedure known as the ‘back-to-back’ transfer at a checkpoint, whereby they are moved from a Palestinian ambulance to an Israeli-registered one. This process leads to delays, which can mean that transfers through a checkpoint can take up to five times longer, causing substantial discomfort and medical risk for the patient as they are walked or wheeled between ambulances, sometimes in a critical condition. According to an agreement with the ICRC, the PRCS can contact the ICRC to intervene to help transfer patients after 15 minutes of delay.⁹ Monitoring by the PRCS across several checkpoints in December 2015 revealed that the average delay for 106 patients was 27 minutes, more than double the recommended time.¹⁰

1.5 Israel’s policies inhibit the construction and maintenance of medical infrastructure and the essential services needed to promote health, such as water, sanitation and electricity. Restrictions on free movement between different areas of the oPt limit the access of health workers to training and professional development. Restrictions on access to medical equipment and materials further prevent the development of services in some areas.

1.6 Recommendation 1

The Government of Israel must address obstacles to the right to movement which undermine the access of Palestinian patients to treatment;

1.7 Recommendation 2

Bring about a swift end to the blockade and closure of Gaza, paying particular attention to the removal of impediments to the development and provision of healthcare and to meeting humanitarian needs;

1.8 Recommendation 3

Remove obstacles to patients and their companions seeking to reach hospitals in East Jerusalem;

1.9 Recommendation 4

Facilitate the speedy movement of patients in ambulances when seeking treatment and create conditions for unimpeded ambulance access at checkpoints, without the need for 'back-to-back' transfers; and

1.10 Recommendation 5

Remove obstacles to the development of Palestinian health infrastructure and services, including those concerning the work and training of medical students and personnel.

2. Protecting medical facilities and personnel by combatting impunity and ensuring respect for international humanitarian law

2.1 Israel has failed to give due regard to the protected status of medical facilities. The WHO has documented an increase in Israeli military attacks on healthcare facilities in the oPt since 2008. Fifteen hospitals, 43 clinics and 29 ambulances were damaged or destroyed during Israel's military offensive on Gaza in 2008/09.¹¹ Prior to the beginning of the 2014 attacks, "the Israeli military had been given GIS coordinates of all hospitals specifically to prevent targeting, and that Wikimaps had been used to determine exact locations of healthcare facilities".¹² In spite of this, during the 2014 offensive 16 hospitals and 51 primary health clinics were damaged and five clinics and Gaza's only rehabilitation hospital were completely destroyed.¹³ In addition, 45 ambulances were damaged or destroyed.¹⁴ During three major Israeli military offensives in the last decade, 147 hospitals and clinics and 80 ambulances have been damaged or destroyed in Gaza.¹⁵

2.2 Israel has failed to give due regard to the protected status of medical personnel. Between October and December in 2015, the PRCs 147 instances of injury to medical workers and 92 instances of damage to ambulances in attacks by Israeli forces and settlers in the West Bank, including East Jerusalem.¹⁶ This includes physical assaults and shots fired at medical teams and ambulances. During Israel's 2008/09 assault on Gaza, 16 healthcare workers were killed and 25 were injured while on duty.¹⁷ During the 2014 offensive medical professional casualties more than doubled, with 23 killed and 78 injured - the majority of whom were ambulance staff.¹⁸ In total, 145 medical workers have been killed or injured in military offensives on Gaza since 2008.

2.3 Israel has failed to set up independent investigations into attacks on medical infrastructure and personnel or otherwise to bring to account the suspected perpetrators. Impunity for such attacks makes repetition more likely. Despite accepting recommendation (136.66.) in the second UPR cycle, "*to fight impunity by thorough and impartial investigations on all the allegations of human rights violations, including when these allegations involve members of security forces or settlers*", the Israeli Government has since failed to adequately cooperate with international investigations concerning Israel's 2014 military offensive on Gaza, and has denied members of the UN Commission of Inquiry (COI) entry to Gaza to investigate alleged violations. The COI has expressed concern about "*a number of procedural, structural and substantive shortcomings*" in Israel's military investigation system, and pointed to the urgent need for proper investigations.¹⁹

2.4 Recommendation 1

The Government of Israel must support the establishment of an international mechanism to monitor and assess breaches of international humanitarian law and the effectiveness of

steps taken to ensure accountability and justice in accordance with international law standards; and

2.5 Recommendation 2

Support all international efforts to promote impartial investigations of alleged war crimes and pursuing accountability when war crimes are identified.

3. Economic, Social and Cultural rights including the right to health and specific barriers to the rights of people with disabilities

3.1 MAP welcomes Israel's ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2012. However, we are extremely concerned that, despite Israel accepting recommendation (136.87.) in the second UPR cycle, *"to take further steps in the area of promotion and protection of the rights of persons with disabilities, to improve accessibility to services, including for persons with disabilities living in disadvantaged areas"*, its occupation of Palestinian territory and its blockade and closure of Gaza continues to obstruct the rights of Palestinians with disabilities, including their right to full and equal participation in society, in contravention of the CRPD. Employment is a major factor in realising socio-economic rights. Israel accepted recommendation (136.89.) in the second UPR cycle, *"to take further steps to overcome the obstacles faced by persons with disabilities in accessing the labour market."* As the occupying power, Israel is bound by human rights obligations to the local population in the oPt, including Palestinians with disabilities. The occupation and tightening blockade, however, is detrimentally impacting the employment opportunities of Palestinians with disabilities. The World Bank has noted that the unemployment rate in Gaza is the highest in the world, with 43 per cent of Gaza's population unemployed and youth unemployment at 60 per cent.²⁰ Extremely high unemployment rates make it more challenging for people with disabilities to gain and maintain employment opportunities. The Palestinian Central Bureau of Statistics conducted a survey in 2011, which found that 87 per cent of people with disabilities in the oPt were unemployed.²¹ The Palestinian Non-Governmental Organizations Network stated in December 2016 that the unemployment rate of people with disabilities had increased to 90.09 per cent in Gaza.

3.2 Israel's occupation of Palestinian territory and its blockade and closure of Gaza obstructs Palestinians' rights to the enjoyment of the highest attainable standard of physical and mental health. Research indicates that the number of Palestinians in Gaza with a disability, whether physical or/and mental, has increased as a result of Israeli military offensives as well as the imposition of the closure policy which has generated higher levels of poverty. In 2012, the Palestinian Central Bureau of Statistics recorded 39,877 people in Gaza with a disability.²² According to the National Society for Rehabilitation in the Gaza Strip, this had increased to 43,642 in 2015.²³ During Israel's 2014 offensive on Gaza more than 2,000 Palestinians were killed and 11,000 injured, 10 per cent of whom were physically disabled.²⁴ Common mental health disorders such as depression and anxiety, the severity of which for some sufferers constitutes a disability, have been found to be twice as prevalent among people living in poverty compared to higher income groups in international studies.²⁵ In Gaza, where approximately 80 per cent of people are dependent on some form of aid, and nearly 40 per cent live below the poverty line, depressive and anxiety disorders are respectively the second and seventh highest causes of disability in the oPt.²⁶ The Gaza Community Mental Health Programme reported an 18 per cent rise in depression in the first

five years of the intensified closure of Gaza (2007-2012).²⁷ The full mental health impacts of Israel's 2014 military offensive on Gaza are not yet known. However, immediately after the offensive, the WHO estimated that up to 20 per cent of the population in Gaza may have developed mental health conditions.²⁸ Six months later, UNICEF estimated that more than 300,000 children in Gaza required some form of psychological care.²⁹

3.3 Despite accepting recommendation (136.112.) in the second UPR cycle, *“to take measures to provide for the safety and protection of the Palestinian civilian population”*, Israel failed to protect civilians and civilian infrastructure during its military offensives on Gaza in 2014, including taking all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk. On 12 July, Israel attacked The Mebarret Al Rahma Centre for People with Disabilities, killing two disabled women and severely injuring three disabled residents and a support worker.³⁰ One of the women killed, Suha Abu Saada, had previously lost a leg when as a child her room had been hit by Israeli shelling. During the 2014 offensive, Palestinians with disabilities - including those with mobility restrictions, hearing and visual impairments - had severe difficulty evacuating civilian buildings under attack, increasing their risk of injury and death. When preliminary warnings were given by Israel, these were not effective or advanced enough for individuals with disabilities to evacuate safely. In some circumstances people with disabilities had to be left in their house, as family members were unable to evacuate them. One of MAP's beneficiaries, an 18-year-old woman with a physical disability, died alone in her family house on 13 August 2014, when her father was unable to evacuate her during an Israeli military attack.

3.4 Israel's occupation of the Palestinian territory and its blockade and closure of Gaza obstructs the rights of Palestinians with disabilities to effective and full participation in public life. Restrictions on the movement of Palestinians increase the barriers people with disabilities face when trying to access their local community and the services they need. Gaza's only rehabilitation hospital, Al- Wafa, was destroyed on 23 July 2014, during Israel's military offensive on Gaza.³¹ The loss of Gaza's only rehabilitation hospital has severely restricted access to rehabilitation care, increasing the need for Palestinians with physical disabilities to access rehabilitative services elsewhere in the oPt. Obtaining Israeli permits to travel outside of Gaza for treatment is a process that is, as stated by the WHO, “neither transparent or timely”.

3.5 Recommendation 1

The Government of Israel must ensure that all measures are taken within the context of lifting the blockade and closure of Gaza to enable Gaza's economy to develop;

3.6 Recommendation 2

Support all efforts to ensure accountability for suspected attacks on Palestinian civilians and civilian infrastructure by the Israeli military and settlers;

3.7 Recommendation 3

Support all efforts to ensure an in-depth and impartial investigation into the 2014 offensive on Gaza and, if wrongdoing is identified, that the appropriate action is taken without delay; and

3.8 Recommendation 4

Israel must allow free movement of patients and their companions to treatment in all areas of the oPt (Gaza, West Bank, East Jerusalem), including ending the restrictive permit regime which hinders access to adequate care.

Acronyms

International Committee of the Red Cross (ICRC)

International Covenant on Economic, Social and Cultural Rights (ICESCR)

International humanitarian law (IHL)

Israeli Magen David Adom (MDA)

Palestinian Red Crescent Society (PRCS)

UN Commission of Inquiry (COI)

UN Convention on the Rights of Persons with Disabilities (CRPD)

Universal Periodic Review (UPR)

United Nations (UN)

World Health Organization (WHO)

References

Please see Submission References document.