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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Medical Aid for Palestinians (MAP), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

* Issued as received, in the language(s) of submission only.

Attacks on healthcare amid protests in Gaza

Overview and legal framework

1. Medical Aid for Palestinians (MAP) is a humanitarian and development organisation, operating in the occupied Palestinian territory (oPt) and Lebanon since the 1980s. Our key areas of work are primary healthcare; women and children's health; disability; mental health and psychosocial support; and emergency preparedness and response, including limb reconstruction in Gaza. We would like to express our deep concern regarding repeated attacks on healthcare and consequent violations of Palestinians' right to health.
2. International humanitarian law stipulates that, as the occupying power, Israel is responsible for providing protection and access to healthcare for the Palestinian population under its control. This includes respecting the protected status of civilians and civilian infrastructure, including medical personnel and facilities. Where international humanitarian law appears to have been violated, attacks must be investigated promptly, impartially, and in a credible and effective manner. Civilians who suffer injury or damage due to unlawful attacks must have access to appropriate reparations.

Attacks on healthcare personnel during the 2018 "Great March of Return" protests

3. Israeli forces' attacks on healthcare workers and services in Gaza amid the protests are but the latest manifestation of a pattern of such attacks, hitherto committed with impunity. Information provided to MAP supports the findings of the WHO and other highly reputable organisations that health-workers in Gaza have been killed and injured by Israeli forces while trying to reach, treat and evacuate wounded demonstrators. From 30 March to 31 December 2018, three health workers were shot dead and 560 injured in Gaza, the majority while on duty at the protests. A further 84 ambulances and five other transport vehicles were damaged and one hospital and two other health facilities were damaged.¹ Of health-workers injured in Gaza between January and December 2018, 7% were injured by live ammunition, 6% by shrapnel, 6% by rubber bullets, 15% by direct hits from tear gas canisters and 66% by tear gas inhalation.²
4. **Three health-workers shot dead while on duty.** On 14 May, field paramedic Musa Abu-Hassanin, 34, was fatally shot while trying to evacuate wounded demonstrators east of Gaza City.³ Witnesses said Musa was about 200 meters from the perimeter fence at the time. An hour before his death, Musa helped a member of his team, Tarek Loubani a Canadian-Palestinian doctor, who had been shot in both legs.⁴

"About an hour after [Musa] rescued me, he was trying to get another patient, and ended up getting shot in the chest. Unfortunately, he died... [W]e, as a medical team, always hope for and expect some protection. We're not there politically. We just want to make sure that if people get into trouble, we're there to help them."

Dr Tarek Loubani, to CBC Radio⁵

5. On 1 June, medical volunteer Razan al-Najjar, 21, was fatally shot while trying to reach injured demonstrators close to Israel's perimeter fence in southern Gaza.⁶ Witnesses said Razan approached the fence wearing a white medic's vest with her arms raised to show Israeli forces about 100 meters away that she posed no threat.

"[She] 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?"

1 http://www.emro.who.int/images/stories/palestine/documents/WHO-Health-Cluster-Special-SitRep-_17_-_31_Dec_2018_updt.pdf?ua=1

2 www.emro.who.int/images/stories/palestine/documents/infographic-attacks2018.jpg?ua=1

3 <https://www.map.org.uk/news/archive/post/845->

4 <https://www.theguardian.com/world/2018/may/17/canadian-doctor-wounded-gaza-israel-palestinians-gaza>

5 <https://www.cbc.ca/radio/asithappens/as-it-happens-tuesday-edition-1.4663685/canadian-shot-in-gaza-says-he-was-clearly-marked-as-a-doctor-1.4663689>

6 <http://www.emro.who.int/pse/palestine-news/un-agencies-deeply-concerned-over-killing-of-health-volunteer-in-gaza.html>

Relative of Razan al-Najjar, to MAP.

6. On 10 August, 22-year-old first responder Abdallah al-Qutati was fatally shot while providing care to a man who had been shot by Israeli forces east of Rafah, south Gaza.⁷

“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”.

Relative of Abdallah al-Qutati, to MAP.⁸

7. **Health-workers injured after direct hits by tear-gas canisters.** One of a number of health workers injured by direct hits from tear gas canisters who gave testimony to MAP said⁹:

“I was targeted with a gas canister while providing care to injured people in the “Great Return March”. The tear gas canister hit my leg and broke my knee and caused a patella fracture. This affected me a lot. I will not be able to continue my work in the “Great Return March”. It will affect me for months. My work during the demonstrations, my own work, and my social life are over because of my injury. I was clearly visible; I had my vest on. It was known that I am a paramedic.”

8. **Impacts and legal implications of attacks on healthcare.** Attacks on healthcare have impacts beyond the immediate pain to victims and damage to vehicles and infrastructure. They reduce healthcare provision and correspondingly the ability of people in need to access necessary healthcare. They dilute the protected legal status of such workers and facilities, and when committed with impunity such attacks increase the likelihood of recurrence.
9. **Continuing impunity.** Israel has repeatedly attacked health workers and services across the oPt with impunity. During Israel’s 2008/09 assault on Gaza, 16 healthcare workers were killed and 25 were injured while on duty.¹⁰ During the 2014 offensive, a further 23 were killed and 78 injured, the majority of whom were ambulance staff.¹¹ MAP, in partnership with Al Mezan Centre for Human Rights and Lawyers for Palestinian Human Rights, submitted a complaint on this to the UN Independent Commission of Inquiry (CoI) on the 2014 Gaza Conflict.¹² The CoI also noted that *“Israel must break with its lamentable track record in holding wrong doers accountable.”*
10. In 2016, the UN Security Council adopted Resolution 2286, condemning attacks on health services in conflicts around the world, demanding that states comply with international humanitarian and human rights law which prohibits such violations, and urging states to take proactive steps to hold perpetrators to account. It was passed unanimously by all Security Council members and co-sponsored by more than 80 UN Member States. Whether during conflict or otherwise during protests in an occupied or even unoccupied area, attacks on healthcare must be independently investigated and the perpetrators of any attacks found to be unlawful must be held to account.
11. However, in 2019, indications are that Israel is not taking steps to ensure independent investigations into these and other incidents in Gaza. Al Haq described Israel’s preliminary internal military investigation into the killing of Razan al-Najjar as a *“sham”* as it was based only on testimony of members of the Israeli forces.¹³

7 <http://www.emro.who.int/palestine-press-releases/2018/third-health-worker-killed-in-gaza-demonstrations-who-reiterates-calls-for-the-protection-of-health-workers-patients-and-health-facilities.html>

8 Further information and testimonies are available in MAP’s video-clips <https://www.map.org.uk/news/archive/post/897-abdallah-al-qutati-family-and-colleagues-of-third-paramedic-killed-in-gaza-speak-out> and <https://www.map.org.uk/news/archive/post/884-new-map-film-attacks-on-healthcare-in-gaza>. Also see: https://www.btselem.org/gaza_strip/20181018_killing_of_3_protestors_in_rafah

9 <https://www.map.org.uk/news/archive/post/905-new-map-film-gaza-health-workers-under-fire>

10 <https://www.map.org.uk/downloads/health-under-occupation---map-report-2017.pdf>

11 Ibid.

12 <https://www.map.org.uk/downloads/no-more-impunity--gazas-health-sector-under-attack.pdf>

13 <http://www.alhaq.org/advocacy/topics/gaza/1271-sham-investigation-by-israels-military-advocate-general-into-iof-killing-of-razan-al-najjar>

An investigation by the New York Times and Forensic Architecture found the shot which caused her death was *“reckless at best, and possibly a war crime, for which no one has yet been punished.”*¹⁴

12. The Israeli Defence Forces’ Military Advocate General has reportedly ordered the Military Police Investigation Unit (MPIU) to carry out a criminal investigation into the killing,¹⁵ however Israeli human rights organisation B’Tselem notes that the *“way the MPIU investigates incidents practically precludes any chance of getting at the truth. The problems noted are not limited to random, individual cases. They are systemic issues that affect almost each and every case examined by B’Tselem.”*¹⁶
13. The UN High Commissioner for Human Rights has highlighted that a *“deficit in accountability for alleged extrajudicial killings and other violations, as previously reported by the Secretary General and my Office, undermines confidence in Israeli justice”*.¹⁷

Recommendations

MAP calls on the Human Rights Council and Member States to:

1. Recognise the damaging impact of repeated, widespread attacks on healthcare services and personnel in the oPt, carried out with impunity, on the rights and welfare of Palestinian people
2. Reiterate a commitment to strengthening international law pertaining to respect for and protection of medical personnel and facilities in the context of the oPt, including by promoting adherence to UN Security Council Resolution 2286 (2016)
3. Recognise the extremely poor compliance of Israeli domestic investigations and accountability processes with international law, plus lack of redress for victims, and raise relevant concerns in bilateral and multilateral relations
4. Call on Israel and the Palestinian authorities in Gaza to cooperate with and facilitate access to Gaza for UN Commissions of Inquiry, UN Special Procedures, officials of the International Criminal Court, and independent human rights and forensics experts, to enable a thorough and impartial assessment of the facts regarding the conduct of all parties
5. Urge Israel and all parties to conduct timely, impartial and effective criminal investigations, to international standards of independence, impartiality, thoroughness and transparency, into suspected violations of international humanitarian and human rights law, and ensure that accountability and justice is secured for proven criminal wrongdoing
6. Promote the establishment of international mechanisms to monitor and assess breaches of international humanitarian and human rights law and the effectiveness of steps taken to ensure accountability and justice in accordance with international standards

¹⁴ <https://www.nytimes.com/2018/12/30/reader-center/gaza-medical-israel-shooting-video-investigation.html>

¹⁵ <https://www.haaretz.com/israel-news/israeli-army-opens-criminal-investigation-into-killing-of-gaza-medical-1.6609021>

¹⁶ https://www.btselem.org/download/201605_occupations_fig_leaf_eng.pdf p18

¹⁷ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23100&LangID=E>