

Behind Closed Doors

The Role of the Israeli General Security Service in Preventing Medical Treatment for Palestinian Patients

Introduction

In 2002, the Knesset passed the Israeli General Security Service (GSS/Shin Bet) Law. Fifty years after the GSS was separated from the IDF, and after it had been embroiled in scandals and incidents, an attempt was made to regulate the operations of this body. The law defines the task of the GSS as being “to thwart and prevent unlawful activity intended to damage state security and the orders or institutions of the democratic regime.” While it is difficult to fault these goals, the ways in which they have been realized are the subject of extensive debate.

Like any intelligence system, the GSS prefers to act in secret. Exposure can impair the ability of the system to collect information by disclosing its presence to the other side, or by exposing the organization to public, political, or legal pressure.

However, supervision of the power of the GSS is appropriate when the organization infringes on the very principles of democracy that it was mandated to protect, particularly the principle of the protection of human rights. The purpose of this report is to detail the way in which the operations of the GSS in the context of denying entry into Israel for Palestinian patients infringes on human rights in general, and the right to health in particular.

The phenomenon we shall examine herein involves the arbitrary denial of medical treatment to Palestinian patients by the GSS, ostensibly on security grounds. In some cases, urgent and life-saving treatments are involved. The cases discussed below are drawn from the work of Physicians for Human Rights-Israel during 2005. However,

six months into 2006, we can regrettably indicate that numerous additional cases have occurred, and the phenomenon is exacerbating.¹

The Mechanism of Control

Background: The Permits Regime

The turning point in the system of permits enabling Palestinians from the Occupied Territories to enter Israel came in 1991, against the background of the Gulf War and the first Intifada. The “General Exit Permit” of 1972, which had effectively enabled Palestinians from the Occupied Territories to enter Israel freely, was replaced by a new permits regime. Any Palestinian wishing to enter Israel could do so only by means of an individual permit.²

The task of receiving and examining applications, and of issuing permits, was imposed on the Civil Administration, which performs these functions through a system of District Coordination Offices (DCOs) throughout the Occupied Territories. Applications are examined by different functions within the Civil Administration, depending on the type of application, and also by the GSS. The experience of PHR-Israel shows that the GSS has the right of veto in authorizing applications, and effectively has the final say on the matter³.

Who is “Barred” and How Does Someone Gain This Status?

A person who is “barred entrance” Israel is someone who the GSS has decided should not be permitted to enter Israel, since, on the basis of the information it holds, the GSS is of the opinion that the entry of the said person to Israel, or their departure to a third country (via the Israeli controlled borders) is liable to endanger state security. The decision regarding the danger posed by a given individual may be based on specific information or on “profiles,” i.e. collations of characteristics defining those individuals who are defined as a security threat. Currently, the group of persons

¹ During this period, PHR-Israel has been obliged to file six petitions at the Supreme Court demanding that Palestinian patients be permitted to enter Israel for medical treatment. Half these petitions have been rejected; this aspect will be examined in a separate position paper.

² See the website of B’Tselem:
http://www.btselem.org/english/Freedom_of_Movement/Closure.asp.

³ See <http://www.phr.org.il/phr/article.asp?articleid=69&catid=20&pcat=6&lang=HEB>

“barred” comprises some 170,000 Palestinians (about 10% of the adult population in the Occupied Territories).⁴

Risk Factors

The following is the list of characteristics, which, according to the GSS, increase the likelihood that those meeting the profile will endanger state security. These criteria have been revealed on various occasions, though never directly by sources within the GSS.

Age⁵ - the age of the “typical attacker” is usually from 18 to 40, although on other occasions the age range 16-35 has been quoted.

Family status – single men and women, or married people without children.

Security record – those detained and/or imprisoned in the past, even if many years ago, depending on the severity of the offense. According to the organization Ansar Al-Sajin (Friends of the Prisoner), the number of Palestinians involved is 40,000.

Danger of “revenge” – individuals who have been shot by the Israeli army, or who have a relative who was injured or killed by Israeli fire, and who are considered to be motivated by the desire for revenge.

S.A., a 3½-year old boy from the Tulkarem area, suffers from developmental problems, and was scheduled to be hospitalized at Al-Amira Basma Rehabilitation Center in East Jerusalem from January 14, 2006. The center asked his mother to come with him and stay at the center for the entire period of hospitalization. The mother’s applications for entry permits were rejected on the grounds that she is “prevented on security grounds.” When the woman contacted Physicians for Human Rights-Israel, she mentioned that her husband had been shot dead by the Israeli army approximately six months earlier at a checkpoint after being suspected of being a terrorist. She was informed that this was the reason for the denial of the entry permit. On January 26, 2006, we contacted the Civil Administration on her behalf, and a few days later a permit was issued.

⁴ Estimate of the Association for Civil Rights in Israel.

⁵ In accordance with the state response to petitions against the Citizenship Law.

Education – students, and particularly students at Palestinian universities. The state’s response in HCJ 11120/05⁶ noted: “The universities in the Judea and Samaria Area serve as hothouses for the nurturing of attackers... the student population can be identified as one that plays a particular part in the operations of the terror organizations against the State of Israel.”

AIDS patients – the experience of PHR-Israel shows that AIDS patients encounter additional difficulties beyond those facing other patients. The fact that their illness is considered stigmatic in Palestinian society is perceived by the security sources as increasing the risk that they may be driven to desperate or violent acts.

At the end of September 2005, Y.A. was rushed to Hadassah Ein Kerem Hospital in a serious condition, suffering from grave respiratory distress. During the course of treatment, Y.A. was diagnosed as suffering from AIDS. Y.A. was sent home in a good condition and asked to come back a few months later for a check-up. It should be noted that no treatment for AIDS patients is available in the West Bank or the Gaza Strip. During January 2006, Y.A. felt that his condition was deteriorating, and his physician asked him to come to hospital as soon as possible. Y.A. went to the DCO and presented his medical documents, requesting an entry permit. This time, however – only three months after the previous permit was issued – he was informed that he is “prevented on security grounds” from entering Israel. After PHR-Israel intervened, the GSS permitted Y.A. to enter Israel, conditional on his being accompanied by armed guards. PHR-Israel had a similar experience with an AIDS patient from the Gaza Strip. The GSS firmly opposed allowing the man to enter Israel for medical treatment, and he is currently not receiving any treatment.

The reason for the collective punishment inherent in the “risk groups” system is that the GSS is either unwilling or unable to invest personnel resources in examining each applicant on an individual basis. Accordingly, many applications are rejected out of hand, without any real individual examination. The applicant for a permit is never informed of the reason why they are prevented from entering Israel, and the decision is not documented in writing in a manner enabling an appeal to be filed. Moreover, many Palestinians are unaware of the possibility of appealing against these

⁶ Filed by the Access association on behalf of students of occupational therapy from the Gaza Strip seeking to study at a university in Bethlehem.

generalized security criteria, and since they did not receive a written response, the appeals procedure is particularly difficult.⁷

In addition to the generalized denial of entry to Israel on the basis of what the GSS defines as risk factors, it also effectively argues that every Palestinian is potentially “prevented on security grounds,” since:⁸

- A. “The past does not predict the future” – the fact that there is no current and concrete security information regarding an individual cannot, in itself, predict that he will not pose a threat to state security in the future.”
- B. “The threat to the security of the State of Israel may emerge and materialize at any point, without prior warning.”
- C. “There is a preference for using persons regarding whom the terror organization believes that Israel has no security information.”

Thus the denial of entry constitutes an arbitrary instrument of oppression and control as if by divine intervention.

Health as a Hostage

Applications by Patients

Palestinian patients undergoing medical treatment in Israel are clearly the group that is in the greatest need of entry permits. For some patients, their categorization as “prevented on security grounds” and the denial of their right to enter Israel constitutes nothing less than a death sentence.

Background: In the Gaza – Jericho Agreements (1994), health powers were transferred to the Palestinian Authority. Thus, the State of Israel freed itself of what had previously constituted an extremely significant financial burden. However, powers and capabilities are not synonymous. After years of occupation, and denied the opportunity to develop, the Palestinian health system has never been able to meet

⁷ The state supports this behavior on the part of the GSS. In its response to the petition filed by PHR-Israel relating to the procedure for issuing entry permits to Israel to Palestinians (HCJ 7094/05), the state refused to establish criteria and timetables for processing requests from patients who are defined as “prevented on security grounds.”

⁸ All the quotes are from the state responses to petitions against the Citizenship Law.

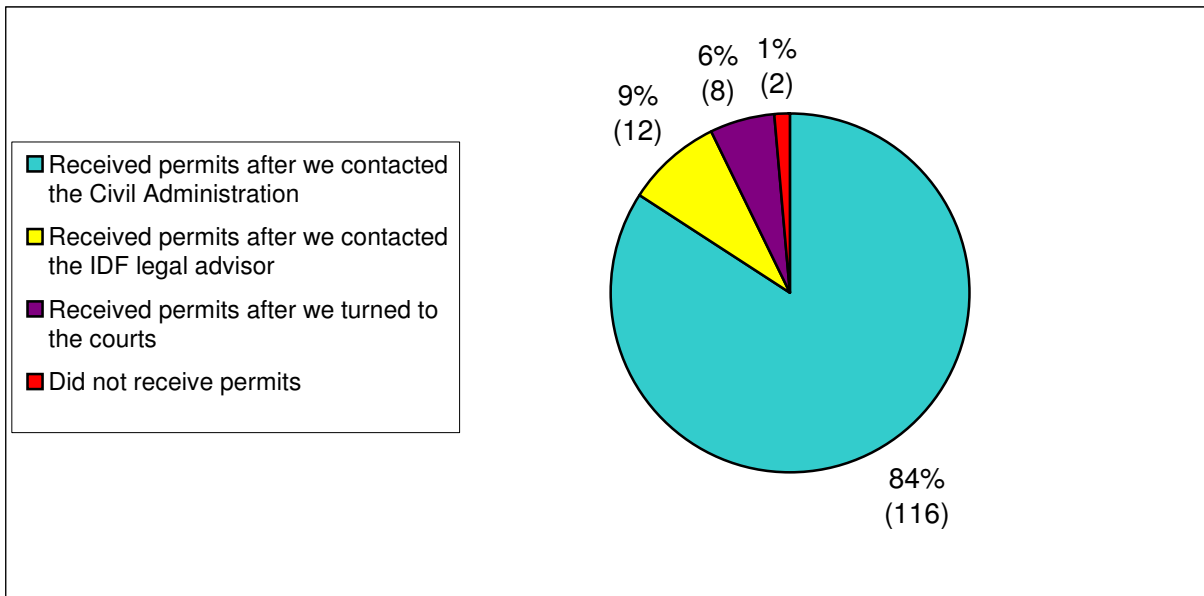
the medical needs of the Palestinian population, and numerous patients must be referred to the neighboring Arab countries and to Israel. Any such patient, however grave his or her condition, is obliged to secure an entry permit to Israel as noted above. If they wish to travel abroad, they had best first ensure that their name does not appear on the list of “prevented persons;” if it does, they will be sent back from the border crossings.

It is important to emphasize that despite the transfer of powers in the field of health from the Israeli occupation mechanisms to the Palestinian Authority, the State of Israel continues to be obliged, in accordance with international law and the conventions it has signed: to respect, protect and fulfill the right to health, i.e. to meet the medical needs of the residents of the occupied Palestinian territories. Even if Israel does not recognize this commitment on the legal level, in practice, over the years since the Oslo Accords, it has permitted the entry into Israel of numerous patients on the basis of what it terms “humanitarian considerations.” Israel does not, however, finance such treatment.

Not all patients are lucky enough to enjoy these “humanitarian considerations.” PHR-Israel receives numerous complaints each year relating to Palestinian patients from throughout the Occupied Territories who have been denied the possibility to enter Israel by the GSS, despite the fact that no treatment is available for their condition within the Palestinian health system. In some cases, these patients are offered the alternative of traveling abroad for treatment, but in others, this is also prevented.

The vast majority of these complaints are resolved following contacts between PHR-Israel and the Civil Administration and Israeli military authorities, either through correspondence or after petitions are filed at the courts. The data and cases presented below reflect the arbitrary nature of the “security prevention” – something that is not denied by the security services themselves, and indeed constitutes part of their declared working assumptions.

The following chart shows the outcome of intervention by PHR-Israel on behalf of patients from the West Bank denied entry to Israel and/or travel abroad (2005) –



S.R., a 35-year old resident of Ramallah, suffers from heart problems and requires a special form of catheterization that is not available in the Palestinian Authority areas. Accordingly, in mid-2005, S.R. sought to travel to Jordan in order to undergo the treatment. On arriving at the border crossing, he was informed that he was “prevented on security grounds,” and could not cross to Jordan. S. decided to attempt to undergo treatment in Israel. We contacted the Civil Administration on his behalf, and, to our surprise, he received a permit. He was examined in Israel and a date was set for the operation. Before the operation, we again contacted the Civil Administration to receive a permit. This time, however, we were informed that S. was “prevented on security grounds” from receiving a permit. As an alternative, the Civil Administration proposed that he undergo the treatment in Jordan, as he originally requested. On March 17, 2006, some ten months after first attempting to cross the border, S. entered Jordan and was admitted to hospital.

Extortion of Patients

Palestinian patients who are referred for medical treatment in Israel, and particularly severely ill patients, are an easy target for exploitation. Thus, for example, there are cases when the weakness and desperation of Palestinian patient have been exploited in order to recruit them to commit attacks within Israel. The GSS also takes advantage of this situation in order to recruit collaborators and extort information.

On June 20, 2006, Wafa Al-Bis arrived at Erez Checkpoint bearing an entry permit to Israel for the purpose of undergoing medical treatment. Wafa was injured in the past in an explosion of gas balloons, sustained severe burns, and underwent treatment at Soroka Hospital in Beersheva. Immediately on arriving at the checkpoint, and following the regular security checks, she was

detained. During an examination, she was found to be carrying an explosive device. In interviews held with her during her detention, she stated that the Al-Aqsa Martyrs' Brigade of Fatah sent her to commit a terror attack. The same day, PHR-Israel published a statement condemning the attempt by the organizations to exploit patients and recruit them to conduct attacks.

M.R., a 39-year old resident from the Tulkarem area, suffers from heart disease. At the beginning of January 2005, he was referred for an operation in Jordan, but the GSS blocked his departure, claiming that he was "prevented on security grounds." He was informed that he should contact the GSS officer at the DCO in his area of residence, and he did so. In the meeting, the officer stated that the security services were willing to provide all the medical treatment he required in Israel, in addition to a "special benefit package" including an Israeli identity card, in return for his collaboration and for turning in his two brothers, who are wanted by Israel. After M.R. resolutely declined to accept this offer, the officer promised that he would never receive the medical treatment he required.

PHR-Israel contacted the security bodies, and, a month later, we were informed that M.R. could cross the border, as he indeed did.

After the attempted suicide attack by Wafa Al-Bis, Israeli military sources expressed their revulsion that the Palestinians "make Palestinian patients carry the burden of terror and abuse our desire to help."⁹ This would be more convincing, however, if the same sources also criticized GSS policy in this context.

PHR-Israel emphasizes that the commitment to protect "the wounded and sick, as well as the infirm, and expectant mothers" (Fourth Geneva Convention, Article 16) applies to both sides in the conflict. The same is true of the commitment that "Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict" (Article 18 of the Convention). Palestinian society also bears responsibility for ensuring that patients are kept out of the conflict, and in no circumstances should elements within Palestinian society exploit their distress. (*From PHR-Israel's press release following the incident at the Erez Checkpoint*).

In addition to using permits as a "reward" for collaborators, the GSS also attempts to tempt Palestinians to come to checkpoints or DCOs for permits so that they can be interrogated. This has become a vital tool for the GSS following the Disengagement, as the security forces are now less able to collect information relating to the residents of the Gaza Strip.

⁹ Col. Avi Levy, in the Ma'ariv website: <http://www.nrg.co.il/online/1/ART/948/231.html>.

Mahmoud F., aged 17, was injured in the stomach in December 2004. He underwent treatment at Tel Hashomer Hospital and spent approximately one month in hospital. A tube was inserted in his stomach to drain excretions, and he was obliged to use a wheelchair. On September 18, 2005, a further operation was scheduled at Tel Hashomer Hospital. In a telephone conversation, IDF representatives at the Erez Checkpoint informed a PHR-Israel staff member that a permit had been issued for Mahmoud. On arriving at the checkpoint on the day of the operation, Mahmoud was taken for interrogation by the GSS and asked questions about the activities and political contacts of his uncle, Maher. At the end of the interrogation, and despite his urgent medical condition, the interrogators ordered Mahmoud to return home and come back with better answers than those he had given during his interrogation. PHR-Israel contacted the Prime Minister's Office, to which the GSS is accountable, and asked that the case be investigated. We were informed that it had been decided to prevent M.F. from entering Israel "due to fear of harm to state security." A new date for the operation was set for December 2005, and, of course, after numerous requests including threatening to turn to court M. was then permitted to enter Israel. In the meantime, however, the patient lost hope and traveled to Egypt.¹⁰

The Role of the High Court

Turning to the High Court is the last option available in advocacy efforts on behalf of Palestinian patients who are "prevented on security grounds" from receiving medical treatment in Israel. Most of the petitions filed on behalf of these patients by PHR-Israel become obsolescent before they are heard by the court, after the State Attorney's Office announces that on an "ex gratia" basis it has been decided to allow the patient to enter Israel. Thus, after the state has insisted (sometimes for weeks) that the patient poses a "threat to state security," (a period that can only cause harm to the patient), this claim suddenly disappears.

However, in cases when the state does not cancel its refusal and petitions come before the High Court justices, these are invariably rejected. In general terms, the hearings in the High Court proceed as follows. After PHR-Israel makes its claims, the state asks to present the justices with the "security information" they hold regarding the patient. They request to do so "in camera" – i.e., without its being exposed to the appellant or his/her counsel, and without the opportunity to refute or appeal against this information. Accordingly, counsel for PHR-Israel is requested to leave the chamber.

¹⁰ See appendix 1

On returning, the justices announce that they “have been convinced by the gravity of the security evidence,” and advises that the petition be withdrawn (in simple terms – the petition is rejected).

In some cases, the ramification of the rejection of the petition is a death sentence.

Conclusion and Recommendations

The granting of permits and the denial of permits are actually two sides of the same coin – a coin of oppression and control. The fact that the GSS, due to the nature of its task, enjoys anonymity means that this control is infinite in nature, and even the High Court is unwilling to set limits.

At the same time, it is difficult to scrutinize the work of the GSS. The classified nature of the information involved means that such scrutiny must rely on a mixture of hypotheses, assumptions, rumors, and such like. The situation is particularly difficult when the body scrutinizing the actions of the GSS seeks to prove that the GSS applies a particular policy that is improper (as opposed to scandalous incidents that can easily be proved, such as the “Bus 300 Affair”) Despite these difficulties, successes are sometimes achieved. In 1999, for example, a petition by the Public Committee Against Torture in Israel and other bodies resulted in the removal of several interrogation methods from the arsenal available to the GSS and the police.

Depriving patients of medical treatment is also a form of torture,¹¹ and indeed is a form of torture that can sometimes lead to death. However, while torture has been outlawed in official Israeli prisons, in the unofficial prisons created by the Israeli occupation in the West Bank and the Gaza Strip, its uses continues. Even if someone were to believe that Israel bears no legal obligation to enable Palestinian civilians to receive medical treatment in Israel (a position we reject), the abuse of these patients

¹¹ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines “torture” as follows: “[An] 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...” (Part I, Article 1).

by the GSS for its own needs, while endangering their lives, is completely unacceptable.

This report is no more than a small step toward outlawing this form of torture. In our opinion, the following steps must be taken in order to complete the process:

- An application from a patient shall not be rejected because their name appears on the “list of prevented persons.” Each application will be examined individually.
- The GSS will no longer enjoy a veto regarding the entry into Israel of Palestinian patients. The final decision will rest with professional medical authorities.
- The conditioning of medical treatment on collaboration and extortion will be outlawed.
- An external review system will examine the working methods used by the GSS. The GSS should be subject to scrutiny, just like any other public body.
- Above all and first of all: **Clear and grounded procedures must be published regulating the classification of individuals as “prevented on security grounds,” the cancellation of this status, and the sanctions imposed on those bearing this status.**