



המרכז להגנת הפרט
HAMOKED Center for the Defence of the Individual
هموكيد - مركز الدفاع عن الفرد

רופאים לזכויות אדם - ישראל (ע"ר)
أطباء لحقوق الإنسان-إسرائيل
Physicians For Human Rights - Israel



ג'ישה - מרכז לשמירה על הזכות לנוע (ע"ר)
Gisha - Legal Center for Freedom of Movement
مسلك - مركز للدفاع عن حرية الحركة

Date: September 17, 2009

No.: 10008

To: Col. Moshe Levi
Commander of the Gaza Strip District
Coordination Office
By Fax: 08-6741625

To: Maj.-Gen. (res.) Amos Gilad
Acting Coordinator of Government
Activities in the Territories
By Fax: 03-6796306

Dear Sirs,

RE: The Gaza DCO's Notice that It is Cutting Contacts with
Human Rights Organizations

Reference: DCO 192690 of September 13, 2009 (received on September 14, 2009)

1. We hereby write to you on behalf of 8 human rights organizations in response to the letter referenced above that was sent to Physicians for Human Rights – Israel, Gisha – Legal Center for Freedom of Movement, and HaMoked: Center for the Defense of the Individual.

A copy of Col. Levi's letter of September 13, 2009, is attached and marked "A."

2. Your letter may bear the title "procedure for dealing with applications," but in reality no procedure whatsoever is referred to. Rather, the letter serves as notice that the Gaza District Coordination Office (DCO) refuses to respond to applications from human rights organizations and Israeli lawyers. This effectively negates Palestinian residents' right to representation and obstructs the avenues open to them for appealing decisions by security officials or even knowing what those decisions might be.
3. As you are undoubtedly aware, one of the fundamental cornerstones of human rights protection is the existence of active and effective human rights organizations. It is clearly within the interest of the State and the public to facilitate their unencumbered activity and promotion. Therefore, **the DCO's notice that it is cutting contacts with human rights organizations is outrageous and intolerable.**
4. The Supreme Court has on numerous occasions praised the important work of Israeli human rights organizations in promoting the rights of Palestinian residents and the proper functioning of government authorities in Israel. For example, as Justice Rubinstein stated: "Such a dialogue between an organization involved with human rights and government bodies, through the State Attorney's Office's High Court Petition Department – even in circumstances such as these – is part and parcel of a law-abiding state, of a

Jewish and democratic state” (HCJ 4175/08 *Muhammed v. The Commander of Military Forces in the West Bank*).

5. As a government body, especially as one that is entrusted with the protection of the rights of the Palestinian residents of the Gaza Strip, it would have been more appropriate and expected that the DCO would take measures to promote the involvement of human rights organizations, to facilitate their activities and work in cooperation with them – and not to hinder their work and place obstacles in their way.
6. **This kind of conduct, in which a government authority attempts to impede the activities of human rights organizations, to drive them away and to make their work more difficult – to effectively “boycott” them – is characteristic of tyrannical regimes and is inconceivable in a democratic state.**
7. Moreover, instead of “serving the Palestinian population of the Gaza Strip” as stated in the letter, you are slamming the door on the sole opportunity for representation which is open to this population. As you are aware, a Palestinian resident of the Gaza Strip has no way of approaching you directly, despite the fact that you are the only body empowered to grant his/her application.
8. Therefore, your refusal to respond to the appeals of human rights organizations and Israeli attorneys constitutes a grave humanitarian blow to the Palestinian residents of the Gaza Strip and their right to representation - those Palestinian residents towards whom your foremost duty is to take care of their welfare, relief and humanitarian needs.
9. Needless to say, the fact that you tell us to seek answers from the Palestinian Authority is absurd. We, as human rights organizations in Israel, make our applications to Israeli administrative bodies and we have no intention of complying with your illegal demands that we only contact the Palestinian Authority to receive answers.
10. Furthermore, your claim that we can refer written applications to you makes a mockery of this process, since at most you will be willing to “disclose” whether an application from the Palestinian Civil Affairs Committee has been received – and no more. And even such a written application is conditional on a document from the Palestinian Civil Affairs Committee.
11. The decisive proof that Gaza Strip residents need to be represented is the large proportion of patients – 37% on average – who are not granted an exit permit every month for medical treatment at the time prescribed for them by medical experts. This is due to your delays in responding to their applications (these figures appear extensively in the letter from Physicians for Human Rights – Israel’s letter to Col. Moshe Levi of September 7, 2009, on the matter of “Difficulties and Obstacles in the Exit of Patients for Medical Treatment via the Erez Crossing: January-August 2009”).
12. As you are aware, human rights organizations’ direct contact with DCO and officials from the office of the Coordinator of Government Activities in the Territories (COGAT), in many cases, saves lives and resolves problems, without the need for other agencies to become involved.

13. There are many examples which show why the involvement of human rights organizations is essential even in cases where an application was sent to you via the Palestinian Civil Affairs Committee:

- **Mr. Salah Abu-Amra** – Gisha’s application to the DCO on behalf of Mr. Abu-Amra, who wished to visit his sick mother in Jordan, received no response for over two months, and unfortunately his mother passed away without him managing to see her. The organization’s request that Mr. Abu-Amra be permitted to travel to Jordan to be with his family during the period of mourning was met with a refusal by various DCO officials to talk with Gisha representatives, leading Gisha to contact the director of the High Court Department in the State Attorney’s Office -- just in order to receive a response.
- **Mrs. Lubna Risha** – Her mother died while she was still waiting for a response from the DCO to an application which she submitted via the Palestinian Civil Affairs Committee. Due to the DCO’s refusal to respond to HaMoked’s applications on her behalf, she was unable to participate in her mother’s funeral and be with her family during the mourning period. Only after HaMoked petitioned the Supreme Court on her behalf was she finally permitted to travel to the West Bank – 10 months after her mother’s passing.

It can be assumed that had the Gaza DCO responded to HaMoked’s requests in an efficient manner at the outset, it would have been possible to find a practical solution immediately, without having to bother the High Court Department’s counsel or the justices of the Supreme Court.

- **The baby Mu’tasem Billah Abu-Mastfa**– a nine-month-old baby who suffers from severe congenital heart defects, chronic breathing problems and developmental delays. He was referred to an Israeli hospital for medical treatment, but the DCO’s disregard of the application sent to it on his behalf by the Palestinian Civil Affairs Committee has prevented his passage from Gaza to Israel to get medical treatment. In light of your letter, the only option available to Physicians for Human Rights - Israel, in the absence of a response, will be to get other bodies involved in the case.

14. As is known, for many years, and up until now, you have responded directly to our applications. We have many examples that attest to this. You yourselves, both on COGAT’s website and in conversation with us, have confirmed that part of the Gaza DCO’s function is to respond to the applications of Israeli human rights organizations.

For example, on May 17, 2009, a meeting between the heads of the DCO and representatives of Physicians for Human Rights – Israel was held at your initiative. The goal of the meeting, according to Col. Levi, was to “bridge the gaps” between the DCO and the organization, “to build trust and proper working relations” between them, etc. During the meeting, Lt.-Col. Avi Biton, Head of Branch at GHQ of the DCO, stated that “we don’t prevent the treatment of a person who needs it, it makes no difference how the application gets to us.” On that same occasion, Col. Levi repeatedly stressed that he was interested in improving relations between the DCO and PHR-Israel, and that he was certain that “it is possible to resolve all of the problems through

cooperation and mutual transparency.” Col. Levi expressly requested that in any case of a problem or misunderstanding regarding exit applications for patients, PHR-Israel should contact senior DCO officials directly. He informed the organization’s executive director, Hadas Ziv, that his “line was open” for any matter that arose.

On July 6, 2009, Col. Levi called Adv. Yadin Elam, Director of Gisha’s Legal Department. During the conversation, Col. Levi said that he was interested in meeting with the organization’s representatives since he thought that there was miscommunication between them stemming partly from them and partly from Gisha itself. Col. Levi stressed that the Gaza DCO, “**exists for humanitarian reasons.**”

Similar representations were also made by representatives of the Gaza DCO and its commander during a meeting with HaMoked representatives, held on August 3, 2009.

We cannot comprehend how these statements can be considered consistent with Col. Levi’s notice of severance of communication with human rights organizations.

15. In your letter you cited HCJ 5429/07 *Physicians for Human Rights et al. v. The Minister of Defense et al.* as supporting your new policy, however this is disingenuous. The hearing on that petition took place just a few days after Hamas seized internal control of the Gaza Strip and in a situation of chaos. All that was determined in the judgment was who is authorized to submit emergency applications from patients which entail financial pledges for medical treatment. The judgment made no mention of human rights organizations not being allowed to contact you on behalf of Palestinian residents and it was also not stated that every application, of any kind, must reach you only via the Palestinian Civil Affairs Committee.
16. Your reliance on the Interim Agreement between Israel and the PLO is also surprising. Did you intend to refer to that Agreement, in which it was determined that “in order to protect the territorial continuity of the West Bank and the Gaza Strip as a single territorial unit and to promote their economic development and the demographic and geographic connections between them, the two parties will implement the provisions of this annex **to respect and preserv[e] without obstacles, normal and smooth movement of people, vehicles and goods within the West Bank, and between the West Bank and Gaza Strip**”? (Israeli-Palestinian Interim Agreement, Annex I, Article 1(2), emphasis added.) Can you enlighten us as to where it is written in that Agreement that you are not authorized to respond to the applications of Israeli human rights organizations? Can you direct us to which articles of that Agreement you consider valid and which you do not?
17. Even if we do not agree on the method by which applications from Palestinian residents are supposed to reach you, we are certain that there is no dispute between us that the authority to grant or refuse a request lies with you alone. The Palestinian Civil Affairs Committee has no authority to consider the applications and decide which to grant and which to deny. The severance of communications with human rights organizations prevents Palestinian residents of the Gaza Strip from having their claims heard by the

administrative body which is empowered to make a decision on their case and from having their humanitarian needs addressed. Therefore, we cannot sanction it.

18. Needless to say, the outcome of your decision is that we will be forced to seek out other avenues for our activities and even to bring the cases of those who request our help directly before the courts, without first engaging with the DCO, as we have been so careful to do until now.
19. We are now approaching Rosh Hashanah – the Jewish New Year, and the Muslim holiday of Eid al-Fitr. We hope that during the High Holiday period you will engage in some introspection and decide to immediately revoke your decision to obstruct the activities of human rights organizations, as would be appropriate for an administrative authority in a democratic state.

Signed,

Adv. Sari Bashi, Executive Director, Gisha - Legal Center for Freedom of Movement

Dalia Kerstein, Executive Director, HaMoked: Center for the Defence of the Individual

Hadas Ziv, Executive Director, Physicians for Human Rights - Israel

Hagai El-Ad, Executive Director, The Association for Civil Rights in Israel

Dr. Ishai Menuhin, Executive Director, Public Committee Against Torture in Israel

Yesh Din: Volunteers for Human Rights

Adv. Hassan Jabareen, General Director, Adalah: The Legal Center for Arab Minority Rights in Israel

Rabbi Arik W. Ascherman, Executive Director, Rabbis for Human Rights

Cc:

MK Ehud Barak – Minister of Defense

MK Matan Vilnai – Deputy Minister of Defense

Adv. Menachem Mazuz – Attorney-General

Adv. Moshe Lador – State Attorney

Adv. Osnat Mandel – Director of the High Court Department of the State Attorney's Office

Adv. Yuri Guy Ron – Head of the Israel Bar Association

Maj.-Gen. Yoav Galant – Commander of the IDF Southern Command

Brig.-Gen. Avichai Mandelblit – Military Advocate-General

Col. Liron Liebman – Head of the International Law Department of the Military Advocate