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Health in Annexed Jerusalem: a view into prolonged occupation praxis

The need to devote a separate discussion to the subject of Palestinians residents of East Jerusalem stems from the different attitude that Israel has adopted towards them by applying on them the status of "permanent residents" following the illegal annexation of the city in 1967. It is therefore that their right to health can be analyzed on both the local law – the National Health Insurance Law and the international provisions of the Fourth Geneva Convention regarding the occupied territories. Both hold Israel responsible for the implementation of the right to health, ensuring – among other things – full access to health services. Let us check Israel's practice on both levels.

Implementing Local Law – Based on Equality – on East Jerusalem Residents:

It is that same status, given by the State, which made East Jerusalemites vulnerable. They are dependent on the services provided by a State who – to be truthful – does not want them. During the mid-Nineties, the interior ministry – in charge of the application of residency status – and the National Insurance Institute – in charge of eligibility tests for health insurance, were implementing policy later known as the "quiet deportation". The aim: to cause Palestinians from Jerusalem to leave to the West Bank. The interest: keeping a certain Jewish majority in the city. (Israel provides health care services according to rules of eligibility that are based on residency, which for the purpose of social and economic rights is investigated by the National Insurance Institute). Investigations – dubious in nature – by either of those

institutions can lead to revocation of residency before due process. Even more disturbing was the fact that the NII withheld provision of additional social rights and services from the resident until the completion of an investigation.

This policy had a detrimental effect on all East Jerusalem residents, including children and new-born infants, who were be left without health insurance for the first year of their lives and beyond; the chronically and terminally ill; and pregnant women.

#### High Court of Justice – Limited success eroded with time:

PHR-Israel's struggled for a child's right to health demonstrates what success can be achieved and why it is so limited.

PHR-Israel uncovered the systematic negation of the right to health beyond individual cases. Direct contacts with high officials in the Ministry of Health led nowhere, though professional level clearly indicated the need for a change: In the annual report for 1997, the ombudsman for the National Health Insurance Law, Dr. Karni Rubin, stresses the threat this policy poses to the lives of the Palestinian residents of East Jerusalem. She concludes that "it is unreasonable that medical treatment is not provided until the completion of the NII investigation, and particularly so in the case of children and newborn infants," adding that "medical treatment should not be terminated or denied to people who are in need of it, and especially to critically ill patients, while an NII investigation is being conducted for the purpose of determining their right to residency, since the result of termination of treatment or its denial may be irreversible."<sup>[3]</sup> The recommendations of the

ombudsman were not implemented by the Health Ministry, being a part of the Israeli government, takes the demographic issue as its leading practical principle ignoring the East Jerusalem Palestinians rights to health.

Following an appeal to the labor court – which granted individual insurance to thirteen children, but refused to pass judgment on the policy itself – Physicians for Human Rights, appealed together with others, to the Israeli High Court of Justice demanding that the procedure be cancelled whereby minor residents of East Jerusalem – at least one of whose parents is a member of a National Health Fund and an identity-card-bearing resident of Israel – must undergo prolonged bureaucratic procedures in order to receive health care services. The ruling did not ensure full equality, but rather presented a shortened procedure to enable the quick inclusion of those children in the health insurance registry. This bureaucratic arrangement eased the situation, and lulled the human right community to sleep: we thought all is fine. However, the political system has its way in re-introducing old policies, and thus, the NII narrowed the procedures to new-born only, and demanded the parents to register them with the interior ministry within a certain period from birth. Failure to do so caused in many cases the revocation of the health insurance. And so, even if we are not back to square one, we are extremely far from true equality. The legal system cannot and will not go beyond the will of its government and the "public opinion".

Implementing International Law: Ensuring Access to Health Care:

On August 26<sup>th</sup>, 2007, Physicians for Human Rights-Israel, the Palestinian Medical Relief Society, and the Town Council of Azariya petitioned the High Court of Justice in a request to order the state to implement the Israeli army's own regulations, according to which Palestinian patients in emergency medical condition arriving at checkpoints must be permitted immediate passage even into Israel itself (green line).

The petition was submitted following a report by PHR, which examined the passage of Palestinian Red Crescent ambulances to advanced Palestinian hospitals in East Jerusalem. The report showed that in at least 73% of cases (according to Civil Administration figures for 2007) the entrance of Red Crescent ambulances into East Jerusalem was not permitted. In most cases, the army and Civil Administration demand the transfer of the patient to an ambulance with Israeli license before entry, a process which causes delays of between one and six hours. In other cases, ambulances are even turned back without evacuating the patient (on average, in 2007, this occurred twice a week).

In a memorandum of understandings signed between Magen David Adom and the Palestinian Red Crescent in November 2005, which paved the way for the organizations' joining the International Committee of the Red Cross, it is stressed that the free operation of the Palestinian Red Crescent would be assured according to the rules of the Fourth Geneva Convention in the territories occupied in 1967, including, of course, East Jerusalem. That activity includes regulating the entrance of

urgent medical cases to receive emergency care that does not exist in the West Bank.

In contradiction to the memorandum the court ruled as if one discusses an entry of a Palestinian into Israel not taking into consideration East Jerusalem's special status. It therefore decided that (our translation) "the arrangements and procedures relating to the entry of Ambulances and patients from the areas of Judea and Samaria in to the territory of the State of Israel stem from the balance made between the medical needs and the security considerations. The concern raised by security authorities is that some may use humanitarian considerations for terror acts. Therefore it is clear that there is a necessity to establish mechanisms of supervision and control on the entry of patients and ambulances from the area of Judea and Samaria into the territory of the State of Israel."

It is clear that Jerusalem, because it was officially annexed can offer us a view into the future of the West Bank under prolonged occupation. Because if Israel did not implement local law and equality on residents it was willing to "swallow" when it wanted the land, then it will certainly offer no equality to the residents of a territory it continues to occupy. It is the time to discuss the true nature of prolonged occupation and structural discrimination.