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COVID-19 pandemic: Vulnerable population groups in the occupied Palestinian territory and the legal duty to apply 'all necessary preventative means available'

31st March 2020

While many parts of the world transition to mandatory lockdown, Palestinians in the occupied Palestinian territory face uncertainty about how they will be protected from the spread of COVID-19. This blog will focus on the circumstances of three particularly vulnerable population groups: i) the population of Gaza, ii) child and adult detainees in Israeli prisons and detention facilities, and iii) families and individuals displaced by home demolitions.

On 19 March 2020, the UN Office of the High Commissioner for Human Rights [released a statement](#) on Israel's legal duty, as the occupying power, to ensure that Palestinians are protected as far as possible from the spread of COVID-19. UN Special Rapporteur Michael Lynk asserted, "*The legal duty, anchored in Article 56 of the Fourth Geneva Convention, requires that Israel, the occupying power, must ensure that all the necessary preventive means available to it are utilised to combat the spread of contagious diseases and epidemics.*" We note that an equivalent obligation applies to all duty-bearers in the occupied Palestinian territory, including the Palestinian Authority and Hamas, under international human rights law (see further below).

The speed and effectiveness of measures taken by responsible authorities, in accordance with their international legal responsibilities, to combat the spread of COVID-19 will have paramount importance for all Palestinians living in the occupied Palestinian territory. With this in mind, let's briefly examine the circumstances of the three aforementioned vulnerable population groups.

Gaza

The year 2020 has always been an important landmark year in respect of Gaza, because of analysis and predictions made in the preceding years by the United Nations. The UN Country Team produced a report in 2012 on living conditions in Gaza, predicting that it was on track to become 'unliveable' by 2020. In a July 2017 report '[Gaza: Ten Years Later](#)', the UN Coordinator for Humanitarian Aid and Development Activities in the occupied Palestinian territory, Robert Piper, suggested that for most people in Gaza, the 'unliveability' threshold had already been passed. To explain the scale of the humanitarian crisis: [97% of the water in Gaza](#) is unfit for human consumption. Put frankly, the addition of a pandemic disease could arguably not come at a worse time for an already struggling population living under an enforced closure policy implemented by successive Israeli governments. As [UNWRA has described](#) with apparent concern, Gaza, with a population of two million people, is '*one of the most densely populated areas in the world*'.

Supplementing this concern, and after noting that the first two cases of COVID-19 had been reported on 22 March 2020, two Israeli doctors who volunteer for Physicians for Human Rights Israel commented: "*Gaza's [high population density](#), with nearly two million people in 360 square metres, combined with the fact that nearly 40% of the population lives in poverty, means that it is unclear how strictly people will be able to abide by isolation regulations. A vendor on a subsistence salary is now put in an impossible situation and must choose between potentially infecting tens of people or ensuring that his family has enough to eat for the next few days.*"

[B'Tselem on 23 March 2020](#) reported, "*the healthcare system in the Gaza Strip was already on the brink of collapse, even before receiving its first COVID-19 patient. Already, it cannot meet the population's needs due to an acute shortage of medicine, equipment, doctors and professional training.*" Key to the effective treatment of those who develop severe respiratory illness as a result of contracting the virus, is the availability of ventilators. LPHR is extremely concerned that the lack of adequate resources within Gaza mean that it is ill-prepared to deal with the fallout of an outbreak.

The poor state of the medical infrastructure in Gaza is a direct result of a combination of two incredibly important realities. First, severe damage has been caused to infrastructure within Gaza as a result of the 2014 offensive, as well as two prior large-scale military offensives in 2008/09 and 2012. Secondly, this situation has been compounded by the inability to repair, restore or develop such vital public infrastructure because of the consequences of the [illegal closure of Gaza](#), which has been in place for over a decade. This closure was consolidated by the introduction of the Gaza Reconstruction Mechanism in September 2014, which has had the effect of legitimising the onerous restriction of necessary building materials into Gaza, with a [direct impact](#) on the pace and availability of essential public infrastructure such as [water desalination plants](#), [sewage treatment plants](#) and [Gaza's sole power plant](#).

Against this backdrop, LPHR takes note of Special Rapporteur Lynk stating on 19 March, "*Gaza's population is also a physically more vulnerable population, with malnutrition on*

the rise, poorly controlled non-communicable diseases, dense living and housing conditions, an elderly population without access to proper nursing care and high smoking rates". At the time of writing, in the UK, approximately 1.5 million people have been identified as vulnerable and have been ordered to remain inside for 12 weeks. In Gaza, the entire population of approximately 2 million is effectively vulnerable. If COVID-19 continues to spread in the Gaza Strip, the consequences are likely to be catastrophic.

Child and adult detainees in Israeli prisons and detention facilities

It is important to consider the threat of COVID-19 to Palestinian children and adults in Israeli detention. On 23 March 2020, [Addameer](#) reported being informed of a Palestinian detainee who may have been exposed to COVID-19 after being under interrogation by an Israeli Security Agency interrogator who tested positive for the coronavirus at Petah Tikva. Addameer says the detainee was transferred to two interrogations centres and then to al-Ramleh Prison Clinic where he and several other detainees *"have now been placed in quarantine."*

The effect of COVID-19 on the military court system in the occupied Palestinian territory is worrying. [Military Court Watch](#) reported on 23 March 2020, *"Anecdotal evidence suggests hearings at Ofer military court have now fallen from about 200 cases per day to around 15 cases. Cases are generally limited to remand hearings which are conducted by video link with most hearings being adjourned until the end of April or May. Prison visits for family members, lawyers and social workers have also been suspended."*

This raises urgent questions whether Palestinian children and adults held in remand under Israel's military court system are being unlawfully denied basic due process rights including their right of habeas corpus, access to a lawyer, a fair trial, sanitary and hygienic conditions in prison and access to other basic human rights for detainees. We endorse [Special Rapporteur Michael Lynk's view](#) that significant restrictions can only be supported "if they interfere as little as possible with human rights during this emergency".

Within the Israeli military court system, many children and adults other undergo lengthy periods of pre-trial detention. LPHR takes the view, supported by the UN Working Group on Arbitrary Detention, that Israel's military court system operates in fundamental incompatibility with basic due process rights because they should never be used to try civilians. Given this and the dangers inherent in detaining a large number of people in close proximity with each other, we urge that steps should be taken as a matter of urgency to limit the number of those in detention. Consistent with this position, we note that just today the prisoner rights organisation, Addameer, has launched an urgent [campaign](#) to "free all Palestinian prisoners in order to protect them from COVID-19, particularly in light of the increased restrictions on their rights by the Israeli Prison Service". In addition, Defence for Children International-Palestine has also just launched a [petition](#) demanding Israeli authorities to "take immediate action to release all Palestinian child detainees in Israeli prisons due to the rapid global spread of the COVID-19 virus".

Against this context, LPHR notes with interest a [legal challenge](#) that took place last week within the UK, brought by the charity Detention Action relating to immigration detainees. The challenge relies upon the [expert report](#) of Professor Richard Cocker, an Emeritus Professor of Public Health at The London School of Hygiene and Tropical Medicine. Whilst this report has been prepared within the context of providing analysis relating to immigration detention centres in the UK, the following commentary is important and applicable to all detention settings, including to Palestinian child and adult detainees held under Israeli detention:

“We have seen the explosive transmission of COVID-19 in congregate settings like cruise ships. Hours matter if transmission is to be stopped. Without timely and effective containment steps, a detention centre would result in transmission and climbing of cases until a peak was reached in terms of new cases occurring on a daily basis”.

Families and individuals displaced by home demolitions

The fact that governments around the world are either heavily recommending or mandating social distancing measures including the need to ‘stay at home’, makes it all the more astonishing that between [3-16 March 2020](#), two Palestinian homes were punitively demolished, displacing six Palestinians, including a child, and a further 14 Palestinian owned structures were demolished or seized, displacing 29 people and affecting around 60 others.

Given the scale of this pandemic, and the severity of its potential consequences for each and every individual, it is extremely important to ensure that communities are supported and put in a position where they can implement as many measures as possible to protect themselves and the wider public. It is therefore inexplicable that on 26 March 2020, at a time when it would be hoped that the stark consequences of this virus would have crystallised in the minds of all decision makers around the world, that [confiscations and demolitions took place in the Khirbet Ibziq, in the Northern Jordan Valley](#). Officials from Israel’s Civil Administration in the West Bank confiscated and demolished structures which were being put in place as a temporary clinic and emergency housing for residents evacuated from their homes. A power generator was also confiscated.

The destruction of vital resources which would enable local communities to try and take preventative steps to combat the virus and treat those who have been affected is a measure of extreme cruelty. It is also contrary to Israeli’s legal obligations. [Article 12 of the International Covenant on Economic, Social and Cultural Rights](#), which Israel has ratified, requires State Parties to recognise the right of everyone to the enjoyment of an attainable standard of physical and mental health. Specifically listed as one of the steps to be taken by States Parties are those necessary for ‘*the prevention, treatment and control of epidemic, endemic, occupational and other diseases*’ (**Article 12 (2)(c)**).

Not only do these actions amount to a failure to take steps to prevent the spread of the virus, but indeed they go further and effectively are an obstruction against any steps that

are sought to be taken by communities themselves. This is a complete abrogation of responsibility and is in violation of international law.

How you can help

LPHR notes with huge respect and gratitude the work that is being done on the ground by our colleagues at Medical Aid for Palestinians (MAP) in order to respond to the COVID-19 crisis. As an organisation MAP have long been essential in supporting Gaza with medical equipment, technology and training under what have always been some of the most challenging conditions. The spread of COVID-19 only adds a further challenging dimension to an already extremely difficult landscape. Fortunately MAP have mobilised in order to assist Palestinians in the occupied Palestinian territory as well as Palestinian refugees in Lebanon. They are [currently releasing hygiene kits](#) for Palestinians quarantined in schools in Gaza. Donations can be made to the MAP COVID-19 Emergency Response appeal in order to assist these efforts [here](#).

Angelina Nicolaou, Elena Christaki-Hedrick

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(more...)

Children from Gaza receiving medical treatment whilst separated from parents due to Israel's permit regime

26th March 2020

Physicians for Human Rights Israel and the Israeli newspaper Haaretz recently reported that a 10-year-old girl from Gaza, Miral Abu Amsha, died of cancer on 28 February without having seen her father since December, after her family struggled to obtain Israeli-issued permits to accompany her to hospital. Miral's mother had also initially been denied permission to accompany Miral to hospital