These Worldly Bars

Maltreatment and Neglect at the Israel Prison Service Medical Center

March 2002
“This isn’t a place where you come to get better. It’s a place where you come to die slowly.”

M.D., a prisoner hospitalized in the Israel Prison Service Medical Center, in testimony to Attorney Rabi’a Jabali.
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Introduction

In January 1997, Physicians for Human Rights – Israel (PHR–Israel) contacted the Commissioner of the Israel Prison Service (IPS) and requested that its representatives be permitted to visit the Medical Center of the IPS. This request was submitted after Physicians for Human Rights – Israel (PHR–Israel) had received numerous complaints from prisoners who received treatment at the Medical Center. The complaints raised grave fears of the infringement of the patients’ rights, both regarding the standard of medical care and their conditions of incarceration. It also emerged that there was no independent review body charged with monitoring the work of the Medical Center.

After protracted correspondence with the IPS Commissioner (Commissioner Amos Azani, and later Commissioner Orit Adetto), and with Minister of Internal Security Shlomo Ben Ami, we were eventually informed that the request that PHR–Israel physicians be permitted to visit the Medical Center had been denied. The letter noted the following reasons for this decision:

1. An association does not enjoy legal status requiring it to be permitted to enter the prison.
2. The prisoners in the IPS receive consistent, diligent and professional treatment by IPS physicians and civilians.
3. There is currently no prisoner in the IPS whose life is threatened by his continued imprisonment.\(^1\)

This report will relate primarily to claims 2) and 3) as raised in the above letter.

After receiving this negative response, PHR–ISRAEL decided to send attorneys to visit the Medical Center, (since the entry of attorneys is permitted by law, in order to meet with prisoners who had submitted complaints and collect affidavits). We decided to focus our efforts on the Medical Center, rather than on other IPS prisons, both because of the large number of complaints received and because the Medical Center is a medical institution in its essence, even – as the IPS claims – if not by formal definition.

\(^1\) Letter to PHR–ISRAEL from Micha Pitro, Secretary and Adviser to the Minister of Internal Security, dated September 5, 1999.
Failure to provide proper medical treatment in a prison constitutes a grave infringement both of the rules of medical ethics and of human rights enshrined in law, and all the more so when this takes place in the Medical Center, to which prisoners (who are naturally unable to choose their medical care providers) are referred by physicians with the express purpose of receiving medical attention.

Accordingly, this report is based on information obtained from the prisoners by attorneys, and on the impressions of PHR–ISRAEL physicians, who have examined some of the prisoners currently or formerly held in the Medical Center. Neither the attorneys nor the physicians were allowed to visit the prisoners in their cells, and they were therefore unable to examine their living conditions at first hand. This report also draws on material forwarded by the relatives of prisoners, and on information collected from medical files and from protracted correspondence with the senior staff at the Medical Center. In a significant number of cases, the affidavits led PHR–ISRAEL to contact the Medical Department of the IPS, demanding that the sick prisoner receive medical treatment and appropriate attention. PHR–ISRAEL physicians reviewed the medical files of prisoners held at the Medical Center; in some cases, a PHR–ISRAEL physician was sent to examine the prisoner. The report also reflects data accrued during the course of this process.

As our work on this subject progressed, the staff of the Medical Center placed increasing pressure on prisoners who had filed complaints; some even reported that they had been harassed. The names of several prisoners do not appear in full in this report, both in order to protect privacy and due to the fear that the Medical Center will continue, or even exacerbate, its harassment of those who dared to file complaints.

The findings detailed in this report paint an unflattering picture of a medical institution that operates without supervision or independent and external monitoring. Even when monitoring is undertaken by the Ministry of Health, this does not take place on a statutory basis. We encountered numerous cases of inappropriate medical treatment; delays in treatment and operations; disrespectful and inhumane behavior; blatant intervention in treatment by non-medical personnel; appalling sanitary conditions and accommodation inappropriate for any person (and particularly in an institution that claims to provide hospitalization); defects in the transfer of patients to external hospitals; neglect of patients requiring nursing or rehabilitation services (for whom we do not believe the Medical Center is appropriate); threats against prisoners who file complaints; and a number of fatalities (which, the prisoners claim, are no more
than the tip of the iceberg). In the broader context, we believe that Assaf Harofeh Hospital, which provides services for the Medical Center, neglects its obligation to protest in cases when patients are not promptly referred for treatment, and that physicians at the hospital are insufficiently forceful in protecting the rights of the prisoners they treat.
The Right to Receive Medical Care

The right to receive medical care is enshrined in both Israeli and international law. In Israel, the *Basic Law: Human Dignity and Liberty* (1992) has constitutional status, and serves as a basis for the protection of human rights. No-one would deny that “human dignity is impaired if the life or well-being (physical or mental) of the individual are impaire,” and that “humiliating conditions of incarceration are damaging to human dignity.”

The *National Health Insurance Law* (1995) guarantees the right of all residents of Israel to medical treatment, both physical and mental. However, the founding principles of this law stipulate that a resident is eligible for medical services in accordance with the law “unless he is eligible therefore in accordance with another act of legislation.” The legal adviser of the IPS informed PHR–ISRAEL that, on the basis of this clause, the Ministry of Health has determined that the National Health Insurance Law does not apply to prisoners, since the Prison Ordinance constitutes “another act of legislation.” The adviser states that the IPS provides prisoners with “medical services in accordance with the healthcare services [provided by] ‘Klalit’ Sick Fund.”

In 1996, the National Health Insurance Law was supplemented by the Patients Rights Law, in which the legislature emphasizes the right of all individuals to medical treatment. Unlike the National Health Insurance Law, which excludes prisoners from its sphere of applicability – the Patients Rights Law emphasizes its applicability to the State of Israel (Article 30). Article 27(A), which details the legal provisions regarding the security forces, emphasizes that the medical system of the Israel Police and of the Medical Department of the IPS are considered a “medical institution” for all matters relating to this law. Accordingly, these facilities are obliged to assist patients to realize their right to obtain a second opinion, to maintain

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4 Letter from Attorney Nava Maimon, Assistant Legal Adviser, Office of the Legal Adviser to the Israel Prison Service, to PHR–ISRAEL dated October 23, 2001. ‘Klalit’ Sick Fund is the largest of the HMOs providing medical services for Israeli residents in accordance with the National Health Insurance Law (*trans.*).
5 *Patients Rights Law, 5756-1996*: “Its purpose is to establish the human rights of a person requesting medical treatment or receiving medical treatment, and to protect his dignity and privacy.”
6 *Patients Rights Law, 1996.*
the dignity and privacy of the patient during all stages of medical care, etc. In addition to medical care, the rights of people in custody are protected in the Criminal Code Regulations (Enforcement Authorities – Detention) (Conditions of Detention), 5757-1997 and in the Prisons Regulations, 5738-1978, which mandate appropriate conditions of imprisonment and living conditions.

The fact that prisoners are eligible to treatment in accordance with another act of legislation cannot, PHR–ISRAEL believes, be used as a pretext for their discrimination. The state’s responsibility for these citizens is in fact intensified by the fact that they are held in its custody, and the state has a clear obligation to provide them with proper medical care. Moreover, the IPS states that its objectives include treating prisoners in order to enable their rehabilitation and reintegration in society after completion of their sentence. This approach is enshrined in international conventions to which Israel is party, and in additional international instruments. The United Nations’ Universal Declaration on Human Rights (1948) guarantees the right of every human “to a decent standard of life, to their health and welfare and that of their family, including… medical treatment.”

The Standard Minimum Rules for the Treatment of Prisoners, adopted by the United Nations in 1955, plays a central role in establishing the proper conditions and treatment of persons in custody; these standards constitute a minimum level to which all the nations of the world are obliged. Among other provisions, the rules establish that all imprisoned people must have access to the health services situated in the same country, and that the health services in the imprisoning institution must aim to locate and treat physical and mental diseases and disorders liable to present an obstacle to the prisoner’s rehabilitation. Israel is also party to the Convention on Economic, Social and Cultural Rights (1966). The official interpretation of the UN committee for this convention notes that prisoners are one of the groups toward which the state bears a unique legal obligation, beyond its obligations toward the population in general, and emphasizes the state’s obligation to avoid restricting

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7 Article 25. This Declaration does not have binding legal force, but it constitutes a normative foundation accepted by the nations of the world.
8 Standard Minimum Rules for the Treatment of Prisoners (adapted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, 30 August 1955; approved by UN Economic and Social Council resolution 663 c (XXIV) and amended by Economic and Social Council resolution 2076 (LXII)
9 Article 24.
or preventing free access by prisoners to preventative, curative and palliative medical services.\textsuperscript{10}

**The Medical Center of the Israel Prison Service**

“Every prisoner arriving at the diagnostic and classification centers of the Israel Prison Service (IPS) undergoes a general medical examination, following which records are made of his general physical condition, medical problems, treatment thereof, and scheduling of an appointment for the implementation of urgent surgery, as necessary.

In prison, the prisoner receives regular medical care from a general physician and a dentist through the clinic of the facility. Prisoners are referred to external hospitals as necessary.

In the Central Block, adjacent to Ayalon Prison, a Central Hospital is operated, associated with a number of civilian medical centers that assist it in the services of specialist physicians.”\textsuperscript{11}

The Medical Center forms part of the medical service in the IPS, which is in turn part of the Prisoner Treatment and Rehabilitation Authority, accountable directly to the Deputy Commissioner of the IPS. The medical service includes 17 general clinics, situated in all the prisons – 16 prison facilities and one Medical Center. As of December 2000, this system serves approximately 9,400 imprisoned persons (including 1,300 detainees). Only adult men are hospitalized at the Medical Center. After the opening of the Body and Mind Center (“Magen”) in September 2001, the Medical Center became part of the new center, while remaining in its existing building.

**The Medical Services at the IPS Medical Center**
The IPS Medical Center includes an in-patient ward, institutes and specialist clinics:
- The in-patient ward is divided into two sections, with a total of 114 beds. There is also a separate ward for “security” prisoners. According to the IPS internet site, a section was

\textsuperscript{10} Committee on Economic, Social and Cultural Rights, The right to the highest attainable standard of health, E/C.12/2000/4, CESCR General Comment 14.

recently established for TB patients, “with unique ventilation preventing infection.”\textsuperscript{12}

- Institutes: Three institutes operate within the IPS Medical Center: A dialysis institute, operated by a franchise company; an x-ray institute, operated with the approval of the Ministry of Health; and a physiotherapy institute, operated by authorized physiotherapists from Assaf Harofeh Hospital.\textsuperscript{13}
- Specialist clinics: The following specialist clinics operate at the IPS Medical Center: ENT, internal medicine, nephrology, surgery, urology, neurology, skin and STD, orthopedics, optometrics, lungs/TB. These clinics are operated by physicians from Assaf Harofeh Hospital.

In addition, a surgery theater formerly operated at the IPS Medical Center, with physicians from Assaf Harofeh Hospital. The activities of the operating theater were discontinued in mid-1999.\textsuperscript{14}

Each ward includes a manager, physician, two medics, a security officer and roster officers, whose function is to ensure security but who are also trained medics. A roster physician from a different prison is in attendance at the Medical Center each night. This physician is responsible not only for the Medical Center but also for the entire Ayalon Prison, which includes Neve Tirzah Prison, Ma’asiyahu Prison, Nitzan Prison and Ayalon Prison, and also serves the staff.

#### Medical Personnel at the IPS Medical Center

The Medical Center has staffing positions for four general physicians, an internal physician, an x-ray physician, 26 medics and nurses, three laboratory workers, a dentist and an x-ray technician. In addition, the Medical Center is allocated two and a half staffing positions intended for specialist physicians from Assaf Harofeh Hospital who see patients at the regular specialist clinic at the Medical Center.

\textsuperscript{12} \url{http://www.ips.gov.il}
\textsuperscript{13} Letter to PHR-Israel from Dr. Adler, head of the IPS Medical Department, dated August 5, 2001.
\textsuperscript{14} We were informed of this fact by a prisoner-patient, Avraham Levy. His comment was later confirmed in a telephone conversation with the director of Assaf Harofeh, Dr. Davidson, who noted that the IPS lacked the budget to repair the CT equipment.
All the medical personnel are employed by the IPS, with the exception of the physiotherapists, who are employed on a freelance basis.\textsuperscript{15}

**Admittance to the IPS Medical Center**

The IPS has not defined a list of conditions requiring the prison authorities to refer prisoners to the IPS Medical Center. Each case is determined on an individual basis.

According to Dr. Alex Adler, Head of the IPS Medical Department:

“Admittance to the Medical Center is decided upon by the Head of the IPS Medical Department according to the state of health of a specific prisoner, or alternately as instructed by the court […] In any case where medical treatment is required that is not provided / not among the available options at the Medical Center, the prisoner is transferred to an external hospital.”\textsuperscript{16}

**Infringements of the Rights of Sick Prisoners**

A. **Delays and Neglect in Provision of Medical Care**

Many patients complained that physicians adopted an inappropriate attitude toward them, and ignored and neglected their medical care. In many cases, it was reported, even after they had been diagnosed and the necessary treatment prescribed, long delays occurred in the actual provision of this treatment, leading to a further decline in their condition. In addition, many patients complained of a lack of coordination between treatment at the Medical Center and the recommendations of specialists at external hospitals at which they had received treatment. Visits by physicians from PHR-Israel to some of the prisoners, and discussions with the prisoners, reveal that they are not kept informed of their condition or their course of treatment. Their uncertainty leads to psychological distress, while their dissatisfaction with their medical care sometimes leads them to cease to cooperate with medical personnel.

In addition, many patients complained that non-medical personnel, particularly security personnel, intervened in their treatment,

\textsuperscript{15} Letter to PHR-Israel from Deputy Commissioner Orit Messer-Harel, IPS Spokesperson and Freedom of Information Officer, dated October 23, 2001.

\textsuperscript{16} Head of the IPS Medical Department, Deputy Commissioner Dr. Alex Adler, in a letter to Dr. Berlowitz, Acting Associate Director-General, Ministry of Health, July 5, 2001.
infringing privacy and medical confidentiality. Appalling sanitary conditions and an inability to maintain personal hygiene further impaired the efficacy of medical care. Patients requiring nursing suffered in particular from this neglect, since they are unable to bathe or change diapers or clothes.

Prisoners who were transferred urgently to external hospitals reported severe defects in this process. In some cases, they were transferred in vans, rather than in an ambulance as their condition warranted. In other cases, ambulances were delayed for extended periods at the prison gates until all the necessary authorizations were received.

1. **Inappropriate Attitude on the Part of Physicians**

The physicians make no effort to improve the conditions at the Medical Center, including filth, unsuitable and inadequate food, and inappropriate behavior by security officers – despite the evident and grave impact these conditions have on the health of prisoners at the Medical Center. Moreover, the prisoners’ comments suggest that some of the physicians at the Medical Center do not respond appropriately to patients’ complaints even when these relate specifically to their medical care. Patients sometimes have to insist repeatedly before a physician comes to examine them. In his affidavit, one prisoner complains that:

“The doctors aren’t really doctors. Basically they are wardens [...] The doctors come, look at someone who is in pain and don’t do anything [...] At the morning doctors’ round, the doctor looks at him, asks him how he is and leaves. When M. tries to talk to him, the doctor says ‘I’m familiar with your problem.’”

In his testimony to PHR-Israel, A. stated:

“I had a stroke. They called a medic and took me to the treatment room. The medic called out for Dr. Rosenbaum, but he wasn’t there, although he was on duty at the time. Suddenly he came in and

17 In a testimony collected by Attorney Rabi’a Jabali, Z. was asked how long it takes before a physician comes to examine him in response to his request: “Sometimes about one hour. The doctor doesn’t examine me, but straight away orders the medics to give me an injection.” Is your request to see a physician ever denied? “Sometimes the doctor doesn’t come, but tells the medics over the phone to give me painkillers.” Z. claims that he must “ask at least six times to see a doctor before he comes to examine me.” (November 30, 2000).

18 M., in a testimony collected by Attorney Rabi’a Jabali.

19 A., in testimony to PHR-Israel taken on September 27, 2001 at PHR-Israel’s offices.
stood in the room, but didn’t approach me. He told the medic, “Leave him there. I’m going to eat, then I’ll come back.” I overheard the medic telling the roster officer that this was irresponsible. [Dr. Rosenbaum] came back three hours later. [In the meantime] the medic told me that he didn’t know what to do. The roster officer brought Dr. Kahani from upstairs [i.e. the ward on the top floor], and he immediately sent me to Assaf Harofeh [hospital]. He told me not to be angry with him, because I wasn’t from his ward and he couldn’t do anything about it. I was hospitalized at Assaf Harofeh for one week."

Another case involves prisoner S. In August 2001, S. was informed by his attending physician from Sha’arei Zedek Hospital in Jerusalem that he must undergo an operation. This diagnosis was supported by the opinion of the parole committee that met in September 2001 to discuss his case. Despite this ruling, as of October 2001 he had still not undergone the operation, despite the warning of his attending physician, who wrote:

“S. must undergo surgery immediately to restore the valve. I must emphasize again that his current condition cannot continue for more than a few weeks. For reasons unknown to me, the patient failed to appear for following-up after his visit to ER, despite the fact that an appointment was made. It is my opinion that the fact that S. is in prison is preventing him from receiving the necessary medical treatment.”

S. suffered considerably from this situation, as he explained to Attorney Rabi’a, who visited him on behalf of PHR-Israel. During the period preceding the operation, S. was informed by the physicians that he must perform by himself the actions required in order to open the blockage in his intestine. He claims that he is not always able to do this, and that the medics refused to provide assistance. After he threatened to commit suicide, a psychiatrist was called to see him, and it was subsequently decided that the medics should assist him. However, the medics are often late in providing this help, causing S. suffering and pain. In the past, while he was under house arrest, S. was able to see his physician at Sha’arei Zedek hospital once a week, in order to open the blockage using a catheter and undergo examinations. Although Dr. Kahani assisted him a number of times in the past at the Medical Center,
this caused him pain. Since then, Dr. Kahani has insisted that S. open the blockage in his intestine by himself, resulting in extremely severe pain.

Another prisoner\textsuperscript{20} complained that he was sent to the Medical Center due to a spinal problem. After it transpired that he required two operations, he claims that the staff at the Medical Center “stopped treating him well,” and his condition deteriorated. He had initially been able to sit in a wheelchair, but subsequently became bedridden for a period of 27 months. In a meeting at Beit Levinstein rehabilitation center, where he was treated following his release, he was once again in a wheelchair. He stated explicitly that the treatment at Beit Levinstein rehabilitation center had “put me back on my feet.” The fact that, after his release, G. was found to be suitable for a rehabilitation hospital such as Beit Levinstein, and the fact that the patient reports that this treatment has been effective, raises serious questions regarding the period in which G. was hospitalized at the Medical Center, without any rehabilitative program or therapy. This case contradicts the claim made by Dr. Alex Adler, head of the IPS Medical Department, that “patients who require rehabilitation are referred to Beit Levinstein.”\textsuperscript{21}

2. Abuse and Neglect of Patients in Need of Nursing Care
The Medical Center is not equipped to meet the needs of patients requiring ongoing nursing services, with the result that their hospitalization at the center is particularly humiliating and damaging. Problems that affect all the patients at the Medical Center are particularly severe in the case of patients who are unable to care for themselves. “There is no ward for patients requiring nursing at the Medical Center, since as a matter of principle there are no [nursing] wards at the Center, due to the small number of patients in each ward.”\textsuperscript{22} Accordingly, these patients are accommodated in regular wards, sometimes in the same rooms as patients not requiring nursing care.

“Working prisoners” are responsible for caring for these patients, including cleaning the rooms and assisting with bathing and personal hygiene. The prisoners are not professional nursing care workers, and do not perform their function properly.

\textsuperscript{20} G., in testimony to PHR-Israel taken at Beit Levinstein Rehabilitation Center on September 9, 2001.
\textsuperscript{21} Head of the IPS Medical Department, Deputy Commissioner Dr. Alex Adler, in a letter to Dr. Berlowitz, Acting Associate Director-General, Ministry of Health, July 5, 2001.
\textsuperscript{22} Ibid.
Problems of dirt and vermin are found in all the rooms, but are particularly severe in the rooms of nursing-care patients. The “working prisoners” only clean these rooms once every two or three days, and accordingly the rooms emit unpleasant odors.

In his testimony, A. stated that “Sometimes the “working prisoner” didn’t wash E. because he didn’t feel like it. I complained to Dayan [a security officer]. E. was disgusted with himself, and used to throw the faeces from his diapers onto the walls. I had to help him wash himself, even though I was also disabled, because otherwise I couldn’t stand to be in the same room with him.”

M., who was hospitalized in the nursing care room at the Medical Center, did not have a shower even once during the first two months he spent at the Medical Center. In his affidavit, M. stated that the nursing care room was extremely filthy, and that the room emitted a foul odor due to the patients’ faeces. The beds and walls were infested with biting insects and cockroaches. The drains were often blocked, and the room was flooded once or twice a week.

The nursing-care patients also suffer from the hostility of their roommates. S. recalled that he was obliged to move from room to room in the chronic patients ward, since the prisoners threatened him, claiming that they were unwilling to share a room with him because he smelled bad. Prisoners threatened that “if you sleep in this room, we will strangle you and tell them that you killed yourself.” After the prisoners complained, S. was moved to another room.

Another prisoner reported that the medics also behave offensively and disrespectfully toward nursing-care patients:

“Some of the nursing-care patients have to use diapers, and they smell real bad. Even if you just walked down the corridor, there was an indescribable stench. The ‘working prisoners’ weren’t always available to clean and wash the patients. The medics – who I call wardens – used to say to these nursing patients: ‘What’s this, are you a baby that has to get his diaper changed all the time?’”

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23 A., in testimony taken at PHR-Israel’s offices on September 27, 2001.
24 M., in an affidavit collected by Attorney Rabi’a Jabali.
25 S., in a telephone conversation with PHR-Israel.
26 G., in a conversation with PHR-Israel that took place at Beit Levinstein Rehabilitation Center on September 9, 2001.
The Medical Center suffers from a shortage of equipment required for nursing-care patients. One prisoner informed us that during the period he was hospitalized at the Medical Center, three patients needed to use a wheelchair, but the facility only had one wheelchair suitable for use in the bathroom and shower. Moreover, the Medical Center has only two toilet cubicles with wide doors. According to this prisoner, the prison authorities made an effort to place patients using wheelchairs in the rooms that had toilet cubicles with wide doors, but the number of patients did not always allow this. Nursing-care patients were sometimes kept in rooms with narrow doors, and relied on help from their fellow patients every time they needed to use the toilets or showers.27

3. Intervention by Non-Medical Personnel in Medical Care

Many of the complaints raised by prisoners relate to the fact that the wardens responsible for security in the Medical Center influence the manner in which medical decisions are implemented. Prisoners claim that the wardens treat them in an inappropriate manner and prevent proper meetings between patients and their care providers.

Many prisoners with whom we spoke reported that security personnel are present during medical examinations, gravely infringing patients’ privacy and medical confidentiality. The large number of reports received about this practice suggest that it is a matter of routine policy; patients who do not wish a security officer to be in attendance must explicitly demand his removal. Since prisoners are at the mercy of the wardens present in the clinic, it is clearly unrealistic to demand that they ask for examinations to take place in private. In his affidavit, for example, A. stated that prisoners would not always dare ask the wardens to leave; in any case, it was unclear whether they would respect such a request. This practice constitutes a gross infringement of the care provider’s obligation to respect the patient’s dignity and privacy.28

In one particularly grave case, a prisoner who complained that he had been treated violently by the department commander, Haim Levy, was examined by a physician in the presence of the same Haim Levy, the object of his complaint. The prisoner states as follows:

“Haim Levy, the department commander, threw the log book to the side, struck my face by my ear and cheek, and pulled my

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27 A. in a conversation with PHR-Israel that took place at PHR-Israel's offices on September 27, 2001.
28 Patients Rights Law, Article 10(A).
arm. Through Nabil (the roster attendant) I sent a complaint to Dr. Beck: ‘To the director of the Medical Center: I request that an investigator be sent urgently.’ Dr. Rosenbaum was present during the argument and curses [that took place] on Thursday, October 11, 2001, at 9:45 am during the doctors’ rounds. Dr. Rosenbaum pulled Haim Levy back so that nothing too bad would happen. Dr. Shamas examined me on the same day at about 1 pm. Haim was also present during the examination, and told Dr. Shamas ‘Examine all his body, because I injured him everywhere.’ Then they went off to have lunch together. I asked Haim to leave the room [during the examination] but he refused and stayed in the room. Dr. Shamas said to me ‘If you’ve managed to aggravate Haim Levy then that’s the end of the line, because he doesn’t get aggravated easily.’”

The security personnel in the Medical Center influence the manner in which the directives issued by attending physicians are implemented, and in some cases refuse to carry out these directives. In one particularly serious instance, A. reported that “After they decided to release me [from prison], I went back to the Medical Center with a decision from the judge saying that I must be provided with chemotherapy pills for 10 days. The roster officer came out with pills for three days. I showed him the court order and he spoke with Dr. Beck. Dr. Beck ordered them to give me [pills] for 10 days. The roster officer went into the Medical Center and said that Avi Biton had intervened, claiming that prisoners who are about to be released will only get [medicines] for three days, and that he [the roster officer] could not go against the decision of Avi Biton, despite the court order.”

Non-medical personnel also have crucial influence on the ability of prisoners to comply with diets according to their physicians’ instructions. Several prisoners have complained to PHR-Israel that the staff fail to provide the food they require. This is particularly grave in the case of prisoners suffering from diabetes. Atallah Tanus stated in an affidavit that he had not received dietetic food, despite the fact that he was a diabetic. Another prisoner, A.,

29 S. in a telephone conversation with PHR-Israel on October 15, 2001.
30 A. in testimony to PHR-Israel taken at PHR-Israel’s offices on September 27, 2001.
31 In an affidavit taken by Attorney Rabi’a Jabali during her visit to the Medical Center.
stated that he approached Dr. Beck, director of the Medical Center, on behalf of Atallah, and also spoke to the security office Avi Biton. A. stated:

“I spoke with Dr. Beck and Biton while they were on their rounds [in the ward]. I said ‘Look, the guy is a diabetic, look at his legs... why won’t you let him have dietetic food?’ Dr. Beck said ‘You’re right, I’m issuing an instruction that every day they should cook boiled vegetables and dietetic food for Atallah.’ The next day, Dayan [a security officer] said ‘There’s no such thing as dietetic food,’ and Biton said ‘The kitchen doesn’t belong to you.’ They stopped Atallah getting his dietetic food and he started to cry.”

4. Transfer to an External Hospital
In some cases, transfer to external hospitals was undertaken in a manner that exacerbated the patient’s condition. For example, the family of Shaul Nachmias reported that he was transferred to hospital in a transit van, although his grave condition required the use of an ambulance. The IPS claim that the transit van was an ambulance.

Even in cases when ambulances are used to transfer patients to hospital, delays often occur due to the need to coordinate security guards to accompany prisoners referred to hospital. The prisoners state that transfer to hospital is sometimes delayed by over one hour, despite the fact that they are aware that throughout this time an ambulance is present at the prison gates, waiting for authorization to enter and waiting for a security guard. One prisoner informed PHR-Israel that his friend, who was known to be suffering from heart problems, lay floundering in his cell for an hour until an ambulance was permitted to enter the Medical Center. Another patient reported that his transfer to an external hospital was cancelled after no security guard was found to accompany him.

5. Referral to Assaf Harofeh Hospital
The fact that the Medical Center refers some sick prisoners to Assaf Harofeh Hospital might be expected to have a positive impact on

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32 A, in testimony to PHR-Israel taken at PHR-Israel’s offices on September 27, 2001 (see above for the full story of Atallah R.).
33 G, in testimony to PHR-Israel taken on September 9, 2001 at Beit Levinstein Rehabilitation Center.
34 A, in testimony to PHR-Israel taken at PHR-Israel’s offices on September 27, 2001.
the medical treatment they receive, since hospital physicians are not accountable to the IPS hierarchy. Indeed, in some cases external physicians have insisted on the patient’s rights, demanded that prisoners be enabled to attend check-ups, and ensured that monitoring takes place to ascertain implementation of recommended treatment (this was the case, for example, with the physician who treated S. – see above). Some prisoners, however, have complained that the Medical Center has prevented them from attending examinations and treatment at the scheduled times, and that the physicians at Assaf Harofeh Hospital do not insist that they come on time.

One prisoner stated that he complained repeatedly to physicians at Assaf Harofeh Hospital about the medical treatment he had received at the Medical Center. His complaints related mainly to delays in scheduling his operation and treatment. He stated that “I asked to undergo an operation, and the orthopedic surgeon Dr. Peshin and another orthopedist recommended an operation. For a while my hematological condition was balanced, so they dragged their feet about the operation. I complained about this, and the hematologist at Assaf Harofeh Hospital (Dr. Avraham Kornberg) told me that it wasn’t up to him.”35 Another prisoner reported that he complained to physicians at Assaf Harofeh Hospital that the Medical Center was failing to take him for scheduled operations. In reply, he was told that “There is nothing we can do, it’s up to the Medical Center.”36 The director of Assaf Harofeh Hospital, Dr. Davidson, informed PHR-Israel that he had received no complaints of this type.

It should be noted that patients from the Medical Center are referred to Assaf Harofeh Hospital under the provisions of a long-standing agreement. Only in cases where there is a need for specialists not available at Assaf Harofeh Hospital are prisoners referred to other medical centers. The failure by physicians at the hospital to report practices that jeopardize the quality and/or availability of medical treatment provided for prisoners raises serious concern that some of the hospital physicians in close contact with the Medical Center are influenced by norms prevalent among IPS physicians, who sometimes place bureaucratic or security-related considerations above the interests of their patients. There are grounds for concern that these physicians tend to show excessive regard for the position and interests of the IPS, even when these contradict their patients’

35 Ibid.
36 G., in testimony to PHR-Israel taken on September 9, 2001 at Beit Levinstein Rehabilitation Center.
best interests. In so doing, these physicians are infringing their ethical obligation to confine themselves exclusively to their patient’s interests.

6. Threats against Prisoners Who File Complaints
Since the end of 1997, PHR-Israel has received grave complaints relating to the IPS Medical Center. The more we investigated this topic, the greater the pressures applied against prisoners who filed complaints; some even reported that they had been the victims of maltreatment. Forms of pressure used against “troublesome” prisoners include moving them from the top floor (which is relatively spacious) to the crowded ground floor; threats relating to the recommendations that would be presented to the parole board; and humiliation. The fact that patients are subject to threats impairs their free and direct connection with their care providers, and their ability to insist on their right to proper care.

One of the prisoners hospitalized at the Medical Center wrote: “The bosses have begun to threaten people who signed [the complaint drafted by that prisoner – H.Z.], warning that their leave will be canceled, they will lose privileges or be transferred to another prison. Many prisoners were scared and withdrew their signatures. On the day I wrote this letter, I am afraid that they will punish me, because I am due to come before the parole board. This is why I am begging you to examine this matter thoroughly and confirm my claims, so that I will not suffer for daring to fight the system on this matter of principle relating to my health, just as anyone else would be concerned about their health.”

A. reports that when he asked one of the other prisoners to give him the telephone number of PHR-Israel, the prisoner asked him not to mention to the wardens that he had provided the number, in case they punish him for maintaining contacts with the association.

Another prisoner admitted that he withdrew a complaint he had filed against a warden who beat him. He explained that during his conversation with an investigator examining his complaint, another warden was present and intervened in the conversation; accordingly, he was concerned that his leave would be cancelled.

37 September 1997.
38 G., in testimony to PHR-Israel taken on September 9, 2001 at Beit Levinstein Rehabilitation Center.
The inability to file complaints freely and confidentially gravely limits the ability of patients at the Medical Center to insist on their right to proper care.

B. Conditions of Imprisonment
We believe that patients at the Medical Center suffer due to the ambiguous identity of the institution, which seems to define itself sometimes as a hospital and sometimes as a prison. The staff take advantage of this ambiguity.

According to the head of the IPS Medical Department, “the Medical Center is not subject to the usual standards applying to hospitals, for the simple reason that it is considered a prison for all intents and purposes, despite the fact that it is a hospitalization facility.” In practice, however, the Medical Center functions as a hospital in many senses. After treatment, external hospitals discharge prisoners to the Medical Center based on their assumption that the Center will ensure medical monitoring and treatment at a high standard.

The definition of the Medical Center as a prison frees the Medical Center from the need to observe proper medical standards and be subject to professional supervision. Yet the Center does not even meet its obligations to its residents as required of a prison. Has any physician confirmed that the cells at the Medical Center are fit for the accommodation of prisoners, as required by the Prisons Regulations? It is difficult to believe that this is the case, given the filthy conditions in the Center as reported by the prisoners.

The complaints received from prisoners at the Medical Center are reminiscent of those PHR-Israel has received during its visits to the detention centers run by the Israel Police. Here, too, we heard complaints of overcrowding, poor ventilation and inadequate sanitary conditions, contrary to the relevant legal provisions. This is particularly grave in the context of a facility specifically intended for sick persons.

1. Accommodation
The approximate size of each cell is four meters by six meters. Each cell has three narrow windows, with grills. These do not provide adequate ventilation. The shower and toilet are separated from the cell by a door. Each cell is intended to contain six beds, with a gap of just 20 cm between each bed. However, the prisoners report that in some cases up to ten prisoners share a cell; some are
obliged to sleep on mattresses placed on the floor. A variety of beds are used in the cells – hospital beds, regular single beds and bunk beds, used as required according to the number of prisoners in the cell. The bunk beds have thin mattresses, and create problems for sick prisoners, particularly in terms of the need to climb up and down from the bed. During October 2001, one prisoner telephoned PHR-Israel and reported that following complaints, the Medical Center had taken steps to replace these beds with hospital beds, and had whitewashed the facility. We do not know whether it is planned to reintroduce the use of bunk beds if the facility is overcrowded.

In cells intended for nursing-care patients, a hand-bar has been installed in the shower for use by prisoners. In one cell, however, the door to the toilet is too narrow to permit passage for a wheelchair, with the result that the prisoner is dependent on his cellmates, who must fold up his chair, help him enter the toilet and then reopen the chair. The same procedure must be repeated when he finishes using the toilet.

In winter, the cells are heated by radiators. In summer, each cell is provided with a small fan that cannot ventilate the whole cell.

2. **Culture**
Whereas regular prisons have a “culture officer,” library and varied activity groups, the Medical Center provides almost no activities, apart from sporadic art and sculpture classes. There is no library. The dining room is supposed to be equipped with a television, but the prisoners claim that in at least one case, the television was out of order for six months. One prisoner claims that the wardens purchased televisions for their rooms (the roster officer’s room and the medics room) from the culture budget.

3. **Food**
Most of the prisoners interviewed by the representatives of PHR-Israel complained about the inadequate quantity and poor quality of the food at the Medical Center. One prisoner complained that the “working prisoners” keep food in storerooms instead of distributing it to the patients. He also reported that during the summer, breakfast was only provided on Saturdays. 

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39 A., in testimony to PHR-Israel taken at PHR-Israel’s offices on September 27, 2001.
On one occasion, a prisoner who requested vegetarian food was told to provide a membership certificate from the Vegetarian Society. Another prisoner requested Kosher food under particular rabbinical supervision. He claimed that the security officer Dayan told him that this food was “too far away, and it’s a problem to get it for you.” However, after he persisted in his demand, the desired food was eventually provided. Most of the prisoners stated that the food was “really terrible, and in small quantities.”

The following are some examples of the daily diet provided for prisoners in the Medical Center:
- Breakfast (when provided): cheese, light yogurt, bread / porridge, white cheese, jam.
- Lunch: Rice, hard-boiled egg, sometimes meat or schnitzel, or sauce with zucchini, rice, meatballs.
- Supper: Egg, salad, tahini / light yogurt, pizza.
- Night: Milk.

4. **Recreation Yard**

According to the prisoners, the Medical Center used to have a recreation yard with a roof, but this was closed for renovation for a long period. In an interview with Aryeh Dayan of *Ha'aretz* newspaper, Alexei Bakomsky, a prisoner hospitalized at the Medical Center, stated that “there is no recreation yard here, and I haven’t seen sunlight for 11 months.” Another prisoner reports that there was formerly a recreation yard on the top floor of the building, but this was demolished in order to make room for additional cells.

The subject of recreation yards for prisoners and detainees is regulated in the Prison Ordinance, 5732-1971, in the regulations enacted in accordance with the Ordinance, and in the Detentions Law and the associated regulations. These legislative sources establish the right of an imprisoned person to a daily walk in the fresh air, and stipulate that “he shall not be held... for more than seven days in a place of detention in which he cannot realize his right to a daily walk.” This right is vital to the physical and mental health of any prisoner, yet it is denied to prisoners held at the Medical Center. Once again, this situation illustrates the fact that the Medical Center fails to meet the standards incumbent on a

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40 S., in a telephone conversation with PHR-Israel.
42 IPS Spokesperson Deputy Commissioner Orit Messer-Harel, in correspondence to PHR-Israel dated February 5, 2002.
hospital, on the pretext that it is a prison, while at the same time failing to meet the standards incumbent on a prison in terms of the rights of those incarcerated in the facility.

5. **Canteen**
Within the Medical Center there is a canteen where prisoners can purchase hygiene products, cigarettes, etc. Prisoners who work within the IPS system receive financial remuneration enabling them to make purchases at the canteen. At the Medical Center, however, most of the prisoners are unable to work since they are sick. Accordingly, they cannot afford to buy products at the canteen. Prisoners who do not enjoy financial support from their families find themselves in a particularly difficult position. An alternative way to secure income is to participate in Jewish studies classes: each participant in these classes receives NIS 100 (about $20) per month. Prisoners who do not participate in Jewish studies classes but who require income may request assistance from a social worker; their request is then brought before a committee empowered to award NIS 65 per month.
Two Deaths

“As for morbidity-mortality rates at the Medical Center, these are very low, since whenever the condition of hospitalized prisoners declines they are transferred for treatment and hospitalization at Assaf Harofeh Hospital.” The IPS Spokesperson adds that “the small number of fatalities we have experienced were due to incurable diseases, or for cardiac causes, as also occurs in cases outside prison.”

These responses raise questions regarding the failure of this medical institution to ensure follow-up and monitoring of its diagnoses, periods of hospitalizations, referrals to external hospitals, deaths in the institution and cases of repeat hospitalization. A particularly serious aspect is that no quality control procedure is applied to the treatment at the Medical Center, including monitoring of fatalities. It must be emphasized that even if death occurs outside the institution itself, it nevertheless constitutes part of the process of disease on account of which the deceased person was hospitalized.

An additional aspect is why those prisoners suffering from incurable diseases were not brought before the parole boards on the grounds of permanent sickness. It is unclear who bears the authority and obligation to refer such cases. From the complaint filed by the family of the late prisoner Shaul Nachmias (see below), it would appear that the Medical Center failed to act with sensitivity and to contact the family promptly, so that they could make contact with the patient immediately after his hospitalization – at the end of which he died.

The Death of Atallah Tanus

On November 30, 2000, Attorney Rabi’a Jabali of PHR-Israel met with Atallah Tanus during the inspection of conditions at the Medical Center. After the visit, Attorney Jabali noted that Atallah was suffering from diabetes. His legs were badly swollen and he was confined to a wheelchair. He could not move his right leg at all, and could only move his left leg with difficulty. Tanus also reported that he felt a degree of paralysis in his right hand, and complained that

44 Deputy Commissioner Dr. Alex Adler, Head of the IPS Medical Department, in correspondence to Dr. Berlowitz, Acting Associate Director-General of the Ministry of Health, dated July 5, 2001 following contacts with PHR-Israel.

45 IPS Spokesperson, in correspondence to PHR-Israel dated October 23, 2001.
he was gaining weight due to the failure of the authorities to provide him with special dietetic food.

Regarding his treatment, Atallah informed Attorney Jabali that he had undergone several courses of treatment at Assaf Harofeh Hospital in order to remove water from his lungs. He claimed that when the physician made rounds every morning, he did not initiate inspections of every patient. On occasions when the physician on duty was visiting another prison, it might sometimes take four to five hours before a patient received treatment. Atallah further reported that most of the medics treated him with contempt. On one occasion, a medic asked another prisoner to beat Atallah in order to see whether he was faking his illness and would stand up. He also complained that one physician, Dr. Shamas, refused to examine him on one of the occasions on which he complained of pains in his chest and difficulties in breathing. The physician also ignored his requests to receive dietetic food suitable for diabetics.

On February 14, 2001, after his condition deteriorated, Atallah was transferred to Assaf Harofeh Hospital, where he died two days later.

In response to correspondence from PHR-Israel requesting that the circumstances of Atallah’s death be examined, the State Attorney’s Office replied that the IPS had investigated the case:

“The committee appointed to investigate the prisoner’s death found that there had been no defect in the medical treatment provided to the prisoners. The treatment provided by the staff of the Medical Center was proper and consonant with the prisoner’s medical condition.”

This response ignores the complaints made by Atallah regarding the standard of medical treatment he had received, as well as the failure of authorities to provide him with dietetic food.

The Death of Shaul Nachmias

The case of the late Shaul Nachmias illustrates many of the key problems identified in this report, and we shall therefore describe the events in detail. The facts reported below were received from various sources: the testimony of relatives; the attorney who represented Nachmias during his imprisonment; relevant medical documents relating to the period following the diagnosis of his disease (from before he was imprisoned and through to his death),

46 Correspondence from Bat-Or Kahanowitz, Chief Assistant to the State Attorney, dated September 24, 2001.
and the responses of the Medical Center relating to this case. We also received the opinion of the Central District Attorney’s Office, which investigated the death of Nachmias. Although this latter report recommended closing the case due to the absence of criminal liability, it includes severe criticism of the functioning of the physicians at the Medical Center and the IPS prisons.

The sequence of events was as follows:

**Detention and imprisonment at Nitzan Prison, March 28, 2001 – April 15, 2001**; Shaul Nachmias was a heroin addict, and was diagnosed as suffering from hepatitis on March 4, 2001 (prior to his detention). It was recommended that he undergo an MRCP test (type of endoscopy), and the test was scheduled for April 22, 2001. Prior to the date of the test, however, Nachmias was arrested and prosecuted. He was sentenced to imprisonment on March 28, 2001. The judge was aware of his medical condition, as reflected in the ruling:

“The attention of the authorities responsible for placing the defendant in a detention facility is drawn to the fact that the defendant is sick and his medical condition is poor. This is the conclusion I draw from the medical records before me. Accordingly, those responsible for admission and transfer are asked to ensure that the defendant receives any medical treatment he requires, promptly and without delay. I hereby instruct the physician at the detention center to which the defendant is brought to examine the defendant immediately, today, and to instruct the medical personnel to provide him with proper treatment, at the discretion of the attending physician.”

Despite these instructions, Nachmias was sent to Nitzan Prison rather than to the Medical Center. His family claim that the prison did not provide the medical care he required, despite the fact that the prison received the verdict (as above) in this matter. Nachmias was admitted to the IPS on March 29, 2001 by a social worker. Only four days later (April 2) was he examined by a

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48 On April 4, 2001, Dudu Nachmias (the brother of the deceased) sent the verdict by fax to Nitzan Prison.
physician. It is unclear why such a long period passed before an initial medical examination was undertaken, particularly in light of the emphasis in the court verdict on his severe medical condition. Moreover, the physician’s examination did not accelerate processing of his case, and Nachmias remained in Nitzan Prison. His family telephoned the prison and asked that he be referred for the MRCP (endoscopy) test as scheduled before his detention. They supported their request by faxing medical documents on April 4, 2001. On April 11, 2001, Nachmias was examined by an admissions committee in possession of the court verdict, including the comments on his medical condition. Despite this, the committee did not restrict his admission, and Nachmias was sent to Carmel Prison. Before his transfer, he was examined again by Dr. Weiner (April 15, 2001), who confirmed the findings of his examination from April 2 that the patient was in a satisfactory condition.

Carmel Prison, April 15, 2001 – April 19, 2001

We do not know what examinations Nachmias underwent at Carmel Prison and what treatment, if any, he received, since to date we have not received the medical records relating to his period of detention at the prison. On April 19, 2001 – and only after speaking to Nachmias’ sister – the medical officer at Nitzan Prison (according to the opinion of the Attorney’s Office), Dr. Tofailo, recommended that Nachmias be transferred to the Medical Center, and informed the governor of Carmel Prison of this. Nachmias was transferred to the Medical Center the same day, April 19. Dr. Tofailo was aware that the patient was due to undergo a test on April 22, 2001, and noted that “the examination is vital and it is difficult to schedule an appointment.”

At the Medical Center, April 19, 2001 – May 2, 2001

Once again, Nachmias was not sent for the scheduled test. His family telephoned the Medical Center and asked to expedite his treatment. “When we asked why he had not been sent for the test, they told us that there was no-one to accompany him. They told me that they would decide whether the test was necessary, and if so when Shaul would be sent and to which hospital.”

Similar comments were made to the family by Dr. Beck and security officer Biton, who emphasized the security considerations: “When I

50 Ibid.
51 Ibid., p. 2.
52 Ibid.
53 Ibid.
54 Edna Nachmias and Dudu Nachmias, in a conversation with PHR-Israel, February 11, 2002.
have a vehicle and wardens free, he will go.” When they informed him that the physician had told them that Shaul would be sent for the test, Biton replied “so what?” In an effort to overcome the apathy shown by the system, members of the family called Wolfson Hospital, where the test was due to be held. The receptionist stated that she had also telephoned the Medical Center, since the appointment was made a long time in advance and it would be a pity to miss it. Members of the family also called the Prison Service, but were informed that the Medical Center was responsible for the matter, and they could not intervene on behalf of Nachmias. The Attorney’s Office report recommending closure of the file notes that the test did not take place, for reasons that remain unclear, and was postponed to a later date.\textsuperscript{55}

At Assaf Harofeh Hospital and Wolfson Hospital, May 2, 2001 – May 17, 2001

Eventually, and only after the intervention of Nachmias’ lawyer, Attorney Fleischman, Shaul Nachmias was transferred to Assaf Harofeh Hospital on May 2, 2001. Physicians at the hospital referred him to Wolfson Hospital. By now, however, his condition demanded not a medical examination, but rather hospitalization and treatment, which he received during the period May 4, 2001 through May 17, 2001.

According to his family, during the entire period of hospitalization at Wolfson Hospital Shaul was chained to his bed by one hand and one leg:

“We asked the wardens why he was chained. They told us that these were Biton’s instructions [the security officer at the Medical Center, HZ]. We asked them to release him, because this made things hard for him. He was very thin and in pain. But they wouldn’t agree. The doctors told us that they couldn’t do anything about it. It was the wardens who decided. When nurses and doctors asked why he was chained, who is this guy … [The wardens] would say that he was a leading drug dealer and a very dangerous man. That’s what nurses told me when they came to ask me whether what the wardens had told them was true. The result was that they were afraid of him.”\textsuperscript{56}

\textsuperscript{55} Opinión for Closure of File – The Late Shaul Nachmias, p. 3.
\textsuperscript{56} Edna Nachmias and Dudu Nachmias, in a conversation with PHR-Israel, February 11, 2002.
PHR-Israel believes that in behaving in this manner, the wardens infringed the privacy of the patient; moreover, they appear to have done so with the deliberate goal of creating an unfavorable impression among the medical staff.

PHR-Israel has already addressed the issue of the chaining of prisoners, and has contacted the Ministry of Health and the Israel Medical Association on this matter. The position of the Israel Medical Association was published57 The association’s position emphasized the ethical problems raised by the chaining of patients:

“The chaining of patients (prisoners and/or detainees) raises complex ethical problems that may be divided into two spheres: Firstly, the act of chaining a person who is already suffering from a poor physical condition and is in pain. In these cases, chaining may constitute ‘torture,’ particularly if inappropriate means of chaining are employed. Secondly, the function of the physician is to protect the physical and mental health of the patient, and to ease his suffering while respecting life and the value of the human being... The problem arises when chaining is permitted during a medical examination, since this will be interpreted as the physician’s siding with the authorities rather than with the patient.”

The position emphasizes that as a general rule, patients are not to be chained:

“The starting point is that prisoners and detainees will be treated without chains, and without the presence of security personnel, unless there is a tangible danger of escape, or unless the person or the medical staff will be placed in danger.”

It is emphasized that chaining is to take place only after “it has been ascertained that chaining is a vital means,” and that “the decision on chaining shall be taken only when there is no other good alternative for securing the same purpose.”

The chaining of Shaul Nachmias during his first period of hospitalization, and even more so during the second period of hospitalization, and up to the moment he expired, constitutes a gross and grave infringement of these rules, and of any basic human emotion of respect for others.

The behavior of the wardens who supervised Nachmias during his time in hospital was inconsonant with their status and function. In

her testimony to PHR-Israel, Edna Nachmias recalls that she wanted to bring a television for Shaul, and saw that the wardens had a television. When she called the television desk, she was amazed to learn that Shaul could not hire a television, because the wardens had hired one in his name. When she spoke to the wardens, they stated that they had hired the television at their own expense. After an argument, they cancelled the hire, after it was agreed that when Edna hired a television, they would be able to watch it along with Shaul. Despite this agreement, and despite the fact that Edna hired the television at her own expense, each time she arrived for a visit, she noticed that the wardens had turned the television in their direction so that Shaul could not see. She shouted at them, but Shaul told her that it would be better for her not to cause problems, in case they take it out on him after she went. Apart from the lack of consideration for the patient, this incident raises the question as to whether the wardens’ function includes watching television, at the same time as they chain the prisoner to his bed on the grounds that he is dangerous.

The hospital dietitian told the family that it was desirable for Shaul Nachmias to eat food rich in iron. She advised them to bring special food. According to the family, the wardens did not permit them to bring in food, and told them they could only bring mineral water and food from the kiosk. They claimed that these were also the instructions of security officer Biton, who supervised their actions.

During the hospitalization, the family was informed that if the Medical Center received a medical report from Wolfson Hospital, Shaul’s case would be brought before the parole board and the Medical Center would not oppose his release. The family asked the attending physician, Dr. Cherniak, for a medical letter. Since Nachmias was still hospitalized, they received an interim report, which was forwarded to the Medical Center on May 8 by Attorney Fleischman, the family’s representative. Despite this interim report, the case of Shaul Nachmias was only brought before the parole board after he was released from hospital. In his letter to PHR-Israel concerning the late Nachmias, Dr. Adler noted that “the application to the parole board was not transferred […] because the prisoner was hospitalized in an external hospital that failed to provide a medical opinion before his release, despite our repeated

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58 Letter from Attorney Shmuel Fleischman to the secretary of the Central District Parole Board, dated May 8, 2001, and enclosing a report signed by Dr. A. Rabin, renatology specialist detailing the condition of Nachmias and dated the same day.

requests.  **We do not ask [to convene] the parole board for medical reasons without an updated medical opinion.**” The question arises whether the interim report sent by Attorney Fleischman does not constitute such an “updated medical opinion,” and why Nachmias’ case was not discussed by the parole board.

Nachmias was released from Wolfson Hospital on May 17, 2001, after an improvement in the functioning of his liver and in a generally satisfactory condition. Recommendations were given concerning further treatment.

**Back to the Medical Center – May 17, 2001 – May 20, 2001**

Two days after returning to the Medical Center, on the morning of May 19, Nachmias had difficulty eating and seemed to be in a poor condition. At the request of a roster medic, he was referred for examination by Dr. Erlichman. Nachmias received an infusion and his condition improved slightly. At approximately 1 pm, Shaul Nachmias telephoned his brother Dudu. According to Dudu, Shaul sounded exhausted, and claimed that he had not eaten since Thursday and was not receiving treatment according to the hospital’s instructions. The family called the clinic, and were informed that Shaul felt great; “stop bothering us with telephone calls,” they were chastised. They heard no more from Shaul that day. Dudu telephoned the Medical Center on the morning of Sunday, May 5, 2001. Only when he called was he casually informed that Shaul had been sent to hospital. In a conversation with his brother, Dudu learned that at approximately 11:30 pm on May 19, 2001, Nachmias lost his balance and bumped into a step on his way to the bathroom. He lost a large amount of blood. Documentation from Assaf Harofeh Hospital confirm that he received numerous units of blood. The opinion from the Attorney’s Office confirms that “at about 11 pm, the medic was called... to the deceased’s room... Due to the deterioration, it was decided to evacuate him to hospital, and he was transferred to ER at Assaf Harofeh Hospital on May 20, 2001 at 00:50 am. The physicians at Assaf Harofeh decided to transfer him to Wolfson Hospital where he was diagnosed as suffering from bleeding from the upper gastric tracts.”

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60 Opinion for Closure of File – The Late Shaul Nachmias.
61 Edna Nachmias and Dudu Nachmias, in a conversation with PHR-Israel, February 11, 2002.
62 Letter from Attorney Shmuel Fleischman to Dr. Adler, Head of the IPS Medical Department, dated May 21, 2001.
63 Opinion for Closure of File – The Late Shaul Nachmias, p. 4.
Between the time of his fall and his arrival at ER at Assaf Harofeh Hospital at 1:04 am, one hour and 44 minutes passed – despite the fact that at this time of night, the journey from the Medical Center in Ramle to Assaf Harofeh Hospital should take no more than a few minutes.

**Second Hospitalization at Wolfson Hospital, May 20-21, 2001 and Death of Shaul Nachmias**

Again, despite his grave condition, Shaul Nachmias was chained to the bed by his hand and leg. In her testimony to PHR-Israel, Edna Nachmias stated that “the physicians weren’t interested in the chains any more. They were in a race against time. I know the nurses argued with them. The nurse said it made it difficult for her to change his diapers – he shouldn’t be chained. They didn’t pay attention, and only unchained him when the nurse needed to change his diaper. Only when he died, when the physicians came out and said there was nothing they could do, did they release him. While they were trying to resuscitate him, he was still chained.”

Despite his condition and despite the pleas of the family, the wardens refused to unchain Nachmias or to allow more than one visitor at a time to see him. In his testimony, Shaul’s brother Dudu states:

“Two hours before he died, I spoke with Biton and he yelled at me. I told him ‘Take the handcuffs off, the guy is going to die.’ In reply, he shouted at me ‘I’ve done more than I should. I bent the rules and you got too much. I was very lenient.’ Then he slammed the phone down.”

In a conversation with PHR-Israel, Attorney Fleishmann stated that his first letter (dated May 3) was addressed to Dr. Shamis, and demanded that Shaul be sent for an urgent operation and treatment. Thereafter, he continued to hassle the Medical Center almost every day to see what progress was being made toward sending the

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64 Edna Nachmias and Dudu Nachmias, in a conversation with PHR-Israel, February 11, 2002.
65 Ibid.
66 On February 5, 2002.
patient for treatment. On May 8, when he realized that nothing was being done, he wrote to the parole board and sent a copy of the letter to Dr. Adler. “From then through May 21, I kept calling to ask what was happening with the letter to the parole board. On May 13 I left messages at the Medical Center but they didn’t return my calls. I spoke with Shalom Cohen, the coordinator of the Central Block parole board. He told me that he didn’t have any problem with the issue, and that they would expedite the response from the Chief Medical Officer Dr. Adler, since this was necessary in order to convene the parole board. We called almost every day to see what was happening. By May 20 I had already prepared an urgent prisoner’s petition to the District Court “to issue an urgent interim injunction pending a final decision in this petition, since .... [quotes from petition]: ‘The IPS shall not act to discharge the appellant from hospital until the continuation of the required medical treatment is ensured, and until it is ensured that his health shall not deteriorate at the Medical Center.

“Dr. Adler, the Chief Medical Officer of the IPS, shall be instructed to forward his opinion immediately to the secretary of the parole board regarding the early release of the appellant.

“'The respondent shall be instructed to enable the appellant to stay with his family, by way of a special vacation, in order to enable the appellant and his family to be together at this difficult time, when it is possible that the appellant has little time to live.’

“Then Dudu telephoned me and told me ‘That’s it. It’s all over.’”

Dudu Nachmias filed a complaint with the Police Investigation Department against the staff of the Medical Center and the IPS. The complaint was forwarded to the Wardens Investigation Unit of the Israel Police, and subsequently to the Central District Attorney’s Office. For its part, PHR-Israel contacted the Medical Center and asked to receive missing information from the medical file relating to the sequence of events from Nachmias’ return to the Medical Center after his first hospitalization at Wolfson Hospital and his transfer to Assaf Harofeh Hospital; his transfer to Assaf Harofeh Hospital in a van rather than an ambulance, as required by his condition; and the treatment he received, if any, during his period of incarceration at Carmel Prison. The reply received from the Medical Center was partial; it was claimed that the full file was being held by the Attorney’s Office. Among other details, PHR-Israel was informed that the prisoner’s lungs were drained in accordance with the hospital’s instructions and that he was transferred to hospital in an ambulance. Dr. Adler rejected the family’s claim that Wolfson Hospital had provided a medical opinion for the Medical Center prior to discharging Nachmias and stated that this opinion was issued
only after his release, thus delaying the application to the parole board.

The opinion of the Central District Attorney’s Office recommends that the investigation case be closed due to the absence of criminal liability: in other words, no causal connection was found between the physicians’ behavior and the death of Shaul Nachmias. This decision deserves examination in light of the following reasons and questions:

- The fact that a patient is terminally ill and expected to die is no justification for inadequate treatment.
- Did the Prison Service act negligently in admitting Nachmias, insofar as it failed to transfer him immediately to the Medical Center? How did it transpire that in his first admission (April 2) and his second (April 15) his condition was evaluated as being “satisfactory,” while just four days later he was rushed to the Medical Center in a serious condition?
- Should the attending physician not have sent Nachmias to hospital on the morning of May 20, 2001 in order to stop the bleeding, which may already have begun at this stage? Why did such a long period expire between his collapse at 11 pm and his arrival at ER? The loss of blood inherent in gastric bleeding means that the timing of attention is of the utmost importance.

Moreover, the opinion itself reflects grave defects in the treatment of Nachmias:
- “Although there is no cc [causal connection – H.Z.] between the behavior of the physicians at the Medical Center and the death, the illogical nature of the admission [process] implemented in the case of the deceased cannot be ignored.”
- “Were it not for the pressure exerted by the family, the deceased would not have been examined on that day [the reference is to April 19, 2001, when Nachmias was examined by Dr. Tofailo following a conversation with the sister of the deceased; see below – H.Z.] and consequently would not have been transferred to the Medical Center despite the fact that this was necessary, as decided by the Chief Medical Officer.”
- “It is unclear why the judge’s instruction, written in the court ruling in bold, that the poor medical condition [of the deceased] must be taken into account in placement was completely ignored until April 11, 2001… Most of the physicians who examined the deceased during the days immediately after his admission to the IPS were surprisingly impressed by his satisfactory condition and capacity for
regular work... Given the external condition of this prisoner... and the documents submitted, as well as the court ruling noting his medical condition, a reasonable physician should have referred him immediately to the Medical Center...”

“...It is a fact that following the request of the family, he received different attention and his treatment was expedited... It is obvious that any prisoner deserves proper attention even if his family does not apply pressure in this matter.”

Summary
In addition to questions relating to apparent negligence, this case uncovers serious problems in terms of the attention and treatment given (or not given) to the late Shaul Nachmias by the IPS in general and the Medical Center in particular. The pace of medical examination was unsatisfactory, and required intervention by the family; the IPS physicians were indifferent to the prisoner’s condition and suffering and failed to procure medical information, even when they were informed that he was in a grave state of health; the physicians at the Medical Center delayed the forwarding of the case to the parole board, despite its evident urgency and the fact that Nachmias was clearly suffering from a chronic illness that was not receiving attention. Had they acted more promptly it is possible that Nachmias would have been spared extensive suffering; at the very least, he would have been able to die with dignity, as a free person and in the company of his family. In addition, PHR-Israel is gravely concerned by the fact that Nachmias was chained to the bed throughout his time in hospital, contrary to the ethical rules of the Israel Medical Association, and that the judge’s instruction requiring attention to his medical evaluation and his release for his son’s Bar Mitzvah (Jewish religious ceremony) were not observed. A person suffering from a terminal illness has few pleasures left in life. The physicians at the Medical Center should have been more careful to treat him as a human being and as a patient, for whom they should do whatever possible to alleviate his suffering.
Dual Loyalties – “Who Are You Working For, Doc?”

The physicians who work in the Medical Center and the prison clinics are employed directly by the IPS. This status impairs their independence and exposes them to pressures that contradict their commitment to the needs of their patients. The physicians tend to subjugate the patients’ interests to security and other considerations of the system they serve, and through which they are rewarded (in terms of promotion, salary, professional identity and a sense of affiliation).

On July 27, 1999, the State Attorney, Edna Arbel, wrote to the then General Commander of the Police, Chief Commissioner Yehuda Wilk regarding the medical treatment provided for detainees. Among other comments, Arbel noted:

“There can be no doubt that the State bears an obligation to ensure the well-being and health of detainees in prisons, and accordingly it is necessary to allocate the staff positions and facilities required to meet this obligation […] In addition, we suggested in the past that consideration be given to removing the medical system from the Police service, in order to ensure the independence of this system from the police command.”

A similar recommendation was made by the previous State Attorney, Dorit Beinish.

Arbel’s letter followed correspondence between the State Attorney and Dr. Reuven Goldschmidt, formerly the Chief Medical Officer of the Israel Police, who served in this position for fourteen years. Goldschmidt repeatedly recommended that the medical system be separated from the police and transferred to the responsibility of the Ministry of Health or the Ministry of Internal Security, due to the inherent conflict of interests between an investigative body and a body providing medical care. The result of this conflict of interests is that the physician finds himself/herself serving two masters, at the expense of the health of detainees.

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67 This title is borrowed from an article on the dual loyalties of physicians employed by the Israel Police; the article was written by Joseph Algazy and appeared in Ha’aretz newspaper (Hebrew).
This subject was discussed at a meeting between PHR-Israel and the Associate Director-General of the Ministry of Internal Security, Mr. Amnon Zahavi in June 2000. Zahavi noted that two reports had been prepared on the medical system – one relating to the police and the other to the IPS. During the meeting PHR-Israel was assured that the relevant material would be forwarded to the association as soon as the reports were complete. Despite this, and despite our repeated requests, at the time of writing this report the Ministry of Internal Security has declined to provide us with these reports, claiming that they have still not been completed.

While senior sources have expressed a desire to ensure the independence of the medical system in the police and the IPS, other powerful interests are apparently preventing such a separation. There is reason to fear that the system prefers the physicians treating detainees and prisoners to continue to be under its control, assuming that they will “appreciate” the system’s concerns and considerations and continue to place the interests of the system above those of the patients. This concern is corroborated by the comments made by Dr. Goldschmidt,\(^68\) former Chief Medical Officer of the Israel Police, who noted that the comptroller of the Ministry of Internal Security (in the “uncompleted” reports mentioned above) recommends not to separate the physicians from the police system. Goldschmidt noted that the comptroller’s reasons for this recommendation include the fact that physicians forward information to interrogators. Even if this were not a principal factor in the decision not to separate the medical system from the police and IPS, this “function” constitutes a serious infringement of medical ethics, and gravely impairs the relationship of trust between physician and patient – a relationship that forms the foundation of the medical profession.

All physicians accountable to a security system may not necessarily prioritize the interests of the system above those of their patients. However, the experience of PHR-Israel, as well as conversations with physicians at the detention facilities of the IDF and the Israel Police,\(^69\) it is apparent that physicians find it difficult to insist on the interests of their patients against the defense system of which they form a part and whose uniforms they wear.\(^70\)

\(^{68}\) Lecture to PHR-Israel, December 25, 2001.

\(^{69}\) Dr. Albert Shamon, former director of the clinic at Megiddo Prison, noted that the accountability to the IDF prevented him from acting in accordance with proper medical standards. For details, see PHR–ISRAEL, *In Hostile Hands: Palestinian Prisoners at Megiddo Compound*, December 2001.

Absence of External Supervision of the IPS

The legal status of the IPS is based on the *People’s Health Ordinance* and *Prison Ordinance*. According to the legal adviser of the Ministry of Health, the medical service of the IPS is not bound by the licensing requirements of the *People’s Health Ordinance*\(^{71}\) (unlike other medical institutions), and accordingly is not subject to the supervision of the Ministry of Health.

It should be noted that in accordance with the *People’s Health Ordinance*\(^{72}\) (Article 24), medical institutions are subject to restrictions intended to enable review ensuring their proper functioning. Thus, for example, “a person shall not establish a hospital unless he has received prior authorization therefore from the Director”\(^{73}\) who shall grant authorization to establish the hospital on the basis, inter alia, of medical considerations. The *People’s Health Ordinance* further establishes that “a person shall not manage or operate a registered medical institution otherwise than in accordance with the provisions of this Ordinance and the regulations enacted in accordance therewith.”\(^{74}\) The Director\(^{75}\) has the authority to order the closure of a medical institution if he finds that “the medical institution is being managed in a manner not in the interests of the health or welfare of those treated therein.”\(^{76}\)

As already noted in this report, the head of the IPS Medical Department has stated that “the Medical Center is not subject to the usual standards applying to hospitals, for the simple reason that it is considered a prison for all intents and purposes, despite the fact that it is a hospitalization facility.”\(^{77}\)

The physicians employed at the Medical Center are members of the Israel Medical Association in a personal capacity. According to the Physicians Ordinance, in the event that a complaint is filed against a

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\(^{72}\) *People’s Health Ordinance*, 1940.

\(^{73}\) Article 24A(1).

\(^{74}\) Article 25(C).

\(^{75}\) In Note 1 to Article 25A (A): “The authority of the Director in accordance with this article is delegated to any District Physician as understood in the Ordinance within the District or Provincial Health Office…”

\(^{76}\) Article 25 A (A)(3).

\(^{77}\) Head of the Medical Department, Deputy Commissioner Dr. Alex Adler, in a letter dated July 5, 2001.
physician alleging improper behavior or negligence, a person may submit a disciplinary complaint to the director-general of the Ministry of Health. Following the complaint, a procedure will be instigated in a disciplinary committee appointed for this purpose by the Minister of Health.

In the case of a complaint against an IPS employee, the employee is interrogated by an IPS officer. If necessary, the legal adviser of the IPS may, at his discretion and with reference to the gravity of the complaint, refer the case to the Attorney-General.

Criminal proceedings may be instigated through the offices of the Wardens Investigation Unit. Following the complaint filed by Dudu Nachmias, the brother of the late prisoner Shaul Nachmias (see above), PHR-Israel learned that the Israel Police has a Wardens Investigation Unit to which complaints may be referred regarding the behavior of IPS wardens and employees (in contrast to police employees, complaints regarding whom are examined by the Police Investigation Department, under the auspices of the Ministry of Justice). PHR-Israel contacted the Israel Police in an effort to ascertain how a complaint may be filed against wardens through this unit, but was unable to secure this information. A similar request to the Jaffa police – the town in which the offices of the unit are located – met a similar response. The fact that PHR-Israel, an organization involved for many years in prisoners’ rights, and the Israel Police itself were unaware of the existence of this unit shows that no effort has been made to publicize its existence, thus impairing its accessibility and effectiveness as a review body.

The problems created by the absence of any external review of the IPS are illustrated by the following case. The director of the IPS Medical Center, Dr. Beck, allowed a prisoner to polish his shoes, claiming that “I cannot bend over because of my belly.” PHR-Israel submitted a complaint to the IPS regarding Dr. Beck’s alleged behavior. A copy of the complaint was sent to Professor Glick, Ombudsman in the Ministry of Health. On November 15, 2001, we received Dr. Adler’s reply to Professor Glick in this matter: “Following the complaint against Dr. Beck an investigating officer was appointed. The findings and recommendations were submitted to the Deputy Commissioner of the IPS, Danny Avidan. Dr. Beck was summonsed to Deputy Commissioner Avidan and an administrative note recorded in his file.”

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78 Yediot Achronot daily newspaper, August 21, 2001 (Hebrew).
This procedure exposes an alarming situation regarding review of the IPS medical system and its consonance with the standards of medical ethics. The fact that such a grave infringement of the physician-patient relationship in the IPS was investigated and judged by the IPS itself, without any external review, jeopardizes the rights of patients.

PHR-Israel again contacted Professor Glick of the Ministry of Health, as well as the Israel Medical Association, demanding that Dr. Shmuel Beck’s behavior be considered by an independent body subject to the principles of medical ethics. Professor Reches of the IMA’s Ethics Office replied that the Ethics Office lacks the necessary tools to engage in an investigation of the facts. PHR-Israel is still awaiting a response from Professor Glick.

From the responses of the IPS to date, it seems that no-one denies that the event following which the complaint was filed did indeed occur. We believe that such a serious incident in terms of physician-patient relations demands more serious steps against Dr. Shmuel Beck than a disciplinary note.

**Conclusion and Recommendations**

The content of this report suggests the following apparent problems:

1. There are serious problems in the functioning of the IPS Medical Center. These problems require immediate “first aid” attention by the Ministry of Internal Security, the IPS authorities, the Ministry of Health and the Israel Medical Association.

2. Sick prisoners treated at the IPS do not receive basic and essential treatment to protect their health and dignity. Indeed, on occasions they even lose those basic conditions provided for healthy prisoners in other prisons.

3. The authorities in the IPS and the Medical Center prevent a proper, objective and professional examination of events at the Center. The reports raise concern that events at the Center may be even worse than the partial revelations in this report suggest.

4. As the principal and largest center providing medical services for prisoners held in the custody of the IPS, the Medical Center fails to meet the conditions established in law for facilities implementing comprehensive medical actions.
Unlike other institutions of its type, the Medical Center is not subject to any form of professional medical review.

5. Accordingly, there is an urgent need to take the following steps:
   A. To examine the cases detailed in this report in order to reach conclusions regarding the facts of each specific case, the conclusions to be drawn therefrom, and the liability to be attributed in connection therewith. It must be emphasized that the cases mentioned in this report are those brought to the attention of PHR-Israel; it may be assumed that a comprehensive examination including physical entry into the Medical Center and the receipt of all medical material would reveal additional cases.

   B. Given the situation described above, the Ministry of Internal Security and the IPS should initiate the closure of the Medical Center. Prisoners currently hospitalized at the Center should be transferred to external hospitals, with appropriate security supervision, as is often the case with detainees held in police custody.

   C. The Ministry of Internal Security, the IPS, the Ministry of Health and the Israel Medical Association should immediately establish a professional committee of inquiry to examine the functioning of the Medical Center and events at the Center. Such a committee should not only address the cases mentioned in this report, but also examine the relevant legal provisions, the structure of the Medical Center, and the status of physicians in the IPS (the question of dual loyalty). This will enable the committee to reach the necessary structural and systemic conclusions.

   D. Pending the completion of this examination and receipt of the conclusions of the committee of inquiry, the Medical Center should remain closed.
Ms. Hadas Ziv  
Project Director  
PHR-Israel  
30 Levanda St.  
Tel Aviv 66020

Dear Ms. Ziv,

Re: Israel Prison Service Medical Center  
Your letter dated February 17, 2002

In reply to your letter as above –

1. As stated in the report, the Ministry of Health does not have supervisory authority at the installations of the Israel Prison Service.

2. Individual complaints against physicians, including regarding their capability as physicians, are examined by the Ministry of Health and insofar as such complaints are submitted, these will be examined as is usual.

Sincerely,

Dr. Yitzhak Berlowitz  
Associate Director-General

CC:  
Prof. Shimon Glick, Public Ombudsman  
Ms. Mira Hibner-Harel, Attorney, Legal Adviser
February 25, 2002

Our ref: 216/02

Ms. Hadas Ziv
Project Coordinator
PHR-Israel
30 Levanda St.
Tel Aviv 66020

Dear Ms. Ziv,

Re: PHR-Israel Report on the Medical Center

Firstly, allow me to remark that your letter, which was received by our office on February 21, 2002, included a demand to respond by February 26, 2002. I am not sure that such short notice is either fair or practical.

Be that as it may: the connection between the Medical Center and Assaf Harofeh Medical Center is a long-standing one. The service we provide within the framework of the agreements is generally routine, ongoing, reliable and, of course, professional.

In general terms, I shall not relate to routine and localized mishaps that do not reflect the general situation.

Specifically, regarding ethics and patients' rights, my response is as follows:

1. All prisoners are under the custody and responsibility of the IPS.
   A priori, we regard the Medical Center as a professional body equal to ourselves in terms of the level of medical responsibility toward the patients.
   Accordingly, we find it inconceivable that the Medical Center would ignore its basic obligation to manage the treatment of
prisoners in such a manner as to ensure that they come for check-ups, continue their treatment, etc.

2. It is true that as part of the computerization of hospitals, or the use of computers in general, it is worth considering a computerized tool enabling us to identify prisoners who do not attend examinations or treatment recommended by us. At present, however, I fear that we would not find it easy to undertake this task – apart from which, as I noted, this is not our responsibility.

3. There is no discrimination against prisoners in terms of waiting lists for elective surgery; I trust it is superfluous to note that urgent cases are treated immediately. Sometimes a prisoner, regardless of his medical problem, tries to “test out the system” and demands an immediate operation by acting to draw attention – but these are isolated cases.

4. Regarding the supposed consideration shown by the physicians at Assaf Harofeh who work with the Medical Center for logistical and other interests of the wardens, including approval of delays in bringing prisoners for treatment: At most, this claim may be accurate in terms of two or three days, and when it is clear that the delay does not cause medical harm.

Our acquaintance with the working procedures of the IPS has exposed us to the complexities involved in bringing prisoners for examinations. Accordingly, we sometimes acquiesce to requests from the IPS. Again, I emphasize that the delays are of two or three days at most.

It should be recalled that the presence of prisoners, particularly when they are hospitalized, has ramifications for the other patients and staff. Accordingly, it is important both to us and our patients that the intake of prisoners take place in an optimum logistical process, as long as the arrangements required for this process do not endanger the patient or increase his suffering.

To conclude: The mutual activities of Assaf Harofeh Medical Center and the [IPS] Medical Center are long-standing, and during these activities we perform our part of the arrangement in an optimal manner. I do not believe that there are any infringements of patients’ rights on our part. However, we are not responsible for “policing” the
Medical Center. We are open to any instruction or idea that could improve our role in protecting the rights of patients in this context.

Sincerely,

Dr. Yigal Halperin
Deputy director, Medical Center

CC:
Dr. B. Davidson – Director, Medical Center
Dr. S. Arieli – Chairperson, Physicians Committee
Attorney Sarah Takapa – Legal Department
Israel Prison Service
T&R Authority – Prisoners
Medical Department, Ramle Commission

Date: 14 Adar 5762
26 February 2002

PHR-Israel
Ms. Hadas Ziv, Projects Coordinator
30 Levanda St.
Tel Aviv 66020

Re: Draft Report of PHR-Israel on the Subject of the Medical Center
Ref: Your letter dated February 17, 2002 and the attachments thereto

1. The IPS is a public body that operates by law and whose function is to hold prisoners in safe custody. Within this framework, the IPS is responsible for the well-being and health of the prisoners in its custody.

2. Like any public body the IPS is subject to the supervision and external review of the State Ombudsman’s Office, the Ombudsman’s Department of the Ministry of Internal Security, official visitors and, in addition, the IPS is even subject to greater review than other government ministries through the unique mechanism of prisoners’ petitions.

3. Although the National Health Insurance Law does not apply to prisoners, and as determined by the Ministry of Health prisoners are treated by the IPS and at its expense rather than by the sick funds, the IPS voluntarily decided that the medical services provided for prisoners are to be identical to those provided by Klarit sick fund for its insurees.

4. The Medical Center is an incarceration facility used exclusively for the hospitalization of prisoners, and is not a hospital as defined in the People’s Health Ordinance, 1940.

5. The People’s Health Ordinance, 1940 and the regulations enacted in accordance therewith do not apply to the State. The legal situation in this respect has been examined both by the IPS and by the relevant legal authorities in the Ministry of Health.

Ms. Yora Kranot, in a letter written in 1998 when she served as Senior Assistant to the Legal Adviser in the Ministry of Health, noted that the District Physician monitors the Medical Center and that the State deserves praise for its quality control and the protection of the rights of sick prisoners,
despite the fact that there is no legal obligation on the IPS in this respect and the Ministry of Health has no legal authority to undertake such inspection.

Each year the inspection of the Medical Center takes place on a regular basis and is implemented by the District Physician, the District Nurse and the District Pharmacist to their satisfaction.

6. It should further be noted that the IPS observes in full the provisions of the Patients Rights Law, and an Ethics Committee has been established as required by this law.

7. As for the Medical Center, the conditions of imprisonment are appropriate, fitting and meet any criterion by comparison to other prisons around the world. The Medical Center is clean and orderly.

8. The claims made in the report relating to delays and neglect in treatment, inappropriate treatment by physicians, abuse and neglect of nursing patients, intervention by non-medical personnel in medical treatment, evacuation to external hospitals and the relationship with Assaf Harofeh Hospital are general and do not raise a specific claim that could be examined. The IPS utterly rejects the claims. Regarding the claims relating to the cells and the conditions in the Medical Center: these were not examined by any of those who wrote the report.

9. The claims that there were allegedly cases in which prisoners who made complaints were subjected to threats or sanctions are made casually, without details of the prisoners or the sanctions taken. The reason is simple – the claims are devoid of any substance. No sanctions of any kind were imposed on any prisoner because of his complaints. Prisoners are not afraid to file complaints, as testified by the fact that prisoners file petitions relating to their conditions of imprisonment against varied and numerous sources within the IPS without any fear.

10. Regarding the claims relating to the deceased prisoners Tanus Atallah and Shaul Nachmias: these cases were examined by the Attorney’s Office, which reached its decision in these matters. The IPS has nothing to add regarding its decisions.

Sincerely,

Dr. Alex Adler, Deputy Commissioner
Head, Medical Department

CC: IPS Ombudsman Legal Adviser, IPS
The work of PHR-Israel is made possible through the support of the following foundations:

European Commission, Swiss Agency for Development and Cooperation, Diakonia, Centrale Sanitaire Suisse, SIVMO, Department for Global Ministries of the Uniting Churches in the Netherlands, New Israel Fund, Entwicklungshilfe-Klub, Haella Stichting, Joyce Mertz-Gilmore Foundation, Vicop Stiftung