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STJ

## *Wrongful Deaths Caused by Medical Errors in Northeastern Syria's Autonomous Enclaves*

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# Wrongful Deaths Caused by Medical Errors in Northeastern Syria's Autonomous Enclaves

*Three People Died and Two Harmed by November 1, 2018*

At least, three persons died and two harmed, including a child, as a result of medical mistakes made by physicians or people posing as them, in [al-Hasakah province](#), northeastern Syria, under the Autonomous Administration.

On July 11, 2018, a 29-year-old woman, mother of two children, died from a medical mistake made by her gynecologist during cesarean operation at a private hospital in [Qamishli/Qamishlo](#), al-Hasakah. [Ras al-Ein/Sari Kani](#) city also witnessed the death of an elderly man from a mistake by a competent physician, on May 31, 2018.

A man who posed as a doctor in al-Sweidiya village, south of [al-Malikiyah/Derik](#) city, caused a 4-year-old boy a neurological disease followed up by temporary paralysis in 2015, and in 2016 he caused a 36-year-old young man a temporary neurological disorder, while in 2017 he prescribed pain killers to an elderly man with Ischemic Heart Disease, which led to his death.

No formal complaint was filed against such errors' perpetrators, except one lodged by a woman from Qamishli, on May 2, 2017, against a gynecologist who allegedly left her ureter tied after a hysterectomy. That was the only claim received by the Autonomous Administration court since its establishment in 2014, said STJ's field researcher.

It's worth mentioning that the autonomous region in [al-Hasakah](#) province has 8 public hospitals and more than 25 private ones, as well as several dispensaries, and dozens of doctors with different specialists. In addition, there are two national hospitals located in areas jointly-ruled with the Syrian regime.

## I. Fake doctors killed many

A man called (A.N.), 66 years old, from al-Malikiyah/Derik, posed as a doctor and opened an emergency clinic with a pharmacy within since 2012, in al-Sweidiya village. He killed an old man and injured two, including a child, during 2015, 2016, 2017, by medical mistakes he made, according to testimonies obtained by STJ.

Working as a doctor, despite having no medical degree, (A.N.) used to examine patients and prescribe medications, before the Health Directorate of the Autonomous Administration closed his clinic in 2018, as a response to complaints from villagers.

(A.N.) was known to have worked at a medical center of the Syrian government before 2011. He took advantage of the fact to pose as a doctor and open a clinic in the village, after it was captured by the People Protection Units (YPG) in 2012, making tragic medical mistakes. Father of a boy harmed by (A.N.) said:

**"In 2015 I took my four-year-old son to the clinic for a fever he had. (A.N.) gave him an injection, which led my son to a neurological disorder and a**

**temporary paralysis in his extremities. Thus, I took him to a neurologist, who told me that the injection my son had got was the reason behind his illness and consequent paralysis, and that regular doctors can't make such a mistake. However, my son could walk again after a treatment course with specialists".**

Another witness from the village confirmed to STJ that a similar medical error was made by (A.N.) in 2016 to the young man Bangeen Jendi, who also got a neurological disease, and recovered, however, after a treatment course with a specialized doctor. Additionally, in 2017, (A.N.) gave Hussam Assaf, 68, who was suffering ischemic heart, an injection of mixed Diclofenac and Dixon, which is a grave mistake led to his instant death.

Alan Ahmad, a member of the Health Directorate in al-Malikiyah/Derik confirmed on November 12, 2018, that the clinic of (A.N.) was shut down:

**"In March 2018, we received a report about a fake doctor runs a clinic and a pharmacy in al-Sweidiya village. He used to examine patients and prescribe medications. To verify the report, we sent members of the Oversight Committee to the village. Indeed, they confirmed that (A.N.) has no medical degree. Accordingly, they issued him a warning and shut down his clinic within 15 days."**

**"The Health Directorate in al-Malikiyah/Derik or the Health Directorate in Jazira Canton have never received complaints against (A.N.) for medical errors",** Alan Ahmad stated. The Health Authority of the Autonomous Administration opened a public medical facility in al-Sweidiya village, al-Malikiyah/Derik suburbs, offers free medical services to the populations there, Ahmad added.

## **II. Fatal medical mistakes by specialized physicians!**

A cardiologist killed a 75-year-old man by a medical error in Ras al-Ain/Sari Kani city. STJ obtained details of the incident from the dead's grandson, who confirmed on November 13, 2018 that the cardiologist (M.A.) gave his heart-patient grandfather an injection of mixed Diclofenac and Dixon, when he once got a fever on May 25, 2018, which led to a blood clot in the major arteries of his leg and consequently to his death, a week later.

In one more incident, Tuba Ibrahim, 29, a mother of two children died on July 11, 2018 following a cesarean made by the gynecologist (E.H), in Farman Private Hospital in Qamishli/Qamishlo. the cause of death was a medical error, as said doctors in Damascus who examined Tuba after her operation.

"On 10 July 2018, Tuba was subjected to a caesarean by the physician (A.H.) in Farman private hospital. The operation lasted four hours, during which Tuba suffered a massive bleeding. The doctor gave her blood transfusions of 6 blood bags, and then told us that both Tuba and her baby are fine. However, by midnight that day, Tuba's condition worsened, she transferred thus to the Syrian government's national hospital in Qamishli. The analysis showed that the excessive amount of blood the doctor transfused, caused her kidney failure, from which she died on July 11, 2018. Doctors told the husband that Tuba died from a medical mistake made by (A.H.) during the delivery, that the latter had to stop the bleeding right after the hysterectomy, but she never did", said Tuba's relative.

"We did not make use of any judicial appeal procedure to seek compensation for her death. That won't bring her back. The Health Authority also didn't carry out an investigation", Tuba's relative concluded.

### III. "Doctors' mistakes are punishable by the law however serious they may be"

Safiya al-Ammo, a lawyer, told STJ that the penal code adopted by the Autonomous Administration provides that doctors must be held accountable for their mistakes, however tiny they are, resulted from their negligence, which an "attentive doctor", with the same specialty and in the same circumstances, does not commit. Hence, the doctor who caused the injury shall pay a monetary compensation to the patient; decided by judges. Additionally, the Charter of the Social Contract designated for the Autonomous Administration territories states that "if there are no related laws for Rojava territory, then the Syrian laws are applicable".

Families of the affected should file complaints to tribunals in their areas, whether those of the Syrian government or the Autonomous Administration, after first ensuring that the death was caused by medical malpractice or negligence. That should be determined after analysis and autopsy, if necessary, by a medical committee, which in turn should be formed by the concerned authorities. Eventually, those found guilty should be prosecuted by courts, which determine the sentences and compensations.

For Heva Jajan, a human rights activist, a medical committee should be formed to monitor the doctors' work and to oversee the claims filed against them, by the harmed patients'

relatives. However, reputation of the doctors, responsible for the errors, should not be defamed although the errors might be sometimes deadly.

In turn, STJ's legal consultant said that the Syrian law requires the doctor to exercise due diligence; making all efforts to be in line with medical ethics. She defined the medical error as a professional negligence by act or omission by a health care provider in which the treatment provided falls below the accepted standard of practice in the medical community and causes injury or death to the patient. Doctors bear civil and penal responsibility for mistakes they make:

## 1. Criminal Liability:

- A. Article 185 of the Syrian Penal Code<sup>1</sup> paragraph 2 section B: "Performing surgeries and treatments, consistent with the medical profession standards, are authorized by law, provided the consent of the patient or his/her guardians or except in cases of emergencies. The doctor's penalty depends on the period the victim spends, unfit for work, due to the harm he caused to him/her.
- B. Article 540: " The penalty of the injury, which stops the victim from work more than ten days, is six months imprisonment maximum or (short-term imprisonment) plus a fine.
- C. Article 541 states: "In case the injury stops the victim from work more than ten days, the doctor imprisoned for no more than a year and pays a fine of 2000 Syrian pounds. If the plaintiff disclaimed, the sentence halved".
- D. Article 542: "If the injury stops the victim from work more than 20 days, the penalty shall be imprisonment from three months to three years, and a fine up to 25,000 Syrian pounds".
- E. Article 543: "If the injury caused permanent disability, amputation, or damage to any sense organ, the penalty of the doctor responsible is, imprisonment with hard labor for maximum ten years.

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<sup>1</sup> The Syrian Penal Code, Ministry of Justice, last visit November 24, 2018, <http://www.moj.gov.sy/>



- F. Article 550: "If any person causes the death of someone due to negligence, malpractice, or failure to observe laws and regulations, he/she shall be punished by imprisonment for six months to three years".

The legal consultant for STJ said: the harmed party should file a personal claim to the general prosecutor's office, which transfers the case to the Medical Doctors Union for a behavioral probe. A report is then sent to the general prosecutor's office and a prosecution is initiated. Then a warrant is issued to transfer to the ad-hoc court.

## 2. Civil Liability:

The civil action demands the monetary compensation only, on the basis of article 164 of the Syrian Civil Code<sup>2</sup>: "any person who commits an error that causes injury to others shall be liable to pay compensation". The compensation determined according to the severity of the injury, which decided by medical experts and court assessment.

## IV. The Autonomous authorities' attitude toward medical errors

None of the several medical mistakes occurred in the Autonomous Administration areas, since its establishment in 2014 until early November 2018, presented to the court, except one claim made by a woman from Qamishli, on May 2, 2017, against a doctor, allegedly left her ureter tied after a hysterectomy.

The attorney of the harmed woman, Samir Sheikh Mousa said that the court sentenced the defendant to three years imprisonment imposed a fine of ten million Syrian pounds on him. Besides, stopping him from practicing medicine for one year. The verdict came into effect by the Court of Cassation in al-Hasakah province.

In this connection, STJ emailed the Health Directorate of the Autonomous Administration on November 11, 2018 to provide us with its legal basis for resolving medical error cases occur in its areas, However, the e-mail hasn't responded yet.

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<sup>2</sup> The Syrian Civil Code, last visit on November 23, 2018, <https://www.qanoon-online.com/>

The Asayish Forces<sup>3</sup> announced in a statement issued on October 25, 2018, the arrest of a fake doctor in Ras al-Ein/Sari Kani. As it turned out that the arrested had bought a false medicine certificate for SYP 600,000, and that he is an Agriculture Institute graduate, learned the principles of medicine and nursing while he was serving his compulsory military service in the Syrian army. The defendant was appointed as a doctor in the Military Hospital near Roj Hospital in Ras al-Ein/Sari Kani in early September 2018. But doctors working there uncovered him because of his ignorance of medical terminologies and turned him in, said a witness from Roj Hospital.

Having confessed guilt to all charges against him, the accused was held accountable by the prosecution authority in Ras al-Ein/Sari Kani, the same source added. No medical errors reported during the 55 days posing as a doctor.



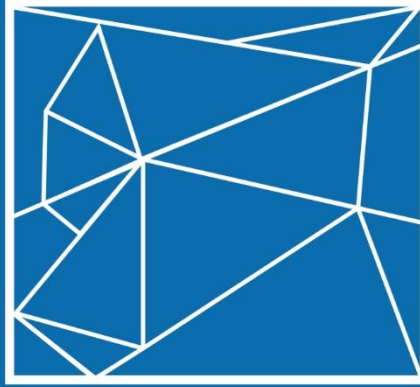
The statement issued by the 'Asayish' Forces on October 25, 2018 concerning the arrest of a person who posed as a doctor in Ras al-Ein/Sari Kani.

Photo credit: [the official Facebook page of the 'Asayish' Forces](#)

<sup>3</sup> Internal police force of the Autonomous Administration.



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## About Syrians for Truth and Justice:

**STJ** is an independent, nongovernmental organization whose members include Syrian human rights defenders, advocates and academics of different backgrounds and nationalities.

The initiative strives for SYRIA, where all Syrian citizens (females and males) have dignity, equality, justice and equal human rights.

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