

students at four Palestinian universities, three in the West Bank (Birzeit, Al-Quds, and Bethlehem) and one in Gaza (Islamic University of Gaza). Interviews were also undertaken with Israeli academics, and some case studies and testimonies were gathered on the actual experiences of foreign academics trying to enter the oPt and work at Palestinian universities. Additional material presented is drawn from RTE's previous and ongoing research into issues around issues of access, movement and residency in the Israeli-occupied Palestinian territory.

MAJOR FINDINGS

Israeli-imposed entry and residency restrictions on foreign academics have severely diminished opportunities for development of faculty, courses, and research programs at Palestinian institutes of higher education.

Over the last decade, as recruitment of foreign academics has shrunk, higher education institutions have limited their programs of study and cut back on the development of their research programs. Students do not have exposure to a diversity of perspectives, new ideas, cultural norms, ways of thinking and conceptualizing knowledge. With a shortage of qualified academics in highly specialized and cutting-edge fields, research capabilities have been undermined. Skill acquisition in second languages is being atrophied and the knowledge base and academic erudition of the institutions are being diminished as few new approaches and content flow in.

Foreign academics are less willing and able to consider taking up teaching and research posts in Palestinian institutions of higher education due to the arbitrary and unpredictable restrictions on entry and residency to which they may be subjected.

Israel has established no clear and transparent policy, processes and procedures for issuing entry visas and residency permits to foreign passport holders wishing to visit or work in the West Bank and Gaza Strip.

Foreign academics have no reasonable guarantees that they will be permitted to travel to the Palestinian universities that recruited them, remain in the oPt for the duration of their academic contracts, or return to their universities should they travel abroad even briefly for academic or personal reasons. The broad discretion exercised on these matters by Israeli officials controlling entry at border crossings and handling applications for permit renewals and residency compounds this uncertainty and absence of accountability. Foreign academics have been arbitrarily denied entry at border crossings, refused extension of visas in mid-semester, refused re-entry to complete their contracted work, and been issued with visas that restrict their internal movement.

Consequently, the numbers of foreign academics willing and able to teach at Palestinian universities are decreasing. Interviews conducted for this report confirm that this is directly due to the uncertainties and difficulties of securing permission to enter the oPt or to stay for the limited or extended periods required to carry out their academic objectives and commitments.

For decades Israel has operated a broad regime of internal and external movement and access restrictions to the detriment of Palestinian higher education and other vital Palestinian economic, social welfare and development processes in the West Bank and Gaza Strip. In light of its arbitrary and indiscriminate character, political inspiration and disruptive impact on Palestinian civil life, this broad restrictive regime clearly contravenes international law.

The expertise and participation of foreign passport holders, including diaspora Palestinians, is often required to support each of these vital processes. For this specific reason, the arbitrary and indiscriminate restrictions on entry and presence to which foreign passport holders, including academics, are subjected clearly contravene international law.

A long line of UN Security Council and General Assembly resolutions, rulings of the International Court of Justice and Israel's own Supreme Court affirm Israel's obligation to exercise its control over the occupied West Bank and Gaza Strip in strict accordance with

international humanitarian law (including the Hague Convention of 1907 and the Fourth Geneva Convention of 1949) as well as applicable international human rights law. As the occupying power, Israel is obligated to both protect and facilitate the functioning of Palestinian civil institutions, including Palestinian institutions of higher education. It is therefore also obligated to exercise its control over the entry and presence of foreign academics in a manner that causes no unnecessary or unjustifiable harm to Palestinian higher education, and to the Palestinian population's right to education. Moreover, Israel may not exercise this control politically, to serve what it considers to be its own national interests.

Because restrictive measures do cause harm, they may only be justified on the basis of legitimate grounds of necessity: to protect the security of an occupying power's own forces; to enable the occupying power to comply with its obligations under international humanitarian law and international human rights law, including its obligation to ensure safety and public order in occupied territory; to benefit the protected civilian population.

No legitimate grounds of necessity can be plausibly invoked to justify the difficulties actually imposed on foreign academics teaching at Palestinian universities. There is no evidence that foreign academics denied entry into the oPt, or denied the visa extensions and renewals needed to complete their teaching commitments, pose any sort of threat to security.

Third States have important responsibilities vis a vis the unlawful restrictive measures against foreign academics discussed in this report. These stem from their customary duties in international law to oppose, and not acquiesce to its violation, including the duty of States not to recognise as lawful any serious breach of international law, or an unlawful situation created by that breach. This duty is reaffirmed under the international law of occupation as the duty to 'ensure respect ... in all circumstances' set out in Article 1 common to the four Geneva Conventions of 1949.

When restrictive measures are imposed on the entry or presence in occupied territory of foreign nationals, including foreign academics the first question that should be asked by their own States, as High Contracting Parties to the Fourth Geneva Convention, is whether the restrictions can be justified in light of the disruption caused to the civil life of the territory or the harm caused to the rights of its protected civilian population. The second question that State should consider asking, as a matter of their responsibilities to their own nationals, is whether their nationals are being targeted wrongfully, in particular on the basis their ethnicity or religion. This report and its appendices provide ample indications that both of these wrongs are indeed being committed widely, persistently and unaccountably. States have clear rights to ask such questions and pursue satisfactory answers from Israel. They have the option to cooperate and seek satisfaction jointly. It should be emphasized in this connection that the unquestioned right of any State to limit or deny entry into its own territory as it sees fit does not apply Israel's occupation of Palestine. In the case at hand, repeated failures to pose the proper questions and pursue the satisfactory answers to which States are entitled, especially in cases involving their own nationals, implies acquiescence to Israel's breaches of international humanitarian law.

RECOMMENDATIONS

We call on Palestinian educational institutions and representatives including universities, local academics, Palestinian Education unions, the Palestinian Authority, the Ministry of Education and Ministry of Higher Education, the PLO to work together to face this challenge. In particular, we urge

- Establish monitoring mechanisms within their institutions to track numbers of foreign academics on faculty, the visa/residency issues they face, loss of academic programs involved, and the costs incurred
- Take collective action on right to enter restrictions practiced by the Israeli authorities on foreign academics

- Activate right to education (right2edu) networks² across the education sector throughout the oPt and globally to proactively monitor and address this issue
- Ensure that the consequences of access and movement restrictions on education are fully understood by local and international human rights organizations and Third States
- Ministry of Higher Education (MoHE) to raise issue of movement and access with Palestinian diplomats abroad

We call on international academic institutions and civil society institutions worldwide to join in support of a campaign that would:

- Call for an immediate halt to Israel’s arbitrary and abusive practice of denying entry to foreign nationals traveling to the oPt to promote educational development
- Demand Israel’s adoption and implementation of a clear, documented, and transparent policy enabling unhindered access to the oPt by foreign nationals who are coming to educate or promote educational development

We call on Israel to

- Immediately eliminate the prohibitive stipulation “NOT ALLOWED TO WORK” added to visas issued to academics or researchers who are working for Palestinian universities in the oPt with the full prior knowledge of the Israeli authorities
- Provide multiple entry visas for people who are extending their visas, including family members
- Provide explicit assurances that people who have previously been denied entry will be permitted to re-enter the oPt
- End the practice of issuing permits that restrict exit and re-entry, or restrict the area of the visit (e.g. “Judea and Samaria only”)
- End the practice of issuing permits of less than three months to those traveling to the oPt
- Cease the collective punishment of those whose relatives may have “overstayed” their original visa duration.

We urge Third States that have friendly relations with Israel to

- Demand Israel’s adoption and implementation of a clear, documented, and transparent policy enabling unhindered access to the oPt by foreign nationals who are coming to educate or promote educational development
- Provide diplomatic support to their own nationals and citizens who are coming to work as educators, academics and researchers in Palestine
- Monitor and facilitate the entry of nationals traveling to occupied Palestinian Territory to provide educational, social, economic or development services at border crossings controlled by Israel
- Monitor and take steps to facilitate the issuance of residence permits for those nationals for the duration of their work contracts or periods of research
- Insist on ascertaining the factual justification and legitimacy of entry and residency restrictions imposed on those nationals on the basis of the applicable rules of IHL and principles of human rights law referred to in the Report’s introduction. Contest restrictions that lack lawful justification
- Ensure that the correct treatment accorded to Israeli nationals seeking to enter their countries is reciprocated by Israel’s correct treatment of their own nationals seeking to enter the oPt via Israeli-controlled borders.

² <http://www.right2edu.org/>