



CAMPAIGN FOR THE RIGHT TO ENTER THE
OCCUPIED PALESTINIAN TERRITORY (OPT)

A grassroots campaign working for the right to freedom of movement and residency in the oPt

**Academia Undermined:
Israeli Restrictions on Foreign National Academics in Palestinian Higher Education Institutions¹**

July 2018 - Israeli-imposed entry and residency restrictions on international academics have severely diminished opportunities for development of faculty, courses, and research programs at Palestinian institutes of higher education.

Over the past two decades, as recruitment of international 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, and ways of thinking. 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.

International academics are increasingly deterred from 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. International academics, therefore, 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 international academics willing and able to teach at Palestinian universities are decreasing. Research confirms 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 internationals, 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.

¹ Information in this document is largely taken from a research study published by the Right to Enter Campaign entitled "Academia Undermined: Israeli Restrictions on Foreign National Academics in Palestinian Higher Education Institutions" (May 2013) with updates as relevant <http://www.righttoenter.ps/new-education-report/>.

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, whether 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-à-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 a foreign national, including a foreign academic, the first question that should be asked by the State of that foreign national, as High Contracting Party 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 the State should consider asking, as a matter of its responsibility to its own nationals, is whether its national is being targeted wrongfully, in particular on the basis of ethnicity or religion. Research provides ample indications that both of these wrongs are indeed being committed widely, persistently and unaccountably. Third 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 to Israel's occupation of Palestine. In the case at hand, repeated failures to pose the proper questions and pursue the satisfactory answers to which third States are entitled, especially in cases involving their own nationals, implies acquiescence to Israel's breaches of international humanitarian law.

Recommendations

Until such time as the Israeli occupation has ended and the sovereign Palestinian right of self-determination is fully implemented, the Campaign for the Right to Enter calls on all parties to work together to secure the following immediate objectives:

1. End the illegal closure imposed on Gaza and all other unlawful restrictive measures that violate Palestinians' fundamental right to freedom of movement within the oPt.
2. Implement the rights to family unity and family reunification and the establishment of clear, transparent and internationally lawful procedures for foreign nationals seeking to reside in the oPt.

- Cancel the stipulation by Israel's Coordinator of Government Activities in the Territories (COGAT) that restricts foreigners to a 27-month, single entry, maximum stay.
 - Adopt and implement a clear and transparent policy for issuing multiple entry residency permits to foreign nationals.
3. Halt arbitrary and abusive denials of entry to foreign nationals travelling to the oPt.
 - Obtain Israel's adoption and implementation of a clear, transparent policy that places no unlawful barriers on access to the oPt by foreign nationals.
 - Obtain explicit assurances that people who have previously been unlawfully denied entry will be permitted to re-enter the oPt.
 4. Abolish "PA only," "Judea and Samaria only," and other geographic restrictions that arbitrarily restrict freedom of movement within the oPt and undermine its territorial integrity.
 5. End the collective punishment of protected persons whose relatives may have overstayed their original visa duration.

To this end the Campaign recommends the following actions by various parties in relation to protecting Palestinians' right to education:

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) networks 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 Education and Higher Education (MoEHE) 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 urge Third States that have friendly relations with Israel to redouble shared efforts to address critical humanitarian issues regarding movement, access, and residency in the oPt.

Third States have a clear obligation to scrutinize Israel's exercise of authority as an occupying power and to oppose arbitrary denials of entry and residency that harm Palestinian family life; educational, religious and social service institutions; and businesses and socio-economic development more broadly. Third States maintaining friendly relations with Israel have a special standing, legal basis and obligation to challenge the arbitrary exclusion of their

nationals from the oPt when the acts of exclusion cause or contribute directly to such harms. In such situations, failures to object and demand rectification in conformity with international law imply acquiescence to the Occupying Powers' violation of its obligations to the protected civilian population under its control. This obligation to object and demand rectification is not primarily owed by third States to their nationals. It is primarily owed to the protected persons and communities of the oPt, and to the community of States.

The Campaign urges third States to make a fresh assessment of their own relevant rights and responsibilities. The current conditions are unlawful and unsustainable. Diligent third State scrutiny and responses to the wrongful administrative treatment of their dependents as they seek to enter or maintain their presence in the oPt is necessary and appropriate as a first level of harm mitigation and humanitarian protection. This diligence must also open the way to addressing the persistent mal-administration that continues to give rise to serious harms. It is time to secure Israel's **articulation and implementation of a clear and consistent regime governing entry into, movement within, and longer-term stay in the oPt** in keeping with international humanitarian law, applied without discrimination, and according all affected persons full dignity and respect.

Recommended Measures by Third States:

1. Vigorously scrutinise cases of denied entry, denied visa renewals and denied residency in the oPt.
 - Set up clear mechanisms for citizens to report and appeal cases of denied entry and visa renewals.
 - Set up effective mechanisms for liaising with Israeli authorities to ensure the safe transit of their nationals into the oPt in conformity with international law and the prompt and proper resolution of cases where such transit has been hindered.
 - Insist on receiving an official explanation of each decision taken by Israel to bar any of their citizens from the oPt and/or refuse residency.
 - Object to all arbitrary denials of entry and residency that harm Palestinian family life, educational, health and social service institutions, and businesses and act to resolve all such cases of exclusion.
2. Reinvigorate the implementation of third State duties to object to *prima facie* unlawful acts and policies when notified of them, lest failures to object imply acquiescence to them.
3. Promote Israel's compliance with international humanitarian law with appropriate and effective tools of persuasion and dissuasion.
4. Take appropriate measures based on reciprocity to ensure that the correct treatment accorded to Israel nationals seeking to enter third countries is reciprocated by correct treatment of their nationals seeking to enter Israel or the oPt.

In the press

2 June 2018: Amira Hass, "Israel's Ultimatum to a Revered Palestinian Principal and Agent of Change,"

<https://www.haaretz.com/middle-east-news/palestinians/.premium.MAGAZINE-israel-s-ultimatum-to-a-revered-palestinian-principal-and-change-agent-1.6137066?=&ts=1531586701562>

13 July 2018: Rania Zabaneh, "Foreign residents in Palestinian territories denied visa renewals,"

<https://www.aljazeera.com/news/2018/07/foreign-residents-palestinian-territories-denied-visa-renewals-180713112441505.html>

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