



**The Right to Education Campaign's
Submission to the
United Nations Human Rights Council's
Universal Periodic Review of Israel
December 2008**

Submitted July 2008

Contact:

Laura Ribeiro

Legal Researcher

The Right to Education Campaign

right2edu@birzeit.edu

The Right to Education Campaign is a collaborative project based in Birzeit, An-Najah and Bethlehem universities in the occupied Palestinian territories. The Campaign began in 1988 at Birzeit University with the provision of legal assistance to students and teachers who were arrested for carrying books and attending classes in people's homes and community centres during the first *intifada* - when all Palestinian universities were closed down by Israeli military order. Since then, the Campaign has sought to expose the systematic obstruction of Palestinian higher education in the West Bank and Gaza Strip. The Campaign opened at An-Najah National University in 2006 with a special focus on documentation of human rights violations, and in Bethlehem University in March 2008.

Campaign Contacts:

An-Najah National University, P.O. Box 7, Nablus, occupied Palestinian territories.

Pennie Quinton, Coordinator: righ2edu@najah.edu

Asmaa Dweikat, Documentation Officer: right2edu@najah.edu

Bethlehem University, P.O.Box 11407, 92248, Jerusalem.

Danny Glenwright, Coordinator: danielg@bethlehem.edu

Birzeit University, P.O. Box 14, Birzeit, occupied Palestinian territories.

Simine Alam, Coordinator: right2edu@birzeit.edu

The Right to Education Campaign (R2E)¹
Submission to the UN Universal Periodic Review of Israel
Third session of the UPR Working Group, December 2008

In this submission, the Right to Education Campaign (R2E) provided information under Section C, **Promotion and Protection of Human Rights on the Ground: Implementation of international human rights obligations** of the Human Rights Council's Guidelines for the Preparation of Information under UPR.²

Key words: Right to Education – Education of Palestinian Prisoners - Political Prisoners – The Wall – Freedom of Movement – Academic Freedom – Economic Blockade – Harassment.

Category: Right to Education

Topic 1: Denial of education to young Palestinian detainees.

Key Issues: Palestinian detainees from the occupied Palestinian territories (oPts) inside Israeli prisons are arbitrarily denied the same access to education as their Israeli counterparts. In 2007, 3,000 detainees were not permitted to sit their end of high-school exams.

1. Israel is bound by instruments of international law to guarantee the right to education of students whilst in detention.³ This right was also partly recognised by an Israeli court which held that Palestinian child detainees are entitled to the same level of education as Israeli child detainees, however, with the caveat that the right was “subject to the security situation”.⁴ R2E shares the deep concern expressed by the children's rights organization, Defence for Children International – Palestine Section (DCI/PS)⁵ over the absolute denial of education to Palestinian child detainees held in the seven detention centres in the West Bank,⁶ and only two out of five prisons inside Israel offer any form of education at all.⁷ In the two prisons where some education is provided, it is limited to two hours per week in Telmond prison, and nine hours per week in Addamoun prison. The Palestinian Ministry of Detainees and Ex-Detainees Affairs also confirms that in 2007, some 3,000 young Palestinians detained in Israeli prisons were not permitted to sit the final-year examinations for secondary schooling (the *tawjihi* exams).⁸ R2E is particularly concerned with the double standards implied in this practice as Israeli child and young detainees are not denied these education rights.

Category: Situations in or in relation to specific regions or territories

Topic 1: Jerusalem.

Key Issues: The Wall cuts off teachers and students from their schools in East Jerusalem, making schools vulnerable to closure.

2. The application of International human rights law in times of armed conflict and occupation is universally accepted – with Israel being a notable exception – and has recently been confirmed by the International Court of Justice (ICJ).⁹ Article 50 of the Fourth Geneva Convention also states that an occupying power shall “facilitate the proper working of all institutions devoted to the care and education of children.”¹⁰ Article 47 of the Convention further establishes that agreements between the authorities of the occupied territory and the occupying power do not exempt the latter from its duties under the Convention, and the ICRC's interpretation of Article 50 imposes a positive

obligation on the occupying power whereby it must not only refrain from adversely affecting educational institutions but it must seek "to support them actively and even encourage them if the responsible authorities of the country fail in their duty."¹¹

3. Moreover, the ICJ's Advisory Opinion on the Wall found that it illegally impeded not only the liberty of movement of Palestinians but also, as a consequence, the exercise of their right to education.¹² The Al-Haq case study of the Arab Orphan School in East Jerusalem, published in December 2006, reveals precisely how the Wall has such a negative impact on education.¹³ The establishment of Qalandiya checkpoint in April 2006 cut off the school from its catchment areas of Bir Nabala and the rest of the West Bank,¹⁴ 85% of its students and teachers hold Palestinian I.D.s and now face problems crossing the checkpoint to reach the school. In the academic year 2006-2007, 30 members of staff were unable to reach the school on a regular basis because they were forced to sneak through buildings in order to avoid checkpoints. Of those who did make it, many were sent home by the school's administration who were scared because police often raided the school, arresting 'illegal' staff and students. The founder of the School, Hasan al-Qeeq faced charges for allowing pupils with Palestinian I.D.s to reside in Israel without permits.¹⁵ Those who were lucky enough to get permits (nine members of staff and a few students) had only 3 months of guaranteed access to the School; their right to education for that year remaining in limbo. The stifling conditions caused by the Wall¹⁶ threaten the existence of the School, as one of the teachers explains:

*"I consider every day that I spend at school my last day there. Since the beginning of the academic year, I have been living in a state of emergency. The effects of this have been reflected in the students' performance and achievements."*¹⁷

Topic 2: Nablus.

Key Issues: The system of checkpoints around Nablus exposes thousands of students in higher education to serious delays as well as verbal and physical harassment on a daily basis. One student was pepper-sprayed in the eyes for accidentally stepping forward in a queue, while another had his arm broken by a soldier when caught avoiding a checkpoint.

4. An-Najah National University is located in Nablus, a town in the northern West Bank that is completely surrounded by 7 manned checkpoints. The University's student population of 17,000 and its 1,000 members of staff are regularly subjected to military invasions, arrests and closures, with over half of the campus population enduring further security checks, delays, closures and harassment because they must cross the boundaries of the checkpoints and roadblocks in order to reach their classrooms. In a random survey of 166 people conducted in May 2007, 95 said they have missed classes due to delays at checkpoints, suggesting that a high percentage of the 9,000 students and staff who cross checkpoints have endured the same fate. In a separate study, 28 students recorded their experiences traveling to and from university between September and December 2007. Collectively they reported 356 occasions of crossing checkpoints, of which, 10 involve incidents of the students experiencing physical and verbal harassment, while another 57 involved incidents in which the students witness harassment of other travelers, many of whom the observers recognised as students. They also found that men spent twice as long than women at checkpoints, on average waiting 90 minutes compared to zero to 45 minutes for women. Crossing checkpoints has become so difficult,

both mentally and physically, that many students resort to taking long detours through the countryside in order to avoid them. One case shows a student was pepper-sprayed for accidentally stepping forward in a queue, which illustrates the extent of arbitrary abuse faced by An-Najah students [Annex I]. In another case a student had his arm broken as punishment for avoiding Beit Iba checkpoint – a typical example of the dangers faced when students avoid checkpoints [Annex II].

**Category: Freedom of religion and belief, expression,
and right to participate in public and political life**

Topic 1: Detention of students taking part in political life.

Key Issues: All student groups associated with political parties are banned by military order making student leaders particularly vulnerable to arrests based solely on their political activity. Since 2004, the Israeli army has arrested more than 8 elected representatives of the Student Council of Birzeit University, 5 of whom were presidents of the Council at the time of arrest.

5. Under Israeli military law, all student blocs are outlawed, making membership to any student branch of a political party illegal – including Fatah – and subjecting thousands of students to arbitrary arrest and the denial of their freedom of opinion and expression. On Sunday 25th November 2007, the president of Birzeit University's Student Council, Fadi Hamad, was arrested by Israeli military Special Forces while travelling on the road between the al-Jalazoon refugee camp and the city of Ramallah. As a student leader, Fadi represented the interests of some 7,000 students before the university administration, and was responsible for welfare programmes for students, providing them with sports and cultural activities as well as help with registration, paying fees and their studies. Fadi's arrest was followed by the arrest of his replacement, Abdullah Owais, who was also arrested at a checkpoint in February 2008 and charged under the same count. Since 2004, the army has arrested more than 8 elected representatives of the Council, 5 of whom were presidents of the Council at the time of arrest. Before his arrest, Fadi Hamad had commented on the arrests of Student Council members:

"The arrested students who worked for the Student Council focused solely on providing local academic support for students and nothing else. In reality, these arrests serve to discredit and obstruct the work of the Student Council as an institution and are not about providing security for Israel."

6. R2E's data also shows that 21 out of 40 cases represented by Birzeit University's lawyer are political prisoners who are serving time solely for belonging to student societies or political parties, many of whom held positions of leadership in the Student Council at the time of their arrest. These students are not only being denied their freedoms of association, thought, and liberty; they are being denied their education.

Category: Freedom of movement/ freedom to leave and come back to country

Topic 1: Checkpoints and the isolation of the Gaza Strip from the West Bank.

Key Issues: The system of checkpoints and the isolation of the Gaza Strip from the West Bank has changed the demographic composition of the student population in Palestinian universities, affecting their production of knowledge and the ability of students to access certain courses.

7. The cantonisation of the West Bank has resulted in Birzeit losing some of its national character as students face increasing difficulties in accessing the University. For example, 20 per cent of Birzeit's students reside in Jerusalem and on average face delays of 2 hours at the Qalandiya checkpoint on a daily basis. Between 2004 and 2005, there was no intake from Jenin due to checkpoint closures and currently the intake from the northern and southern areas of the West Bank has dropped substantially. In 2000 there were 350 Gaza students at Birzeit University, of these, many were deported¹⁸ while others were forced to reside 'illegally' in the West Bank in order to finish their studies.¹⁹ By 2005 there were only 35 Gaza students in Birzeit, marking a ten-fold drop in five years, and today there are none. This also affects the production of local knowledge which is dependent on the sharing of experiences in classrooms and the ability to attend local conferences.

8. Since 2004, Israel has totally prohibited Palestinian residents of Gaza from studying in the West Bank. In 2006, a ruling in the Israeli High Court forbade 10 Palestinians from accessing Bethlehem University's Occupational Therapy Programme. The argument used by the state prosecutor, Haran Reicher, was that "there is a general phenomenon of attempts to harm state security by residents of Gaza between the ages of 16 and 35" which effectively laid the ground for an outright ban on all Gazan students from leaving Gaza because they belong to a so-called 'dangerous age group'.²⁰

9. Israeli checkpoints in the West Bank also limit the options available to students who cannot afford to live outside the family home or do not obtain a permit to travel and therefore must attend local universities. The Arab American University of Jenin for example, does not yet offer engineering degrees, so students from Jenin are not able to study in this field. As well, the only medical schools in the oPts are at Al Quds University and An-Najah National University, both of which are difficult to reach as they are surrounded by the Wall and checkpoints, respectively.

Topic 2: Immigration controls.

Key Issues: Israeli immigration controls deny access of academics and students holding foreign passports to Palestinian institutions of higher education, further isolating these institutions and pushing them into greater economic uncertainty. Birzeit University's Programme for foreign students was no longer self-sufficient as the flow of students reduced and became irregular.

10. As the state of Israel controls the borders and population register of the oPts, it has *de facto* control over which foreign students and teachers can access Palestinian universities. At Birzeit University, in the academic year 2006-2007, there were 21 faculty members at risk of not making it to the end of the year due to visa insecurity, and from May 2006 to September 2006, there was a 50 per cent drop in staff holding foreign passports – from 52 to 27 – due to their visas being denied. Most of the staff affected were of Palestinian origin and many had been teaching in Birzeit for decades.²¹ Also between 2006 and 2007, at least 13 students attending the Palestinian and Arabic Studies (PAS) Programme in Birzeit were not permitted entry to start or continue their studies. This put the PAS Programme at risk because it is entirely self-sufficient and dependent on foreign students' access to the University. By the start of the academic year 2007-2008, the PAS Programme was no longer self-sufficient placing a further burden on the university's budget.

11. In July 2007, the English department of the Arab American University of Jenin reported it was about to close due to difficulty in attracting native-speaking teachers from abroad. These difficulties are due to Israeli immigration practice which makes employment in West Bank universities such a gamble that many foreign teachers cannot afford the risk of leaving their jobs for new opportunities in the oPts.

Category: Right to Life, liberty and security of person

Topic 2: Harassment of students in student accommodation.

Key Issues: The Israeli army regularly invades the homes of students, conducts arbitrary interrogations and restricts their movement as punishment for non-compliance.

15. The increased lack of mobility due to checkpoints and the cantonisation of the West Bank means thousands of students in Birzeit University are forced to live in student accommodation in Birzeit village. The Israeli army has invaded the homes of about 30 per cent of the 2,200 students living in Birzeit village²² and subjected these students to arbitrary interviewing,²³ [Annex III] regardless of whether they are suspected of being involved in political or security-related activities. The psychological pressure and anxiety generated from such interviews can amount to inhumane and degrading treatment. R2E has reports of students who object to such questioning being given papers calling them for interviews at a later time and if they do not attend they are then harassed at checkpoints as punishment for not attending such interviews [Annex IV].

Recommended Questions to Israel:

When will Israel ensure Palestinian child and young detainees receive the same standard of education commensurate to the standard of education provided to Israeli detainees?

What measures will Israel adopt to ensure that teachers and students can access their schools in East Jerusalem?

How and when will Israel recognize the right to the political expression of Palestinian students who are not engaged in security-related activities?

¹ The Right to Education Campaign also endorses the UPR submissions of Al-Haq, Defence for Children International – Palestine Section (DCI/PS), Addameer, Civic Coalition to Defend Palestinian Rights in Jerusalem.

² UN Doc. A/HRC/6/L.24. 24 September 2007

³ Fourth Geneva Convention, Article 94: "The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside" and the UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 38: "Every juvenile of compulsory school age has the right to education suited to his or her needs and abilities and designed to prepare him or her for return to society. Such education should be provided ... by qualified teachers through programmes integrated with the education system of the country so that, after release, juveniles may continue their education without difficulty."

⁴ *Mohammad Frehat and ors v IPS (1997) 400/97*

⁵ See DCI/PS report, Palestinian Child Prisoners, 2007, pg. 33-34

<http://www.dci-pal.org/english/publ/research/2008/PCPReport.pdf>.

⁶ Huwarra, Etzion, Salem, Askelon, Jalama, Mascobiyya and Petah Tikva.

⁷ The five prisons are: An Naqab, Ofer, Telmond, Megiddo and Addamoun, with Telmond and Addamoun being the exceptions.

⁸ Confirmed by communications between the R2E and the Ministry of Detainees and Ex-Detainees Affairs on 16 July 2008.

⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, ICJ, 2004, para 111.

¹⁰ Fourth Geneva Convention, Article 50: "The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children."

¹¹ ICRC, *Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (Geneva, ICRC, 1958), p. 286.

¹² ¹² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories*, ICJ, 2004, para 134.

¹³ Al-Haq, *The Right to Education Under Occupation: A Case Study of the Arab Orphan School, East Jerusalem*, December 2006, <http://right2edu.birzeit.edu/downloads/pdfs/Al-HaqBriefDec2006.pdf>

¹⁴ The Arab Orphan School in East Jerusalem also had a strong tradition of educating students from the Gaza Strip, but the restrictions on movement of Gazans since 2000 made it impossible for Gazans to attend the School, even as boarding students – see Al-Haq report, *supra* note 28, pg. 2.

¹⁵ Mr Hasan al-Qeeq died in April 2004 before the end of his trial.

¹⁶ In 2000 the school taught 250 students, by 2006 the numbers were cut by half to just 120 pupils.

¹⁷ Al-Haq affidavit no. 2955/2006, referenced in Al-Haq report, see *supra* note 38, pg. 8.

¹⁸ Al-Haq intervention to Legal Advisor in Beit Il on behalf of Birzeit students deported to Gaza, march 2005,

<http://right2edu.birzeit.edu/news/article269> .

¹⁹ These ex-student still risk deportation at any moment.

²⁰ See Gisha press release, 31 October 2006, 'Israeli Military to High Court: Gaza Students Pose a Threat to Security'

<http://www.gisha.org/index.php?intLanguage=2&intItemId=222&intSiteSN=113&OldMenu=113> .

²¹ See case studies of Sam Bahour <http://right2edu.birzeit.edu/news/article427> and Fadah Thum

<http://right2edu.birzeit.edu/news/article448> .

²² See statement by Fadi Hamad, Head of Birzeit Student Council 2006-2007, in R2E article

<http://right2edu.birzeit.edu/news/article512> and Fact Sheet <http://right2edu.birzeit.edu/news/article495> .

²³ Such as in the case of Kareem Rabie: On 31st July around 2:30am, about 7 soldiers broke into his residence, apparently looking for a student. The commander asked him a series of questions about other inhabitants of the building; who the neighbours are and who his roommates are. He was allowed to go upstairs to put on more clothes and he saw his three roommates answering questions with guns pointed at them. All four were being asked the same questions. The incident lasted about 1.30 hrs. No one from Kareem's house was arrested.