

מרכז לשמירה על הזכות לנוע (ע"ר)
Legal Center for Freedom of Movement
مركز للدفاع عن حرية الحركة



Position Paper

Limitations on Access to Higher Education for Palestinian Students

**Submitted to the Knesset Committee
for Education, Culture and Sport**

**Gisha – Legal Center for Freedom of Movement
December 2006**

Introduction

Since 2000, Palestinians living in the West Bank or Gaza Strip who wish to obtain higher education are faced with numerous obstacles, stemming from limitations on their freedom of movement. These restrictions prevent them from traveling from their homes in the West Bank to universities in the West Bank or from their homes in Gaza to universities in the West Bank which have the study programs they seek. Additionally, if the student seeks clinical training - which often is not available in Gaza or the West Bank and which for years has taken place in Israel and in East Jerusalem - the trip becomes even more difficult and almost impossible.

The Palestinian higher education system is founded on universities in Gaza and the West Bank whose study programs were planned as one integrated system. This system is based on the assumption that programs that exist in Gaza and the West Bank will serve both Palestinian populations, and thus there are professions which are taught only in the West Bank and not in Gaza.

In this position paper, we will detail two central components of a policy by the Israeli security forces that limits the ability of Palestinians to access education. We will explain the problems inherent in these components for both Palestinians who wish to access higher education and also for the state of Israel.

About the Higher Education System in Gaza and the West Bank

- In Gaza there are three universities: Al-Azhar, the Islamic University and Al-Aqsa University. In addition, there is the Al-Quds Open University, where studies take place through written correspondence.
- The following professions can be studied only in the West Bank and not in Gaza: speech therapy, occupational therapy, medicine, dentistry, operation room management and health systems, and others.
- Because students from Gaza are prohibited from entering the West Bank and studying medicine at Al-Quds University, Gaza established a “satellite” medical program connected to the University in which students who live in Gaza learn in an extension of the medical faculty. These “remote control” studies raise difficult questions regarding professional and educational standards, especially considering the differences between the health system in Gaza, which is based on the Egyptian health system, and the health system in the West Bank, which is based on the Jordanian system.
- The West Bank contains the infrastructure for the Palestinian higher education system and hosts nine universities. Many advanced degrees can only be obtained in the West Bank and not in Gaza.
- Since 2000, there has been a drastic reduction in the number of students from Gaza studying in the West Bank. Anecdotal data obtained by Gisha indicate a drop of 90% in the number of Palestinian students from Gaza studying in the West Bank.

- Neither Gaza nor the West Bank has any type of recognized doctoral program.
- There is no environmental studies program in Gaza or the West Bank.

Component 1: Sweeping Ban on the Right of Gaza Residents to Travel to the West Bank for Studies

Since 2000, the Israeli security services have prevented Palestinian residents of Gaza from traveling to the West Bank for their studies. This is a sweeping ban that does not relate at all to the question of whether, regarding a particular student, there is security information which the security forces might view as a reason for limiting travel. In addition, the army refuses to allow passage from the West Bank to Gaza **even if the passage is not through Israel**, claiming that it has the authority to prevent Palestinian residents of Gaza from entering the West Bank.

The prohibition prevents students from Gaza from studying critical professions such as medicine, physical therapy, health administration, speech therapy, and occupational therapy. The prohibition particularly hurts students with limited financial resources who cannot afford to study abroad and women, who are not permitted to travel abroad alone, due to the pressures of a traditional society.

Gisha demands that the sweeping ban be canceled and that Palestinian students from Gaza be permitted to travel to the West Bank, and that each request to travel will be considered individually.

In December 2005, Gisha submitted petitions to the Israeli Supreme Court on behalf of ten students from Gaza who have been prevented from reaching their studies in occupational therapy at Bethlehem University. This program of study was designed for residents of Gaza, with the purpose of providing a solution to the tremendous need for occupational therapy services in Gaza. In Gaza, there is currently only one working certified occupational therapist, despite the existence of an estimated 24,000 disabled residents who could benefit from rehabilitation services.

Because of the travel ban, these students are learning occupational therapy by “remote control” – video tapes, Internet correspondence and visits by foreign lecturers who are periodically flown into Gaza. This method does not allow proper training in the profession, which by its nature requires hands-on experience and clinical training.

In its submissions to the court, the Government of Israel claims that it is not responsible for the studies and education of Palestinian residents and that it bears no responsibility to permit residents of Gaza to study in Palestinian universities in the West Bank. In a hearing before the High Court in November 2006, the state claimed that it is not required to evaluate requests from Gaza residents individually and that students from Gaza are part of a demographic group which is considered “highly dangerous”.

The court rejected the state’s request to deny the petition and issued an order (*order nisi*) requiring the state to explain, by verified affidavit, why it does not individually consider each

request submitted by a Palestinian student from Gaza wishing to travel to the West Bank. To date, the state has not submitted its response to the court.

Israel's Legal Obligations

Gisha demands that Israel respect the right of Palestinian students to access education, arguing that using a demographic profile in order to deny this right is illegal according to Israeli and international law.

According to Israeli and international law, Israel is obligated to permit civilian life to function properly in the Occupied Territories, including allowing Palestinian residents access to higher education and to the services which those who graduate from degree programs will provide to members of society.

Israel's restriction is a blanket refusal of requests made by Palestinian residents of Gaza to enter *Palestinian* territory, namely the West Bank, in order to study in institutions established for the benefit of those students and of Palestinian society as a whole. The restriction on entrance into the West Bank contradicts the principle that the West Bank and Gaza constitute a single territorial unit, a principle on whose basis the Palestinian educational system was designed and established. In signed international agreements, Israel has committed to respect the unity of Gaza and the West Bank.

At the same time, Israel restricts the ability of the Palestinian educational system to develop, by restricting the entrance of foreign lecturers and academics into the West Bank and Gaza. Such visits and the study programs taught by foreigners are an integral part of higher education programs throughout the world, including in Israel.

Component 2: Sweeping Ban on the Entrance of Palestinian Students into Israel for Purposes of Study

In September 2006, Sawsan Salameh, an outstanding Palestinian student from the village of Anata in the West Bank, approached Gisha for assistance. Ms. Salameh was accepted for doctoral studies in Chemistry at the Hebrew University of Jerusalem and was granted a full scholarship, but the army prohibited her from entering Israel, even though there was no claim that any information existed which could be used by security forces as a reason for preventing her from entering Israel.

After numerous requests by Ms. Salameh and Gisha went unanswered by the security forces, Gisha appealed to the Israeli Supreme Court on Ms. Salameh's behalf. In the court petition, Gisha and Ms. Salameh asked that the state permit Ms. Salameh – and other Palestinian students – to enter Israel for study, subject to an individual evaluation of each request.

Ms. Salameh, like all other Palestinian students, cannot study for a doctorate in the occupied territories because there is no recognized doctoral program there. As a female member

of a traditional family with meager financial means, Ms. Salameh cannot study abroad, for economic and cultural reasons.

Following the submission of Gisha's court petition, the state announced that it was prepared, "beyond the letter of the law", to grant Ms. Salameh entrance into Israel for a period of no more than six months (a period which would not permit Ms. Salameh to complete her doctoral studies). The state offered an interpretation of the Citizenship and Entrance into Israel Law as preventing Ms. Salameh from entering Israel for more than six months. The state emphasized that the sweeping ban on Palestinian students studying in Israel would not be revoked.

In a hearing held on December 18, 2006, the Israeli Supreme Court said that the state's interpretation of the law as precluding entrance into Israel for Palestinian students for longer than six months "raises difficulties". At the conclusion of the hearing, the court gave the state sixty days to formulate criteria which requests by Palestinians wishing to study in Israeli institutions of higher learning would be reviewed.

The Arava Institute for Environmental Studies and other Israeli academics asked to join the court petition because the current policy prevents them from running joint study programs between Israelis, Palestinians and Jordanians. Students from all over the world study in the Arava Institute's BA and MA degree programs which have an institutional emphasis on cooperation between Israeli students and their Palestinian and Jordanian neighbors. To date, 380 students have studied at the Institute, about 125 of them Israeli citizens and the rest foreigners. The sweeping ban has caused a dramatic decrease in the number of Palestinian students studying in the Arava Institute and places the continued functioning of the program at risk. In the West Bank and Gaza Strip, there is no program for environmental studies.

During the current academic year, there are no Palestinian students studying at the Arava Institute, despite the fact that a number of Palestinian students met the academic criteria to join the program. For the sake of comparison, in 1997, six Palestinian students were enrolled in the program. It goes without saying that this reduction is not due to a lack of qualified candidates but rather as a result of the ban.

The Arava Institute and the lecturers who work there asked the court to cancel the ban, which infringes on their academic freedom and prevents them from making independent decisions regarding the educational program, including the identity of the students who study at the Institute.

Conclusions and Recommendations

The policy of obstructing the access of Palestinian students to education and higher degrees is illegal, harms their right to access education and employment, and violates the academic freedom of Palestinians and Israelis alike. It also contradicts the clear interest of the State of Israel to advance knowledge, education and higher learning among its neighbors. This policy denies Palestinian students the right to acquire a higher education on a sweeping basis and through no fault of theirs. It constitutes dangerous interference in the independence of decisions by the Israeli academy.

The policy also contains an internal contradiction. On the one hand, Israel claims that it is not responsible for the studies of Palestinians, and it claims they should take care of their own educational needs. On the other hand, Israel prohibits Palestinian students from Gaza from learning in *Palestinian* institutions of higher education in the West Bank, which were established for the benefit of Palestinian students.

The sweeping limitations on Palestinians' entrance into Israel for purposes of study – which no one has yet taken responsibility for which the state, before the court, could not even explain when they entered into force – also undermines the interest of the higher education system in Israel. It was not without reason that **the heads of Israeli universities wrote to Amir Peretz, the Minister of Defense, demanding that the ban be cancelled.** The Israeli National Academy of Sciences made a similar call, in a special statement released.

This policy tarnishes Israel's image in the world and undermines Israel's justifiable fight against attempts to boycott the Israeli academy, attempts which, from time to time, gain momentum in Europe. Gisha believes that no person should be denied the opportunity to fulfill his or her potential and desire to study, so long as the individual meets the academic criteria. In the absence of an individual bar, students should be permitted to travel to reach their studies. Violating this right based on national or group identity is absolutely illegitimate and may, unfortunately, be used as a weapon against Israel.

Currently, at a time when the state has been asked to establish criteria either for the entrance of Palestinians into Israel for the purposes of study or for their travel to Palestinian campuses not near their homes, **the state must take into account the right of every person – Israeli and Palestinian – to education.** Israel must take into account its obligations to the protected residents who live in the territories under Israeli control as well as the Israeli interest in maintaining the academic freedom guaranteed to Israeli institutions of higher learning. This freedom includes the ability to accept any qualified student to a program of study, subject only to an individual evaluation.

The Supreme Court has asked the state to establish criteria for allowing entrance to Palestinian students wishing to study in institutions of higher learning. The state must also explain why there is a sweeping ban against Palestinian students from Gaza entering the West Bank.

Gisha Demands of the State of Israel:

1. To allow all Palestinian students residing in the Occupied Territories, who have been accepted to study programs in an Israeli institution of higher education, to enter Israel for the purposes of study, subject to an individual evaluation of the request.
2. To cancel the sweeping ban prohibiting students residing in Gaza from entering the West Bank for purposes of study, and thus to allow Palestinian students to study in Palestinian institutions of higher education.

Appendices

- A. Letter from the heads of Israeli universities to the Minister of Defense, demanding the revocation of the sweeping ban against Palestinian students studying in Israel.
- B. A statement by the Israeli National Academy of Sciences calling on the Israeli government to “refrain from taking any drastic action which infringes on the ability of researchers and students – Palestinians and others – to fulfill their academic commitments and to conduct scientific work”.
- C. Request by 200 Israeli academics to the Minister of Defense to permit students who are residents of Gaza to study in institutions of higher education in the West Bank.



October 17, 2006

ד"ר חיים רבינוביץ
Prof. Haim D.
Rabinowitz
Director

Mr. Amir Peretz
Minister of Defense
Via Fax: 03-6976218

Dear Minister,

The universities in Israel open their gates to all those who meet the academic requirements for higher learning, without discrimination on the basis of sex, religion, race or nationality. Recently, it became known that there is a sweeping ban prohibiting residents from the territories from entering Israel for the purposes of study. The universities oppose this ban and call on the security authorities to review each case individually and to permit those students who are not suspected of involvement in activities which endanger the security of Israel to be present in Israel for their studies.

Signed by:

Professor Yossi Ben-Artzi, Rector, the University of Haifa
Professor Jimmy Weinblatt, Rector, the University of Beer Sheva
Professor Yosef Yarden, Dean, Midreshet Feinberg, the Weizmann Institute of Science
Professor Danny Leviatan, Rector, Tel Aviv University
Professor Haim D. Rabinowitz, Rector, the Hebrew University of Jerusalem
Professor Aviv Rosen, First Assistant to the President, the Technion

*Permission of the undersigned was obtained by telephone

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האקדמיה הלאומית הישראלית למדעים
THE ISRAEL ACADEMY OF SCIENCES AND HUMANITIES

COUNCIL OF THE ISRAEL ACADEMY OF SCIENCES AND HUMANITIES

Statement Regarding
Access Restrictions Imposed on Palestinian Students and Scientists

October 31, 2006

On the 25th of October, 2006, the Council of the Israel Academy of Sciences and Humanities took up the issue of a practice recently instituted by the Israeli military authorities, to deny or restrict the passage of Palestinian students and scientists to their venues of academic study or research. The Council took note of the various letters opposing this policy and calling for its abolition that have been dispatched to the Israeli government and to international science organizations, including those written by Rectors of Israeli universities, by Presidents of Palestinian universities, and by two ministers serving in the current Israeli government (the Minister of Education and the Minister of Science). The Council was also apprised of the proceedings in the hearing by Israel's High Court of Justice of a petition by a Palestinian graduate student who was being denied access to the Hebrew University, where she is enrolled. Discussion culminated with a resolution, adopted unanimously, as follows:

The Israel Academy of Sciences and Humanities shall be on record in vigorous and unrelenting opposition to any measures, by any government, restricting or impairing the ability of scientists and students to carry out their scientific work and to discharge their scientific or academic responsibilities. In particular, the Council of the Academy calls on the government of the State of Israel to refrain from instituting any policy that hinders any group of scientists or academics, whether Palestinian or otherwise, from properly discharging their academic responsibilities. Cases where security considerations are deemed to require placing restrictions on a person's movements should be adjudicated as such, on an individual basis and with all due consideration for a person's human rights.

Mr. Ehud Olmert, Prime Minister
Mr. Amir Peretz, Minister of Defense

In recent years, the security authorities have instituted a policy which prevents residents of Gaza from traveling to the West Bank for the purpose of studies in Palestinian institutions of higher education located there.

The prohibition is general and does not relate to the question of whether there is actual security information about the particular individual.

The foundation of the Palestinian system of higher learning is based in the West Bank, where most of the universities are located. Also, essential professions such as medicine, occupational therapy and health administration may only be studied in the West Bank and are not available in Gaza.

We, the members of academia signed below, wish to emphasize the importance of education and knowledge in developing and building a stable civil society. We point out that academic and professional training is critical to the peace and welfare of Palestinian society and to the personal development of every young person wishing to advance him or herself.

In light of this importance, we call on you to examine anew the policy which prohibits residents of Gaza from traveling to the West Bank for studies and to cancel the sweeping prohibition which prevents every young Palestinian living in Gaza from reaching his or her studies in the West Bank. We call on you to permit Palestinians living in Gaza to benefit from the available resources in Palestinian society, including institutions of higher education in the West Bank, subject to individual security checks.

(signed by 200 academics at Israeli institutions of higher education and sent to the Defense Minister and Prime Minister on Sept. 5, 2006)