



The Palestinian Centre for Human Rights



Students from Dar al-Fadila primary school, near Rafah (Gaza Strip), attend lesson in tents set up near the destroyed building, January 2009

Education Denied: Israel's Systematic Violation of Palestinian Children's Right to Education



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I. Introduction

The Palestinian Center for Human Rights (PCHR) has prepared this report for the July 2011 High-Level Segment of UN-ECOSOC. This session will review the implementation of the education-related Millennium Development Goals (MDG) of the United Nations Development Agenda, which pledged to achieve universal primary schooling by 2015.

The right to education constitutes one of the most fundamental human rights. It concerns the progressive development of the individual, both as a person, and as a responsible citizen. It is one of the main factors enabling an individual or family to raise their standard of living, and is central to the progressive economic, social and cultural development and growth of society. Specifically, with respect to the development agenda, the 2000 Dakar Framework for Action highlighted that “quality is at the heart of education”,¹ noting that “a quality education is one that satisfies basic learning needs”.² Thus, PCHR note that the education-related MDG can be said to contain a twin focus: on quality, and universal accessibility.

As is widely acknowledged, the fulfillment of the MDGs is jeopardized in conflict countries; within the 2000 Dakar Framework for Action, governments identified conflict as “a major barrier towards attaining Education for All”.³ This is evident in the occupied Palestinian territory (oPt), where the achievement of the MDG on education – as with all MDGs – is currently proving unattainable as a result of illegal policies enacted as part of Israel’s longstanding occupation.

It is imperative that ECOSOC address the impact of Israel’s policies

1 Education for All, Meeting Our Collective Commitments, Expanded Commentary on the Dakar Framework for Action, adopted at the World Education Forum, Dakar (Senegal), 26-28 April 2000, par. 42, available at: www.unesco.org, accessed on 10 June 2011.

2 *Ibid*, par. 42.

3 *Ibid*, par. 57.

and practices in the oPt – including occupied East Jerusalem – as they are the core issue preventing the progressive achievement of the MDGs and the human right to education.

PCHR note that Israel's actions with regard to the right to education are inconsistent with its binding obligations under international law. PCHR asks that the international community take all appropriate measures to end Israel's repeated violations of international law which inhibit basic human rights, including education, and development goals in the oPt.

The rule of international law must be upheld so that it can protect civilians, and safeguard the rights of future generations.

Structure

This report addresses Israeli policies and practices which affect the achievement by 2015 of primary education for all children in the oPt; ⁴ progress with respect to the fulfillment of the second MDG and the right to education is evaluated on the basis of quality and accessibility, as mentioned above. The impact of Israel's policies and practices on other individuals equally entitled to high-quality education, such as university students, is outside the scope of this report, and is addressed elsewhere.⁵

The findings presented herein are based on PCHR's monitoring and documentation activities; when necessary, information from other sources – such as CSOs, UN bodies, and so on – has also been incorporated.

⁴ See, Second Millennium Development Goal, "Achieve universal primary education". Available at: <http://www.undp.org/mdg/goal2.shtml>, accessed on 8 June 2011.

⁵ See PCHR, *Alternative Report Submitted to the UN Committee on the Economic, Social, Cultural Rights in Response to Israel's Third Periodic Report*, (E/C.12/ISR/3), 18 October 2010, *The Illegal Closure of the Gaza Strip: Collective Punishment of the Civilian Population*, December 2010, available at: www.pchragaza.org

II. The Legal Framework

II.I. The Right to Education in International Law

Article 13 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states that:

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - a. Primary education shall be compulsory and available free to all;
 - b. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - c. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

The importance of this right is reflected in the relevant provisions of international humanitarian law applicable to situations of belligerent occupation. Article 50 of the Fourth Geneva Convention clearly states that:

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the education of children.

II.II. Content of the Right to Education

As stated by the UN Committee on Economic, Social and Cultural Rights (CESCR), “education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities”.⁶ Specific emphasis is put on the gender-focused impact of education for women and children at risk of exploitation and persecution.

According to the CESCR,⁷ education shall exhibit the following interrelated and essential features:

- I. **Availability**: educational institutions and programs must be available in sufficient quantity. For example, all institutions are likely to require buildings, sanitation facilities, safe drinking water, teaching materials.
- II. **Accessibility**: educational institutions and programs have to be accessible to everyone without discrimination and be physically and economically accessible. For example, all institutions have to be within safe physical reach as regards to a geographical location and be affordable to all.
- III. **Acceptability**: curricula and the forms and substance of education have to be of good quality and culturally acceptable to students.

6 CESCR, General Comment no. 13, E/C.12/1999/10 of 12 October 1999, par. 1, available at: <http://www2.ohchr.org/english/bodies/cescr/comments.htm> accessed on 11 June 2011

7 *Ibid*, par. 6-7.

- IV. **Adaptability**: education programs must be flexible to reflect the needs of changing societies

The best interests of the student must always be the primary consideration.

II.III. The Right to Primary Education and the Millennium Development Goal on Education

In accordance with article 13(2)(a) of the ICESCR, primary education shall be based upon the above-mentioned four core principles, which are common to all forms and types of education. In addition, “primary education must be adequate in quality and relevant to the child and must promote the realization of the child’s other rights”.⁸

Inter alia, the basic learning needs of all children must be satisfied. The World Declaration on Education for All, approved at the 1990 World Conference on Education for All under the auspices of UNESCO and referred to by CESCR in its General Comment no.13, defines “basic learning needs” as: essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content.⁹ Only quality and accessible education can fulfill the basic learning needs of children, as evidenced by the 2000 Dakar Framework for Action.¹⁰

This basic recognition contributed to the focus on education in the MDGs. The second MDG aims to “Achieve Universal Primary Education”. This goal is elaborated in Target 2A, which aims to: “Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full

8 CESCR, General Comment no. 11, E/C.12/1999/4 of 10 May 1999, par. 6, available at: <http://www2.ohchr.org/english/bodies/cescr/comments.htm> accessed on 11 June 2011

9 World Conference on Education for All, Jomtien (Thailand), March 1990. Available at: http://www.unesco.org/education/efa/ed_for_all/background/jomtien_declaration.shtml accessed on 11 June 2011.

10 See *Infra* Introduction.

course of primary schooling".¹¹

The indicators for monitoring progress were established as follows:

Net enrolment ratio in primary education;

1. Proportion of pupils starting grade 1 who reach last grade of primary;
2. Literacy rate of 15-24 year-olds, women and men.

In addition to constituting a basic human right under international law, equal access to quality primary education constitutes a concrete commitment of States, with respect to the international development agenda.

II.IV. Responsibility to Respect, Protect and Fulfill the Right to Education in the oPt

a. International Human Rights Law

The primary responsibility to guarantee the human right to education lies with States, as they are responsible for the implementation of international human rights law within the territories under their jurisdiction. In commenting on the right to education contained in article 13 of the ICESCR, the CESCR has drawn up a set of specific legal obligations binding State parties:¹²

1. Obligation to respect: States must avoid measures that hinder or prevent the enjoyment of the right to education;
2. Obligation to protect: States must take measures that prevent third parties from interfering with the enjoyment of the right to education;
3. Obligation to fulfill: States must take positive measures to enable and assist individuals and communities to enjoy the right to education.

¹¹ *United Nations Millennium Declaration*, A/RES/55/2, of 8 September 2000, available at: <http://www.un.org/millennium/declaration/ares552e.htm>, accessed on 3 June 2011.

¹² General Comment no. 13, E/C.12/1999/10, par. 46-47.

As the Occupying Power, Israel has the responsibility to ensure, *inter alia*, the right to education in the oPt.¹³ The three forms of obligation referred to above clarify the content of Israel's legal responsibilities.

Inter alia, the International Court of Justice (ICJ),¹⁴ the Committee on the Rights of the Child,¹⁵ and the CESCR,¹⁶ have confirmed the binding legal responsibilities of Israel – which is a State Party to ICESCR – vis à vis the human rights of the Palestinian population under occupation. Furthermore, as the ICJ emphasized in the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, where competence has been transferred to the Palestinian National Authority (PNA), Israel remains “under an obligation not to raise any obstacle to the exercise of such rights”.¹⁷

b. International Humanitarian Law

As the Occupying Power, Israel's binding responsibilities vis à vis the provision of education in the oPt also arise under international humanitarian law. Article 50 of the Fourth Geneva Convention requires that the Occupying Power “shall facilitate the proper working of all institutions devoted to the care and education of children”. According to the International Committee of the Red Cross (ICRC), the Occupying Power 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”.¹⁸

13 ICJ, *Advisory Opinion on the Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory*, 9 July 2004, par. 106, available at: www.icj-cij.org, accessed on 10 June 2011.

14 *Ibid.*, par. 111-112-113

15 CRC/C/OPAC/ISR/CO/1 of 4 March, 2010, par. 4, available at: www.ohchr.org accessed on 7 June 2011.

16 E/C.12/1/Add.27, of 4 December 1998, par.8, available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/df35bf5b5ee94d01802566d5003dd6cd?OpenDocument> and E/C.12/1/Add.90, of 23 May 2003, par.15, available at: <http://www.unhchr.ch/tbs/doc.nsf/%28Symbol%29/E.C.12.1.Add.90.En?OpenDocument> accessed on 12 June 2011.

17 See *supra* note 13, par. 112.

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

III. Primary Education Denied: Access and Quality

Despite repeated condemnations by the CESCR,¹⁹ Israel's systematic violation of Palestinians' right to primary education continues. This section will be devoted to highlighting key-issues affecting the implementation of the MDG 2 on quality and accessible primary education in the oPt.

Issues such as military operations, forced displacement, school overcrowding and lack of teaching materials, physical safety, deterioration of pupils' mental health, and the inability to repair and build schools hamper accessibility and quality of primary education in the oPt.

Primary Education in Numbers²⁰

Location	Education Provider	School year 2010-2011		
		Total	Male	Female
oPt	Government	626076	310683	315393
	UNRWA	264674	132168	132506
	Private	84710	50037	34673
	Total	975460	492888	482572
West Bank	Government	453579	227576	226003
	UNRWA	53742	22435	31037
	Private	70828	41241	29587
	Total	578149	291252	286897
Gaza Strip	Government	172497	83107	89390
	UNRWA	210932	109733	101199
	Private	13882	8796	5086
	Total	397311	201636	195675

¹⁹ See supra note 16, par. 19 and 35.

²⁰ Data from Palestinian Central Bureau of Statistics (PCBS) at: www.pcbs.gov.ps, accessed on 12 June 2011.



Gaza schoolchildren, December 2010
(Photo by Alessio Gerenzi, Save the Children Sweden)

III.I. Access to Primary Education Violated by Israeli Policies

a. House Demolitions and Forced Displacements

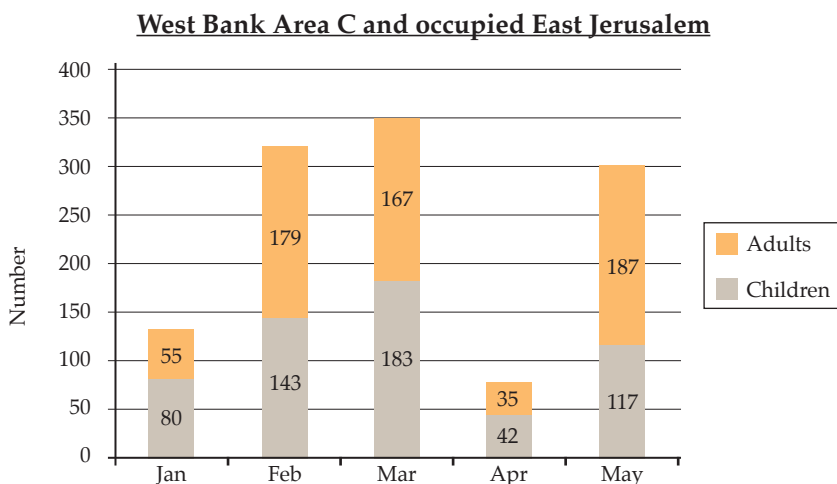
House demolitions in the oPt have been consistently carried out by the Israeli authorities since 1967.²¹ As a result, the forced displacement of entire families has taken place and continues to be reported. For example, UNRWA²² reported that, since the start of 2011 in West Bank Area C²³ and occupied East Jerusalem, a total of 1188 people, including 565 children, have been affected by house demolitions and forced community displacement²⁴.

21 According to ICAHD, over 24,000 have been demolished in the oPt, including East Jerusalem, since 1967. See ICAHD, Statistics on House Demolitions, available at: www.icahd.org, accessed on 7 June 2011.

22 UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). See also UNICEF, Children Affected by Armed Conflict, Israel & the occupied Palestinian territory (oPt), May 2011, available at: www.unicef.org/opt, accessed on 12 June 2011.

23 The Oslo Accords divided the oPt into Areas A, B, and C. Area C is under full Israeli security and administrative control. See *infra* Focus: Schools in Area C of the West Bank.

24 UNRWA, Demolition Watch, available at: www.unrwa.org/etemplate.php?id=1001, accessed on 12 June 2011.



(Table By UNRWA)

Adults and Children Affected by House Demolitions, Jan-May 2011

Furthermore, a total of more than 3,600 persons in East Jerusalem are currently affected by outstanding demolition orders that can be executed at any time.²⁵ The UN Humanitarian Coordinator, Mr. Maxwell Gaylard, strongly condemned Israel's demolitions and evictions in the West Bank, including occupied East Jerusalem, and the subsequent displacements as breaches of Israel's obligations under international law.²⁶

OCHA-oPt has highlighted that house demolitions and forced displacements across the West Bank have resulted in the significant disruption of education services, with negative consequences for both access to education and the quality of learning environments.²⁷

25 OCHA-oPt, East Jerusalem, Key Humanitarian Concerns, Special Focus, March 2011, page 38, available at: www.ochaopt.org, accessed on 20 May 2011.

26 Statement on the increase in house demolitions in the West Bank and East Jerusalem by Maxwell Gaylard, the United Nations Humanitarian Coordinator for the occupied Palestinian territory, 22 December 2010, available at: www.ochaopt.org/documents/house_demolition_23_12_2010_press_release_english.pdf, accessed on 10 May 2011.

27 OCHA-oPt, The Humanitarian Monitor, August 2010, page 5, available at: www.ocha-opt.org, accessed on 10 June 2011.

Upon forced displacement, families have been reported as facing economic hardship which has often prevented them from enrolling their children in educational courses.

In addition, the availability of education services is usually another issue of concern for families following forced displacement, as indicated by Save the Children UK.²⁸



Remains of the Khirbet Tana school, demolished by Israeli forces in December 2010.

(Photo By OCHA-oPt)

In the Gaza Strip, a survey commissioned by UNESCO found that as result of forced displacement, including enrolment in a school different from the initial one, children in primary schools experienced greater learning difficulties and strained relationship with their teachers.²⁹

²⁸ Save the Children UK, *Life on the Edge: The Struggle to Survive and the Impact of Forced Displacement in High Risk Areas of the occupied Palestinian territory*, Research Report, October 2009, available at: www.savethechildren.org.uk, accessed on 5 June 2011.

²⁹ The Columbia Group for Children in Adversity, *Psychosocial Assessment of Education in Gaza and Recommendations for Response*, a UNESCO commissioned survey, page 56, September 2010, available upon request at: www.columbiagroupforchildren.com, accessed on 4 June 2011.

Area C is comprised of 271 communities with a total population of approximately 150,000 people. It covers roughly 62 per cent of the West Bank and – according to the terms of the Oslo Accords – is under full Israeli security and administrative control. More than 70 per cent of the land in Area C is currently allocated to Israeli settlements or the Israeli military, and is therefore off-limits to Palestinians, while severe restrictions apply to their use of an additional 29 per cent. Only 1 per cent of Area C is available for Palestinian construction and development.

There are almost 38,000 students in grades 1-12, attending 147 schools, (135 Government schools, and 12 UNRWA schools) throughout Area C. As the majority of house demolitions and forced displacements occur in Area C², these children's access to high-quality primary education is severely restricted. A number of other issues are also relevant:

- » Inadequate school infrastructure: most of the schools include tents, tin shacks and crude cement buildings.
- » Unsafe or unhygienic facilities: at least 24 Government schools serving 10,000 vulnerable students are substandard and housed in unsafe and unhealthy space. At least 42 Government schools have poor and inadequate water and sanitation facilities.
- » Demolition of schools: since 1998, 15 Government schools received stop work or demolition orders. Currently, 24 educational institutions, private and public³, are affected. For example, Khirbet Tana school in Nablus Governorate, was demolished twice in 2010 and received a stop work order in February 2011.⁴
- » Settler violence and Harassment by Soldiers: threat of settler and/or Israeli soldiers' harassment, fear of harm and humiliation

at more than 500 checkpoints and obstacles to movement, create stress for children and their families;

- » Access to schools: long distance and transport costs (in some cases up to 25 km, like in Wadi Khazrah in Jenin area), inhibit school attendance.

Overall, these factors contribute to increasing the psychosocial distress of school children and are responsible for increasing drop-out rates and low learning outcomes.



A Palestinian child holds a board of a classroom, demolished by Israeli forces, in Khirbet Tana near Nablus, January. 10, 2010.
(By PCHR)

1 UNICEF and PA Ministry of Education and Higher Education, Education Fact Sheet, 2010, available at: www.unicef.org/oPt, accessed on 7 June 2011.

2 *Ibid.* For instance, between January and August 2010, 247 Palestinian structures have been demolished, displacing 282 people. Additional 159 communities received stop work and eviction orders.

3 OCHA-oPt, 2011 Consolidated Appeal for the oPt, page 28, available at: www.ochaopt.org, accessed on 5 June 2011.

4 OCHA-oPt, Humanitarian Monitor, February 2011, page 6, available at: www.ochaopt.org, accessed on 10 June 2011.



Dar al-Fadila primary school,
near Rafah, Gaza Strip,
January 2009.

b. Inability to Repair and Build Schools in the Gaza Strip

Over the course of the occupation, schools in the Gaza Strip have been repeatedly – and inevitably illegally – targeted by Israeli forces. These attacks, and the inability to repair the resultant damage, have exacerbated a long-standing infrastructure crisis affecting the education system in the Gaza Strip.

Between 2000 and 2004, PCHR recorded the total or partial destruction of 73 educational institutions in Israeli military attacks.³⁰ During Israel's December 2008 – January 2009 offensive on the Gaza Strip, codenamed Operation Cast Lead, several public and private schools of all grades, including UNRWA schools and the American School, were targeted and many educational institutions were damaged or destroyed.³¹

Both the UN Fact Finding Mission on the Gaza Conflict,³² and the UN Special Rapporteur on the human rights situation in the oPt,³³ asked

30 PCHR, Press Release 44/2004, PCHR Gaza Report, 16 March 2004, available at: www.pchrgaza.org, accessed on 10 June 2011.

31 At least 150 out of 384 public schools and 46 private schools and kindergartens were damaged; 2 private schools and 5 kindergartens completely destroyed, 11 private schools and 30 kindergartens partially destroyed. PCHR, Targeted Civilians, Report on the Israeli Military Offensive against the Gaza Strip (27 December 2008 – 18 January 2009), 21 October 2009, available at: www.pchrgaza.org, accessed on 2 June 2011.

32 Report of the UN Fact Finding Mission on the Gaza Conflict, A/HRC/12/48, par. 1268-1274.

33 Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, UN Docs A/HRC/10/20 (2009), 11 February 2009, par. 33.

investigations have been conducted.³⁴

Since the offensive, and in violation of UN Security Council Resolution 1860 (2009), Israel has failed to open the borders of the Gaza Strip, thereby impeding the passage of necessary reconstruction materials. This is undertaken further to an Israeli policy of deliberately restricting the movement of goods and persons into and out of the Gaza Strip as a means of “economic warfare”³⁵ and collective punishment of the civilian population, acts explicitly prohibited under the Forth Geneva Convention of 1949.

The absolute closure has rendered extremely difficult and costly – if not impossible – the repair or building of new schools and other educational institutions. As a result, and despite the modification of the restrictions on the import of construction materials, announced in June 2010 by the Israeli authorities, as of April 2011 “82 per cent of the damage to Gaza schools has still not been repaired due to the lack of reconstruction materials”.³⁶ This has affected the quality of and access to education provided to all students, including those in primary education.³⁷

Due to a lack of places, UNRWA, which runs most of the preparatory and primary education courses in the Gaza Strip,³⁸ had to refer approximately 40,000 eligible children to schools run by the Ministry of Education at the beginning of the 2011 school year.³⁹ UNRWA estimates

34 PCHR, *Genuinely Unwilling: An Update. The Failure of Israel’s Investigative and Judicial System to Comply with the Requirements of International Law*, with particular regard to the Crimes Committed during the Offensive on the Gaza Strip (27 December 2008-18 January 2009), August 2010, available at: www.pchrgaza.org, accessed on 2 June 2011.

35 The Israeli Military Advocate General (MAG), Brig. Gen. Avichai Mendelblit, confirmed that the closure of the Gaza Strip is part of the economic warfare on the civilian population, see *supra* note 5, page 56.

36 UNICEF-oPt, *Monthly Update*, April 2011, page 1, available at: www.unicef.org/oPt, accessed on 13 June 2011.

37 See *infra* par. III.II.a.

38 For the 2010/2011 school year, UNRWA has provided education services to about 210,878 boys and girls, in 238 shifts, of which 214 double: 143 elementary, 95 preparatory. Data from UNRWA Gaza.

39 OCHA-oPt, *Humanitarian Monitor*, September 2010, page 2, available at: www.ochaopt.org, accessed on 4 June 2011.



UNRWA Elementary School,
Rafah (Gaza Strip), January 2009.
(Photo by PCHR)

that 100 schools need to be built to accommodate new students of all grades in the coming three years. To-date, the agency has only received permission from the Israeli authorities to build 20 schools.⁴⁰ However, permission to build is no guarantee that construction can take place. There is no certainty as to when adequate building materials will be made available in Gaza, given the length of the overall import process and the availability of only one operational commercial crossing (Kerem Abu Salem) for all types of goods.⁴¹

To meet increasing demand, a further 160 Palestinian Ministry of Education schools must be built (in addition to UNRWA schools). However, because of Israeli policy, Ministry of Education projects are not eligible for construction approval.⁴²

c. Israel's Military Operations and Physical Safety of Children at Schools

The safety of students and staff is often jeopardized by frequent Israeli incursions. These operations are often, if not inevitably,

40 OCHA-oPt, *Easing the Blockade, Assessing the Humanitarian Impact on the Population of the Gaza Strip*, Special Focus, March 2011, page 18, available at: www.ochaopt.org, accessed on 10 June 2011.

41 PCHR, *All Borders Crossings Must Be Opened, Not Closed*, Closure of al-Mentar Crossing is a New Step towards Tightening the Socio-Economic Strangulation of the Gaza Strip, Press Releases section, 03 March 2011, available at: www.pchrgaza.org, accessed on 6 June 2011.

42 See supra note 40.

conducted with disregard for the requirements of international law, including the Fourth Geneva Convention, which protect civilian properties and the civilian population, and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, to which Israel is a State Party.

Despite the explicit requirements of international law, schools and children have been consistently targeted by Israeli forces in the oPt. Instances of killing and wounding of children at school have been recorded, as has the closure of schools following military raids.

For example, and non-exhaustively, in the Gaza Strip in 2004, Raghda Adnan al-Assar and Ghadeer Jaber Mukhaymar, aged 10 and 9 respectively, were shot dead while sitting at their desks inside UNRWA school classrooms. At least 3 cases of wounding of school children were registered in the same year.⁴³ In April 2008, in the area adjacent to the West Bank city of Hebron, 14 schools and orphanages containing approximately 7,000 Palestinian children were subjected to several Israeli raids.⁴⁴ In July 2008, the Islamic School for Girls in Nablus was shut down following an Israeli raid.⁴⁵

These illegal attacks continue to be committed with impunity. In 2010, 24 incidents resulting in the disruption of schools were registered in the oPt. In 2011, 21 similar cases have been monitored as of 30 April.⁴⁶

43 On 1 June 2004, 10-year-old Mahmoud Nazmi Hammad was injured by a live bullet in the neck, and 10-year-old Hisham Isma'il al-Habil was injured by shrapnel in the head, while they were sitting on their desks in an UNRWA school in Rafah. Also in March 2004, Huda Darwish, 13, a student in an UNRWA preparatory school, was wounded by a live bullet in the head and lost her eyesight, see PCHR, Schoolchild Seriously Injured by Israeli Gunfire While in Her Classroom in Khan Yunis, 08 September 2004, Press Release 128/2004, available at: www.pchrgaza.org, accessed on 6 June 2011.

44 BIRZEIT UNIVERSITY, Institutions Raided and Shut Down in Nablus, Including a Girl's School, Right to Education Campaign, 07 July 2008, available at <http://right-2edu.birzeit.edu/news/article548>, accessed on 4 June 2011.

45 PCHR, PCHR Condemns IOF Measures against Nablus Charities, Press Releases section, 08 July, 2008, available at: www.pchrgaza.org, accessed on 2 June 2011.

46 OCHA-oPt, Humanitarian Monitor, April 2011, page 15, available at: www.ochaopt.org, accessed on 4 June 2011.

Schools located within the so-called 'buffer zone' along the Gaza Strip's borders are systematically exposed to frequent Israeli fire targeting people present in the restricted areas. ² There are currently 13 schools, 12 run by the Ministry of Education, 1 by UNRWA, with a population of approximately 4497 students, of whom 3,267 (almost equally divided as gender) enrolled in primary education courses, and 326 school staff. ³

All these schools were damaged during Operation Cast Lead. Security threats continue to affect all children accessing these schools.

For example, the Khuza'a school in Khan Yunis governorate (which operates on daily double shifts and caters for a population of 1,269 children, of whom 637 are enrolled in primary courses) is particularly affected by its location on the edge of the buffer zone opposite a gate used by the Israeli military to conduct land leveling incursions in the area. As a result of Israeli military operations during the 2009-2010 school year 15 interruptions of the regular classes and 3 evacuations were documented. ⁴ In December 2010 the school suffered damage from overnight Israeli raids.

Direct fire has struck the Ash Shuja'iyeh Martyrs Secondary School for Boys on at least 4 occasions since the end of military operation Cast Lead. ⁵

Between March and April 2011, UNICEF reported 2 incidents involving intensive Israeli firing nearby 2 schools (Kamel Agha Basic School for Boys and El-Ma'ari Basic School) causing damages to several classrooms. Both schools were evacuated. Four other incidents resulted in the damage of 5 schools during Israeli air strikes. ⁶

Trauma, anxiety and lack of concentration are reported among students and have determined poor learning performance.⁷

In 2010, a total of 5 children were killed and 44 were injured in the buffer-zone.⁸

In 2011, as of April, 3 children were killed and 10 injured.⁹

1 Israeli unilaterally declared «no-go areas» on land located up to 2,000 meters from the fence dividing Israel and the Gaza Strip. Access to these areas, which comprise approximately 17% of Gaza's territory and 35% of Gaza's agricultural land, is restricted by IOF and typically enforced by live fire. About 113,000 people are directly affected by access restrictions, in OCHA-oPt/WFP, *Between the Fence and a Hard Place. The Humanitarian Impact of Israeli-imposed restrictions on access to land and sea in the Gaza Strip*, August 2010, available at: www.ochaopt.org. For periodic updates, see also *The Buffer Zone in the Gaza Strip*, available at: www.pchrgaza.org, Fact-Sheet Section.

2 *Ibid*, page 28.

3 Data from Terres des Hommes, (TdH).

4 OCHA-oPt/WFP Report, *Between the Fence and a Hard Place*, page 29.

5 *Ibid*, page 29.

6 UNICEF, *Children Affected by Armed Conflict*, page 4.

7 OCHA-oPt/WFP, *Between the Fence and a Hard Place*, page 29.

8 UNICEF, *Children Affected by Armed Conflict, Israel & the occupied Palestinian territory (oPt)*, 2010 Annual Review, page 2, available at: http://www.unicef.org/oPt/protection_6447.html

9 UNICEF, *Children Affected by Armed Conflict*, January-February 2011, and May 2011, available at: www.unicef.org/oPt



Lack of Space. Desks and chairs piled in the courtyard of UNRWA Elementary school, Nuseirat Refugee Camp, Gaza Strip, June 2011. (Photo by PCHR)

III.II. Quality of Primary Education Undermined by Israeli Policies

a. School Overcrowding and Lack of Space and Teaching Material

As mentioned above,⁴⁷ the right to quality and accessible primary education is a fundamental human right of all children and essential to their progressive empowerment as citizens. Implementation of the right to education requires more than non-interference or allowing minimal standards. Inter alia, it requires that children be able to engage in education in a safe and healthy environment conducive to learning, with appropriate teaching tools.⁴⁸

The Situation in the Gaza Strip

Israel has failed to allow the development or reconstruction of schools in the Gaza Strip.⁴⁹ This has dramatically undermined the quality of available education as a result of unhealthy and poor learning environments. A protracted electricity crisis and the lack of drinking water – the consequences of Israel's closure policies – have further constrained quality in primary schools.⁵⁰

47 See supra par. II, II.

48 See supra note 6.

49 See supra par. III, I. b.

50 See supra note 5.

Children in a classroom built out of shipping-containers, UNRWA Elementary school, Nuseirat Refugee Camp, Gaza Strip, June 2011.
(Photo by PCHR)



Due to the inability to construct or repair schools, educational institutions have been compelled to resort to several coping mechanisms which negatively affect the quality of education provided. For instance, 79 percent of Ministry of Education schools and over 90 percent of UNRWA schools of all grades are forced to operate double or triple shifts.⁵¹ As a result, class time has been reduced, extracurricular activities have been suspended and the classroom density has reached a peak of approximately 50 students per classroom.

In an attempt to alleviate the situation new schools have been established in temporary, unhealthy structures; 186 shipping containers are currently used to accommodate school children.⁵² For example, UNRWA Elementary School at Nuseirat refugee camp, consists of 18 shipping containers hosting 30 children in 30 m2 each.⁵³ Approximately 519 children are divided in 2 shifts.

51 See supra note 40.

52 PCHR, Impact of the Israeli Siege on Reconstruction of the Education Sector in the Gaza Strip, September 2010, available at: www.pchrgaza.org (in Arabic), accessed on 2 June 2011.

53 See supra note 40.

These containers seriously affect the students' overall quality of education; there is no isolation from external noise, and those inside are subject to high temperatures in the summer and cold in winter. Due to the effects of the prolonged illegal closure, educational institutions also suffer from an acute shortage in educational tools, including basic stationary, textbooks, uniforms, and furniture.⁵⁴

The Situation in occupied East Jerusalem

A chronic shortage of classrooms in occupied East Jerusalem affects municipal schools at all levels (preschool, kindergarten, elementary, secondary and special education). Of 1,000 required classrooms, only 257 have been added since 2001.⁵⁵ This lack of constructions continues in spite of a binding order pronounced by the Israeli High Court of Justice.⁵⁶

Israel's failure to fulfill its legal obligations has resulted in "disastrous consequences for the education system in East Jerusalem".⁵⁷ Due to the lack of space, every year children attempting to enroll are turned away by the municipality and so less than half of an estimated total school-age children of 87,624⁵⁸ attend municipal schools, with the remainder being forced to pay for private education, or simply denied access to education (an estimated 5,300 students). This contravenes Israel's international human rights law obligation to provide free and compulsory primary education for all children residents of East Jerusalem.⁵⁹

54 See supra note 3, Focus: Schools in Area C of the West Bank.

55 ACRI, Ir Amin, Failed Grade: Palestinian Education System in East Jerusalem 2010, August 2010, page 5, available at: www.acri.org.il, accessed on 1 June 2011.

56 HCJ 5185/01, Community Administration for the Development of Beit Hanina v. Municipality of Jerusalem and Ministry of Education, Partial Judgment given on August 29, 2001.

57 Excerpt from a memo of the former Deputy Attorney-General Yehudit Karp to Attorney General Yehuda Weinstein, February 8, 2010. See supra note 55, page 12.

58 Jerusalem Municipality Demographic Almanac, breakdown by age and gender in Jerusalem, figures as of December 31, 2009. See supra note 55, page 4.

59 According to the 1949 Compulsory Education Law, all Palestinian pupils in East Jerusalem who hold Jerusalem identification between the ages of 5 and 18 are entitled to free public education.

Similarly, and unlike West Jerusalem (where there are 56 preschool facilities), the 2 municipal preschool facilities currently operating in East Jerusalem are not able to absorb the approximately 15,000 three to four year-old children entitled to free government-sponsored preschool education under Israeli law.⁶⁰ As a result, 90 per cent of them are left without any preschool education while a small number rely on expensive private institutions.⁶¹

Overcrowding and poor, unsuitable conditions are distinctive features of school infrastructure with 647 out of 1,398 classrooms “non-standard”.⁶² Double shifts are in place to cope with the classrooms shortage.

Additional factors contribute to low quality education and poor learning outcomes:

- » Lack of qualified teachers: due to budgetary restrictions, schools have great difficulties in recruiting specialized teachers, especially in mathematics. Moreover, access restrictions inhibit the hiring of teachers from the West Bank;⁶³
- » Shortages of teaching materials and playgrounds: affect primary and other grades of compulsory education.

This situation stands in sharp contrast to the education system in West Jerusalem where schools, unlike those in East Jerusalem, receive budgets for self-administration and have an average class size of 24 students vs. 32 in East Jerusalem schools.⁶⁴

60 According to the 1984 amendment to the Compulsory Education Law, all children of East Jerusalem between the age of 3 and 4, as permanent residents following Israel's annexation of 1967, are entitled to free preschool education.

61 See *supra* note 25, page 89.

62 Knesset Research and Information Center, *The Education System in East Jerusalem: Classrooms and Curricula*, May 10, 2010, page 4; See also *supra* note 55, page 10.

63 See *supra* note 25, page 90.

64 *Ibid*, page 87.

Alternative institutions, mostly private, and thus an extra financial burden for families ostensibly entitled to free education, provide an alternative to the under-resourced and overburdened municipal system.⁶⁵ It is worth noting that 5 Waqf schools (run by Islamic institutions), providing free-of-charge primary education for 754 children, are currently threatened by standing demolition and stop work orders and fines.⁶⁶

There has been an increase in dropout rates of East Jerusalemite children, notably in the post-elementary educational cycle.⁶⁷ This confirms that a quality primary education is necessary for the successful continuation of a child's learning process.

Overall, as many as 5,300 pupils are not enrolled in any educational institution,⁶⁸ and no measures have been taken by the Israeli authorities for their reinsertion into education. Subsequent increase of child labor and juvenile delinquency has also been noted.⁶⁹

b. Deterioration in Pupil's Mental Health and Low Learning Achievements

Conflict is often a prelude to severe educational disadvantages. In the oPt, the quality of primary education is seriously undermined by Israel's policy and practices, including military operations. Furthermore, conflict-related post-traumatic stress disorder is a frequent source of impaired learning and poor achievement in school.⁷⁰

65 The alternatives to municipality schools are UNRWA, Waqf or Islamic religious institutions and other "officially or unofficially" recognized private schools. See *supra* note 55, page 8.

66 Data from the Waqf Directorate in Jerusalem, May 2010. Waqf schools are not recognized by the municipality and are not tax exempt. See *supra* note 25, page 89.

67 ACRI, Human Rights in East Jerusalem: Facts and Figures, May 2010, page 48, available at: www.acri.org.il, accessed on 1 June 2011.

68 See *supra* note 55, page 4.

69 See *supra* note 25, page 87.

70 The EFA Global Monitoring Report Team, The Hidden Crisis: Armed Conflict and Education, a UNESCO-commissioned publication, 2011, page 143, available at: www.unesco.org, accessed on 2 June 2011.

In the Gaza Strip in particular, a 2006 study released by Queens University in Belfast noted that, as result of the long- lasting conflict environment and Israel's military operations, 98% of children in Gaza suffered from psychological trauma, serious and debilitating psychiatric and psychological effects.⁷¹ The situation has not improved in the intervening years.

According to the World Health Organization, the military operations carried out in the context of Operation Cast Lead resulted in long-term psychosocial effects for an estimated 25,000 to 50,000 people, including 14,000 to 28,000 children.⁷² Increasing nervousness, sadness, fear of attack, bad dreams, violence in schools and hopelessness about the future reveal widespread psychosocial distress among children and students of all age.⁷³ Similarly, the teaching staff are affected by growing distress, aggravating the situation.

These serious mental health issues inhibit the learning process, and a lack of concentration and low participation in the classroom have been noted as affecting children's learning abilities.⁷⁴ In particular, a gender-based survey among primary school children has found that 16.1% of boys and 15.6% of girls experienced problems in learning and performing, while 18.3% of boys and 18.1% of girls experienced challenges to their psychosocial well-being.⁷⁵

This inevitably results in low performance at school. In 2008, only one in five out of 16,000 Gazan six-graders passed standardized exams in Math, Science, English and Arabic.⁷⁶ High drop-out rates

71 John Pringle, *The Psychological Effects of War on Palestinian Children*, Queen's University, Belfast, 2006, info at: www.queensu.ca, accessed on 2 June 2011.

72 See *supra* note 29, page 7.

73 *Ibid*, page 22.

74 *Ibid*, page 8.

75 *Ibid*, page 53.

76 UNICEF-oPt, *Monthly Update*, October 2009, page 3, available at: www.unicef.org/opt, accessed on 5 June 2011.



Child working as rubble collector,
Gaza Strip, December 2010.
(Photo by Alessio Gerenzi, Save the
Children Sweden)

have been registered across primary, preparatory and secondary levels as result of a number of factors, including conflict-related mental distress, closure-related poverty and the need to help families by working.⁷⁷

School performance in the West Bank is not satisfactory either. In 2009, within the PA Ministry of Education and Higher Education standardized exams⁷⁸:

- » Only 43% of fourth-graders passed mathematics;
- » Only 66.7% passed Arabic;
- » Only 45.8% passed science.

Speaking of the oPt, UNICEF recently highlighted that “poor exam results and falling enrolment rates point to an emerging deterioration of education over the past years”.⁷⁹

⁷⁷ See supra note 29, page 49.

⁷⁸ Ibid, page 2.

⁷⁹ See supra note 36, page 4.

Conclusions

As briefly illustrated herein, Israel's illegal policies in the oPt systematically violate Palestinian children's right to education. Not only do these policies undermine children's fundamental human rights – seriously restricting future options – they also affect the long-term development and growth of Palestinian society, contributing to the progressive de-development witnessed over recent years.

The simple tragedy of the situation lies in its reversible and preventable nature. Israel's illegal policies are the clear cause of the issues raised in this report. It is only the pervasive impunity granted to Israel by the international community which has allowed these, and other, illegal policies to persist.

This is not acceptable. The systematic violation of international law cannot be allowed to persist. The rule of law must be upheld so that Palestinian children's fundamental right to education is ensured, and their future protected.

Recommendations

PCHR calls upon ECOSOC:

- » To clearly condemn Israel's systematic practices and policies which violate Palestinian children's right to education;
- » to stress that primary education, like other human rights, is attainable only if international law, including human rights and international humanitarian law, is fully respected in the oPt;
- » to acknowledge that all basic human rights are interrelated and that the implementation of each right, such as education, is required for the full enjoyment of other rights, and individual and societal development in the oPt;
- » to remind Israel of its legal obligations as Occupying Power towards Palestinian children in accordance with international law;
- » to request that Israel immediately halt all actions which may result in the infringement of the right to education, including but not limited to primary education;
- » to clearly stress and condemn the illegality of the long-standing Israeli policy of closure of the Gaza Strip which affects its population, including children seeking quality primary education;
- » to demand that Israel lift in full the absolute closure of the Gaza Strip;
- » to acknowledge that the enjoyment of the right to education, including but not limited to primary education, is effective only if it is built upon standards of quality.



The Palestinian Centre for Human Rights

The Palestinian Centre for Human Rights is an independent non-profit legal agency based in Gaza city. The Centre was established in April 1995 by a group of Palestinian lawyers and human rights activists in order to protect human rights and promote the rule of law in accordance with international standards, create and develop democratic institutions and an active civil society in Palestine in accordance with internationally accepted standards and practices and support all efforts aimed at enabling the Palestinian people to exercise their inalienable rights according to international law.

- The Centre enjoys Consultative Status with the ECOSOC of the United Nations. It was granted three international prominent awards for its efforts in the field of human rights:
 - The 1996 French Republic Award on Human Rights; and
 - The 2002 Bruno Kreisky Award for Outstanding Achievements in the Area of Human Rights; and
 - The 2003 International Service Human Rights Award (UNAIS).

The Centre has wide relationships with human rights and civil society organizations throughout the world. It is an affiliate of five international and Arab human rights organizations, which are active in the international arena:

(1) International Commission of Jurists

The International Commission of Jurists (ICJ), headquartered in Geneva, is a non-governmental organisation in consultative status with the United Nations Economic and Social Council, UNESCO, and the Council of Europe and the OAU. Founded in 1952, its task is to defend the rule of law throughout the world and to work towards the full observance of the provisions in the Universal Declaration of Human Rights. its membership is composed of sixty eminent jurists who are representatives of the different legal systems of the world.

(2) Federation Internationale des Ligues des Droits de l'Homme

The Federation Internationale des Ligues des Droits de l'Homme (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of

Human Rights of 1948. Founded in 1922, FIDH has eighty-nine national affiliates in all regions.

(3) Euro-Mediterranean Human Rights Network

The Euro-Mediterranean Human Rights Network (Euro-Med Network) is a network of human rights organisations and individuals from the Middle East, North Africa and the European Union, established in 1997. The overall objective of the Network is to contribute to the protection of the human rights principles embodied in the Barcelona Declaration of 1995.

(4) International Legal Assistance Consortium (ILAC)

The International Legal Assistance Consortium (ILAC) is one of the most important international legal bodies. It is specialized in legal and judicial training. It includes more than 30 members of distinguished legal organizations throughout the world, including American Bar Association; Arab Lawyers Union; and Bar Council of England and Wales.

(5) The Arab Organization for Human Rights

It is an NGO founded in 1983. It calls for respect and promotion of human and people rights and fundamental freedoms in the Arab World for all individuals on its land in accordance with international human rights instruments. The Organization signed an agreement with Egypt in May 2000, according to which its headquarter was moved from Limassol in Cyprus to Cairo.

(6) World Coalition against the Death Penalty

The World Coalition against the Death Penalty is an alliance of about 48 NGOs, bar associations, local bodies and unions, including the Palestinian Centre for Human Rights. It was created in Rome in May 2002. Since 2003, the Coalition has made 10 October the World Day against the Death Penalty.

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The Palestinian Centre for Human Rights is an independent legal body dedicated to the protection of human rights, the promotion of the rule of law, and the upholding of democratic principles in the Occupied Territories. Most of the Centre's activities and interests concentrate on the Gaza Strip due to the restriction on movement between the West Bank and Gaza Strip imposed by the Israeli government and its military apparatus.

Funding of the Centre

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- Christian Aid – U.K
- Dan Church Aid – Denmark
- Grassroots International – U.S.A
- Representative Office of Norway
- Irish Aid
- Kvinna Till Kvinna – Sweden
- Al Quds Association Malaga – Spain
- Trocaire – Ireland
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- CARE International – West Bank and Gaza
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