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### Chicago School Closings Shadow Report: Independent Information for the 107th session of the Human Rights Committee

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# **HUMAN RIGHTS COMMITTEE COUNTRY REPORT**

## **United States**

### **Independent Information for the 107th session of the Human Rights Committee**

#### **MIDWEST COALITION FOR HUMAN RIGHTS**

**and**

#### **UNIVERSITY OF CHICAGO LAW SCHOOL'S INTERNATIONAL HUMAN RIGHTS CLINIC**

#### **CRITICAL ISSUES:**

- The closure of nearly 10% of all public elementary schools in Chicago, Illinois disproportionately and negatively impacted minority African American and disabled children.
- The closure of public elementary schools in Chicago, Illinois has forced many children to walk through gang-controlled areas in order to reach new schools, exposing them to increased risks of criminal violence and death.
- The Chicago Board of Education, appointed by the Mayor, did not adequately consider the widespread public opposition to the closure of public elementary schools in Chicago, Illinois, including from parents of children affected by the closings, a panel of retired judges, the Chicago Educational Facilities Task Force, and other experts.

#### **PROPOSED QUESTIONS FOR THE GOVERNMENT OF THE UNITED STATES:**

- What is being done to investigate and address the discriminatory effect of the closures of public schools in Chicago, Illinois and other municipalities on minority and disabled children's access to quality education?
- What will the United States do to ensure protection of the right to life and protection from the State for children in Chicago, Illinois and other municipalities who face heightened exposure to criminal violence and death as a result of being forced to walk through gang-controlled areas to attend school?
- What is being done to investigate and address the lack of meaningful public participation in decisions to close public schools in Chicago, Illinois and other municipalities, including ensuring local boards of education are democratically elected and that widespread public opposition to school closings is not ignored?

### **I. INTRODUCTION**

- 1) The City of Chicago recently closed 49 public elementary schools in an attempt to address budgetary and resource constraints. This is the largest wave of school closings in United States history,<sup>1</sup> involving 10% of all public schools in Chicago, the third largest city in the country.<sup>2</sup>

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<sup>1</sup> *Chicago School Closings Vote: Board of Education Votes to Shutter 50 Public Schools*, THE HUFFINGTON POST (May 22, 2013), [http://www.huffingtonpost.com/2013/05/22/chicago-school-closings\\_n\\_3319755.html](http://www.huffingtonpost.com/2013/05/22/chicago-school-closings_n_3319755.html).

Although there are many schools considered “underutilized” in Chicago, those that were targeted for closing were majority African American. The closings affected nearly 30,000 children<sup>3</sup> and have had a disproportionate and negative impact on minority and disabled children.<sup>4</sup> Displaced students will be packed into classrooms with more students, resulting in overcrowded classrooms. The school closings also place children at greater risk of violence and death as many children will be forced to cross gang lines on their way to new schools. The appointment structure of the Chicago Board of Education does not allow for democratic participation and indeed, by failing to pay heed to the widespread opposition to the school closings, the City of Chicago effectively denied people the right to participate in deciding whether or not to close the schools.

- 2) U.S. courts have failed to take action to stop the school closings. In August 2013, a federal district court judge denied a request for a preliminary injunction to stop the school closings filed by parents of children affected by the closings, with support from the Chicago Teachers Union.<sup>5</sup> A separate request for an emergency injunction filed in federal court seeking to stop the closure of an elementary school with a large population of children with special needs was also denied.<sup>6</sup> A third lawsuit filed by the Chicago Teachers Union in Cook County Circuit Court that sought to stop the closure of ten schools was also unsuccessful.<sup>7</sup>

## II. THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

### Article 26: Non-discrimination and Equality

- 3) The closure of 49 public elementary schools in Chicago infringes African American and disabled students’ right to equality and to be free from discrimination. Article 26 of the International Covenant on Civil and Political Rights (the “ICCPR”) provides that states shall “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>8</sup> The Human Rights Committee (the “Committee”) has indicated on several occasions that disabled persons are protected under Article 26.<sup>9</sup> In

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<sup>2</sup> *Chicago Board of Ed Votes to Shut Down 50 Schools*, CBS NEWS (May 22, 2013), [http://www.cbsnews.com/8301-201\\_162-57585769/chicago-board-of-ed-votes-to-shut-down-50-schools/](http://www.cbsnews.com/8301-201_162-57585769/chicago-board-of-ed-votes-to-shut-down-50-schools/).

<sup>3</sup> Judy Wang, *CPS Announces New Hires for Safe Passage and Welcoming Programs*, WGN TV (Jul. 1, 2013), <http://wgntv.com/2013/07/01/cps-announces-new-hires-for-safe-passage-and-welcoming-programs/>.

<sup>4</sup> Lauren Fitzpatrick and Art Golab, *Black Students Most Likely to Have Their School on CPS Closure List*, CHI. SUN-TIMES (Mar. 6, 2013), <http://www.suntimes.com/news/education/18626817-418/black-students-far-more-likely-to-see-their-cps-school-closed-than-others-sun-times-analysis.html>; Federico R. Waitoller, *A Perfect Storm: Chicago’s School Closings and Students of Color with Special Needs*, PUREPARENTS.ORG, <http://pureparents.org/wp-content/uploads/2013/05/WaitollerA-Perfect-Storm-final.pdf>.

<sup>5</sup> Noreen S. Ahmed-Ullah, *Judge allows CPS to continue school closing plan*, CHI. TRIB. (Aug. 15, 2013), <http://www.chicagotribune.com/news/local/breaking/chi-judge-allows-cps-to-continue-school-closing-plan-20130815,0,2276912.story>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> International Covenant on Civil and Political Rights art. 26, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

<sup>9</sup> E.g., U.N. Human Rights Committee, *Report of the Human Rights Committee, Volume I, General Assembly, Fifty-fifth Session, Supplement No. 40*, ¶ 450(e), U.N. Doc. A/55/40 (Oct. 10, 2000), [http://www.ccprcentre.org/wp-content/uploads/2012/04/A\\_55\\_40Vol-I\\_en.pdf](http://www.ccprcentre.org/wp-content/uploads/2012/04/A_55_40Vol-I_en.pdf); U.N. Human Rights Committee, *List of issues to be taken up in connection with the Fourth and Fifth Periodic Reports of the United Kingdom of Great Britain and Northern Ireland - Crown Dependencies*, ¶ 6, U.N. Doc. CCPR/C/68/L/UKCD (December 3, 1999), [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/f41325394e79a12ec12569fc0047a051?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/f41325394e79a12ec12569fc0047a051?Opendocument).

General Comment No. 18, the Committee established that Article 26 “prohibits discrimination in law *or in fact* in any field regulated and protected by public authorities” (emphasis added).<sup>10</sup> Thus, the discriminatory impact of a policy can give rise to a violation of Article 26.

- 4) African American children make up 42% of the students in Chicago’s public schools, but of the nearly 30,000 students affected by the closings 80% are African American.<sup>11</sup> Although many schools are considered “underutilized” in Chicago, the schools targeted for closure are predominately in African American communities. Of the schools affected by the closures, 87% have a majority African American student population.<sup>12</sup> The Chicago Teachers Union analyzed the racial impact of the school closings and found that schools with a majority African American student population and teaching staff were ten times more likely to be closed or “turned around” than schools with a minority African American student population and teaching staff.<sup>13</sup>
- 5) Twelve percent of the students displaced by the schools closings receive some type of special education service.<sup>14</sup> Hastily closing 49 public schools in a matter of months forced disabled children to move to new schools without any guarantee that their special needs would be met. Parents of children affected by the closings and a commissioned panel of retired judges have indicated that they believe the needs of disabled children were ignored during the accelerated effort to close schools.<sup>15</sup> The Chicago Educational Facilities Task Force, established to monitor compliance with provisions of the Illinois School Code that require democratic participation in school closing decisions,<sup>16</sup> was also highly critical of the Chicago Board of Education’s decision to close 49 public elementary schools. Commenting on the school closings, the Task Force found that “Chicago’s most vulnerable students are at greatest risk” and that the relevant authorities have “failed to provide details for addressing support of special needs students.”<sup>17</sup>
- 6) The school closings have had a negative impact on African American and disabled students because it is likely that the quality of education they receive will suffer as a result. Many displaced students, as well as students in receiving schools, will encounter class sizes larger than in the prior school year due to the school closings.<sup>18</sup> Larger class sizes can have a negative

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<sup>10</sup> U.N. Human Rights Committee, *General Comment No. 18: Non-discrimination*, ¶ 12, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 26 (1994) (Nov. 10, 1989), [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/3888b0541f8501c9c12563ed004b8d0e?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/3888b0541f8501c9c12563ed004b8d0e?Opendocument).

<sup>11</sup> Alex Keefe, *Emanuel: CPS School Closures 'Not Taken Lightly,' but Must be Done*, WBEZ91.5 (Mar. 23, 2013), <http://www.wbez.org/news/emanuel-cps-school-closures-not-taken-lightly-must-be-done-106253>.

<sup>12</sup> *Id.*

<sup>13</sup> CTU Research, *School Closures: Facts and Statistics*, CHI. TEACHER’S UNION (Apr. 18, 2013), at 5, <http://www.ctunet.com/blog/school-closures-facts-and-statistics>; <http://www.ctunet.com/pdf/SchoolClosuresFactsStats.pdf>. (Schools “turned around” are schools over which central authorities take control due to poor performance).

<sup>15</sup> Fran Spielman and Tina Sfondeles, *Mayor Isn’t Promising to Follow Hearing Officers’ School-Closing Recommendations*, CHI. SUN-TIMES (May 8, 2013), <http://www.suntimes.com/news/cityhall/19978282-418/cps-parents-want-mayor-to-walk-new-routes-reconsider-school-closings.html>.

<sup>16</sup> 105 Ill. Comp. Stat. Ann. 5/34-18.43 (West).

<sup>17</sup> Chicago Educational Task Force, *Draft – Preliminary Findings of the ILGA CEFTF*, (May, 2013), <http://www.isbe.state.il.us/CEF/pdf/ceftf-preliminary-findings-051713.pdf>.

<sup>18</sup> Linda Lutton, *50,421 Chicago Kids in Homerooms Over the Class Size Limit*, WBEZ91.5 (May 16, 2013), <http://www.wbez.org/news/education/50421-chicago-kids-homerooms-over-class-size-limit-107196>.

impact on learning, particularly in vulnerable communities.<sup>19</sup> Additionally, many displaced students will be forced to go to schools with worse academic records than their former schools.<sup>20</sup> Many schools slated for closure offer extensive services for students with special needs but it is not clear whether the receiving schools will offer the same kind of services required to provide disabled children a quality education.

- 7) The intent of the public officials in ordering the school closings is not relevant to determining whether or not there is a violation of Article 26 of the ICCPR. In a Communication to the Czech Republic, the Committee stated that the intent of the legislature is not dispositive in determining an infringement of Article 26; rather, an act “may still contravene article 26 if its effects are discriminatory.”<sup>21</sup> Additionally, in finding that the disproportionate assignment of Roma children in the Czech Republic to special schools amounted to a violation the European Convention on Human Rights, the European Court of Human Rights held that it was not necessary to prove discriminatory intent on behalf of the State to establish a disparate impact claim.<sup>22</sup>
- 8) Budget cuts are not justifiable reasons for adopting policies that disproportionately impact minority and disabled peoples. The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance has directed States parties to “carefully evaluate the potential impact of budgetary restrictions on education, and ensure that they do not have a discriminatory and disproportionate impact on the enjoyment of the right to education of disadvantaged groups, including minorities.”<sup>23</sup>

#### **Article 6: Right to Life and Article 24: Rights of the Child**

- 9) The school closings in Chicago threaten to infringe the affected children’s right to life and to protection from the State, as students have been forced to traverse gang-controlled areas to attend new schools. Article 6 of the ICCPR provides that “[e]very human being has the inherent right to life,” that the right to life “shall be protected by law,” and that “no one shall be arbitrarily deprived of his life.”<sup>24</sup> Article 24 states that “[e]very child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.”<sup>25</sup>

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<sup>19</sup> Council of Economic Advisors, the Domestic Policy Council, and the National Economic Council, *Investing in Our Future: Returning Teachers to the Classroom*, EXECUTIVE OFFICE OF THE PRESIDENT (Aug. 2012), [http://www.whitehouse.gov/sites/default/files/Investing\\_in\\_Our\\_Future\\_Report.pdf](http://www.whitehouse.gov/sites/default/files/Investing_in_Our_Future_Report.pdf).

<sup>20</sup> Linda Lutton, *Few Chicago School Closings Will Move Kids to Top-Performing Schools*, WBEZ91.5 (May 19, 2013), <http://www.wbez.org/news/few-chicago-school-closings-will-move-kids-top-performing-schools-107261>.

<sup>21</sup> U.N. Human Rights Committee, *Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights*, ¶ 11.7, Communication No. 516/1992: Czech Republic, U.N. Doc. CCPR/C/54/D/516/1992 (July 31, 1995), [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/6502e422d2e2f541802566e300359aed?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/6502e422d2e2f541802566e300359aed?Opendocument).

<sup>22</sup> D.H. and Others v. Czech Republic, 57325/00 Eur. Ct. H.R. (2006), <http://www.unhcr.org/refworld/docid/469e020e2.html>.

<sup>23</sup> U.N. Human Rights Committee, *Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mutuma Ruteere*, ¶ 54, U.N. Doc A/HRC/23/56 (April 2, 2013), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/126/07/PDF/G1312607.pdf?OpenElement>.

<sup>24</sup> International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

<sup>25</sup> International Covenant on Civil and Political Rights art. 24, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171

- 10) Due to the prevalence of gangs in many affected communities, students forced to go to new schools, many of which are farther from their homes than their original schools,<sup>26</sup> face an increased risk of criminal violence and death. The majority of the closing schools are in South Side and West Side neighborhoods in Chicago with high levels of gang activity.<sup>27</sup> Many students walk to school,<sup>28</sup> making street safety a paramount concern.<sup>29</sup> A change in just one block of a commute can result in entering enemy turf and invite gang-related violence, even if the child is not affiliated with any gang.<sup>30</sup> Approximately half of the 1,054 youths murdered in Chicago during the last five years were killed within census tracts where schools have been closed.<sup>31</sup> Prior school closings in Chicago that forced students to transfer to schools outside their immediate neighborhood resulted in spikes in violence in elementary and high schools.<sup>32</sup> One expert found that the closings had already begun to aggravate gang conflicts even before they had been implemented.<sup>33</sup>
- 11) The Chicago Board of Education has attempted to provide “safe passage” to children scheduled to attend schools in gang-controlled neighborhoods.<sup>34</sup> The effectiveness of this program is questionable given that it merely enlists community members to watch students on their way to school.<sup>35</sup> A double shooting recently occurred on a “safe passage” route.<sup>36</sup> In addition, if the City of Chicago does not promptly sell the closed school buildings, the vacant buildings may become centers for criminal activity and violence in their communities.<sup>37</sup> Indeed, by the end of 2012, 24 school buildings in Chicago were still unsold (as a result of prior school closures), and some had been vacant for a decade or more.<sup>38</sup>
- 12) Although the violence that school children in Chicago face is not State-sponsored, the ICCPR requires States parties to protect individuals and groups against human rights abuses committed

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<sup>26</sup> Stephanie Farmer, Isaura Pulido, Pamela J. Konkol, Kate Phillippo, David Stovall and Mike Klonsky, *CRATE Research Brief on School Closures*, CHICAGOLAND RESEARCHERS AND ADVOC. FOR TRANSFORMATIVE EDUC. (Mar. 2013), <http://www.createchicago.org/2013/03/create-releases-research-brief-on.html> (CRATE is a Chicago-based network of academics who research education and school policy).

<sup>27</sup> Elliott Ramos, *In Chicago, Gangs Abound, but Where Are They?*, WBEZ91.5 (Sept. 24, 2012), <http://www.wbez.org/programs/afternoon-shift/2012-09-24/chicago-gangs-abound-where-are-they-102612>.

<sup>28</sup> CPS Safe Passage Program Guide, CPS.EDU, [http://www.cps.edu/Programs/Wellness\\_and\\_transportation/SafetyandSecurity/SafePassage/Pages/Safepassage.aspx](http://www.cps.edu/Programs/Wellness_and_transportation/SafetyandSecurity/SafePassage/Pages/Safepassage.aspx); [http://www.cps.edu/Programs/Wellness\\_and\\_transportation/SafetyandSecurity/SafePassage/Documents/SafePassageGuide.pdf](http://www.cps.edu/Programs/Wellness_and_transportation/SafetyandSecurity/SafePassage/Documents/SafePassageGuide.pdf).

<sup>29</sup> Kim Janssen, *School Closings Mean Students Must Traverse New Gang Landscape, Prof Testifies*, CHI. SUN-TIMES (July 18, 2013), <http://www.suntimes.com/news/education/21377422-418/story.html>

<sup>30</sup> *Id.*

<sup>31</sup> James Reddick, *Chicago Public Schools Closings Point Up the Dangers of Geography*, CHI. NOW (Apr. 30, 2013), <http://www.chicagonow.com/chicago-muckrakers/2013/04/chicago-public-school-closings-point-up-the-dangers-of-geography/>.

<sup>32</sup> Pauline Lipman, Janet Smith, Eric Gutstein, and Lisa Dallacqua, *Examining CPS' Plan to Close, Turnaround, or Phase Out 17 Schools*, UNIVERSITY OF ILLINOIS-CHICAGO (Feb. 21, 2012), at 18, [http://www.uic.edu/cuppa/voorheesctr/Publications/DD2012\\_Report\\_2\\_21\\_2012.pdf](http://www.uic.edu/cuppa/voorheesctr/Publications/DD2012_Report_2_21_2012.pdf).

<sup>33</sup> Michael Tarm, *Gang expert to US court on Chicago school closings: 'Likely a child will be shot and killed'*, AP (July 17, 2013), <http://www.foxnews.com/us/2013/07/17/gang-expert-to-us-court-on-chicago-school-closings-likely-child-will-be-shot/>.

<sup>34</sup> Sarah Karp, *CPS Won't Take Recommendations Against Closings*, CATALYST CHI. (May 7, 2013), <http://www.catalyst-chicago.org/notebook/2013/05/07/21041/cps-wont-take-recommendations-against-closings> (Catalyst Chicago is published by the Community Renewal Society, a respected civil society organization which focuses on local public affairs).

<sup>35</sup> *Id.*

<sup>36</sup> Randi Belisomo, *Saturday Slaying Took Place On Safe Passage Route*, CHI. TRIB. (Aug. 12, 2013), <http://www.chicagotribune.com/news/local/breaking/chi-safe-passage-route-shooting-20130811.0.4548448.story>.

<sup>37</sup> Natalie Moore, *School Closures Only Add to Blight in Some Chicago Neighborhoods*, WBEZ91.5 (May 23, 2013), <http://www.wbez.org/news/school-closures-only-add-blight-some-chicago-neighborhoods-107345>.

<sup>38</sup> *Id.* at 4.

by third parties.<sup>39</sup> In General Comment No. 6, the Committee indicated that Article 6 requires States parties to “take measures . . . to prevent and punish deprivation of life by criminal acts.”<sup>40</sup> The Committee further stated that “the protection of [the right to life] requires that States adopt positive measures.”<sup>41</sup> In General Comment No. 17, the Committee declared that under Article 24 States parties must take “every possible economic and social measure . . . to prevent [children] from being subjected to acts of violence.”<sup>42</sup>

- 13) The Inter-American Commission on Human Rights (the “Commission”) has also stated that governments must protect individuals not only from State-sponsored violence but also violence at the hands of private actors, particularly when such violence is widespread. In *Jessica Gonzales v. United States*, the Commission found that the United States “failed to undertake reasonable measures to protect the life of [the claimants] in violation of their right to life” when it failed “to adequately organize its state structure to protect them from domestic violence.”<sup>43</sup> In relevant part, the Commission held that the ICCPR “underscore[s] that the duty of the State to implement human rights obligations in practice can extend to the prevention and response to the acts of private actors.”<sup>44</sup> The Commission further held that States are “under a positive obligation to protect and prevent violations to [the right to life], through the creation of the conditions that may be required for its protection.”<sup>45</sup>

#### **Article 25: Right to Take Part in the Conduct of Public Affairs**

- 14) The appointment structure of the Chicago Board of Education and its failure to heed the widespread objections to the school-closure plan, effectively denied people the right to take part in the conduct of public affairs. Article 25 of the ICCPR provides that “[e]very citizen shall have the right and the opportunity . . . without unreasonable restrictions” to “take part in the conduct of public affairs.”<sup>46</sup> The Committee explained in General Comment No. 25 that “[t]he conduct of public affairs . . . is a broad concept” that “covers all aspects of public administration, and the formulation and implementation of policy at . . . local levels.”<sup>47</sup> The Committee further established that participation may be achieved by citizens “taking part in popular assemblies which have the power to make decisions about local issues or about the affairs of a particular community and in bodies established to represent citizens in consultation with government.”<sup>48</sup>

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<sup>39</sup> U.N. Office of the High Commissioner for Human Rights, International Human Rights Law, <http://www.ohchr.org/en/professionalinterest/Pages/InternationalLaw.aspx>.

<sup>40</sup> U.N. Human Rights Committee, *General Comment No. 06: The right to life (art. 6)*, ¶ 3, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994) (April 30, 1982), [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument).

<sup>41</sup> *Id.* at ¶ 5.

<sup>42</sup> U.N. Human Rights Committee, *General Comment No. 17: Rights of the child (art. 24)*, ¶ 3, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 23 (1994) (April 7, 1989), [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/cc0f1f8c391478b7c12563ed004b35e3](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/cc0f1f8c391478b7c12563ed004b35e3).

<sup>43</sup> *Gonzales v. United States*, Case 12.626, Inter-Am. C.H.R., Report No. 80/11, ¶ 3 (2011).

<sup>44</sup> *Id.* at ¶ 119.

<sup>45</sup> *Id.* at ¶ 164.

<sup>46</sup> International Covenant on Civil and Political Rights art. 25, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

<sup>47</sup> U.N. Human Rights Committee, *General Comment No. 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (art. 25)*, ¶ 5, U.N. Doc. CCPR/C/21/Rev.1/Add.7 (July 12, 1996), <http://www.unhchr.ch/tbs/doc.nsf/0/d0b7f023e8d6d9898025651e004bc0eb>.

<sup>48</sup> *Id.* at ¶ 6.

The Committee reiterated that “no unreasonable restrictions should be imposed” on such participation.<sup>49</sup>

- 15) Concerned about the lack of public participation in decisions to close or “turnaround” public schools in Chicago, the State legislature of Illinois amended the Illinois School Code, effective August 2011, to add provisions regarding democratic participation in school closing decisions.<sup>50</sup> The State government ordered the “significant involvement of local school councils, parents, educators, and the community in decision-making” processes concerning school closures.<sup>51</sup> Despite these efforts by the Illinois legislature, democratic participation is constricted in public school matters in Chicago because, unlike most other school districts in the United States, school board members in Chicago are not democratically elected. Instead, the Mayor of Chicago appoints all members to the Chicago Board of Education.<sup>52</sup>
- 16) Reflecting this lack of democratic appointment, the process leading up to closure of 49 public elementary schools in Chicago did not adequately protect the right of affected communities to take part meaningfully in the conduct of public affairs. Although the Chicago Board of Education held hearings with community residents about the school closings, those without Internet access found it difficult to obtain speaking spots at the meetings. Requiring parents and concerned community members who lack access to the Internet to apply online in order to participate in public hearings amounts to the imposition of an unreasonable restriction in contravention of Article 25.<sup>53</sup>
- 17) During the public hearings, the overwhelming majority of parents objected to the school closings. Independent hearing officers appointed by the school district to preside over the hearings filed conclusions and recommendations that raised general objections and recommended against the closing of particular schools.<sup>54</sup> A number of academic experts who studied the school closings also raised numerous objections to the plan.<sup>55</sup> The Chicago Board of Education, however, was unresponsive to the public’s concerns; instead, it ignored widespread public opposition and pushed forward with the school closings. The right to participate in decision-making processes regarding school closings is an empty promise if the opinions of the community are ignored.<sup>56</sup>

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<sup>49</sup> *Id.*

<sup>50</sup> Adopted by Public Act 096-0803 (effective Aug. 2011) and codified as 105 Ill. Comp. Stat. Ann. 5/34-18.43 (West).

<sup>51</sup> *Id.*

<sup>52</sup> Pauline Lipman and Eric Gutstein, *Should Chicago Have an Elected Representative School Board? A Look at the Evidence*, UNIVERSITY OF ILLINOIS AT CHICAGO (Feb. 2011), at 9,

<http://www.uic.edu/educ/ceje/articles/Printed%20school%20board%20report.pdf>.

<sup>53</sup> George N. Schmidt, *Kafka on Clark Street*, SUBSTANCE NEWS (June 4, 2013),

<http://www.substancenews.net/articles.php?page=4318>.

<sup>54</sup> Becky Schlikerman and Tina Sfondeles, *Hearing Officers Oppose 10 Planned CPS Closures, Have Reservations About Others*, CHI. SUN-TIMES (May 7, 2013), <http://www.suntimes.com/news/education/19951788-418/hearing-officers-oppose-14-planned-cps-closures.html>.

<sup>55</sup> See, e.g., Stephanie Farmer, Isaura Pulido, Pamela J. Konkol, Kate Phillippo, David Stovall and Mike Klonsky, *CREATE Research Brief on School Closures*, CHICAGOLAND RESEARCHERS AND ADVOC. FOR TRANSFORMATIVE EDUC. (Mar. 2013),

<http://www.createchicago.org/2013/03/create-releases-research-brief-on.html>; Michael Tarm, *Gang expert to US court on Chicago school closings: 'Likely a child will be shot and killed'*, AP (July 17, 2013),

<http://www.foxnews.com/us/2013/07/17/gang-expert-to-us-court-on-chicago-school-closings-likely-child-will-be-shot/>.

<sup>56</sup> Rick Perlstein, *Chicago Rising!*, THE NATION (July 2, 2013), <http://www.thenation.com/article/175085/chicago-rising#axzz2ZXhvXLm> (“A recent Chicago Tribune/WGN poll found that more than 60 percent of Chicago citizens opposed the closings, and a healthy cross section of them had turned out for the first of three straight days of marches in protest.”).

### **III. Recommendations**

- We urge the Committee to recommend that the United States take steps to ensure equal access to quality education for minority African American and disabled children in Chicago and other municipalities where public schools are closed, including guarantees that the special needs of disabled students will be met in their new schools and that children are not forced to receive a lower quality education as a result of school closings.
- We urge the Committee to recommend that the United States consider all possible options to address the discriminatory effect school closings in Chicago and other municipalities have had on minority African American and disabled students, such as federal investigation and contingency federal funding.
- We urge the Committee to recommend that the United States implement measures to ensure adequate protection for students affected by the closure of public schools in Chicago and other municipalities who must walk through gang-controlled areas on the way to new schools, such as federal and local law enforcement partnerships directed towards stopping gang activity in affected areas.
- We urge the Committee to recommend that the United States establish an independent federal body to investigate and make recommendations concerning the public school closures and the lack of meaningful public participation in the decisions to close public schools in Chicago and other municipalities, including highlighting the importance of a democratically elected board of education.

**DATE: AUGUST 23, 2013**

**RESPECTFULLY SUBMITTED BY:**

#### ***The Midwest Coalition for Human Rights***

The Midwest Coalition for Human Rights is a network of 56 organizations, service providers, and university Human Rights centers that work together to promote and protect human rights in the Midwest region of the United States. Coalition organizations research, advocate, educate, and take action as a strong regional voice on national and international human rights issues. The full member list of the coalition is available at <http://www.midwesthumanrights.org/members>.

#### ***University of Chicago Law School's International Human Rights Clinic***

The International Human Rights Clinic works with non-governmental organizations to design and implement human rights cases and projects. Students learn human rights lawyering skills by working on these cases and projects, all of which are supervised by the director of the Clinic. The Clinic uses international human rights laws and norms to draw attention to human rights violations, develop practical solutions to those problems using interdisciplinary methodologies, and promote accountability on the part of state and non-state actors.