

15 July '10: Army uses legal measures to quell demonstrations against the Separation Barrier

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In a new [position paper](#) [2], B'Tselem analyses the legal developments in the army's efforts to quell demonstrations in the West Bank.

The freedom to participate in demonstrations and processions is a basic right in any democratic regime. It is regarded as a manifestation of human dignity and liberty. The freedom to demonstrate gives citizens the ability to protest actions, decisions and policies of the authorities and protect their basic rights.

What are the demonstrations about?

The Separation Barrier runs deep inside Palestinian territory, and not along the Green Line. The long and winding route is necessitated by the needs of the Israeli Settlements located in the West Bank - not only security needs, but also to ensure [land reserves for expansion](#) [3] of the particular settlements. In building the Barrier, Israel seized much private Palestinian land by military order, leaving it on the western side of the Barrier. As a result, many residents of nearby villages are denied access to their land, including farmland, which is their source of livelihood.

The Palestinian villages whose land was seized in order to construct the Barrier took various actions in opposition to the route. First and foremost, they petitioned the High Court of Justice. In a few cases, the High Court nullified the route, the first and most important of which is the High Court ruling in the case involving [Beit Sourik](#) [4], of 2004, which held that the route disproportionately harmed the residents.

In an additional petition involving the village of [Bil'in](#) [5], of 2007, the court held that the route was set to encircle the eastern section of the Matityahu East neighborhood of Modi'in Illit, which was not built. For this reason, it was not a proper consideration in setting the route, which left fifty percent of the village's land on the "Israeli" side. The army suggested an alternate route, which the [High Court also rejected](#) [6]. A third route was approved by the High Court, and its construction has begun recently. However, the current route of the Barrier in Bil'in has not yet been dismantled. The village of Bil'in is one of the major locations of the demonstrations against the Barrier.

However, most petitions against the route have been rejected, the court accepting the state's position that the Barrier's route properly balances the security considerations with the rights of Palestinian villagers. Examples of such decisions involve the [Sheikh Sa'ed neighborhood](#) [7] and the separation of [a-Ram neighborhood](#) [8], in East Jerusalem, from nearby villages and its land reserves for future development.

Dispersion of Demonstrations

Alongside the legal battle to challenge the route of the Barrier, which effectively annexes Palestinian land to Israel, many villages have established an unarmed popular resistance. Protests are held every Friday, with many demonstrators taking part, at many West Bank villages: Bil'in, Ni'lin, al-Ma'sara, Beit Jala, al-Walajah, Wadi Rahhal, and in the past also at Budrus, Bidu, Jayyus, Masha,

Iskaka and more. Additional protests take place elsewhere in the West Bank at villages not directly affected by the Barrier, in protest of lands being taken over by the settlements and the Israeli military presence. At some of the villages, some of the demonstrators throw stones at the security forces, and there are some cases of sabotage of the Separation Barrier. The extent of the conflicts varies depending on the place and the specific demonstration. These demonstrations have often been met with great force by the authorities, which seek to disperse them, at times even when the demonstrators are not violent and are not endangering the soldiers in any way. The army uses means for dispersing demonstrations such as tear gas and firing of [rubber-coated metal bullets](#) [9]. However, as B'Tselem's extensive documentation shows, the security forces on the West Bank often use these means in violation of the open-fire regulations, in a manner which endangers the lives of demonstrators and has led to the death and injury of unarmed demonstrators in recent years. In some cases, IDF and Border Police forces have also fired live ammunition towards demonstrators. Three demonstrators in the village of Ni'lin were killed from live gunfire, among them [a 10 year old boy](#) [10]. In addition, during 2009, the army renewed its use of .22" caliber bullets, live ammunition that is less lethal than ordinary ammunition. B'Tselem monitoring over the past few months shows that there is a substantial decrease in the use of this means. The army denies that the .22 caliber bullets are a means to disperse demonstrations, however, B'Tselem investigation shows that two people have been killed by [.22" caliber bullets](#) [11], one during a demonstration against the Barrier, and many have been wounded. In addition, in 2009, B'Tselem documented the recurrent firing of tear-gas canisters directly at demonstrators, in breach of the open-fire regulations, in a manner that can make their use lethal. It was this use of tear gas canisters that killed [Bassem Abu Rahme](#) [12], a 30 year old Bil'in resident.. Only one year and three months after the fact, following the threat that a petition would be filed with the High Court, did the Judge Advocate General order a [Military Police investigation](#) [13] into his death.

Legal Means of Suppressing Demonstrations

The army uses different legal means in order to prevent demonstrations. Although most of the efforts are directed at the Palestinian organizers, some are directed at Israeli and International activists. Some foreign activists participating in the demonstration have been deported. In addition, On February 2, 2010, OC Central Command signed two orders proclaiming a closed military zone imposed on the villages of Bil'in and Ni'lin. These orders are issued for six months at a time, and apply to all the land lying between the built-up areas of the villages and the Barrier. Every Friday, between 8 AM and 8 PM, in other villages that hold demonstrations, specific orders are issued declaring the area a closed military zone.

Against the Palestinians, since the beginning of 2010, the army has used another means: renewed use of [Military Order 101](#) [14], which prohibits demonstrations in the occupied Territories. From the time of the Oslo Accords this order was enforced only with regard to the provisions concerning incitement.. Under the Order, every gathering, vigil or procession of ten or more persons requires a permit from the IDF commander in the region, if the gathering involves a "political issue or can be construed as political or to discuss such an issue" or "for a political purpose or for a matter than can be construed as political." Such a sweeping definition prohibiting demonstrations is bound to limit all aspects of freedom of speech. The Order sets a harsh punishment - ten years imprisonment and/or a high fine - for those who violate its provisions.

Following renewal of the Order, B'Tselem is now publishing a position paper in which it provides a theoretical analysis of the Order and the restrictions it imposes on the freedom of Palestinians in Areas B and C to demonstrate, in light of Israel 's obligation to ensure freedom of speech under international law. The position paper also compares the statutory provisions applying to Israeli citizens who demonstrate anywhere, whether inside the state or in the West Bank .

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