



Office for the Coordination of Humanitarian Affairs occupied Palestinian territory

Beit Surik: Re-routing of the Barrier and its humanitarian impact

23 July 2004

The Israeli Supreme Court ruling of 30 June on the building of the Barrier, and its path, near Beit Surik is likely to reduce its humanitarian impact by giving Palestinians greater access to their lands than envisaged in the original plan. That was contested in the courts by Beit Surik Village Council.

The Court ruled that the route of the Barrier should be changed near Beit Surik, in the West Bank, because it impinged too much on local residents. Humanitarian concerns remain, however.

Even if the path of the Barrier is re-routed (and a number of potential routes are still being considered), its presence is likely to curtail people's access to markets, schools and health services in nearby Ramallah town, as well as to Jerusalem.

The Israeli Supreme Court Judgment

Following a petition by the Beit Surik Village Council, the Israeli Supreme Court was asked to consider "whether the orders and the fence are legal."¹ On 30 June, the Court issued its judgment on the case (Beit Surik Village Council vs. the Government of Israel). Significantly, the Supreme Court recognised the humanitarian impact of the Barrier on the population of Beit Surik and highlighted the need to balance security concerns with the rights of local inhabitants.

See attached map for different routes and overview of the area.

A number of aspects of the case are important from a humanitarian perspective:

- The Supreme Court specifically noted that the 30km stretch of Barrier contested by the Beit Surik Village Council would have caused "injury to the lives of 35,000 local inhabitants. 4000 dunams² of their lands are taken up by the route of the Fence itself, and thousands of olive trees growing along the route itself are uprooted. The Fence separates the eight villages in which the local inhabitants live from more than 30,000 dunams of their lands. The great majority of these lands are cultivated, and they include tens of thousands of olive trees, fruit trees and other agricultural crops."³
- The Court noted that the Barrier construction in the Beit Surik area conflicted with the Israeli army's obligations under international humanitarian law since the extensive damage to the residents' way of life was disproportionate to the security benefit of the route. Specifically, the court stated:

"The rights of the local inhabitants are violated. Their way of life is completely undermined. The obligations of the military commander, pursuant to the humanitarian law enshrined in the Hague Regulations and the Fourth Geneva Convention, are not being satisfied."⁴

¹ Official translation of Supreme Court Case HCJ 2056/04, 30 June 2004, para.82.

² One dunam equals 0.247 acres, or 0.1 hectares.

³ Official translation of Supreme Court Case HCJ 2056/04, 30 June 2004, para. 82. On the basis of IDF projections and Palestinian Central Bureau of Statistics figures, OCHA calculates that 43,900 people would be in the proposed enclave (see map).

⁴ Official translation of Supreme Court Case HCJ 2056/04, 30 June 2004, para. 70.

“These injuries are not proportionate. They can be substantially decreased by an alternate route, either the route presented by the experts of the Council for Peace and Security, or another route set out by the military commander. Such an alternate route exists. It is not a figment of the imagination... Our answer to this question is that the military commander’s choice of the route of the Separation Fence is disproportionate.”⁵

- The Supreme Court ordered the IDF to define an alternative route for the Barrier. Various routes have been proposed by petitioners and other bodies interested in the case.⁶

Key Humanitarian Concerns

In practical terms, the judgement is likely to lessen the humanitarian impact of barrier construction on Beit Surik villagers by giving them greater access to their lands and reducing damage to their livelihoods. No new route has been announced by the IDF. If the alternative route proposed by the Peace and Security Council were adopted, 14,200 more dunums (1,420 hectares) would be accessible to Palestinians. If the petitioners’ alternative route were adopted an additional 25,000 dunums (2,500 hectares) would be accessible. As the main economic activity sector in Beit Surik is agriculture – 65% of inhabitants are employed in farming – greater access to lands would be a positive development for the community.

However, the Court’s judgment relates only to the 30km stretch of Barrier defined by the petition to the court. The Court did not address the wider humanitarian impact of the Barrier in the area. Palestinian access to Jerusalem, to Ramallah and other parts of the West Bank is very restricted and this will worsen when the Barrier is constructed. Residents’ ability to trade and to gain access to jobs and services will be severely limited. (See the section on humanitarian consequences below.)

Once the Barrier is completed, Beit Surik and its neighbouring villages will be located in what is effectively an enclave containing around 43,000 people. It will be surrounded on three sides by the Barrier. To the north, Highway 443 essentially ‘caps’ the enclave on the fourth side. Controlled by Israeli authorities, Highway 443 can only be crossed by Palestinian vehicles through a tunnel at Karbatha al Misbah. This tunnel can be reached from Beit Surik via a road that is unpaved in many parts. The trip from Beit Surik to Ramallah – the main urban centre for hospitals, educational facilities, markets and jobs – by this route takes about one and a half hours if there are no delays at the flying checkpoint that often operates at the tunnel.

IDF sources have suggested that the Beit Surik enclave may be connected with Ramallah by a road that will be constructed to the Bir Nabala enclave. From there, Palestinians would travel via a tunnel or special road to Qalandia village and then to Ramallah. This alternative would reduce the travelling time to Ramallah. Emergency access to Jerusalem would also be catered for via a checkpoint in the Barrier near Beit Surik. The exact number and location of gates has yet to be announced.

However, the Supreme Court, as part of its ruling on the Beit Surik case, judged that Barrier gates and the licensing regime used to regulate access through them would not ensure Palestinians’ free or reliable passage through the Barrier.⁷ This suggests that other and improved means of access will need to be found. Elsewhere in the West Bank, access through gates has been tightly restricted.⁸

⁵ Official translation of Supreme Court Case HCJ 2056/04, 30 June 2004, para. 61.

⁶ Maps showing alternative routes are from official Israeli sources. The Beit Surik Village Council submitted an alternative route for consideration by the Court. The Peace and Security Council, which is a non-governmental advocacy group composed of former senior IDF and Israeli security service personnel, also submitted an alternative route.

⁷ “The licensing regime which the military commander wishes to establish cannot prevent or substantially decrease the extent of the severe injury to the local farmers. Access to the lands depends upon the possibility of crossing the gates, which are very distant from each other and not always open. Security checks, which are likely to prevent the passage of vehicles and which will naturally cause long lines and many hours of waiting, will be performed at the gates. These do not go hand in hand with the farmer’s ability to work his land. There will inevitably be areas where the security fence will have to separate the local inhabitants from their lands. In these areas, the commander should allow passage which will reduce, to the extent possible, the injury to the farmers.” Official translation of Supreme Court Case HCJ 2056/04, 30 June 2004, paragraph 82.

⁸ See OCHA/UNRWA Barrier Reports, available at www.ochaopt.org.

Further Humanitarian Consequences for the Beit Surik Area

Access to markets and jobs

The Barrier is likely to further damage economic prospects around Beit Surik. Although some of its agricultural produce is consumed in the village itself, the viability of the agricultural sector depends on access to markets to trade the surplus. Local inhabitants' access to markets has already been impeded by other forms of closure, such as earth mounds and road blocks.

Beit Surik and its neighbouring villages have traditionally had strong economic links to Ramallah and Jerusalem. Before September 2000, farmers living in Beit Surik were also able to sell their goods in Jordan and the Gulf states, as well as in the West Bank in general. Since the closure was imposed, this has become very difficult: Palestinian vehicles are no longer permitted to travel along Highway 443, and smaller access roads onto it have also been blocked since 2000 or 2001.

Some goods are currently transported to markets through the An Nabi Samwil roadblock (where some farmers run the risk of being stopped by the IDF due to lack of trade permits). This route will be adversely affected by the Barrier construction.

Access to employment in Ramallah will also be affected by the Barrier. Around 70 inhabitants of Beit Surik, mainly teachers and bank employees, currently work in Ramallah or Ar Ram. Because of the difficulties involved in travel from Beit Surik, some of these people have already established temporary residences near their work places and only return to the village at weekends. Such difficulties are likely to be exacerbated by Barrier construction.

Access to health services

The Village Council of Beit Surik is particularly concerned that the Barrier will further limit people's access to health care.⁹ There is no health clinic in Beit Surik. The nearest available health care facility is a clinic run by an NGO in Biddu, but this provides only preventive services, primary health care, a laboratory and health education. For other medical treatment, patients must travel to Ramallah or to Augusta Victoria hospital in Jerusalem (which provides services for refugees). Existing closure measures already make this travel difficult and unpredictable. The Barrier will compound the problems facing people from Beit Surik who need medical treatment.

Access to education

Beit Surik has two schools, one for boys and one for girls. The boys' school provides education only up to 12th grade (secondary level) for those in liberal arts studies, and science studies end after 9th grade (elementary level). Education for girls ends after 9th grade. To continue education after these grades, around 130 students leave the village every day, either to Biddu or further to Ramallah and Abu Dis. There are also 57 university students living in Beit Surik. These students study in Ramallah and Abu Dis, and at the Open University in Jerusalem, and travel back and forth every day.

The construction of the Barrier will, therefore, affect the ability of 187 students to reach their places of study. At least some of these students may become discouraged by the difficulties of travelling in the area, and stop attending school or university. Barrier construction will also affect the schools in Beit Surik. Ten of the 28 teachers working in the village schools live outside the village. The construction of the Barrier will make their movement more difficult.

⁹ Interviews with OCHA field staff, April 2004.

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