

Israeli High Court of Justice: Balancing Security and Humanitarian Considerations Requires Changes to the Route of the Separation Barrier

On June 30, Israel's High Court of Justice voided a 30 kilometer portion of the Separation Barrier, ruling that it disproportionately harmed the village of Beit Surik and other Palestinian villages on whose land the barrier is routed. This decision will serve as a precedent for dozens of other cases submitted by villages and towns that will be harmed by the barrier.

“The route undermines the delicate balance between the obligation of the military commander to preserve security and his obligation to provide for the needs of the local inhabitants... the route which the military commander established for the security fence... injures the local inhabitants in a severe and acute way, while violating their rights under international humanitarian law... The gap between the security provided by the military commander's approach and the security provided by the alternate route is minute as compared to the large difference between a fence that separates the local inhabitants from their lands and a fence which does not... Only a separation fence built on a base of law will grant security to the state and its citizens.”

Excerpts from the High Court ruling written by Chief Justice Aharon Barak

If constructed along the current route, the barrier will enclose over 250,000 people from eighty-one communities into dozens of isolated enclaves, and will separate farmers from over 200,000 acres of their land.

In Jerusalem, Israel has chosen to construct the barrier along a route that is particularly disastrous for local residents. The route largely follows the Jerusalem municipal boundaries, an arbitrary line drawn by Israel following the occupation in 1967, which in several cases runs down the middle of busy streets. Now an eight meter-high concrete wall is being constructed along this same route, separating tens of thousands of people from schools, jobs, family and health care.

A range of military officials have admitted in private conversations what is obvious to anyone who studies the map: **while the barrier was conceived for security reasons, the route is dictated by politics.**

- In Jerusalem, over 200,000 Palestinians will remain to the west of the barrier. In order to strengthen Israel's claim to Jerusalem as its united, eternal capital, the barrier divides Palestinians from each other, rather than separating between Israelis and Palestinians in the city.
- Throughout the West Bank, the route snakes deep into occupied territory to include as many settlements as possible on the Israeli side.

The precedent set by the Israeli High Court in the Beit Surik case, that even legitimate security measures cannot cause disproportionate harm, must be applied to the entire route of the separation barrier. If the government still believes the barrier is essential to protect Israel's population, it must redraw the route to achieve the barrier's original intention: security rather than a land grab. Only a route along or inside Israeli territory can meet this criteria.



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