

Informational Pamphlet for Demonstrators in the Occupied Territories

Important Information and Coping Strategies

September 2011



**Rights of
Demonstrators**

האגודה לזכויות האזרח בישראל

جمعية حقوق المواطن في إسرائيل

The Association for Civil Rights in Israel



www.acri.org.il

Introduction

Demonstrations enable citizens to voice their opinions and to influence society. In the Occupied Territories, where Palestinian residents have no access to the corridors of political power in the State of Israel (the occupying power), the right to demonstrate is all the more important. Demonstrations are a primary means for Palestinian residents to voice their opinions and to protest against the violation of their rights.

According to international human rights law, it is the obligation of the occupying power to allow residents of an occupied territory to demonstrate. This is especially pertinent in the Occupied Territories, where the occupation has continued for over four decades. Despite this, in practice, all rallies and demonstrations in the territories are deemed as “illegal assemblies,” and most of them are dispersed by the military and the police.

The purpose of this pamphlet is to clarify the rights of demonstrators in the Occupied Territories in

the current legal situation, and to provide possible avenues of response when these rights are violated.

It should be noted that the position of the Association for Civil Rights in Israel (ACRI) is that the authorities are not currently keeping to their legal obligations. The sweeping ban on the organization of demonstrations, the unreasonable restrictions placed upon them, and the forced dispersal of quiet and peaceful demonstrations – which are all practiced in the West Bank – represent a serious and severe infringement on the right to demonstrate and on freedom of speech, as well as a clear violation of the rules of international law that are incumbent on the occupying power. Therefore, the rules detailed below do not represent what ought to be the appropriate legal status in our opinion.

Nevertheless, we present this list in the hope that knowledge of the rules guiding Israel's security forces will help demonstrators in the territories to stand up for their rights.

Demonstrations in the Occupied Territories – The Legal Basis

■ Demonstrations in the territories are regulated under martial law, in the Order Regarding Prohibition of Incitement and Hostile Propaganda Actions (Order 101).

■ **The definition of an assembly or march according to Order 101:** Ten or more persons, who have gathered in a place in which a speech is being made on a political subject, or a speech which may be construed as political, or to discuss such a subject.

■ According to the order, **any such assembly requires a permit.**

■ The result of this order is that, by and large, rallies and demonstration in the territories are defined as “illegal assemblies.” In practice, most of them are dispersed by the Israeli military and police.

Dispersal of a Demonstration by Security Forces – When and Under What Conditions?

■ Security forces do not have the authority to break up a legal demonstration or to arrest its

participants. The problem, as stated above, is that almost all the demonstrations in the territories are defined as “illegal.”

- If an order to break up a demonstration is given, security forces may act to disperse the demonstrators by force only after they asked the demonstrators to disperse, waited a reasonable amount of time, and the demonstrators did not oblige.

- Security forces working to maintain public order at a demonstration are supposed to wear identification tags, and if the protesters believe that their behavior was illegal, they are allowed to write down their details and to file a complaint against them (see pages 22-23 regarding relevant bodies for filing such complaints).

Crowd-Control Measures – What Is Permitted, What Is Prohibited?

- **The Rule:** Even when security forces are authorized to forcibly disperse a demonstration, **their power is limited to the minimal use of force necessary to accomplish this mission.**

- **Live Fire:** It is prohibited for security forces

to use live ammunition in the dispersal of a demonstration. Exceptions:

1. **Life threatening circumstances** – Only when there is an immediate threat to life, and when there is no other means for dealing with this threat, security forces are allowed to shoot with the intent to injure, and only at the attacker.

2. **Warning shots in the air** are allowed only after lesser measures, such as water cannons, tear gas, and stun grenades, have not succeeded in breaking up the demonstration.

3. In the process of **apprehending a suspect**, security forces **may fire at the legs of a person suspected of committing a dangerous crime** only as a last resort, after a verbal warning has been issued and warning shots were fired in the air, and only when this poses no threat of injury to others in the vicinity. (This is a general instruction and not limited to the arrest of suspects at a demonstration).

■ **0.22 Caliber (“Tutu”) Bullets** – These bullets are similar in size to live ammunition but are less powerful. **As a rule, security forces are prohibited from using such ammunition in the dispersal of**

demonstrations. The rules for using such bullets are strict and run parallel to the rules regarding opening fire with live ammunition. Firing bullets of this or of a similar type is not defined by the Israeli military as a means for dispersing demonstrations or restoring public order.

■ **Rubber-Coated Bullets** – May be used if and only if lesser measures (water cannons, tear gas, stun grenades, warning shots in the air) have not succeeded in breaking up the demonstration. The minimal range at which it is permitted, according to the orders, to fire these bullets is 40 meters (approximately 131 feet); it is prohibited to aim at the upper part of the body; firing such bullets at children is prohibited.

■ **Tear Gas** – **It is forbidden to shoot tear gas canisters directly at the bodies of demonstrators.** If protesters believe that any security personnel have used excessive force and violence in dispersing a demonstration, they may file a complaint against them (see pages 22-23 the list of relevant bodies for filing a complaint).

Is Photography Permitted?

■ Everyone has the right to freedom of information, which includes the right to photograph, film, and document incidents, and to gather information.

■ According to military guidelines in the territories, photography and videotaping carried out by protesters during a demonstration or in the case of clashes between security forces and protesters, **is legal, and does not in itself endanger the public order.**

■ Restrictions on said activity are only permitted when photography might interfere with security actions or be used to collect classified intelligence information.

■ **In most cases, the request of police or soldiers to stop filming is given without cause or authority, and justifies the filing of a complaint (see pages 22-23).**

■ **If a soldier or a police officer assaults a photographer, damages his/her equipment, confiscates said equipment, or deletes photos, a complaint can be lodged against the offender (see pages 22-23).**

Closed Military Zone Order – Who Is Authorized to Declare It and Under What Conditions?

■ Only the Commander of the IDF's Central Command, a division commander or his deputy, a brigade commander, or the Commander of the Jerusalem Area Border Police are authorized to order the closure of an area, and such a declaration can be made **only when a security need or the need to maintain public order necessitates the closing of the area.**

■ The declaration of a "closed military zone" can only be made through a **written and signed order.** Attached to the order, there must be a clear **reference map**, which delineates the boundaries of the closed area.

■ **It is important to verify that the order is still valid and applies to the area where you are located, and that it includes the following components:** the exact area to which the order applies (including a text description), date of expiration (the order must be limited to the shortest period necessary to accomplish its objective), to whom the order

applies, and the date of the signing of the order.

■ **A soldier producing an order of a “closed military zone” must identify himself/herself.** If the soldier does not do so, you have the right to ask him/her to do so.

■ It is desirable to **keep complete documentation of the order** (photograph, copying its details, who is the signatory).

Enforcement of the Order:

■ A soldier or policeman has the authority to evict violators of a closed military zone order from the closed area.

■ A person located in a closed military zone may not be detained or arrested, unless they have been given prior warning and have not vacated the declared area within a reasonable period of time.

■ **Important: The order does not apply to residents of the area declared to be a closed military zone.**

Detainment or Arrest of Demonstrators

What Is Detainment and When Is It Possible to Detain Someone?

■ Detainment is a means of restricting a person's freedom of movement for a short period of time.

■ **A soldier or a police officer is authorized to detain a person in several cases:**

1. When there is a suspicion that the person has committed a crime or is about to commit a crime that could endanger the safety or security of a person or a public;

2. When the person was a witness to a crime, for the purpose of providing information about the committing of that crime, or for determining that person's identity and address;

3. For the purpose of conducting a search or for demanding that a person produce identifying documents.

■ A soldier or police officer detaining a person must identify themselves to the detainee, inform the person that they are being detained, and make it clear to the person why s/he is being detained.

It is prohibited to detain a person for the purpose of deterrence, intimidation, or punishment! Detainment may only be used in one of the aforementioned cases.

Always ask the soldier: "Why are you detaining me?" You have the right to know why you are being detained. You also have the right to know who is detaining you.

How Long Can You Be Detained?

- A person may only be detained for the shortest time required to achieve the objective of the detainment.
- **In any case, it is prohibited to detain a person for more than 3 hours. The exception:** An officer with at least the rank of Lieutenant Colonel or an authorized police officer may extend the remand by 3 additional hours, with the reasons recorded in writing.

Important Information:

- In general, detainment is carried out in the place where the detainee is. The exception: When

the suspect or witness is to be brought before an investigative authority.

- It is the obligation of the soldier or police officer to make sure that the detainment is carried out in a place with reasonable waiting conditions, and to provide the detainee with food and water if necessary.

- During detainment, it is prohibited to handcuff the detainee or to cover their eyes.

- When detainment lasts more than 3 hours, or when the detainee is brought before an investigator, it is the obligation of the detaining soldier or police officer to fill out a detainment report.

When Can a Demonstrator Be Arrested?

- Arrest is an exceptional measure, and its use as a means of punishment is prohibited.

- According to the Order Concerning Security Provisions, all soldiers and police officers are authorized to arrest a person who has violated or is about to violate any of the provisions of the order, such as throwing stones, attacking a security officer, interfering with military activity, and so on.

What are the Rights of an Arrestee?

- An arresting soldier or police officer must identify themselves and inform the arrestee of the reason for their arrest.
- If the reason for the arrest was not communicated, it is the arrestee's right to ask if s/he is indeed under arrest, and what is the reason for the arrest.
- An arrested person should be transferred as soon as possible to a police station or place of detention.
- If the arrestee requires medical attention, it is the obligation of the soldier or police officer to make sure that the arrestee receives medical treatment without delay.

The arrestee has the right that a notification be given, without delay, to a person close to him and to a lawyer – about the arrest and where s/he is being held.

There are exceptional cases where notification of the arrest can be delayed, but in general these exceptions do not seem to apply to people arrested at a demonstration.

■ Other than under exceptional circumstances, **an arrestee should be allowed to meet with a lawyer without delay.** This meeting should be held in privacy and under conditions that ensure the confidentiality of the conversation.

How Long is the Initial Arrest Period?

■ A police officer is authorized to issue an arrest order for a period not exceeding 8 days from the time of arrest.

■ If an arrest order is not issued within 96 hours of the time of arrest, the arrestee must be released. The arrestee must be brought before a judge at the earliest possible time, and in any case no more than 8 days from the time of arrest.

Extending Arrest Beyond the Initial 8 Days

■ Extension of arrest can only be ordered by a judge, who may extend the arrest for up to 30 days at a time, for a total period that may not exceed 90 days at a time.

■ Extending the arrest beyond the 90-day limit

can only be ordered by a judge of the Military Appeals Court. This extension may not exceed a (cumulative) period of an additional 3 months.

- The decision of the Military Court regarding the arrest may be appealed to the Military Appeals Court.

Presence at Arrest Hearings

- Any arrest hearings must take place in the presence of the arrestee, except in cases where s/he has asked not to attend the hearing or when his/her health does not enable it. If the arrestee cannot appear because of health issues, the hearing must take place in the presence of the arrestee's lawyer.

- **It is the right of the arrestee to have a representing lawyer present at all hearings.** If the lawyer is not present at a hearing, the court may extend the arrest for mandatory short periods, until the lawyer can appear in court.

Conditional or Unconditional Release

- A police officer or a military judge is authorized to order the release of an arrestee, either with

conditions or unconditionally.

- At any stage after the time of arrest, the arrestee or his/her lawyer can submit a request to the Military Court for immediate release.

- Stay of execution of release order: If a judge ordered the release of the arrestee, a prosecutor can request a stay of execution of the release order for up to 72 hours, with the announcement of intention to appeal the release order, or of intention to consider issuing an administrative detention order against the arrestee. A stay of execution of release will be granted only if a judge is convinced that the circumstances of the case justify the arrestee's continued incarceration.

- One of the conditions of release may be the posting of guarantees. These may include bail, bond, or a money deposit by the arrestee or by a guarantor.

- Additional conditions of the release may include: requiring the released person to appear before the court or a police investigator any time s/he is asked to do so; the temporary deposit of their passport; delays in leaving the area; restraining orders on where they may go; etc.

■ **Important: You should consult with an attorney before signing the release conditions to ensure that they are reasonable.**

■ It is important not to sign onto unreasonable conditions, such as a general restraining order on participation on demonstrations, or a sweeping prohibition on participating in demonstrations for a specified period. Note: You can request a change in the release conditions at the stage before signing them.

■ **In case of unreasonable release conditions – it is possible to appeal** these conditions in military court. The appeal must be filed within 7 days after release.

■ **Violation of release conditions** (or suspicion of their violation) are grounds for a soldier or police officer to arrest the released person.

■ **Bail and any other release conditions will be canceled** if an indictment is not filed within two years of the day that the release conditions were signed (if they are not canceled sooner.) Exception: When bail and other release conditions have been extended for an additional 3 months by a military court.

The Investigation - Useful Information

- At the start of an investigation, the investigating officer is obligated to inform the detainee of the charges leveled against them, their right to remain silent during the investigation, and their right to consult with an attorney.
- If the suspect has an alibi (e.g. they were not present at the scene of the alleged crime), it should be stated at the earliest opportunity during the investigation.
- A detainee has the right to be questioned in their native language or another language which they understand.
- At the end of the investigation, the suspect should read the investigation transcript written down by the investigating officer. The transcript must be prepared in the language in which the investigation was conducted, although in reality this does not always happen. If the transcript is written in a language the detainee does not understand, they may refuse to sign it and note down that this is because they do not understand the transcript.
- In investigations held at unusual hours of the day, or that last for an unusually long period of time,

the detainee is entitled to request a rest break.

■ If any force is used against the detainee during the investigation, or if threats are made, or other exceptional circumstances exist – it is important to note this and to request that it will be included in the investigation transcript.

Investigating a Minor - Additional Rights

■ According to military law applicable to Palestinians in the Occupied Territories, a minor is anyone under the age of 16 years (and not under 18, the customary determining age for a minor).

■ Investigation of a minor must be completed by an officer specially trained in the investigation of minors.

■ Despite the silence of the military legislation on this issue, ACRI's position is that in investigations of minors, the investigating authorities must: allow the presence of a parent or another relative during the investigation; not hold investigations during the night; document the investigation in full in a video or audio recording.



Resources:

Human rights groups

General consultation and assistance in filing complaints

Organization	Tel.	Fax
ACRI	02-6521218, 054-5697654	02-6521219
B'Tselem	02-6735599, 050-6909224	02-6749111

Assistance in locating arrestees

	Tel.
Center for The Defense of Individuals	Emergency number: 02-6283555

Police

Obtaining details on detainees, arrestees and those under investigation (via an attorney). Filing complaints against civilians

	Tel.	Fax
Hebron Region (Bethlehem and south)	02-9969444 02-9963894	02-9964605 02-9964413
Samaria-Ariel Region	03-9065444 03-9065410	03-9065454 03-9065436
Binyamin Region	02-9706400	02-9706440
Ma'ale Adumim Station	02-5358444 02-5358409	02-5358440

Civil Administration

Inquiries about closed military zones orders, refusal of a soldier or police officer to identify themselves

	Tel.	Fax
Civil Administration Hotline	02-9977733 02-99777081 02-9977395	02-9977337

Military Police Investigation Unit (MPIU)

Complaints regarding use of excessive force by soldiers

	Tel.	Fax
Sharon-Samaria Branch (northern West Bank)	09-8972751	09-8972706
Jerusalem Branch (Jerusalem and Jordan Valley)	02-5842603	02-5842475
Be'er Sheva Branch (Southern West Bank)	08-6298161	08-6298352

Department for the Investigation of Police Officers (under Ministry of Justice)

Complaints regarding use of excessive force by police or border police officers

	Tel.	
Department for the Investigation of Police Officers (HQ)	02-5412458 02-6467794	8 Hartom St. Har Hotzvim, Jerusalem
Jerusalem Branch	02-5412445	
Tel Aviv Branch	03-6899851	

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- ACRI is an independent organization that works to promote human rights in Israel and the Occupied Territories.



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