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Nareman Shehadeh-Zoabi

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Nareman Shehadeh-Zoabi

An attorney in the Civil and Political Rights Unit at Adalah, she holds a bachelor's degree in Law and Psychology from the Hebrew University of Jerusalem and a master's degree in Criminology from the University of Haifa

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Mada al-Carmel- Arab Center for Applied Social Research

90 Hamiginim st. Haifa

Tel: +972 4 8552035, Fax: +972 4 8525973

www.mada-research.org

mada@mada-research.org

Introduction

Despite attempts to portray it as liberal, many consider the justice system in Israel to be part of Israel's illiberal political system. This is because of its effective role in establishing racist laws such as the Nation-State Law,¹ legitimizing repressive policies such as home demolitions and land confiscation, legalizing settlements, and upholding annexation policies, in contravention to international law. This has become clearer after October 7, 2023.

During the war on Gaza, the Israeli High Court of Justice—Israel's Supreme Court—has been at the heart of Israel's internal turmoil, represented by the judicial reform project, which seeks to restrict the status and independence of the judiciary.

The Hamas attack of October 7, 2023, led to a shuffling of internal Israeli issues and a redivision of priorities; an emergency government was formed and bills aiming to "reform" (undermine) the judiciary were set aside. However, the conflict spread and continued to cloud the general atmosphere surrounding the court simultaneously with the war,² and even became more intense—except in Palestinian matters, where the government's position and the High Court's decisions agreed.

This paper reviews the behavior of the Israeli justice system, represented by the High Court, during the genocidal war on Gaza to try to understand its role in "managing" judicial affairs related to the war and legitimizing policies of extermination and oppression against Palestinians at all levels.

This paper seeks to track the court's decisions in the most prominent cases before it involving issues directly or indirectly connected with the ongoing war and its outcomes. The court's decisions are pivotal to understanding its stance vis-à-vis government policies. The paper investigates three main types of cases: those directly related to the residents of the Gaza Strip; those concerning political prisoners in the security section of the Israeli Prison Service (IPS); and those related to Palestinian Israelis.³

The paper argues that, based on a review of the court's decisions and conduct, it has provided a cover for genocidal practices, and that its handling of the cases related to the war on Gaza and the decisions it has issued have supported the Israeli state's "security considerations." At best, it has not provided a deterrent against the policies and practices of the government's policies and the War Cabinet, although they are in flagrant violation of international humanitarian law as well as domestic laws and regulations. The court has thus contributed to the entrenchment of Israel's violations of the fundamental rights of the individual. It has avoided making preliminary decisions, in some cases by procrastinating to give the authorities an opportunity to change the situation on the ground. This approach lets the court avoid issuing decisions that may contradict the state's policies in managing war-related matters and that may expose the government to criticism and questioning of its legitimacy domestically. At the same time, it kept its

doors open to petitions in such matters in order to protect Israel internationally from criticism and accountability, and to highlight the purported "liberalism and independence of the Israeli judiciary", as Judge Aharon Barak expressed it in the context of the lawsuit filed by South Africa against Israel at the International Court of Justice.

Indeed, as the decisions documented below attest, in many other cases the court has made controversial decisions favoring security considerations, and has publicly refused to interfere in the decisions of the executive authority, especially the War Cabinet. It thus has effectively given a green light to many of Israel's repressive policies against the Palestinians.

Gaza: Enforced Disappearances and Humanitarian Affairs

This section reveals the violation by the State of Israel of its obligations in accordance with international laws and conventions, foremost of which is international humanitarian law. These issues can be divided into two main themes: concerns about enforced disappearance and detention conditions of Gaza prisoners, and concerns about humanitarian conditions for Palestinians—including denial of medical aid and treatment.

Enforced disappearance and conditions of captivity

Since the beginning of the war, Israel has arrested thousands of Gazans, both inside Israeli territory and in the Gaza Strip.⁴ The legal status of Gaza detainees is determined by the Unlawful Combatants Law enacted by the Israeli Knesset in 2002.⁵ In December 2023, the Knesset introduced a temporary amendment to the law, valid for up to six months, which led to substantial changes in the periods of detention stipulated by the law. The amendment authorizes the detention of a person for a maximum of 45 days by temporary order (instead of for 96 hours originally), extends the period for bringing a detainee before a judge to 75 days (instead of 14 days), in which case he appears remotely and not face-to-face, and prohibits a meeting with a lawyer for a maximum period of 180 days (instead of 21 days before the amendment).⁶

In February 2024, human rights organizations petitioned against the amendment of the law for its flagrant violation of human rights and for contradicting Israel's obligations under international humanitarian law.⁷ In dealing with this petition, the Israeli High Court adopted a policy of procrastination, appointing more than one negotiating session, requesting updates from the state, and approving state extension requests even more than a year after the petition was initially submitted.⁸ In this regard, it is worth noting that the passage of time is a key factor in this case, as the amendment (which was in force for six months starting in December 2023) had expired and had been replaced by relatively "lighter" amendments that provide for shorter time periods regarding restrictions on the rights of detainees.⁹ Hence, dealing with the allegations raised in the petition became more theoretical than actual in terms of its impact on the rights of current detainees. This has implications for the eventual court decision, which has not yet been issued by the

court. The policy of procrastination is therefore one of the means used by the court to avoid taking initial decisions, in order to enable the authorities to continue their actions without hindrance. At other times, this procrastination allowed the authorities to change the grounds on which the petitioners' legal claims are based, and thus to empty the legal process of its substance.

Regarding detention sites, the Sde Teiman detention center (essentially an Israeli military installation) was initially used as a place to hold Gaza prisoners. Accordingly, human rights organizations petitioned the High Court in May 2024, demanding that it issue an order in accordance with the law to stop using the facility as a place of detention due to the systematic and continuous violations of detention conditions and for harming the physical conditions and lives of detainees.¹⁰ The petition detailed a list of violations against detainees. These included inhumane living conditions, systematic violence, and withholding of medical care, which led to 27 deaths inside the detention facility as of the date of the petition's submission.¹¹ It should be noted that the petition was accompanied by intense media pressure, the leakage of detainees' photos, the testimonies of those freed and their lawyers, and the statements of Israeli soldiers who served in the prison that were published in the Arab, Hebrew, and international press.¹²

In September 2024, four months after the petition was filed, and after the authorities were given the opportunity to submit several updates to the court—including confidential ones that touched on "improving" the conditions of detention in the prison and emptying the center of detainees and transferring them to other prisons—the court issued its decision that the state should detain prisoners at Sde Teiman according to the provisions of the law and regulations.¹³ But this decision was practically useless because the reality on the ground had already changed. In essence, the decision did not interfere with the state's policies. The court also announced that it would not address the situation in prisons since the outbreak of the war, and thus its intervention was limited to the future state of detention conditions. It also ruled that allegations of abuse in prison should be brought before other oversight mechanisms, including criminal investigations. All this while prisoners were transferred to other prisons, with no guarantee of stopping their inhumane treatment, which included torture. This points to the limits of the court's decision as well as its limited impact on the detention conditions of Gaza prisoners.

In light of the state's refusal to disclose the identities and whereabouts of Palestinian detainees from the Gaza Strip, human rights organizations have appealed to the High Court of Justice with a series of petitions to force the state to disclose their names and places of detention, in application by applying "habeas corpus" protections.¹⁴ These petitions followed several appeals to the authorities to disclose the information, but all were rejected.

The first such petition was filed on October 11, 2023, and demanded the disclosure of the whereabouts of two journalists from the Gaza Strip with whom contact was lost

October 7 while they were covering events at the Erez border crossing. The petition was rejected on October 31, 2023 on procedural grounds and on the grounds that there is no legal body obligated to provide information about the citizens of Gaza, since it is defined—according to Israel—as a hostile territory.¹⁵

The second petition, filed on October 22, 2023, demanded the disclosure of the whereabouts of ten Palestinian workers who had work permits and had stayed before the outbreak of the war inside the Green Line and were arrested. The petition also included an additional principal aspect regarding information on all citizens of the Gaza Strip who remained inside the Green Line before the outbreak of the war and their whereabouts. After the petition was filed, the authorities informed the petitioners that the ten persons were in detention, so the court did not have to make a decision since the state had provided the information. With regard to the second part of the petition, i.e., the initial request, the court rejected it and imposed a fine on the petitioning institution for alleged procedural violations.¹⁶

The third petition was submitted to the court on November 2, 2023, on behalf of 568 official permit-holding citizens from the Gaza Strip who had remained inside the Green Line and were detained by the security services at the outbreak of the war.¹⁷ The petitioners had asked the authorities for information about 15 of these detainees before filing the petition, while there was no attempt at contacting the authorities regarding the others. Thus, the court chose to treat the petition in a very conservative manner, addressing in its decision only those 15, and asked the state to provide its response only in their cases, while ignoring the other disappeared. In its decision, as with other decisions on enforced disappearance cases, the court stressed that forcing the state to provide information about certain detainees was "beyond the requirements of the law", that it does not "disqualify any of the state's claims", and that it will have no impact on the court's position on similar future requests. This means that the court does not acknowledge the state's responsibility to provide information about Gaza detainees, and indeed allows transgressions without seeking to create binding precedents.

The issue of enforced disappearance was brought to court a fourth time in December 2023, two months after the start of the war, this time on behalf of 62 Gaza citizens who were searching for their forcibly disappeared relatives, and asking the court to order the army to provide information about their detention (or lack thereof), and the place of detention.¹⁸ In this case, the petition was previously submitted on behalf of 48 detainees to several Israeli bodies, including the National Security Headquarters, the Army, the Military Prosecution, and the Israeli Public Prosecution, all of which disavowed their responsibility toward the detainees in a manner contrary to international law and even Israeli law. In their defense of the petition to the court, the petitioners referred to the position of Judge Aharon Barak before the International Court of Justice (ICJ) in The Hague on January 26, 2024, in the genocide case filed by South Africa. Barak had argued that the Israeli legal statutes allow the protection of detainees' rights, and the State of

Israel considers itself bound by the rules of international humanitarian law in accordance with the Fourth Geneva Convention, which obliges states to provide information on the identities of detainees and their places of detention.

In February 2024, the court rejected the petition, mainly on procedural grounds, arguing that the petition includes only the names of people without addressing the circumstances of their detention, and that the petition does not detail how the families should resort to the legal authorities. The court believed that these details have implications on the legal status of each of the detainees. Accordingly, this decision demonstrates, *inter alia*, the court's refusal to deal with the detainees' cases as a single file or as a general policy, and attempts to divide it into individual cases, in a way that allows evasion of the responsibility of Israeli institutions toward their international obligations. The High Court's rejection of petitions on essentially procedural grounds¹⁹ leads us to view it as an accomplice to the charge of enforced disappearance, as it effectively gave a green light to the authorities to proceed with this repressive practice, without any deterrent or restraint against violations.

Humanitarian Affairs

One of the repercussions of the war Gaza has been the humanitarian crisis resulting from Israel's initial (and repeated) refusal to allow food, water, and medicine to enter the Strip.²⁰ In March 2024, human rights organizations petitioned to force the Israeli authorities to allow humanitarian aid to enter freely, specifically to northern Gaza.²¹ A first hearing was set for April 4, 2024, that is, within a short time, and was broadcast live by the Government Information Office.

It should be noted that this particular issue was not only brought before the court, but also before the ICJ in the case brought by South Africa against Israel under the Genocide Convention.²² In its January 26, 2024, decision, the ICJ recognized that Israel must take immediate and effective measures to enable the provision of essential services and much-needed humanitarian assistance to address the difficult living conditions for Palestinians in the Gaza Strip.²³ In its March 28, 2024 decision,²⁴ following South Africa's request to impose additional provisional measures on Israel in view of the worsening humanitarian crisis in Gaza, the ICJ ordered that all necessary and effective measures be taken without delay and in full cooperation with the United Nations.²⁵

In March 2025, a year after the petition was filed, the Israeli High Court issued its decision rejecting the petition and arguing that Israel is not a military power that exercises effective control over the Gaza Strip. It effectively wholly adopted the state's narrative that Israel is doing everything in its power to allow humanitarian support to get into Gaza.²⁶ This decision came despite international condemnations of Israel, specifically regarding its role in exacerbating the humanitarian catastrophe. In this case, the court's policy of non-intervention and identification with the policies of the government was obvious, despite the state's breach of its obligations under international humanitarian law.

In its decision, the court demonstrated its role in the war of extermination against Gaza, precisely following its decision a year after the petition was filed, and at a time when Israel imposed an absolute blockade on the Strip for three consecutive weeks, preventing the entry of any humanitarian aid, including water, food, and medicine. The court's decision was nothing but an attempt to whitewash the face of genocide and praise the good behavior of the Israeli state during the ongoing war, ignoring the condemnations of international, humanitarian, and legal institutions of Israel's responsibility for the crisis in Gaza, as well as giving a green light for Israel to continue the crimes against the people of the enclave.

The court also dealt with a case related to the exit of Gazans for medical treatment outside the Strip, which was brought before it in June 2024.²⁷ Following the petition, the authorities informed the court that new instructions had been drawn up by the Israeli prime minister regarding the exit of Gazans with complicated medical conditions to a third country, which was to work with international organizations, provided that there was no security prohibition on their exit. The authorities also informed the court that they were developing a special mechanism to regulate the exit of these Gazans for treatment outside the Strip.²⁸ The court therefore requested an update by the authorities regarding this mechanism, which was provided after several extensions. In March 2025, the court issued its decision, which made the petition obsolete due to developments on the ground and the state's adoption of new regulations regarding the discharge of patients for treatment outside the Gaza Strip. This case, like others, demonstrates the court's policy of issuing precautionary orders that correspond to the situation on the ground, requiring only that the applicable standards be formulated in written instructions. This means that even in cases where the court tended to intervene, its intervention was limited and did not challenge conditions on the ground, but only confirmed or clarified them.

Prisoners' Issues

Palestinian political prisoners in Israeli prisons are one of the groups of Palestinian society most affected by the war of extermination. Before the war, the number of Palestinian prisoners in security prisons was close to 6,000; with the war their number rose to more than 10,000.²⁹

Over the years, Palestinians in Israeli prisons have endured the most severe conditions. It starts with overcrowding in prisons where before the war living space did not meet the minimum recognized international standards. In 2017, the Supreme Court ordered the Israeli Prison Service to provide a prisoner with a larger living space, equivalent to 4.5 square meters.³⁰ The IPS then requested several postponements in implementing the decision in accordance with a multi-stage reform plan, the last stage of which stipulated completing the implementation in 2027. However, the high number of prisoners after October 2023 returned living conditions in prisons to those before 2017, and a prisoner's living space was reduced to the equivalent of 2.1 to 2.2 square meters in some sections.³¹

It is worth noting that the attacks of October 7, 2023, took place while prisons were administered by extremist politician Itamar Ben-Gvir after he took up the post of minister of national security. He did not hide his intention to restrict prisoners' freedoms and aggravate their conditions by stripping them of their rights, which he saw as "privileges". Later, Israel imposed a state of emergency in prisons, under which it severely restricted prisoners' rights and stripped them of basic necessities. Prisoners were abused in the most severe and violent ways. Objecting to these practices, human rights organizations filed a petition on October 25, 2023, that asked the court to intervene in IPS policies in everything related to prisoners' conditions, including depriving prisoners of medical care, preventing meetings with lawyers, confiscating personal belongings, cutting off electricity to prisoners' quarters, and limiting their movement inside the prison.³² The High Court dismissed the petition a month after its submission, by a decision authored by Judge Khaled Kaboub, aided by Judges David Michael Mintz and Alex Stein. No hearing was scheduled before the court, which based its decision on the response of the state and the IPS to the petitioners' claims, denying some of the allegations in the petition, while explaining others as practices motivated by security reasons.³³ In this case as well, the court adopted in its decision the state's entire narrative, and argued that the changes in prisons were carried out in accordance with the law and with the powers granted to the IPS, due to security reasons necessitated by changing conditions on the ground.³⁴ The court also noted that human rights organizations had no right to petition on behalf of the prisoners themselves,³⁵ and that the best way to challenge or appeal IPS policies is through individual petitions submitted by prisoners to the various central courts. In doing so, it shirked its responsibility to enforce any oversight over IPS policies toward prisoners. In this regard, it should be noted that the conduct of the central courts with regard to individual prisoners' petitions filed over the past year was identical to the policy of the High Court—that IPS practices were justified by so-called security motives.³⁶

Another petition regarding treatment of prisoners was filed in February 2024 against the IPS's decision to stop visits by the International Committee of the Red Cross (ICRC) representatives to Palestinian prisoners in Israeli prisons, and to refuse to provide the ICRC with any information about them, which is a flagrant violation of Israel's obligations under international humanitarian law.³⁷ In its initial response to the petition, the state acknowledged that it was considering an alternative mechanism to replace the role of the ICRC, through an external body authorized to conduct prison visits and deal with complaints by prisoners and information about them.³⁸ However, the state requested several delays to provide an update about the allegations in the body of the petition, including the link between the formation of an alternative mechanism for visiting prisoners and the current ban on ICRC visits.

In July 2024, the court ordered the case to be transferred to a panel of judges, and until April 2025, nearly 14 months after the petition was filed, the state was still demanding a postponement of the deadline under various pretexts, with the court granting such

postponements.³⁹ Another petition on the issue of prisoners was submitted by human rights organizations in April 2024, calling on the court to intervene immediately to stop the policy of starving Palestinian prisoners in Israeli prisons by reducing the quantity and quality of the food provided by the IPS.⁴⁰ It is important to note that the state responded by saying that the prisoners' menu had been improved, but Minister of National Security Itamar Ben-Gvir wrote to the petitioners, despite the attorney general's official position, stating that he had directly supervised the new instructions on food provided to prisoners and that he had made these changes in order to aggravate the conditions of the captives as part of a deterrence policy.⁴¹ In December 2024, the court issued a precautionary order to the state to explain why it had not taken real steps to provide food to political prisoners that ensure the provision of basic necessities of life in accordance with the law. Nearly a year after the petition was filed, a final decision has yet to be made.

In July 2024, another petition related to prisoners' affairs was submitted to the High Court following testimonies from prisoners about the outbreak of skin diseases in the prisons. The petition asked the court to intervene to force the IPS to take all necessary measures to limit the spread of skin diseases in the security sections of prisons, and to provide the necessary treatments to afflicted prisoners.⁴² In its initial response to the petition, the state denied the spread of the epidemic in prisons, but acknowledged 300 specific cases at the peak of the outbreak and only in specific prisons. The court claimed that the state had dealt with the issue in accordance with the necessary measures and therefore held that there was no place for its intervention.⁴³ After scheduling a hearing in November 2024, the court dismissed the petition based on updated internal instructions at the IPS regarding the methods of dealing with prisoners with skin diseases. With this dismissal, the court ended its judicial oversight of the IPS's treatment of sick prisoners.

Issues of Palestinian Israelis

The appeal to the High Court regarding Palestinian citizens of Israel was limited to issues related to the essence of citizenship, and can be divided into two parts: the right to demonstrate and protest against the war, and the issue of keeping dead detainees' bodies from their families.

After the absolute prohibition of holding any solidarity rallies condemning the war on Gaza—even if they do not require the issuance of a permit in accordance with the law and regulations—three petitions were submitted to the court to demand intervention in the police's decision to prevent solidarity vigils in Arab towns, the first of which was held about a month after the outbreak of the war.⁴⁴ This petition, presented by the Democratic Front for Peace and Equality and the Communist Party, was rejected on the basis of the police's position that there is a shortage of manpower due to the ongoing war, which, according to the police, limits its ability to maintain public safety. This is despite the court's recognition that banning demonstrations does not fall within the powers of the police.⁴⁵ The court also rejected two other petitions filed in the same regard by the

High Follow-up Committee for Arab Citizens of Israel, one filed two months after the outbreak of the war,⁴⁶ and the other nearly two and a half months after.⁴⁷

It should be noted that these decisions are completely contrary to the precedents of the High Court, which held freedom of expression as a fundamental right that must be treated with extreme caution,⁴⁸ and that they contradict the fact that there were simultaneous permitted demonstrations and vigils organized in Jewish towns demanding that the government work to free the Israeli abductees.

In January 2025, an additional petition was filed against the police's decision to prevent a march through the main thoroughfare of an Arab town in the Galilee and to reroute it onto a sub-route.⁴⁹ The court rejected the petition on the basis of a secret police report stating that there was danger to the public on the proposed route and on the police's claim of a manpower shortage. Thus, even more than a year after the beginning of the war on Gaza, and its hiatus on the northern front closest to the Galilee areas, the police continue to fabricate pretexts to prevent Palestinian citizens from protesting the war. Indeed, the court approved these policies without putting an end to police violations of citizens' basic rights.

Other petitions filed regarding Palestinian Israelis concerned Israel's holding of the bodies of dead Palestinian Israelis for the purpose of using them in future exchange deals. It should be noted that this practice was approved by the High Court in 2019, by a panel of nine judges, allowing the holding of the bodies of Hamas members or those who carried out what was defined as "difficult operations", for the purpose of negotiation.⁵⁰ In a 2021 decision, the court again approved the expansion of the body detention policy to include anyone who carries out an operation, regardless of their affiliation and whatever the circumstances of the operation.⁵¹ According to reports by human rights organizations, the Israeli state is detaining more than 500 bodies.⁵²

After the outbreak of the ongoing war, the Israeli authorities withheld the bodies of Palestinians who died in Israeli prisons or after being shot by security personnel—allegedly for carrying out or attempting to carry out attacks—as bargaining chips in negotiations to repatriate abducted Israelis. It is worth noting that the detention of the bodies was in accordance with a decision issued by the War Cabinet, which approved in June 2024 the detention of the body of the martyr Walid Daqqa—a Palestinian political prisoner and novelist who was accused of belonging to the Popular Front for the Liberation of Palestine—due to its symbolism and strategic importance in the negotiations. With respect to the other bodies, the cabinet decided to detain them "temporarily" until a fortuitous decision is made on the issue of expanding the policy of withholding the bodies and applying it to Palestinian Israelis.⁵³

Following this decision, several petitions were filed to retrieve bodies of Palestinian Israelis. In two cases, the authorities reversed their position before the court hearing, approving the handover of bodies but placing restrictions on burial ceremonies and

funerals,⁵⁴ while the court approved the detention of seven other bodies of Palestinians whose families petitioned it to retrieve their loved ones' bodies.⁵⁵ At the outset, in the petition submitted to recover Daqqa's body, the court acknowledged the legal problem presented in the policy of holding the bodies of citizens, due to the flagrant violation of the dignity of the deceased and his family. It justified its decision not to release Daqqa's body on the basis of the ongoing negotiations to recover the bodies of abducted Israelis after October 7, 2023, on the one hand, and the symbolism of Daqqa, on the other, and the value that the body constitutes in the negotiation process.⁵⁶ This decision has profound constitutional dimensions, especially because it relies on the "Basic Law: The Nation-State of the Jewish People"⁵⁷ to establish a policy of withholding the bodies of the deceased, which contradicts the announced goal of the ongoing war, which is to repatriate the abductees. In essence, this undermines constitutional fundamentals for the purpose of legitimizing political-military objectives.

It should be noted in this regard that in the other six petitions that followed the Daqqa decision, the court showed complete laxity in applying judicial control over the cabinet's decision to hold bodies, considering it a "decision of a security nature". The court also refused to intervene in the cabinet's decision despite the administrative violations in the course of its adoption, and in order to allow the government to do everything in its power to achieve the goal of returning the abductees.⁵⁸

Conclusion

A reading of the cases brought before the Israeli High Court of Justice over the months of the war, and directly or indirectly related to its developments, shows significant violations in the court's conduct that can be easily described as a failure to exercise its legal oversight over the legislative and executive branches in Israel.

In cases directly related to the war—such as the enforced disappearance of Gaza detainees, application of the law, conditions at Sde Teiman detention center, allowing aid into Gaza, and allowing the exit of Gaza wounded and sick people for treatment outside the Strip—it is clear that the court is trying to find ways to avoid considering and deciding on matters of principle, specifically by adopting a policy of procrastination until the legal status of petitions submitted to it changes, so that they are easily rejected. This means that the court "manages" the cases brought before it while allowing the authorities to amend the status quo in order to empty the petitions of their claims, limiting its decisions to the current situation, and refuses to activate judicial oversight of state violations in the pre-amendment period. In this context, we point out that this behavior by the court, particularly in times of emergency, is not new. It is important to note that this situation has a deeper and more complex dimension in light of international efforts to prosecute Israel in international judicial bodies for its actions during the war, and the actual issuance of judgments against Israel. Hence, it is likely that the court's "case management" is aimed at protecting the Israeli state from the interference of the international system, and to

show that the Israeli justice system is independent and effective, and that its doors are open for deliberation, as expressed by Israel's ICJ representative Judge Aharon Barak.

In some cases, the court clearly rejected petitions on bureaucratic and procedural grounds, such as those concerned with the detention of prisoners. In others, the court rejected several petitions based on security considerations in which its involvement is limited, especially where Palestinians are concerned. It is important to note that the court's behavior in these cases has not changed from the historical pattern, although it has become worse in light of the events of October 7, 2023, as its decisions have become weak and devoid of deep legal analysis, unlike its previous attempts at creating a complex "legal structure" to legitimize illegal state practices. The court's conduct is one of the main reasons for the lack of confidence that justice can serve Palestinians and explains individuals' reluctance to bring many cases to its halls.

In conclusion, it is essential to mention that the Israeli justice system is part and parcel of the political system and is affected by the domestic Israeli conflict over the independence of the High Court and by pressure from the far-right government. The role played by the far right in influencing court decisions cannot be overlooked. In many of the above-mentioned cases, right-wing groups and others representing the families of war victims and abductees have systematically approached the court to join as a party to various cases or to obtain the right to closely examine the court's documents and proceedings. These demands come in the broader context of the far-right's attempts to impose its hegemony over the justice system, by being present in the lobby and halls of the High Court when it deliberates cases brought by Palestinian petitioners and by attacking lawyers and stakeholders, thereby obstructing the functioning of the court. Taken together, these factors constitute a further deterioration in the behavior of the courts in Palestinian matters and limit the possibility of achieving any justice for Palestinians through the Israeli judiciary, especially after October 7, 2023.

Endnotes

1. "Case 5555/18, Member of the Knesset Akram Hasson v. Knesset," [Israeli High Court of Justice](#), July 8, 2021, (Hebrew).
2. Cases that were part of the judicial reform project continued during the war, including those related to abolishing the reasonableness argument. "Case 5658/23, Movement for Quality Government in Israel v. Knesset," [Israeli High Court of Justice](#), January 1, 2024, (Hebrew). They also included cases that related to the refusal of the minister of justice to activate the judges' appointment committee in order to choose the High Court's justices and president for close to a year. "Case 1711/24, Movement for Quality Government in Israel v. Minister of Justice," [Israeli High Court of Justice](#), September 8, 2024, (Hebrew).
3. This paper reviews the cases that were brought before the courts after the outbreak of the genocidal war in the Gaza Strip, and are directly or indirectly related to the war. Therefore, this section will not address the issues of the West Bank, especially the issue of settlements, which took a more sinister turn after October 7, 2023, despite its utmost importance in understanding the behavior of Israeli courts, including the cases dealing with the demolition of main streets serving the people of the West Bank, for security considerations, the extension of streets for settlements, the issuance of military orders to serve settlers, and even preventing Palestinian farmers from entering their land located between the apartheid wall and the Green Line. This is under the pretext of the security situation.
4. According to Israeli authorities, as of July 2024, more than 4,200 detainees had been arrested from the Gaza Strip. Between June 9 and October 6, 2024, 246 people were arrested, and between October 9 and December 11, 2024, 1,315 people were arrested from the Gaza Strip.
5. "The Unlawful Combatants Law," [Nevo](#), 2002, (Hebrew). See also "Case 6659/06, Anonymous v. the State of Israel," [Israeli High Court of Justice](#), June 11, 2008, (Hebrew).
6. "The Unlawful Combatants Law (Amendment 4 and Temporary Order-Iron Swords)" [Knesset](#), March 19, 2024, (Hebrew).
7. "Case 1414/23, Public Committee Against Torture in Israel v. Knesset," [Israeli High Court of Justice](#), February 19, 2024, (Hebrew).
8. The case was still pending as of April 2025.
9. Temporary detention was reduced to 30 days, detention without trial was reduced to 45 days for adults and 30 days for minors, and a ban on access to a lawyer to 45 days. See "The Unlawful Combatants Law (Amendment 4 and Temporary Order-Iron Swords), (Amendment 2), [Knesset](#), July 17, 2024, (Hebrew); "The Unlawful Combatants Law (Amendment 4 and Temporary Order-Iron Swords), (Amendment 3)" [Knesset](#), November 13, 2024, (Hebrew).
10. "Sde Teiman Detention Camp Must Be Closed," [Association for Civil Rights in Israel](#), September 18, 2024, (Hebrew).
11. Ibid.
12. "Strapped down, blindfolded, held in diapers: Israeli whistleblowers detail abuse of Palestinians in shadowy detention center," [CNN](#), May 11, 2025; Shay Fogleman, "We served in Sde Teiman, let's tell you what we did to Palestinians there," [Haaretz](#), August 16, 2024, (Hebrew); "Sde Teiman detention camp...organized torture against Palestinians," [al-Arabi al-Jadid](#), June 9, 2024, (Arabic).

13. “Case 4268/24, Association for Civil Rights in Israel v. Minister of National Security,” [Israeli High Court of Justice](#), September 18, 2024, (Hebrew).

14. A legal principle that protects an individual from arbitrary detention and grants the right to request a review of the legality of detention before a judge.

15. “Case 7439/23, Haitham [Abd]el-Wahed v. IDF,” [Israeli High Court of Justice](#), October 31, 2023, (Hebrew).

16. “Case 7637/23, Mohammed Shrouqa Qashta v. IDF,” [Israeli High Court of Justice](#), November 6, 2023, (Hebrew).

17. “Case 7946/23, Iyad Abou Abed v. IDF,” [Israeli High Court of Justice](#), November 13, 2023, (Hebrew).

18. “Case 9021/23, Wadi Zakaria Appeal v. IDF,” [Israeli High Court of Justice](#), February 18, 2024, (Hebrew).

19. The issue of enforced disappearance was brought back before the court in March 2024, about five months after the outbreak of the war of extermination. “Case 2254/24, Muhammad Hamid Salem Abu Musa v. IDF,” [Israeli High Court of Justice](#), May 2, 2024, (Hebrew), a case on which a decision was issued in May 2024. Time plays a very important role in understanding the conduct and decision of the court in general, and in this case in particular, because it is closely linked to the law. The court ruled on the petition after a sufficient period had elapsed because most of the provisions of that law had expired, and the legal status of prisoners classified as unlawful combatants had changed after more than 180 days of arrest, thus past the period of their access to a lawyer. Moreover, the petition was decided after the state had provided lawyers, almost half a year after the outbreak of the war, with an e-mail address through which they could communicate to coordinate visits to the prisoners, and thus the court recognized that the terms of the petition had expired and that there was no need to take a principal decision on it. It should be noted that in practice, bureaucracies set up by the executive branch still make it difficult and obstruct the process of obtaining information from the authorities about the whereabouts of detainees, and when human rights institutions tried to approach the court in this regard, the court refused to intervene as it is a theoretical procedural matter. See “Case 1896/24, Asaad Abdel-Razeq Ayoub Abou Hamam v. Government,” [Israeli High Court of Justice](#), June 13, 2024, (Hebrew).

20. “Famine in Gaza is imminent, with immediate and long-term health consequences,” [World Health Organization in the Occupied Palestinian Territories](#), March 18, 2024.

21. “Appeal to stop conditional order and emergency session,” [Gisha](#), (Hebrew).

22. “APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE IN THE GAZA STRIP,” [International Court of Justice](#), December 23, 2023.

23. “International Court of Justice demands that Israel prevent the commission of acts in the Genocide Convention,” [United Nations](#), January 26, 2024.

24. “The International Court of Justice grants additional provisional measures in South Africa’s case against Israel regarding Gaza,” [United Nations](#), March 29, 2024.

25. These include the unimpeded and widespread provision of much-needed basic services and aid such as food, water, electricity, fuel, shelter, humanitarian assistance, clothing, hygiene and sanitation requirements, as well as medical supplies and medical care to Palestinians across Gaza. They also include increasing the capacity and number of land crossing points and keeping them open for as long as possible.

26. "Case 2280/24, Gisha v. Government of Israel," [Israeli High Court of Justice](#), March 27, 2025, (Hebrew).

27. "Appeal to obtain conditional order," [Hamoked](#), June 5, 2024, (Hebrew).

28. "Case 4621/24, Physicians for Human Rights v. Government of Israel," [Israeli High Court of Justice](#), March 2, 2025, (Hebrew).

29. Conditions according to al-Dameer Association for Supporting Prisoners and Human Rights.

30. "Case 1892/14, Association for Civil Rights in Israel v. Internal Security Minister," [Israeli High Court of Justice](#), June 13, 2017, (Hebrew).

31. "Crowdedness in Israeli prisons and detention centers," [Association for Civil Rights in Israel](#), January 28, 2024, (Hebrew).

32. "Case 7753/23, Association for Civil Rights in Israel v. Minister of National Security," [Israeli High Court of Justice](#), November 23, 2023, (Hebrew).

33. Ibid.

34. Ibid.

35. Fearful of abuse in prison if their identity were exposed, organizations representing prisoners refrained from identifying any who had given affidavits about practices inside prisons after October 7, 2023.

36. "Marwan Barghouti v. IPS, Summons Division," [Nazareth Central Court](#), April 30, 2024, (Hebrew).

37. "Case 1537/24, Association for Civil Rights in Israel v. Government of Israel," [Israeli High Court of Justice](#), February 22, 2024, (Hebrew).

38. "Israel must overturn the absolute prohibition on visits by the ICRC to Palestinian prisoners," [Association for Civil Rights in Israel](#), August 25, 2024, (Hebrew).

39. It should be noted that in August 2024, the court issued a precautionary order to the state to submit its response to the petition and explain why the sweeping ban on representatives of the International Committee of the Red Cross to visit prisoners from the Gaza Strip and the West Bank in Israeli prisons was not overturned, and why the representatives of the ICRC were not provided with information regarding all prisoners. However, this order was issued only for the purpose of deliberating the petition, given the numerous requests for postponement made by the state over several months, and this was not because the court was satisfied with the content of the petition.

40. "Case 2858/24, Association for Civil Rights in Israel v. Minister of National Security," [Israeli High Court of Justice](#), April 4, 2024, (Hebrew).

41. "Israel must stop the policy of starving security Prisoners," [Association for Civil Rights in Israel](#), June 30, 2024, (Hebrew).
42. "Case 5908/24, Physicians for Human Rights v. IPS," [Israeli High Court of Justice](#), November 25, 2024, (Hebrew).
43. In return for these allegations, prisoners and lawyers submitted dozens of sworn declarations about the severe spread of the disease in various prisons, and the IPS's deliberate failure to address it and limit its spread.
44. "Appeal to obtain a conditional order," [Adalah](#), November 6, 2023, (Hebrew).
45. "Case 8007/23, Democratic Front for Peace and Equality v. Yaakov Shabtai," [Israeli High Court of Justice](#), November 8, 2023, (Hebrew).
46. "Case 8510/23, High Follow-Up Committee for Arab Citizens of Israel v. Police Commissioner," [Israeli High Court of Justice](#), December 3, 2023, (Hebrew).
47. "Case 8808/23, Mohammed Baraka v. Nazareth Police Commander," [Israeli High Court of Justice](#), December 14, 2023, (Hebrew).
48. "Case 73/53, Kol Ha'am Company Limited v. Minister of the Interior," [Israeli High Court of Justice](#), 1953.
49. "Case 18461-01-25, Mohammed Baraka v. Police Commander in Misgav Am," [Israeli High Court of Justice](#), November 9, 2025, (Hebrew).
50. "Case 10190/17, Commander of IDF in the West Bank v. Mohammed Alayyan," [Israeli High Court of Justice](#), September 9, 2019, (Hebrew).
51. "Case 4462/20, Mustafa Mousa Hussein Erikat v. Military Commander in the West Bank," [Israeli High Court of Justice](#), August 18, 2021, (Hebrew).
52. "Facts about martyrs whose bodies have been held in number cemeteries (where the dead are numbered instead of named), morgues, and Sde Teiman," [al-Dameer Association for Supporting Prisoners and Human Rights](#), August 27, 2024, (Hebrew).
53. Temporary detention was extended for three months in September 2024, and then for another three in December 2024.
54. "Case 2833/24, Nawwar Abou al-Haija v. Attorney General," [Israeli High Court of Justice](#), May 15, 2024, (Hebrew); Case 3528/24, Taghreed Shbaita v. Police Commissioner," [Israeli High Court of Justice](#), May 16, 2024, (Hebrew).
55. "Case 3289/24, Sanae Daqqa v. IPS Interim Director Kobi Yaakovi," [Israeli High Court of Justice](#), September 30, 2024, (Hebrew); "Case 5433/24, Mohammed Abou Ghneimah v. Kobi Yaakovi," [Israeli High Court of Justice](#), January 5, 2025, (Hebrew); "Case 5655/24, Mohammed Abou Ghanem v. Policy Commissioner," [Israeli High Court of Justice](#), January 5, 2025, (Hebrew); "Case 5624/24, Salam Abou Freihah v. Police Commissioner," [Israeli High Court of Justice](#), January 5, 2025, (Hebrew); "Case 13346-08-24, Marwan Salim Mohammed Nazzal v. IDF Commander in the West Bank," [Israeli High Court of Justice](#), January 5, 2025, (Hebrew); "Case 5240-11-24, Safa Rubai' v. Police Commissioner," [Israeli High Court of Justice](#), January 5, 2025, (Hebrew); "Case 67847-11-24, Muslim Abou Sbeih v. Police Commissioner," [Israeli High Court of Justice](#), January 5, 2025, (Hebrew).

56. "Case 3289/24, Sanae Daqqa v. Kobi Yaakovi," op. cit.

57. "Clause 6 (A) of Basic Law: The Nation State of the Jewish People," [Knesset](#), July 26, 2018, (Hebrew).

58. "Case 36264-02-25, Mohammed Abou Ghneimah v. IPS Interim Director," [Israeli High Court of Justice](#), February 14, 2025, (Hebrew).



Mada al-Carmel

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