



International Association of
Judicial Independence and World Peace

הועידה הבינלאומית לעצמאות שופטים
לציון 40 שנה של מחקר ופעילות למען
עצמאות מערכת המשפט

מדדים להערכת מערכת
הצדק ושלטון החוק:
עצמאות, יעילות, איכות

International Conference on Judicial Independence

To celebrate 40th Anniversary of Pursuit of
Judicial Independence and the Rule of Law

**Measuring Justice
and the Rule of Law
Independence, Efficiency, Quality**

ימים שלישי - חמישי Tuesday - Thursday

4-6.1.22

האוניברסיטה העברית בירושלים, הר הצופים
Hebrew University of Jerusalem Mt. Scopus



להרשמה לחץ כאן
For registration click



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האוניברסיטה העברית בירושלים, הר הצופים

conference recordings

The conference was recorded and broadcast on Zoom.

Conference recordings are available at the following link on YouTube:

[recorded sessions of the judicial independence conference Jerusalem 2022](#)

Jerusalem conference 2022

List of Press reports

- [בהארץ](#) article in Haaretz by Prof. Haim Sandberg
- [גלובס](#) article in Globes by Prof. Menachem Hofnung
- [jpost](#) - Jerusalem Post Report on the conference
- Interview with Lord Thomas Jerusalem Post - [Jpost](#) ב-
- [בהארץ](#) article in Haaretz on Research of Prof Keren Weinshall
 - Interview with Prof. Diego Garcia Sayan [בדה-מרקר](#)
- Press report Justice Justice Jillani speech [The news - Pakistan](#)

הכתבות המומלצות באתר

בתחקיר של חדשות 12 על
ריבלין בלטה בעיקר תגובתו



גם בטבע ירושה נותנת יתרון



הערעור נדחה, ג'וקוביץ'
יגורש מאוסטרליה: "מאוכזב
מהחלטה"



האמריקאים דורשים
תשובות על מות הפלסטיני.
חדשות 12? ממש לא



סמינר ליבוביץ



חדשות | משפט ופיללים

מחקר: שופטים שהעומס עליהם הופחת פסקו סכומים גבוהים יותר בתביעות

המחקר, שערכה חוקרת מהאוניברסיטה העברית עם חוקר מגרמניה, הראה כי כאשר נוסף כוח אדם
בבתי משפט שלום הדיונים היו ארוכים וממצים יותר, וניתנו יותר פסקי דין על חשבון פשרות



קריאת זן



5



Haaretz – Prof Haim Sandberg

כדאי ללמוד מהנעשה אצל השכנים

חיים זנדברג

האם מה שקורה בבית המשפט העליון של הרשות הפלסטינית צריך לעניין גם אותנו? מסתבר שאיש במערכת הפוליטית, משמאל ומימין, לא ממש רוצה לשמוע על כך. במחקר שערכתי בשנה האחרונה חשפתי את המאבק המתנהל בשנים האחרונות ברשות הפלסטינית ברמאללה על מינוי נשיא בית המ' שפט העליון שם. הרשות, כידוע, איננה רשות דמוקרטית. הפרלמנט שלה אינו מתכנס מאז עלה חמאס לשלטון, ומחמוד עבאס (אבו מאזן) איננו רק ראש הרשות, אלא גם בעל סמכויות החקיקה בה. במצב זה, אין פלא שעבאס שולט בתהליך מינוי השופטים וממנה למשרות את מקורביו, מתעלם מהוראות החוקה המחייבות אותו להיוועץ בשופטים בנוגע למינוי העומד בראש המערכת השיפוטית, מוביל לפרישה מוקדמת לגמלאות של ותיקי השופטים בבית המ' שפט העליון ומעביר את סמכויותיו החוקתיות והמינהליות של בית המשפט העליון לערכאות אחרות, שהוא שולט במינוי שופטיהן.

ממצאים אלו אולי אינם מפתיעים כש' מדובר ברשות שאין לה מסורת דמוקרטית, ודומים להם נצפו בשנים האחרונות גם בהונגריה ובפולין. המפתיע הוא שאפ' לו ברשות השופטים אזורים אומץ' להיאבק על עצמאותם, גם אם בלא הצלחה עד כה. גם לשופטים שם אין כידוע לא ארנק ולא חרב,

וכלי המאבק המשמשים אותם הם פסיקור' תיהם, מאבק תקשורתי על דעת הקהל הציבורית וגם עתירות משפטיות, המוגשות, עד כה בלא הצלחה יתרה, לבית המשפט העליון ולבית המשפט החוקתי. ברי שמערכת שיפוט שאין ערובה לעצמאותה אינה מסוגלת לע' רוב לזכויות האדם ולחירויות היסוד ברשות הפלסטינית.

מערכת שיפוט פלסטינית שאין ערובה לעצמאותה אינה מסוגלת לערוב לזכויות האדם ולחירויות היסוד ברשות

מה יכולים אנו בישראל ללמוד ממה שמ' תרחש מעבר לגדר? מי שתומך בחיזוק מע' מד השופטים בישראל בוודאי יראה במתרחש ברשות סימן מתריע מפני ניסיונות להגדלת מעורבות הפוליטיקאים במינוי השופטים ב' ישראל; אך בה במידה עליו להודות כי המצב כאן טוב למדי לעומת מה שמתרחש ברשות. מי שתומך בחיזוק כוח הפוליטיקאים במינוי השופטים בישראל בוודאי יתכחש לאפשרות שהמתרחש ברשות, ששולט בה שליט יחיד שאינו נבחר, יכול לקרות גם בישראל הדמוקרטית, שבה מערכות בחירות בשפע. גם המסר המדיני שיש בהשוואה כזאת




אינו נעים, תהא נקודת המבט של הצופה אשר תהא. מי שתומך בפתרון שתי המדינות צריך להיות מודאג מאוד מהעובדה שברשות, שאמורה לקבל לידיה את השליטה במדי' נה הפלסטינית לכשתקום, אין רשות שופטת עצמאית שביכולתה לערוב לזכויות האדם של אזרחיה. מי שמתנגד לפתרון שתי המדינות אמנם יראה בעובדה זו חיזוק להתנגדותו, אך יהיה קשה לו להתעלם מהעובדה שגם ברשות יש שופטים שלפעמים עומדים על דעתם ונל' חמים על עצמאותם.

מאז התחלתי לחשוף את מחקרי ברכים נוכחתי לדעת שמה שמתרחש מעבר לגדר אינו מעניין את הישראלים במיוחד. אפילו מי שמחפש בגוגל מידע על בית משפט עליון בגדה המערבית או ביהודה ושומרון ימצא חו' מר על בית המשפט העליון של מדינת יש' ראל, אך ספק אם ימצא שבתחומי הרשות הפלסטינית יש עוד רשות שופטת אחת. יית' כן שהישראלים סבורים שבלאו הכי מה שמ' תרחש ברשות, שהעומד בראשה כבר חגג 86 חורפים, עומד להיפך להיסטוריה. גם יית' כן שהמסקנות העולות מהתבוננות בשכנים אינן נעימות, עד כי כנראה עדיף לעצום עי' ניים ולא לראותן.

פרופ' זנדברג הוא חבר סגל הפקולטה למשפטים במכללה למינהל ומרצה לדיני קניין בפקולטות למשפטים של האוניברסיטה העברית ואוניברסיטת תל אביב. משתתף בוועידה הבינלאומית לעצמאות השופטים






Globes- Prof. Menachem Hofnung and DR Nir Atmor

הירידה באמון במע' המשפט ממחישה את הקיטוב הפוליטי






הירידה באמון במערכת המשפט ממחישה את הקיטוב הפוליטי העמוק בישראל

בית המשפט הוא השחקן הפסיבי שהשתלחות בו מבטיחה הון אלקטורלי באמצעות הצבתו כמי שמונע מנבחרי ציבור לממש את הבטחתם



13:18

פרופ' מנחם הופנונג וד"ר ניר אטמור



The Jerusalem Post

THE JERUSALEM POST

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Ex-Pakistani Chief Justice tells Israelis about fighting for judicial independence

Bar-Lev, Lawyers president slam Amsalem's personal attack on Justice Mintz.

By YONAH JEREMY BOB Published: JANUARY 6, 2022 15:42

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The Jerusalem Post

No ties, but ex-Pakistani chief justice tells Israelis about fighting for judicial independence

Tassaduq Jilani talks to Hebrew University audience about thwarting Musharraf

• By YONAH JEREMY BOB

As part of a three-day conference ending Thursday, former Pakistani Chief Justice

Tassaduq Jilani cautioned his Israeli audience at the Hebrew University of Jerusalem about the paramount importance of fighting for judicial independence – and he was not speaking metaphorically.

Jilani retold the story to the Independent Conference on Judicial Independence, but with his own insider personal commentary, about how he and other Pakistani judges helped to thwart then-Pakistani president Pervez Musharraf's attempt to essentially cancel the judicial branch.

Responding to pressure to delay a ruling shortly after a group of lawyers were bombed and when he knew the deci-

sion would risk Musharraf's ire, he said, "Let them blast the court – we'll announce the judgment on the street and on Constitution Avenue."

The support of Jilani and other judges for the then chief justice, who Musharraf

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TIES

Continued from Page 1

had tried to fire, helped lead to a counter-revolution ending in Musharraf's downfall and trial for treason.

But just as remarkable as his personal story was Jilani's appearance, even if virtual, at a public Israeli legal conference when Israel and Pakistan are not on positive terms, to say the least.

The hook which connected Jilani's judicial independence story to Israel and the conference was Hebrew University Prof. Shimon Shetreet, who is also the president of the International Association of Judicial Independence and World Peace.

The former Pakistani chief justice recalled how a lawyer for Musharraf had misquoted a line from a book by Shetreet out of context, but refused to share the original copy of the book with him to check the full passage.

Jilani was eventually able to get a copy of the book to check the context – which Shetreet himself sent by courier, since it was generally out of print.

Shetreet, both in his book and at the conference, extolled the critical virtue of judicial independence.

Former British chief justice Lord John Thomas, also speaking virtually, talked about the "huge transformation in Europe in recent years" and the "need to try to ensure that modern stands of judicial independence were applied to a very different political structure."

Public Security Minister Omer Bar Lev said that reminders about the "importance of judi-

cial independence" are "needed more than ever... these matters have been abandoned. We call to the public and say we promise we have not forgotten and we will protect the judicial branch on all fronts. This government will struggle with anyone threatening the independence of the judiciary."

He said that judges must have independence both as individuals and as a branch of government.

The situation must be that "judges are only bound by the law, and the parameters of their service must be protected from improper interference. I reject all public servants' statements, which have been heard many times and even from the Knesset podium, against judges," he said. "These statements are dangerous to democracy."

Bar Lev did acknowledge that "the judicial branch is not perfect, and there should be criticism as long as it is substantive."

ISRAEL BAR Association President Avi Himi was slightly more direct than Bar Lev in slamming Likud MK David Amsalem for an "unbelievably" problematic attack on Supreme Court Justice David Mintz.

Himi recalled the attack last week, still without mentioning Amsalem by name, in which the Likud MK stood at the Knesset podium and said Mintz was "a disgrace and must have been drunk" when he wrote an opinion rejecting Amsalem's standing to challenge a government decision.

While part of what was unusual about Amsalem's attack was that Mintz is considered one of the most conservative and Likud-friendly justices on the court, part of it was also the nakedly personal nature of the attack.

"The only way to view it [Amsalem's statement] was as a threat against judges: Whoever doesn't do what MKs like will get publicly attacked," the IBA president said. "This under-

mines the independence of the judiciary and is improper in a democracy."

Himi said he believed that "the public supports the courts much more than surveys indicate... but I am worried about the reduced support in surveys," adding that there was no place for politicians to personally attack the courts simply because they did not like a specific decision.

Rather, he said, criticism of the court was appropriate only when it was directed at the substance of a specific decision, without getting into personal issues.

He also addressed the mechanism for appointing new justices to the Supreme Court, acknowledging that the current method is far from perfect, but positing that it does provide a certain balance of interests.

Himi, whose IBA is engaged in a stalled negotiation with Justice Minister Gideon Sa'ar and the Supreme Court over selecting four new justices, said that it is crucial to limit the influence of populist waves from the political class.

Former deputy chief justice Hanan Melcer, speaking from quarantine, suggested that the judicial budget and some administrative aspects of the branch should be shifted from the Justice minister's authority to that of the Supreme Court president.

He said this would further support judicial independence. •

The Jerusalem Post

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FORMER UK LORD CHIEF JUSTICE TELLS 'POST':

Judges need to explain themselves to the public

EXCLUSIVE

• By YONAH JEREMY BOH

Judges must explain themselves and what they do to the general public, former British Supreme Court chief justice Lord John Thomas told The Jerusalem Post in a recent exclusive interview.

Speaking after a Hebrew University of Jerusalem conference on judicial independence last week, Thomas told the Post, "Judges need to explain their positions. You cannot shut yourself away. You have to keep your personal life out of it... but you owe a duty to try to explain to the public what you do as a judge."

"Most people's conceptions of judges is they decide issues, and criminal law decisions get the most publicity," said the former British chief justice.

He said, however, that the general public does not really understand the role that a judge in England has, or in general, in issues the public gets heated about such as sentencing, deciding when to send or not to send someone to prison, or whether a prison sentence is too short or too long.

"It is critical to explain things properly in words that regular people can understand, and to make decisions and other information available to journalists in a way people can understand, so both journalists and the public can read it," he argued.

Moreover, he said, "My views have changed over the years about should a judge try in a minute or less than a minute," to explain the core of their decisions. "The attention span of the public could be 20 seconds. Do you explain why you are doing something in a mere 20 seconds," which can lead to losing a lot of the nuance?

In any case, he said, "Most lawyers are very bad at this, and judges need to find the best ways to communicate the reasons for their decisions, even to encapsulate in a sentence or two, so it can be broadcast in a good thing."

"What judges should always do is make certain judgments are not too long. If it is long, then write a summary of not more than one page," he advised.

Further, he said, "The language of that summary must be in a [common] language [and] not just [language] that will appeal to lawyers. It must appeal to the general public."

Addressing some judges' claims that lecturing at public lawyer conferences is a way they do outreach to the public, Thomas said, "A lecture is very

valuable for lawyers, but it has very little value for other people," noting the kind of lectures judges give can also determine whether they are effective in outreach.

He said judges should be careful about lecturing on popular issues that can easily erupt into conflict. Thomas explained that many judges could be strong intellectuals, but that having keen political instincts is a very different skill.

A judge's political instincts must be pulled high before they can address "controversial public policy decisions, even for past rulings no longer pending due to both giving some commentary, while not falling into a partisan debate."

Addressing the possibility of televising court proceedings, he said, "It is right in television arguments. This has been good. The Supreme Court has done this in the UK. Some lower courts have done this in the UK."

At the same time, he warned, "Speaking on television you must be careful. One of our very senior judges appeared on a program where any spontaneous questions could be asked, and he said this was 'a terrible mistake which was never repeated.'"

The key, he said, is for judges to speak on a set, pre-agreed subject, noting, "I've been prepared to do two- to three-minute interviews," such as discussing the importance of opening a new courthouse for the sake of humanizing judges and showing their connections to local communities.

Regarding relations with the media more broadly, he said, "Judges do underestimate the importance of journalists. In the UK, much of the judiciary is very reluctant to work with journalists."

On the other hand, Thomas rattled off a list of highly respected legal journalists who recently retired, saying this could create "real problems if you do not have journalists of sufficient expertise who can explain problems. The role of legal journalists is absolutely central to informing people."

"Every year, the president of the Supreme Court and the chief justice appear before the House of Lords Constitutional Committee and the House of Commons Justice Committee. These sessions worked and



LORD CHIEF JUSTICE for England and Wales John Thomas wait in the Privy Chamber before the State Opening of Parliament in the House of Lords, at the Palace of Westminster in 2015.

(Doreen Purnell/Reuters)

enabled one to relate publicly to the relations between judges and the political class," he stated.

"Judges should go to schools and explain what they do. The results were always right: The younger you can get at someone with ideas, the more likely you can convince them."

At the same time, he warned, "What they [judges] must not do is go beyond what they say in the judgment... A judgment speaks for itself - otherwise the authoritative word of the court will be diluted by the judge."

Next, he posited that judges "have to show they run an efficient system, that cases aren't delayed and that there is proper access to justice. If proper access is delayed due to the government not giving enough funding, you can make that clear, but you have to explain what you do."

"You must explain decisions that pertain to the system so you can be perceived as accountable. Judges are accountable, but by a different process. Certain judicial systems have not gotten used to explaining their role," he said.

He added that when judges do explain their role, they need to make sure "they don't become embroiled in the political fortunes of the time."

Questioned whether judges can get their nuanced message out to the public in an age dominated by polarization and over-the-top social media, he stated "We're going to see this play out in a number of respects. There was a certain worry about Eastern Europe with the way the political situation was developing, such as between the politicians and the judiciary in Poland."

Now, he said, everyone knows "this was not an Eastern European phenomenon. Look at other democracies. There is an issue: people are intolerant of certain views. This makes our civilized conversations more difficult."

"I do think legal journalists can be used to communicate and to understand judges. It is different with social media. There is no intermediary which puts judges in more danger of being misunderstood or of being caricatured."

"I never had a Facebook or any other form of account. As a judge who has one, it is extraordinarily unwise," he cautioned. He demurred from giving commentary on Israel's justice system, saying, "I don't understand enough details of the political system, how it works and how the media works."

Ex-CJP Jillani addresses conference in Israel

Tassaduq Hussain Jillani cautioned the Israeli audience at the Hebrew University of Jerusalem about the paramount importance of fighting for judicial independence

By [News Report](#)
January 13, 2022



CJ Jillani

JERUSALEM: Former Chief Justice of Pakistan Tassaduq Hussain Jillani virtually addressed a conference in the Hebrew University of Jerusalem, sharing tales of the supreme court's resistance against former president Pervez Musharraf.

The former Chief Justice of Pakistan cautioned the Israeli audience at the Hebrew University of Jerusalem about the paramount importance of fighting for judicial independence.

Jillani shared his story to the Independent Conference on Judicial Independence, but with his own insider personal commentary, about how he and other Pakistani judges helped to thwart then-Pakistani president Pervez Musharraf's attempt to essentially cancel the judicial branch.

CJ Jillani

The three-day conference ending Thursday last.

Responding to pressure to delay a ruling shortly after a group of lawyers were bombed at an Islamabad rally and when he knew the decision would risk Musharraf's ire, he said, "Let them blast the court – we'll announce the judgment on the street and on Constitution Avenue."

The book which connected Jillani's judicial independence story to Israel and the conference was Hebrew University Prof Shimon Shetreet, who is also the president of the International Association of Judicial Independence and World Peace.

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