

# Tel Aviv Government Refuses to Implement Israeli Supreme Court Ruling

Palestinians suffer as courts' authority hits all-time low

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The Israeli government is facing legal action for contempt over its refusal to implement a Supreme Court ruling that it end a policy of awarding preferential budgets to Jewish communities, including settlements, rather than much poorer Palestinian Arab towns and villages inside Israel.

The contempt case on behalf of Israel's Palestinian minority comes in the wake of growing criticism of the government for ignoring court decisions it does not like — a trend that has been noted by the Supreme Court justices themselves.

Yehudit Karp, a former deputy attorney general, compiled a list of 12 recent court rulings the government has refused to implement, but legal groups believe there are more examples. Many of the disregarded judgements confer benefits on Palestinians, either in the occupied territories or inside Israel, or penalise the settlers.

Critics have accused the government of violating the rule of law and warned that the defiance has been possible chiefly because right-wing politicians and religious groups have severely eroded the Supreme Court's authority over the past few years.

Senior members of the current right-wing government of prime minister Benjamin Netanyahu, including the justice minister, Yaakov Neeman, have repeatedly criticised the court for what they call its "judicial activism", or interference in matters they believe should be decided by the parliament alone.

Legal experts, however, warn that, because Israel lacks a constitution, the court is the only bulwark against a tyrannical Jewish majority abusing the rights of the country's 1.3 million Palestinian citizens, as well as 4 million Palestinians living under occupation in the West Bank and Gaza.

Ilan Saban, a law professor at Haifa University, said: "Unlike most — if not all — other democracies, Israel lacks a political culture that respects limits on the power of the majority."

Even the protections offered by Israel's basic laws, he said, were not deeply entrenched and could easily be re-legislated. The lack of both a formal constitution and a tradition of political tolerance, he added, was "a dangerous cocktail".

Israel's liberal Haaretz newspaper went further, warning recently that, in "slandering the

judiciary”, government officials had provoked a crisis that could “lead to the destruction of Israeli democracy”.

The country’s highest court is due to rule in the coming weeks on whether the government is in contempt of a ruling the court made four years ago to end a discriminatory scheme, known as National Priority Areas (NPA), that provides extra education funding to eligible communities.

The High Follow-Up Committee, an umbrella political body representing Israel’s large Palestinian minority, launched the case because only four small Palestinian villages were classified in NPAs, against some 550 Jewish communities. The scheme, introduced in 1998, is believed to have deprived Palestinian citizens, a fifth of Israel’s population, of millions of dollars.

Although the court ruled in February 2006 that the scheme must be scrapped, the government has issued a series of extensions until at least 2012.

Sawsan Zaher, a lawyer with Adalah, a legal centre that launched the contempt petition, said: “This case has become a symbol of how the government refuses to implement decisions it does not like, especially ones relating to constitutional protection and minority rights.”

However, she said that punishing the state for its actions would not be easy. “After all, the court is not going to jail the government. The best we can hope for is a fine.”

The NPA case is only one of several that have highlighted a growing trend of law-breaking by the government.

Ms Zaher said Adalah had at least half a dozen other cases in which it was considering contempt actions. Most referred either to the treatment of Bedouin villages in the Negev the state refuses to recognise and to which it denies services, or to the failure to allocate equal resources to Arab schools.

In its most recent annual report, the Association of Civil Rights in Israel, the country’s largest legal rights group, listed several examples of Supreme Court orders to dismantle sections of the separation barrier built on Palestinian land in the West Bank that have been disregarded.

In one hearing, in October 2009, Dorit Beinisch, president of the court, accused the government of taking “the law into its own hands” and treating her rulings as “mere recommendations”.

She had been angered by the fact that an order to remove the barrier around the Palestinian village of Azzoun, near Qalqilya, had been ignored for three years. The judges had learnt that the hidden reason for building the barrier had been to help expand the neighbouring settlement of Tzufim.

Similarly, in May, the court found that the government had continued construction on a road between the settlements of Eli and Hayovel despite a ruling that it must stop. In a harshly worded response, the judges said: “It is inconceivable that the state does not know what is unfolding right beneath its nose.”

Last month the supreme court again castigated the government for ignoring an order from last year to demolish a sewage purification plant built in the West Bank settlement of Ofra on privately owned Palestinian land in violation of Israeli law.

Other prominent cases in which officials are defying court rulings involve the refusal to demolish a synagogue built by settlers; the failure to build hundreds of classrooms for Palestinian children in East Jerusalem; and the continuing practice of “binding” foreign workers to a single employer.

Late last year, the justice minister, Yaakov Neeman, warned that he was considering legislation that would allow the parliament to bypass the Supreme Court, even in cases where the judges have struck down a law on the grounds that it contravenes a basic law.

The government’s flouting of these rulings has been possible because of growing public disenchantment with the courts, observers have warned.

Last month a survey by Haifa University found that among Israeli Jews who were not ultra-Orthodox or settlers — both groups tend to reject the court’s authority — only 36 per cent expressed great faith in its decisions. That was down from 61 per cent in 2000.

Among settlers the figure was 20 per cent, down from 46 per cent a decade ago.

Aryeh Rattner, a law professor who conducted the research, partly attributed the decline in the court’s standing to its “excessive involvement” in what he called controversial religious, social and defence issues.

However, Prof Saban said the “activism” the court has been accused of was more illusory than real, and that it was often reluctant to intervene in cases where violations of rights were clearcut. In the National Priority Areas case, he said, lawyers had been challenging the patently discriminatory scheme since its introduction in 1998.

“The court took nearly 10 years to rule against the scheme, and since then the government has evaded implementing the decision until at least 2012. In other words, the petitioners are likely to be without a remedy for 14 years. That hardly qualifies as activism.”

**Jonathan Cook** is a writer and journalist based in Nazareth, Israel. His latest books are “Israel and the Clash of Civilisations: Iraq, Iran and the Plan to Remake the Middle East” (Pluto Press) and “Disappearing Palestine: Israel’s Experiments in Human Despair” (Zed Books). His website is [www.jkcook.net](http://www.jkcook.net).

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