



Measure for Measure 2018

An Index of Judicial Parity

~ June 2018 ~



Regavim is active in Israel's public, parliamentary, and legal spheres, through publication of articles, research reports, and position papers, as well as through legal action, in order to restore the Zionist vision to its rightful place in Israel's public discourse and public policy.

The Zionist vision, in the view of the Regavim Movement, is first and foremost a confident, unapologetic Jewish vision that is, at the same time, the moral, humanist vision expressed in clean government and legislative integrity.

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EXECUTIVE SUMMARY

The Supreme Court discriminates against petitions filed by right-wing groups and individuals in comparison to petitions filed by the left-wing. Period. This is fact, borne out by data, and not a subjective perception, a hunch, or a "gut feeling."

To borrow a turn of phrase from former Chief Justice Aharon Barak, who famously declared that "everything is judicable," Regavim contends that "everything is measurable" – including the underlying attitudes of the Supreme Court.

This report will present the "Judicial Parity Index" for 2018. The index monitors trends in the High Court of Justice's disposition of petitions regarding illegal construction filed over the past 13 years – by both the right wing and the left wing of the Israeli political spectrum.

The "Measure for Measure" Report, as we have named it, examines the High Court of Justice's treatment of petitions filed by both sides of the Israeli political divide regarding violations of building and construction laws in Judea and Samaria. The study tracks identical, objective, quantifiable parameters - and the comparison reveals ongoing, deep-seated, undeniable judicial bias.

In 2010, Regavim published "On the Perversion of Justice," a report that exposed the High Court of Justice's prejudiced treatment of petitions submitted by right wing concerns. In June of 2015 we published a follow-up study, "Everything is Measurable," which reexamined the parameters studied in the original report; the pattern of discrimination was borne out by this second study, as well.

The present study is the third in the series, "Measure for Measure 2018." In this report, we provide an overview of petitions submitted by both the right and left, from 2005 through the end of 2017 – a period of time that covers almost precisely the terms of office of three Chief Justices, Dorit Beinish, Asher Grunis, and Miriam Naor – allowing us to identify and analyze changes in policy, if and when any such changes occurred, over the course of each Chief Justice's term of office.

The report focuses on the analysis of the fixed, procedural elements that affect the disposition of a petition even before the substantive claims are examined, thus reflecting the underlying "starting point" or point of reference from which and through which judges approach a given issue. By focusing on these procedural elements, it becomes apparent that more subtle or substantive points of law are not the source of the huge differences in the disposition of these petitions that this report reveals.

The following are the central findings of the 2018 report:

Between 2005-2017, 113 petitions were submitted to the High Court of Justice against illegal construction in Judea and Samaria, of which 50 were filed by the left and 63 were filed by the right (see Appendix: Table of Petitions, below).

Period Allotted for Preliminary Response: The amount of time allotted to the respondents to submit their initial response to the charges raised in the petition

Although in the overwhelming majority of cases, petitions filed by either side of the political spectrum address identical legal issues, in the case of petitions filed by the left the Court allotted an average of 18.5 days for the respondents to submit an initial response, whereas in cases filed by the right, the respondents were given an average of 30.5 days to respond – a gap of 150% against right-wing petitioners.

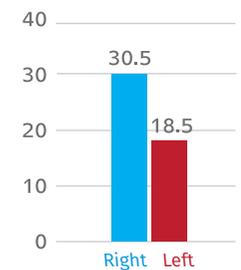
Interim Orders: Court orders issued at the request of the appellants, to preserve the status quo until a decision is reached on the case

Although petitions filed by both left- and right-wing organizations address the same legal issues, the number of interim orders granted to left-wing appellants was 7 times greater (!) than the number granted to right-wing appellants: Of 38 petitions filed by the left in which interim orders were requested, the Supreme Court granted 32 such orders – a whopping 84%! Of the 61 petitions filed by the right in which interim orders were requested, only 8 interim orders were granted (a mere 13%).

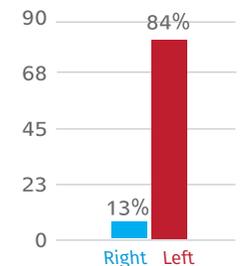
Participation of the Chief Justice in the Panel – Molding Policy and Ascribing Importance to the Petition

The participation of the Chief Justice in the panel that hears a petition is an indication of the gravity and importance the Supreme Court ascribes to the case, and of the case's potential to serve as a precedent or as vehicle for influencing judicial policy. In petitions filed by the right, the Chief Justice presided over the panel in only 21% of cases (13 of 63), whereas in petitions filed by the left, the Chief Justice presided in 58% of cases (29 of 50).

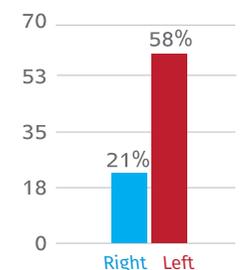
Days Allotted for Preliminary Response



Interim Orders Issued



Chief Justice Presided



Waiting period for a first hearing of the petition:

An indication of the urgency of the petition and its resolution

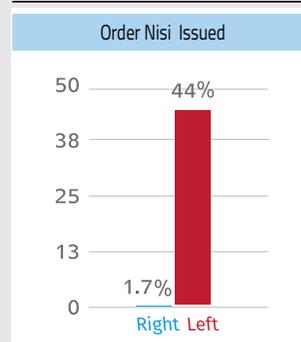
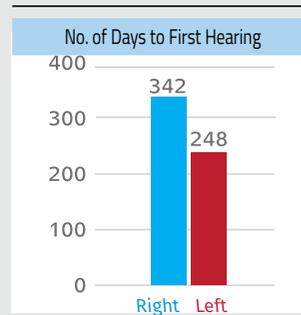
In petitions filed by the right, the average time that elapsed between the petition being filed and the first hearing of the case is 342 days, while cases filed by the left were heard an average of three months sooner – 248 days after the petition was filed.

Order nisi – requiring the government body responding in the case to explain the actions or failure to act that engendered the petition

Nisi orders do not necessarily indicate that the petition has or will be granted, but are a clear indication that the Court is displeased with the behavior of the respondents. Of the 61 petitions submitted by the right in which nisi orders were requested, only one was granted (1.7%). The left requested nisi orders in 43 petitions, and the Court approved 19 of these requests (44%).

Petition "lifespan" – An indicator of the importance ascribed by the Supreme Court to the petition and the issues it raises

Because of the Supreme Court's massive caseload, the parameters that measure the timeframe for petitions may be the best indication of the importance ascribed to them by the Court. Petitions submitted by the left were allotted more than double the number of hearings allotted to petitions submitted by the right: 2.64 hearings on average for every petition submitted by the left, versus an average of 1.06 hearings for petitions submitted by the right. As a result, petitions submitted by the left remain active on the Supreme Court's docket for an average of 33.3 months, while the "lifespan" of petitions submitted by the right is only 16.7 months.



In Summary:

The data collected and analyzed in three successive studies indicate clearly that petitions submitted by leftist and Arab appellants against Jewish settlement in Judea and Samaria receive preferential treatment by the Supreme Court, as compared to petitions filed by Jews and nationalist-Zionist organization against illegal construction in the Arab sector. Polling data indicate that the public is acutely aware of this bias.

Without the need for hyperbole, the data collected for this study speak volumes about Israel's Supreme Court and raise serious questions about judicial impartiality and the presumption of equal protection the Supreme Court is supposed to provide. Following the publication of our 2010 report, the Supreme Court categorically rejected the public criticism that ensued, but in the years that have passed since the publication of that first report, there have been small (to the point of being largely imperceptible) improvements in some of the parameters. These improvements are neither incidental nor coincidental; although they do little to redress the deep-seated problem of judicial bias, they serve as proof of the validity of the report's conclusions.

Closing the deep chasm of discrimination revealed by the data, which will allow the State of Israel to proudly declare that it is a land where justice is both real and perceived, will take many years. With all due humility, we believe that the constant, uncompromising efforts of Regavim and other Zionist nationalist organizations have most certainly contributed to the incremental improvements, but the path to a truly impartial judiciary that still lies ahead will be long and arduous.

In June 2010, The Regavim Movement published a report entitled "On the Perversion of Justice," which examined the Israeli Supreme Court's treatment of the petitions regarding illegal construction in Judea and Samaria filed by both sides of the political divide between 2005-2009. The follow-up report, "Everything is Measurable," published in 2015, examined and analyzed the data for petitions submitted between 2005 through 2013. The present study analyzes petitions submitted between 2005-2017. The lengthy time-period covered by this study allows us to gain insight into differences in the Supreme Court's policy under three Chief Justices – Chief Justice Dorit Beinish, Chief Justice Asher Grunis, and Chief Justice Miriam Naor, each of whom began and ended their terms in the period covered in this report.

Petitions filed by left-wing groups targeted Israeli settlements (and are hereafter referred to as "left-wing petitions"), while petitions filed by Zionist-nationalist organizations targeted illegal construction in the Arab sector ("right-wing petitions"). In practice, these may be called mirror petitions, since both are based on identical factual underpinnings and address identical legal issues.

All the petitions were filed against structures that are unarguably illegal; all of the petitions address the law enforcement body responsible for Judea and Samaria (the Civil Administration), and charge the Civil Administration with failure to carry out its duty to enforce the law against illegal construction.

This study measures the High Court of Justice's treatment of these petitions according to a set of identical, objective, quantifiable criteria, and the study's findings clearly illustrate that while petitions submitted by the left were given serious consideration and uncompromising legal remedies, identical petitions submitted by groups or individuals identified with the right wing of Israel's political spectrum were given far less weight.

The report analyzes fixed parameters, including the length of time allotted to respond to the petition, the number of hearings granted for each petition, the panel appointed to hear each case, and the frequency with which petitioners' requests for temporary injunctions and nisi orders were granted.

The study focuses on an analysis of procedural elements of the legal proceedings, because these elements impact the case even before the substantive issues in question are fully explored. It is precisely through these elements that underlying attitudes and

points of departure, from which and through which the judges approach the issues, are revealed: The vast differences in treatment that the data reveal cannot be attributed to substantive points of law or the legal merits of the petitions themselves.

Neither can the differences in the treatment of left- versus right-wing petitions be attributed to coincidence, nor to differences of opinion among the Justices. The data clearly point to a consistent, purposeful policy of discrimination, instituted by former Chief Justice Dorit Beinish and perpetuated by her successors, Chief Justice Asher Grunis and Chief Justice Miriam Naor.

"Measure for Measure 2018" exposes a policy that is based on, and motivated by, a particular political worldview, which dictates different and unequal treatment of petitions filed by right-wing supporters of the Jewish settlement enterprise, as compared to the treatment of opponents of the Jewish settlement enterprise.

HOW ARE POLICY-DRIVEN PARAMETERS EVALUATED?

Number of days allotted by the Court for defendants' preliminary response



The first decision made by the High Court of Justice when a new petition is filed is the date by which the defendants, and foremost among them the State's representatives, must respond to the petition's charges. The time allotted for this preliminary response usually takes into account the seriousness and the urgency ascribed to the case by the judge with whom it is filed (the on-duty Justice at the time). The Court's "attitude" toward the petition at this stage is formulated by the Justice on the basis of his or her initial impression of the brief. In other words, a petition that is considered to be important and urgent in the eyes of the Supreme Court Justice on duty, on the basis of his or her first impression, will be allotted a limited number of days for the defendant's response, as a function of the weight ascribed to the matter at hand by the Supreme court, and vice versa.

Issuance of "Interim Orders"



The next decision that is made by the Supreme Court in any given case is whether or not to issue an interim order that will remain in effect until the final resolution of the case is announced. The decision to issue an order of this kind is taken in the preliminary stages of the case, before the opposing arguments of appellant and respondent are heard in full, and certainly before the conflicting claims are thoroughly examined. Therefore, the decision is influenced first and foremost by the importance the Court attributes, upon first reading, to the subject under discussion and the weight it ascribes to the arguments presented by each side even before hearings begin and the in-depth discussion is heard. The judicial yardstick used to determine whether or not an interim order is granted is called "the Doctrine of Relative Hardship," which refers to the loss that will be incurred by each side if an interim order is or is not granted. This means that if the Supreme Court feels, based on its preliminary impression of the arguments presented by each of the sides, that the appellant's case is stronger and more convincing than the arguments or the rights of the defendants, the Court is more inclined to issue an interim order, and vice versa.

The panel that is convened to hear the petition



After the respondent's preliminary response is filed with the Court and a decision is made regarding an interim order, the petition is heard by a panel of three judges. The Court Secretariat appoints the justices that will hear each petition, and it is generally claimed that the assignment of Justices to any given panel is determined by considerations of efficiency: Panels are convened according to the Court's schedule, the rotation of Justices on the Supreme Court's duty roster, the Justices' areas of expertise, and other relevant factors.

Time elapsed between filing and first hearing



As we noted above, after a petition is filed, the respondents' initial response is received, and a decision regarding interim orders is handed down, the petition is scheduled for a hearing. The date for the hearing must balance between the enormous caseload of the Supreme Court and the importance and urgency of the petition. We may say, then, that matters which the Supreme Court considers important will be scheduled for hearing without delay, whereas matters that the Court considers of secondary importance will be scheduled for a later date due to the Court's heavy caseload. At the point the scheduling decision is made, there has not yet been a substantive hearing of the opposing arguments, meaning that the Court does not and cannot have the tools to evaluate the claims of the opposing parties. Thus, it is not possible to attribute unequal outcomes to fine points of law or other substantive, content-based differences.

Nisi orders



Once the petition is heard and the Court has had the opportunity to formulate a first impression of the opposing arguments, the Justices on the panel must choose between two options: The first, to reject the petition and assert that the arguments presented by the appellant are either unjustified or do not justify the Court's intervention; or the second, to issue an order nisi (a conditional order). The issuance of a nisi order does not necessarily indicate that the Court will eventually approve the petition (which would turn the nisi/conditional order into a final judgement), but it does indicate to the respondent that the Court is critical of its behavior or position in the matter, and the Court intends to delve deeper into the issue, to intervene, and to actively decide in the matter at hand. An order nisi requires the respondents to carefully examine their own behavior and to consider the necessity of changing, or at the very least explaining their behavior in greater detail. Nisi orders are associated with the second stage of the petition's progress, when the substantive arguments have been heard and considered. However, as we have noted, nisi orders do not necessarily reflect the final judgement. This being the case, nisi orders may be considered a middle stage, reflecting the Court's more fully-formed impression of the arguments following the first hearing.

Number of hearings conducted before a decision is reached



This parameter reflects, more than any other, the importance the Court attributes to the petition and to the issues it raises, as well as the Court's desire to continue to be involved in the case and to monitor developments related to the substance of the petition. The heavy caseload with which the Supreme Court contends does not allow it the privilege of dedicating unlimited hours to each case that comes before it; therefore, only petitions that are considered of particular importance are treated to extensive hearings. Petitions that are considered of secondary importance are relegated to the judgement stage after one hearing, at best.

Lifespan of petitions



In addition to the number of hearings the Chief Justices devote to the different petitions, the number of months in which a petition remains active on the Supreme Court's calendar before a judgement is handed down is an important indicator of the attention and investment of the Court in the matter and of the weight attributed to its subject matter by the Justices. The "life span" of a petition reflects the Court's willingness to leave a given petition active and open on its desk for an extended period and to devote very precious time and attention to monitoring the respondents' behavior over time and to delve further into the subject matter before passing judgement.

Preliminary Response

petitions Right	petitions Left
39 days	25 days

In petitions filed by the left, respondents were allotted an average of 25 days to respond, whereas in petitions filed by the right, the average time was 39 days, a differential of more than 150%.

Interim Orders

petitions Right	petitions Left
0%	90%

Not a single interim order was issued at the request of petitioners on the right, whereas in every petition filed by left except for one, the Supreme Court issued interim orders as per the petitioners' requests – a responsiveness rate of 90% to the left, versus 0% responsiveness to right-wing petitions!

Chief Justice's Participation on Panel

petitions Right	petitions Left
0%	57%

Chief Justice Dorit Beinish did not preside over the judicial panel in a single petition filed by the right (0%), as opposed to 8 incidences out of 14 petitions filed by the left – a rate of 57% participation by Chief Justice Beinish in left-wing petitions. This unequivocal statistic cannot be explained by considerations of efficiency or internal duty rosters, and is a clear indication of the importance attributed by the Chief Justice to petitions filed by the left against Jewish settlement, as well as Chief Justice Beinish's personal interest in "framing the debate" and establishing policy for treatment of these issues.

Time Elapsed to First Hearing

petitions Right	petitions Left
389 days	177 days

The average time elapsed between the filing and the first hearing of petitions submitted by the left was 177 days, while petitions filed by the right were heard some 389 days after filing, an almost inconceivable difference of 200%!

Nisi Orders

petitions Right	petitions Left
0%	35%

The Supreme Court did not issue even one single order nisi requiring the State to either reconsider or clarify its behavior regarding law enforcement against illegal construction in the Arab sector (0%), while nisi orders were issued in 35% of the cases brought by the left that were heard before a judicial panel (in most of these cases, as we have noted, the Chief Justice personally presided over the panel).

Number of Hearings

petitions Right	petitions Left
0.5	1.9

Many petitions filed by the left were given two hearings, three hearings, and even four or five hearings, and the active involvement of the Supreme Court is measured in years, not days or months. This contrasts sharply with the fact that not a single petition filed by the right was granted more than one hearing. The average number of hearings for cases presented by the left was 1.9 per petition, while the average number of hearings for right-wing petitions was 0.5 - a differential of 400%!

Life Span of Petitions

petitions Right	petitions Left
21.4 חודשים	47.5 חודשים

Petitions submitted by the left remained on the Supreme Court's active caseload for an average of 47.5 months – nearly a full four years – while petitions filed by right-wing interests were removed from the Supreme Court's desk within 21.4 months – less than two years from start to finish.

In 2015, as petitions against illegal construction submitted by both the left and right grew in number, Regavim undertook a new study of the data, covering petitions submitted between 2005 through 2013. In total, 29 petitions were filed by the left, and 25 by the right (see Appendix: Table of Petitions, below).

The study's findings, published in our 2015 report "On the Perversion of Justice," revealed that petitions filed by Arabs and leftist organizations continued to enjoy undeniably preferential treatment as compared to the treatment of petitions filed by Jewish organizations that identified themselves or were identified with the nationalist Zionist camp, although a very slight improvement was noted.

Preliminary Response

petitions Right	petitions Left
26 days	19 days

In petitions filed by the left, the High Court of Justice allotted respondents 18.5 days, while respondents to petitions filed by the right were given an average of 25.9 days to file a preliminary response – a gap of some 150%..

Interim Orders

petitions Right	petitions Left
17%	87%

In petitions filed by the right, the High Court issued only 4 interim orders, while in petitions issued by the left, every single request for an interim order, with the exception of 3 cases, was honored by the Court – a responsiveness rate of 87% (!) to the left as opposed to a mere 17% rate to the right.

Participation of the Chief Justice on the panel

petitions Right	petitions Left
32%	62%

The Chief Justices presiding in this period were members of the panel in only 8 cases brought by the right, a rate of 32%, as opposed to a participation rate of 62% (18 cases) in cases brought by the left.

Time elapsed between filing and hearing the petition

petitions Right	petitions Left
369 days	215 days

The average time elapsed between filing a petition and the first hearing in cases brought by the left was 215 days, while petitions filed by the right were first heard only 369 days later – an inconceivable difference of some five months!

Nisi orders

petitions Right	petitions Left
4%	46%

An order nisi was issued in only one case brought by the right (4% of the total number of petitions), requiring the State to reexamine its behavior regarding law enforcement in matters of illegal construction in the Palestinian sector, while in 46% of cases in which left-wing petitions against Jewish construction were heard by a panel of Justices, the Court issued nisi orders against the State.

Number of Hearings

petitions Right	petitions Left
1.4	2.93

The average number of hearings dedicated to petitions submitted by the left was 2.93, while petitions on the right averaged a mere 1.4 hearings per petition – a difference of more than 200%!

Life Span of Petitions

petitions Right	petitions Left
20 חודשים	36 חודשים

The average period in which left wing petitions remained active on the Supreme Court's caseload calendar was 36 months, a full three years! In comparison, petitions submitted by the right were removed from the calendar within 20 months – less than two years.

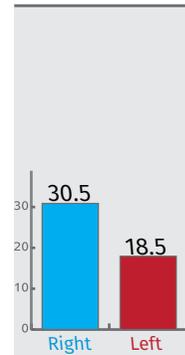
SUMMARY OF FINDINGS: 2018 STUDY (covering petitions filed in 2001-2017)

Our "Measure for Measure 2018" study encompasses a larger number of petitions against illegal construction submitted by both the left and right, and the data was recalculated to include all the material collected from 2005 through 2017.

In total, 50 petitions were filed by the left, and 63 by the right (See Appendix: Table of Petitions).

The same parameters that were analyzed in the earlier studies were re-examined for the third time, isolating the neutral, procedural elements of the process that reflect the underlying attitude that is the point of departure and the basic perspective from which, and through which, the Justices of the Supreme court approach an issue.

Preliminary Response

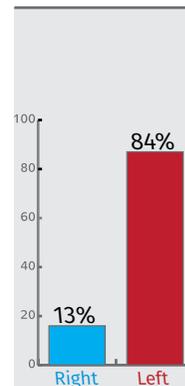


In petitions filed by the left, the average time allotted by the Court for preliminary response was 18.5 days, while in petitions filed by the right, respondents were allotted an average of 30.5 days to respond – a disadvantage of 150% against right-wing petitions.

These most recent findings leave no room for doubt: There is a vast and undeniable gap between the Supreme Court's presumption of importance regarding petitions filed by the left as opposed to the Court's attitude toward petitions filed by the right.

Despite the fact that the petitions filed by both sides generally address identical points of law, the basic, underlying attitude toward left-wing petitions, as it is expressed in the Court's allotment of time for preliminary response, assigns far greater weight to left-wing petitions than it does to petitions filed by the right.

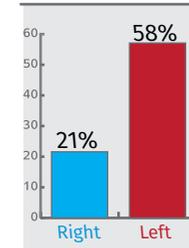
Interim Orders



Out of 38 petitions filed by leftist organizations in which the petitioners requested an interim order, the Court issued interim orders in 32 cases (84%)! In contrast, 61 right-wing petitions included a request for interim orders, and the Justices acquiesced in only 8 cases (13%).

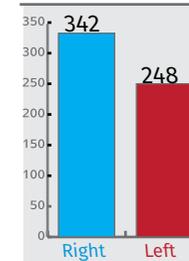
The petitions raise identical legal issues, yet the interim orders issued by the High Court of Justice in cases brought by left-wing petitioners was seven times higher than the proportion of interim orders granted in cases of right-wing petitions. This can only be explained by the Justices' predisposition and underlying attitudes towards these issues. These pre-conceived attitudes influence the Court's most basic responses to the petitions and to the petitioners, revealing a disparity of rights enjoyed by individuals from different sides of the political fence who stand accused of identical violations of Israel's construction laws.

Participation of the Chief Justice in the panel



In right-wing petitions, the Chief Justice was a member of the judicial panel convened to hear the petition in only 21% of cases (13 out of 63), whereas in petitions filed by the left the Chief Justice presided over the panel in 58% of the cases (29 out of 50). Below, we analyze the data for the terms of office of each of the three Chief Justices included in the study.

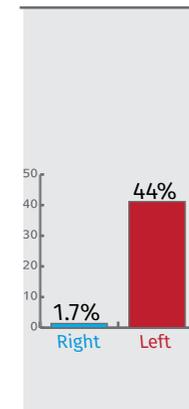
Time elapsed between filing and first hearing



For petitions filed by the right, the average time elapsed between filing the petition and its first hearing was 342 days, some three months longer than the time elapsed for left-wing petitions to be heard, which was an average of only 248 days!

This demonstrates a dismissive attitude toward petitions filed by the right wing on the part of the Justices of the Supreme Court.

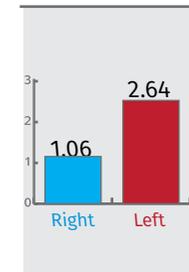
Nisi Orders



Of the 61 petitions filed by the right in which an order nisi was requested, the Court granted only one (1.7%). Conversely, of the 43 petitions filed by the left in which an order nisi was requested, the Court granted 19 such orders (44%).

As we have noted, although issuing an order nisi does not necessarily signal the Court's approval of the petition's substantive claims, it does signal to the respondents that the Court is dissatisfied with the respondent's behavior, and indicates that the Court intends to delve into the matter in greater depth, to intervene, and to make a judgement between the conflicting claims. The vast divergence in this parameter is a very real indicator of the bias against right-wing petitions.

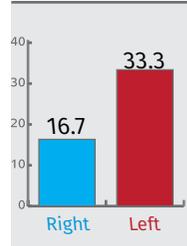
Number of hearings



The average number of hearings held by the High Court of Justice for petitions filed by the left was 2.64, as opposed to 1.06 hearings for each petition filed by the right.

The gap is unmistakable: Left-wing petitions received more than twice as many hearings. Similarly, the panel rejected five right-wing petitions on the basis of written statements and without any hearing of arguments whatsoever.

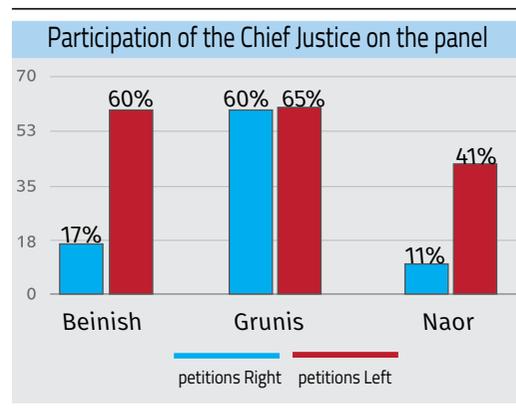
Life-span of petition



The period during which left-wing petitions remained active averaged 33.3 months. On the other hand, the average life span of right-wing petitions was 16.7 months.

In other words, petitions submitted by the right remained on the Supreme Court's active docket less than half the time enjoyed by left-wing petitions.

PARTICIPATION OF THE CHIEF JUSTICE ON THE PANEL



Former Chief Justice Dorit Beinish's term of office began in September 2006 and ended in February 2012. Chief Justice Asher Grunis took up his seat at the head of the Supreme Court in February 2012 and passed the office to Chief Justice Miriam Naor in January 2015, who held the position of Chief Justice through the end of October 2017. This study covers petitions filed from 2005 through December 2017, a period that overlaps entirely with the terms of all three of these Chief Justices. Thus, this study is

able to compare the participation of each of the three Chief Justices in relevant petitions over the entirety of their respective terms of office.

The data presented in the 2010 report indicated that then-Chief Justice Dorit Beinish did not participate in any of the 13 right-wing petitions filed during her term of office (0%), although she presided over 8 out of the 14 left-wing petitions (57%) filed during her tenure.

The data are very clear-cut, and cannot be explained by considerations of efficiency or the Court's duty roster, which would result in a far more randomized and therefore evenly-distributed pattern of assignments. The only feasible explanation for this lopsided record of participation is the high degree of importance ascribed to left-wing petitions against Jewish settlement initiatives by the Chief Justice, and her desire to

formulate policy and influence the tone of the debate on the issues raised by these petitions. Conversely, the pattern of the Chief Justice's one-sided participation in these petitions indicates that Chief Justice Beinish did not consider petitions filed by the right against illegal construction by Palestinians important enough to warrant her personal involvement, which explains why she left consideration of these cases to the other members of the Court.

The 2015 report, which analyzed data regarding petitions that were filed through the end of 2013, found a sharp increase in the Chief Justice's participation in panels convened to hear right wing petitions (from 0% in the 2010 report to 32% in the 2015 study). On the other hand, the rate of participation of the Chief Justice in left-wing petitions remained high – in fact, twice as high as in right-wing petitions: Out of 29 left wing petitions, the Chief Justice was a member of the panel in 18 cases (62%).

This being the case, it appears that the criticism voiced by the public and the media following the publication of our 2010 report did not go unnoticed by Chief Justice Beinish. After the report's publication, Chief Justice Beinish participated in 3 out of 4 right-wing petitions that were filed during the remainder of her tenure.

All told, Chief Justice Beinish participated in 13 out of 22 left-wing petitions (60%), and in 3 out of 17 right-wing petitions (17%) over the course of her tenure.

Chief Justice Asher Grunis presided over the panel in 6 out of 10 right-wing petitions (60%), and in 9 out of 14 left-wing petitions (65%) that were filed during his term – indicating that a serious attempt was made to respond to Regavim's critique of his predecessor's track record and her dismissive attitude toward right-wing petitions.

Nonetheless, the tenure of the next Chief Justice, Miriam Naor, was characterized by a return to the attitude displayed by Chief Justice Beinish towards right wing petitions during most of her tenure. During Chief Justice Naor's term of office, leftist organizations filed 12 petitions while right-wing organization filed 36 petitions. Chief Justice Naor presided in 41% of the petitions filed by the left during her term (5 out of 12), but in only 4 out of 36 right-wing petitions (a mere 11%).

THE 2018 JUDICIAL PARITY INDEX

After compiling the data on all petitions filed by both the left and the right in the period beginning in 2005 and ending in 2017, we are now able to examine the trends and shifts in the Supreme Court's treatment of these petitions over the years.

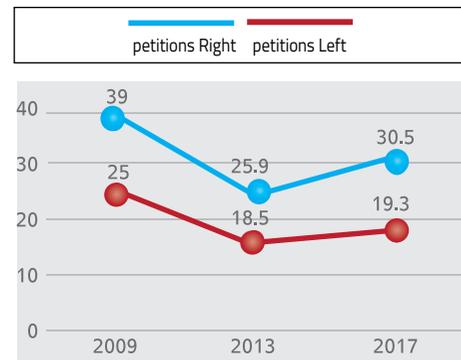
The preceding chapter revealed that the clear and undeniable favoritism towards petitions filed by the left has remained mainly unchanged, while there has been only a very slight improvement in the treatment of right-wing petitions, indicating that the overall picture is far from balanced.

The following is a more in-depth comparative analysis of the data, according to the parameters set out as the basis for comparison that have been tracked over time. We will examine the average of each of the parameters for all petitions, taking into account the status of the petition at a given moment in time as per the Supreme Court's on-line registry of cases.

1. The Judicial Parity Index for 2009 – examined petitions filed between 2005-2009, as per their status on a given date
2. The Judicial Parity Index for 2013 – examined petitions filed between 2005-2013, as per their status on a given date
3. The Judicial Parity Index for 2017 – examines all petitions filed between 2005 and 2017, as per their status on a given day

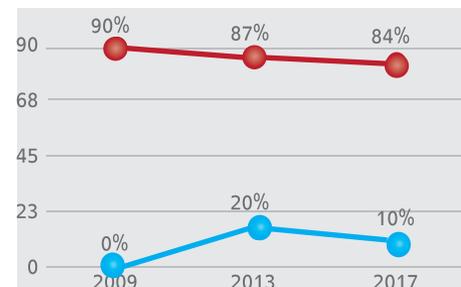
Time allotted by the Court for preliminary response

The data indicate that there was a significant decrease in the period allotted to respondents in petitions filed by the right, although there is still a differential of approximately 150% when compared to the time allowed to respondents in petitions filed by the left.



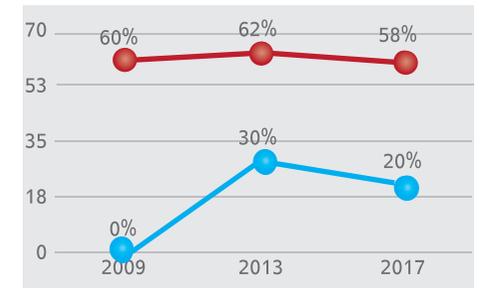
Interim Orders

The data indicates that rate at which interim orders are issued in petitions filed by the left has remained very high, albeit with a very slight downturn, while there has been a very small increase in the number of interim orders issued in right-wing petitions. The differential between the number of interim orders issued for left-wing versus right-wing petitions is enormous.



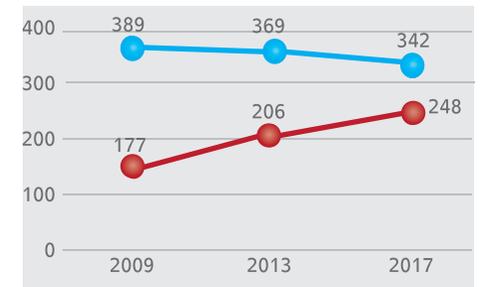
Participation of the Chief Justice in the Panel

The data for this parameter indicate that the frequency with which the Chief Justice participated in hearings of petitions filed by the left remained virtually unchanged, while there has been an improvement in the participation of the Chief Justice in petitions filed by the right. This increased participation occurred, for the most part, during the tenure of Chief Justice Grunis, and declined sharply during the term of Chief Justice Naor. Currently, the Chief Justice is empaneled on three times more left-wing petitions than right-wing petitions.



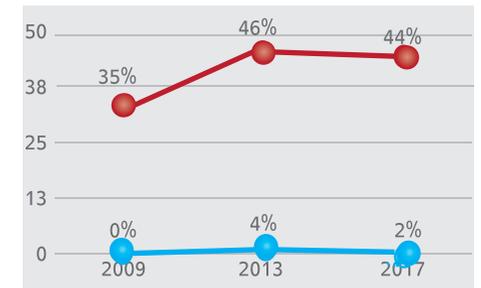
Time elapsed between filing and first hearing

The data indicate that in the past, left-wing petitions waited some 6 months for their first hearing, while today the waiting period is some 8 months. The waiting period for right wing petitions has been reduced from 13 months to approximately 11 months. This improvement notwithstanding, the 3 month gap between left-wing and right-wing petitions places right-wing petitions at a significant disadvantage.



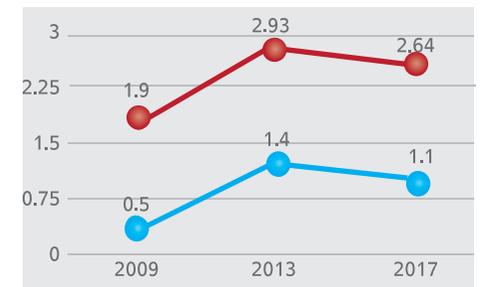
Nisi orders

The data indicate a sharp increase in the number of nisi orders issued for left-wing petitions, from a rate of one-third of petitions to nearly half! At the same time, the change in the rate at which nisi orders were issued in right-wing petitions remained virtually unchanged: Only one such order was issued for a right-wing petition.



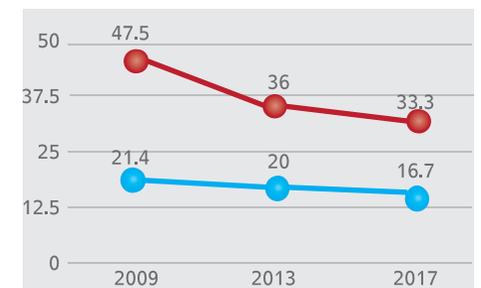
Average number of hearings per petition

The data indicate that the average number of hearings granted by the High Court of Justice to left-wing petitions has been, and continues to be, an area of blatant discrimination against right-wing petitions.



Life span of petitions

The number of months during which petitions remain open and active reflects the degree of involvement and the importance the Supreme Court attributes to petitions and the issues they raise. By allowing a petition to remain on the docket, the Supreme Court indicates that is willing to devote precious time and attention in order to delve into the petition more deeply before handing down a decision. The data indicate that the life span of left-wing petitions is twice as long (if not longer) than the life span of right-wing petitions.



THE JUDICIAL PARITY INDEX - WEIGHTED SCORES

The weighted judicial parity score expresses the overall average that arises from consideration of the various parameters, measured as percentages, comparing right-wing petitions to left-wing petitions and calculating the positive or negative attitude toward the different petitions:

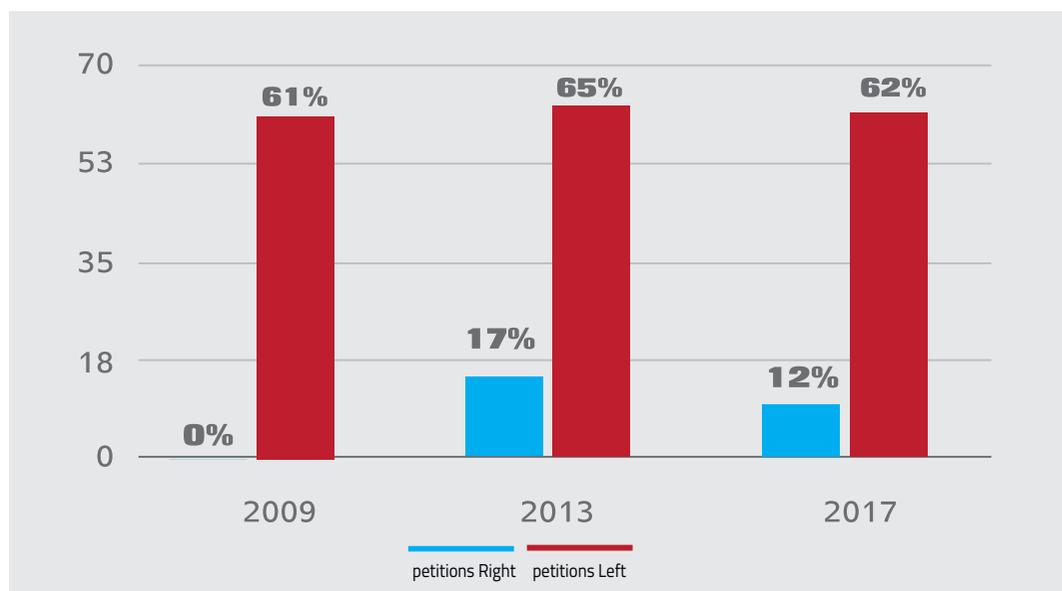
- Rate at which interim orders were granted;
- Rate at which nisi orders were granted;
- Rate of participation of the Chief Justice in the panel for a given petition

The weighted score for 2009 indicates that left-wing petitions benefitted from positive treatment, with an overall average score of 61, whereas right-wing petitions received extremely negative treatment, with an overall score of 0.

The weighted parity score for 2013 indicates that the positive attitude toward left-wing petitions rose to its highest level during this period (with an overall average of 65). In comparison, the Court's attitude toward right-wing petitions during this period improved slightly (score: 17).

The weighted parity index for 2017 indicates that the positive treatment of left-wing petitions retained its very strong standing and changed only slightly, scoring 62. Right wing petitions, on the other hand, experienced a significant decline in judicial attitudes, reflected in the overall score of 12.

Judicial impartiality is a goal that remains distant and difficult to achieve. The "Judicial Parity Index" reports we intend to publish in the coming years will monitor the development of the trends we have identified, and report on them periodically.



SUMMARY: POLITICAL AGENDAS SHAPE JUDICIAL DECISIONS

Each of the parameters examined for this study, without exception, indicate extreme bias between petitions filed by the left and right wing: Petitions filed by the left are treated with gravity, or even sympathy, while petitions filed by the right are treated dismissively, even cynically. There is no room for doubt; a clearly-defined political agenda sets the tone in the halls of Israel's Supreme Court.

The only possible motivation that can explain the vast gap evidenced by the objective analysis of fixed criteria is a political ideology that considers Judea and Samaria "occupied territory" rather than "ancestral lands," and the State of Israel an "occupying power" rather than a nation that has returned to its homeland after two thousand years of exile to redeem it from its desolation; this political ideology regards Palestinians as a living under the thumb of occupation and oppression, rather than as an enemy that seeks to eradicate the Jewish People and disinherit us of our ancestral home.

This political ideology is, of course, legitimate, and has been the subject of public discourse and political debate in Israel for many years. However, the Supreme Court must not take the liberty of circumventing the will of the people or choosing one side over the other in this polarized debate.

Allowing a radical political agenda to operate as the basis for the Supreme Court's conduct of judicial matters is both unacceptable and unworthy, as it adopts the view of one side in the hotly contested political debate – a debate that must be conducted and decided by the people and their elected representatives in the Knesset and the government.

The findings of the 2010 study proved beyond a shadow of doubt that the High Court of Justice's behavior demonstrated an imbalanced and unequal attitude toward petitions filed by organizations on the opposing sides of Israel's political divide.

Judge Moshe Gal, Director of Court Administration, rejected the findings of our 2010 "On the Perversion of Justice" report, calling it "a document that is flawed by bias and unfounded interpretation." In his words, "the appointment of judiciary panels and hearing dates in the court's calendar, and decisions regarding issuance of judicial orders, are carried out according to relevant, profession criteria."

Notwithstanding the denials issued by the judiciary and the attempts to dismiss the report's unequivocal and unflattering findings, it appears that "On the Perversion of Justice," published in 2015, and this most recent re-compilation of the data, give voice

to a cry that is not easily ignored.

While the findings of the 2015 study brought about changes and improvements in many of the parameters that had been examined, one thing should be perfectly clear: The improvements themselves are the best indication that the study's findings, which certain members of the judicial establishment attempted to discount or dismiss, were an accurate warning that spotlighted unpleasant truths.

We must not be satisfied by marginal improvements. The follow-up studies reveal a systematic profile of disparities that illustrate the bias that continues to adversely affects petitions filed by nationalist entities on the right wing of Israel's political spectrum.

No micro-analyses can provide a satisfactory explanation for the disturbing pattern of prejudice borne out by the data; this prejudice continues to inflict inestimable damage to the rule of law and the centrality of the judicial system in general, and of the Supreme Court in particular, in a democratic society.

The findings of this long-term study should be a wake-up call for the Justices of the Supreme Court, a call to real, honest self-scrutiny and reflection. At the same time, the data must serve as the impetus for our elected representatives in the legislative branch to take steps to create real judicial parity and equality within the hallowed halls of the Israeli justice system and to restore the public's faith in the objectivity and impartiality of the Supreme Court.



APPENDICES

APPENDIX A: LEFT-WING PETITIONS



צד עותר: שמאל סה"כ 50 עתירות

אתר	מס' תיק	העותרים	מס' days לתגובה/מקדמית/צו ביניים	צו ביניים/ארעי	צו על תנאי	מס' days לדיון ראשון	מס' דיוני הרכב בעתירה עד סוף	נשיאה/נותר/החלטה/ות בתיק	מס' חודשים שהתיק פתוח	מכהנת/במהלך הגשת העתירה
1	עמונה	6357/05	21	V	-	195	1	V	7	
2	חרשה והיובל	9051/05	60	X	V	61	7	V	108	
3	קרית ספר	143/06	14	V	V	8	5	X	21	בייניש
4	מיגרונ	8887/06	21	~	V	102	8	V	71	בייניש
5	צווי תיחום	7891/07	154	~	V	220	7	V	86	בייניש
6	נתיב האבות	2817/08	22	V	-	30	1	X	2	בייניש
7	עופרה	5023/08	10	V	V	33	4	V	77	בייניש
8	נתיב האבות	8255/08	30	~	X	300	2	X	25	בייניש
9	נתיב האבות	8258/08	30	~	-	230	1	X	9	בייניש
10	(בית אל) האולפנה	9060/08	35	V	-	41	5	V	38	בייניש
11	עמונה	9949/08	30	~	V	520	4	V	72	בייניש
12	רחלים	2295/09	30	V	X	391	2	V	53	בייניש
13	חלמיש	3899/09	7	V	X	363	1	V	43	בייניש
14	מצפה דני 1	5383/09	7	V	V	1215	3	V	105	בייניש
15	כוכב יעקב	6505/09	16	V	X	20	5	X	56	בייניש
16	קרית נטפים	6821/09	30	V	X	183	2	X	27	בייניש
17	נילי	8878/10	30	X	X	384	1	X	11	בייניש
18	(בית אל) דריינוף	9669/10	6	V	V	25	5	V	46	בייניש
19	מצפה כרמים	953/11	10	V	V	631	3	V	45	בייניש
20	שבות רחל	1813/11	7	V	X	209	1	X	8	בייניש
21	עלי	1936/11	14	V	X	196	6	V	63	בייניש
22	שילה	2306/11	5	V	X	124	3	X	15	בייניש
23	ברוכין	2962/11	4	V	X	162	2	V	20	בייניש
24	עפרה	3047/11	10	V	X	161	2	V	27	בייניש
25	שדה בועז	9413/12	5	V	V	303	2	V	23	גרונס
26	גבעון החדשה	636/13	5	V	-	219	1	X	9	גרונס
27	נוקדים	4257/13	30	V	X	525	1	V	16	גרונס
28	בית אל	3978/13	14	~	X	-	0	X	13	גרונס
29	מצפה דני 2	4621/13	15	V	V	157	3	V	28	גרונס
30	אביגיל	5300/13	21	V	V	270	4	V	45	גרונס

אתר	מס' תיק	העותרים	מס' days לתגובה/מקדמית/צו ביניים	צו ביניים/ארעי	צו על תנאי	מס' days לדיון ראשון	מס' דיוני הרכב בעתירה עד סוף	נשיאה/נותר/החלטה/ות בתיק	מס' חודשים שהתיק פתוח	מכהנת/במהלך הגשת העתירה
31	עפרה	419/14	21	V	V	147	2	V	47	גרונס
32	נילי	972/14	30	~	V	438	3	X	47	גרונס
33	דויטש	3373/14	27	X	X	661	1	X	24	גרונס
34	ישוב הדעת	5411/14	26	~	X	325	2	V	28	גרונס
35	נתיב האבות	7292/14	177	~	V	230	6	V	37	גרונס
36	סוסנה	7590/14	20	V	X	252	1	V	9	גרונס
37	עדי עד	8395/14	292	~	V	308	2	V	37	גרונס
38	נוקדים	8723/14	30	~	X	555	3	X	26	גרונס
39	תפוח מערב	2297/15	53	X	V	256	3	V	33	נאור
40	גבעת הרואה	7780/15	2	V	V	70	3	V	25	נאור
41	(בית אל) דריינוף	5165/15	10	V	~	497	2	V	25	נאור
42	שמעה	2439/15	11	X	X	287	1	X	33	נאור
43	יקיר	7802/15	30	V	X	182	4	X	24.5	נאור
44	שדה בר	7718/15	214	~	X	229	2	X	25.5	נאור
45	נתיב האבות - ב	5480/15	9	V	X	97	2	V	29	נאור
46	אלפי מנשה	891/16	392	X	X	696	0	X	23	נאור
47	ענתות	278/16	3	V	V	98	2	V	8	נאור
48	כרם רעים	2914/17	32	V	X	305	0	X	9	נאור
49	(אדם) פריצת ציר	5973/17	20	V	~	160	0	X	5	נאור
50	שדה בועז	5838/17	4	V	X	62	1	X	3	נאור
ממוצע			19.27	84.2%	44.2%	248.29	2.64	58.0%	33.34	
הערות			בתוספת = 41.92	38 מתוך 38	19-1 מתוך 43 / שהתבקשו / רלוונטי	בתוספת = 268.02	מחישוב זה הופחתו תיקים חורגים במיוחד (פרק זמן של יותר מחודשיים): בג"ץ 7891/07 - 154 יום; בג"ץ 7292/14 - 177 יום; בג"ץ 8395/14 - 292 יום; בג"ץ 7718/15 - 214 יום; בג"ץ 891/16 - 392 יום			

מקרא:

- V הצו הוצא לבקשת העותרים; נשיא בית המשפט העליון עומד בראש הרכב
- X הצו לא הוצא; הנשיא אינו משתתף בהרכב
- לא רלוונטי. המדינה התחייבה להרוס את המבנים
- ~ לא התבקש

APPENDIX B: RIGHT-WING APPEALS

אנחנו
על
המפה



צד עותר: ימין סה"כ 63 עתירות

אתר	מס' תיק	העותרים	days מ'מס לתגובה מקדמית/ צו ביניים	צו על תנאי / צו ביניים/ ארעי	צו על תנאי	days מ'מס ראשון	מס' דיוני הרכב בעתירה עד סוף	נשיא/ה נותן/ת החלטה/ ות בתיק	מס' חודשים שהתיק פתוח	נשיא/ה מכהנת/ במהלך הגשת העתירה
1	1161/06	אנחנו על המפה	21	X	X	403	1	X	21	ביניש
2	2115/06	מזרעת אל קיבליה	30	X	X	372	1	X	20	ביניש
3	9533/06	חרבתא	30	X	X	498	1	X	18	ביניש
4	8500/07	חירבת אדירת	28	-	X	173	0	X	7	ביניש
5	6243/08	ששת האתרים	676	~	X	684	1	X	29	ביניש
6	11113/08	חוסן	30	X	X	נדחה ללא דיון	0	X	4	ביניש
7	72/09	דיר דיבואן	9	X	X	555	2	X	35	ביניש
8	433/09	ג'בע	19	X	X	545	2	X	35	ביניש
9	702/09	סילוואד	30	X	X	465	1	X	49	ביניש
10	5377/09	יתמא	7	X	X	64	3	X	27	ביניש
11	7264/09	מישור אדומים	11	X	X	59	2	X	7	ביניש
12	8788/09	אל בירא	30	X	X	604	1	V	21	ביניש
13	10424/09	חוסן	30	X	X	נדחה ללא דיון	0	X	6	ביניש
14	2407/10	מחצבה 809	34	X	X	190	2	V	25	ביניש
15	5083/10	חירבת אדירת - ביי"ס	10	X	V	215	3	X	13	ביניש
16	5790/10	בורין - מסגד	30	V	V	200	5	V	46	ביניש
17	8806/10	בית סירא - ביי"ס	21	X	V	221	1	X	11	ביניש
18	5133/12	ענאתה - תחנת דלק	60	X	X	548	4	V	30.5	גרונים
19	6203/12	פני חבר	28	X	X	650	2	X	26	גרונים
20	6746/12	פסגות	33	X	X	נדחה ללא דיון	0	V	25	גרונים
21	7120/12	נווה צוף	8	X	X	נדחה ללא דיון	0	X	1	גרונים
22	315/13	חאן לובן	30	X	V	368	2	X	23	גרונים
23	2031/13	מחצבה דני	48	~	X	451	1	V	39	גרונים
24	3232/13	נווה צוף 2	14	X	X	202	1	V	7	גרונים
25	8257/13	גבעון החדשה - מוסך	30	X	X	284	1	V	10	גרונים
26	3743/14	מנזר דיר חוגלא	11	X	V	489	1	X	16	גרונים
27	3355/14	רוואבי	30	X	X	264	3	V	32.5	גרונים
28	2223/15	טורבינות רוח	45	X	X	114	1	X	4	נאור
29	4680/15	מחצבת טריפי	62	X	X	434	1	X	14	נאור
30	1184/15	לובן א-שרקיה	28	X	X	318	1	V	22.5	נאור
31	4641/15	המסעדה הלבנונית	62	X	X	534	2	X	30	נאור
32	5724/15	כפר אדומים - מאחז בדואי 437	14	X	X	273	1	X	9	נאור
33	8204/15	מיצד - מחצבה	34	X	X	250	2	V	12.5	נאור
34	1612/15	כיכר אדם - בית ספר	29	X	X	356	1	X	11.5	נאור
35	8381/15	תקווע - סלילת דרך	60	X	X	486	2	X	25	נאור
36	8427/15	חרבת מרגם	61	X	X	586	4	X	24	נאור
37	7970/16	מסגדים בבורין וג'ילזון	21	X	X	412	0	X	14.5	נאור

אתר	מס' תיק	העותרים	days מ'מס לתגובה מקדמית/ צו ביניים	צו על תנאי / צו ביניים/ ארעי	צו על תנאי	days מ'מס ראשון	מס' דיוני הרכב בעתירה עד סוף	נשיא/ה נותן/ת החלטה/ ות בתיק	מס' חודשים שהתיק פתוח	נשיא/ה מכהנת/ במהלך הגשת העתירה	
38	5503/16	צומת עטרות - הובלות נאבלי	21	V	X	483	1	X	16	נאור	
39	9996/16	סעיר	34	X	X	373	0	V	12	נאור	
40	4575/16	כפר אדומים - מבנים	60	X	X	570	0	X	30.5	נאור	
41	6/16	סוטיה - בית ספר	30	X	X	365	1	X	12	נאור	
42	510/16	מחסום הפירות	32	X	X	678	0	X	23	נאור	
43	1875/16	מסגד בצומת זיף	31	X	X	346	1	X	11.5	נאור	
44	5533/16	מאחז בחיזמה	16	X	X	316	1	X	17.5	נאור	
45	3107/16	ענאתא	30	X	X	459	1	X	21.5	נאור	
46	2781/16	לשם - פריצות דרכים	30	X	X	183	2	X	21	נאור	
47	9635/16	לשם - בניה	47	X	X	384	0	X	12.5	נאור	
48	5751/16	שטח אש 917	42	X	X	526	0	V	17	נאור	
49	8912/16	חרבת סוזכים	45	X	X	409	0	X	13.5	נאור	
50	9993/16	א.ת. בראון	34	X	X	326	1	X	12	נאור	
51	3287/16	חאן אל אחמר	43	~	X	612	0	X	21.5	נאור	
52	1509/17	אלפי מנשה - רמאדין	21	X	X	301	1	X	10.5	נאור	
53	4393/17	מאחז באסויה	8	V	X	216	0	X	6	נאור	
54	1125/17	סמוע - בית ספר חדש	12	X	X	102	2	X	7.5	נאור	
55	3036/17	דיר איסתיא	47	X	X	70	0	X	9	נאור	
56	6294/17	רוואבי - דרך ראשית	33	X	X	145	0	X	5	נאור	
57	4445/17	בית איכסא	39	V	X	209	0	X	7	נאור	
58	6002/17	צופים - מזבלה	47	X	X	159	0	X	5	נאור	
59	5076/17	כביש בשטח אש 918	41	X	X	189	0	X	6	נאור	
60	6612/17	רחלים - פלישות לאדמות מדינה	61	X	X	130	0	X	4	נאור	
61	8476/17	חרבת ענים - בית ספר	0	X	X	נדחה ללא דיון	0	X	0	נאור	
62	10100/17	מעלה לבונה - מבנה	14	X	X	4	0	X	0	נאור	
63	9661/17	דיר בלוט	10	X	X	20	0	X	1	נאור	
ממוצע			30.54	13.1%	1.6%	342.10	1.06	20.6%	16.72		
הערות			בתוספת החריגים = 40.98			8 מתוך 61 שהתבקשו/ רלוונטי			61 מתוך 61 שהתבקשו/ רלוונטי		
			מחישוב זה הופחת תיק חורג במיוחד (פרק זמן של יותר מחודשיים): בג"ץ 676 - 6243/08								

מקרא:

- V הצו הוצא לבקשת העותרים; נשיא בית המשפט העליון עומד בראש ההרכב
- X הצו לא הוצא; הנשיא אינו משתתף בהרכב
- לא רלוונטי. המדינה התחייבה להרוס את המבנים
- ~ לא התבקש



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