

BETWEEN RHETORIC AND RESULTS:  
THE JUDICIAL ROLE AS PERCEIVED BY THE ISRAELI SUPREME COURT IN  
REGARD TO THE DISENGAGEMENT FROM GAZA STRIP

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By

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## ABSTRACT

The major objectives of this study are to describe and understand how the Israeli Supreme Court conceives its role within the Israeli democracy, and what are the values and norms ruling its famous judicial activism, once faced with political and social tensions threatening on both the Israeli solidarity and the rule of law. Through exploring the Court's attitudes towards defendants accused at carrying out forceful resistance to government policy, this research studies the nature of judicial involvement in extra-legal matters in both the declarative and normative levels, and the judicial perceptions regarding the importance of the Supreme Court as a democratic player.

My study employs qualitative and quantitative methods, examining both the rhetoric and the final resolution of an entire universe of Supreme Court criminal procedures, all relating to recent Israeli internal conflict in which unlawful resistance followed the announcement of a governmental plan to evacuate Israeli settlements from the former occupied Gaza Strip (the Disengagement Plan). It uses content analysis in order to classify the judicial decisions as either critical, empathetic or neutral and measure their frequency before and after the evacuation of the Gaza Strip, in order to detect the Court's tendency to address different norms and values at times when the legal needs remain the same yet the social needs vary.

The findings support the hypothesis according to which the Israeli Supreme Court exceeds its traditional role of solving conflicts by promoting social and moral objectives through the heavy use of rhetoric. Furthermore, in the specific conflict Studied here the Court regarded its prime task – defending the democracy – as requiring the delegitimizing and sanctioning of groups undermining the social solidarity, and refraining from criticizing the government for its alleged violation of rights. Lastly, my findings show that the Court demonstrated fairly different approaches before and after the actual withdrawal, a tendency explained in the paper as designed to promote social needs but also judicial institutional ones.

This exploratory study links these matters by suggesting that questioning the Court's approach in cases enjoying a strong social context can benefit our understanding of the Court's willingness to assume a broader and more active role in shaping Israeli realities, and become a powerful player in more than the legal realm.

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