

European Conference on Digital Government
Santiago de Compostela, October 2018

**E-courts in Israel: Judges are
permitted to deceive in
imprisonment**

Joseph Zernik, PhD, Human Rights Alert-NGO



Presentation next year – punishable by 10 year imprisonment?

מספר מיימי: 571876

הכנסת העשרים

יוזמים:	חברי הכנסת
ענת ברקו	
דוד ביטן	
טלי פלוסקוב	
ימעת שאשא ביטון	
יואב בן צור	
מכלוף מיקי זוהר	
אורן אסף חזן	
נורית קורן	
דוד אמסלם	
יואב קיש	
מנחם אליעזר מוזס	
מרדכי יוגב	
יעקב מרגי	
ישראל אייכלר	

4774/20/פ

הצעת חוק העונשין (תיקון – עבירה של פגיעה בקשרי החוץ של ישראל), התשע"ח–2017

1. תיקון סעיף 121 בחוק העונשין, התשל"ז–1977, בסעיף 121, במקום סעיף קטן (ב) יבוא:

"(ב) על אף האמור בכל דין, העושה מעשה כדי להזיק לאינטרסים של מדינת ישראל, ליחסים בין ישראל ובין מדינה, ארגון או מוסד כאמור בסעיף קטן (א), או לעניין שיש בהם לישראל, דינו – מאסר שבע שנים, ואם עבר עבירה בכוונה להזיק כאמור, דינו – מאסר עשר שנים; ואם עונשו על עבירה כאמור, אף בלי שהוכחה הכוונה האמורה בסעיף קטן זה, הוא מאסר שבע שנים או יותר, דינו – מאסר עולם."

MK Anat Berko et al
Bill 4774/20

Amendment to the Penal Code (offense of harming State of Israel foreign relations) – 2017, Article 121.

Offense of harming State of Israel foreign relations

(b) Regardless of any other law, he who acts to harm the interests of the State of Israel, the relations between the State of Israel and a state, an organization, or an institution, as stated in (a), or any interest, which the State of Israel has in them, is punishable by 7 year imprisonment; if acted intentionally - punishable by 10 year imprisonment; if his punishment for such offenses, even without proof of intention is over 10 years - punishable by life imprisonment.

Working Hypothesis

- The study of e-government provides unique insights into the true nature of the regime
- “Code is the Law” (Lessig)
- E-courts in Israel today enable arbitrary confinement
- Such conduct is intentional, not “human error”, supported by the Supreme Court

Methods

- System analysis – development, implementation, validation
- Data mining – for invalid and/or fraudulent records
- FOIA requests
- Court actions – for demonstrating intent and collusion of senior judicial officers

E- courts in Israel

HRA submission was incorporated into the UN HRC
Periodic Review report on Israel (2018)

UN Human Rights High Commissioner's
report for the Periodic Review of Israel
(2018):

...serious deterioration in integrity of law and justice agencies as a consequence of the implementation of e-government systems. It affirmed that the validity and integrity of any legal and judicial records of Israel should be deemed dubious at best."

The Courts

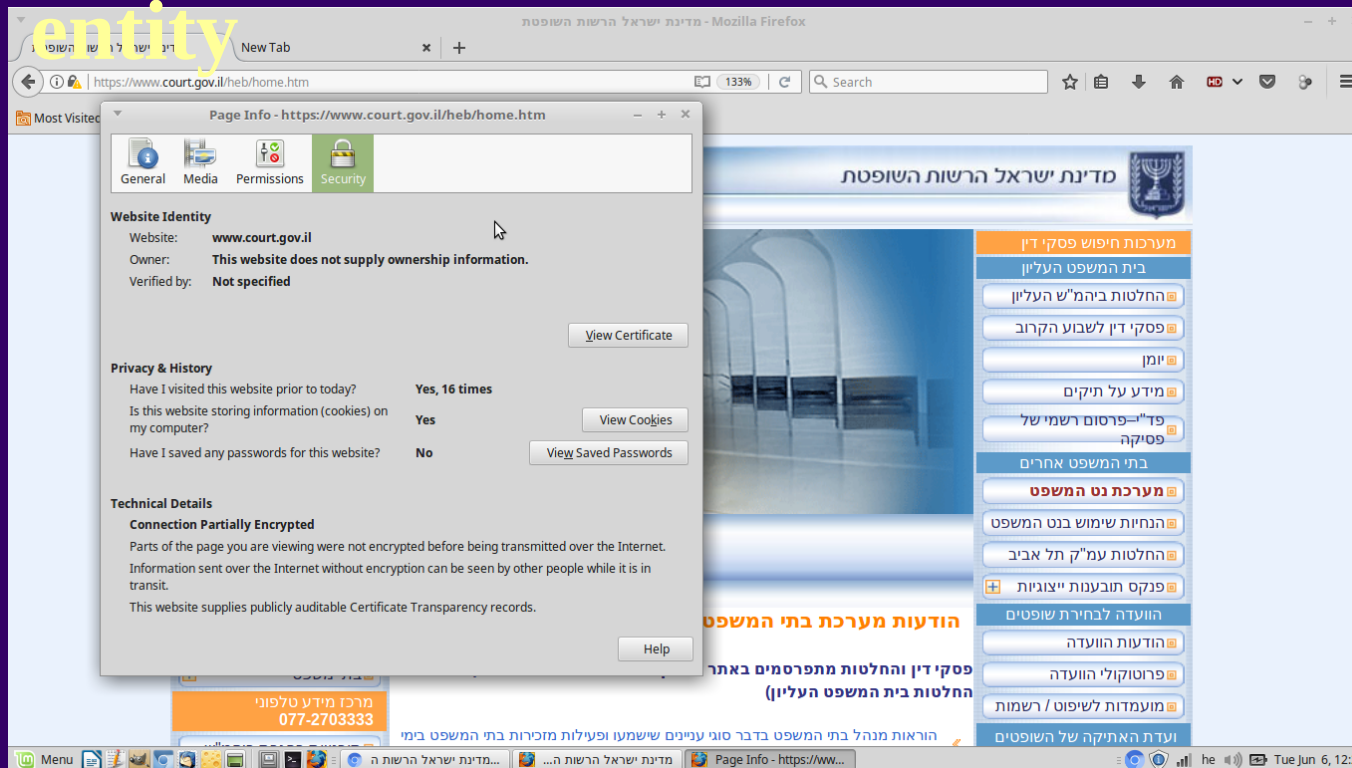
Servers are owned by an unlawful entity



- Court records are published online on the **Judicial Authority** web-site, while no such entity exists by law.

The Courts

Servers are owned by an unlawful

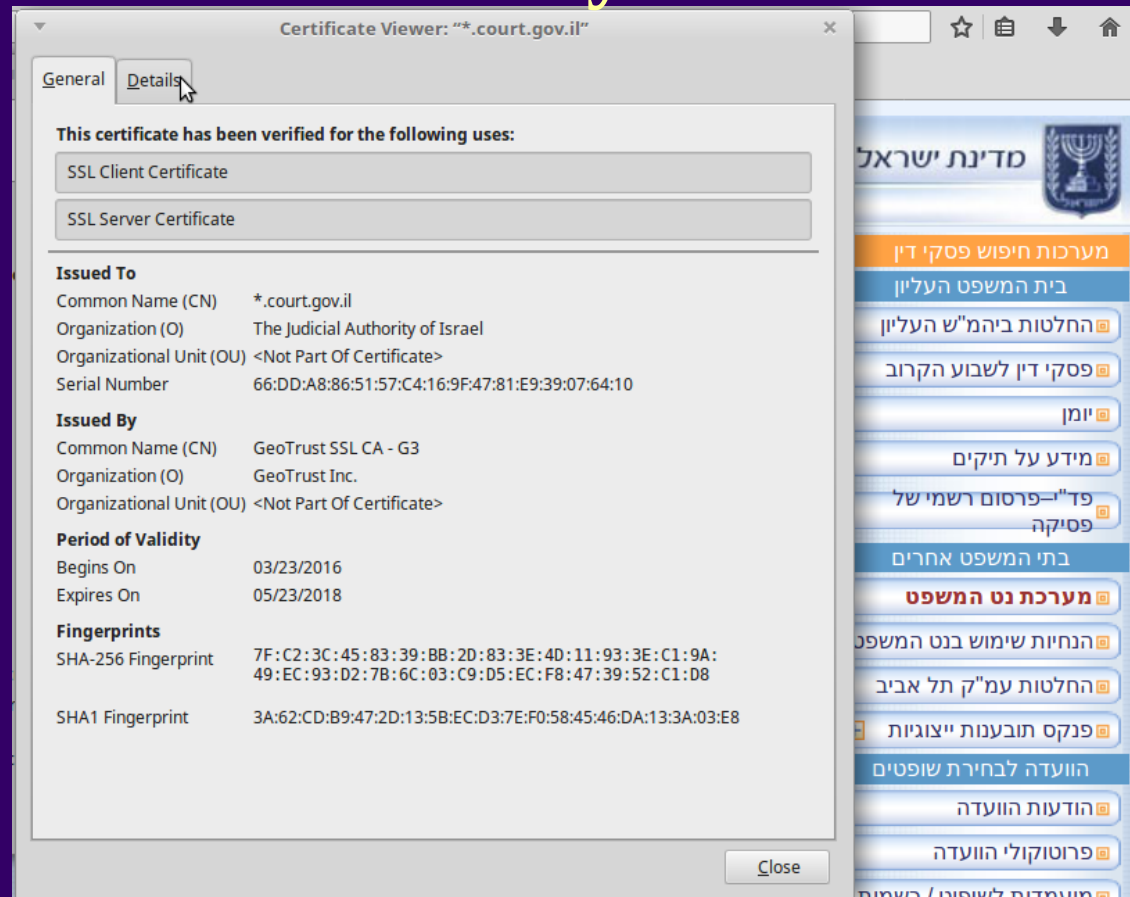


In Firefox:

- www.court.gov.il: This website does not provide ownership information.
- Verified by: Not specified.

The Courts

Servers are owned by an unlawful entity



Certificate issued to:

- Common name (CN) - ***.court.gov.il**
- Organization (O) - **The Judicial Authority of Israel**⁹

Net-HaMishpat case management system



Net-HaMishpat – **”Computerized, secure connection to the courts”**

- Net-HaMishpat is fully implemented in all District and Magistrate Courts since January 2010
- The system provides case management, e-filing, public access management
- The courts transitioned to e-files and e-records administration

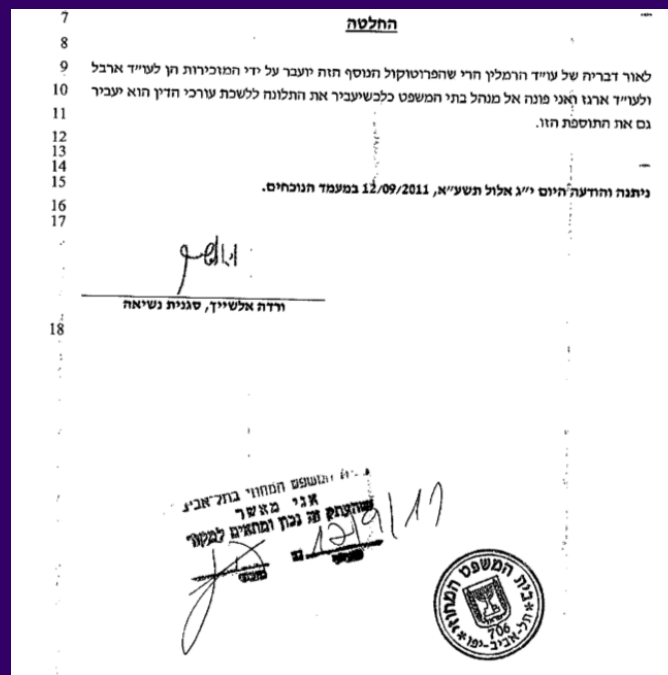
Net-HaMishpat case management system



The State Ombudsman's Report 60b (2010):

- Development contracts were unlawfully awarded to corporations with no legal tender
- Contracts were unlawfully signed with no written specifications
- Development lacked core management by a state employee
- System were received and implemented with no independent validation by a state employee
- Servers were removed from custody of the clerks to corporations
- Unknown number of individuals were issued double Smart-ID cards

Judge Varda Alshech's "Fabricated Protocols" scandal



Bank HaPoalim v State Receiver (1623/00) in the Tel-Aviv District Court: Retaliation against an attorney through falsification of court records. Two versions of the same judicial record were discovered.

Decision

In view of Attorney Hermlin's statements, instant Protocol shall be forwarded by the Office of the Clerk to both Attorney Arbel and Attorney Argaz, and I am asking the Director of Administration of Courts that when he forwards the complaint to the Israel Bar Association, he forward also instant additional Protocol.

Judge Alshech's "Fabricated Protocols" scandal



Ombudsman of the Judiciary Eliezer Goldberg investigation and decision (88/12/Tel-Aviv District):

- Both version A and version B of the "Fabricated Protocols" were merely unsigned "drafts"
- The visible signature is merely an invalid "graphic signature" - cut and paste by the court transcriptionist
- The certification "True Copy of the Original" and Seal of the Court were applied by an incompetent, unauthorized person – the Judge's secretary
- Only electronically signed judicial record, pursuant to the E-sign Act (2001) are valid and enforceable court records
- There is no way for the public and parties to distinguish between electronically signed and unsigned records ("detached e-signatures were implemented).

Joelle Ben-Simon - compulsory psychiatric hospitalization



Chenero v Chenero (4835-06-13) in the Jerusalem Magistrate Court.

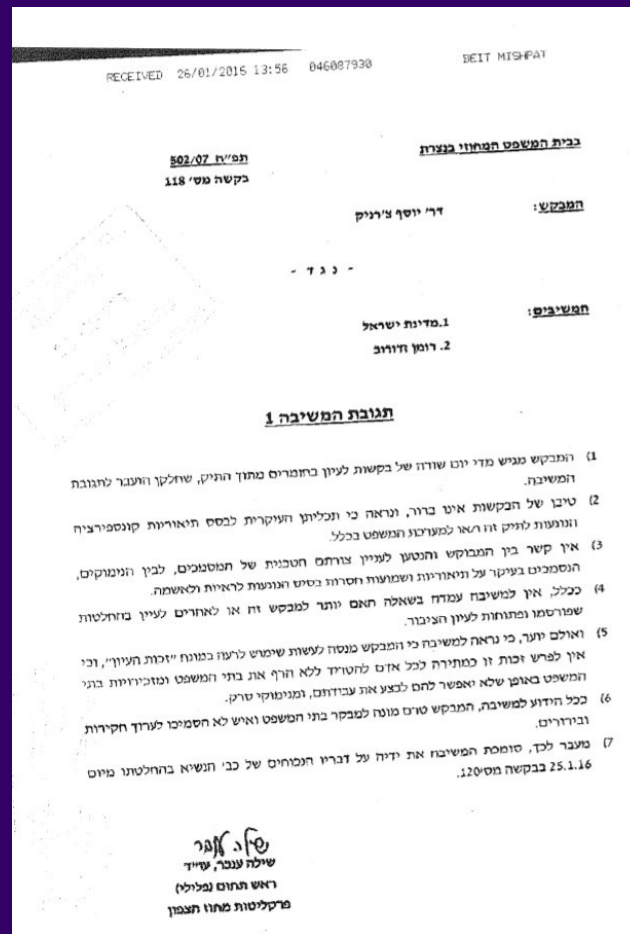
Judge Menahem HaCohen's July 26, 2016 Decision:

- Ben Simon conducted a sit-in protest following intention of the court to permit the father to take her son out of Israel.
- She was then subjected to compulsory psychiatric care through actions of senior Ministry of Justice officers.
- Judge HaCohen's decision is obvious fraud – watermarked “Draft”.
- The office of the clerk stated that all decisions in her case were “Drafts”.

Roman Zadorov – life imprisonment

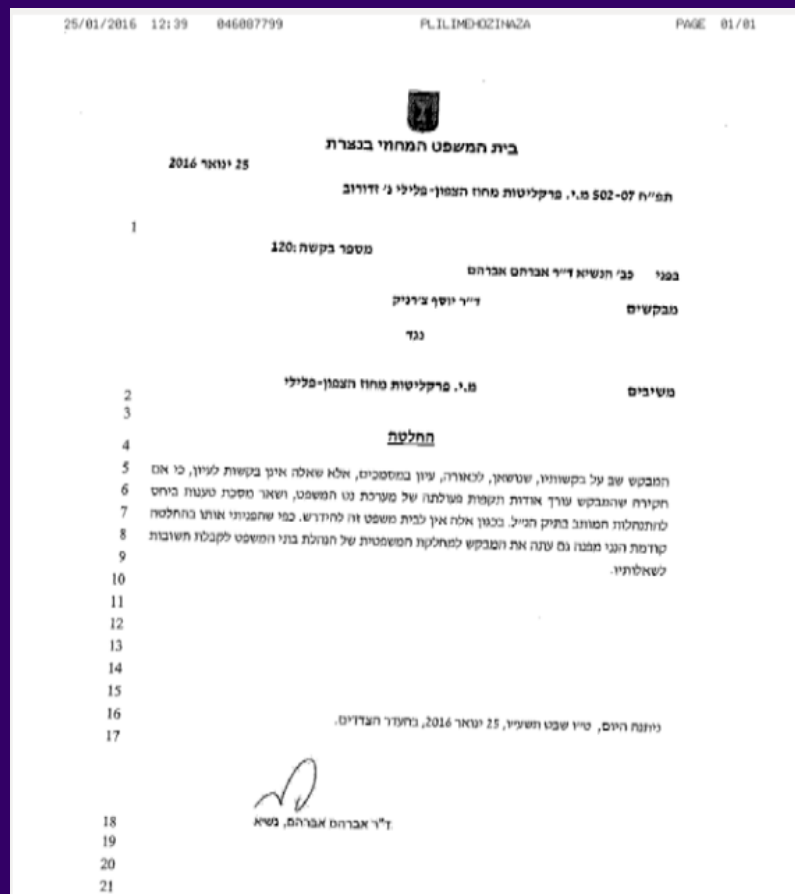


- Prof B Sangero wrote: **”Conviction with no real evidence.”**
- Prof M Kremnitzer wrote: **”Conduct of the State Prosecution in the Zadorov case is scary... Adding to that the Supreme Court’ stance and the Attorney General’s conduct in recent years, one is left with a justice system, which is primarily defending itself.”**



State of Israel v Roman Zadorov (502-07) in the Nazareth District Court – secretive response by senior State Prosecutor on a request to inspect lawfully made, electronically-signed Zadorov judgment records:

“Requester is abusing the right to inspect... harassing the courts... spreading conspiracy theories...”



State of Israel v Roman Zadorov (502-07) in the Nazareth District Court - Presiding Judge Avraham Avraham's January 25, 2016 Decision on request to inspect lawfully made judgment records and e-signatures:

“These are not requests to inspect, but an investigation, which the Requester is conducting, pertaining to validity of Net-HaMishpat system and various claims regarding conduct of the judicial panel in this case. In such matters this court shall not engage.”

Arbitrary, warrantless arrests – Roman Zadorov

Form 6 (Regulation 31)
In the _____ Court
In _____
Criminal Appeal _____
Criminal Trial _____
Plaintiff/Appellant _____
v
Defendant/Respondent _____

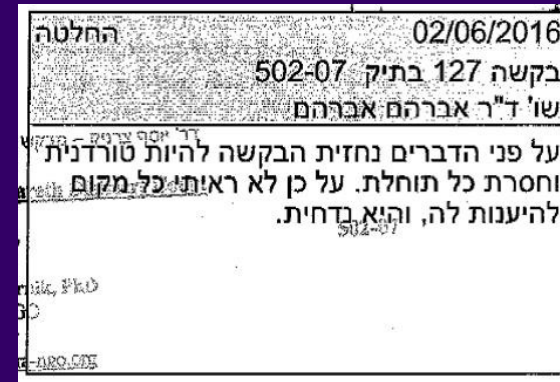
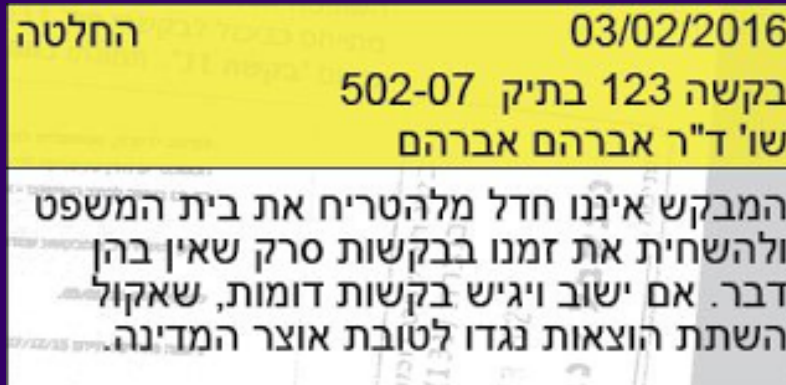
Arrest Decree
To: _____
You are herein ordered to arrest _____ (name)
Who was convicted on the charge of _____
And deliver him with instant Arrest Decree to the Warden in the prison, so that he be imprisoned for the period of _____, pursuant to the law.
(Notes)
Instant Arrest Decree serves as the authorization for any one who duly executes the above stated prison sentence.

(date) (Seal of the Court) Personal Stamp

Arrests Warrant form, as published in the Regulations.

- The *Regulations of Criminal Court Procedure* (1974) prescribe that following sentencing, the judge complete an arrest warrant form.
- The *Prisons Act* (1971) prescribes that a Prison Director must not admit a person to prison, unless he arrive with an arrest warrant, he is clearly identified as the person named in the warrant, and the warrant is lawfully signed by a judge.
- The form is today implemented in Net-HaMishpat, but judges fail to use it.
- there is no way for prison authorities to ascertain, whether such form is lawfully signed.

Arbitrary, warrantless arrest of Roman Zadorov



Presiding Judge Avraham Avraham's decisions on repeat requests to inspect lawfully made arrest warrant, pertaining to Roman Zadorov.

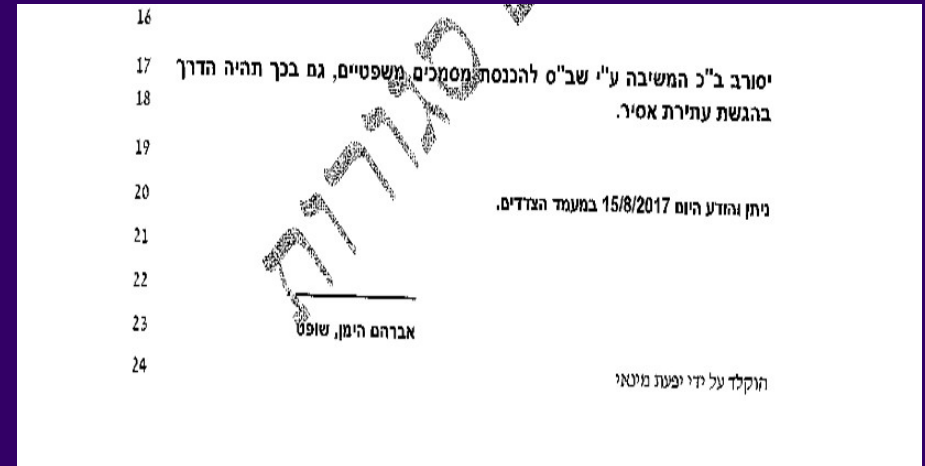
- 2016-02-03

“The Requester doesn’t stop bothering the Court and wasting its time with useless, worthless requests. If he files such requests again, I shall consider imposing on him expenses to the benefit of the State Treasury.”

- 2016-06-02

“On its face the request appears to be cantankerous and useless. Therefore, I find no room to grant it, and it is denied.”

Unprecedented detention of blogger Lori Shem-Tov



State of Israel v Lori Shem-Tov (14280-04-17) in the Tel-Aviv District Court: Judge Abraham Heiman's decision regarding pre-trial detention.

Media are generally silent, with a few notable exceptions:

“Lori Shem-Tov - State Enemy #1”

“More dangerous than Dumrani [crime family leader], more scary than Kastiel [serial rapist]”

Unprecedented detention of blogger Lori Shem-Tov



החלטה	18/09/2017
	תיק 14280-04-17
	ש' אברהם הימן
אין לי אלא לחזור על החלטתי מיום 10.9.17) Joseph Zernik, PhD PO Box 33407, Tel-Aviv, Israel Fax: 077-3179188 ככל שלמבקש טענות באשר לאוטנטיות של הפרוטוקול יפנה בהליך מתאים, אם קיים הליך שכזה, שאינו בקשה לעיון בתיק. Filed (תקנה 4(ג))	

State of Israel v Lori Shem-Tov (14280-04-17) in the Tel-Aviv District Court:
Judge Abraham Heiman's decision on request to inspect e-signatures:

“To the degree that the Requester has claims, pertaining to authenticity of the Protocol, he should employ the appropriate procedure, if such procedure exists, which is not a request to inspect.”

Dubious vindication of senior police officer on sex-related offenses



החלטה 09/05/2018
בקשה 73 בתיק 31283-10-13
שו' בני שגיא

אין זכות עיון ב"חתימה האלקטרונית של
השופט". הבקשה נדחת.

State of Israel v Niso Shaham (31283-10-13) in the Tel-Aviv Magistrate Court: Judge Beni Sagi's decision on request to inspect e-signature data on the judgment records:

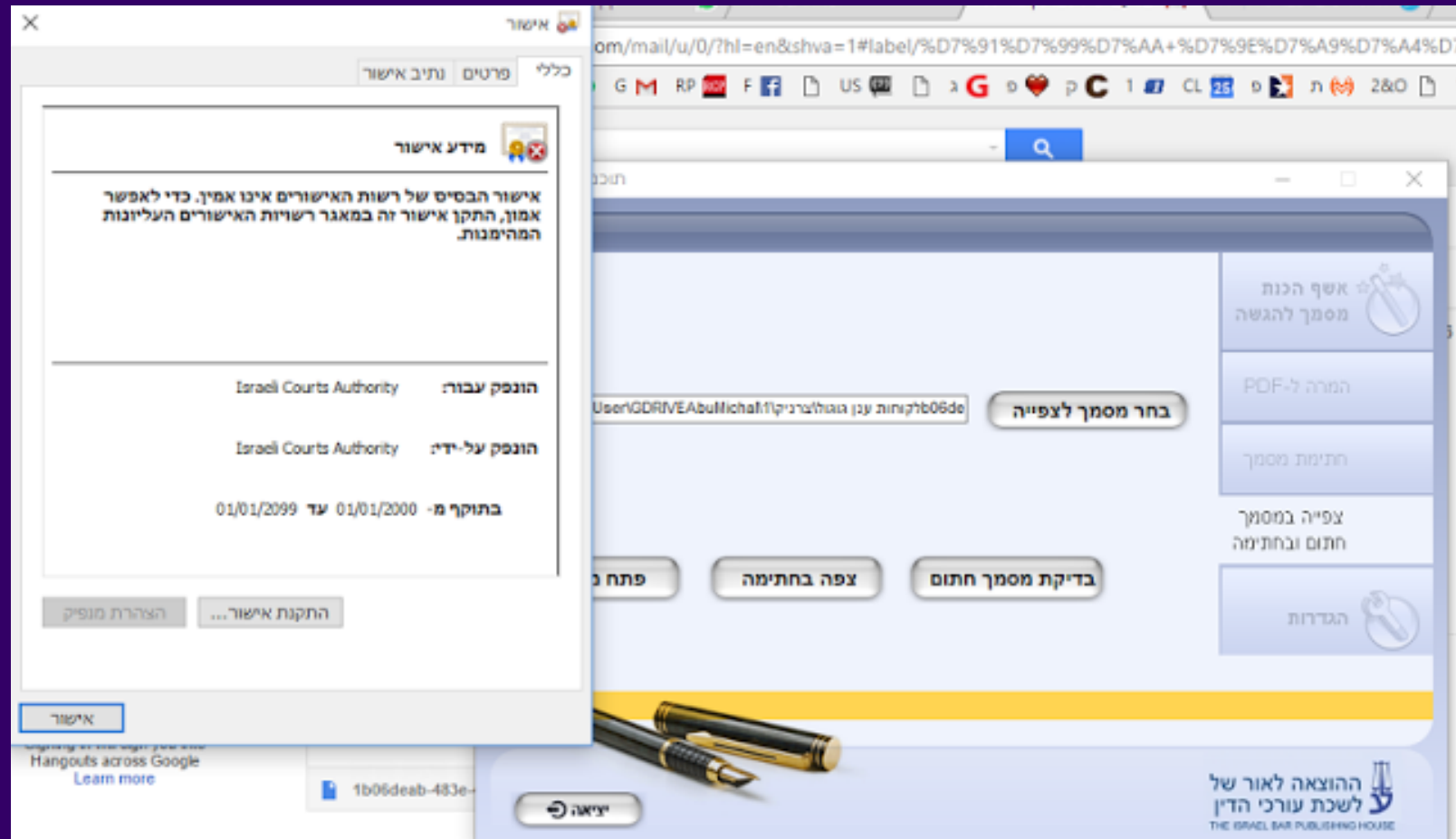
“There is no right to inspect “the Judge’s electronic signature”.²³

Is it reasonable and honest to hide from parties and the public the signatures on legal and judicial records?



- Declarations of Independence, signed, US and Israel – it is inconceivable that such records would hide the signatures.
- Judicial records, where the signatures are hidden – classic “shell-game fraud”.

No valid e-signatures were implemented in Net-HaMishpat!



Purported judge's electronic signature in Net-HaMishpat, as viewed, using dedicated software, which is provided by the Israel Bar Association only to subscribing attorneys.

No valid e-signatures in Net-HaMishpat

Judges' and Clerks' e-signatures in Net-HaMishpat are patently invalid:

- No signer's name and authority;
- No date;
- **Certification: The certifying authority is invalid... ;**
- **Issued by: Israel Courts Authority** - no such lawful entity exists, not a lawful certifying authority pursuant to the *E-sign Act*;
- **Issued to: Israel Courts Authority** - not to a person;
- **Certificate valid: from 2000-01-01 to 2099-01-01.**

The Supreme Court colludes in the deceit



In the Supreme Court

***Zernik v State of Israel* (7631/17) – filed as a criminal appeal in the Supreme Court:**

- Therefore, the fundamental question underlying instant Appeal pertains to the right of a person, who was delivered purported service of an electronic document, which appears as a court record in a criminal process, to inspect the electronic signature of the same document, in order to verify its authenticity as a valid judicial decision record. Otherwise stated: Is a court permitted, in a criminal process, to serve a person documents with the intention that the recipient accept their authority as valid court decisions and judgments, and at the same time hold the authenticity of the same records as valid court records a riddle?

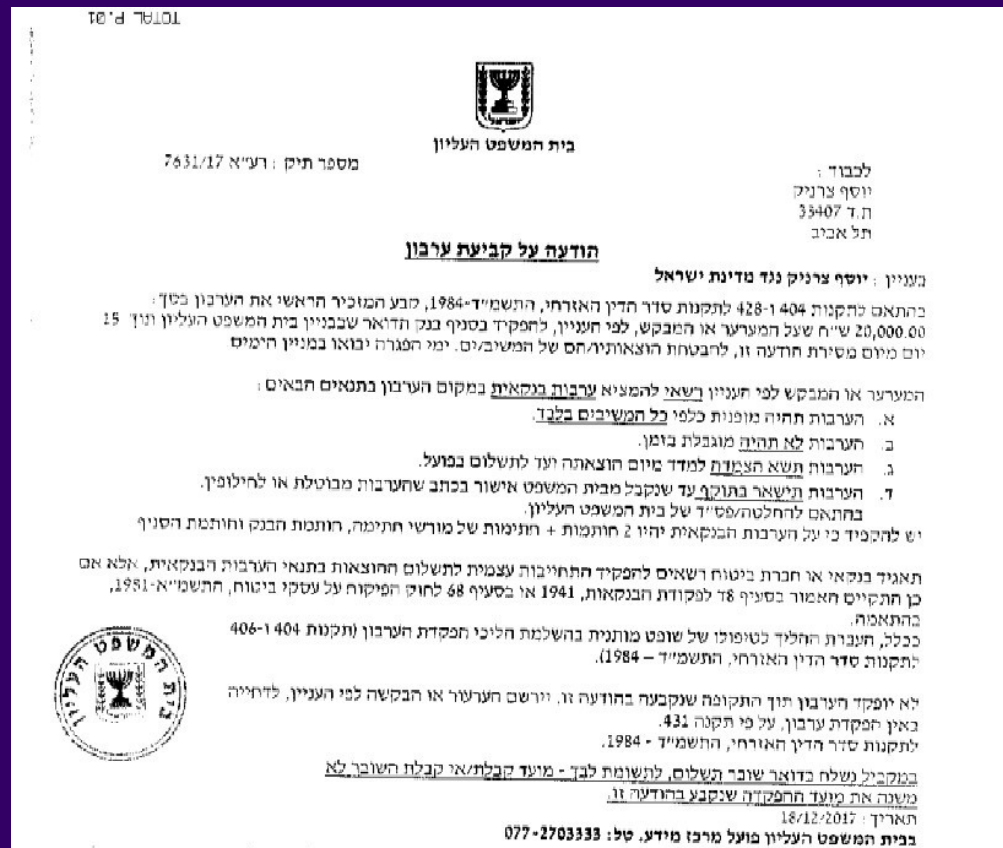
In the Supreme Court

The screenshot shows the website www.court.gov.il with the title "בית המשפט העליון". Navigation icons include "יציאה", "משוב", "בתי משפט", and "הזדהות". A menu on the right contains "עיון בתיקים", "מועדי דיונים", and "בית המשפט". Under "עיון בתיקים" are sub-items "לפי מספר תיק" and "לפי תאריך פתיחה". The main content area shows "נמצאו 1 רשומות מתאימות" and "עיון בתיקים « לפי מספר תיק". A table lists case details:

מספר תיק	שם תיק	א. מסירה	החלטות
7631/17	חסוי	<input type="checkbox"/>	<input type="checkbox"/>

Immediately upon filing, the Supreme Court imposed on the appeal “sealing” with no due process of law...

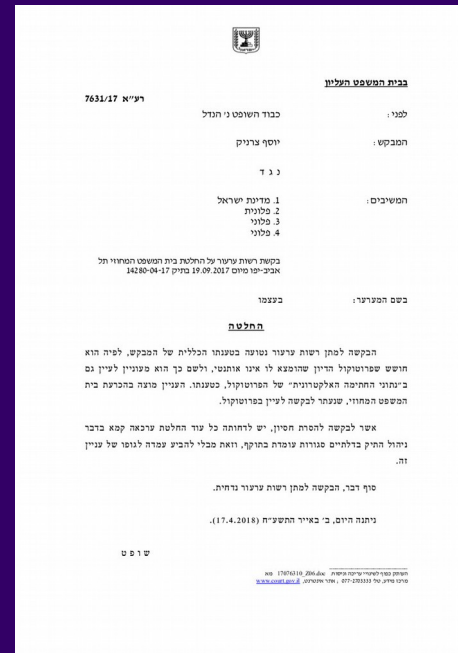
In the Supreme Court



Zernik v State of Israel (7631/17) in the Supreme Court:

- Precedential ruling - criminal appeal - by right - was ruled “of civil nature” and designated as such, requiring payment of NIS 495 in fees, and changing it into a “Request for Leave to File and Appeal”
- Fake notice was issued, demanding NIS 20,000 in deposit.

The Supreme Court and Imprisonment from unsigned, invalid court orders



Zernik v State of Israel (7631/17) in the Supreme Court:

Summarily denied by Justice Neil Hendel:

The request for leave to file an appeal originates in the Requester's general claim, that he is concerned that the Protocol, which was served on him was no authentic. Therefore, he is interested in inspecting the "electronic signature data" as well. The matter was exhausted in the District Court, which permitted inspection of the Protocol.

To sum: The request for leave to file an appeal is denied.

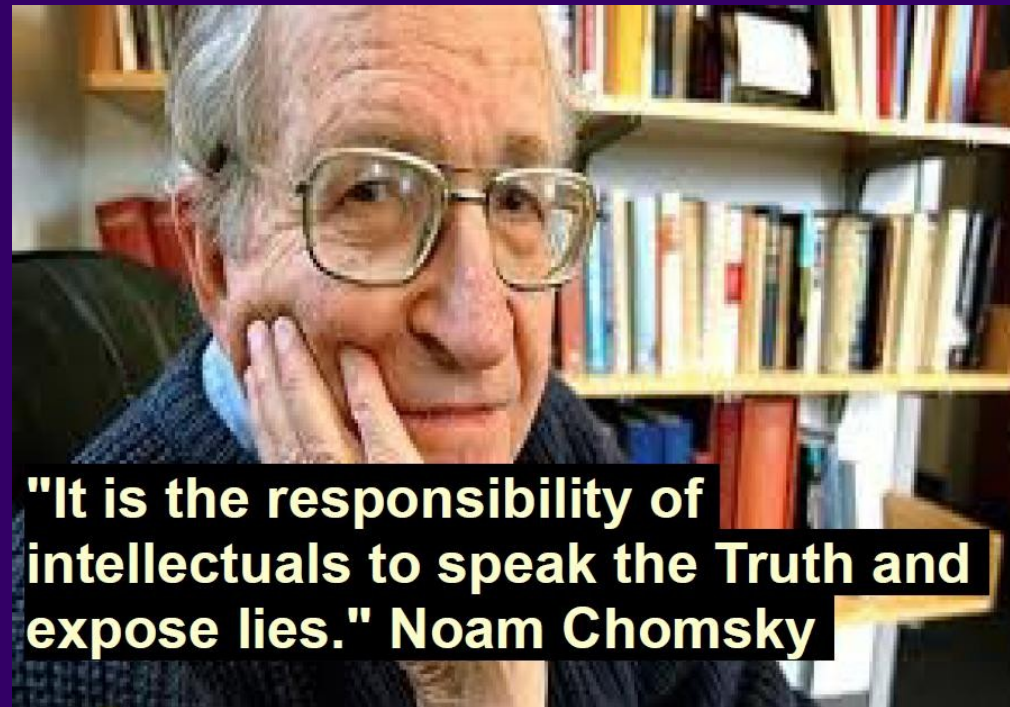
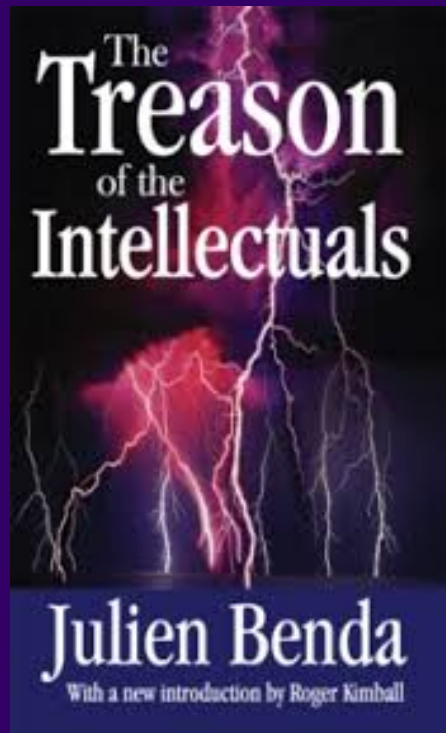
Conclusions

Top-to-bottom corruption of the courts in conjunction with transition to e-courts in 2010:

- All signs of authenticity and validity have been systematically removed from electronic court records
- Records are deemed by the judges themselves “**drafts**”
- Judges meticulously hide signature data, both on paper and electronic records - “Shell Game Fraud”
- In fact no valid e-signatures were implemented in Net-HaMishpat
- The Supreme Court colludes in the deceit
- The Israeli courts can no longer be deemed “**Courts of Record**”.

Constitutional crisis in a nation with no constitution

- Legal profession, including the bar association, law professors – **“a total jungle in the courts”**.
- Prison Service
- The legislative - Parliament – incompetent oversight
- Cyber community
- Shin-Bet (secret service)
- Cyber Authority

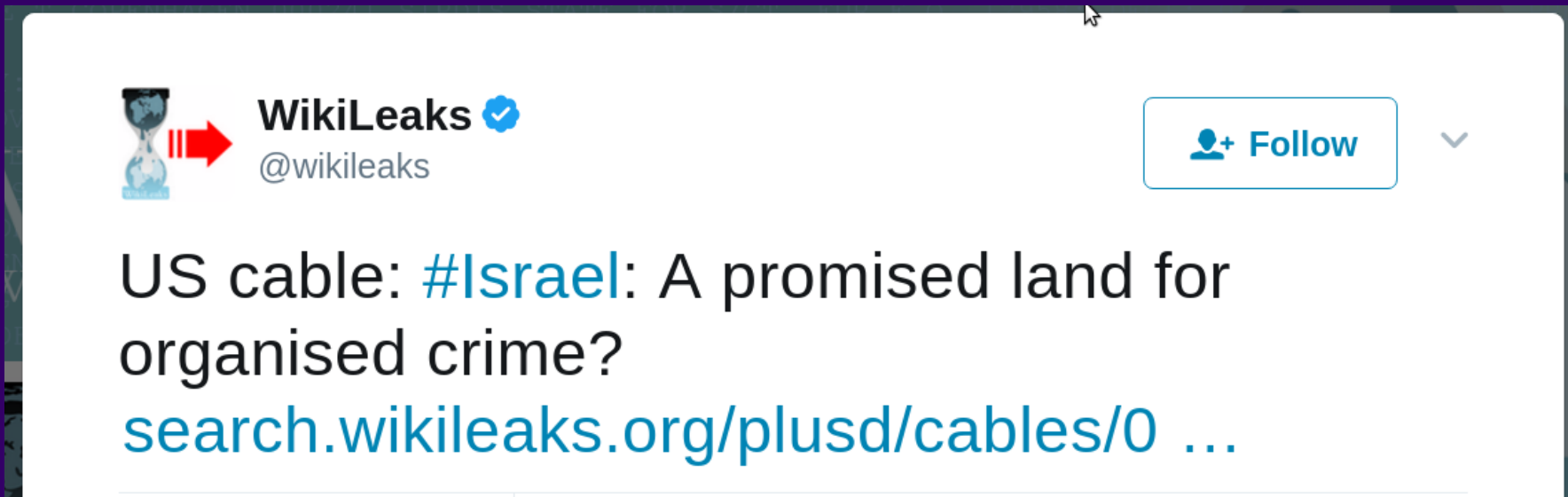


Conditions in the Israeli courts reflect widespread failure of civil society:

- Legal professional, including the judges, the bar association, law professors
- The legislative - Parliament – incompetent oversight
- Cyber community, Shin-Bet, Cyber Authority, Computer Science professors

Related socio-economic trends

Rampant government corruption



Wikileaks Cablegate: 2009 US Ambassador Cunningham's report on merger of organized crime and government in Israel.

Corrective Measures?

- **The State of Israel is not ready, willing, able to write a constitution**
- **May require a Truth and Reconciliation Commission on the judiciary**
- **Reestablish the legal duties of the Chief Clerks in the safeguard of integrity of court records**
- **IT systems of the courts should be as transparent as possible – pursuant to *Publicity of the Law***
- **No court should be permitted to develop and implement its own IT systems. Such systems should be developed under accountability to the legislature – pursuant to the *Separation of Powers***
- **IT experts should assume a central role in the safeguard of Civil Society and Human Rights in our era.**

Israel is not alone

Human Rights Alert-NGO reports to the UN Human Rights Council and other peer-reviewed publications show similar phenomena in the California and in the US federal courts. Similar phenomena are also suspected in the UK.

Joseph Zernik, PhD
Human Rights Alert (NGO)

Human
Rights
Alert



HUMAN RIGHTS ALERT
NGO (RA)