

# **Code of Ethics for Judges, 5767-2007**

Pursuant to my authority according to section 16a of The Courts Law [consolidated version], 5744-1984<sup>1</sup>, with the consent of the Justices of the Supreme Court and after consultation with the Minister of Justice, I hereby enact this Code of Ethics for Judges:

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## Preface

Since ancient times, judges – including the Judges of Israel throughout the ages – have enjoyed a unique status in the community. The fundamental assumption is that judges as a collective, and each and every judge, are independent in adjudicative proceedings and in their decisions, and that the judicial branch in general is an autonomous branch, decent and fair in its conduct, and has the ability and skills to interpret and apply the law properly. Naturally, the judge holds his appointment in trust, for the benefit of society at large. He acts as a trustee, who has nothing at all of his own, and all he does, he does as the public's agent. A precondition of the judge's ability to act as a judge is the community's confidence in the judicial branch, its recognition of the judicial branch's exclusive authority to adjudicate, and its acceptance of judicial rulings. This status of the judicial branch and of its members, the judges – a status of autonomy, independence, and benefit from the public confidence – requires, almost inherently, that judges uphold especially high ethical standards. It follows that it is necessary to create unique rules of conduct obliging the individual judge in his conduct and his ways – in the courtroom and without – in order to preserve the special status of the judge and the judicial branch as a whole. Thus it always has been. As Jethro advised Moses regarding the way to choose judges: "You should ... look for able men among all the people, men who fear God, men of truth, who are not avaricious . . ." (Exodus 19:21). Such was the tradition of the People of Israel in its land, and in all the lands of its exile. Indeed, a judge is a person – first and foremost a person – however, by agreeing to hoist the burden of a judge upon his shoulders, he has obliged himself with the duties and burdens of a member of the judicial branch.

In the past, rules for judicial conduct were as the oral law, and the law, morality, logic, common sense, tradition and life experience were what guided judges' conduct. As the days and years passed, individual and community life became increasingly complex, and even the judicial system grew, expanding and absorbing many members. A need thus arose to put the oral law into writing and create a written code of conduct for judges. Indeed, in many states codes for judges' conduct have been compiled. Thus was also the case in Israel, when in 5753-1993 President Meir Shamgar published *The Judicial Code of Ethics, 5753-1993*, prepared on the basis of the report by a committee including President (emeritus) Moshe Landau (chairman), District Court Vice President Judge Shulamit Wallenstein, and Magistrate Court Vice President Uzi Sivan. That code of ethics served us well for more than a decade, but the novelties of life have obliged us to update it and adapt it to the present time.

The committee which worked on the code that appears below was comprised of Supreme Court Justices Mishael Cheshin (chairman) and Dorit Beinisch, Haifa District Court President Micha Lindenstraus, Tel Aviv District Court Vice President Gabriel Kling, Jerusalem Magistrate Court Judge Moshe Sobel, Professor Aharon

Enker, Rami Hurwitz adv. and Avraham Rubin adv. (who was appointed to a judgeship in the Jerusalem Magistrate Court during the work of the committee).

The purpose of the Code of Ethics for Judges is to guide the conduct of the judges of Israel along their path, and to serve them as an aid, by which they can be assisted and from which they can learn. The code includes rules of various types: fundamental rules which stem from the judge's status, and express fundamental values, which are the basis for judicature; rules regarding the act of adjudication itself; rules regarding the personal conduct of judges; and specific norms dealing with practical issues that arise in daily life. Together, these norms constitute a wide codification in which judges – both young judges in need of guidance at the start of their path, and senior judges in need of solutions to specific issues – can, and should seek assistance. A judge who runs into a dilemma whether to do or refrain from doing can refer to the code and find solutions in it to many of the questions which judges confront and with which they struggle on a routine basis. Thus, for example, in extrajudicial activity, in public activity, in contact with the media, and more.

Last, the Code of Ethics for Judges does not take on a life of its own, and is not detached from its surroundings. The law, morality, logic, common sense, tradition and life experience, which have guided judges in the past, will continue to guide us in the future as well. Thus, for example, a judge should take the decisions of the Ombudsman of the Israeli Judiciary, pursuant to the Ombudsman of the Israeli Judiciary Law, 5762-2002<sup>2</sup>, into account in fulfilling his role. Furthermore, the rules in the code will be interpreted not solely by their language, but by the spirit moving within them. Further yet, operating beside the written rules, and in their framework, is the Judicial Ethics Committee; and without derogating from the authority of the President of the Supreme Court on ethical and other issues, the Committee's role is to discuss, recommend and decide on issues of judicial ethics. A judge who runs into an ethical problem which is not clearly answered in the code should turn to the committee, or the President of the Supreme Court, and request an answer and guidance.

## **Part One: Basic Provisions**

**Interpretation** 1. For the purposes of this code –

"administrative tribunal" – an instance established by a minister of the government or another administrative agency, that has adjudicative authority, whether it is called a tribunal, an appeals committee, or by any other name;

"family member" – spouse, child, parent, sibling, grandparent, parent-in-law, or dependent of the judge, as well as, in the relevant circumstances, the spouse or child of any of the above;

"officer" – director, chief executive officer, chief business

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<sup>2</sup> *Sefer HaChukim* , 590.

officer, deputy chief executive officer, vice chief executive officer, anyone fulfilling such a role in a company even if his title is different, and any other manager directly subordinate to the chief executive officer;

"The President of the Supreme Court" – including a person whom the President of the Supreme Court has authorized for the same purpose;

"central witness" - a witness whose credibility must be assessed in order to decide the case;

"judge" – a Supreme Court justice, a district court judge, a magistrate court judge, a labor court judge, a traffic court judge, a fellow judge, and a registrar of the courts in which said judges serve;

"judge emeritus" - a judge whose term has ended.

**The source and purpose of the code**

2. (a) The Code of Ethics for Judges reflects and expresses fundamental values and morals which constitute the basis of the act of judicature and the behavior and conduct of a judge. The rules of the code are a crystallization of essential guiding principles which draw from ancient tradition and adapt themselves to our times and place. A judge shall direct his ways according to the law and in accordance with these rules, and shall at all times place before his eyes the need to maintain the confidence of the public in the judicial branch.
- (b) A judge shall be seen as having breached a rule of the Code of Ethics for Judges in a way allowing submittal of a complaint to the Disciplinary Tribunal for Judges if his conduct in violation of the code reaches the extent of improper conduct on the part of a judge in fulfilling his role or conduct which does not befit the status of a judge in Israel.

**The power of judicature, the rule of law, and fairness**

3. (a) The power of judicature is granted to a judge out of confidence in his honesty, his professional and personal qualifications and his ability to fulfill his duties while honoring the principles of judicial ethics.
- (b) In making judicial decisions, the judge realizes the rule of law while protecting human rights. It is the duty of a judge to act honestly and fairly, to work for equality of all

under the law, and do so while ensuring that his conduct maintains and even increases public confidence in the legal system in general, and in the adjudicative act specifically.

**Loyalty to the State of Israel and its laws** 4. A judge shall be loyal to the State of Israel and its laws, shall decide justly, shall not distort justice, and shall be impartial.

**Independence** 5. (a) In adjudication, there is no authority over the judge except the authority of law.

(b) In fulfilling his role, the judge is dependent upon no one. The judge must guard the independence of the judicial system, and make sure to maintain it in all his conduct, in adjudication and in every other field in which he acts.

(c) The judge shall fear no one, and shall not be influenced in fulfilling his role by public opinion, concern about criticism, or desire to please.

**Impartiality** 6. A judge shall treat the parties equally, shall neither be partial to the poor nor defer to the great, shall not be gracious to one party and ungracious to another, and shall judge with an open mind, with no prejudice or partiality.

**The conduct of a judge** 7. (a) The following shall characterize a judge in his traits and conduct: honesty, ethics, and dedication to the job. A judge shall refrain from acts which do not befit the status of a judge or which are liable to harm the image of the judicial system.

(b) The judge shall serve as an example of honoring the law in all he does.

## **Part Two: The Status and Application of the Code**

**The status of the code**

8. (a) This code outlines essential principles of behavior and conduct of judges, from which specific rules of ethics shall be derived in each particular case.
- (b) This code does not derogate from any provisions of law. In all matters not expressly discussed in this code, the judge shall act in the spirit and trend of the code, and in accordance with general ethical norms.

**Application**

9. (a) This code applies to –
- (1) a judge, from the time he takes the oath of office, until three months after the termination of his term;
  - (2) a registrar, from the time of his appointment until the end of his term;
  - (3) a fellow judge;
  - (4) a judge emeritus serving in an administrative tribunal or in a public committee according to law, to the extent that it is relevant to the performance of his role; his consent to serve shall be considered to be consent to said application of this code to him.
- (b) The code applies to a judge even when he is on vacation or sabbatical.
- (c) A person selected to be a judge by the Judicial Selection Committee who has not yet taken the oath of office, shall not represent a client before a judicial instance without the consent of the President of the Supreme Court.

**Judges emeritus**

10. This code does not obligate judges emeritus. It must be remembered, however, that the proximate and distant surroundings of the judge have become accustomed to treating him as a judge, and that such treatment continues even after his term. It is thus appropriate for a judge emeritus to place the spirit and trend of this code before his eyes, and to direct his behavior and conduct according to it.

## Part Three: Judicature

### **Honoring the dignity of others**

11. (a) In presiding over a courtroom, a judge shall treat those present in the proceedings before him – parties, their attorneys, witnesses and others present in court – in a dignified manner, patiently, moderately, tolerantly and graciously, and shall instill in the courtroom a relaxed atmosphere.
- (b) The judge shall cause others as well to honor the dignity of those present at trial.
- (c) During trial and in his written decisions, the judge shall refrain from hurtful or insulting comments against any person.
- (d) The judge shall treat his fellow judges with respect and collegiality.
- (e) In expressing an opinion about a person who was not party to the proceedings, the judge shall consider the question whether that person was given an opportunity to properly present his position before the court.

### **Conducting trial**

12. (a) A judge should conduct the proceedings before him professionally, concentrating on the issue at hand, while ensuring that he treats the parties and attorneys appearing before him equally and refrains from any statement or act that harms his appearance as objective and professional.
- (b) A judge must maintain his appearance as neutral during the proceedings, and refrain from creating a basis for real concern of partiality by his actions or words.
- (c) Without derogating from his duty to treat the parties equally, the judge shall do his best to explain to a party who is not represented by a lawyer the essence of the proceedings and the way they are conducted, to the extent possible in the particular circumstances and within the boundaries of the law and the judicial role.
- (d) In conducting trial, the judge shall do his best not to waste the time of those involved in the trial - the parties, their attorneys, witnesses, and others - and thus shall act to advance the proceedings and prevent delay of justice.

- (e) Without derogating from the generality of subsection (d), or fulfillment of it, a judge shall do his best to prevent waiting on the part of those summoned to the hearing and to prevent summoning a witness to return for additional hearings.

**Settlement,  
mediation  
and  
arbitration**

- 13. (a) A judge who offers a settlement, or referral to mediation or arbitration proceedings, shall not force the parties to consent, and shall ensure that the parties know that refusal of the offer shall not affect the proceedings before him.
- (b) A judge shall assist parties negotiating a settlement, on the condition that in doing so he maintains the dignity of the court.

**Recusal in  
advance**

- 14. (a) Subject to law and this code, a judge shall hear every case assigned to him.
- (b) When a judge finds that there is an appropriate reason that a case not be heard before him, he shall inform the president of the court in which he serves, or a judge who has been authorized for that purpose by the president of that court.
- (c) If the president of said court or judge who has been so authorized decides that the judge shall hear the case, the judge shall not recuse himself unless he must do so pursuant to law.

**Recusal**

- 15. (a) No judge shall adjudicate a case if he has found, of his own initiative or at the request of a party, that circumstances exist which can create real concern of partiality in the conducting of the trial.
- (b) Without derogating from the provisions of subsection (a), no judge shall adjudicate a case if he knows that any of the following circumstances exist:
  - (1) a party to the proceedings, his attorney, or a central witness, is a family member of the judge, or is otherwise substantially proximate to him;
  - (2) the judge has a substantial financial or personal

- interest in the proceedings or their results, in a party to the proceedings, a party's attorney, or a central witness, or a family member of the judge has a substantial financial or personal interest in the proceedings or their results, in a party to the proceedings, or in a party's attorney;
- (3) before being appointed as a judge, the judge was involved in the same matter being heard in the proceedings before him, as an attorney, an arbitrator, a mediator, a witness, a professional consultant, an expert, or in another similar way;
  - (4) a party or a central witness was a client of the judge before his appointment to the judiciary, and at least five years have not passed since his handling of the matter of that party or witness;
  - (5) an attorney representing a party was in a partnership with the judge, and at least five years have not passed since they were partners;
  - (6) an attorney representing a party is handling a matter of the judge's or of a member of the judge's family;
  - (7) a member of the judge's family is an attorney, whether partner or associate, in a law firm representing a party.
- (c) Notwithstanding subsections (a) and (b), a judge may hear the case, if due to the urgency of the case the proceedings cannot be held before another judge, and severe damage or distortion of justice are liable to be caused if he does not hear it.
  - (d) Notwithstanding subsection (b)(2), a judge may hear the case if transferring it to any other judge would not affect the cause for recusal.
  - (e) If there is cause for recusal pursuant to subsection (b)(1) or (b)(2), regarding an attorney or representative of a party in circumstances requiring a representation permit pursuant to section 53b of the Israel Bar Law, 5721-1961<sup>3</sup>, the court may permit the representation, at the request of the attorney or representative, if it finds that the damage that will be caused to a party to the proceedings if it does not permit the representation will be greater than the damage that will be caused to a party

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<sup>3</sup> *Sefer HaChukim*, 178.

to the proceedings or to the public interest due to the stopping of the proceedings or the replacement of the judge; if the court has permitted the representation as aforementioned, the judge regarding which the cause for recusal exists shall not hear the case.

- (f) The aforementioned in subsection (b) shall also apply to a family member who is not a "family member" as defined in this code, if the judge is of the opinion that his relationship with that family member prevents him from hearing the case.
- (g) This section does not derogate from the discretion of the President of the Supreme Court hearing an appeal pursuant to section 77a of the Courts Law [consolidated version], 5744-1984.

#### **Part Four: The Judge and Society**

##### **Social relationships**

16. Having been appointed as a judge, a judge has no duty to break off his social ties, including ties with attorneys. However, a judge should be cautious in his social contacts, and consider how people might interpret his company with a certain person or group of people.

##### **Political activity**

17. (a) A judge shall not be involved in political activity or in the activity of a political party, and shall not be a member of a political party or of any other political body.
- (b) Without derogating from the generality of the prohibition in subsection (a), a judge shall take no part in events held by a political party or other political body, or in any other framework with a political or party identity.

##### **Public expression of opinion**

18. A judge shall refrain from publicly expressing an opinion on a matter which is not essentially legal and which is the subject of public debate.

##### **Fundraising**

19. A judge shall not be involved in fundraising activity.

## **Part Five: Abuse of Judicial Status**

- Abuse of status** 20. (a) A judge shall not use his status as a judge to attain benefit, whether material or otherwise, directly or indirectly.
- (b) Without derogating from the generality of subsection (a) –
- (1) A judge shall not use his status as a judge in order to advance an interest of his or of any other person;
- (2) A judge shall not mention that he is a judge, and shall not use a document bearing his title as a judge, in circumstances in which the use of the title is liable to appear to be an improper attempt to attain preferential status.
- (c) A judge may note on private stationery and on business cards that he is a judge, and the court in which he serves.
- (d) A judge may note that he is a judge in a book or article that he publishes.
- (e) A judge may make a recommendation about the skills of a person with whom he is personally familiar.
- Gifts, discounts and invitations** 21. (a) The Public Service Law (Gifts), 5740-1979 applies to a judge's receipt of gifts.
- (b) Without derogating from the generality of subsection (a) –
- (1) A judge shall not receive a discount in the purchase of a product or service, unless the discount is granted according to a general arrangement which has been approved by the Director of Courts, or is a discount granted to the judge due to his being among those entitled to receive it, unrelated to the fact that he is a judge.
- (2) A judge shall not accept invitations to participate free of charge in events for which payment is charged for participation, or to enter free of charge into places at which payment is charged for entrance, excepting cases in which the inviter is a

family member or personal friend, or in cases in which the judge is invited as an escort to the invitee, and without connection to his status as a judge.

- (c) A judge may receive a book on a subject of law from its author.

## **Part Six: Extrajudicial Activities**

### **Chapter A: Principles**

**Exclusivity of office** 22. A judge shall not work or deal in an additional capacity, serve in a public office, or accept an offer to do so, except pursuant to law or with the consent of the President of the Supreme Court and of the Minister of Justice (*see* section 11 of Basic Law: Judicature<sup>4</sup>).

**Restrictions upon additional activity** 23. (a) A judge's highest duty is toward his role as a judge, and he must dedicate the best of his efforts and intellect to it. A judge shall grant his role as a judge prevalence over any other activity.

(b) A judge shall refrain from activity which does not befit his status as a judge or is liable to lead to a conflict of interest with his role as a judge.

(c) A judge shall not take on, or occupy himself with, extrajudicial activity – even if it is permitted due to its character or permission granted him – if that activity is liable to detract from his ability to properly fulfill his role as a judge, as a result of the amount of time the activity takes, the time at which it takes place, or any other reason.

### **Chapter B: Public Activity**

**Activity in public bodies** 24. (a) A judge may be a member of administrative bodies of educational institutions, such as the trustees of an educational institution, or in bodies of institutions with public objectives, subject to permission pursuant to

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<sup>4</sup> *Sefer haChukim* 5744, at p. 78.

section 11 of Basic Law: Judicature.

- (b) In his activity as aforesaid in subsection (a), a judge shall refrain from any act which can constitute abuse of his status as a judge, or which is liable to harm his status as a judge. Thus, for example, a judge shall not participate in the business or financial management of a public institution in which he is active, nor shall he receive any benefit from such institution.
- (c) A judge shall not contact government agencies or private bodies in the name of a public body in which he is active.
- (d) A judge shall not be active in a public body whose public activity includes the initiation of law suits, even if they will not be heard in the court in which he serves.

**Awards and scholarship committees**

25. A judge may be a member in a committee that grants awards or scholarships, on the condition that such membership befits his status as a judge.

**Representing Israel outside of Israel**

26. A judge may participate, once in a while, in public relations efforts outside of Israel, on the part of the State, or an official or public body working for the benefit of society at large, on the condition that he has received the permission of the President of the Supreme Court to do so.

**Adjudication outside of a court**

27. (a) A judge shall not act in a judicial or quasi-judicial capacity outside of a court, unless pursuant to a provision of law or a permit pursuant to section 11 of Basic Law: Judicature.

Acting "in a judicial or quasi-judicial capacity" for the purposes of this rule includes membership in a tribunal of a membership organization or public organization, and judging in sporting events and organized or institutionalized games.

- (b) A judge shall not act as an arbitrator, except as determined by law.
- (c) A judge shall not be active in a public body dealing with the provision of arbitration or mediation services.

- (d) A judge who, previous to his appointment, held a judicial or quasi-judicial position which a judge is prohibited to hold, shall not continue to hold it from the time he takes the oath of office.

### **Chapter C: Lectures and Publications**

**Teaching in educational and pedagogical institutions** 28. Teaching in educational or pedagogical institutions requires a permit pursuant to section 11 of Basic Law: Judicature.

**Lectures** 29. A judge may lecture, once in a while, in the framework a non-commercial organization, without a permit pursuant to section 11 of Basic Law: Judicature. In doing so the judge shall act with the proper level of caution that his status requires, while maintaining a balanced approach and refraining from a polemic tone or expression of an opinion on a matter which is not mainly legal and is the subject of public debate.

**Publication of books and articles** 30. A judge may publish books he wrote, and articles in professional periodicals.

**Mock trials** 31. A judge may be a member of a panel in a mock trial conducted in an educational institution, or in another institution which has been approved by the President of the Supreme Court.

### **Chapter D: Miscellaneous**

**Testimony** 32. A judge shall not testify in legal proceedings unless summoned by a court, or with the approval of the President of the Supreme Court; this rule shall not apply to legal proceedings to which the judge or a member of his family is party.

**Appearance before public agencies** 33. A judge may appear before a committee of the Knesset or before other public agencies if he has received permission from the President of the Supreme Court.

**Answering questionnaires for research purposes** 34. (a) A judge may, with the approval of the President of the Supreme Court, respond orally or in writing to questions or questionnaires directed to him for the purposes of research regarding subjects related to his judicial work.

(b) When considering a request for approval as aforementioned in subsection (a), if the research is being conducted by a recognized academic institution or researcher representing it, that fact shall be taken into account.

### **Part Seven: Financial Issues**

**Conducting business** 35. A judge shall not actively conduct business, whether directly or indirectly, and shall not serve as an officer in a commercial corporation or other business.

**Management of the assets of a judge and his family** 36. (a) A judge may manage his own assets and the assets of his family, and take an active role in investing them, on the condition that it does not constitute active conduct of business. The judge shall refrain from such activity if it is liable to cause harm to his status as a judge or create a conflict of interest with his role as a judge.

(b) A judge shall not take advantage of his status as a judge for the purposes of his or his family members' business dealings.

**Severance of business and financial ties at the time of judicial appointment** 37. (a) The appointment of a judge results in the severance of his business and financial ties, pursuant to rules of judicial ethics which the President of the Supreme Court will enact on the matter. Until such rules of judicial ethics are enacted, the provisions of the Judicial Code of Ethics (Income after Appointment), 5755-1995, a copy of which shall be given to every person chosen to serve as a judge, shall apply.

- (b) If, at the time of his appointment as a judge, third parties owe the judge money as a result of his business and financial ties as mentioned in subsection (a), the judge shall collect that money via one of his former partners in a law firm, or via another attorney.

**Receiving benefits for additional activity**

- 38. (a) A judge may receive payment for other activity which is permitted by law or by these rules, on the condition that the payment is in accordance with what the payer tends to pay. This rule shall apply also to receiving payment for representing Israel outside of Israel.
- (b) A judge who has been invited to lecture may accept the provision of accommodations by the inviting body, and may also receive reimbursement for his travel expenses.
- (c) In order to prevent doubt, it is hereby clarified that this rule also applies to a judge when he is on sabbatical.

**Part Eight: The Judge and the Media**

**Contact between a judge and the media**

- 39. (a) A judge speaks through judgments and decisions. A judge usually is not interviewed, nor does he relay information to the media.
- (b) A judge shall not relay judgments and decisions to the media, except via the Office of the Spokesperson of the Courts.
- (c) A judge shall refrain from appearing in or being interviewed by the media. A judge shall make an appearance or participate in an interview in the media – including in newspapers, radio, television, internet, press conferences and any other way – only if the President of the Supreme Court has permitted it in advance.
- (d) This rule does not apply to legal periodicals which are published by academic institutions or by the Israel Bar, provided that the judge has received the permission of the President of the Supreme Court in advance.

**Responses to the media**

- 40. (a) A judge's response to reports about him or about judgments or decisions he has made shall be made via the

Office of the Spokesperson of the Courts.

- (b) A judge who has been contacted by a journalist for a response shall refer the journalist to the Office of the Spokesperson of the Courts.
- (c) If a judge's response to information in circumstances in which a lack of immediate response is liable to cause irreparable damage, and the judge has an unequivocal response which can put an end to the issue, a judge may give such response.
- (d) If a judge gave a response in the circumstances described in subsection (c), he shall immediately inform the Office of the Spokesperson of the Court, and the further handling of the media shall be via said Office.
- (e) This section does not prevent the judges' representative body from maintaining contacts with the media regarding issues it handles.

### **Part Nine: The Ethics Committee**

#### **The Ethics Committee**

- 41. (a) The President of the Supreme Court, after consultation with the Minister of Justice, shall appoint an ethics committee consisting of three members: a Justice of the Supreme Court who shall be chairperson, and two judges of other courts.
- (b) The Ethics Committee shall grant pre-rulings on issues of ethics for judges, when requested to do so by a judge or registrar to whom this code applies, on an issue regarding him.
- (c) A member of the Ethics Committee shall be appointed for one period of six years.
- (d) The Ethics Committee shall publish pre-rulings it has made, without naming the person upon which the opinion was given or any other identifying details, unless it decides otherwise.
- (e) The Ethics Committee shall determine its procedures.

- 42. **Previous code** This code replaces the Judicial Code of Ethics, 5753-1993.

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Dorit Beinisch  
President of the Supreme Court

13 Sivan 5767-2007  
(30 May 2007)