

Mazuz and Arab Citizens of Israel

By Haneen Naamnih¹

Numerous public figures have praised the outgoing Attorney General, Menachem Mazuz, asserting that during his term in office he strengthened the principle of the rule of law. Mazuz himself has described the period as a “golden era” in relations between the Israeli police and the state prosecution system. Retired Supreme Court Justice Mishael Cheshin praised Mazuz for demonstrating that no person was above the law in Israel. However, these words of acclaim, as well as the criticism of the Attorney General and his decisions, have by and large disregarded Mazuz’s stance toward Arab citizens of Israel.

This month the Knesset passed a law that grants blanket clemency to all of those accused of staging illegal protests against the Israeli disengagement from Gaza in 2005, against the backdrop of Mazuz’s continued support for this policy.² During the course of “Operation Cast Lead” in December 2008 and January 2009, many Arab citizens of Israel demonstrated against the attack. However, while their protests did not entail a breach of the “public order,” in stark contrast to the violence employed by Jewish demonstrators protesting against the disengagement from Gaza, the state prosecution, with Mazuz’s backing, arrested and systematically indicted dozens of demonstrators, around half of whom were minors. Most of the accused were detained until the end of the proceedings against them.³

One of Mazuz’s most egregious failures as Attorney General was his decision to close the investigation files against all police commanders and officers suspected of being implicated in the killing of thirteen young Arab men during the protest demonstrations in October 2000. In his decision, issued on 27 January 2008, Mazuz wrote, “Indeed, the result in which thirteen people were killed in these events is a harsh and disturbing one. However, there is one criminal law and it has stringent rules with regard to criminal responsibility and indictment.”⁴ However, Mazuz’s actions demonstrate that in Israel there is in fact not a single, uniform system of criminal law, but rather two tracks: one for Jewish citizens and another for Arab citizens. In protest against Mazuz’s decision, a mass march was held in February 2008 in the Arab town of Sakhnin. It was the largest demonstration held by Arab citizens of Israel since the first Land Day march of 1976. Tens of thousands of Arab citizens from throughout the country protested the closure of the October 2000 investigation files and demanded an end to the law enforcement authorities’ policy of discrimination.

The report issued by the Or Commission, the body charged with investigating the October 2000 events, singled out police officers and their commanders as bearing responsibility for the unjustified and illegal opening of fire and use of snipers against protestors contrary to the rules of engagement, and that led to the killing and wounding of hundreds of Arab citizens of the state. Furthermore, although the Or Commission cited the names of many of the police implicated in the shootings, Mazuz decided there was insufficient evidence in any

¹ An attorney with Adalah.

² The Cessation of Proceedings and Erasure of Records Relating to the Disengagement Plan Law – 2010.

³ See Adalah, *Prohibited Protest* (2009), available at: <http://www.adalah.org/eng/publications.php>.

⁴ See the Attorney General’s decision of January 2008, available at: <http://www.adalah.org/eng/october2000.php>.

case to indict a single officer and pursued not one disciplinary proceeding. Indeed, Mazuz defended the Minister of Public Security's decision to promote senior police commander Benzi Sau in the Supreme Court, contrary to the explicit recommendation of the Or Commission. The Or Commission found Sau responsible as commander of the area of Wadi Ara for deploying snipers and for fatal shootings, and stated that he should not be promoted for four years. The Supreme Court rejected Mazuz's position and blocked the promotion.⁵

Mazuz has unreservedly defended a number of discriminatory and racist decisions made by the government and its ministers against the interests of Arab minority in Israel before the Supreme Court. In addition, on occasions when the Supreme Court has ruled a particular decision discriminatory, Mazuz has failed to compel the state authorities to implement the ruling, and his office has even defended the state's non-compliance. An example is the state's failure to implement a decision delivered by the Supreme Court in 2006 ordering the cancellation, within one year, of a government decision that classified certain towns and villages as "National Priority Areas" for the purpose of allocating additional socio-economic benefits to their residents. The court ruled that the government's decision, according to which the list of 553 towns and villages designated as National Priority Areas included only four small Arab villages, was discriminatory. Mazuz appeared before the Supreme Court to defend the state's failure to implement the ruling, which has yet to be implemented today.⁶

An additional criticism of Mazuz's performance as Attorney General is his stance on the law banning family unification. The law is racist and the language employed by Mazuz's representatives in defending it before the Supreme Court was extreme and ultra-nationalist. Their statements before the court portrayed the entire Palestinian people as an enemy and every Palestinian as a potential terrorist.⁷ It should therefore come as no surprise that Mazuz's term as Attorney General saw the legislation of the highest number of laws that discriminate against Arab citizens of the state at any time since the 1950s.

In a democratic state, the principle of equality before the law can be tested on the basis of the approach of the law enforcement authorities to minorities and the protection of their constitutional rights. As demonstrated above, the law enforcement authorities under the leadership of Mazuz have helped to foster discrimination against the Arab citizens of Israel, and thereby further impaired the principle of the rule of law.

⁵ HCJ 4585/06, *The Committee of the Victims' Families (October 2000) and Adalah v. Avi Dichter, et al* (petition accepted 24 October 2006).

⁶ HCJ 2773/98 and HCJ 11163/03, *The High Follow-up Committee for the Arab Citizens in Israel, et al. v. The Prime Minister of Israel*.

⁷ HCJ 7052/03, *Adalah, et. al., v. Minister of Interior, et al.* (petition rejected 14 May 2006).