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Israel's Democracy

Q&A where are we at? J u n e 2 0 2 3

Is the “Judicial Reform” a plan to “restore democratic balance” between the three branches?

Promoters of anti-democratic initiatives often employ deceptive populist terminology and rhetoric to conceal their true intentions, as seen with the so-called “Judicial Reform.” Chief Justice Hayut aptly labeled it as such: *“Cynically, those behind the changes are calling this a plan to “fix” the justice system. And I say – this is a plan to crush the justice system. Its intention is to deliver a fatal blow to the independence and the nonpartisanship of the judicial branch and morph it into a silent branch.”* (January 12, 2023).

The Attorney General of Israel, Gali Baharav-Miara, strongly criticized the government’s plan in a comprehensive report: *“Giving unlimited power to the government is a sure recipe for infringing both human rights and proper governance. The principle of the separation of powers requires an autonomous, nonpartisan and independent judicial system.”* (February 2, 2023)

Politicians in many democracies select the judges – why shouldn’t they do so in Israel?

Israel lacks essential checks and balances seen in other democracies. It lacks a comprehensive constitution, bill of rights, and formal protection of equality and freedom of speech. With a single legislative house controlled by the government, no separate presidential elections or veto power, absence of federalist structure, regional elections, or subordination to supra-national courts, the Supreme Court remains the sole mechanism to check government power. PM Netanyahu’s plan to seize control of the Supreme Court would grant him and his government unlimited power.

What is the coalition’s true motivation in pushing through this coup?

PM Netanyahu, currently standing trial on multiple counts of criminal corruption, will secure a Chief Justice loyal to him and control Supreme Court nominations, as his criminal appeal will be heard before the Supreme Court. Israel’s Attorney General and Supreme Court have forbidden his involvement in promoting the “Judicial Reform” due to his severe personal conflict of interest. Netanyahu has so far ignored their direct instructions.



Ultra-orthodox religious parties seek a permanent exemption from compulsory army service for their voters, who study Torah. The Supreme Court, in 2017, invalidated this law as unconstitutional and discriminatory against citizens fulfilling mandatory military service.

Jewish settlers support a law expropriating privately owned Palestinian lands for Jewish settlements in the West Bank. The Supreme Court found this law unconstitutional in June 2020, as it violated international law protecting private property rights.

Netanyahu's government is currently promoting an unprecedented set of discriminatory, anti-liberal and anti-democratic bills and budgets, some of which could be legally challenged in the courts. Hence the government's need to "reform" the judicial system.

PM Netanyahu now claims to seek "consensus and compromise." So what's the problem?

PM Netanyahu wishes to project an image of genuine efforts to find a solution: Israel's international credit ratings are at stake, as are his relations with U.S. President Joe Biden. Netanyahu claims to seek middle ground, yet he refers only to the redundant override clause (allowing the Knesset to override rulings of the Supreme Court), and he continues to pursue political control of the judicial selection committee, **which is key.**

Simultaneously, Netanyahu's coalition is promoting **one hundred and fifty-three** anti-democratic bills, in perfect adherence to the five parts of the "Hungarian Protocol". The "dialogue" with opposition parties appears to be nothing more than a charade, a tactic to exhaust and bewilder the public while carrying out the coup (aka the "Polish Salami" style of dismantling democracy gradually).

Israel's hope for a democratic future – and what can you do to help?

Contrary to the coalition's spins, the "Judicial Reform" is not the will of the voter. Before the elections, the Likud made no mention of these plans in its party platform and went so far as to deny such intent. Only after the government was sworn in did the Minister of Justice reveal the planned legislation.

Hundreds of thousands of Israelis then took to the streets in mass protests and it became clear that a vast majority of Israelis (even Likud voters) oppose the "Judicial Reform" (Globes, March 24, 2023, Maariv, April 7, 2023). However, having secured 64 votes in Parliament to pass any legislation he wishes, only cumulative and severe pressure, both internal and international, caused PM Netanyahu to temporarily pause the "Judicial Reform".

Israel's democracy now hangs in the balance. Just recently, Netanyahu repeated his intent to go forward with the "Judicial Reform", stating that it will **"definitely"** continue (May 24, 2023).

We urge you to continue supporting Israel's liberal democracy, and to express your support to all your elected representatives in the U.S. We cannot afford to let up on this pressure and we must not succumb to a bad compromise that will shatter Israel's fragile democracy and endanger Israel's very core. This is a critical time for Israel. Your help is needed.

"Under no circumstances can we agree to half a coup, or even a quarter coup. We must not allow any further weakening of the already weak defenses of Israel's democracy" (Prof. Yuval Noah Harari).



USA FOR ISRAELI DEMOCRACY

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