



UNDERSTANDING THE JUDICIAL REFORM

To understand the changes of this reform, we will analyze the current situation and the changes proposed in 5 main topics.



TOPICS

ELECTION OF JUDGES

- COMPOSITION OF THE JUDGE SELECTION COMMITTEE AND REQUIRED MAJORITY
- HEARING (SHIMUA) TO THE JUDGES
- APPOINTMENT OF PRESIDENT OF SUPREME COURT OF JUSTICE



LEGAL CONSULTANTS IN THE GOVERNMENT OFFICE



- POSITION CHARACTERISTICS
- PROFESSIONAL OPINION/RECOMMENDATION

JUDICIAL REVIEW OF BASIC LAWS



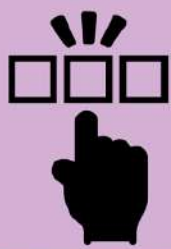
PRUDENCE



CRITIQUE OF COMMON LAW/ PISKAT HAITGABRUT



(No constitution or basic law: legislation, there is currently no formal limit on the content of basic laws or the form of their enactment, and even today a simple majority in the Knesset is sufficient to enact basic laws that are not shielded).



ELECTION OF JUDGES

COMPOSITION OF THE JUDGE SELECTION COMMITTEE AND THE MAJORITY REQUIREMENT

CURRENT STATUS

The judges selection committee is composed of **9 members**.

Since the law was amended in 2008, 7 votes are required to elect a Chief Justice and 5 votes are sufficient to elect a sitting judge.

Currently both judges and politicians have a veto right on appointments to the Supreme Court, and no authority can appoint Justices to the Supreme Court without the consent of the other authority.

Politicians: 4 members in the commission (The Minister of Justice (head of the committee), another minister and 2 MKs).

Judges: 3 members in the commission (The president of the Supreme Court and two senior judges)

Lawyers: 2 members in the commission (2 representatives of the Bar Association).



PROPOSAL



Yariv Levin
Minister of Justice
Likud



Simcha Rotman
Chairman of the
Constitution, Law and
Justice Committee of
the Knesset.
Religious Zionism

Levin/Rotman propose a different composition:
9 or 11 members on the committee, adding more coalition politicians and representatives on their behalf.

The result of all your suggestions is the same:
Voices are affected.

The coalition will be sufficient to appoint judges to the Supreme Court and beyond the courts, there will be no **weight on the judges' votes** on the judge selection committee.

FEARS ON THE CONSEQUENCES

Absolute government control in the selection of judges.

In practice, judges will be chosen according to their personal loyalty to the Prime Minister and for having a political agenda close to that of the coalition.



Politicization of the courts, will lead to:

- **Destruction of public confidence** in the professionalism and independence of judges.



- **There will be no more separation of powers**, the executive branch will control the other two.

The meaning is the absence of Democracy (there are no other checks and balances in Israel).

- **A situation of dependent (and not independent) judicial authority could lead to serious violations of human rights and the values of the Declaration of Independence.**



- **Serious danger to the moral purity of the country.** Risk of increased corruption, in the absence of an independent judicial authority.

Moreover, especially at the present time, the prime minister, a **defendant whose criminal trial is now underway**, will be able to influence the identity of the judges who will hand down his sentence.





ELECTION OF JUDGES

HEARING (SHIMUA) TO THE JUDGES

CURRENT STATUS

The judges' selection committee participates in the hearing.



PROPOSAL

He will also participate in the Knesset Constitution Committee.

APPOINTMENT OF PRESIDENT OF SUPREME COURT OF JUSTICE

The judge with the most seniority, i.e. the longest-serving judge, is appointed.



Cancellation of method due to seniority.

External appointment of the chief justice of the supreme court of justice by the committee for the appointment of judges (sufficient with the votes of the coalition).

FEARS ON THE CONSEQUENCES



In a populist environment, it will create a "chilling" effect on the willingness of serious candidates to face trial.

The chief justice is authorized by law to determine the composition of the judges in all the cases presented above.

- The Prime Minister, whose criminal appeal will be heard by the Supreme Court, will choose who will be the supreme president and thus decide his criminal trial.



- The abolition of the seniority system will affect judges' decisions (as they compete for the Supreme Presidency) for promotion. The closer to the coalition's agenda and worldview, the more likely for promotion.

- Supreme President (who will be elected by the votes of the government and will be obliged to her to appoint judges) will become another voice of the coalition in the committee.



VALUES OF OUR DNA TNUATI AT RISK

SANCTITY OF LIFE

RESPECT FOR THE HUMAN BEING

PLURALISM

TRUTH

RIGHT TO DOUBT

HONESTY

INTEGRITY

ETHICS

CRITICAL AND INDEPENDENT THINKING

COHERENCE

INDEPENDENCE

JUSTICE

INTELLECTUAL CURIOSITY

RESPONSIBILITY



LEGAL CONSULTANTS IN THE GOVERNMENT OFFICE

POSITION CHARACTERISTICS

CURRENT STATUS

Considered a professional, the consultant was selected in an inter-office bidding process.



PROPOSAL

This position will become a "position of trust", and the appointment and termination will be in the hands of the Minister/CEO.

PROFESSIONAL OPINION/RECOMMENDATION

CURRENT STATUS

The opinion is binding. They are subordinate to the General Counsel.



PROPOSAL

The consultant position will receive a "tips that can be ignored" status. Ministers can always appoint a private external law advisor on their behalf.

FEARS ON THE CONSEQUENCES



- Legal advisors will become "compliant" even when they are breaking the law (knowing that if they alert they will be fired from the "position of trust").

- Political interests will prevail over the public good.

HUMAN RIGHTS



- Serious danger to basic human rights in the absence of real ombudsmen.

- A lot of loss of exclusive legal expertise in certain fields (such as security, health, transportation) could be generated due to staff turnover (when they do not comply with the will of their bosses as they will be employed in a "position of trust").



- Corruption cases in government offices will increase. The lawyer close to the minister is his representative in large tenders, for example.

- Danger of chaos (lack of governance) due to different opinions, conflict of laws in different offices and because this figure will no longer be a binding authority (the Attorney General).



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JUDICIAL REVIEW OF BASIC LAWS

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CURRENT STATUS

The judiciary has two intervention tools to prevent the enactment of laws that infringe on democratic values or human rights: "The Unconstitutional Constitutional Amendment" and "Use to the detriment of the constituent authority."



PROPOSAL

Absolute prohibition to cancel any law that received the title of "Fundamental Law".

FEARS ON THE CONSEQUENCES



There shall be no limitation on the content of the basic laws. The coalition will be able to legislate anything it can think of under the name of "basic law".

Therefore, from this judicial reform in the High Court, it will be possible to absolutely damage democratic values, human rights and moral purity.



PRUDENCE

CHARACTERISTICS OF THE POSITION

CURRENT STATUS

The court may cancel for unreasonableness, extreme decisions of the government/administrative authority.



PROPOSAL

The reason for reasonableness is eliminated.

FEARS ON THE CONSEQUENCES



"Immunity" to governmental and administrative decisions even when they are extremely harmful. This will result in a serious infringement of citizens' rights.



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CRITICISM OF THE COMMON LAW /PISKAT HAITGABRUT

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CRITICISM OF COMMON LAW

CURRENT STATUS

The court may annul a Knesset law that contradicts a fundamental law, albeit in extremely rare situations.



PROPOSAL

An absolute majority of the judges will be required (Levin proposes 12 out of 15, Rotman proposes 15 out of 15) to invalidate common laws.

Laws that have not been accepted by the judges, can be re-enacted under the repeal clause ("piskat haitgabrut"), with a majority of 61 Members of the Knesset (which every coalition has).

According to Rotman, the abrogation clause (hitgavrut) may be invoked in advance as well as the possibility of "immunity from the law".

FEARS ON THE CONSEQUENCES



This will allow legislation that seriously violates human rights:

- According to the proposal, laws would be subject to judicial review only against rights explicitly anchored in fundamental laws. Since there are basic democratic values in Israel that are not protected by fundamental laws (such as: the value of equality and freedom of speech), laws that infringe on equality and freedom of speech will be immune from judicial review.
- In any case, there is no limit to the offensive content of the basic laws (as explained above).
- In either case, the chance of invalidating the law will be zero.



VALUES OF OUR DNA TNUATI AT RISK

