

# Netanyahu's far-right government plans political control over Israel's judiciary

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In its first major legislative initiative since taking office a week ago, Prime Minister Benjamin Netanyahu's government has unveiled proposals that will give politicians sweeping powers over Israel's judiciary, which already leans to the hard right.

It paves the way for the government, made up of fascistic, ultra-nationalist and religious forces, to assume dictatorial powers. It heralds stepped-up attacks on the Palestinians and a mounting assault on the social and democratic rights of all workers, Jewish and Palestinian, as Netanyahu cracks down on political dissent on behalf of Israel's plutocrats.

This direct political assault on Israel's already limited checks and balances—Israel has no constitution, just 12 Basic Laws—again explodes the myth that Israel is the only democracy in the Middle East.

Ever since his indictment some years ago on charges of bribery, fraud and breach of trust in three separate cases now being heard in court, the scandal-ridden Netanyahu has waged a vociferous campaign against the judiciary, claiming he is the victim of a witch-hunt orchestrated by a hostile media, police and left-wing prosecutors.

He was able to form a majority government after five elections in four years only after brokering an electoral alliance between three far right and racist parties—Religious Zionism, Jewish Power and Noam—to ensure they met the threshold for entry into the 120-seat Knesset and bolster his bloc. No sooner had it won 14 seats in November's elections, becoming the third largest party in the Knesset, than the electoral alliance broke up. Their agenda, which Netanyahu largely shares, is Jewish supremacy and apartheid rule, the annexation of large swathes of the West Bank, the expansion of illegal settlements and Jewish prayer at al-Aqsa Mosque.

Netanyahu tweeted, "The Jewish people have an exclusive and unquestionable right to all areas of the Land of Israel," adding, "The government will promote and develop settlement in all parts of the Land of Israel." That includes the West Bank, which has been occupied, and East Jerusalem, annexed, in breach of international law since the

1967 Arab-Israel war.

Having welcomed their offer to introduce legislation banning the indictment of a sitting prime minister, he is utterly beholden to these forces, even though these policies risk an uprising in both the Palestinian territories and Israel itself, jeopardise Israel's burgeoning relations with Arab states and cut across the Biden administration's efforts to forge a regional alliance against Iran.

Last week, National Security Minister and Jewish Power leader Itamar Ben-Gvir staged a provocation, visiting the al-Aqsa Mosque compound in Jerusalem's Old City under heavy security protection as part of his campaign to enable Jews to pray at the site. He threatened anyone opposing this with reprisals, saying they "must be dealt with an iron fist."

Under Justice Minister Yariv Levin's plans, a simple majority in Israel's single chamber parliament will be able to overrule High Court decisions that strike down laws. The High Court, which acts as both the Supreme Court, the highest court of appeal, and the body that hears petitions against government authorities, provides one of the few means of restraining government actions given that most laws can be changed with a simple majority and there is no second chamber to review or block legislation.

Since the start of judicial review in 1995 and a plethora of illiberal laws and actions, the High Court has opposed just 22 laws, often just an article or clause. But even this is too much for Netanyahu. In future, the High Court's power to strike down laws will require an unspecified "special majority" of its 15 members. Even so, its decisions could be overridden by just 61 of the Knesset's 120 lawmakers—although the Knesset would not be able to override High Court decisions backed by all 15 of its judges within the same parliamentary term.

Once this becomes law, Netanyahu's far right government intends to scrap Supreme Court rulings outlawing Israeli settlement outposts on private Palestinian land in the West Bank. It would also overrule the Court's decision that outlawed the protracted detention of African asylum seekers and another that mandates all Jewish citizens, including the

ultra-Orthodox, to carry out military service.

Levin also plans for the government and its parliamentary allies to control the appointment of judges by stacking the committee of politicians and jurists that appoints and dismisses judges with its own politicians, ensuring rulings that match up the government's Jewish Supremacy, religious and anti-LGBTQ agenda.

Under the new proposals, the advice of the government's legal advisers would no longer be legally binding, ministers would be able to appoint their own legal advisers instead of using independent professionals, and the High Court would no longer be allowed to use "reasonableness" as a criterion for determining whether or not government decisions are lawful.

The new legislation was announced the day before the High Court began hearing petitions against the appointment of Aryeh Deri, the leader of the Shas religious party, to head two ministries—Health and Interior—in the new government, in which the criterion of reasonableness is set to play a central role.

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His appointment is opposed by Attorney General Gali Baharav-Miara, who argues that it "exceeds in the extreme the boundaries of reasonableness" given Deri's conviction and jail sentence in 1999 for taking bribes and his conviction and suspended jail sentence last year for tax fraud. Campaigners argue that Deri's appointment to the cabinet follows a legal amendment brought in by the new government allowing those convicted of crimes who do not receive a jail sentence to become ministers, which is illegitimate.

A successful petition against Deri's appointment would affect the viability of Netanyahu's coalition, ensuring that the new law, if enacted, would trigger the first battle between the Supreme Court and the government, which would be able to overrule the court decision to pass the amendment and appoint Deri to the cabinet. Some 65 percent of Israelis, according to a *Channel 13* poll, deem Deri's appointment unacceptable in view of his record.

Levin plans a second suite of measures that would split the attorney general's role in two—one for the government's legal adviser and the other for the state prosecutor. This would allow Netanyahu to replace Attorney General Baharav-Miara with a prosecutor of his choosing, who would either revise or revoke the corruption charges against him.

Opposition politicians and judicial and legal figures have opposed the plans. Head of the Israel Bar Association Avi Himi said, "The new government wants power without limits, without oversight and without restraints, and to turn

the State of Israel from a Jewish, democratic and liberal country into a benighted one." Amir Fuchs, a senior researcher at Jerusalem's Israel Democracy Institute, said, "It will be a hollow democracy," adding, "When the government has ultimate power, it will use this power not only for issues of LGBTQ rights and asylum seekers but elections and free speech and anything it wants."

Opposition leader and former Prime Minister Yair Lapid said merely that his opposition bloc would reverse the legislation "the moment we return to power," adding, "Anyone who carries out a unilateral revolution against the system of government in Israel should know that we are in no way committed to it."

The Biden administration, which loses no opportunity to claim human rights and democracy as the basis for its military interventions, while refusing to prosecute any of the leaders of the January 6 coup, including the ringleader Donald Trump, voiced no opposition to Netanyahu's assumption of dictatorial powers. Tom Nides, US ambassador to Israel, said that keeping the countries' "shared values" in mind, Washington would not rush to judgment.

On Saturday evening, there was a mass rally of some 20,000 people in Tel Aviv's Habima Square protesting the new government and the proposed law. One march was organized by Standing Together, which promotes Jewish and Arab equality and partnership, and another focused specifically on the threat to the country's justice system. Protesters carried banners saying, "Democracy in danger," "Together against fascism and apartheid," and "Housing, Livelihood, Hope," while others carried rainbow flags.

Netanyahu denounced the protests, criticizing banners comparing Justice Minister Levin to a Nazi and signs calling to "Free Palestine from [the] Zionist colonial regime." He demanded an end to the demonstrations, which he said were acts of "wild incitement that went uncondemned by the opposition or the mainstream media." He continued, "I demand that everyone stop this immediately."



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