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REPORT

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Israel Struggling with Democracy

By Shira Sorko-Ram

PART THREE

Hundreds of thousands of Israelis across the nation have been protesting against Prime Minister Benjamin Netanyahu's government plan to dismantle the Supreme Court.

Prime Minister Benjamin Netanyahu gave a rousing defense of the importance of the Supreme Court in Israel's democracy:

"I believe that a strong, independent court allows for the existence of all other institutions in a democracy. I ask that you show me one dictatorship, one undemocratic society, where a strong independent court system exists. There's no such thing."

"In places with no strong and independent court system, rights cannot be protected."

That was in 2012. Why now, are hundreds of thousands of Israelis throughout the nation

protesting for months against the demise of Israel's independent court system, an indispensable component of the democratic state of Israel? And while we are at it, what is, in fact, a democracy?




The easiest answer is that you will know one when you see one. Sweden is a democracy. Spain, Japan, Korea and the United States have different mechanisms, but are identifiable as democracies. (For better or worse.) Voting alone does not at all create a democracy which is why despite running elections, Russia is a dictatorship—so is Iran, North Korea and China.

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Prime Minister
Benjamin
Netanyahu

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No governmental structure is perfect, especially since it must operate by the hands of fallen man. But what makes a democracy a democracy?

The concept of a government divided into legislative, executive and judicial branches acting independently is the best method known to man to protect the God-given rights and freedoms of its citizens.

What You Need to Know About Israel's Democracy

Israel is a “parliamentary democracy,” with a parliament (Knesset) of 120 members who belong to a variety of ever-changing parties. Usually the leader of the largest party becomes Prime Minister by coaxing enough other parties to join him, creating a coalition with at least 61 members. The PM then chooses his cabinet.

Israel's political leaders see themselves as having three branches: (1) The Knesset, (2) The Prime Minister and his Cabinet and (3) the Supreme Court. For all practical purposes, however, the first two branches act as one. The prime minister is the head of his own Knesset party and almost always has the full support of all his coalition, together with, of course, his chosen cabinet staff.

Israel does have another independent branch—the Supreme Court. In other nations, the task of the Supreme Court is to interpret the

Constitution and thereby protect its citizens by guarding a bill of rights such as speech, assembly, protest and religion. But Israel does not have a constitution.

Why Does Israel Not Have a Constitution?

Israel was supposed to have a constitution. This was specifically stipulated in United Nations resolution 181, and in Israel's Declaration of Independence which stated that the new government would create a democratic constitution. A constitutional assembly took place, but the new leaders found it easier to pass ordinary laws to meet immediate needs than to pass laws worthy of being placed in a constitution intended to be permanent.

Furthermore, the first Prime Minister, David Ben Gurion, had many existential challenges. He was leading a war against Arab nations that were bent on destroying the newly-born nation. And he had a very divided citizenry that had come “home” from all over the world. He was afraid that if they sat and debated all the contentious issues regarding the nature of the state, this would cause an irreparable division.

Secular Jews were ready for a constitution, but the Haredim (ultra-Orthodox) said “We don't need a constitution. We have the Torah.” What,

they meant, of course, was that they wanted Israel to be ruled by their rabbinical leaders. They were afraid that a constitution might appropriate powers they wanted for themselves.

The few specifics concerning human rights and freedom bequeathed by Israel's Founding Fathers are in its Declaration of Independence:

The state of Israel will promote the development of the country for the benefit of all its inhabitants; will be based on precepts of liberty, justice and peace taught by the Hebrew prophets; will uphold the full social and political equality of all its citizens without distinction of race, creed or sex; will guarantee full freedom of conscience, worship, education and culture; will safeguard the sanctity and inviolability of shrines and holy places of all religions; and will dedicate itself to the principles of the Charter of the United Nations.

Otherwise, the **democratic foundations** of the state were not anchored in any other legislation which could be defined as a "higher law that cannot be unilaterally changed by an ordinary legislative act," i.e., a constitution.

Creating a Constitution Little by Little

Of course, many regular laws were needed to be passed for the new nation, and pass they did. But two years later the Knesset agreed they needed to work on a constitution. They would take the most important laws they were passing and call them Constitutional or Basic Laws. Sometime later, they reasoned, they would collect them and have a ready-made constitution. The big mistake is that they didn't set a deadline. And since the Knesset passed Basic Laws and regular laws in the exact same way, the lawmakers didn't decide to designate a different legal status for the so-called Basic Laws.

Between 1958 and 1988 the Knesset did pass nine Basic Laws, all of which pertained to the structure of the government. And finally, in the early 1990's, the Knesset passed the first two Basic Laws dedicated to human rights. Today there are 13 in all.

Because Basic Laws were passed just like any other law, the Knesset allowed itself the luxury of revising them over and over, according to the whims of the coalition in government.

But here are the unforeseen complications. Because Basic Laws were passed just like any other law, the Knesset allowed itself the luxury of revising them over and over, according to the whims of the coalition in government. In the last five years, the Basic Laws have been changed 22 times. (The U.S. has made changes to its constitution 27 times since 1789.) And a constitution is farther away than ever before.

When Prime Minister Ben Gurion decided not to create a constitution, it was a decision to kick the can down the road. Now the chickens have come home to roost. One commentator said that this was the worst mistake that David Ben Gurion made.



Attorney General Gali Baharav Miara is the face of the Supreme Court and thus a lightning rod to those who plan to eliminate Israel's judiciary. She is a brave warrior, standing up for the rule of law.

Chaos in the Knesset

Unlike any other place in the world, a ruling Knesset can enact, amend, and delete any Basic Law—or any law—in normal procedure, in three readings, and even within one day!

The Purpose of a Supreme Court

As noted, in every democratic country, you have checks and balances. With the exception of two or three countries, you have a rigid constitution splitting the legislative authority into two houses. Legislatures from the two houses are elected by citizens from local or regional areas (*districts or states*). These structures are part of the checks and balances, and *none of these exist in Israel*. So we are unique among free countries in not having any tools for the decentralization of political power.

Clearly, with the tight synchronization between the branches of Israel's prime minister and his coalition, the only branch that could bring checks and balances of power is the Supreme Court. Clearly, our Supreme Court has extraordinary challenges.

Unlike any other place in the world, our ruling coalition can enact, amend, and delete any Basic Law—or any law—in normal procedure, in three

readings, and even within one day! Which means that the politicians in Israel—and only in Israel—have the possibility to change any law—including institutions or freedoms—at any time. It follows that all you need is the magic number of 61 Knesset members to change or abolish the authority of the Supreme Court. You could make Israel a presidential state, or a monarchy, or a dictatorship. The Prime Minister and his Knesset can limit or even delete any human right.¹ The only defense Israel has against such a nightmare is the existence of an independent Supreme Court.

Because of lack of normal governmental tools, in some ways Israel's Supreme Court has had to wing it. Nevertheless, it appears from recent polls and the present massive nationwide protests in favor of the Supreme Court, most Israelis believe that it is doing an impressive job of not being too active nor too passive. Altogether, in the last 30 years, Israel has struck down about 20 laws.

1: <https://en.idi.org.il/articles/46513>

Head of United Torah Judaism party, Yitzhak Goldknopf. His goal is to exempt all ultra-Orthodox from serving in the military and to grant them stipends for a lifetime of studying Rabbinical literature.



Why Religious Jews Hate the Supreme Court

Much of the anger against the Supreme Court comes from the ultra-Orthodox and far right constituents. As an example, the Court has taken the stance that if land in Judea and Samaria is legally proven to be owned by Arabs, then Jewish settlers cannot build on it. The Orthodox see it differently. They know God gave this land as an everlasting inheritance to Israel. Therefore the Land of Israel belongs to the Jews who wish to live there, legal or not. Nevertheless, the Court has ruled that illegal Jewish settlements be dismantled.

Messianic Jews agree that God promised this Land to the Jewish people. However most believers understand that the nation must find ways to legally acquire the land, which nevertheless is incredibly complicated as the Palestinian authorities warn they will kill any Arab who sells their property to Jews. As Israel turns back to God and His Son, miracles will happen.

Other decisions on which the Supreme Court has ruled, remind us that in this terribly chaotic period of “Last Day” events, we know that Satan loves to create chaos, mixing the good with the bad. The Supreme Court has protected Messianic Jews by giving them equal rights such as freedom of expression and religious assembly. Sadly, from the point of God’s Word, it has also defended the right to surrogacy services for LGBTQ couples and public parades in cities that don’t want them.

Supreme Court rules in favor of Messianic Congregation

In 2021, Israel’s Supreme Court granted tax-deductible donation status to Congregation Tiferet Yeshua (the Glory of Yeshua) to the dismay of the ultra-Orthodox. We began the process when we were still leading the congregation in 2013. (Gil and Tamar Afriat are now pastoring.) The Court ruled on the basis of equality for all citizens. It stated that although this Messianic Jewish congregation is controversial, their activities are legal. The Supreme Court exists especially to guard the rights of minorities.



But the greatest fear the ultra-Orthodox have of the Supreme Court is its ruling that religious Jewish men must serve in the army like every other Israeli male, according to the Basic Law of “equality for all.” Now, because the Haredim are in a majority coalition with Netanyahu, they no longer need to worry. They are looking forward to passing a law which will dismantle the Supreme Court!

Erik Marmor / Flash90



A demonstration at Ben Gurion Airport when PM Benjamin Netanyahu flew to Europe for talks with heads of state. The sign reads, "Dictator, don't come back!"

The Tale of Three Criminal Cases

1 Benjamin Netanyahu looking for a solution

The story of Prime Minister Benjamin Netanyahu's corruption trial is known throughout the nation. He is facing charges of bribery, fraud and breach of trust in the Jerusalem District Court. His trial began in May 2020 and may last another year.

His opponents assert that his commitment to weaken the very same institutions he once praised is new and it is almost impossible to avoid seeing it as somehow being connected to his own legal predicament.

They warn he is ready to destroy his democratic country to save himself.

The nation's politics are divided. The ultra-Orthodox and hard-right citizens are all for the dismantling of the Courts. But the citizens who pay the taxes and serve in the army are protesting in a magnitude never before seen in Israel's history. Meanwhile, Netanyahu and his coalition are preparing a law stating a sitting prime minister of Israel cannot be convicted of a crime that would unseat him.

2 Aryeh Deri, Netanyahu's right hand man

Two decades ago, the Knesset passed a Basic Law stating that a person who has been convicted of a felon and served in prison, could not serve in the Knesset for seven years. Aryeh Deri from a Sephardic (Eastern) Orthodox Jewish background was convicted of bribery, fraud and breach of trust while he was Interior Minister; he served 22 months and was released in 2002.

The citizens who pay the taxes and serve in the army are protesting in a magnitude never before seen in Israel's history.

Netanyahu appointed Deri Minister of Health and Vice Prime Minister even though in January 2023 the Supreme Court ruled that Deri had failed to honor the plea deal in which he agreed to leave political life.

Yonatan Sindel / Flash90



Aryeh Deri

His Sephardi Orthodox followers were furious at the Supreme Court, claiming he was innocent.

After the seven-year period, Deri returned to politics and served under Netanyahu. But a few years later, the Attorney General again indicted this very popular head of the Orthodox Shas party—this time for fraud and breach of trust, as well as tax evasion and money laundering. The Court bent over backwards and approved a plea deal with 12 months of probation because Deri publicly promised to voluntarily withdraw from politics altogether. However, the very next day Deri brazenly accepted the job of adviser to the Shas party.

Netanyahu appointed him Minister of Health and Vice Prime Minister. But on January 18, 2023 the Supreme Court ruled that Deri had failed to

honor the plea deal in which he agreed to leave political life. As a result, the court ruled that Deri could not serve as a minister in the coming years. Netanyahu and his cabinet are at this moment passing a “Deri Law” to reinstate him as coalition header of his party.

3

Itamar Ben Gvir—Netanyahu’s overseer of the police

Another colleague of Netanyahu is Itamar Ben Gvir, whom the *New Yorker* called Israel’s Minister of Chaos. Though Ben Gvir has not served a jail sentence, he and his co-worker, extreme-right party leader Bezalel Smotrich—both

President Isaac Herzog is a greatly beloved and respected president. He has worked with all his might to bring Netanyahu and his coalition and the opposition together to negotiate the issues of the Supreme Court. The opposition was read, but Netanyahu said absolutely not.



Yonatan Sindel / Flash90

religious Jews—are two of the most fractious and implacable politicians Israel has seen. Their practice is to stir up as much strife among Palestinians as is possible.

Now, Smotrich is Minister of Finance (the better to finance the ultra-Orthodox non-workers) and Ben Gvir has been appointed Public Security Minister, overseeing the police. However he himself has a long police record. Former Prime Minister Yair Lapid said, “Show me a state in the world where the man responsible for the police is a violent criminal with 53 indictments and 8 convictions for serious offenses.” These are our leaders.

The party heads making up the coalition are leading the government to pass laws that will fundamentally change the nation of Israel. Their hard line buddies (Rothman

and Levin) in the Knesset are systematically passing all kinds of laws to dismantle the Supreme Court. Knesset members pushing these new laws have threatened their Boss that they will bring down the coalition if Netanyahu tries to slow down the passing of these draconian laws. To the shock of the nation, the Knesset is passing a law that will actually override any Court ruling not to their liking (like freedom of religion, speech and protest), and forbidding the Court to review it again. Meaning, there is no chance of appeal in Israel any more.



Itamar Ben Gvir, Minister of National Security (left) with Israeli Chief of Police Kobi Shabtai, whom Ben Gvir fired for being “too soft” on the protesters, but then rehired him because of national anger. Shabtai, under pressure from Ben Gvir, fired the popular Tel Aviv Chief of Police because he, too, was soft on the protesters. Attorney General Gali Baharav Miara told Shabtai it was illegal to fire him without due process. Shabtai apologized and rehired him. Protesters were exuberant. Ben Gvir is working to fire the Attorney General. Complete chaos in the government.

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Supreme Court
President
Esther Hayut

The Supreme Court President, Esther Hayut, said this is a plan to crush the justice system. It is designed to deal a fatal blow to the independence of the judiciary and silence it. She said the new government's plan to radically overhaul Israel's judicial and legal system, would deal a "fatal blow" to the country's democratic identity.

She declared that the sweeping changes to the legal system would fatally undermine judicial independence, give the Knesset a "blank check" to pass any legislation it pleases—even in violation of basic civil rights—and deny the courts the tools needed to serve as a check on executive power.

How would a Dictatorship Affect Israel's Messianic Jews?

Will Israel become a religious dictatorship? The signs are not good. As the ultra-Orthodox population increases exponentially—their birthrate is *twice* as many children as the overall Israeli population²—so does their power to shape the nation's culture. And be aware that their declared dream is to set up a Pharisaic Theocracy for all Israel—preparing the way for the coming of their King Messiah.

In protecting our freedoms, Israel's Supreme Court has been the only branch of government

that has stood up for the rights of Israel's Messianic Jews. If the extreme far right and the ultra-Orthodox coalition succeed in neutering the Supreme Court, there will be nothing in the way of Israel's government to pass laws against any freedom to preach the Gospel, to publish Hebrew books, to use the Internet in Hebrew or, to gather in Messianic congregations. The doors to legally proclaim that salvation is through the Son of God could be closing.

Indeed, two Knesset lawmakers from an ultra-Orthodox (Haredi) party have already submitted a bill for legislation to forbid all activities of Jewish believers—including speaking to someone about Yeshua—with a penalty of one to two years in jail.

So What are We to Do?

But what about the lost? What hope do they have? None, unless we bring them the Way of Escape. We are commanded to bring the Kingdom to them. Our job is in front of us. "You shall receive power when the Holy Spirit has come upon you; and you shall be witnesses to Me in Jerusalem, and in all Judea and Samaria, and to the end of the earth." Matthew records, *"And then the end shall come!"*

No wonder God has encouraged us with so many scripture portions promising that God will not allow the Jewish people to be destroyed. Ultimately, He will send this nation of Sauls of Tarsus to help spread the Good News across the globe. (Isaiah 60:1-3)

This month, all Israel celebrates Passover's great act of God. But what is greater than anything that has happened in the past, is what is about to happen in our future. As we Israeli believers bring the Word of Life and plead in prayer that God will open the hearts of the Israeli people, we are preparing for the sure and precious Word tucked in Hebrews 10:26:

All Israel shall be saved; just as it is written...

ISRAEL NEEDS YOUR PRAYERS! ■

2: <https://www.timesofisrael.com/haredi-population>



Shalom from Jerusalem!

April 2023

Ever since the Messianic believers began to increase in the 1970's, freedom to express our faith publicly has always been a bit dicey as the hatred of powerful ultra-Orthodox communities have fought to close us down. **They have stood in front of our congregations, burned down properties, threatened with force, and fought with legal suits to exile Jewish believers and shut down congregations around the country.**

Until now, we have had one earthly advocate: The Supreme Court of Israel. **Maoz, our organization, has fought (and ultimately won) at least six cases.** The judiciary of Israel sees itself especially as an advocate for minorities. Because of their stand on the rule of law, the Body of Messiah has prospered in God's Land.

In context of history, **Israel spent most of its several thousand years of existence under a monarchy or conquering emperor.** Rarely, did they live under the rule of a godly leader who led them in the ways of the Lord. While the establishing of modern Israel as a democracy is not the same as having a godly leader – it does allow Israel's citizens **the freedom to walk in the ways of the Lord, should they choose.**

Now, unexpectedly for the entire nation, democracy as we have known it, is on the **edge of an abyss.** This Pharisaic coalition wants to **redesign the democratic institutions of Israel** and take away freedoms most developed nations take for granted.

For decades we have been planting congregations, creating worship music, printing Bibles and books and helping the needy across the land. **It's working!** But there is so much more to do!

We do not know what the future holds for Israel's freedoms. **No one knows but God.** Still, we are not anxious. We are not fearful. Israel has faced serious threats before. The gauntlet has not yet dropped.

IT'S NOT A
REFORM
IT'S A
COUP

What we do know is that right now we have the freedom and we need to take advantage of the daylight. **We may have years to continue and spread God's word – we may have months.** We don't have a moment to wait.

Will you **join us** in this historic time to support the spread of God's Word in Israel in whatever way you are able?

For Israel's Sake,

Kobi and Shani Ferguson

Kobi and Shani Ferguson

Kobi Ferguson
President & CEO

Shani Ferguson
Chief Creative



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