THE JUDICIAL BRANCH IN ISRAEL

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Abstract

The contemporary perception of Israel's judiciary as an independent branch does not concur with Israel's first Government's perception in the wake of establishing the first Supreme Court. To a great extent, the executive branch deemed the court as its long arm. Until the mid-1950s, judges were appointed by the Government, and questions of conflict of interests as well as political affiliation – in the wide sense of the term – were not compelling. However, since the 1990s, the court's power of judicial review and the legitimacy of its decisions have become issues of a heated public debate. Consequently, the process of appointing every single justice to the court has since been subject to a very strict public and political scrutiny.

This chapter asks whether the Israeli judiciary truly constitutes a third independent branch of government. This is relevant as one witnesses the continuous attempts to change the existing balance of powers, aiming to limit the court's capacity to apply universal judicial doctrines and legal standards to executive and legislative decisions.

Keywords: Israel; Judiciary; Constitution; Supreme Court; High Court of Justice; Judicial Review; Harrari Resolution; Judicial Independence.

Introduction

With the establishment of the state of Israel, in 1948, the British mandate's legal system was adopted with very little changes.[1] One of the noticeable changes was the disappearance of British and Arab judges who had comprised the majority of the judiciary. In a relatively short time, the new state had to appoint new judges as well as to create a new Supreme Court.

Initially, in the wake of establishing the first Supreme Court, the perception of the judiciary as an independent branch was not so intended by Israel's first Government. To a great extent, the executive branch regarded the court as its long arm. The first justices were appointed according to political scrutiny, taking into consideration their political views and affiliations (Rubinstein, 1980; Brun, 2014).

Nonetheless, the Government soon realized that this was not the way the judiciary perceived itself. The latter – particularly justices, who were largely affiliated with Mapai (the then ruling party) – proclaimed itself as an independent branch. Evidence can be widely found in cases where the court struck down governmental decisions being ultra vires; namely, decisions given without explicit authority by the law. The Supreme Court intervened in sensitive political matters by adhering to legal doctrines of administrative review as well as theories of legal interpretation (Lahav, 1990:229; Shetreet, 1990:607). By applying strict formal criteria in exercising statutory and administrative review, the court – sitting as the High Court of Justice (on the distinction between the Supreme Court of Appeals and the High Court of Justice see below) – gradually established the basic standards of the rule of law, even with regard to security related matters (Hofnung, 1996; Shetreet, 1994:61-78). In the 1970s and 1980s, the court began applying more substantive criteria in reviewing administrative decisions.

This pattern, of putting major political and policy decision under judicial scrutiny, was enhanced in the 1990s, following the enactment of the 1992 Basic Laws on human rights – namely, Basic Law: Freedom of Occupation and Basic Law: Human Dignity and Liberty. Politicians soon discovered that the balance of power had changed and that the court had become a veto player, capable of affecting the outcome of major policy decisions. Since the mid-1990s, legislative initiatives have been frequently raised, calling for limiting the court's power of judicial review, or for changing the method of appointing justices to the court.

With this perspective in mind, this chapter asks whether the Israeli judiciary truly constitutes a third independent branch of government. This is relevant, as we witness continuous attempts to change the existing balance of power, aimed at limiting the court's power to apply judicial doctrines and legal standards on executive and legislative decisions.

Constitutional Politics in Modern Democracies

In modern democracies, it is commonly accepted that the judiciary forms one of their government's three branches. The court's authority to review the executive's action and the laws passed by the legislature lies in the function of judicial review – *i.e.*, the power to review and negate actions of the other two branches. What exactly are the limits of judicial power is still highly debatable and varies from one country to another.

Since the late 1940s, European, Asian and Latin American nations have established constitutional courts and equipped them with review powers, hence, authorizing the courts to assess the constitutionality of laws, regulations or other official actions. While initially courts have tended to stay away from what has been

regarded as a “political question” (Tushnet, 2002), the trend since the late 1970s was to apply greater judicial review of all government actions. The increasing judicial involvement in political and policy making processes, and the rise of the global expansion of judicial power, has led to what is called the "judicialization of politics" (Tate & Vallinder, 1995; Stone Sweet, 2000; Epstein, Knight & Shvetsova, 2001; Sieder, Schjolden & Angell, 2005) and even the “judicialization of mega-politics” (Hirschl, 2008). This term implies the transfer of decision-making powers from the legislature, the cabinet or the civil service to the courts, as well as the expansion of judicial decision-making methods to other branches of government (Tate & Vallinder, 1995:13). Questions that were once conceived during most of the 20th century as purely political – such as the secular nature of Turkey’s political system, the transition to democracy in South Africa, the right of elected leaders to assume office in Pakistan, Venezuela, Brazil, Italy, Egypt and Thailand, Israel’s identity as a “Jewish and democratic state”, the future of the Canadian federation, the validity of the UK’s referendum to leave the European Union, etc. – can now be conceived as constitutional matters (Hirschl, 2008). All these questions were raised, debated and decided by courts. This new trend of judicial expansion is tied not only to the willingness of judges to exert power, but is also related to a greater public awareness, growing demand for accountability and the tendency of politicians, lawyers and human rights activists to seek hospitable arenas to raise and debate political demands that were either rejected or were not met in the traditional channels of the government’s decision making process.

Courts can affect policy outcomes in several ways: First, they may veto legislative initiatives with a crucial, long term impact on major areas of policy making; second, they can act as guardians of constitutional rights, since opposition

parties, lawyers, citizen groups and others, realize that rights claims are an effective avenue of social change; third, they can affect policy making by applying powers of statutory interpretation and judicial administrative review; and fourth, by declaring legislative and administrative acts as unconstitutional courts can force legislators to enter into a constitutional dialogue with the courts. The courts thus force policy makers to present and seriously consider constitutional arguments, as well as to cast and recast statutory language in light of potential constitutional objections to proposed legislation (Shapiro and Stone, 1994).

The growing involvement of courts in national politics has initialized a counteraction, further to which several countries have raised initiatives to restraint the power of the judiciary and to allow elected representatives to act under minimal checks and balances in creating and applying legal norms. Russia, Hungary and Turkey are just recent examples of this trend **(**Scheppele, 2015; Shambayati & Sütçü, 2012).

Constitutional Politics in Israel

When the State of Israel was established in May of 1948, its Declaration of Independence contained an explicit promise to draft a written constitution no later than October 1st, 1948. The Declaration empowered the Constituent Assembly, to be elected in the summer of 1948 (see the chapter on the legislative branch in this volume) to draft and enact a constitution. As war broke out and the date of the elections were delayed (elections were eventually held in January 1949), the Provisional Government soon discovered that keeping the legal status quo, carried with it numerable advantages. There were no legal restraints to political decisions, and

every policy that won a majority within the Provisional State Council (from February 1949, the Knesset) could be carried out swiftly without any delay.

Immediately after the 1949 elections, the newly elected Constituent Assembly, in its first legislative act; the Transition Law of 1949, changed its name to the "Knesset". After debating the matter of the constitution for another year, a compromise was reached and the Knesset adopted a resolution known as the "Harrari Resolution", which states that the following:

> The constitution shall be composed of individual chapters, in such a manner that each of them shall constitute a basic law in itself. The individual chapters shall be brought before the Knesset [...] and all the chapters together will form the State Constitution." (5 D.K. 1743 (1950)).

During the first 20 years of its existence, the Supreme Court accepted the traditional British model of that time, in which the legislature in its legislative capacity is immune from judicial review.[2] An example of that judicial restraint can be found in the *Batzul* case (HCJ 188/63) in which the court faced a question on whether it can declare a law as invalid because it contained a factual error. The court stated clearly that once a law is passed and published, it cannot be subject to judicial review. The court can only interpret the provisions of the law and nothing further. This firm and narrow interpretation of the concept of judicial power was reexamined, in 1969, when the court decided in the *Bergman* case that a law that had provisions contrary to explicit stipulations in a Basic Law, can be invalidated (HCJ 98/69). This narrow opening of judicial review of primary legislation has proven to be more significant than initially thought, since it served as a sign that when the right case comes up the

court is more willing than before to look into petitions challenging actions of the government's elected branches.

Between 1950 and 1992 the Knesset adopted nine Basic Laws, mainly covering the powers invested in the branches of government. Following severe political crisis in 1990, and facing a legitimacy challenge, and massive protests calling to clean Israeli politics from corruption and paralysis, the Knesset enacted three new Basic Laws in early 1992; two of these Basic Laws (Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation)[3] granted the court expanded powers of judicial review on primary legislation and on other specific political matters. These powers include the ability to review whether the new legislation violates rights protected in the Basic Laws, such as the rights of human dignity, life, property, freedom of occupation and others (Barak, 1992; Barak-Erez, 1995). Nonetheless, the Basic Laws do not accord explicit protection to all utopian fundamental rights. Over the years, especially and particularly following the adoption of the new Basic Laws in 1992, as well as the ruling in the *Hamizrahi Bank* case in 1995,[4] the court enshrined some of the unprotected fundamental rights – such as freedom of expression and the right to equality – within the right to dignity.

In the *Hamizrahi Bank* case, several financial institutions appealed to the Supreme Court to challenge a new Knesset law, regarding legal arrangements involving agricultural settlements in Israel that owed their creditors hundreds of millions of shekels. The appeals centered on an amendment to an existing law, which granted the agricultural sector protection against legal remedies that otherwise could have been taken by the creditors. The creditors contended that the law is unconstitutional, in that it violates their property rights, as specifically anchored in Section 3 of Basic Law: Human Dignity and Liberty of 1992. In deciding the appeals,

the Supreme Court addressed the questions of whether or not the Knesset possessed constituent power to frame a constitution and thereby limit its own legislative authority, and whether the Basic Laws enacted by the Knesset enjoy supra-legislative status. Each of the nine judges wrote a separate opinion, but the court unanimously held that although the law violated the property rights of creditors, the provisions of the law were consistent with the requirements of Basic Law: Human Dignity and Liberty.

The decision of the court was based on the understanding that the Basic Laws are part of the future Israeli constitution, resulting from the court's interpretation of the Harrari Resolution, and that therefore these rights have to be considered as constitutional norms according to which the court will rule in case of a conflict with other ordinary acts. Israel's Basic Laws were indeed adopted in an atmosphere that was intended to formulate supra-legal constitutional norms, and they certainly include elements characteristic to constitutions (Inbar, 2001). As such, the court, through its rulings, elevated these Basic Laws to a supreme normative status superseding that of other laws called "ordinary laws." Accordingly, when a legal norm in a Basic Law conflicts with another in an ordinary law, the first will prevail and the latter yield (Rubinstein & Medina, 2005).

In extending its protection to expressly protected individual human rights by the Basic Laws, as well as to other unlisted rights, the court's power of judicial review has been grounded on the supra-legal constitutional authority vested in it by Section 15(c) of Basic Law: The Judiciary – especially following the ruling in the *Hamizrahi Bank* case. According to Section 15(c), the court has the explicit judicial power to issue decrees directed against the executive and the legislative branches. Given this power, read together with the provisions of Basic Law: Human Dignity and Liberty, it has

been established that it is the court's inherent authority to decide on the constitutionality question of legislative acts. A normative anchor for this understanding of the court's power is enshrined in Article 11 of the Basic Law: Human Dignity and Liberty, deemed as the "Supremacy Clause," whereby all governmental branches, including the legislature, must respect the rights protected by the Basic Law.

The ruling in the *Hamizrahi Bank* case further strengthened the position of the court in terms of its authority to review not only the legality of laws but also the constitutionality of laws. A chief aspect of this latter authority is that it enables the court to fulfill its mandate to maintain the rule of law (Rubinstein & Medina, 2005). Ultimately, the primary function of the court is to instill democratic values in society and enforce the rule of law, primarily on the governmental authorities, where the legitimacy of the constitution and the Basic Laws grant legitimacy to the judicial review process.

Another key aspect of the legitimacy of the court's authority to review the constitutionality of laws can be found in the implementation of the fundamental constitutional principle concerning the separation of powers – in the substantive sense of that principle; *i.e.*, in the sense of the implementation of checks and balances.[5] This is true *a fortiori*, given that the Basic Laws were accorded constitutional supra-legal normative status – particularly following the judgment in the *Hamizrahi Bank* case. That judgment laid out clear rules concerning not only the normative status of the Basic Laws but also the normative mechanism involved in implementing them, including amendments and violations of rights protected by the laws, and examined the nature of formally entrenched Basic Laws and others, which are substantively entrenched.

Prior to the revolution attached to the ruling in the *Hamizrahi Bank* case, the court had developed a whole set of rules of self-restrainment, whereby the court rejected out of hand petitions brought before it by virtue of various doctrines such as delay in submitting the petition, approaching the court with bad faith and the absence of standing of the particular petitioner.

Insofar as the right to access the court is concerned – which reflects on the scope of judicial power – alongside the judgment of the *Hamizrahi Bank* case, the court has developed a coherent lenient approach towards petitions. Whereas in the past, unjustified delay in submitting a petition, following the infringement of a constitutional right, led to the out of hand rejection of the petition, this has not been the case following the *Hamizrahi Bank* case. Instead, the court started to examine the substantive outcome of such delay, all the more so the legal remedies available due to the delay. In certain instances, the court disregarded the delay issue, paying no attention to it, especially in cases where severe violation of the rule of law was at stake.

Additionally, and similarly, in regard to the doctrine of bad faith (*Male fide*), following the *Hamizrahi Bank* case, the court would, at best, criticize a petitioner for his arguably improper behavior, yet avoid rejecting the petition solely on these premises, particularly in cases where an important constitutional and/or public matter is discussed.

In the same vein, the question of standing has not created an obstacle in bringing constitutional matters for the court's determination. In this regard, the question has not remained the presence of a direct and substantial interest for the particular petitioner who is standing before the court, but rather the existence of an important constitutional question of significant public concern (Rubinstein & Medina,

2005).[6] It is only due to this judicial perception that NGOs and other public petitioners have access to the court. It is thus due to this perception that significant constitutional issues are brought for determination before the court, even in the absence of a concert *lis* (dispute). And it is especially in accordance with this understanding that the *Amicus Curiae* (Friend of the Court) is present in the courtroom to elaborate on the discussed constitutional matters, voicing their professional opinion and allowing their fruitful discussion of the law and of the rule of law.[7]

In addition to all the above mentioned premises for judicial review, the doctrine of justiciability adopted by the court has been an important anchor for developing an active process of judicial review. According to this doctrine, the law does not include black holes; namely, there is no legal dispute whatsoever that cannot be normatively resolved. Every case is normatively justiciable; yet not every case is institutionally justiciable. There are cases, such as pure economic and/or political and/or diplomatic matters, in which it is more proper that they are resolved by the legislature rather than by the judiciary (Friedmann, 2013).

Having provided this, one should note that in practice, there have been very few instances where the court actually intervened in the sense of invalidating legislation for being unconstitutional. Even then, the judiciary "felt" compelled to justify and to thoroughly reason its ruling. Decisions of the court have become a matter of hundreds of pages, which include detailed explanations of the judicial methodology, and further reference to comparative law and to legal academic literature, in support of the various stages of the development and application of judicial discretion.

Notably, the court has constantly avoided a direct clash with the legislature by referring to various doctrines of judicial power that establish a dialogue between the

judiciary and the legislature. In cases where this was possible, the court provided alternative constitutional remedies, other than promptly striking down the whole legislation as being unconstitutional; the court has also deferred the invalidation of such legislation, thus allowing for possible legislative amendment of unconstitutional legislation. Other remedies include partial invalidation, namely, whenever possible, invalidating the particular unconstitutional provision instead of the whole legislation.[8]

In the recent decade, a vast majority of justices, led by Chief Justice (ret.) Asher Grunis, have adopted the American ripeness doctrine. According to this doctrine, in absence of a pure legal constitutional question, the court shall not determine the constitutionality of a particular legislation unless it has been first applied by the assigned minister and/or governmental high ranking official.[9] Apparently, by adhering to this doctrine, the court has stepped back to the era prior to the *Hamizrahi Bank* ruling, thus restraining its power of judicial review to the level of the executive. However, such an argument is not free of doubts, particularly due to the fact that in all cases where this doctrine was applied, although the court avoided invalidating the legislation at stake, very long decisions were drafted and clear instructions were given on how such legislation should be applied in a constitutional manner if judicial review is to be avoided. Ultimately, the power to decide which case is ripe and which one is not – namely, which case is ready for judicial review and which one is not – has remained in the hands of the court; as a question of judicial discretion.

Judicial Politics

In 1948, the Provisional Government of the State of Israel decided to keep the former British Mandatory model in which the court acts in two capacities. In its first capacity, the Supreme Court sits as a supreme appellate court, hearing appeals on judicial

decisions of lower courts, mainly appeals on decisions of the six district courts in civil and criminal matters. In its second capacity, the Supreme Court also sits as the High Court of Justice. Acting as the High Court of Justice, the court serves as a first and last instance tribunal, on constitutional and on administrative matters directed against government ministries, agencies and other public authorities.

During the first five years of statehood, judges were appointed by the executive (Rubinstein, 1980; Brun, 2014). The enactment of the Judges Act in 1953 formally anchored the principle of judicial independence and altered the method by which judges are appointed to the bench, transferring this power from the Government to the President of the State who formally exercises his/her power by virtue of a recommendation brought before him/her by a special committee. The latter is composed by nine members, representing four constituencies and headed by the Minister of Justice. The committee also includes one more member of the cabinet, two members of the legislature, three members of the judiciary – including the Chief Justice of the Supreme Court - and two members of the Bar. An amendment of the 2014 law requires each of the four authorities represented on the committee to nominate at least one female member.

Remarkably, until the 1990s, appointing a judge to the Supreme Court was not of great public concern. Since then the situation has changed drastically. With the changing nature of general election results, due to competitive elections and shaky coalitions in the 1980s (see the chapter on the parties and the party system in this volume), the court was frequently asked to intervene in political decisions. Over a period of several years, petitions to the High Court of Justice became a common tool for the parliamentary opposition and for civil society to have their voice in the formation of public policy (Dotan & Hofnung, 2005). This trend was enhanced

following the enactment of the 1992 Basic Laws on human rights, and the consequent 1995 *Hamizrahi Bank* case, where the court interpreted these Basic Laws as granting the judiciary the power of judicial review. The legitimacy of the Supreme Court's power of judicial review quickly became a matter of heated debate in Israeli politics. Since the mid-1990s, the process of appointing every single justice to the court was met with very strict public and political scrutiny.

One of the significant effects of the 1992 constitutional reform has been the evolution of a constitutional dialogue whereby the courts can affect future legislation and review administrative decisions on new grounds specified in the Basic Laws. Although the Supreme Court has invalidated only a handful of laws since 1992, it was proven capable of changing the nature of legislative dialogue. Legislators and policy makers now debate not only what is good or bad policy, but what has the best chance to survive the scrutiny of the judiciary. Technical constitutional arguments are made, debated and countered by other constitutional arguments on the floor of the Knesset and in cabinet meetings.

The incurring attacks on the Supreme Court have centered around five main legislative strategies:

1) Changing the selection criteria and assuring that the judiciary would be more representative than it currently is.
2) Installing a Constitutional Court - selected by a mixed professional/representative formula[10] - above the Supreme Court to decide constitutional matters
3) If demands 1 and 2 are not met, then the way to achieve greater diversity of the judiciary would be to amend the composition of the Judicial Appointing Committee by including more politicians.[11]

4) Adding another component to the existing selection process, a public hearing for Supreme Court candidates before the Knesset's Constitutional, Law and Justice Committee, which would have the right to disqualify a candidate from serving on the Supreme Court.[12]
5) Limiting the powers of the court by direct legislation.[13]

The guiding reason behind all five initiatives is the same; to bring back the old balance of powers and allow the government's elected branches to operate freely with minimal intervention from the Supreme Court. The legislative initiatives are based on the claim that the Supreme Court is a major veto player with a defined political agenda that favors the liberal-left parties. The fact that the composition of the judiciary has significantly changed since the constitutional revolution of 1992, and that the court is much less active, matters little. Reacting to the political challenge to its independence, the judiciary has adopted its own tactics of avoiding clear decisions in sensitive cases (such as delaying decisions in hard cases, or pressuring the litigants to agree to an out-of-court settlement). This is done in an attempt to preserve the court's power base; protecting both the formal powers of the judiciary and the existing method of judicial selection.

Although decisions declaring laws as unconstitutional or abolishing administrative measure can be spotted here and there, it should be noted that the repeated calls against the court's intervention in policy decisions are not necessarily tied to actual rulings but rather to political developments. The tactic of politicians running "against the Court" has a political reasoning that is related to the changing composition of Israeli governments. The dominant political power of the left-leaning Labor party, the major party in the first 30 years of Israel's existence, has gradually

weakened, to the point that at times it no longer constitutes a viable opposition – it has even become a junior partner in several Likud-led governments. With the exception of only 20 months (July 1999 – March 2000), during the last 20 years or so, Israeli governments were led either by Likud, or former Likud, Prime Ministers. Court rulings questioning practices and policies in the West Bank and Gaza, which right-wing governments support, or judicial decisions handed down against religious institutions, whose parties are the key partners in most right-wing governments, were portrayed as ideologically motivated by a hostile, secular left-leaning court. Calls to change the balance of power and allow elected politicians to act under less scrutiny from appointed judges soon followed. While in the past, turning to the court was a weapon of the weak (Dotan & Hofnung, 2005) and each party could find itself in the parliamentary opposition, this has not been the case during the last two decades. Liberal left-wing parties regularly occupy the opposition benches, and consequently petition the court with greater frequency.

Conclusion

In the first four decades of the state of Israel, elected office holders viewed the court as a neutral and non-political arbiter who could have helped unclog political deadlocks. Viewing the court from such a perspective, they were willing to turn a blind eye to the court's encroachment into the political realm, or were even willing to grant the court new additional powers (Hofnung 1996). However, once such empowerment reached a point where the court became viewed as a veto player identified with liberal causes, the entire judiciary became the foci of attacks intended to annul, or at least weaken, the position of the court as an institution capable of intervening in the political process. In response to the mounting pressure to change

the powers of the court and the composition of the judicial branch, the judiciary has responded with sophisticated political maneuvers that have enabled it thus far to resist the calls for structural reforms, allowing it to maintain the formal powers of the Supreme Court.

Although the formal authority of the court has remained intact, and in crucial junctures the Supreme Court can still function as a veto player, its ability to do so on a regular basis has diminished considerably in comparison to the early 1990s. In several cases in the last decade, the executive has simply opted not to comply with court orders (most such cases are related to court orders in the West Bank, thus raising little outcry within Israel itself).[14] Therefore, in spite of its successful attempts to retain power, the Supreme Court has been tamed. An overall assessment of its judicial independence leads us to conclude that the Supreme Court has maintained its impartiality and political relevance, but it is no longer insulated from political pressure that may affect the outcome of sensitive legal cases.

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Notes

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1 The Law and Administration Ordinance, 1948.

2 HCJ 1/48 Kook v. Minister of Defence, Hmishpat 320 [1948]; HCJ 65/51 Jabontisky v. Weitzman 5 PD 801; HCJ 58/68 Shalit v. Minister of the Interior 23 PD 447 [1970].

3 The third law, the Basic Law: the Government changed the electoral system and bears less importance to the issues discussed in this chapter.

4 CA 6821/93 United Hamizrachi Bank Ltd. v. Migdal Cooperative Village, 49(4) PD 221 [1995].

5 HCJ 73/85 "Kach" Faction v. Speaker of the Knesset 39(3) PD 141 [1986]; HCJ 306/81 Plato-Sharon v. Knesset House Committee 35(4) PD 118 [1982]; HCJ 5364/94 Welner v. Chairman of the Israeli Labor Party 49(1) PD 758 [1995].

6 HCJ 910/86 Resler et al. v. the Minister of Defense, 42(2) PD 441; HCJ 651/03 the Association for Civil Rights in Israel v. Chair of the Central Elections Committee et al., 57(2) PD 62.

7 HCJ 1635/90 Jarjepsky v. the Prime Minister et al., 45(1) 749.

8 HCJ 2758/01 the Movement for Quality Government in Israel v. the Municipality of Jerusalem 58(4) PD 289.

9 HCJ 2311/11 Sabah et al. v. the Knesset et al (delivered on September 17,2014); HCJ 3366/14 Gutman et al. v. the Attorney General – the State of Israel et al. (delivered on March 12, 2015); HCJ 5239/11 Avneri et al. v. the Knesset et al. (delivered on April 15, 2015).

10 See a bill presented to the Knesset by the incoming Chair of the Constitution, Law and Justice Committee, David Rotem on April 1, 2009, P/18/4.

11 A bill submitted by then Chair of the Knesset's Constitution, Law and Justice Committee, Michael Eitan, Ha'aretz, Tuesday, March 25, 2003; a proposal by then Justice Minister, Daniel Friedmann. *Haaretz*, January 3, 2008. Available at: http://www.haaretz.com/print-edition/news/justice-minister-seeks-to-give-cabinet-greater-influence-in-choosing-supreme-court-justices-1.236441. Last accessed 15 November 2017.

12 Bill P/18/3423, submitted to the Knesset on July 25, 2011. The bill was proposed by two Likud members, the Coalition Chair Ze'ev Elkin and the Chair of the Knesset House Committee Yariv Levin.

13 In September, 2008, the Israeli Cabinet approved a bill that would curtail judicial review of legislation while enabling the Knesset to reinstate laws that the Supreme Court deemed unconstitutional. See, Haaretz, September, 8, 2008. Available at: http://www.haaretz.com/print-edition/news/cabinet-approves-friedmann-s-legal-reforms-by-a-single-vote-1.253421. Last accessed 15 November 2017.

14 For an English translation of the list compiled by attorney Yehudit Karp, former Deputy Attorney General, see: https://www.haaretz.com/former-official-bemoans-government-s-disregard-of-supreme-court-1.353406
The list was published in Haaretz on 1 April 2011. Last accessed 15 November 2017.