

Decisive Majority of Israel's High Court Justices Declares Netanyahu's Judicial Coup Dead

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The warnings against a razor-thin vote, which would tear the people apart in a time of war, turned out to be mendacious manipulation. Netanyahu is more interested in the next decision: the law preventing the attorney general from declaring him unfit for office

The High Court hearing against the cancellation of the reasonableness standard, in September. The court's verdict is significant, because 12 of the 15 judges determined that the court has the ability to invalidate Basic Laws. Credit: Yonatan Zindel/Flash90

By Monday evening, the cries of Netanyahu's regime change supporters – that Israel's High Court of Justice was “tearing the nation apart” with its historic ruling by a razor-thin margin in a time of war – turned out to be a mendacious manipulation.

Although only eight of the 15 High Court judges [struck down the abominable law](#), the seven judges in the minority did not give it a stamp of kashrut either.

In fact, a large majority reasoned that it is a dangerous and harmful law, which should never have been passed. Some of the judges who opposed striking down the law offered narrow interpretations of the legislature's intentions – rejecting the law's unlimited scope.

The truly dramatic significance of the ruling is not in striking down the law, but in the [12 judges who ruled](#) that the court has the power to strike down basic laws enacted by the Knesset, thereby creating a new dynamic of mutually assured destruction between the powers: The judiciary is signaling to the reckless and aggressive legislature that if it persists in its campaign of destruction and attempts to undermine the foundations of democracy, such as freedom of expression, an independent judiciary or minority rights, it will face a stop sign.

Prime Minister Benjamin Netanyahu and Justice Minister Yariv Levin in the Knesset, last month. They thought that wrapping their vermin in the language of “Basic Laws” would give them immunity. Credit: Oren Ben Hakoan

This decisive majority is a stinging defeat for Prime Minister Benjamin Netanyahu, Justice Minister Yariv Levin, and their fantasizing messianic collaborators, who, [for a full year, turned an entire country upside-down](#), weakened it, and caused its enemies to conclude that they had a rare opportunity. They thought that wrapping their vermin in the language of “Basic Laws” would give them immunity, but this assumption has exploded in their faces.

In practice, the judicial coup died on Monday night, if it had not already [died on October 7](#). It will

not be a long wait for Netanyahu and Levin before they can attempt to promote their malicious plan again. And in order to execute it, they will have to replace the Supreme Court judges with the [Kohelet Policy Forum](#), members of the Likud Central Committee, and their associates.

Striking down the corrupt law unanimously would have given the rule of law a clear and reverberating victory, but the [minority judges did not rise to the challenge](#). In the past few months, they saw a government led by a criminal defendant who was trying to crush the judiciary, remove all constraints on its actions, and change the method of government.

They saw how it was leading Israel to the brink of civil war; they saw hundreds of thousands of people go into the streets week after week to protect the independence and 'teeth' of Israel's court, in a country whose democracy was built on shaky foundations in the first place. They knew that [axing the reasonableness standard](#) was meant to allow for corrupt appointments, arbitrary decisions, and to disrupt the country's determined gatekeepers, led by the attorney general.

They knew that this was only a pit stop on the road taken by Hungary and Poland. They saw and knew everything, but nonetheless refrained from joining their colleagues.

In the ruling, Judge Anat Baron quoted the beautiful line by the poet John Donne, "Send not to know for whom the bell tolls, it tolls for thee," but the bell did not toll loud enough in the ears of all the judges. Some of the minority judges did not see in the law any harm to the essence of democracy; a position that carries a degree of blindness. Democracy, as the incoming Supreme Court president Judge Isaac Amit commented in the hearing in September, does not die all at once, but ["in a series of small steps."](#)

An aerial view shows protesters holding a banner depicting Israeli Prime Minister Benjamin Netanyahu, Justice Minister Yariv Levin, Finance Minister Bezalel Smotrich, National Security Minister Itamar Ben-Gvir and Head of the Knesset Constitution, Law and Justice Committee Simcha Rothman during a demonstration against their judicial overhaul, in Tel Aviv, Israel. Credit: ILAN ROSENBERG/ REUTERS

Amit grabbed the bull by the horns when he ruled that voiding the reasonableness standard also voided the duty of reasonableness, which would likely leave the public defenseless against the government and "change the face of public service." In the past year, Israel's public service has already gone through accelerated politicization and corruption. Without the fear of reasonableness, it would soon look like the wet dream of [MK David Amsalem](#).

In the ruling, three of the High Court's most conservative judges - Noam Sohlberg, David Mintz, and Yosef Elron - objected to the principle of intervening in Israel's Basic Laws. But even Elron, who sees himself as a candidate for Supreme Court president, did not rule out "the possibility of upholding a narrow exception, in extreme and exceptional cases of infringing basic individual rights, and only as a last resort". It seems that he means cases in which the legislature will slide into such realms as depriving Arabs from the right to vote, or [violating the rights of LBGTO people](#).

The prime minister is undoubtedly following the reports of the High Court ruling, but he is more interested in the next decision. The Supreme Court will soon announce whether the [power to declare a prime minister unfit for office](#) will be returned to the Attorney General Gali Baharav-Miara, which the coalition took from her.

Although the attorney general has signaled that she will not use it, Netanyahu, ever suspicious, does not believe her. He is still convinced with all his heart that the law enforcement system has conspired against him and is determined to oust him from office. The poison machine continues to

spew venom, even in wartime.

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P.S.

• Haaretz. Jan 2, 2024 2:30 pm IST:

<https://www.haaretz.com/israel-news/2024-01-02/ty-article/.premium/decisive-majority-of-israels-high-court-justices-declares-netanyahus-judicial-coup-dead/0000018c-c9c4-ddba-abad-cbe59ebf0000>