



בית הנשיא  
رئاسة الرئيس  
OFFICE OF THE PRESIDENT

## Peoples' Directive

**From a crisis to a constitutional opportunity:**

**The president's proposed constitutional framework for settling the relations between the branches of government in Israel by broad consensus.**

### Principles

- A. This document does not presume to replace the formal legislative process in the Knesset.. The purpose of this document is to outline the basis for the aforementioned legislation procedures which will be promoted by broad consensus in the Knesset.
- B. All the arrangements set forth in this document constitute a full legislative package, resting on a delicate system of balances that should be kept between government authorities, and must be seen as a whole. That is, no part of this document stands on its own, by itself, but depends on the other parts of the document. The document expresses proper balances, which must be maintained during legislative procedures.
- C. All arrangements in this document are to be enacted in a unified legislative procedure as Basic Law: The Legislation and as amendments to the basic laws and primary legislation, in accordance with the details of this document.
- D. Legislative procedures of new basic laws or amendments to existing basic laws will not be promoted until the legislation of all the arrangements included in this document is completed.

1

### **The making and amendment of Basic Laws (Basic Law: The Legislation)**

1. Basic Laws are the foundation for the state constitution, established according to the founding principles of the Declaration of Independence, while anchoring the values of the State of Israel as a Jewish and democratic state.
2. Basic Laws establish and govern the basic structure of government,, state institutions, the state's basic principles, and human rights.
3. A Basic Law shall state in its title that it is a Basic Law without setting a date of enactment.
4. A Basic Law may not be repealed or changed except by a Basic Law.
5. A law will not derogate, repeal or change a Basic Law.
6. Emergency regulations do not have the power to derogate, repeal or change a Basic Law.
7. A Basic Law will be enacted in four readings in the Knesset.



8. A Basic Law will be enacted or amended in the first, second, and third readings by a majority of at least 61 members of the Knesset, followed by a fourth reading in the plenary session of the Knesset in the form approved in the third reading, if one of the following occurs:
  - The fourth reading was accepted by a majority of 80 members of the Knesset at the Knesset session intended for this matter, provided that it was held at least three months after the third reading and that it was not held in the first six months of the Knesset's tenure.
  - The fourth reading was accepted by a majority of 70 members of the Knesset at a session designed for this matter and held in the Knesset which follows the one that voted on the law in the first three readings, provided that at least three months have passed after the Knesset has convened.
9. There will be no votes on Basic Laws after a decision has been made to dissolve the Knesset.
10. To amend provisions in the Basic Law: The Knesset, which guarantees fair and equal elections: elections equality, the right to vote, the right to be elected, and the prohibition of extending the Knesset's term of office, a majority of 80 MKs will be required in all four readings.
11. A Basic Law that was in effect before the publication of this document will be considered as accepted according to the Basic Law: The Legislation, and the provisions of the Basic Law: The Legislation as stipulated in this document will apply to it.
12. Basic Law: The legislation will also include provisions regarding the manner of enacting primary legislation and secondary legislation.

#### **Judicial review of legislation (Amendments to Basic Law: The Judiciary)**

1. The Supreme Court, has exclusive jurisdiction to determine that a law is invalid due to a contradiction with the provisions of a Basic Law.
2. No court has the authority to exercise judicial review of Basic Laws that have met all the procedural conditions required for their enactment, in accordance with the arrangement set forth in this document.
  - An agreed outline for military service or civil-national service legislation shall be set forth. The main points of the outline will be enacted as an amendment to a basic law, and therefore will be immune to judicial review, in accordance with the provisions of the arrangement in this document.
3. The Supreme Court may determine that a law is invalid, in an expanded panel of no less than 11 judges, and by a majority of no less than two-thirds of the panel.
4. If a majority of the panel of judges but less than two-thirds rules that a law contradicts the provisions of a Basic Law, the court may issue a declaration of incompatibility.



בית הנשיא  
رئاسة الرئيس  
OFFICE OF THE PRESIDENT

A declaration of incompatibility shall not have the power to nullify the validity of a statute. Following such declaration, The Knesset will discuss the law and examine legislative amendments as necessary.

5. Provisions will be established for the transfer of the decision on the question of the validity of a law due to a contradiction with a Basic Law from the other courts of jurisdiction to the Supreme Court, according to the arrangement established in this document.
6. Judicial review of legislation will continue to apply to the full extent of the rights derived from the right to human dignity, including the right to equality, as interpreted in the case law of the Supreme Court through to the enactment of the arrangements set forth in this document.

#### **Selection of judges (Amendments to the Basic Law: The Judiciary)**

1. The judicial selection committee will include 11 members:
  - The Minister of Justice, and two additional ministers to be chosen by the government.
  - The President of the Supreme Court, and two other associate judges of the Supreme Court that are to be elected by its fellow judges, subject to the provisions of appropriate representation as detailed below.
  - Three members of the Knesset, among them one coalition member and two members from different opposition parties. The coalition representative will be elected by the coalition; the opposition representatives will be elected by the opposition parties. If an opposition party joined the coalition or withdraw from the coalition, new representatives will be elected accordingly.
  - Two representatives of the public, jurists, who are qualified to serve as Supreme Court judges, in accordance with the Courts Act and who have rich experience in judging or practicing law or academia, appointed by the Minister of Justice with the consent of the President of the Supreme Court. The representatives of the public will be appointed for the term of office of only one Knesset without eligibility for re-appointment.
2. Provisions will be established by law or regulations to ensure the independence of judgment of all committee members.
3. The committee will select judges to the Supreme Court by a majority of seven committee members.
4. The committee must include in the selection process considerations such as: the professional level of the candidates, a reflection of the diversity of groups in Israeli society; the needs of the Supreme Court regarding the diversity of the areas of expertise of its judges, and the diversity of the composition of the judges in relation to their theological-judicial worldview.



בית הנשיא  
رئاسة الرئيس  
OFFICE OF THE PRESIDENT

5. At least one of the representatives of the Supreme Court judges on the committee, at least one of the government representatives on the committee, at least one of the Knesset representatives on the committee and at least one of the public representatives on the committee will be women. At least one of the members of the committee will be a representative of the Arab society.
6. The committee will elect the president and vice president of the court, in accordance with the existing practice, according to the date of appointments of the judges.
7. The number of judges in the Supreme Court will be based on current practice, and the retirement date of the judges will be in accordance with the provisions established by law today.
8. The committee will select judges for lower courts by a majority of seven committee members, provided that one of them is a serving judge of the Supreme Court. Two representatives of the Bar Association will participate as observers in these committee meetings.
9. The committee will select a candidate to serve on lower courts only if the candidate has successfully passed a preparation course for a judgeship; details regarding the format of the course will be regulated by law; The committee will be entitled to appoint to the position of judgeship a person who has not successfully passed the course by unanimous decision of all committee members.
10. Impeachment of judges will be by a majority of nine out of eleven committee members, including the President of the Supreme Court.

4

#### **Establishing basic rights under law (Amendments to the Basic Law: Human Dignity and Liberty)**

1. Basic Law: Human Dignity and Liberty shall formally codify the right to equality and the prohibition of discrimination; the right to freedom of expression, opinion, demonstration, and assembly.
2. At the same time, a constitutional process will be initiated with public participation at the President's House where a discussion will be held on the core constitutional issues of the State of Israel, taking into account the diverse nature of Israeli society and the formulation and completion of a comprehensive Bill of Basic Rights, with broad consensus, which will be anchored in a Basic Law.

#### **Reasonableness (Amendments to the Government Act)**

1. The decisions of the government in its plenary in matters of policy and appointments of ministers will not be reviewed by a court under the reasonableness standard alone.
2. Decisions of ministers in matters of policy shall not be overturned on the grounds of unreasonableness alone unless they are arbitrary or capricious.



בית הנשיא  
رئاسة الرئيس  
OFFICE OF THE PRESIDENT

3. Notwithstanding the above, the reasonableness standard will continue to apply, insofar as it applies according to the ruling of the Supreme Court moving to the enactment of the arrangements set forth in this document, as far as the rest of the executive branch.

### **Legal advice to the government (Amendments to The Government Act)**

1. The status of legal advisers to government ministries:
  - a. A legal adviser shall be appointed for a term of 6 years.
  - b. The appointment of the legal advisers will be conducted as a professional search process in the civil service and the independence of the legal advisers will be preserved. The procedure will be conducted by means of a tender as is customary today.
  - c. Without deviating from the provisions of the law regarding the transfer of a civil servant from his position, a minister may initiate the removal of a legal advisor from office if there are substantial and ongoing disagreements between them that prevent effective cooperation. This is subject to the approval of a committee whose members will be the Attorney General, the Civil Service Commissioner, a representative from the relevant ministry to be appointed by the Director General, and a former Director General of a government office to be appointed by the Civil Service Commissioner, with the approval of the Attorney General. The committee's decisions will be made by a majority of its members.
2. The opinion of the Attorney General and the legal advisers to the government ministries regarding the law is binding for the offices, departments and agencies in which they serve.
3. Despite the above, the opinion will not be binding with regard to the constitutionality of the draft of bills that the government wishes to advance on the Knesset.
4. A minister will be entitled to appeal before the Attorney General over the opinion of the legal advisor of the office where the minister serves.
5. If a petition was filed against the government or its members, and the Attorney General decides that he or she will not represent the position of the government or its members before the courts, as the case may be, the government or its members will be entitled to receive separate legal representation before the courts.

### **A multi-year plan to reduce the burden on the judicial system**

1. The number of judges in Israel is significantly lower than the norm in the western world, while the number of cases opened is particularly high compared to the international average. In order to optimize the work of the court system, ease the judicial burden and improve the service provided to the citizens, it is necessary to add hundreds of judicial positions.



בית הנשיא  
رئوس الرئيس  
OFFICE OF THE PRESIDENT

2. A multi-year plan will be adopted to reduce the burden on the judicial system. This is subject to staff work to be conducted by the administration of the courts, to improve the service provided to the citizen and to reduce the burden on the judicial system, and appropriate regulations will be established for this purpose.

**Transition and validity provisions (will be included in Basic Law: The Legislation)**

1. No additional arrangements will be enacted during the period of the 25th Knesset dealing with the relationship between the authorities or changing the status of the judiciary or its rules of operation, the legal advice to the government and its branches.
2. A mechanism will be established to examine the need to move specific arrangements currently found in the provisions of the Basic Laws to regular legislation or to repeal them. For a period of 8 years, the Knesset will be entitled to repeal by a majority of its members a provision in the Basic Law that existed on the eve of the new Basic Law: The Legislation, with the exception of the articles listed in the Basic Law: Human Dignity and Liberty, Basic Law: Freedom of Occupation, Basic Law: The Knesset; Basic Law: The Government, Basic Law: The Judiciary and Basic Law: Israel, The Nation-State of the Jewish People.