

LET'S TALK ABOUT ISRAEL

Let's talk about Israel. The images of massive protests in the streets of Tel Aviv are captivating the world's attention. We hear about Israeli Prime Minister Benjamin Netanyahu and his desire to restructure the judiciary in Israel. Some may wonder what this is all about and others may wonder if this affects our Jewish lives and still others may wonder what effect these protests are having in terms of perception of Israel and its policies.

The proposal is somewhat complex but in a nut-shell the Prime Minister would be in charge of appointing the judges and seeing that judges do not overstep their authority. It seeks to curb the judiciary's intervention and influence over lawmaking and public policy by limiting the Supreme Court's power to exercise judicial review, granting the government control over judicial appointments and limiting the authority of its legal advisors. Currently justices are appointed from a court appointed committee which is independent of the Knesset and the Prime Minister's office. Prime Minister Netanyahu claims that this proposal will limit judicial activism where a handful of judges would determine the laws; keeping governance in the hands of Knesset members who reflect the will of the people. It will limit "stare decisis" where judges formulate laws based on case decision into a broader scope and this law will put the law-making into the hands of governance institutions. Since a majority of the governing parties are far more conservative than many on the court, they feel that their authority is being stifled by the courts. This is what many on Israel's Right are claiming.

Yet, Israel does not have a constitution. Laws are deemed unacceptable by the courts when they violate the principles mapped out in the Declaration of Independence and when they violate precepts as defined by international law. There is no constitutional doctrine that creates separation of powers like we have in the United States. There is no clear definition of the roles of checks-and-balances that our Constitution ensures. This proposed Israeli law could easily politicize the judiciary and undermine its effectiveness.

To be the Prime Minister, one must have a majority of votes in the Knesset. If the Prime Minister appoints magistrates and the Knesset approves, there is very little opportunity for dissent voices. It easily can be approved with a “rubber stamp.” There are concerns that minority voices will be limited. Opponents to this law speak of 4 major areas of concern:

1. Will Prime Minister Netanyahu avoid corruption charges if he can appoint his own judge?
2. Would a weakened judicial system help preserve minority rights as well as ensure a degree of protection for Israeli soldiers who might face accusations of war crimes from an international court? How would a weakened court be able to be an outlet for justice for Palestinians? Would they be able to safeguard against illegal expansion of Israeli settlements into Palestinian territories?
3. Would non-orthodox Jews lose the ability to challenge the authority of the Orthodox only practices—marriage, funerals, conversions, access to the sacred sites like the Wall, etc? Would Orthodox Jews find it easier to avoid military service and have an unfair advantage to access government funding for their institutions?
4. What will happen to women’s rights for reproductive choice, domestic violence, divorce, being viewed as equal to men? How about LGBTQ rights?

Commentators in various news outlets speak of the polarizing effect on Israeli society. Some wonder if Israel might face a civil war of sorts. These concerns are quite concerning. But this would impact us as well—as non-orthodox Jews would our lifecycle events be recognized; what about the status of children born on non-Jewish mothers which Reform Jews recognize as Jews but Orthodox Jews do not? Will women be allowed to pray as Jews at the Western Wall or be able to read Torah? The impact of this proposed law is unknown but under the current political climate, could be devastating to us in America. As a result, leaders of Reform/Conservative Jewry outside of Israel are calling for this bill to be withdrawn.

I encourage you to pay careful attention to this issue in the weeks/months ahead. And need be, I encourage you to show your support for Israel by voicing sincere and educated concerns for this proposed Judicial reform law .