



By: Tomorrow's Affairs Staff

A new phase of the political crisis in Israel – a decline in international credibility



Israel's 8-month political crisis over the Supreme Court's authority and its relationship with the legislative and executive branches has entered a new, perhaps final, phase this week.

In the presence of all 15 judges, which is a rare precedent, the Supreme Court opened the process of appeals to the law passed last July, which limits the powers of the Supreme Court.

In practice, it is the Court's decision whether parliament could have the power to strip the court of its legal oversight function.

This process is considered historical. Not only because, for the first time, the Supreme Court is in a position to reject a law that belongs to the so-called "basic laws".

It will also be considered historical regarding the effects of its decisions, regardless of what they are, because it essentially involves a conflict between two opposing views on the type of democracy Israel should practise.

Populism has reached its peak

Since the start of his term last December, the far-right government of Benjamin Netanyahu has made it a priority to limit the Supreme Court's authority and strip it of its prior power to review or reverse certain decisions if it considers them detrimental to the country and democracy.

The Netanyahu government's populism has reached its height in this dispute with an institution that enjoys a significant reputation as a guardian of democratic values.

His cabinet and its far-right members are convinced they can and should win the battle against the Supreme Court, which they consider a defender of the "leftist elite."

"According to what is customary in our country, the one authorised to determine the content of basic laws is the sovereign - it is the people through elections", said Ilan Bombach, the representative of the Netanyahu government, at the hearing before the

Supreme Court.

Hundreds of thousands of people have been protesting on the streets of Israel for 8 months against the usurpation of the Supreme Court's authority. Many of them practise different forms of civil disobedience, such as thousands of members of military reserves who refuse to report for duty.

An institutional crisis cannot be avoided

Israel will have to wait for the court's decision regarding the disputed law for weeks, even months. The legitimacy of Netanyahu's cabinet has been severely hampered practically from the start due to the continuing conflict surrounding the functioning of government institutions in Israel.

Regardless of the court's ruling, the nation will be unable to avert an institutional crisis, since it will remain unclear who will ultimately decide how the law will be administered.

"Constitutional crisis is already here", said Tzipi Livni, former Minister of Justice and Foreign Affairs, one of the opponents of the government's judicial reform policy.

Prime Minister Netanyahu has not yet made a statement regarding the formation of the cabinet in the event that the court renders what he perceives to be an unfavourable verdict: that is, rejects the law passed last July.

However, some members of his government are inclined not to accept the court's decision if it suspends the newly adopted law.

"The people are sovereign, and their will is expressed in the basic laws enacted by the Knesset", said Yariv Levin, Minister of Justice, indicating what the government's attitude towards the decisions of the Supreme Court is currently, and what it will be in the future. He called the hearing "a fatal blow to democracy".

Will the government accept the court's decision?

It is quite realistic that the government will ignore the decision of the Supreme Court if it is negative, which would cause confusion about the application of the law at all levels of state authorities.

However, if the Supreme Court upholds the legality of the recently passed law, which limits its authority, political pressure from protests and other acts of disobedience would be likely to increase.

This means months of political instability for Netanyahu's cabinet as its Knesset's narrow majority will be put to the test.

Even though Netanyahu claims that he has been trying to secure a compromise with other political actors regarding the judiciary, the crisis is beyond his powers on the international level as well.

Declining credibility on the international scene

Israel will deal primarily with internal political escalation at a time when its participation in the international arena is necessary.

While the prospect of an agreement between Israel and Saudi Arabia, which the US has been working on, grows, Netanyahu has a domestic legitimacy problem that weakens, if not disqualifies, his international credibility.

He will travel next week to the US for the session of the UN General Assembly, but there is little chance that he will meet with US President Joe Biden, who has been an opponent of Netanyahu's policy towards the Supreme Court since the start.

Israel's position in significant international processes will be challenged due to the lack of democratic credibility brought on by the institutional crisis if the dispute between the legislative and executive authorities on the one

hand and the judiciary on the other intensifies.

Elections are typically used to address such crises, but the depth of Israel's conflict is unlikely to be remedied in a single election cycle.