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# Israel's Political Battle Goes to Court

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Brief Analysis

## The dispute over voting for a new speaker of parliament is the latest front in determining who will form the next government, with the Supreme Court entering the fray as Netanyahu maneuvers to stay in power.

In the shadow of a pandemic, Israel is witnessing a dramatic legal showdown that could determine the composition of the next government. In an extraordinary move, a five-justice Supreme Court panel unanimously ruled that the speaker of parliament must allow a vote for his replacement on March 25. The court stated that continued failure to hold the vote “undermines the foundations of the democratic process” and “damages the principle of peaceful transfer of power.”

Benny Gantz and other leading officials in the Blue and White Party have insisted on the vote because it may prevent Prime Minister Binyamin Netanyahu from holding onto his post. The party is considering legislation that would forbid an indicted official like Netanyahu from forming the next government, and the Knesset speaker is indispensable in setting the parliamentary agenda for such a move.

The plot thickened further when the current Knesset speaker—Netanyahu ally Yuli Edelstein—declared that he would not yield to the Supreme Court’s “ultimatum.” In another astonishing move, Netanyahu’s recently appointed justice minister, Amir Ohana, publicly urged Edelstein to defy the court. Although a few prominent parliamentarians from the prime minister’s Likud Party said the court must be obeyed, a large majority have stayed silent, including Netanyahu himself. It remains unclear if Edelstein will accept the ruling at the last moment or be held in contempt (on March 23, he acceded to the formation of parliamentary committees amid heavy pressure). Alternatively, the

fifty-eight members of Netanyahu's broader right-wing bloc could decide to boycott the vote while enabling it to move forward (their absence would not create a quorum problem so long as a simple majority of 61 members vote in favor).

The road to the court's intervention began on March 16, when Edelstein refused to allow a vote for his replacement and insisted the Knesset could not operate due to the coronavirus pandemic. Over the past week, demonstrations have popped up around the country in protest of not only his decisions, but also Ohana's sudden closure of all courts except the Supreme Court just days before Netanyahu was due to appear before a judge for the first time regarding his corruption indictments. The virus has limited on-foot rallies, but cars adorned with black flags have circled Tel Aviv warning that Israel's democracy is imperiled. However this crisis ends, it is bound to fuel those politicians on the right who are convinced that the judiciary has been overreaching.

## NETANYAHU'S APPROACH

In rare televised interviews on March 21, Netanyahu repeatedly denounced the idea of legislation that could prohibit him from serving as prime minister, saying it would not pass muster even in a dictatorship like Iran. If such a bill does in fact become law, it would likely spur politicians on the right to furiously accuse the opposition of trying to undo the latest election results.

Yet the main focus of Netanyahu's remarks was not on his legal situation, but rather on how Edelstein's potential ouster might affect the political context of forming a new government. Specifically, he argued that removing Edelstein would undermine Likud's delicate efforts to establish a national unity government, pointing to quiet talks that party representatives have held with Gantz's team over the past week.

According to Netanyahu, the current proposal is for each leader to serve as prime minister for eighteen months, with him going first. Likud would keep two key portfolios—finance minister and Knesset speaker—while Blue-White could choose the ministers of defense and foreign affairs; the parties would then select a mutually acceptable justice minister. When one television interviewer reminded Netanyahu that Blue-White distrusts him deeply, he promised viewers that he would step down in September 2021, allow Gantz to replace him as premier, and switch the above portfolios between Blue-White and Likud upon the next rotation.

## BLUE-WHITE'S APPROACH

Gantz and his allies do not believe that replacing Edelstein would foreclose the possibility of a national unity government. Rather, they fear that Netanyahu would refuse to step down once his turn was over in a rotating premiership, especially without a law ensuring an orderly transition of power at the midway point.

Thus, they are united in pushing for a law that bars indicted officials from serving as prime minister, which in their view could have two favorable effects. First, the mere threat of passing the law could push Netanyahu into allowing Blue-White to take the first rotation, with Netanyahu going second if he is cleared of indictments at trial. Second, the law could pressure Likud to abandon Netanyahu and call for a new party leader (which seems unlikely given their deep loyalty to him)—or, failing that, it could facilitate a minority government.

After the third round of elections earlier this month, [anti-Netanyahu forces hold a total of 62 seats](#) in parliament: Blue-White (33), the Arab-led Joint List (15), Labor-Meretz (7), and Avigdor Liberman's Yisrael Beitenu Party (7). Although the Joint List has refused to join past governments, it could tacitly agree to provide a safety net for Gantz in crucial parliamentary no-confidence votes. Yet this minority-government scenario seems improbable at the moment because at least three members of the anti-Netanyahu bloc—Zvi Hauser, Yoaz Hendel, and Orly Levy-Abekasis—say they do not want to rely on the Joint List, noting that some of its members support violence against Israel.

If the players fail to agree on a minority or unity government, then a fourth round of elections would become all but certain. All sides say they want to avoid that outcome; moreover, it is unclear how elections would even be held during a pandemic.

Opposition leaders are also divided in how they view Netanyahu. Three politicians are most vociferously opposed to working with him because they felt burned when they collaborated with him in the past: Liberman and senior Blue-White figures Yair Lapid and Moshe Yaalon. Yet Gantz and fellow Blue-White doyen Gabi Ashkenazi are more open to forging a unity government with Netanyahu, in part based on their experience serving as military chiefs of staff under him. In that scenario, Gantz could serve as foreign minister during Netanyahu's first rotation while Ashkenazi serves as defense minister. Netanyahu seems to be counting on each general's support for his proposal—and on the [coronavirus limiting everyone's room for maneuver](#) and convincing holdouts to come together in the name of national unity. As for the alternative proposal whereby Netanyahu would lead an emergency unity government for the next six months before handing over the premiership, Gantz favors being a full partner in this arrangement, while Lapid and Yaalon favor providing a safety net from the outside.

## CONCLUSION

Israeli politics have always been intense, but the players have generally agreed on the democratic rules of the game throughout decades of serious challenges at home and abroad. The Supreme Court's unanimous ruling suggests that many Israelis believe those unspoken rules might be buckling under the current crisis. For the sake of both its own democratic identity and its values-based relationships with other nations, Israel needs to keep these rules sacrosanct. The fact that the court felt the need to intervene shows the stakes involved—and the vitality of Israel's system of checks and balances.

*David Makovsky is the Ziegler Distinguished Fellow at The Washington Institute and coauthor with Dennis Ross of the book [Be Strong and of Good Courage: How Israel's Most Important Leaders Shaped Its Destiny](#).* ❖



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