

Judicial Selection Committee Background

Excerpts from—

“THE FIGHT OVER JUDICIAL APPOINTMENTS IN ISRAEL”–

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1. How are Supreme Court judges appointed?

“In 1953, the Knesset passed the Judges Law. It created a nine-member Judicial Selection Committee, which still exists today. The committee includes two government ministers (one of whom is the minister of justice, who also serves as chair of the committee), two members of the Knesset (one of the two is often, but not always, a member of the opposition), three justices of the Supreme Court (one of whom is the president of the Supreme Court), and two members of the Israeli Bar Association. This composition was designed purposefully to ensure that legal professionals (judges and lawyers) would have a majority in the committee, thereby limiting the influence of the government over the composition of the judiciary.

...justices of the Supreme Court [are] chosen by a seven-member majority, effectively creating a two-way veto over such appointments to the [governing] coalition, which controls at least three seats on the committee, and the three Supreme Court justices. Under the current rule, any appointment needs to be acceptable to at least one member in these two voting blocs.”

2. Why do some Israelis support this selection system and why do others oppose it?

“In most legal systems, the appointment of judges involves a balancing act among judicial independence, accountability, and representativeness, all of which are essential for the rule of law, public trust, and legitimacy. The appointment system in Israel provides for a high degree of independence and professionalism of the judges and features some degree of accountability to the political branches. It is lacking, however, in terms of representativeness (as explained below). And critics allege that dominance of legal professionals on the Judicial Selection Committee results in the selection of judges from the legal mainstream and the rejection of candidates with other backgrounds and views.

The demographics of the Supreme Court arguably underscores this latter point: Of the 76 justices who have served as permanent members of the Supreme Court, 39 have been Jewish secular men, from Ashkenazi (Western) origins. This subgroup now composes less than 20 percent of the population of Israel...

Three population sectors remain seriously under-represented however: There are only two justices of Mizrahi origin (whose families immigrated to Israel from North Africa or Asia), despite this group representing approximately 40 percent of Israel’s population. There is only one Arab justice, even