

Constitution of the State of Israel

Proposed by the
Institute for Zionist Strategies

The Institute for Zionist Strategies is an independent non-partisan organization dedicated to the preservation of the Jewish and democratic character of the State of Israel, according to the principles of Israel's Declaration of Independence.

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המכון לאסטרטגיה ציונית
THE INSTITUTE FOR ZIONIST STRATEGIES



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Preface

This year's festive Tu Bi'Shvat session of the Knesset, held on February 13, 2006 by Israel's sixteenth Knesset, focused on the subject of an Israeli constitution. The results of two years of work by the Knesset Constitution, Law and Justice Committee, headed by Knesset Member Michael Eitan, in preparation for the passage of a constitution in Israel, were presented to the Knesset. Both the festive Knesset session and the Knesset committee appear to have been working from the assumption that the seventeenth Knesset, elected on March 28, 2006, would complete the passage of the Israeli constitution, an endeavor embarked upon even before the establishment of the state.

Israel has a fairly well developed system of constitutional arrangements which are, however, incomplete and uneven in nature. Paradoxically, it has been the legislative developments and rulings on constitutional issues of recent years that have increased the ambiguity and heightened disagreement regarding basic constitutional issues. This situation underscores the need to pass a constitution as soon as possible.

Some emphasize the importance of passing a constitution that will be acceptable to all parts of the Israeli public. Unfortunately, there is considerable doubt as to whether it is at all possible to formulate a constitution that everyone can agree upon. Israeli society is divided in many respects and the State of Israel is a state whose very right to exist is even today still called into question by many, from both within and without. Under such circumstances, along with the desire to attain a broad consensus, there is a need to make unequivocal decisions regarding the basic principles upon which the state and its government are founded. The tension between the need to attain a broad consensus, on the one hand, and to make clear-cut decisions on the other, is characteristic of the process that every country involved in determining constitutional frameworks undergoes. In Israel, however, this tension – between the need to find a fine balance between conflicting demands and the need to make clear-cut decisions – appears to be one of the main factors contributing to the delay in the constitutional process.

Among the subjects that formal constitutions deal with, four central issues need to be clearly decided upon:

1. The basic characteristics and principles of the state;

2. The status of the individual and the citizen, and the setting of clear guidelines to determine the relations between the individual and the state's official institutions;
3. The nature of the government and of the governmental authorities acting on behalf of the state – including the setting of clear guidelines to determine the nature of the relationship among the official authorities themselves and that which exists between them and the citizens of the state;
4. The setting of guidelines for the pyramid of norms that are binding on the state and, in particular, determining the status of the constitution, as compared to primary legislation, and the effect of the system of norms when the actions and decisions of the legislature and executive are reviewed by the judiciary.

Making decisions on these subjects is not easy and each requires either a fine balance or a clear-cut decision – which are often mutually exclusive.

Constitutions in enlightened countries aspire by nature to be democratic. But the question of the procedural and practical definition of democracy is no simple matter. History has shown us all too often that democracy must frequently contend with irreconcilable contradictions between its various demands. Moreover, most enlightened countries developed as nation-states. Some might claim that there is an inherent contradiction between the character of a state as a nation-state and its character as a democratic one. Nevertheless, in practical terms, it would appear that most countries have managed to attain a balance whose results are fairly dichotomous, making it reasonably easy to determine if a given regime is democratic, practically speaking, or not. In the Israeli context, decisions have to be made regarding the essence of the state as the national home of the Jewish people, the rights of its minorities and questions of religion and state, which some maintain have been the principal factors responsible for the delay in passing the constitution.

No basic human or civil right is absolute. From this it follows that there exists no absolute freedom or equality. This is all the more so where the contradiction between freedom and equality is concerned, to say nothing of the additional contradictions between other freedoms and rights. A democratic constitution seeks to present not only a “complete” list of rights, but also keys to understanding the contexts in which freedoms may be limited and the nature of the decision that must be made when it becomes evident that there is a contradiction between conflicting basic rights.

In view of the collapse of advanced democratic regimes in the twentieth century, we must not forget that every democracy has the right and obligation to defend itself. It must defend itself not only against those who would use violent means to fight it, but also against those who seek to exploit the rules of democracy itself in order to undermine it. This is all the more so in the case of Israel, which finds itself having to combat consistent attempts to oppose its very essence as a Jewish state and even its very existence. A sizeable minority of Israel's citizens belong to a people a large part of which, regrettably, views itself as Israel's sworn enemy. That democracies need to defend themselves against those who would destroy them has been underscored in a number of laws in democratic states and is recognized as a prominent principle of natural law. In the words of Chief Justice Barak, "A constitution is not a recipe for suicide and civil rights are not a vehicle for national destruction." It is incumbent, therefore, upon the constitution to give expression to the requirement of a democracy to defend itself.

There are a number of alternatives regarding the determination of the type of democratic regime and its governmental authorities. Thus, a democratic regime can be federative or unitary, presidential or parliamentary, with each governmental arrangement having its own advantages and disadvantages. A decision on matters of this nature must be made in relation to various factors such as: the status quo and its advantages and disadvantages, the existing empirical, theoretical knowledge on alternative arrangements, and adaptation to the character and elements of the society for which the constitutional arrangement has been made. The decision regarding the basic characteristics of the form of government is far from philosophical. There is no dearth of examples showing how constitutional arrangements on the questions under discussion can produce the seeds of rifts and division to the point of causing the democratic entity to collapse. In the Israeli context, it would be wise to draw conclusions from changes that have been made in various directions in recent years. In addition, especially salient in the Israeli case is the importance of maintaining the stability of the government and its ability to govern, on the one hand, and of safeguarding the representativeness of the government and its branches, on the other.

The superiority of a constitution to laws passed by parliament is intrinsic. However, questions often remain concerning the boundaries of judicial review both in the context of the legal norms determined by the legislature and the executive, as well as of the status of the judiciary when reviewing the actions of the executive. Even in some of the world's most seasoned and well-established democracies, rulings on these questions may remain disturbingly ambiguous. In Israel, issues related

to the characteristics of the pyramid of norms have called into question even the status of the Supreme Court. Regrettably, the Court has been repeatedly asked to hand down decisions on subjects that should typically be decided by the other branches of government. The dispute over the legal status of the basic laws is an excellent example of undesirable ambiguity in this context. The issue of national security versus the rule of law in general and the status of emergency regulations, which have been part and parcel of Israel's constitutional arrangement almost since the establishment of the state, is yet another major example.

In the constitutional proposal presented here, the character and principles of the state are presented in the preamble and first chapter: "The Basic Principles of the State". These principles cannot be altered, except by a two-thirds majority of the Members of Knesset (Par. 4). The preamble is based on Israel's Declaration of Independence. The first paragraph in this constitution states that "The State of Israel is a Jewish State and the National Home of the Jewish People," whereas the second paragraph says, "The State of Israel is a democratic State, which respects human rights in the spirit of the Jewish heritage's principles of freedom, justice, integrity, and peace." The State of Israel is the state of its citizens: "The State's sovereignty inheres in its citizens" (Par. 3).

The third chapter in the proposal, "The State of Israel as the National Home of the Jewish People," is careful to guarantee the rights of the minorities regarding days of rest (Par. 24), culture, language and settlement (Par. 30), and education (Par. 31), but enables each "distinct" community (including a Jewish community) to "maintain separate communal settlements".

The proposal does not fundamentally change the status quo regarding religion and state, but does clarify ambiguities and seeming contradictions that could exist in a possible constitutional arrangement and opens the door to various possible legislative solutions to subjects related to Sabbath observance and marriage. At the same time, the ties to Jewish heritage are emphasized (Par. 23, Par. 24, Par. 29, Par. 31, Par. 73).

The second chapter in the constitution, "The Status of the Individual and Citizen and their Freedoms," begins with the words, "The human rights recognized in this constitution are based on the recognition that every human being is created in the [divine] image and is endowed with freedom and dignity." The carefully considered list of rights mentioned here refrains from taking a sweeping declarative approach shrouded in ambiguity, which generally undermines both the clarity of the norms

and the manner of their implementation in practice. The final paragraphs in this chapter speak of the approach that should be taken in order to resolve contradictions (“In the event of a conflict between rights enunciated in this constitution, one right shall yield to the other only to the extent necessitated by attendant circumstances,” Par. 18) and the reasons for which rights may be limited (Par. 19). The chapter ends with an improved limitations clause (Par. 20).

Most of the constitution’s chapters deal with the characteristics of the government. The constitution does not contain any fundamental changes regarding the status of the President and State Comptroller, and only the principal elements of their offices are mentioned in the constitution itself; additional relevant details will be included in the law accompanying the constitution, which would be passed together with it.

With regard to the executive and legislative branches of government, the proposal is careful to maintain the character of the government as a parliamentary one, but leaves the door open to elections that may not necessarily be national and representative. At the same time, numerous means have been introduced to stabilize the system and prevent dependence on small and marginal political groups. New arrangements relate, among others, to the length of the Knesset’s term (Par. 46), the formation of the government (Par. 50, Par. 54, Par. 55, Par. 56, Par. 57), the ongoing functioning of the Knesset and government and the use of public referenda (Par. 47, Par. 100). The proposal also reinforces the idea of a constructive no-confidence motion (the possibility of passing a no-confidence motion only when there is a clear majority that supports an alternative government – Par. 58, Par. 59), and puts an end to the current situation in which various parties have the power to jeopardize the stability of the government during the passage of the budget law (Par. 62).

The key idea behind the proposed constitution is to guarantee the absolute superiority of a constructive majority in the Knesset, when such a majority exists, and to guarantee the stability of the system when the existence of a constructive majority is in doubt.

With regard to the judiciary, the proposal includes the possible introduction of innovations in the appointment of judges (Par. 78), in the manner in which the chief justice of the Supreme Court is appointed and the length of his or her term (Par. 79) and in the status of the religious courts. It offers alternative arrangements relating to matters of marriage (Par. 68), constitutional regulation of the question of the right of standing in the administrative court (Par. 70), limitations on

justiciability (Par. 71) and ways of interpreting the law. In addition, the proposed constitution emphasizes the independence of Israeli law (Par. 74). The proposed constitution clearly emphasizes the superiority of the legislature over the judiciary, both regarding ordinary legislation and “constitutional legislation”.

The proposed constitution seeks to do away with numerous ambiguities that have emerged over the years relating to the pyramid of norms. After the passage of the constitution, all the Basic Laws will be voided (Par. 89). What remains of them in wake of the passage of the constitution and any required changes and additions will be included in a new law that will replace them when passed together with the constitution. Some of the changes will be made in order to prevent the creation of a “competing” constitution by means of interpretation that could distort the intentions of the legislator. This proposal makes clear that the constitution is superior to all ordinary laws, but the procedure required to repeal laws that run counter to the constitution is fixed, and clearly delineates the boundaries of the judiciary’s authority as inferior to that of the Knesset, which is the State of Israel’s legislative and constituent authority (Par. 90, Par. 91, Par. 92, Par. 93). The proposal relates to the extent of continuity of legal norms and the extent to which previously existing laws will be preserved after the passage of the constitution (Par. 91, Par. 94). Similarly, the proposal includes accepted rules for the determination of the hierarchy of norms: the superiority of paragraphs requiring a special majority and the manner of their passage (Par. 95), the superiority of later norms (Par. 96), the superiority of the constitution and of law over regulations (Par. 97), and the immunity of the constitution to emergency regulation (Par. 98). The closing paragraphs in this proposal determine the manner in which the constitution is to be passed and changed.

I wrote the first draft of the proposal included in these pages following consultation with numerous experts. Among those most worthy of mention are Prof. Ruth Gavison, Prof. Moshe Koppel, Dr. Menachem Hofnung, and my wife Dr. Hannah Diskin.

This draft served as the initial basis for numerous discussions carried out by a select committee of the Institute for Zionist Strategies. Numerous additions and amendments to the first draft were hammered out by the committee in weekly meetings over many months and following two conferences held by the Institute for Zionist Strategies. Among those that contributed to the changes to the original version were experts from the academe, statesmen, judges, rabbis and other public figures. It is beyond the scope of this introduction to mention the names of the dozens of people involved in this work.

The version presented here was ultimately agreed upon by the members of the committee, which included Prof. Moshe Koppel, Prof. Berachyahu Lifschitz, Judge (Ret.) Uri Shtruzman, Rabbi Dan Beeri, Dr. Yitzhak Klein and the directors of the Institute for Zionist Strategies, Attorney Joel Golovensky and Israel Harel, in addition to the undersigned. This introduction has been written also on their behalf and has met with their approval.

No perfect constitution exists, and it may be assumed that the document presented here is far from flawless. Despite the considerable effort put into this proposed constitution, I have no doubt that it can be considerably improved upon. It is the Knesset's task to pass the constitution. I cannot but hope that this proposal will be of service to Israel's legislative and constituent authority for the benefit of all.

Prof. Abraham Diskin

The Institute for Zionist Strategies
Jerusalem, Sivan 5766 (June 2006)

Preamble

The Land of Israel was the birthplace of the Jewish People. Here their spiritual, religious and political identity was shaped. Here they first attained statehood, created cultural values of national and universal significance and gave the eternal Book of Books to the world.

After being forcibly exiled from its Land, the People kept faith with it throughout their Dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom.

Impelled by this historic and traditional attachment, Jews strove in every successive generation to re-establish themselves in their ancient homeland. In recent generations they returned in masses. Pioneers, *ma'apilim* and defenders, they made deserts bloom, revived the Hebrew language, built villages and towns, and created a thriving community controlling its own economy and culture, loving peace and knowing how to defend itself, bringing the blessings of progress to all the country's inhabitants, and aspiring towards independent nationhood.

After the Nation was forcibly exiled from its Land, it remained faithful to its Land and never ceased to assert its right to a life of dignity, freedom and honest toil in its National Homeland.

The Holocaust which befell the Jewish people during the second World War - the massacre of millions of Jews in Europe - was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz-Israel the Jewish State, which would open the gates of the homeland wide to every Jew and confer upon the Jewish people the status of a fully privileged member of the community of nations.

On the day of the termination of the British mandate over Eretz-Israel, the fifth of Iyar, 5708, the fourteenth day of May, 1948, the members of the People's Council, representatives of the Jewish community of Eretz-Israel and of the Zionist movement, assembled and declared the establishment of a Jewish State in Eretz-Israel, to be known as the State of Israel.

The Declaration of Independence determined that the State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the

development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; and it will safeguard the Holy Places of all religions. In the very midst of the onslaught launched against it, the State of Israel extended its hand to those who sought its destruction, in an offer of peace and good neighborliness. The Declaration of Independence mandated the adoption of a Constitution. The Constituent Assembly – being the First Knesset – decided that, as a temporary arrangement, the Knesset would adopt Basic Laws. Now, this xx day of xx, 576x, the Seventeenth Knesset is completing this task, and has the honor of adopting the Constitution of the State.

Basic Principles of the State

1. The State of Israel is a Jewish State and the National Home of the Jewish People, wherein the Jewish People fulfills its yearning for self-determination in accordance with its historical and cultural heritage.
2. The State of Israel is a democratic State, which respects human rights in the spirit of the Jewish heritage's principles of freedom, justice, integrity, and peace.
3. The State's sovereignty inheres in its citizens.
4. The Preamble is an integral part of this Constitution. Neither the Preamble nor Paragraphs 1 through 4 may be altered, except by a two-thirds majority of the Members of Knesset.

Civil and Human Liberties

5. The rights enumerated in this Constitution are founded on the recognition that every human being is created in the divine image and is endowed with freedom and dignity.
6. Every person is entitled to the preservation of life, limb, and safety.
7. Every person is entitled to the preservation of his privacy, personal discretion, and property.
8. Every person has freedom of religion, freedom of conscience, freedom of opinion, and freedom of culture.
9. Every person has freedom of movement.
10. Every person has freedom of expression.
11. Every citizen of Israel and every resident of the State has freedom of assembly and freedom of association.
12. Every person is entitled to a fair trial.
13. Every person is presumed innocent, so long as he has not been convicted according to law.
14. Citizenship is acquired and nullified according to statute; every adult citizen is entitled to relinquish his citizenship in a manner to be determined by statute.
15. All are equal before the law; rights and obligations apply equally to all citizens of the State; the failure to fulfill obligations may entail the loss of rights and eligibilities, as shall be determined by statute.
16. The provisions of Paragraph 15 notwithstanding, the State may restrict particular rights, obligations, or eligibility for public office to citizens of the State; in areas relating to the security of the State, the State may restrict rights, obligations, and eligibility for public office to those with appropriate security clearance.
17. The State will aspire to advance the welfare of its citizens and residents, and to ensure to all a life of dignity.

18. In the event of a conflict between rights enunciated in this constitution, one right shall yield to the other only to the extent necessitated by attendant circumstances.
19. A constitutional right shall be limited when its implementation would harm the security of the State, public safety and welfare, public morals, the role of the State of Israel as the national home of the Jewish People, the nature of the State of Israel as a democratic State, or the enforcement of laws against criminal activity.
20. A constitutional right shall not be abridged except by a statute for a worthy purpose and only to the extent necessary to achieve that purpose; or in accordance with such a statute on the basis of explicit authorization.

The National Home of the Jewish People

21. Jerusalem is the capital of Israel; Jerusalem is the seat of the President of the State, the Knesset, the Executive, the Supreme Court, and the State Comptroller.
22. Hebrew is the language of the State.
23. The Jewish calendar is the official calendar of the State.
24. The established days of rest for the State of Israel are the Jewish Sabbath and Jewish holidays; no worker may be employed on these days of rest, except as determined by statute; activities prohibited on these days of rest shall be determined by statute; non-Jews may refrain from work on their religious holidays; the days of rest of each religious community shall be determined by the government.
25. Independence Day is the national holiday of the State. It falls on the fifth day of Iyar, or on a proximate weekday as determined by the government.
26. “Hatikva” is the National Anthem; the flag of the State consists of a white background, with two azure stripes, in close proximity respectively to the top and bottom edges, and an azure Star of David in the center; the State Emblem consists of the seven-branched Menorah, flanked on either side by olive branches, with the word “Israel” beneath it.
27. The State shall act to ingather the Diaspora of Israel and to establish Jewish settlement in Israel, and it will allocate lands and resources for these purposes.
28. The following individuals shall be entitled to return as “Olim” [immigrants by right] to Israel: (1) the child of a person who is Jewish according to Jewish Law; (2) a person who has joined a Jewish community and has a demonstrable link to the Jewish People and its Heritage, as shall be determined by statute. The spouse and children of an Oleh, who immigrate together with the Oleh or nearly simultaneously with him, shall be entitled to reside in the State as shall be determined by statute. The rights delineated in this provision shall be subject to annulment by statute with regard to a person endangering the public welfare.
29. The State shall act to preserve and to further the cultural and historical heritage of the Jewish People. Jewish Law shall serve as a source of inspiration for legislation.

30. Every community has the right to preserve its culture, language, and heritage. The State may allow a distinct community, including one consisting of members of a particular religion, to maintain separate communal settlements.
31. The State shall operate a national educational system, including a national religious educational system, which shall impart basic skills. The history, heritage, and traditions of the Jewish People shall be taught in schools that serve a Jewish population. Every community may add unique content to the educational program in schools serving its population, or may operate private educational institutions, as shall be determined in legislation.

The President of the State

32. The President is the Head of State.
33. Every citizen of Israel who is a resident and is thirty years of age or older is eligible to be a candidate to serve as President of the State.
34. The President shall serve one term only, consisting of seven years.
35. The President has the authority to grant clemency to criminals or to lighten their sentences through reduction or commutation.
36. The authority of the President, the particulars of the method by which he is elected, the manner by which his term is ended, his replacement, his immunity, as well as other matters relevant to the status and activities of the President, shall be determined by statute.

The Legislative Authority

37. The Knesset is the house of representatives of the State.
38. The Knesset is the legislative authority of the State.
39. The Knesset, as elected, shall comprise one hundred twenty members.
40. The Knesset shall be elected by the citizens of the State by general, direct, equal, and secret ballot. The method of implementing these principles, including their limitation, shall be determined by statute.
41. Every citizen of Israel who is at least eighteen years of age is entitled to vote for the Knesset, unless a court has negated this right according to statute.
42. Every citizen of Israel twenty-one years of age or older is eligible to be elected to the Knesset if he has fulfilled the requirements for submitting his candidacy as set forth by statute, unless a court has revoked this right in accordance with statute.
43. The candidates for Knesset shall be included in lists determined and submitted in accordance with statute. No list of candidates shall participate in elections, nor shall an individual be a candidate for election to the Knesset, if the goals or actions of the list, or the actions of the individual, explicitly or by implication include one or more of the following: (1) rejection of the existence of the State of Israel as the national home of the Jewish People; (2) rejection of the democratic governance of the State; (3) support of armed aggression against the State of Israel by an enemy state or by any other organization.
44. Elections to the Knesset will be held every four years, and the elected Knesset will convene soon after its election; the outgoing Knesset shall continue to serve until the elected Knesset convenes.
45. Knesset elections shall be held on the third Tuesday of the month of Marheshvan, in the year in which the term of the outgoing Knesset ends. However, following a leap year, the elections will be held on the first Tuesday of Marheshvan.
46. The Knesset shall neither curtail nor extend the duration of its term except by a statute passed with a two-thirds majority of the Members of Knesset, and only when special circumstances require the term to be curtailed or

extended. The period by which the Knesset term shall be curtailed or extended shall not exceed that necessitated by the special circumstances. The scheduled time of the elections shall be changed by a statute passed by the Knesset for this purpose.

47. A majority of the Members of Knesset may initiate a national referendum on issues regarding state sovereignty or constitutional issues. A national referendum on any question is advisory only, and its results shall not bind the Knesset or any other authority.
48. The authority of the Knesset and its members, the particulars of the method by which they are elected and by which their term is ended, their replacement by others, their immunity, and other matters relevant to their status and to their activities, shall be determined by statute.

The Executive Authority

49. The Government is the executive authority of the State.
50. The Government serves by authority of the confidence of the Knesset. The Government is obligated to enforce the decisions of the Knesset, and the Knesset shall determine by statute which decisions of the Government and which appointments require the approval of the Knesset.
51. The members of the Government are collectively responsible to the Knesset; a Minister is responsible to the Prime Minister for his actions within the framework of his authority.
52. The Government comprises the Prime Minister and other Ministers; only a citizen of the State may serve as a member of the Government.
53. A Member of Knesset who serves as a member of the Government shall cease being a member of the Knesset, as shall be determined by statute.
54. Lists of candidates in Knesset elections may, prior to the elections, reach an accord regarding an agreed candidate for Prime Minister. Following the elections, the Nominee for Prime Minister shall be the member of Knesset who represents the list of candidates, or aforementioned accord, constituting the greatest number of Knesset seats. The details for implementing these procedures shall be determined by statute.
55. When the formation of a new Government is necessary for reasons other than elections or a vote of no-confidence, the President, after consulting with representatives of Knesset factions, shall appoint a member of Knesset, or a member of the Government who was elected a member of Knesset in the election in which the current Knesset was elected, and who accepts the appointment, to form a Government. This person shall be the nominee for Prime Minister.
56. A nominee for Prime Minister shall form a Government within a period of 28 days; the President of the State shall be permitted to extend this period by additional periods, so long as these additional periods shall not exceed a total of 14 days. Should the President conclude at the end of the aforementioned periods that the nominee has not formed a Government or [*Version 2*: should

the nominee present a Government for Knesset approval that is denied in accordance with Paragraph 57], the President shall appoint another person to form the Government as set forth in Paragraph 55.

57. When a new Government has been formed, it shall be presented to the Knesset and shall announce its basic policy guidelines, its composition, and the delegation of roles among its Ministers,
Version 1: and it shall be deemed to have received the confidence of the Knesset as of the seventh day following its presentation, unless the Knesset voted no-confidence in it within the aforementioned period.
Version 2: and shall request the Knesset's confidence. The Government shall be established from such time as the Knesset votes confidence in it, at which time the Ministers shall assume their responsibilities.
58. The Knesset may express no-confidence in the Government by means of a vote by a majority of the Members of the Knesset to instruct the President to appoint a designated Member of the Knesset, or a designated member of the outgoing Government who was elected to the Knesset in the last elections, to form a Government.
59. Should the Knesset vote no-confidence as set forth in Paragraph 58, the Government shall be considered to have resigned at the time of the vote. The President, within two days of the vote, shall appoint the person named in said vote to form a Government.
60. Should the Government resign, or should there be a vote of no-confidence, the Government shall continue to serve until a new Government takes office.
61. Should the Prime Minister die or resign, or should the Prime Minister become permanently unable to fulfill his duties, the Government shall appoint another of its members to serve temporarily as Prime Minister, and the Government shall be deemed to have resigned.
62. Should the Budget Statute not be enacted before the beginning of the fiscal year, the Government shall be permitted, every month, to expend a sum the equivalent of one-twelfth of the annual budget of the preceding year, linked to the Consumer Price Index, as published by the Central Bureau of Statistics; should the Budget Statute be enacted after the beginning of the fiscal year, its provisions shall apply as provided; failure to enact the Budget Statute shall not be considered an expression of no-confidence in the Government.

63. The Israel Defense Forces are subject to the authority of the Government of Israel; the Israel Defense Forces are charged with the security of the State, its citizens, its residents, and members of the Jewish People in distress and captivity, and with other tasks as shall be delineated by statute; the Chief of General Staff shall be appointed by the Government; the Israel Defense Forces shall respect the Jewish Sabbath and holidays, shall observe Jewish dietary laws, and shall enable those serving to observe fully the precepts of their religion.
64. The authority of the Government and its members, the particulars of the method by which the members are appointed, the method by which their tenures are ended, by which they are replaced, their immunity, as well as other matters relevant to their status and activities, shall be determined by statute.

The Judiciary

65. The Judicial Authority shall comprise courts, religious courts, and other authorities as determined by statute.
66. Judicial authority shall be conferred on the following courts: (1) the Supreme Court; (2) District Court; (3) Magistrates Court; (4) any other court determined by statute to constitute a court.
67. Judicial authority is also conferred on the following: (1) religious courts; (2) other courts; (3) other authorities, all as determined by statute.
68. Religious courts are authorized to adjudicate matters of marriage and divorce of those who married in accordance with the prescriptions of the court's religion; this authority is exclusive regarding the validity of the marriage and divorce. Religious courts shall adjudicate any other issue brought before them by agreement of the parties, and the existing Arbitration Law shall apply to their rulings. Parties whose cases are adjudicated by religious courts by agreement may include public bodies, including statutory bodies. Paragraph 15 does not apply to matters adjudicated before religious courts.
69. No court shall be established for a specific case.
70. A court, including one exercising constitutional or administrative authority, shall not adjudicate any petition except a petition brought by a person with a direct nexus to the gravamen of the petition.
71. A court, including one exercising constitutional or administrative authority, shall not issue any order regarding a petition against a government authority, except if it is clear that the governmental action violates statute, or that the purpose of the action or decision being complained of is blatantly improper, or that the action or decision being complained of extends in a blatantly unreasonable manner beyond what is necessary to accomplish its purpose. Should the court confront a case that integrally relates to the substance of foreign policy, policies of security, or fundamentals of the budget, the court shall not rule on the matter before it.
72. A court decision shall guide all lower courts; a Supreme Court decision binds all courts except the Supreme Court.

73. Should the court face a legal question requiring adjudication that is not resolved by reference to statute, case law, or compelling analogy, the court will decide the question based upon the principles of freedom, justice, integrity, and peace as enunciated in the Jewish heritage.
74. The legal system of the State of Israel is independent and any similarity to or difference from any other legal system shall not establish rights, obligations, or powers, nor shall it limit them. Legislation shall be interpreted solely on the basis of the intent and purpose of the statute as evident from its text.
75. In matters of adjudication, one who holds authority to adjudicate is subject to no other authority than that of the law under which he adjudicates.
76. All adjudication shall be conducted openly in the presence of the public unless the statute shall specify otherwise or unless decided otherwise by judicial authority in accordance with law.
77. No one may serve as a judge except a citizen of the State.
78. Judges shall be appointed by the President of the State in accordance with the recommendation of the Committee for the Selection of Judges, which shall number nine members; the chairman of the Committee shall be the Minister of Justice; the remaining members of the Committee shall be appointed by the Knesset, as shall be determined by statute. The recommendations for appointment to the Supreme Court by the Committee for the Selection of Judges require the approval of the Knesset. The Knesset shall determine, through legislation, whether Knesset approval is required for any other recommendations of the Committee.
79. The Chief Justice of the Supreme Court shall be appointed by the President of the State, in accordance with the recommendation of the Committee for the Selection of Judges. The Chief Justice shall serve one seven-year term only.
80. The authority of the Judicial Authority and judges, the particulars of the method by which they are appointed, the method by which their term is ended, replacement of judges, their immunity, and other matters relevant to their status and activities shall be determined by statute.

The State Comptroller

81. Oversight of the State is the purview of the State Comptroller; the State Comptroller shall be elected by the Knesset; only a citizen of the State may serve as State Comptroller.
82. The State Comptroller shall serve a term of seven years; the State Comptroller shall serve one term only.
83. The State Comptroller shall be accountable to the Knesset alone, and shall not be dependent upon the Government; the State Comptroller shall not be removed from his position except by decision of the Knesset with a two thirds majority of the vote, being also a majority of the Members of Knesset.
84. The State Comptroller shall oversee the management of the economy, the assets, the funds, the commitments, and the administration of the State and of the Government offices, as well as any enterprise, institution, or corporation of the State, of the local authorities, or of other bodies or institutions that have been made subject to the oversight of the State Comptroller by statute.
85. The State Comptroller shall investigate the legality of the activities, the ethics, the proper administration, the efficiency, and the thrift of the bodies being overseen, as well as any other matter that the State Comptroller deems necessary.
86. Any body subject to oversight of the State Comptroller shall without delay, upon the request of the Comptroller, provide information, documents, explanations, and any other material that the comptroller deems necessary for oversight.
87. The State Comptroller shall investigate complaints filed by the public regarding bodies and individuals, as determined by statute or in accordance with the statute; in this capacity, the State Comptroller shall serve as the Public Ombudsman.
88. The authority of the State Comptroller, the particulars of the method by which he is elected, the method by which his term is ended, replacement of the State Comptroller, his immunity, and other matters relevant to his status and activities shall be determined by statute.

The Status of the Constitution and Other Legislation

89. The Basic Laws are void.
90. No statute shall contravene the Constitution; no statute shall be held to contravene the Constitution unless a panel of nine or more judges of the Supreme Court shall determine that its purpose is blatantly inappropriate, or that it contravenes the fundamentals of the Constitution and the basic freedoms therein to an extent beyond what is necessary to achieve its purpose.
91. No statute that took effect prior to the effective date of the Constitution shall be held to contravene the Constitution.
92. Should the Supreme Court determine that a conflict exists between a statute and the Constitution, the statute shall be deemed nullified on the one-hundred-twentieth day after the decision of the Court unless, prior to that date, the Knesset, by a majority of its Members, shall affirm the statute in its original or in an amended form.
93. Should a court other than the Supreme Court or any authority that holds judicial authority determine that a conflict exists between a statute and the Constitution, the issue shall be transferred to the Supreme Court for its determination.
94. No constitutional authority, obligation, or right may be limited or rejected, nor may any be added by virtue of constitutional authority, obligations, or rights found outside the Constitution. Constitutional authority, obligations, or rights in effect prior to the enactment of the Constitution are void to the extent that they are not in agreement with the Constitution.
95. The requirement of a super-majority for the amendment of a statute or clause shall be enacted in the second and third readings of the Knesset only by a majority of Members equal to or greater than the number proposed for the specified super-majority; no statute or clause thereof may contradict another statute or clauses thereof that require a special majority for amendment. The hierarchy of preference among statutes shall be determined by the size of the majority required for amendment.

96. With the exception of the hierarchy of statutes emanating from super-majority provisions delineated in the preceding paragraph, preference of one statute over another is determined according to the date of the passage of its third reading; the statute passed at the later time is preferred.
97. The Knesset shall oversee the enactment of regulations, as shall be determined in the Knesset By-Laws. A regulation, with the exception of an Emergency Regulation as determined by statute, shall not contravene any statute.
98. Any statutory provision to the contrary notwithstanding, Emergency Regulations cannot amend the Constitution, temporarily suspend its authority, or impose conditions upon it; this paragraph shall not be amended except by a two thirds majority of the Members of Knesset.

Ratification and Amendment of the Constitution

- 99.** This Constitution shall take effect upon its acceptance by a majority of the Members of the Knesset, in a roll-call vote. Prior to the second and third Knesset readings on acceptance of this Constitution, a public referendum shall be held that will include a presentation of the Constitution to the citizens of the State.

- 100.** No change, addition, or deletion may be made to the Constitution, and no change may be made to any clause of the Constitution, except by a majority of the Members of Knesset in a roll-call vote; prior to the second and third Knesset readings on any amendment of the Constitution, a public referendum shall be held that will include a presentation of the proposed amendment to the citizens of the State.



