

The New York Times

As Judicial Plans Rock Israel, Secret Talks Seek Compromise

Benjamin Netanyahu's plans to restrict judicial independence have divided Israel. But a small group of academics has met privately with lawmakers in a search for middle ground.

By [Patrick Kingsley](#)

Reporting from Jerusalem

March 7, 2023

The Israeli government's efforts to [overhaul the judicial system](#) have divided the country, set off [mass protests](#), prompted the beginnings of [capital flight](#) and caused [unrest in the military](#).

But amid the turmoil, a group of law professors and lawmakers has been working behind the scenes for weeks toward a goal that, given the heated rhetoric, has seemed implausible: a compromise.

At least 10 legal experts have met secretly for several hours with the government lawmakers leading the overhaul plans, Simcha Rothman and Yariv Levin, according to three people involved in the discussions.

Some meetings have been held at the official residence of Israel's president, Isaac Herzog, who has called on the government to compromise and says he is working on his own proposal to settle the matter.

The talks between lawmakers and professors have centered on whether Prime Minister Benjamin Netanyahu's right-wing government may water down its plans to allow Parliament to override Supreme Court decisions, restrict the court's ability to block laws passed by Parliament and give the government control over the committee that appoints new judges.

Mr. Netanyahu has said publicly that he supports dialogue with opponents, but has not discussed specifics, and it remains unclear what guidance he has given Mr. Levin and Mr. Rothman.

Compromise seems possible on the override issue, according to two people involved in the discussions, though they would not say whether that meant the government might weaken its proposal or drop it entirely.

The judicial appointments committee remains the main obstacle to a deal, they said — the government is still determined to control who gets to be a judge, a move that over time would allow it to install political and ideological allies in the judiciary. “Most of the issues, I believe, are solvable,” said Yedidia Stern, a law professor who is leading the talks with the lawmakers. “The main gap is the issue of the committee for the nomination of judges,” he added. “Our counterparts are highly ideological about it.”

While the mediation remains far from success, its existence, nevertheless, adds nuance to an otherwise toxic and emotional national discourse that many fear could devolve into political violence or even civil war.

The government’s supporters and opponents have accused each other of attempting a coup, amid fears on both sides that the future of Israel’s democracy is at stake. Critics of the government argue that the removal of judicial oversight over Parliament would pave the way for authoritarian rule by a majority that would run roughshod over the rights of minorities. The government’s supporters contend that Israel cannot be a true democracy without giving elected lawmakers primacy over unelected judges.

In public, both the government and the opposition have appeared largely intransigent. The government has pressed on with its proposals in Parliament, driving them quickly through parliamentary committees ahead of a binding vote in the coming weeks. Opposition leaders, including Yair Lapid, the centrist former prime minister, said on Monday that they would not negotiate for a compromise until the government enacted “a complete and genuine halt of the legislative process.”

But behind closed doors, discussions have been more constructive, if emotional, said Mr. Stern, the head of the Jewish People Policy Institute, a nonpartisan research group in Jerusalem.

He said he and nine other leading law professors had met privately and extensively with Mr. Rothman, the government lawmaker who is driving the overhaul’s passage through Parliament, and, to a lesser extent, with Mr. Levin, the justice minister. Other groups have also worked on separate proposals.

“On the professional level, I can tell you, it’s solvable,” Mr. Stern said.

“But the emotional level is, obviously, the most important one,” he added. “The feeling that, ‘I’m saving the country, and I’m the only one who can save the country’ — you hear this in the room. And it is not easy to negotiate on a professional level when you talk to people who are charged emotionally.”

Mr. Rothman’s office confirmed that he had participated in negotiations but declined to give more details. Mr. Levin’s office said it could not comment on specific meetings.

The involvement of Mr. Stern and his colleagues began in late January, he said, nearly a month after the newly installed government first introduced the judicial proposals, setting off a national furor. As the debate grew more divisive, Mr. Stern and other law professors opposed to the overhaul gathered to brainstorm a compromise, he said.

In mid-February, he said, they presented their proposals to Mr. Herzog, the mainly ceremonial head of state and a unifying figure who has repeatedly attempted to find common ground between the two sides. The president then allowed the group to use his official residence to hold negotiations with the government, but did not attend their meetings, Mr. Stern said.

On Monday, Mr. Herzog said in a speech that a compromise was within reach. “We are closer than ever to the possibility of an agreed outline,” he said. “There are agreements behind the scenes on most things. They make sense, and they are reasonable.”

But the legal experts say the outcome depends on Israel’s political class rather than the academics working to bridge the gaps behind the scenes.

“Nothing is settled,” said Netta Barak-Corren, another law professor working with Mr. Stern. “Nothing is done until it’s done.”