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# The Judiciary: The Court System

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## FUNCTIONS AND STRUCTURE

The law courts constitute a separate, independent unit within the Ministry of Justice. The Director of Courts is a judge, appointed to this position by the Minister of Justice, pursuant to Section 82 of the Courts Law (Consolidated Text) 5744-1984; he is responsible to the Minister for the orderly operation of the various judicial instances.

The Organization of Courts of Law is managed by the Directorate of Courts, headed by the Director of Courts. The system is headed by the President of the Supreme Court of Law, and the Minister of Justice.

The organization of the Courts of Law in Israel includes all the Courts of Law in Israel:

1. The Supreme Court
2. The District Courts of Law
3. The Magistrates Courts (the first instance) - and in general, the Court of Traffic Offenses, Family Courts and Juvenile Courts
4. National Labor Court
5. Regional Labor Courts

In addition, the organization also includes the Bailiff Office that works, according to the law, linked to the Magistrates Court and the Center for Collection of unpaid fees and expenses. The latter is an administrative unit within the Directorate of Courts in charge of collecting fines and other debts as sentenced by the Courts of Law. The Courts of Law are deployed in some 50 regions, throughout Israel and are organized into six districts.

In addition to the Director of Courts, who is the president of a district court, the Directorate of Courts has a deputy director, who is a magistrate's court judge, and a senior assistant director for administration. The Courts' Directorate sees to the proper functioning of the court system. Its activities involve various areas, of which the most important are: systems and computerization; internal controls and auditing; planning, organization, and budgeting; personnel, supplies, maintenance, and construction; finance and accounting; training and library services; legal assistance to foreign countries; and public relations and security.

## THE JUDICIARY

The judiciary acts as Israel's watchdog over the rule of law and individual rights, as do similar institutions in other countries. However, the absence of a complete written constitution, including a bill of rights, combined with regulations remaining from British Mandatory rule and the wide powers of the legislative branch, places the judiciary in Israel in a more important and delicate position.

The judicial system in Israel is divided into two main types: one, the general law courts which are known as civil or regular courts, and the other, tribunals and other authorities with judicial powers. The difference between the two types of institutions is, inter alia, in the extent of their jurisdiction: while jurisdiction of the law courts is general, the jurisdiction of the other tribunals is limited in terms of persons or matters or in both aspects.

## THE GENERAL LAW COURTS

Israel is a unitary state with a single system of general law courts. The [Basic Law: The Judiciary](#), establishes three levels of courts: the Supreme Court, district courts and magistrates' courts. The latter two are trial courts, while the Supreme Court is essentially an appellate court, which also operates as the High Court of Justice. There are no juries in Israel.

### Magistrate's Courts

The Magistrates' Courts are the basic trial courts of the Israeli system. They have jurisdiction in criminal matters where the accused is charged with an offense that carries with it a potential punishment of up to seven years imprisonment. In civil matters, these courts have jurisdiction in matters up to a million shekels (approximately U.S. \$300,000). These courts also have jurisdiction over the use and possession of real property. Magistrates' Courts also act as traffic courts, municipal courts, family courts and small claims courts.

Generally, a single judge presides in each case unless the President of the Magistrates' Court directs that the case be heard by a panel of three judges. There are 29 Magistrates' Courts in Israel. The jurisdiction of a magistrate's court is the locality in which it sits and the whole district in which it is situated.

#### District Courts

District Courts are the middle level courts of the Israeli judiciary. They have jurisdiction in any matter that is not within the sole jurisdiction of another court. In criminal matters, District Courts hear cases where the accused faces more than seven years imprisonment. In civil cases, District Courts' jurisdiction extends to matters in which more than one million shekels (approximately U.S. \$300,000) are in dispute. District Courts also hear cases dealing with companies and partnership, arbitration, prisoners' petitions, and appeals on tax matters. These courts hear appeals of judgements of the Magistrates' Courts.

Generally, a panel is composed of a single District Court judge. A panel of three judges is established when the court hears an appeal of a Magistrates' Court's judgement, when the accused is charged with an offense punishable by imprisonment of ten or more years, or when the President or Deputy President of the District Court so directs. There are five District Courts in Israel - in Jerusalem, Tel Aviv, Haifa, Beersheva, and Nazareth.

#### The Supreme Court



The Supreme Court has jurisdiction to hear criminal and civil appeals from judgements of the District Courts. Cases that begin in the District Court are appealable, as of right, to the Supreme Court. Other matters may be appealed only with the Supreme Court's permission. The Supreme Court has special jurisdiction to hear appeals in matters of Knesset elections, rulings of the Civil Service Commission, disciplinary rulings of the Israel Bar Association, administrative detentions, and prisoners' petitions appealed from the District Court.

The number of justices on the Court is fixed by Knesset resolution. By convention, the most senior justice is the President (Chief Justice) of the Court and the next senior justice is the Deputy President. The President of the Court is the head of the entire judicial system in Israel.

#### CURRENT SUPREME COURT JUSTICES

(updated January 2015)

Justice [Miriam Naor](#) - President  
 Justice Elyakim Rubinstein - Deputy President  
 Justice Salim Joubran  
 Justice Esther Hayut  
 Justice Isaac Amit  
 Justice Noam Sohlberg  
 Justice Uzi Vogelman  
 Justice Uri Shoham  
 Justice Hanan Melcer  
 Justice Neal Hendel  
 Justice Yoram Danziger  
 Justice Zvi Zilbertal  
 Justice Daphne Barak-Erez  
 Justice Menachem Mazuz  
 Judge Gilead Lubinsky  
 Judge Guy Shani - Registrar  
 Liat Benmelech - Registrar





President Rivlin and PM Netanyahu with the justices of the Supreme Court, Jan 2015

(Copyright: GPO/Kobi Gideon)

The Supreme Court generally sits in panels of three justices. The President or the Deputy President of the Court is empowered to expand the size of the panel to any uneven number of justices. In addition, each panel has the power to decide to expand its size. The Court can also decide to initiate an "additional hearing" where a panel of five or more justices will re-hear a case decided by a smaller panel of the Supreme Court. A single justice may hear petitions for injunctions, temporary restraining orders, and other interim rulings, as well as for orders nisi; but a single justice may not refuse to grant an order nisi or make it contingent on only some of its assertions. A single justice may hear appeals against interim rulings of district courts or against the verdict of a single district court judge hearing an appeal from a case in a magistrate's court.

The President or Deputy President of the Supreme Court may instruct that the Supreme Court or a district court constituted for that purpose conduct a retrial of a criminal case in which a final verdict has been handed down, if:

1. A court has ruled that some evidence introduced in the case is based on falsehood or forgery, and there are grounds for supposing that without said evidence the outcome of the trial would have been different, and to the advantage of the defendant.
2. New facts or evidence has been uncovered which, on its own or in combination with the material originally presented to the court, is likely to change the outcome of the trial to the advantage of the defendant, and which, at the time of the trial, could not have been in the possession or knowledge of the defendant.
3. Another individual has in the meanwhile been convicted of the same offense, and the circumstances revealed in the trial of that same other individual indicate that the individual originally convicted did not commit the offense. A petition for a new trial may be submitted by the defendant or by the Attorney-General.

#### High Court of Justice

The Supreme Court also sits as the High Court of Justice. This function is unique to the Israeli system because as the High Court of Justice, the Supreme Court acts as a court of first and last instance. The High Court of Justice exercises judicial review over the other branches of government, and has powers "in matters in which it considers it necessary to grant relief in the interests of justice and which are not within the jurisdiction of any other court or tribunal."

As a High Court of Justice, the Supreme Court hears over a thousand petitions each year. Often these cases are high-profile ones challenging acts of top government officials. Through its jurisdiction as a High Court of Justice, the Supreme Court upholds the rule of law and strengthens human rights.

The Supreme Court, sitting as the High Court of Justice, is empowered to order the release of persons wrongly detained or imprisoned; to instruct State and local authorities and their officers, and other bodies and individuals statutorily discharging public duties, to act or to refrain from acting in said discharge, and, if elected or appointed unlawfully, to refrain from acting; to give orders to courts, tribunals, and bodies and individuals with judicial or quasi-judicial powers - excluding courts to which the Basic Law: Judicature refers, as well as religious courts - to hear a certain matter or to refrain from judging or continuing to hear a certain matter, and to annul proceedings that had taken place or a decision unlawfully made; to order religious courts to hear a certain matter in their competence or to refrain from hearing or continuing to hear a matter outside it, on condition that the Court need not consider a petition in accordance with this section if the petitioner does not raise the issue of competence at the first available opportunity; but if the petitioner has not had a reasonable opportunity to appeal on the grounds of lack of competence before a decision has been rendered by a religious court, the civil court is empowered to nullify proceedings that have taken place or a ruling rendered by a religious court lacking competence in the matter.

#### TRIBUNALS WITH LIMITED JURISDICTION

The Israeli legal system recognizes various types of tribunals, the most important of which are the military courts, the labor courts, and the religious courts. These tribunals are distinguished from most other tribunals in terms of both their personal and material

jurisdiction. Each tribunal is comprised of a judicial system with independent administration and its own appellate system which includes legally-trained judges.

#### Military Tribunals

The military courts were established by the Military Justice Law (1955). They are competent to try soldiers for military and civilian offenses. Since the law defines the term 'soldier' to include those in the regular forces of the army - either in compulsory or career service - as well as those in the reserve forces while on active service, the range of people subject to the jurisdiction of the military tribunals in Israel is relatively wide. Civil employees in army service and prisoners of war are also subject to this jurisdiction, with certain limitations. The system of military tribunals includes lower courts and a Military Court of Appeal. Trial courts are composed of two officer judges and a presiding judge who has legal training. The appellate court sits in panels of three, except in cases where the accused faces the death penalty or the President of the court or the Advocate General of the army requests an enlarged panel. In

these cases, the court sits in panels of five. Under limited circumstances, judgements of the Military Courts may be appealed directly to the Supreme Court.

#### Labor Courts

The Knesset established the Labor Courts in 1969, recognizing that labor law requires its own judicial system to facilitate consolidation of the accumulated experience, customs and rulings of the subject and to interpret existing and future labor laws. The Labor Courts consist of regional courts and the National Court. Regional Labor Courts are trial courts while the National Court hears appeals. It also sits as a trial court in actions between two workers' unions or two employers' organizations that "arise out of matters pertaining to labor relations" and in disputes between parties to a collective agreement concerning existence, application, interpretation, implementation, or infringement, or any other matter arising out of the agreement. Labor Courts have jurisdiction to try offenses arising under various legislation. Only decisions in these matters may be appealed directly to the Supreme Court. However, the High Court of Justice has jurisdiction to review any Labor Court decision, effectively converting the Supreme Court into a quasi-appellate court of the Labor Courts. Regional Courts sit in panels of three composed of a judge and two "public representatives" - one representative of employees and one of employers. The National Court sits in panels of three, five or seven depending on the matter. The bench is composed of professional judges and employee and employer representatives.

#### Religious Courts

While military and Labor courts are not exclusive to the Israeli legal system, the Religious Courts are. The Israeli legal system is unique among modern legal systems in the utilization of various personal status laws in the area of family law, applied by religious courts. This phenomenon has historical and political roots: it existed under Ottoman rule and was retained by the British after they conquered the country.

The basic source for the application of the personal status law and the jurisdiction of the various religious courts is found in the Palestine Order in Council (1922). This order provides that "jurisdiction in matters of personal status shall be exercised... by the courts of the religious communities".

The order also grants jurisdiction to the District Courts in matters of personal status for foreigners who are non-Muslims, stating that they "shall apply the personal law of the parties concerned". Regarding foreigners, this was defined as "the law of his nationality". Case law determined that regarding non-foreigners, "the court ... have... to apply the religious or communal law of the parties".

The Palestine Order in Council recognized eleven religious communities: Jewish, Muslim, and nine Christian denominations. The Israeli government added the Presbyterian Evangelical Church and the Ba'hai to this list. The Knesset also enacted a law vesting jurisdiction in the Druze religious courts.

#### Administrative Tribunals

In Israel, as in many other Western legal systems, there is a growing trend to put specific legal issues in the hands of specific administrative tribunals which are designed to fulfill important quasi-judicial functions.

The older and more common kind of administrative tribunal is that designed to operate as an appeal tribunal of administrative agencies determining social benefits, tax liability, or compensation from injury. Among the many examples in this category is the tribunal which hears appeals on compensation for injuries resulting from military service and the tribunal which hears appeals concerning property tax liability.

More recently, the Knesset has established tribunals which have a much broader set of quasi-judicial functions. Thus, the Standard Form Contracts Tribunal considers actions brought regarding unfair terms in standard-form contracts, and the Restrictive Trade Practices Tribunal plays an important role in ruling on the entire range of uncompetitive practices.

#### Supervision by the Supreme Court of Special Tribunals

The Supreme Court supervises all the tribunals or courts outside the general law courts, guaranteeing that each of these special institutions is not completely separate from the regular judicial system. Supervision comes either by way of appeal or through petition to the High Court of Justice. The Basic Law: The Judiciary grants the Supreme Court, sitting as the High Court of Justice, jurisdiction "to order Law Courts, Tribunals and bodies and persons having judicial or quasi-judicial powers under law... to hear, refrain from hearing, or continue hearing a particular matter, or to void a proceeding improperly taken or a decision improperly given". The same section gives the High Court of Justice more limited authority in relation to religious courts.

#### THE INDEPENDENCE OF THE JUDICIARY

The success of the judicial system in Israel, with the Supreme Court at its head, in the enforcement of the rule of law and the defense of civil rights is, to a great extent, a result of the independence given to judges. Judges enjoy both substantive and personal independence. Substantive independence is set out in Basic Law: The Judiciary: "[a] person in whom judicial power is vested shall, in judicial matters, be subject to no authority but that of the law." It should be emphasized that the general language of this section applies to any person vested with judicial power, and not only to judges within the regular law courts.

In addition to substantive independence, judges have wide personal independence that begins with the procedure for their selection and continues during their term of office:

Judges are selected by the Judicial Selection Committee which is composed of nine members: the Minister of Justice (Chair), another cabinet minister, the President of the Supreme Court, two other justices of the Supreme Court, two Members of Knesset, and two representatives of the Israel Bar Association. All three branches of government - the executive, legislative and judiciary - and the legal profession are represented on the Committee. The majority of the members of the Committee are professional lawyers: the three Supreme Court Justices and the two representatives of the legal profession. A candidate may be proposed by the Chairman.

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the President of the Supreme Court or any three members of the Committee. A majority vote of the members of the Committee is required to appoint a candidate.

To be appointed a judge on the Magistrates' Court, a candidate must have been inscribed or entitled to be inscribed on the Roll of Members of the Israel Bar Association and have at least three years of professional legal experience either (a) as an attorney; (b) serving a legal function in the service of the state; or (c) teaching law. Appointees to the District Court must have at least four years experience as a Magistrates' Court judge or at least six years professional legal experience. Judges of the Supreme Court must have served at least five years on the District Court or have at least ten years professional experience or qualify as "an eminent jurist" (a special category used only once in the history of the Supreme Court). As a practical matter, judicial appointments are apolitical. Judges are selected based upon their professional legal qualifications. As there are no juries in Israel, the judge is the lone decision maker in the judicial process.

Judicial independence continues throughout the term of office. Judicial appointment is permanent and expires only with mandatory retirement at age 70, a higher age than that allowed in other public offices. Judges enjoy immunity similar to that of Members of Knesset. A judge cannot be removed from office except by a decision of the Court of Discipline, consisting of judges appointed by the President of the Supreme Court, or upon a decision of the Judicial Selection Committee at the proposal of the Minister of Justice or the President of the Supreme Court. The decision of the committee must be supported by seven of its nine members. Judicial salaries and pensions are determined by Knesset committee and no law whose intention is to lower judges' salaries may be passed. By law, justices of the Supreme Court receive the same remuneration as cabinet ministers and the President of the Supreme Court receives the same salary as the Prime Minister.

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