

# Prologue

Whereas the State of Israel has been established to protect the Jewish people from persecution

And whereas the signatories recognize the moral and practical imperative of protecting the rights of minorities

And whereas the signatories recognize the centrality of streams within the State of Israel

The following shall be the Constitution of the State of Israel

## Chapter One – The State Assembly

### Section One – The Combined Houses

- Article 1. The State Assembly shall consist of two Houses, the Knesset and the Constitutional Assembly.
- Article 2. Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.
- Article 3. Both Houses shall select their own president and other officials. They shall establish their own rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct.

### Section Two – The Knesset

- Article 4. The Knesset shall have the power to pass any law. However the Judiciary shall reserve the right to overturn laws passed by the Knesset on the basis of this Constitutional.
- Article 5. Membership in the Knesset shall be apportioned to political parties on the basis of the percentage of votes received during an election.
- Article 6. Political parties shall establish, prior to elections, lists of candidates who will sit in Knesset. Should members of those lists become ineligible to sit in the Knesset, they shall be replaced by the next eligible candidate on the party list.
- Article 7. The term of office of members of the Knesset shall be five years. However, the term shall be terminated before the full term is up in case the Knesset is dissolved.
- Article 8. When the Knesset is dissolved, there must be a general election of members of the Knesset within forty (40) days from the date of dissolution, and the Knesset must be convoked within thirty (30) days from the date of the election.
- Article 9. Members may not be expelled without the dissolution of the Knesset. This includes members indicted or convicted of any crime.
- Article 10. Members may become ineligible if:

- 1) The Constitutional Assembly removes them from the Knesset.

- 2) They are deceased.
- 3) They resign.
- 4) They join the Cabinet or assume the position of Prime Minister, President, leadership of any branch of the security services or a judiciary appointment.

Article 11. The Knesset may conduct investigations in relation to government, and may demand the presence and testimony of witnesses, and the production of records.

Article 12. The Knesset shall have the power to ratify this Constitution with a super-majority of 66% of the Knesset.

## **Section Three – The Constitutional Assembly**

Article 13. The Constitutional Assembly shall have the following powers:

- 1) Confirmation of Supreme Court justices, which shall require 66% approval from the Constitutional Assembly.
- 2) Confirmation of lesser court justices, which shall require 51% approval from the Constitutional Assembly.
- 3) Amendments to this Constitution, which shall require 75% approval from the Constitutional Assembly.
- 4) Overriding of Supreme Court decisions, which shall require 66% approval.
- 5) Removal of Judges from the Supreme Court, which shall require 75% approval.
- 6) Removal of members of Knesset, which shall require 75% approval
- 7) Selection of the President, which shall require 51% approval.

Article 14. The Constitutional Assembly shall have two representatives from each officially recognized Stream plus one additional representative for each 500,000 people in a Stream<sup>1</sup>.

Article 15. Membership in the Constitutional Assembly shall be granted on the basis of popular voting within the Stream. The candidate with the highest number of votes received shall occupy the Stream's first seat with following candidates occupying additional seats until the Stream has filled all of its assigned seats.

Article 16. Members of the Constitutional Assembly shall be seated for a ten-year period and the Constitutional Assembly shall not be dissolved.

Article 17. If a member shall become ineligible to sit in the Constitutional Assembly, then they shall be replaced by the next eligible receiver of votes from within the Stream they represent.

Article 18. Members may become ineligible if:

- 1) They are deceased.
- 2) They resign.

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<sup>1</sup> Raising the number needed to add seats will further increase the impact of minorities. See Appendix A for the possible examples of the makeup of the Constitutional Assembly.

3) They join the Cabinet or assume the position of Prime Minister, President, leadership of any branch of the security services or a judiciary appointment.

Article 19. Voting power for each seat within the Constitutional Assembly shall be apportioned according to the following rules with voting power rounded down to the nearest tenth:

1) One multiplied by the percentage of the eligible draft-age population made available for Army Service over the prior two calendar years. This is irrespective of whether the Army drafts their members<sup>2</sup>.

2) Plus 0.7 multiplied by the percentage of the eligible draft-age population made available for National Service but not Army Service over the prior two calendar years. This is irrespective of whether the National Service drafts their members.

3) Plus 0.5 multiplied by the percentage of the eligible draft-age population not made available for either Army Service or National Service over the prior two calendar years.

Article 20. Apportionment of votes shall be reassessed every 2 years<sup>3</sup>.

Article 21. As the Constitutional Assembly can only be seated once Streams have been established, the Constitutional Assembly would first be seated two years after this Constitution is accepted.

## Chapter Two – Cabinet and Executive

Article 22. Executive power shall be vested in the Cabinet<sup>4</sup>.

Article 23. The Cabinet shall consist of the Prime Minister, who shall be its head, and other Ministers of State, as provided for by law.

Article 24. The Prime Minister and other Ministers of State must be civilians.

Article 25. The Cabinet, in the exercise of executive power, shall be collectively responsible to the Knesset.

Article 26. The Prime Minister shall be designated from among the members of the Knesset by a resolution of the Knesset. This designation shall precede all other business.

Article 27. The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Knesset. The Prime Minister may remove the Ministers of State as he chooses.

Article 28. If the Knesset passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the Knesset is dissolved within ten (10) days.

Article 29. When there is a vacancy in the post of Prime Minister, or upon the first convocation of the Knesset after a general election of members of the Knesset, the Cabinet shall resign en masse.

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<sup>2</sup> The goal here is to allow the Army and National Service to decide who they actually want – but to grant the Streams a ‘credit’ for submitting to the process.

<sup>3</sup> This is to enable an uptick in drafting to quickly result in greater representation.

<sup>4</sup> I borrowed heavily from the Japanese Constitution. I used this as a more modern example concerned with more modern concerns although I removed Sections specifically dealing with Japanese issues.

- Article 30. In the cases mentioned in the two preceding articles, the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.
- Article 31. The Prime Minister, representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Knesset and exercises control and supervision over various administrative branches.
- Article 32. The Cabinet, in addition to other general administrative functions, shall perform the following functions:
- 1) Administer the law faithfully; conduct affairs of state.
  - 2) Manage foreign affairs.
  - 3) Conclude treaties. However, it shall obtain prior or, depending on circumstances, subsequent approval of the Knesset.
  - 4) Administer the civil service, in accordance with standards established by law.
  - 5) Prepare the budget, and present it to the Knesset.
  - 6) Enact cabinet orders in order to execute the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet orders unless authorized by such law.
  - 7) Decide on general amnesty, special amnesty, commutation of punishment, reprieve, and restoration of rights.
- Article 33. All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.
- Article 34. The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister. However, the right to take that action is not impaired hereby.
- Article 35. If the Knesset passes a non-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign en masse, unless the Knesset is dissolved within ten (10) days.

## **Chapter Three – The Judiciary**

- Article 36. The whole judicial power is vested in the Supreme Court and in such inferior courts as are established by law. No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power. All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws.
- Article 37. Decisions of the Supreme Court may not be overturned or overruled except by the Constitutional Assembly.
- Article 38. The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs. The Supreme Court may delegate the power to make rules for inferior courts to such courts.
- Article 39. Candidate Judges for any courts shall be selected by the Cabinet.

Article 40. Candidate Judges shall only be appointed to any Court when confirmed by the Constitutional Assembly.

Article 41. Judges shall not be removed except through:

- 1) 75% vote of the Constitutional Assembly.
- 2) Being deceased.
- 3) Voluntary retirement.
- 4) Joining the Cabinet, or assume the position of Prime Minister, President, leadership of any branch of the security services or joining either House.

Article 42. The Supreme Court shall have 15 members.

Article 43. The initial membership in the Supreme Court shall be the current members of that court.

Article 44. All such judges shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article 45. The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article 46. Trials shall be conducted and judgment declared publicly. Where a court unanimously determines publicity to be dangerous to public order, a trial may be conducted privately.

## **Chapter Four – Streams (זרמים) and Cultural Identities**

### **Section One - Streams (זרמים)**

Article 47. Every ten years, two years prior to the election of the Constitution Assembly, individuals shall have the right to change their Stream. They can also change their stream upon marriage, upon divorce or upon achieving the age of 18.

Article 48. Independent adult citizens shall select their own Stream by order of preference. If the Stream they select has fewer than 100,000 members, then those who voted to join it would be assigned to the next Stream in their order of preference. If none of their selections cross the 100,000-person threshold, then they would not belong to a Stream.

Article 49. Each independent adult shall be able to select their own Stream. They shall only be able to select the Streams of their dependents if all the parents and/or guardians of the dependents choose the same Stream. Otherwise dependents will not be considered members of that Stream for civil law purposes.

Article 50. For the purposes of numerical apportionment and education and welfare budgeting, dependents whose parents and/or guardians select distinct Streams shall be partially counted towards each parent/guardian Stream on the basis of proportionality<sup>5</sup>.

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<sup>5</sup> For example, if a father selects one Stream and a mother another, then a child will be counted as ½ of a member for each Stream.

Article 51. To be eligible for selection by citizens, a Stream must have a written Constitution that determines how it will manage its own governance.

Article 52. Any Stream with more than 100,000 members would be recognized by the State.

Article 53. Stream governments, with powers delineated by their Constitutions, shall have the power to:

- 1) Establish and maintain educational systems.
- 2) Establish and maintain courts to manage civil affairs that are solely between members.
- 3) Establish and maintain systems of welfare.

Article 54. Any civil affairs affecting members of two or more Streams shall be subject to the civil courts of the State and not those of any Stream.

Article 55. National budgets for education, welfare and civil justice may be unevenly distributed to the Streams on the basis of economic status only. They shall not be unevenly distributed on any other basis, including ethnicity, cultural identity, race or stream.

Article 55. Knesset shall allocate funds for the administration of each Stream on the basis of their numerical membership alone.

## **Section Two - Cultural Identity**

Article 56. As the State of Israel has been established to protect the Jewish people from persecution, and in reaction to genocide in the Christian majority world and ethnic cleansing in the Muslim majority world, Jewish Cultural Identity shall provide for two specific rights:

- 1) Immigration shall be open to those determined to have Jewish cultural identity as determined by the Jewish Cultural Identity Committee.
- 2) The heads of three major security agencies shall have Jewish cultural identity. These include the Army (Tzahal), the External Intelligence Agency (Mossad) and the Internal Intelligence Agency (Shabak). All other agencies and positions in government shall be open equally to all citizens of the State.

Article 57. Jewish Cultural Identity shall be set for each citizen upon:

- 1) Birth (with Jewish Cultural Identity being an option if either parent is of that Cultural Identity)
- 2) Marriage (with Jewish Cultural Identity being an option for both partners if either partner had prior Jewish Cultural Identity)
- 3) Immigration (if immigration was conducted on the basis of Jewish Cultural Identity)
- 4) Conversion (as determined by rules established by the Jewish Cultural Identity Committee)
- 5) Exclusion (as determined by rules established by the Jewish Cultural Identity Committee)

Article 58. There shall be seven appointees to the Jewish Cultural Identity Committee.

- Article 59. Each year, the candidate who received the most votes from members of the Jewish Cultural Identity shall be elected to the Jewish Cultural Identity Committee and immediately replace the longest tenured member of the court.
- Article 60. Should an appointee be deceased or resign, an election shall be held to replace them with the new appointee serving out their term.
- Article 61. Upon acceptance of this Constitution, seven appointees shall be selected by popular election. The candidate with the highest total votes shall serve a seven-year term, the candidate with the second most votes a six-year term and so on.
- Article 62. The Jewish Cultural Identity Committee shall not be considered a religious court. It shall exist solely for the purpose of recognizing Jewish Cultural Identity.

## Chapter Five – Extension of the State

- Article 63. Additional municipalities and their residents shall be eligible to join the State of Israel<sup>6</sup>.
- Article 64. Territory shall be considered part of a municipality on the basis of 80% or more of that territory being owned by residents of the municipality or leased to residents of the municipality for a term of no fewer than 10 years<sup>7</sup>[viii].
- Article 65. Candidacy to join the State of Israel would require 80% or more of the municipal residents voting to join the State of Israel.
- Article 66. Candidate municipalities that vote to become part of the State of Israel will undergo a three-year probationary period. During that time:
- 1) Any individuals suspected by the State of violence against the State, any Stream, or the Jewish ethnicity shall be turned over to the State for criminal prosecution<sup>8</sup>.
  - 2) The educational system within the municipality's territory shall not incite violence against the State, any Stream, or the Jewish ethnicity.
  - 3) The leadership of the municipality shall not incite violence against the State, any Stream, or the Jewish ethnicity.
  - 4) Border controls must be established between the municipality and any areas that are not part of the State or candidates to join the State.
- Article 67. Upon the end of the probationary period, the border of the State shall extend to include the Municipality and its territories.
- Article 68. Municipal areas can be removed from the State if:
- 5) 80% of their residents vote to leave the State, or
  - 6) The Knesset, Constitutional Assembly, Cabinet and Supreme Court all vote to remove them with a minimum of 66% approval in each body

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<sup>6</sup> This is to allow integration and citizenship of Palestinians.

<sup>7</sup> There might need to be some sort of body to establish what these bounds practically are, although I am not averse to it being a decision by the courts.

<sup>8</sup> This would apply to Shtachim as well as Palestinian towns.

# Chapter Six – Municipalities

Article 69. Regulations concerning the organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article 70. The local public entities shall establish assemblies as their deliberative organs, in accordance with law. The chief executive officers of all local public entities, the members of their assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Article 71. Local public entities shall have the right to manage their property, affairs and administration and to enact their own regulations within law.

Article 72. A special law, applicable only to one local public entity, cannot be enacted by the Knesset without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

# Chapter Seven – The President

Article 73. The President shall be the symbol of the State and of the unity of the People, deriving his position from the will of the people with whom resides sovereign power.

Article 74. The President shall be selected by the Constitutional Assembly with a 10-year-term.

Article 75. The advice and approval of the Cabinet shall be required for all acts of the President in matters of state, and the Cabinet shall be responsible therefor.

Article 76. The President shall perform only such acts in matters of state as are provided for in this Constitution and he shall not have powers related to government.

The President may delegate the performance of his acts in matters of state as may be provided by law.

Article 77. The President shall appoint the Prime Minister as designated by the Knesset.

The President shall appoint the Chief Judge of the Supreme Court as designated by the Cabinet and confirmed by the Constitutional Assembly.

Article 78. The President, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people:

- 1) Promulgation of amendments of the constitution, laws, cabinet orders and treaties.
- 2) Convocation of the Knesset.
- 3) Dissolution of the Knesset.
- 4) Proclamation of general election of members of the Knesset.
- 5) Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.
- 6) Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.



7) Awarding of honors.

8) Attestation of instruments of ratification and other diplomatic documents as provided for by law.

9) Receiving foreign ambassadors and ministers.

10) Performance of ceremonial functions.

Article 79. No property can be given to, or received by, the President, nor can any gifts be made therefrom, without the authorization of the Knesset.

Article 80. All Presidents shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

## **Chapter Eight – Fundamental Rights**

Article 81. No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article 82. Freedom of thought and conscience shall not be violated.

Article 83. Freedom of religion is guaranteed to all.

Article 84. Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated except as determined to be appropriate by the Knesset with the agreement of the Supreme Court.

Article 85. Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare. Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article 86. All people shall have the right to receive an equal education correspondent to their ability, as provided by law. All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free.

Article 87. The right to own or to hold property is inviolable. Property rights shall be defined by law, in conformity with the public welfare. Private property may be taken for public use upon just compensation therefor.

Article 88. The people shall be liable to taxation as provided by law.

Article 89. No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article 90. No person shall be denied the right of access to the courts.

Article 91. No citizen shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offense with which the person is charged, unless he is apprehended, the offense being committed.

- Article 92. No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.
- Article 93. The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33. Each search or seizure shall be made upon separate warrant issued by a competent judicial officer.
- Article 94. In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal. He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense. At all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State.
- Article 95. No person shall be compelled to testify against himself. Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence. No person shall be convicted or punished in cases where the only proof against him is his own confession.
- Article 96. No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy.

# Appendix A: Examples of Constitutional Assembly Makeup

It is anticipated that the initial Streams to be established would include the following, although some may be further broken up (e.g. Ethiopians might form their own group). In addition, groups might make their population available for the draft (even if not drafted) in order to increase their vote. So Muslims, for example, might make themselves eligible. The anticipated Streams are organized roughly by their relationship to the current government):

Sect	Seats	Army	National	C.A. Votes
Dati	3	50%	50%	2.4
Mizrachi	4	100%		4.0
Haredi	4	9%	50%	2.4
Druze	2	80%		1.8
Christian	2			1.0
Muslim	4			2.0
Beduin	2	25%		1.2
Chofshi (Liberal)	11	100%		11.0
	<b>32</b>			<b>25.8</b>