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Democracy at Risk? Assessing Israel's Democratic Backsliding

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Since its founding, Israel has faced four major challenges to its democratic practices.¹ One is the ongoing hostile security environment, which has established the centrality of the security apparatus in Israeli politics. Second is that immigrants to Israel, including in recent waves of immigration, often come from non-democratic traditions. Third, religious actors are central political actors in the country. And the fourth challenge is the sizable (21 percent) Palestinian Israeli minority. Each of these factors on its own (societal militarization, immigration from countries with no democratic political culture, no separation between state and religiosity, and a sizable ethnonational minority) poses a risk to the resilience of a democratic regime. Despite these multiple challenges, however, within Israel proper (i.e., approximately corresponding to the 1949 Armistice lines) there have been relatively regular and peaceful elections, separation of powers and balance of power between the branches of government, and an active and extensive civil society.

During the 1990s, Israel experienced significant liberalization, spearheaded by the so-called constitutional spring.² As Israel is one of very few countries with no formal written constitution, the Israeli High Court of Justice played a critical role in advancing liberal rights by precedent-setting rulings (e.g., regarding freedom of speech). As a step toward a quasi-constitution, in 1992 the Knesset passed two Basic Laws on fundamental rights—Basic Law: Human Dignity and Freedom, and Basic Law: Freedom of Occupation. For

many, these laws marked a significant move toward solidifying civil liberties. Moreover, these laws also established both the superior status of Basic Laws (eleven at the time) and the practice of judicial review, according to which new laws are benchmarked relative to the Basic Laws, thereby granting the latter a quasi-constitutional status. Along with other societal factors, these laws paved the way toward the protection and expansion of women's rights, LGBTQ rights, and minority rights, including individual rights for Palestinian citizens of Israel. Indeed, Israel is recognized as a democracy in international politics and is categorized as such in major political indices. It is ranked "Free" by Freedom House³ and as a "Democracy" (with a 7/10 score) according to the Center for Systemic Peace's Polity V.⁴ While Israel is considered a "flawed democracy" in the Economist Intelligence Unit's Democracy Index 2021,⁵ it ranks 23rd worldwide and is rated as more democratic than the United States, Spain, Greece, or Belgium.⁶

Recently, however, Israel has been mentioned in the context of what the Economist Intelligence Unit characterized as the worst state of democracy worldwide since 2006.⁷ The erosion of democratic values and institutions in countries such as Turkey, Hungary, and Poland, as well as the rise of illiberal elements in established Western democracies, such as France, Italy, and the United States, have raised global concerns about the future of liberal democracy. In all these cases, democratic erosion has been primarily associated with the risk of populist authoritarianism: that is, an elected leadership that holds a narrow majoritarian view of democracy and that overrides the discourse and practice of rights in a democracy.

Studies of democratic backsliding define it in relative terms as "a deterioration of qualities associated with democratic governance within any regime."⁸ This Brief takes the liberalization of the 1990s as the baseline starting point against which the qualities of Israeli democracy are assessed. The Brief assesses three risk factors—populist authoritarianism, institutional erosion, and the erosion of democratic values—and finds the erosion of institutions and of democratic values, especially among Israeli youth, particularly concerning. Moreover, in the Israeli context, all these risk factors both affect and are being affected by Israel's ongoing occupation of and control over the Palestinian territories. Populist rhetoric and mobilization, as well as attempts to undermine democratic institutions, often center on Israel's relations with the Palestinians, both within Israel and in the West Bank and Gaza. The strengthening of exclusionary and illiberal ethno-religious nationalist values has the same focus. The ongoing occupation is, therefore, an integral element of these risks to Israeli democracy, and, this Brief argues, ultimately poses the gravest risk to Israeli democracy.

Concerns about Israeli democracy have focused on the former, and soon to be, prime minister Benjamin (Bibi) Netanyahu. While the recent elections in Israel heightened the short-term risk of populist authoritarianism, the two additional, and potentially more significant, longer-term risks there⁹ have received relatively less attention: the decline in the quality of the institutions that protect political and civil liberties, reflected in illiberal legislative initiatives and limitations on civil society organizations; and the erosion of underlying democratic values, which is evidenced in weaker support for those values, especially among Israel's younger generations.

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The Risk of Populist Authoritarianism

How immediate and significant is the risk of populist authoritarianism in Israel? Bibi Netanyahu is Israel's longest-serving prime minister, having governed so far for a total of fifteen years over two periods (1996–99 and 2009–21). Like other populist leaders who have been regarded as democratic threats, Netanyahu embraces a majoritarian view of democracy, which prioritizes popular sovereignty and majority rule over equality, equity, and rights. In his defense during his corruption trials, Netanyahu, like populist leaders elsewhere, challenged the legitimacy of the “establishment.” And he exploited the cleavage in Israeli identity between Ashkenazi and Mizrahi (“haves” vs. “have-nots”) to situate himself not as a member of the Ashkenazi elite, as he is, but as a “maverick [outsider]...claiming to speak for the vox populi and to serve ordinary people.”¹⁰ Netanyahu also plays on the ethno-political cleavage in Israel with exclusionary rhetoric. His rhetoric often highlights the existential security threat posed by Palestinians both within and outside Israel (as when he sounded the alarm on Israeli Election Day in 2015, warning that “the Arabs are voting in droves”).¹¹

For many of Netanyahu's critics, his attempts to change the structure and ownership of Israeli media, and to circumvent the rule of law by appointing loyalists to law enforcement and judicial positions—along with the corruption charges against him¹²—are consistent with the broader trend of illiberal (nationalist) populism associated with his allies Trump, Bolsonaro, and Orbán.¹³ Concerns over creeping authoritarianism are also reflected in Israeli public opinion, with around 50 percent of the population indicating (since 2017) the belief that Israeli democracy is in dire danger¹⁴—and in the widespread “Saving Israeli Democracy” demonstrations that took place from June 2020 to May 2021 and called for then prime minister Netanyahu's resignation.

For a little over a year, the “government of change” that replaced the twelve years of Netanyahu's most recent prime ministership suggested that the risk of populist authoritarianism in Israel was moderate. The coalition of eight unlikely bedfellows from the Left, Right, and Center of the Israeli political map came together on the single unifying agenda of blocking the reelection of Netanyahu and getting Israel out of the paralysis of repeated indecisive elections. In terms of democratic qualities, this government was the first Israeli governing coalition to include an Arab party, which indeed set a remarkable precedent. It also increased representation

of women to nine out of twenty-seven ministers, more than any prior government. And it put in place better coordination with the state's bureaucracy and public administration, thereby facilitating the long-overdue approval of a national budget, including the affirmative allocation of significant resources to minorities on the periphery, including to the Arabs.

Having said that, the outgoing government has been focused mostly on evading ideologically thorny issues and putting out the political fires that these issues had ignited. The fragile structure of the anti-Bibi coalition was short-lived, and members from both the Right and the Left defected, citing irreconcilable ideological differences. That necessitated another round of elections in November 2022, in which the populist risks associated with a Netanyahu-led government have resurfaced: The election campaign brought a spike in the exclusionary discourse and rhetoric that Netanyahu and his supporters have used in the past. With Bibi's reelection, the concern is that to remain in power and to evade his own personal legal consequences, Netanyahu will circumvent Israeli democracy and may narrow its liberal qualities in exchange for support from his illiberal political partners.

Assessing Institutional Risks

The second type of backsliding refers to the erosion of democratic institutions: especially competitive elections, the rule of law, and liberal rights to speech (such as free media) and association (measured by, for example, civil society robustness). Though elections in Israel have been competitive and orderly and the media are free, illiberal legislative initiatives and the related narrowing space for civil society highlight the institutional risks of democratic backsliding in Israel.

The most notable legislative change in this context is the “2018 Basic-Law: Israel—The Nation State of the Jewish People.” This law defines Israel as “the nation state of the Jewish People,” reaffirms the centrality of the Hebrew language and of the Sabbath and the Jewish holidays, and identifies a “complete and united” Jerusalem as the nation's capital. Beyond its declarative significance, the Nation State law is mostly alarming in its omission of the principle of civic equality for individuals or groups that are not members of the Jewish nation. In this sense there is no similar law in any other democracy.¹⁵ As Waxman and Peleg warn, “putting the Nation State Law into both historical and political context suggests that it is an important element in Israel's current transition from being a semi-liberal democracy to becoming an

illiberal, majoritarian, democracy.”¹⁶ Until the passing of the law, Israel’s declaration of independence guaranteed, even if only symbolically, “complete equality of social and political rights” to all ethnic minorities. The Nation State law omits this commitment. As such, the law potentially negates the 1992 Basic Law: Human Dignity and Liberty and represents the undermining of the so-called liberal constitutional revolution of the 1990s. Then, the Israeli High Court of Justice interpreted individual freedoms and rights as also protecting equality, including that of ethnic and religious minorities. The new law opens the door to overriding this interpretation and to discriminatory policy-making and judicial decisions.

A second alarming element of the Nation State law is Clause 7, which recognizes “the development of Jewish settlement as a national value,” and gives a quasi-constitutional status to the already ethnically based preferential and inequitable allocation of resources, especially land, in Israel.¹⁷ The legal protection accorded the principle of ethnic separation undermines equality (as did legal racial separation/segregation in the United States until the mid-1960s). Notably, the initiative to pass this law started in 2011, revealing a decade-long ideological shift toward valuing national-ethnic preference over liberal values. This ideology was best expressed in 2017 by the then justice minister Ayelet Shaked: “Zionism should not continue, and I say here, it will not continue to bow down to the system of individual rights interpreted in a universal way.”¹⁸

The Nation State law is not the only institutional indication of this ideological shift. In 2011, the Knesset passed two laws that place limits on freedom of speech and expression. The so-called Nakba Law enables the finance minister to withhold government funding from state-funded bodies engaged in activities that display a rejection of “the existence of the State of Israel as a Jewish and democratic state” or commemorate “Independence Day or the day of the establishment of the state as a day of mourning” (that is, by commemorating the Palestinian Nakba, which refers to the destruction of about 400 Palestinian villages and towns and the expulsion and flight, in the course of military operations in Palestine/Israel before, during, and after the 1948 war, of about 80 percent of the Palestinians who had lived on lands that became part of the State of Israel).¹⁹

The Anti-Boycott Law (the “Law for Prevention of Damage to the State of Israel through Boycott”) defines calls by a person or organization for boycott, divestment, and sanctions (BDS) against Israel as a civil offense and allows the finance minister to withhold access to tender, tax credits, and certain funding from a person or organization that calls for a boycott. Israelis perceive

the BDS movement as antisemitic, on the basis that supporters of BDS often deny the Jewish connection to the land and, therefore, delegitimize the state of Israel.²⁰ As a strategy, however, calls for BDS constitute free speech, so that identifying them as a civil offense places concerning limits on free speech. In 2017, similar limitations were added to the Entry into Israel Law (via Amendment No. 28) to prevent non-Israelis who call for BDS from entering Israel.²¹ These laws place de facto limitations on civil society organizations, specifically those active within Palestinian society in Israel and in the occupied territories.²²

An even more direct targeting of civil society was the 2016 so-called NGO Transparency Law, which requires NGOs that receive more than half of their donations from foreign entities to publicly disclose that fact in all their publications and formal correspondence. On its face, transparency is a desirable democratic value. In this case, however, the law’s requirement for repeated public disclosure overburdens civil society organizations in a way that is not common in other liberal democracies,²³ and in practice would primarily affect Israeli human rights organizations.

A final institutional risk of democratic backsliding in Israel lies in the currently proposed Basic Laws Override Clause, which would allow the Knesset to pass legislation that overrides existing Basic Laws. The initiative for the Override Clause was prompted by the 2014 High Court of Justice’s ruling that the detention of asylum seekers negated the Basic Law: Human Dignity and Freedom, and that the government should halt its detention practices. The Clause is still being debated—but the incoming coalition vowed to make it one of its first priorities. Supporters of the Basic Laws Override Clause view the High Court decision as a political intervention and argue for the need to counter what they regard as an overly activist court that undermines the Knesset’s position and role as the sovereign. Critics of the Clause argue that since Israel has no special-majority rules, the Override Clause has the potential of significantly limiting judicial review of Knesset legislation, thereby undermining the separation of powers model. The Clause, argued former Israeli attorney general Moshe Lador, “will cancel the mechanism that protects minority rights, which is necessary for the existence of democracy.”²⁴

Do Israelis Value Democracy?

The third risk of democratic backsliding involves the citizenry’s faith in its democratic institutions and adherence to shared democratic values. The way to

evaluate this risk is to assess the extent to which the Israeli public supports democratic institutions and liberal values.

Survey data reveal that Jewish Israelis have little trust in the institutions that embody Israeli democracy. Nearly half believe in unequal rights on the basis of ethnicity, and over half would support a strong leader with the power to override the country's democratically elected national legislature. According to the Israeli Democracy Index's most recent survey (2021), the Israeli public's least trusted institution are the political parties (10%) followed by low levels of trust in the Knesset (21%) and the government (27%). The support for the High Court of Justice, which used to be high, is also in steady decline, having dropped to below 50 percent.²⁵ As for values, 42 percent of the Jewish sample believe that in Israel, Jewish citizens should have more rights than non-Jewish citizens.²⁶ And 56.5 percent agree with the statement that in order to address Israel's unique problems, there is a need for a strong leader who can override the Knesset, the media, and public opinion. This constitutes an increase of 15 percentage points from 2014.²⁷

To assess whether these changes are temporary or likely to be lasting, this Brief focuses specifically on the values held by Israeli youth and on the values instilled by the education system. In European democracies, surveys indicate satisfaction and support of democracy among younger generations.²⁸ Though some observers impute apathy to youth, a recent Chatham House report finds that many youths (in some cases 70 percent) are "highly engaged in...a range of key democratic activities such as discussing politics, voting, protesting, and writing to the media," both in democracies and in democratizing states.²⁹

In Israel, 68 percent of youth say that it is very important to them to live in a democratic state.³⁰ Among Jewish youth, elections and freedom of speech are important democratic values, however, equality and civic and human rights are less highly ranked. From 1998 to 2016, the share of Jewish Israeli youth who regarded political equality as an important value dropped by 15 percent, with only 35 percent of youth most recently indicating that they view political equality as important.³¹ Further reflecting this troubling trend, nearly 40 percent of Jewish Israelis between the ages of 15 and 24 agree to withholding political rights from Arab citizens, including the right to be elected to political office.³² In addition, 23 percent of secular youth and nearly 50 percent of religious (non-Orthodox) youth support barring Arabs from voting.³³ Overall, although Jewish and Arab Israeli youth appear to value some institutional aspects of democracy, they increasingly reject substantive

components of what it means to be a democratic state, including the equality and inclusion of all groups of citizens.

These illiberal values have not emerged out of thin air. Over the last two decades, the Israeli education system, specifically in the area of civic education, provide context for the decline in democratic values noted above. Civic education in Israel is a compulsory high school subject, and the Ministry of Education centrally shapes the content of the curriculum via approval of textbooks, allocation of resources, pedagogical supervision, and the establishment of pedagogical guidelines. In the early 1990s, the content of history and civic education was liberalized, with the introduction of universal—as opposed to national and particularistic—values.³⁴ This development was quickly halted and then reversed, however. Since 1996, the ministry has mostly been under the supervision of ministers from right-wing religious Zionist parties. Over this period, two significant changes to the civic education curriculum have been made: The coexistence curriculum was almost completely abandoned, and a new mandatory subject, Israeli Culture and Tradition, that focuses primarily on Jewish values was introduced.³⁵

Another development has been the privatization of education via the promotion of non-governmental groups' access to schools. In 2015, for example, support for external organizations seeking to promote Jewish culture in schools was approximately 177 million shekels (45 million USD), compared with 1.5 million shekels (less than 500,000 USD) allocated to support groups or organizations seeking to promote coexistence and democratic values. In the 2018 education budget, Jewish education received 119 times as much funding as educational resources supporting democracy and Jewish-Arab coexistence.³⁶ A recent report by the Israeli state comptroller notes that the Ministry of Education has failed to implement approved and budgeted programs for coexistence since 2009. Instead, most of the budget has been directed to NGOs that focus on strengthening Jewish identity or training religious girls for national service.³⁷ Overall, since the late 1990s, resources have been disproportionately directed, both through direct Ministry of Education policy and via indirect access of NGOs, to advance the specific agenda of strengthening particularistic values of Jewish culture and identity at the expense of support for the strengthening of universal values and for civic and democratic education.

The Ministry of Education also defines the boundaries of what is acceptable within the Israeli education system. In 2018, an amendment gave the minister of education the authority to prohibit access to schools by NGOs whose

“activity severely and significantly contradicts the aims of the national education system.”³⁸ In practice, this policy primarily excluded human rights organizations, and it has led to widespread avoidance of controversial topics—mostly about human rights—in civic education.

Furthermore, the discussion above only pertains to the state-secular and state-religious education systems. The Orthodox (Haredi) education system requires no civic education at all. About 30 percent of Jewish students attend Haredi schools, and owing to high birth rates, their share is steadily growing. This further increases the long-term risk of a normative undermining of Israeli democracy. Most Orthodox youth express hatred toward Arabs and show little to no interest in getting to know Arabs.³⁹ Moreover, the majority of religious (non-Haredi) and Haredi Jews agree with the statement that “Jewish values must be more important than democratic values” as a condition for a Jewish state.⁴⁰

Overall, if we consider the trend in the state education system of advancing Jewish education and values at the expense of liberal civic education—alongside the increasing role of Haredi education, which does not even introduce democratic education and civic values—there is great reason for concern. These tendencies embody the connection between rising religiosity and the growing illiberal ethno-nationalistic values that undermine the longevity of Israeli democracy.

The Elephant in the Room

Thus far, the assessment of Israel’s democratic backsliding has not addressed Israel’s direct occupation and control of the West Bank and its indirect control over the Gaza Strip. Indeed, the ongoing occupation is often seen or being presented as external to the issue of Israeli democracy. The thinking seems to be, let’s consider Israeli democracy as if there is no occupation, and let’s consider the occupation as if there is no democracy. This presumption is questionable, however, both in theory—that is, in terms of the definition and classification of democratic regimes—and in practice, considering the interaction with and intensification of all the above-identified risks to Israeli democracy by the ongoing occupation.

From the point of view of regime analysis, there are two main objections to the classification of Israel as a democracy. The first accepts that Israel has democratic qualities, but objects to its classification as a liberal democracy; instead, some argue that Israel should be labeled an “ethnic democracy,” in which control

of the majority group (Israeli Jews) over the state is institutionalized, and minorities (Arab citizens of Israel) have limited collective and individual rights.⁴¹ While “ethnic democracy” might be an acceptable classification for Israel proper, the interpenetrability of the Israeli Jewish and Palestinian societies—both physical (for example, in terms of movement between and within the two societies) and socioeconomic—makes the ongoing occupation a critical element of Israel’s ethnic character.⁴²

The second objection focuses specifically on the occupation. According to this argument, the entire occupied area is (or ought to be) considered a single political unit. As such, given that the occupied territories include a sizable population without political (or other) rights,⁴³ the larger political unit cannot be categorized as a democracy.

Indeed, the practices of fifty-five years of occupation are fundamentally illiberal and pose a genuine challenge to classifying Israel as a democracy, particularly a liberal one. The challenges are beyond a matter of theoretical classification, however. Unlike in Europe, where populism is galvanized primarily by issues of immigration and economic inequality, in Israel it has been stirred up by the ethno-national conflict between Arabs and Jews, along with the related domestic political cleavage between Mizrahi and Ashkenazi Jews. Rhetorically, as noted above, Netanyahu’s populist exclusionary rhetoric has highlighted the threat of political participation by Palestinian Israelis and the security threat posed by Palestinians.

The institutional erosion of Israeli democracy is also related to the ongoing reality of the conflict and the occupation. The legislative initiatives that undermine the liberal principles of democracy are primarily focused on limiting the collective identity and rights of the Palestinian minority within Israel. The limitations on civil society organizations primarily target organizations, such as B’tselem, Breaking the Silence, and Adalah, that operate in both Israel and the occupied territories. Similarly, the long-term erosion of democratic values is closely tied to the rise in religiosity along with the strong connection between religiosity and illiberal ethno-nationalistic political views and values. The agenda of the emerging government coalition to prioritize the Basic Law Override Clause and establish within the Prime Minister’s Office a new Jewish National Identity Authority, headed by a far-Right Orthodox political party, adds further salience to these concerns.

Beyond these risks, the continued occupation also undermines any attempts to change Israeli values,

institutions, or leadership. The short-lived experience of the “government of change” illustrated how issues relating to the occupation, such as the settlements, undermined the stability of this government. The occupation not only shapes and is shaped by electoral and identity politics, but also affects budgetary allocations and the policy priorities of the state.

Significantly, the illiberal political forces within Israel are galvanized by and mobilized around the notion that the occupation is both the impetus and justification for illiberal policies. Given this, even if for now there are still democratic qualities in Israel proper, it is hard to envision how sustainable Israeli democracy will be in the long term.

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