Spokes of Regime Change in Israel

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ABSTRACT: The proposal introduced in January 2023 for a ‘judicial overhaul’ in Israel has been characterized as a seismic event. Labeled a ‘reform’ by supporters and a ‘coup’ by skeptics, the proposal is better understood as part of a long process rather than a sudden event. This process involves gradual but persistent executive aggrandizement advanced by weakening multiple institutions of horizontal accountability and the media, alongside the imposition of restrictions on oppositional organizational capacity. Accordingly, the process should be defined in terms of autocratization. The spokes analogy is invoked to highlight the interconnectedness between the various realms that collectively underpin the regime.

KEYWORDS: autocratization, democratic backsliding, democratic crisis, democratic erosion, horizontal accountability, regime change, judicial overhaul, Israel

The year 2023 was undoubtedly one of the most challenging for Israel since its establishment in 1948. The vicious Hamas attack on October 7 and the ensuing brutal war seemed to have overshadowed what, until October 6, was described by many as the battle for Israel’s identity and soul. Prior to the war, Israel experienced intense contestation over the proposals introduced in January 2023 by Minister of Justice Yariv Levin to overhaul the relationship between the executive and legislative branches of the government, on the one hand, and the judiciary, on the other hand. As a result of the war, the so-called judicial reform, which many opponents labeled a ‘judicial coup,’ seems to have been relegated to the back burner.

Whether characterized in terms of ‘reform,’ ‘coup,’ or otherwise, it would be hasty to presume that the internal struggle is over. The responses to the rulings by the High Court of Justice (HCJ) in January 2024, which struck down one of the measures that had already passed and postponed...
the implementation of another one to the 26th Knesset, attest to the durability of the strife. The motivations and causes that precipitated the drive to fundamentally transform the system of government have not vanished; on the contrary, they have deeply permeated Israeli society and politics, becoming embedded in the fabric of Israel’s political culture.

Thus, rather than describing the legislative package advanced by the coalition government led by Benjamin Netanyahu as an ‘event’ that came about principally as a result of a set of proximate variables, or a confluence of immediate political interests (such as, the Netanyahu trial, the HCJ ruling that banned Aryeh Deri from serving as a government minister, or the desire of the ultra-Orthodox political parties to subvert HCJ rulings pertaining to mandatory military conscription), as many commentators have done, the proposal for a judicial overhaul is better understood as part of a much longer process aiming to reshape the character of Israel’s political regime. This process goes back at least to the first decade of the twenty-first century, reaching into many arenas beyond the judiciary.

Scholars of the phenomenon commonly termed ‘democratic backsliding’ have noted that democratic decline in the twenty-first century is no longer an overt, sudden event executed primarily with guns and tanks (Bermeo 2016). Rather, contemporary democracies face peril when politicians “try to weaken the institutional buffers of our democracy, including the courts,” “intimidate the free press,” “treat political rivals as enemies,” and more broadly “subvert the very process that brought them to power” (Levitsky and Ziblatt 2018: 2–3). In contrast to past eras when democratic demise occurred through authoritarian coups, democratic recession in the twenty-first century involves a more gradual erosion from within—a gradual slicing “away at fundamental institutional checks and balances in ways that ultimately distort pluralism and political competition” (Cianetti and Hanley 2021). The process entails chipping away at the autonomy and boundaries of institutions that provide what Guillermo O’Donnell (1998) aptly defined as horizontal accountability, ultimately undermining the quality of democracy (Waldner and Lust 2018). Therefore, understanding the process of regime change in Israel requires a broader perspective that more comprehensively examines the set of checks and balances intended to restrain executive power.

The next section explores terminological options for the process unfolding in Israel, concluding it is best characterized as autocratization. The discussion then proceeds with unpacking gradual change in arenas where the process has been taking place, including political institutions, media, and freedom of association. Taken together, they are referred to as spokes (rather than merely prongs or realms) because, much like spokes on a bicycle wheel, they link the hub of a regime to its rim, providing
balanced support for the entire structure. With each tampered spoke, the balance is further undermined. The final section situates the proposals for a judicial overhaul in this context and introduces the rest of the special issue, specifying how each article fits into the larger whole.

**Conceptual Clarity: What Is the Phenomenon Observed?**

Capturing processes of regime change requires conceptual clarity. What are the appropriate terms to define the observed process? Opponents of the judicial overhaul have frequently used the label ‘coup’ (הפגשה in Hebrew) to characterize the plans to weaken judicial oversight. However, in traditional political science textbooks, the term coup is typically reserved for the overthrow of an existing government using unlawful means, constituting an unconstitutional takeover of executive power. This is not the situation in Israel. The coalition government led by Binyamin Netanyahu was elected according to regular electoral procedures and in accordance with the law. The attempts to alter regime attributes do not constitute a coup.

An alternative term might be ‘democratic backsliding.’ This term, which has gained considerable traction in the scholarship in the twenty-first century (Bakke and Sitter 2022; Waldner and Lust 2018), has been popular in the context of Central and Eastern Europe. It is commonly used in instances where post-communist states that democratized in the 1990s and 2000s experienced gradual democratic erosion, sliding back toward a combination of some procedural features of electoral democracy with institutional arrangements that greatly favor incumbents and impede oversight over the executive (and therefore transparency and accountability) (Bakke and Sitter 2022). Such creeping authoritarianism is not characterized by military takeovers, but rather by power-hungry executives utilizing the legislative and administrative tools at their disposal to change institutional buffers that facilitate effective transparency, accountability, and, more generally, constraints on executive power (Bermeo 2016; Levitsky and Ziblatt 2018: 2–3). The term has also been used in the Israeli context to characterize changes that have taken place since Netanyahu’s return to power in 2009 (Oren and Waxman 2022).

The process of democratic backsliding comprises the purposeful weakening of institutions that provide horizontal accountability (O’Donnell 1998). In past eras, autocrats were unabashed about their intentions, whereas agents of contemporary democratic backsliding often couch the debasing of restraining institutions in terms of “deepening democracy” (Kronick et al. 2023) or offering a new version of illiberal democracy.
Democratic backsliding does not involve abolishing elections or disenfranchising large populations but rather makes elections less competitive and hinders the capacity of opponents to mobilize (Waldner and Lust 2018: 95).

Yet, the democratic backsliding paradigm is not without its problems. First, as Licia Cianetty and Sean Hanley (2021) aptly observe, underpinning the process is an assumption of a relatively linear transition toward a set outcome, specifically some form of authoritarianism or a hybrid regime. In practice, however, different regime attributes can move in different directions. Regimes can transition and reverse transition; some democracies can die whereas others can bounce back (Ginsburg and Huq 2018). The contours of regimes can exhibit intermediate patterns and can shift in different ways diachronically as well as across realms. Different attributes might pull in the direction of autocratization while others toward democratization.

A second underpinning assumption with the democratic backsliding paradigm is that the presumed starting point is democracy. Whether Israel merits the definition of democracy, and if so, what kind of democracy, has long been a contested question. “The Regimes of the World 2012–2022 Report” by the Varieties of Democracy project, arguably the most authoritative dataset on the subject, lists Israel among the world’s liberal democracies, the highest category possible (V-Dem 2023: 39).\(^1\) Freedom House, evaluating degrees of political rights and civil liberties, has also regularly placed Israel in its “Free” category, even while identifying deficiencies in the civil liberties dimension (Freedom House 2023).

Others have argued that because of its accent on its Jewish identity and the systemic privileging of the Jewish population, Israel should be categorized as an ethnic democracy rather than a liberal one (Haklai 2011, 2014; Smooha 1997, 2002). Some contend that the institutionalized hierarchical relations between Jews and Arabs in Israel are such that Israel’s regime type does not merit the label ‘democracy’ at all (Ghanem et al. 1998). Oren Yiftachel (2006) prefers the category of ‘ethnocracy.’ Ilan Peleg (2007) opts for ‘ethnic constitutional order,’ thus bypassing the need to pass judgment on the debate.

Then there is the question of territorial boundaries. Some scholars argue that the prolonged Israeli rule over the West Bank has created a one-state reality between the Mediterranean Sea and the Jordan River (Barnett at al. 2023; Lustick 2019). Under the rule of this state live close to three million Palestinians who are not citizens of the state and who do not have political rights. With such a large population disenfranchised on grounds of its ethnic-national identity, it has been argued that Israel cannot be categorized as a democracy at all (Ariely 2021). Thus, those who dispute the relevance
of the label democracy to the Israeli regime will find the term democratic backsliding inappropriate, even though they might agree on the substantive transformations led by the Netanyahu government.

An alternative term that does not assume democracy as a starting point yet captures the trajectory of Israel’s gradual regime change is autocratization. Autocratization, like democratic backsliding, encapsulates a process of executive aggrandization, chipping away at the autonomy of institutions providing horizontal accountability, the slicing of checks and balances in multiple societal realms (such as civil society and the media), and the obstruction of opposition organizational capacity. The process of autocratization is open-ended. It does not assume a fixed end point (autocracy) but rather relativity—a degree of comparison to prior conditions; a decline in the democratic qualities of governance, irrespective of whether the starting point is identified as democracy.

Spokes of Autocratization

If conceptualizing political regime shifts is a knotty challenge, identifying indicators and measurements can be even more complex (Little and Meng 2023). Given that change is incremental, uneven across different spheres, and occurs at different points in time, shifts in regime character are not always easily observable. Indeed, it is plausible that at least one of the reasons why the January 2023 proposals generated an exceptionally intensive backlash is because they appeared comprehensive and definitive, deviating from the preceding piecemeal transition. This section examines three important spokes—specifically, political institutions, media, and freedom of association—while acknowledging that other themes and manifestations, such as minority rights, populism, and nepotism are no less consequential in the broader process (Chazan 2020; Norris 2016; Oren and Waxman 2022).

Political Institutions

Israel is particularly vulnerable to autocratization because the political system fundamentally lacks a robust system of horizontal institutional checks on executive power (Gidron 2023). The country does not have a firm, unified constitution but rather a set of basic laws that can be enacted and changed with ease (Hazan 1997). The state is unitary, not federal, thus lacking local canton, provincial, or state authority to check the power of the central government. The political system is parliamentary. The legislature, the Knesset, is unicameral and lacks oversight from an upper chamber. The
electoral system is based on proportional representation, with the entire country constituting a single electoral district. In the absence of electoral ridings or districts, voters do not directly elect Members of Knesset (MKs). Instead, they cast one ballot only for a political party. Consequently, the 120 MKs are not directly accountable to the electorate but rather to their party. Although some parties hold primaries, providing party members with an opportunity to elect candidates, party members have an incentive to reward loyalty to the party, thus not compensating for the lack of MKs’ accountability to the electorate at large (Hazan and Rahat 2010).

As characteristic of parliamentary systems, there is a relatively high degree of fusion between the legislative and executive branches; the prime minister is the leader of the parliamentary faction who can master a coalition that gains the confidence of the Knesset. Since the proportional representation system lends itself to a multiparty legislature, Israeli executives are constituted of multiparty coalition governments. When the multiple interests of coalition partners are not harmonious, different factions yield veto power that can make coalitions unstable. Conversely, when political interests converge, the executive can be particularly strong.

It is under the latter circumstances that the fundamental frailty of Israel’s regime is exposed when a sufficient number of coalition partners are interested in (or at least not averse to) executive power aggrandizement. In the absence of the many institutional checks and balances that exist in other democracies, such as federal distribution of power, an electoral system that incentivizes accountability to voters rather than the political party, a separately constituted upper legislative chamber, or a firm constitution, the obstacles that hinder a grip on power by a willful political elite are more limited.

As the 2023 crisis shows, the fluidity of Israel’s constitutional framework has proven to be a domain of particular vulnerability. Basic laws can be amended quickly with either a regular majority or a supermajority. Since the 2015 elections, Basic Law: The Knesset has been amended nine times and Basic Law: The Government eight times. In total, twenty-seven amendments and one new basic law (Basic Law: Israel, the Nation State of the Jewish People) have been enacted during this period, equal to the number of amendments to the US Constitution since 1789 (Fuchs 2023).

Significantly, many of the amendments do not aim to resolve matters of principle. Rather, they have been introduced to address immediate political needs. These include amendments to enable the power-sharing arrangement between Netanyahu’s Likud-led parliamentary block and Benny Gantz’s Blue and White party (in 2020), abolishing the limits on the number of ministers (intended to incentivize buy-in from coalition partners), the so-called Deri amendment (2022), intended to allow the
convicted Aryeh Deri to serve as a government minister despite his criminal convictions, and the ‘unfitness’ amendment (2023) that would remove the capacity of the attorney general or the courts to declare a prime minister unfit for office. The implementation of the latter was postponed by the HCJ in 2024 on grounds that it was a personalized amendment, overtly enacted to protect the incumbent prime minister, who is standing trial on charges of bribery, breach of trust, and fraud (Zilber 2024).

These examples not only illustrate the exceptional mutability of the constitutional framework but also the ease with which amendments can be passed toward immediate ends of incumbents. It fits with the broader trend in Israeli politics, characterized by Gideon Rahat and Ofer Kenig (2018) as the personalization of politics at the expense of traditional political organizations. While the process of personalization may have logic in presidential systems, where voters directly elect their chief executive, in parliamentary politics, personalization risks undermining the institutionalization of politics.

Inasmuch as some of the personalized amendments of the 2020s garnered attention, earlier amendments that benefit incumbents have largely slipped under the radar. One such amendment was the addition of the ‘constructive’ requirement to no-confidence motions in 2014. Whereas in the past, governments could be toppled through a no-confidence vote passed by the Knesset, under the 2014 amendment, a no-confidence motion needs to be supported by an absolute majority of at least 61 of the 120 MKs and accompanied by concomitant confidence in a new government. This requirement stands even if the incumbents themselves do not enjoy the support of 61 MKs.

Of particular consequence was a 2016 amendment to Basic Law: The Knesset, which altered the process of electing the Knesset Speaker. Until 2016, the eldest parliamentarian would open the first session following Knesset elections, and the Knesset would then elect a new speaker. The 2016 amendment tied the election of a new speaker to the swearing in of a new government, leaving the speaker of the outgoing Knesset, who would have been part of the outgoing coalition, in charge in the meantime. Thus, the minimal measure of separation that existed between the legislative and executive branches was further diminished. The new arrangement proved highly consequential during the political stalemate that emerged following multiple indecisive election cycles in 2019 and 2020, when Speaker Yuli Edelstein refused to allow elections for a new Speaker even though a Knesset majority sought to replace him. He also hindered the formation of new parliamentary committees that would reflect the new composition of the Knesset (he eventually chose to step down after the HCJ ruled against him).
This change augmented the principle of executive continuity already advantageous to incumbents. In the aftermath of elections in Israel, a candidate for prime minister needs to win the confidence of the Knesset at the time they are sworn in. If no candidate is successful, the incumbent government, including the prime minister, continues in a caretaker capacity. This principle of continuity provides an inherent advantage to incumbents: whereas challengers need to win Knesset confidence, incumbents can continue as caretakers without receiving the confidence of the Knesset. Although subject to some restrictions, the arrangement allows for budgets to roll over from one year to another, making caretaker appointments to key administrative positions (which can continue as long as no permanent appointment is made), and other policy decisions. Moreover, considering the already high degree of fusion between the executive and legislature in Israel’s unicameral system, tying the speakership of the Knesset to the swearing in of a new government increases incumbents’ executive control over the parliamentary agenda even when they are formally only in a position of caretaker, as the Edelstein episode reveals.

The practical implications were evident during the 2019–2021 political stalemate. Although Netanyahu was unable to form a coalition government following three rounds of elections held between April 2019 and March 2020, he continued as prime minister by default (while Edelstein continued as speaker) because no other parliamentarian was able to form a coalition, even though following the September 2019 elections, only 55 of 120 MKs were supportive of his premiership, and a plurality were supportive of his main rival, Benny Gantz. Furthermore, these rules influence the calculus of the disadvantaged opposition, incentivizing greater compromises in bargaining on their part because they face greater institutional barriers. This was the case when Gantz eventually agreed to join a power-sharing government in 2020 succumbing to Netanyahu’s terms. Thus, the amendment dealing with the speakership exacerbated already slanted institutional conditions.

In short, even seemingly minor amendments that passed without much attention long before the judicial overhaul have had harmful implications on the quality of democracy, enhancing advantages enjoyed by incumbents.

Media

Often characterized as ‘a guardrail of democracy,’ an independent media is typically listed as an essential ingredient of democracy, facilitating transparency and accountability as well as informed public debate. In places like Hungary and Poland, the erosion of media autonomy has been
identified as an indicator of democratic backsliding (Bakke and Sitter 2022: 24). In some cases, increased control has been achieved when oligarchs with ties to the regime acquired media outlets (Bakke and Sitter 2022: 25–26).

In the case of Israel, the extent of media autonomy has also been gradually encroached upon. One critical juncture was the inception of the daily newspaper *Yisrael Hayom* in 2007. Funded by the late American billionaire Sheldon Adelson “at the encouragement of then opposition leader Benjamin Netanyahu . . . in order to ‘balance’ an alleged liberal media landscape” (Grossman et al. 2022: 1915), the newspaper has been distributed free of charge in stores, gas stations, train stations, and other high traffic venues, taking over from *Yediot Aharonot* as the most widely read newspaper in Israel by 2011 (when Netanyahu was already in power). Because profit-making was never a priority—unlike its competitors who have had to negotiate between market considerations (including readership demands) and worldviews of publishers and writers—*Yisrael Hayom* never needed to compromise on its desire for political influence. According to an in-depth study conducted by Guy Grossman, Yotam Margalit, and Tamar Mitts, who analyzed hundreds of articles, the paper’s issue and framing coverage was visibly partial in favor of Netanyahu (Grossman et al. 2022: 1919–1929). They further found a robust causal relationship between readership of the paper and a shift in voting pattern favorable to Netanyahu’s Likud party, sufficient to influence the election outcomes in Israel in 2013 (when the Netanyahu bloc enjoyed a razor-thin margin, winning 61 of 120 Knesset seats) and 2015. They conclude that the launch of *Yisrael Hayom* played a significant role in assisting Netanyahu to become Israel’s longest-serving prime minister.

The importance of the media generally, and *Yisrael Hayom* in particular, is attested to by a number of factors. When attempts to legislate regulations limiting free distribution of dailies issuing more than 100,000 copies seemed to be gaining steam in 2014, Netanyahu called an early election (held in March 2015) to halt these efforts. Netanyahu then appointed himself minister of communication alongside his premiership. The position, which he held between November 2014 and May 2017, allowed him to increase his considerable influence on media regulation.

The impact of *Yisrael Hayom* has enabled Netanyahu to put pressure on Arnon Mozes, the owner of *Yediot Aharanot* and its online website, *ynet*. According to one of the indictments filed against Netanyahu in 2019, in meetings held with Mozes several months before the 2015 elections, they discussed improving the coverage of Netanyahu while degrading that of his rivals in these outlets in return for imposing regulations limiting *Yisrael Hayom*’s free distribution. In recordings of these conversations, Netanyahu
is heard threatening the owner of Yedioth: “If your life’s mission is to battle me, then my life mission is to battle you. And it won’t end after the elections . . . if you come to topple me, I will use all the tools at my disposal” (Druker 2019). Mozes, in turn, is heard trying to appease Netanyahu about his willingness to help Netanyahu remain prime minister.

Indeed, it is telling that two of the three indictments filed against Netanyahu in 2020 allege attempts to unlawfully use his power to influence the media. The second indictment accuses Netanyahu of using his authority as prime minister and minister of communication to establish a give-and-take relationship with the owner of one of Israel’s leading communication companies, Bezek, offering favorable regulations in return for favorable media coverage of Netanyahu and his family in one of the two leading online news websites controlled by Bezek.

A corresponding dynamic can be observed in the television broadcasting realm. A noteworthy case is Channel 14, formerly Channel 20. Founded in 2014 as a heritage channel on cable television, this broadcaster has been widely regarded—and pitches itself—as politically on the right and loyal to Netanyahu’s political bloc (see, for example, Glazer 2015; Nir 2023). Some pundits have acerbically labeled it “the Netanyahu heritage channel” (Goychman and Amit 2023).

Here, too, incumbents used legislative and administrative tools at their disposal to promote the politically loyal channel. The broadcaster received a unique permit to broadcast commercials, something that cable channels are otherwise prohibited from doing. After it was fined multiple times for broadcasting news in contravention of its license, the Netanyahu government passed legislation in 2018 altering the channel’s regulation, treating it as a commercial broadcaster rather than a cable network. At the same time, the legislation did not require Channel 14 to adopt the ethics code pertaining to all other commercial broadcasters, thus enabling it to use its platform for political ends, including by communicating disinformation (Nir 2023). Channel 14 was further absolved of the rule requiring a structured separation between the owner of the channel and its news division, which applies to all other commercial television broadcasters, thus, providing the owners, who are affiliated with the religious right, with greater capacity to influence content. Observers have noted that absent these constraints, the result has been a political platform for the Netanyahu government (Goychman and Amit 2023; Nir 2023).

In 2023, the minister of communication issued a proposal that was widely interpreted as targeting the independence of the Israeli Public Broadcasting Corporation (IPBC). The proposal was to transfer a considerable amount of the IPBC’s budget to a government fund, which in turn would distribute funds to television broadcasters according to criteria
decided by the government (Schejter 2023). Thus, public and commercial television broadcasters could apply and compete for these funds. Among other things, the criteria would exclude content deemed anti-Zionist, and some of fund’s budget would be dedicated to content explicitly promoting Zionism and Jewish heritage, as determined by the fund’s administrators (who would be government appointees). Furthermore, the minister’s proposal would require matching funds from the broadcasters applying for the fund, hence incentivizing them to further dedicate resources to content aligned with the government’s priorities. According to Amit Schejter, Chairperson of the Association for Civil Rights in Israel (ACRI), there is no comparable model in any democracy where a government agency “allocates public money to commercial companies for producing television programs in accordance with government priorities” (Schejter 2023). In contrast, state subsidies for loyal media characterize democratic backsliding cases like Hungary (Bakke and Sitter 2022: 26).

Ultimately, the intent has been to weaken the independence of Israel’s public broadcaster and enable greater central governmental control of content. This motivation had been memorably articulated several years earlier by then Minister of Culture and Sport Miri Regev, who indelibly stated, “What’s the value of the broadcasting corporation if we don’t control it?” (Kitain 2016).

Curtailing the Freedom of Association

Like media, freedom of association is typically seen as “fundamental for interest aggregation and articulation” in a democracy (Bakke and Sitter 2022: 24). Since Netanyahu returned to power in 2009, several measures have been implemented targeting the capacity of non-parliamentary and independent civil society to organize and mobilize. This process, much like the other two spheres discussed here, has been incremental, sometimes escaping due scrutiny in its early stages.

In 2017, the Knesset enacted the “V15 Law,” an amendment to the Party Financing Law. V15, short for Victory 2015, was an organization established in the lead-up to the 2015 elections with the goal of unseating Netanyahu and replacing his government with a left-of-center one. The organization did not explicitly endorse any single political party among those who opposed Netanyahu and focused primarily on mobilizing voter turnout among those sympathetic to its objective. To advance its mobilization efforts, V15 received donations from outside Israel and partnered with the US nonprofit OneVoice, a recipient of US government grants to encourage a two-state solution to the Israeli-Palestinian conflict. At the time, V15’s activities did not violate the Party Financing Law
since it was not campaigning for a specific political party. To hinder the
capacity of such mobilization, the amendment to the Party Financing
Law stipulated that even if not affiliated with a party, an organization
engaging in electoral activity during an election period would be sub-
jected to similar financial regulations reporting as political parties. The
law defined electoral activity in alignment with the actions conducted by
V15, including transporting voters to polls based on their voting inten-
tion. The amendment imposed strict registration and financial reporting
requirements on such organizations. Furthermore, contributions from
outside Israel were capped at NIS 600,000 (approximately US$165,000 at
the time) and one-third of the total donations (Amendment 35 to Party

A year earlier, the government introduced an amendment to the so-
called NGO Transparency Law (2016). In a nutshell, the law requires
disclosure of funding from foreign states but not from foreign wealthy
private donors. This appears to be specifically tailored to target civil soci-
ety organizations affiliated with the Israeli left because the former source
is more focused on human rights and democracy promotion, whereas pri-
ivate donors have typically supported NGOs aligned with a conservative
government agenda—consistent with the priorities of the Netanyahu gov-
ernment (for example, the Kohelet Forum, largely seen as responsible for
many of the proposals targeting the curtailment of horizontal accountabil-
ity). Indeed, the list of 27 NGOs affected by this legislation revealed that
25 of them worked on human rights, left-wing causes, and societal welfare
issues (Liss 2016). The 2016 amendment itself followed a 2011 amendment
that required reporting of donations from foreign governments, including
the identity of the donor state, the sum, purpose, and attached conditions,
while making this information public.

A further amendment proposed in 2023 planned to tax such donations
at a rate of 65 percent and defined them as intervention in the internal af-
fairs of the State of Israel. The codification of intervention in Israeli internal
affairs, in turn, included petitioning the court (an activism characteristic
of civil rights organizations) and appealing to government agencies as
well as public opinion, with such appeals involving paid advertising. Ex-
erts from the Israel Democracy Institute have argued that the exclusion
of foreign private donors from the bill reveals its true intent, which they
characterized as “political harassment, silencing, and delegitimization of
organizations that are critical of the government’s policy” (Kremnitzer
and Fuchs 2023).

Furthermore, in 2018, the Knesset passed Amendment 17 to the Public
Education Law, entrusting the Minister of Education with creating
regulations that would prohibit activities in schools by individuals or organizations whose actions “stand in severe and significant contrast with the public education’s mission,” defined, among other things, as serving in the Israel Defense Force and “initiating judicial proceedings outside Israel against soldiers of the Israel Defense Force” (Amendment 17 to the Public Education Law 2018). The objective of this amendment was widely regarded as preventing talks by activists of Breaking the Silence, an NGO of former Israeli soldiers who report on abuses conducted against Palestinians (Association for Civil Rights in Israel 2018).

The attempts to restrain organized extra-parliamentary and civil society activism through legislation has followed years of delegitimization by both parliamentarians and extra-parliamentary activity. The organization Im Tirzu is a case in point. Whereas traditionally, most civil society activity is characterized by attempts to influence government policy or empower societal communities, the centerpiece of Im Tirzu activity has been harassing liberal and left-of-center organizations and depicting them as enemies from within. In 2010, for example, the New Israel Fund (NIF) was targeted with the campaign “the Horn of Naomi” in which Naomi Chazan, the President of the NIF at the time, was depicted on billboards with a horn emerging from her forehead and was attributed responsibility for the controversial UN ‘Goldstone Report’ on the 2009 Gaza conflict. Several years later, other human rights organizations were targeted in campaign labeling them as Shtulim—a fifth column representing foreign governments. In the 2020s, the campaign shifted language to Ochrim (loosely translating to haters) and listed 26 NGOs in its “know the haters campaign,” including Peace Now, the Association for Civil Rights in Israel, Rabbis for Human Rights, and Breaking the Silence (Im Tirzu 2023). Such targeting is consistent with the observation by Levitsky and Ziblat (2018), according to which treating political rivals as enemies from within is a characteristic of democratic decline.

### Judicial Overhaul in Context

Whereas some of the laws enacted generated contention at the time of legislation, others passed without much fuss. On their own, some may have even looked innocuous. Yet, when considered collectively, the process of executive power aggrandization becomes discernable.

The 2023 proposal for a judicial overhaul should be understood as an integral part of this longer-term process, involving much more than the relationship between the executive and judiciary. By one count, 141 bills
relating to the system of governance were tabled by the end of March 2023, which taken together encapsulate regime change (Elbashan 2023).

Alongside this broader process, the Israel Democracy Institute Annual Index reveals a gradual erosion of public trust in the Supreme Court since the early 2000s (Hermann et al. 2023). Whether a result of persistent public attacks on the judiciary or the conduct of the court itself, eroding public trust in the judiciary has facilitated discussions and ultimately proposals to rein in its authority.

This special issue presents two differing analyses of the 2023 proposals. Suzie Navot and Guy Lurie describe the proposals as “an attack on the rule of law in Israel.” After providing a historical overview of Israel’s constitutional framework, they offer an extensive and detailed examination of the proposal’s components, explaining its relation to the rise of populism and implication for Israel’s democracy.

Joshua Segev offers a contrasting viewpoint. According to Segev, the contestation in Israel is part of a broader culture war between a conservative-religious-national orientation and a liberal-secular one. He argues that two different interpretations of the 2023 proposals stem from the differing positions in this ideological cleavage. Segev contends that Israel’s historical constitution-making tradition should be characterized as a “decision not to decide” on Israel’s character, considering its diverse nature. One interpretation of the 2023 proposals views them as an attempt to force a “decision to decide,” a stance held by the liberal-secular camp. An alternative interpretation is that the proposals serve as a bargaining tactic only, intended to rectify the perceived deviation from the tradition of not deciding that occurred in the ‘constitutional revolution’ of the 1990s, which frustrated the religious, conservative camp. Consequently, the fundamental objective of the 2023 proposal is more modest: appointing more conservative judges to counterbalance liberal judicial activism. Segev concludes with prescriptions believed to be palatable to the liberal side while increasing judicial accountability and transparency.

Shifting from legal perspectives to a political science lens, Gal Ariely analyzes how the controversy surrounding the judicial overhaul fits into a broader debate about the definition of Israel’s regime. He contends that the main dispute is between liberal and majoritarian orientations of democracy. However, both sides overlook the relevance of the West Bank in their underpinning assumption that the regime is limited to the territorial boundaries of ‘Israel proper.’

The articles by Ian Lustick and Alon Burstein bring into the analysis the Palestinian population outside the Green Line. Lustick concurs with Ariely (and, to some extent, with Segev) that supporters and opponents
of the judicial overhaul are in a struggle over the liberal dimension of Israel’s regime rather than procedural democracy (despite the rhetoric in protests). In the one-state reality that has emerged between the Mediterranean Sea and the Jordan River, however, the Israeli regime cannot be a liberal democracy if a large Palestinian population living under the state’s jurisdiction is denied participation in the political process. Therefore, the struggle over liberal democracy fundamentally requires a struggle about universal suffrage. Presented in such terms, the 2023 turmoil provides opportunities for a profound transformation. In contrast, Alon Burstein highlights the potential risks faced by the Palestinians in the territories Israel conquered in 1967. Although they do not have democratic rights, Palestinians have, in practice, benefited from some of Israel’s democratic features, primarily the HCJ. Burstein identifies important decisions by the court that have restrained majoritarian-nationalist conduct. The Palestinians, therefore, might be the ones to suffer earliest from autocratization even if they have no democratic rights.

Minority rights are integral to the discussion of democracy and regime change, with some scholars identifying an important role for active minority political engagement in obstructing democratic regression (Rovney 2023). Salwa Alinat Abed discusses strategies developed in recent years, particularly by the southern stream of the Islamic Movement in Israel, to navigate through the perennial marginalization of the Arabs in Israeli politics and society. She identifies a strategy she labels “the politics of musaiyyara,” meaning flowing with reality. This strategy is guided by attempts to adapt and assess what can feasibly be achieved under existing conditions and has allowed the political leader of the movement, Mansour Abbas, to join a coalition government for the first time in 2021. Yet, the upheaval adds another layer of obstacles in a context of deeply entrenched discrimination and exclusion.

Another constituency with high stakes is the ideologues of the Sovereignty movement, who advocate a formal extension of Israel’s sovereignty to the territories conquered from Jordan in the 1967 war. It is plausible that the restraints imposed on them by the judiciary are a primary reason why these ideologues have been at the forefront of the push for the judicial overhaul. Analyzing the discourse in the Ribonut (sovereignty) journal of the Sovereignty movement, Meirav Jones and Lihi Ben Shitrit identify how those pushing for annexation have long identified democracy, and specifically the HCJ, as an obstacle to extending formal Israeli sovereignty to the territories. Meanwhile, Tom Levitsky and Yuval Benziman trace how incrementally but surely, the so-called hilltop youth, fundamentally in tension-laden relations with democratic values and rule-of-law practices,
have transitioned from the fringes to centers of power and are thus able to gain legitimacy and influence the direction of the central government toward ends favorable to their agenda.

Whichever way the current battle over Israel’s regime unfolds, there is no reason to assume it will dissipate soon. Although autocratization has been an incremental process and remains open-ended, the will of the elites driving it remains strong and the ideological disagreements and socio-cultural cleavages that underpin it are deep. Israel remains fundamentally divided.

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NOTES

1. The 2024 report, published in March, had Israel drop to the lower electoral democracy status for the first time (V-Dem 2024:14).

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