ABSTRACT: Political scientists distinguish between governments and regimes. A government is comprised of incumbents holding positions of authority specified within an institutionalized “regime,” that is, a legal order. Within a well-institutionalized regime, politics consists of legal struggles over what governments and government officials do. But when the issues in contention pertain to what governments are authorized to do, and not about what they should do, competitors may no longer feel bound to follow the rules. Such struggles can threaten the integrity of the regime. This article suggests that the prolonged, if temporarily sidelined, crisis over the overhaul of the Israeli judiciary should be understood less as a threat to democracy than as both a challenge to the Israeli regime’s remaining liberal features and as an early skirmish in what will be a long political war over whether and how to emancipate millions of non-citizen Palestinian Arabs living in effectively annexed territories.

KEYWORDS: Israel, Palestine, regime change, annexation, democracy, liberalism, Gaza

Israel 2023: Democracy in Peril or an Opportunity for Regime Change?

The unprecedented shock of the Gaza War that began with the vicious Hamas and Islamic Jihad attack on Israel on 7 October 2023 overshadowed the unprecedented shock earlier that year of a paralyzing political war over reform of the Israeli judicial system. The combination of these traumatic events has transformed Benjamin Netanyahu, the longest serving
prime minister in Israel’s history, and most of the ministers in his cabinet, into dead politicians walking. More importantly, the combination of these two ‘civil wars’ has placed the nature of the Israeli regime, and not just the policies of its governments, at the center of both international and Israeli domestic agendas.¹ This article analyzes opportunities for regime change associated with the ‘civil war’ over the judiciary. The complementary task of assessing whether the war will destroy or enhance those opportunities cannot be yet undertaken, though its vital importance can already be understood.

What Are Israelis Fighting about When They Fight about Democracy?

In their call for papers, the editors characterized Israel as having a democratic regime imperiled by challenges to the institutional integrity and authority of the courts. They referred to the “perils of regime change,” the “breakdown of democratic regimes,” and the unraveling of “systems of checks and balances [that are] the cornerstone of liberal democracies.” Israel, they said, was exposed to distinctive twenty-first-century threats that, quoting Steven Levitsky and Daniel Ziblatt as well as Nancy Bermeo, challenge politicians, citizens, and scholars to find ways to protect liberal democracy from those who would “intimidate the free press,” “treat political rivals as enemies,” or “subvert the process that brought them to power.”

But the terms of this call for papers may shed more light on problematic presumptions of those who study Israel than on the real dynamics of Israeli politics. As noted, the editors refer to Israel as a “liberal democracy.” More generally, “contemporary democracies” is the comparison class they suggest for thinking about Israel, or at least for thinking about the legislative battles and large-scale mobilizations over judicial reform that plunged the Jewish state into turmoil. But to what extent and for what purposes are “contemporary democracy” or “liberal democracy” useful or appropriate categories for analyzing Israeli politics? This is an important question because, to the extent that Israel is neither liberal nor a democracy, treating the Israeli polity as if it is a liberal democracy will distort analysis, encourage inappropriate comparisons, and blind us to what may be the real drivers of the mass mobilizations we witnessed in 2023 and what they suggest about the country’s future.

To begin to think about this question and about a “regime in peril,” we first need to be clear, not only about what we mean by ‘democratic’ and ‘liberal,’ but also what is meant by ‘regime.’ Political scientists distinguish
‘regimes’ from both ‘states’ and ‘governments’ (Easton 1957). Following both Max Weber and Douglass North, a state is, by virtue of upholding a claim to the monopoly of legitimate violence, the organization that enforces property rights (Weber 1958: 78; North 1981: 17, 21). If inhabitants of a territory can identify what organization can protect their property or take it from them then they know the identity of the state within which they live. If there is no organization able to protect their property, then they do not live within the domain of a state. For example, France is a state whose borders have fluctuated but have in recent history usually included the continental hexagon along with Corsica. For many years, another territory separated from the hexagon, Algeria, was claimed to be a part of the French state, but after ferocious internal conflicts over its status and a bloody war, France abandoned its claims to be the state in Algeria, that is, it ceased to claim that it was responsible for or capable of protecting the property rights of Algeria’s inhabitants.

A regime is the legal order that describes how laws are made for different populations living within the jurisdictions of a state. Regimes come in many forms—monarchical, democratic, socialist, totalitarian, theological, and so forth. They may feature written constitutions, or not. A regime may become so identified with a state that the two are experienced by many as the same thing, but the contingent status of a regime may also become, or regularly be, apparent to all (Lustick 2021). Again, we may take France as an example. The regime currently in place in Paris is the Fifth Republic, whose very name signifies the many changes in regime that have occurred within the French state over the last two and a half centuries.

A government (what is called in the United States an ‘administration’) is the set of incumbents who occupy the positions mandated by the regime and who from those positions promulgate, change, and enforce laws, administrative procedures, and policies. Emanuel Macron is the president of France, meaning he is the head of the government that is in place due to the outcome of elections held in accordance with the laws of the current regime—the Fifth Republic.

The turmoil in Israel surrounding the most recent Netanyahu government’s attempts to overhaul the Israeli judiciary threaten aspects of the Israeli regime—a regime defined, not by a formal constitution but by a set of traditions, ideological principles, founding legacies, the Declaration of Independence, Basic Laws, and Supreme Court rulings. There are many dimensions to this regime. It is explicitly and energetically Zionist, that is, committed, ideologically and practically, to the upbuilding of a Jewish national home in the Land of Israel. The immigration and absorption of Jews, establishment of Jewish settlements, and the protection of Jews throughout the world are unquestioned rationales for a wide array
of institutional arrangements, standard operating procedures, symbols, laws, holidays, educational curricula, and language use. It is also, at least minimally, a democratic regime, meeting as it does Joseph Schumpeter’s capacious definition of a democracy as “that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote” (Schumpeter 1975: 269).  

Indeed, both sides in the fight over the judiciary have claimed to be defending Israeli ‘democracy’ against its enemies. “Democracy in Danger,” “The End of Democracy,” “Defend Israeli Democracy,” “Netanyahu: Clear and Present Danger to Israeli Democracy,” “Democracy Is Dead,” “Israel on the Brink of Dictatorship,” and “Israel Will Not Be a Dictatorship” are typical slogans used by those opposed to the judicial reforms. On the other side, supporters of the government’s judicial overhaul plan defend democracy with signs accusing the anti-judicial overhaul protestors of “stealing the election.” Denouncing “minority rule,” they invoke the principle of majority rule through elections as the essence of democracy to proclaim that “The People Have Chosen Judicial Reform.”

Neither the mostly ultranationalist-settler-religious, development town, Haredi, and Mizrahi supporters of the government’s proposals, nor the mostly secular, professional, Ashkenazi, and coastal/urban opponents, challenge the right of the Israeli electorate to choose members of parliament and, by extension, the composition of governments. But they do have a fundamental disagreement about whether Israel is or should be a liberal democracy. In other words, the civil conflict that erupted in Israel in 2023 does not divide Israelis over the democratic dimension of the Israeli regime but over its liberal dimension. For although Israel is minimally democratic (in the Schumpeterian sense), it is not (notably) liberal—certainly not when it comes to non-Jewish citizens and also, in many respects, not when it comes to non-religious Jewish citizens.

The distinction between ‘democracy’ and ‘liberal democracy’ goes back to Aristotle, even if he never used the word ‘liberal.’ ‘Democracy’ (rule by the ‘demos’) was one of Aristotle’s four types of regimes: Oligarchy, Monarchy, Tyranny, and Democracy. Noting that the key element in democracy was the combination of ‘liberty’ and ‘equality,’ Aristotle commented that what democracy therefore really meant, unfettered by the kinds of constitutional laws we would now think of as the bulwark of liberalism, was that the “opinion of the majority is decisive” (Aristotle 1943: 128). What he feared about democracy was precisely what Hannah Arendt would identify long afterward as the danger of demagogically manipulated mob rule, of policies governed by the passions and ruthlessness of transient majorities riding rough-shod over minorities, traditions, and
property rights (Arendt 1968: 316). According to Aristotle, unless there are “supreme” laws which limit the freedom of the “multitude” to indulge their passions, democracy tends toward “tyranny,” that is, the “tyranny of the majority.” (Aristotle 1943: 179). In this sense, the objection Aristotle had to democracy was akin to the liberal view that democratic institutions and procedures could be trusted only if constrained by traditions or constitutions limiting the depredations that might otherwise be wreaked on those not in power at a particular time. If democracy means rule by those who win elections, then there are no substantive or theoretical limits on what democratically chosen representatives can do. In other words, tyranny of the majority, or even of the plurality, is perfectly consistent with democracy.

Democracies with adjectives, however, can be different. Just as the concept of a ‘constitutional monarchy’ implies limits on the absolute authority of a monarch, so ‘socialist democracy,’ ‘liberal democracy,’ or ‘Christian democracy’ imply limits on the absolute authority of legally elected governments. But this also means that ‘illiberal democracy’ is not an oxymoron, but simply one type of democracy, indeed a category with a rapidly increasing number of countries within it, including for various periods of time, Turkey, Poland, Hungary, India, Venezuela, the Islamic Republic of Iran, and, I would suggest, Israel.

The State of Israel has traditionally described its regime as “Jewish and democratic.” In 1985 an amendment to the Basic Law: The Knesset made this explicit by banning lists of candidates whose actions or aims include “denial of the existence of the State of Israel as a Jewish and democratic state.” This law, as well as the 1992 Basic Law on Human Dignity, encode certain liberal elements within the Israeli regime, although these elements have been overshadowed by the 2018 Basic Law: Israel as the Nation-State of the Jewish People. The latter statute did not trigger waves of outrage among liberal Israeli Jews because, for most of them, the ‘democracy’ they valued was ‘liberal’ only for them, not for Arab citizens. However, to the vast majority of (largely Jewish) protestors in the streets of Israel, the government’s proposed reforms of the judiciary, because they would deprive Jews of the protection against majority rule afforded by a “supreme law” (to use Aristotelean language), appear as the death knell of the elements of liberalism most Israeli Jews have enjoyed and therefore triggered protests on an unprecedented scale.

Thus, even though the word democracia became the core meme for the protest movement, the question being fought out in the streets of Israel was not whether the regime will be democratic, but whether it will be liberal. When the head of Israel’s biggest labor union, Arnon Bar David, announced the Histadrut was joining a general strike to protest the judicial
legislation, he characterized the government’s policies as treating Israel as if it were a “banana republic.”

All of us, from the left and right wings of the political spectrum, are united as one front. We are soldiers of a democratic Israel, our country, belonging to all its citizens who built it and fought for it. I encountered people on the streets last night, crying real tears; adults, crying that the country has been taken away from them. (Kutab and Salami 2023)

To many outsiders, however, and certainly to the seven million Palestinian Arabs living under the sway of the state, it seems odd, practically incomprehensible, that hundreds of thousands of Israelis would passionately decry the threat to Israeli ‘democracy’ suddenly posed by the government’s proposed changes in the judiciary. After all, the foundational meaning of democracy, as Aristotle pointed out, is the combination of liberty and equality. That implies participation by the governed (or at least the adults among them) in forming the governments that govern them. However, even leaving aside the systematic discrimination and political marginalization suffered by Israel’s Arab citizens, one-third of the people living under Israeli rule (Palestinian Arabs in the West Bank, Gaza Strip, and expanded East Jerusalem) have been excluded entirely from the elections that determine who and what laws will dominate their lives and their life chances.

Of course, it is not at all incomprehensible that masses of Israelis would not count the oppression of Arabs, even Arab citizens, as evidence that their state is not ‘democratic,’ since what most of the protestors really mean by saving ‘democracy’ is saving liberal democracy for Jewish (or at least non-Arab) Israelis, whose values and interests differ from the Jews currently in control of the government.5

Israel and the Consequences of Incomplete Settler Colonialism

To see what is really at stake in the struggle over the judiciary and where it could lead, we must begin with the fact that Israel was founded as an unusual kind of settler colonial state. Unlike most surviving settler colonial states that developed from what Louis Hartz called European “fragments”(Hartz 1964). Israel came into existence at the tail end of the imperialist era and without the overwhelming military advantage of an advanced European power. As a result of these circumstances, the limited capacities of the Zionist “state on the way,” and the moral qualms of many Jews, the settler founders of the country did not annihilate the aboriginal
population or otherwise render it demographically and politically irrelevant. Let us consider how the legacy of this ‘incomplete’ settler colonialist project can help explain why the regime’s liberal aspects are both real and substantially weaker than its democratic aspects; why the tension between these two dimensions has exploded now and not much earlier; and why, in the long run, Israel will trend toward authoritarianism if its democracy is not liberalized.

That Zionism was a movement whose success required settlers to colonize and transform Palestine at the expense of the indigenous population was explicitly acknowledged by Theodor Herzl, Vladamir Jabotinsky, David Ben-Gurion, and other historic leaders of the Zionist movement. Herzl’s utopian novel *Altneuland* (1960) portrayed Arab elites in the future Jewish state as prosperous and grateful for Zionism’s success. Elsewhere he was less disingenuous. A diary entry predicted “immediate benefits to the state that receives us,” but not so much for the people who lived there. “We must expropriate gently the private property on the estates assigned to us. We shall try to spirit the penniless population across the border . . . The property-owners will come over to our side. Both the process of expropriation and the removal of the poor must be carried out discreetly and circumspectly” (Herzl n.d.).

The Arabs of Palestine, wrote Vladimir Jabotinsky in his famous “Iron Wall” article of 1923, were a native, aboriginal population. Because of that fact “voluntary conciliation between the Palestinian Arabs and us is out of the question . . . with the exception of those congenitally blind, (all) have long understood the complete impossibility of obtaining the voluntary consent of the Arabs of Palestine to transform this same Palestine from an Arab country to a country with a Jewish majority.” He went on to invite his readers to try to recall

even one case where colonization took place with the consent of the natives. There has never been such a case . . . Every indigenous people, no matter whether civilized or savage, regards its country as its national home, where it wants to be and to remain the total master forever . . . This also applies to the Arabs (who) treat Palestine with at least the same instinctive love and organic fervour with which the Aztecs treated their Mexico or the Sioux their prairie.

What was at stake in the struggle to colonize Palestine with Jews was mastery of the country. “Colonisation,” Jabotinsky declared, “carries its own explanation, the only, unalterable meaning, understandable to every ordinary Jew and every ordinary Arab. Colonisation can have only one goal; to the Palestinian Arabs this goal is unacceptable; all this is in the nature of things, and this nature cannot be changed” (Jabotinsky 2020).
David Ben-Gurion said and wrote so much, and with so many different purposes in mind, that one can find quotations supporting almost any characterization of his views on the Arab question. But his thrilled reaction to the Peel Commission’s recommendation for the transfer of Arabs as part of its partition plan, his systematic use of opportunities to remove hundreds of thousands of Palestinians in 1948 and 1949, and his refusal to allow the return of displaced persons (which turned them into refugees) show more clearly than a few quotations how ruthless was his commitment to transform as much of Palestine as possible into a Jewish country. Nevertheless, it is worth noting how, to his son, he portrayed Zionism’s ultimate goal.

A . . . Jewish state [in part of Palestine] is not the end but the beginning. The establishment of such a Jewish state will serve as a means to our historical efforts to redeem the country in its entirety. . . . We shall organize a sophisticated defense force—an elite army. I have no doubt that our army will be one of the best in the world. And then I am sure that we should not be prevented from settling in all the other parts of the country, either through mutual understanding and agreement with our Arab neighbors, or by other means. . . . the Jewish state must be established immediately, even if it does not include the entire country. The rest will come—must come—in the course of time. (Sheffer 1983)

That in a settler colonial state democratic institutions (for the settlers, not the natives) became a high priority for settlers is no surprise. The outraged sensibilities, shackled ambitions, and animating visions of European settlers have regularly produced demands by these communities (whether in southern Africa, North America, Algeria, Ireland, or Australia) for democracy and, usually, independence—demands aimed as much at removing obstacles to the more complete dispossession of natives as by aspirations for self-rule (Smith 2023). Whatever liberal principles the settlers strove to honor for themselves were therefore only spottily recognized as applying to natives. What was desired was democracy, meaning rule by the majority of settlers, unencumbered by the protection of the civil or property rights of natives that liberalism implied.

Such a stance—liberalism and democracy for settler colonists and little or none of either for natives—is typical as settler colonies move toward independent statehood. Whether we think of the United States, Canada, Australia, Argentina, or South Africa, the meaning of settler colonial state formation is the destruction, immiseration, and/or expulsion of vast native populations. It is the incompleteness of this process in Palestine and the attendant continuing political potency of the indigenous in and around Palestine that prompted Israel to develop such elaborate systems of control
toward Palestinians—imposed first on those remaining within the 1949 armistice lines, and then on those living within territories occupied in 1967.

In the early 1950s, approximately 12 percent of Israel’s inhabitants were Arabs. Nearly all the rest were Jews. Accordingly, advertising itself as both Jewish and democratic was not especially difficult, especially if one avoided speaking explicitly of the state as ‘liberal.’ Systematic discrimination against Arabs and in favor of Jews was achieved, for the most part, administratively, not legislatively. This was made possible because of a largely successful system of control, including, as noted, a military government, which ruled most Arab areas until 1966, drawing its near absolute authority over Arab individuals and their property from the Defense Emergency Regulations.\(^9\)

To be sure, within several years of the state’s creation, virtually all Arabs living within the 1949 Armistice Lines were recognized as citizens, but that recognition was mostly inconsequential when it came to demands for protection of land and property or for equal treatment by the political, educational, and administrative institutions of the country. Not only were these demands ignored, but, for more than two decades, the state was able to avoid any negative consequences for ignoring them—no strikes by Arab citizens, no sustained demonstrations or protests, and no independent Arab organizations or movements of political consequence. Israel’s ruling elites were able to pursue priorities for Jewish immigration and absorption, rapid economic development of the Jewish sector, and territorial consolidation, without having to divert significant resources or attention to the requirements or aspirations of the Arab minority. And they were able to do all this—privileging Jews while oppressing Arabs—with a regime thought of by Israel’s Jewish population, and most of the world, as democratic.

Once the vast majority of Arab lands had been transferred to the state or to Zionist settlements and institutions, the military government was replaced by a more informal but equally systematic array of bureaucratic enforcers coordinated by the security services under the direction of the Office of the Advisor to the Prime Minister on Arab Affairs. Based on a combination of isolation of Arabs from the Jewish majority, divide and rule among them, enforced economic dependence, and cooptation of traditional and young, dependent ‘modernizing’ Arab elites, the system of control carried forward by this bureaucratic apparatus ensured Arab political quiescence despite deep discontent over land losses, the plight of ‘present absentees’ (Palestinians who remained in Israel in 1948 but who have been prevented from returning to their homes), pervasive budgetary, social, and administrative discrimination, and continuing restrictions on political activity (Lustick 1980).\(^{10}\)
In 1967, Israel’s military victory over Jordan and Egypt gave it control of the West Bank and the Gaza Strip and the large Palestinian populations living there. During the war, approximately 250,000 Palestinian inhabitants of these areas fled or were expelled, but more than a million remained. As a result of the war, considering the 13 percent minority of Palestinian Arab citizens within the 1949 armistice lines, approximately 2.5 million Israeli Jews ruled a state responsible for governing more than 1.3 million Palestinian Arabs. This was a problem portrayed with folkish exactitude by referring to the dilemma of a bridegroom (Israel) who wanted the dowry (the territory) but not the bride (the inhabitants) (Raz 2012).

The great debate that began within Israel over what to do with the captured territories and their population was strongly influenced by the state’s experience dealing with the ‘Palestinians of 1948.’ A key factor buttressing the view that Israel could incorporate heavily populated Palestinian areas without losing its self-image and its international reputation as both Jewish and democratic was the successful control exercised over Palestinian citizens prior to the 1967 War. Not until the disruptions of the Land Day General Strike, on 31 March 1976, nine years after the Six-Day War, had Israeli Arab mobilization ever seriously impacted political life in Israel. And even that event, which resulted in six dead Arab citizens and an interruption in plans for new large-scale land expropriations, did not persuade many Jewish Israelis that either the circumstances or the aspirations of the Arab minority posed high priority challenges. In other words, to an important degree, struggles in Israel over whether to withdraw from most or all of the territories occupied in 1967 in return for peace can be understood as arguments over whether the regime that allowed Israel to be seen as both Jewish and democratic when less than 15 percent of its population was Arab could function reliably even if 40 percent of its population was Arab.

Thus, an odd equilibrium of worry and confidence has given rise to processes that incorporated the West Bank (Judea and Samaria) into the Israeli state while, despite withdrawing settlers and soldiers from the Gaza Strip in 2005, continuing to encompass that ‘coastal enclave’ within it. This despite no formal decision having been taken by an Israeli government or by the Israeli public to permanently rule the Palestinian territories occupied in 1967. For those who have favored that outcome, Palestinian resistance in Gaza and the West Bank has been violent and disturbing enough via organized and anomic attacks to make domination of those territories appear vital to security and peace of mind. At the same time, Palestinian resistance, at least until October 2023, was not seen as serious or costly enough to induce those committed to keeping the territories
to seriously explore whether it might be worth satisfying Palestinian demands by means of territorial compromise. Simultaneously, Palestinian resistance was strong enough to persuade anti-incorporationists of the intolerable costs and risks of permanent rule over densely populated Palestinian areas, but not threatening or onerous enough (until October 2023) to create doubt that Palestinians could continue to be dominated no matter how long it took to realize some version of the two-state solution.

A key element in the stability of this complicated constellation of calculations and concerns has been the ability of those opposed to permanent incorporation to maintain a posture of belief in the eventual implementation of a negotiated end to the occupation. But the colossal scale of the settlement enterprise and the radical right-wing transformation of Israeli politics that enabled it have combined to replace belief in the plausibility or even possibility of a negotiated solution with more prevalent convictions that no government can be formed that is willing and able to negotiate a deal based the Oslo formula of “trading land for peace.” It is too soon to know the long-term effect of the Gaza War on Israeli public opinion, but according to a joint Israeli-Palestinian survey, at the end of 2022 only 34 percent of Israeli Jews believed that the “two-state solution (featuring) an independent Palestinian state alongside the State of Israel, was still ‘viable’”—marking an accelerating decrease in the Israeli Jewish public’s belief in the attainability of a two-state solution over five identical polls taken between June 2017 and December 2022 (Shikaki et al. 2023). In a December 2023 survey, 65 percent of Israeli respondents opposed a two-state solution and only 13% thought “lasting peace was possible.” (Viggers 2024)

The One-State Reality and the Question of Regime Change

In a Knesset speech celebrating Israel’s lightning victory over Egypt in 1956, then Prime Minister David Ben-Gurion declared the old armistice line between Israel and Egypt to be null and void, identifying the Sinai as “non-Egyptian” territory, he encouraged Israelis to see the territories conquered in the war as an opportunity to reconnect the Jewish people with the place of its birth. But under severe pressure from the United States, worried about the demographic implications of absorbing the Palestinian population of Gaza, and aware of the political threat of irredentism posed by Menachem Begin’s Herut Party and Yitzhak Tabenkin’s Socialist Zionist Ahduth HaAvoda Party, Ben-Gurion put aside his initial enthusiasm for territorial expansion. Plans to annex territories occupied in that war were abandoned (Berger 2016). For a decade following the war, it seemed that the 1949 armistice lines would indeed serve as Israel’s permanent borders.
and that the great schism in Zionism over the territorial shape of the state had become a thing of the past. But Israel’s military victory in 1967 and the political euphoria and muscular nationalism associated with it, brought the territorial question—and the expansionism latent in Zionism—back to the center of the country’s political agenda.

In sharp contrast to Ben-Gurion’s decision, the governments of Levi Eshkol, Golda Meir, and Yitzhak Rabin (from 1967 to 1977) adopted a policy toward the eventual disposition of the Occupied Territories of ‘deciding not to decide.’ Whether one imagines that policy as having been driven by a disingenuously pursued policy of creeping annexation, political cowardice, a lack of negotiating opportunities, or genuine indecision, 56 years after the 1967 War, the deep political consequences of territorial expansion have become clear. Even though politicians and most journalists and activists in Israel avoided framing it as such, and even though the mass of protestors on either side of the judicial overhaul ignored, or tried to ignore, it, the great problem that now drives Israeli politics is no longer whether to keep the Occupied Territories in Israel, but how to manage the consequences for the Israeli regime of not relinquishing control over them (Lustick 2019).14

It is in this context that the true significance of two key decisions in 2018 and 2020, one legislative and the other judicial, can be understood. In 2018, in a dramatic and controversial move by a right-wing government, the aforementioned Basic Law: Israel as the Nation-State of the Jewish People was promulgated. Seeking legislatively to entrench the Jewish nature of the state, the law removed Arabic as an official language and declared Jews as the only group west of the Jordan with legitimate claims to a collective political identity. In 2020, despite this law, and the strong political tendency it represented, the Supreme Court overthrew the Regularization Law, a 2017 piece of legislation that aimed to legalize West Bank settler seizures of privately owned Arab lands. The promulgation of the Nation-State Law and the furious reaction of settlers and the ultranationalist right to the judicial revocation of the Regularization Law were prologues to 2023’s massive and disruptive struggle over attempts to remove judicial review and to largely eliminate the judiciary’s authority to protect individuals or groups unfavored by a parliamentary majority.

What galled those committed above all to the permanent absorption of territories occupied in 1967 was that, in its 2020 decision, the High Court had invoked the “human dignity” provision of the 1992 Basic Law, thereby recognizing Palestinians in the West Bank as having rights protected by Israeli law. This decision not only interfered with plans for settlement expansion, but raised the alarming specter that unless the judiciary was made subservient to the Israeli right, absorption of the West Bank would
be accompanied by opportunities for Palestinians living there to achieve civil and even political rights in Israel. Taking a longer view, we must see all three struggles—over the Nation-State Law, the Regularization Law, and the judicial overhaul—as opening skirmishes in a long political war over the nature of the Israeli regime.

The decisive battle in that war will be over the composition of the Israeli electorate. Just as the conflict over what to do with the Occupied Territories dominated Israeli political life for the half-century following the Six-Day War, so are struggles over the political rights and influence of non-Jews likely to dominate Israeli politics for the next half-century. Already Zionist Jews comprise a minority of those living west of the Jordan. Even if one imagines the separation of the Gaza Strip from Israel, Palestinian Arabs would still comprise more than 35 percent of the country’s population. From the battles referred to above, it appears that the right-wing and religious majority of that minority prefers rule by Jews, even if authoritarian and based on apartheid-like systematic discrimination, to democratic rule by the majority of the country’s inhabitants. Assuming the solidity of what is commonly referred to as the ‘national camp,’ those Jews not within it will be more or less permanently excluded from power. That will change only if they can ally with Palestinian Arabs, both those currently enjoying the right to vote and those to whom suffrage rights have not yet been extended. This means that for Israel to be a democracy, it will have to be a liberal democracy—a polity that recognizes the rights of all who live within the purview of its laws and decisions to be represented in the constitution of governments that pass those laws and make those decisions.

It is in this profoundly important sense that the struggle over the judicial overhaul is the struggle over liberal democracy and that the struggle over liberal democracy will ultimately be a struggle over equal citizenship for all inhabitants of the State of Israel. Understood in this way, we can see the upheavals in Israel in 2023 not as imperiling a democratic regime but as part of the conflict over how it will be transformed—into an outright autocracy or into a multinational liberal democracy.

**Desperation, Hope, and Regime Change**

How might this kind of regime change come to be? How, in other words, do partially democratic and partially liberal polities change? That sort of ‘democratization’ is very different from the quick shift from authoritarian rule to some version of democracy when dictators are overthrown, as occurred in Romania, Czechoslovakia, Chile, and other countries. The challenge of regime change facing democracies that have long excluded
and stigmatized large proportions of their populations—be they US or South African Blacks, American or European women, Irish Catholics in the United Kingdom, or Palestinian Arabs in Israel—is very different. The time scale of political change is measured, not in days, weeks, or months, but in decades or generations. Processes involved include intense competition within dominant groups so that gaining the votes and potential votes of excluded groups serves the short-term interests of incumbents. Wars (both civil and foreign) along with strophic processes of social, economic, and cultural change produce realignments unimaginable to earlier generations. Cross-cleavage political alliances of marginal importance, and seemingly doomed to failure, eventually bear fruit and become dominant features of a new regime.

Consider the US example. In 1858, Abraham Lincoln spoke against the continuing insistence by slave states that slavery be extended to western territories. Warning of a necessary crisis before the problem would be solved, Lincoln explained that “[a] house divided against itself cannot stand. I believe this government cannot endure, permanently half slave and half free . . . It will become all one thing, or all the other.” Lincoln was speaking of a war in the United States he could see coming, a war over whether the United States would be a country within which slavery would eventually be extinguished or whether it would be a country forever and everywhere marked by enslavement and the policies of oppression, against Whites and Blacks, necessary to enforce it. When civil war did erupt, few talked as if the struggle was about whether vast populations of stigmatized Black non-citizens would eventually enjoy the same political rights as Whites. Even Lincoln himself spoke of miscegenation as the great threat posed by slavery and favored returning freed slaves to Africa as the solution.

We therefore should not be surprised that the real political stakes of the struggle in Israel, over a problem as fundamental as that which faced the United States in the 1850s, are not framed clearly and explicitly by the contending sides. What we can learn from the US example or from the history of suffrage extension in other multicultural liberal democracies is that crises that shake, change, and destroy regimes can also transform thinking about what a country is, who are its rightful inhabitants, and which identities will be privileged, stigmatized, or honored. The bloody 1860s in the United States set the stage for generations of change that proved Lincoln correct. Once slavery was ended, Jim Crow took its place. But vigilante violence, prejudice, and persecution, could not keep democratic politics from eventually opening opportunities for political emancipation and the alliances enabled by it. The Democratic Party, raised on racism and anchored in the solid south of segregation and the exclusion of Black
Americans from political life, ended up finding its electoral salvation in an alliance with Black and other minorities in the name of a vision of the country its political ancestors would have abhorred had they even been capable of imagining it. That is the magic of democratic politics, of the arch-segregationist George Wallace winning his fourth term as Governor of Alabama by kissing Black babies. The result of this long process of struggle, value change, and political realignment, was a multicultural, multiracial liberal democracy—flawed, but intact and a world away from what the regime was when Lincoln spoke.

In politics, hope plays a role, but when ingrained patterns of intergroup hostility must be overcome, desperation, often associated with the shock of unimaginable losses that comes from war, typically plays the decisive role. Hundreds of thousands of Jewish Israeli demonstrators carrying their beloved blue and white flags may resist or fear forming political alliances with Palestinian Arabs. They may even recoil at the thought of doing so. But politics does make strange bedfellows, and when Jewish elites, technocrats, military officers, and professional classes are confronted with domination and exploitation by ultranationalists, fascists, and religious fundamentalists, they can become desperate enough to overcome those feelings. In the long run, the only political basis for preserving Israeli democracy from the authoritarianism that permanent suppression of half the country’s population will require is an alliance between Jews opposed to such a regime and emancipated Palestinians ready to see opportunities for collective and individual success in a state with equal citizenship for all. That is why it is only if Israel becomes a genuinely liberal democracy that it will remain a democracy at all.

This outcome is far from certain, and perhaps not even probable, but there is some basis for thinking it could happen. During the political tumult of the last five years, a dramatically increasing ratio of desperation to hope in the camp of Israeli Jewish liberals has been accompanied by small but important shifts toward the kind of Arab-Jewish political alliances I am suggesting will be so important in the future. On the discursive level, it is important to note that the virtual disappearance of the two-state solution issue from Israeli election campaigns has been accompanied by an absence of discussion of ‘the demographic problem’—a euphemism for Jewish fears that annexation of the territories would fill the state with too many Arabs. To encourage support for separating Israel from the Palestinians of the West Bank and Gaza Strip, Jews favoring territorial compromise used to make the demographic argument emphatically. With the one-state reality now firmly in place, they cannot profit from making the argument and, by conjuring the image of Arabs as unfit to be Israelis and unwelcome within the polity, they risk losing the Arab votes they desperately need if
a non-right-wing government is to be formed. While a visceral backlash among Israeli Jews against Arabs is and will be a result of the trauma of the Gaza War, if Gaza Palestinians remain within the purview of the Israeli state, they will inevitably become relevant to its internal politics thereby establishing incentives for rival Jewish groups to find allies among them.15

This has, of course, already happened with respect to Palestinian citizens of Israel. It has been many years since pollsters could forecast Israeli elections and their coalitional results without collecting and analyzing Arab as well as Jewish political preferences and intentions. Regular discussion, commentary, and speculation about Arab voter turnout and the formation, dissolution, and combination of Arab political parties, represent profound innovations in Israeli political discourse. Similarly, Knesset seats forecast to be won by Arab parties are now also counted by pundits and politicians when translating polling results into “opposition” versus governing coalition prospects for forming a government after new elections.

Among the most commented upon signs of the integration of Arabs into the politics of the ‘Jewish state’ was the inclusion of Mansour Abbas’s United Arab List (Ra’am) in the coalition that enabled formation of the Bennett-Lapid government of 2020–21. Just as significant as the precedent-setting participation of an Arab (Islamist) Party in the government and of his position as Deputy Knesset Speaker was the public bid for Abbas’s support made by Likud leader, Prime Minister Benjamin Netanyahu—an overture Abbas welcomed.16 Abbas’s importance goes far beyond his party’s inclusion in the government. By effectively presenting himself as a Palestinian Islamist, while avoiding nationalist slogans and references to the Nakba, Abbas has shown that Jewish-Arab political alliances do not require renunciation of Zionist or Palestinian values but may require shelving those slogans and flags in service of electoral success and policy objectives.

The trauma and legacy of the Gaza War combined with (temporarily) sidelined struggles over liberal elements within the officially designated ‘Jewish and democratic’ state will shape conflicts in years to come over whether, when, and how Palestinian Arabs who are not now citizens but are inhabitants of the state will gain access to the political arena. These struggles will determine which coalitions will gain power over governments within the Israeli regime and if and how the regime itself will change. Israelis promoting various forms of official annexation and sovereignty extension are already debating whether it will be possible to absorb the entire western Land of Israel and gain international acceptance of that fact, without granting opportunities for citizenship and political rights to everyone living in the land (Lustick 2022). These debates resemble discussions in Israel’s early years over which categories of Arabs, if any, should be
allowed to vote. Prime Minister David Ben-Gurion, for one, feared giving voting rights to Arabs, mainly because he worried that Jews would be prone to elect them (Robinson 2013: 183). As it happens, Arab inhabitants were given the vote. However, subjected to an effective system of political control, most of their support in Knesset elections went to Zionist parties or to Arab Lists established by and allied with the dominant Labor Party. Indeed, until 1977, more than half the Arab vote in Israel went to Zionist parties or to ‘affiliated Arab Lists.’ Along with Netanyahu’s oscillation between anti-Arab dog-whistles and humble appeals for Arab political support, this history can remind us that it will not only be Jewish progressives who can imagine benefiting from the extension of citizenship and suffrage rights to more Palestinian Arabs than have them today. When it comes to questions of women’s rights and the role of religion in public life, the Haredim and traditionalist Muslims have more in common with one another than with their less observant co-religionists.

“Man plans, and God laughs” is an old Yiddish proverb. Politics, in this sense, is often a comedy, especially when the drama runs for generations. Victories by right-wing maximalists, animated by a redemptionist faith that the entire Land of Israel belongs to, and should only be ruled by, Jews, created a Palestinian Arab plurality in the land dominated by a state that calls itself Jewish. The fateful question that has now been asked, and will be one Israeli Jews and Palestinian Arabs will wrestle with for generations, is whether and for how long a regime of systematic discrimination, enforced by governments weaponized against stigmatized populations, will prevail against demands for and interests in a liberal democratic order. Both Palestinians and Jews fighting for liberal democracy can add inspiration to their desperation by knowing that they are part of a worldwide battle between these two visions of what human communities should be.

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NOTES

1. A crude but striking justification for treating this latest conflict as a civil war was offered just two weeks prior to its outbreak when Prime Minister Benjamin Netanyahu, in his address to the United Nations General Assembly, held up a picture of Israel in the ‘New Middle East’ he saw emerging. Israel, depicted in blue, included all the territory between the Mediterranean Sea and the Jordan River, and featured no lines of division within it.

2. Easton here uses the term ‘community’ for what I am referring to as the ‘state.’

3. Endorsing Schumpeter’s definition, Adam Przeworski defines democracy as “a political regime in which rulers are selected through free and contested elections. Operationally, democracy is a regime in which incumbents lose elections and leave office if they do. Hence my definition of democracy is Schumpeterian or ‘electoralist (Przeworski 2004).’”

4. For an example of the insistent claim that it is the supporters of judicial overhaul who are the real democrats, since the government sponsoring the legislation was legally elected, and it is the opponents who are anti-democratic elites, see an article by the editor of the prominent right-wing newspaper Besheva, Emanuel Shilo (2023).

5. There are approximately 550,000 non-Jewish, non-Arab Israelis living in the country, mostly immigrants from the former Soviet Union.

6. For a more general treatment of the Revisionist movement’s stance toward the Arabs, see Yaacov Shavit (1983).

7. See, for example, the vivid account of Ben-Gurion’s operationalization of detailed plans for mass expulsions of Arabs in Ari Shavit (2013).

8. On the enthusiastic and explicit reaction of Ben-Gurion (and other Labor Zionist leaders) to the precedent the Peel Commission set in 1937 by including the mass transfer of Arabs as part of their partition recommendation, see Katz (1983) and Masalha (1992). On the foundational nature and pervasive presence of settler colonialist thinking among early twentieth century Labor Zionists, even of the most socialist varieties, see Shafir (1989) and Sabbagh-Khoury (2023).

9. On the purpose and importance of the Emergency (Defense) Regulations and the ‘state of emergency’ declared in 1948 that continues to the present, see Mohozay (2016) and Samuel (2023).

10. The effectiveness of control over Arabs has waned since the 1980s, expressed in part by toleration of some independent Arab political activity and by some Supreme Court decisions upholding the principle of equal rights for all citizens. In practice, however, extensive segregation and continuing discrimination mean that Palestinians remain, at best, second-class citizens. See, for example, Jamal (2020), White (2011), and Yiftachel (2006).

11. Approximately 250,000 Palestinian residents of the West Bank fled or were expelled during the 1967 war. This total for the postwar Palestinian population of these areas includes the 65,000 Arabs who remained within what was the Jordanian municipality of al-Quds and surrounding area demarcated by Israel as within the city limits of Yerushalayim (Jerusalem).
12. In this context, the attack by Hamas and Islamic Jihad on Israel in October 2023 can be seen not only as an atrocity, but as a prison revolt and/or as a desperate effort to secede. The scale and intensity of Israel’s response is characteristic of either. See Lustick (2023).


15. The end of the Gaza War will likely feature renewed discussion of a two-state solution, resurrection of the prominence of the “demographic problem” in Israeli political discourse, and a renewal of attempts to engage in a peace process oriented toward a two-state solution. For reasons detailed elsewhere, that process will fail over a period of three to four years, and though new ‘interim’ arrangements for Gaza may well last longer than the peace process, the situation will eventually again be defined by the predicament of Israelis and Palestinians struggling to find ways to live within the same state (Lustick 2020).

16. Polls show significant fluctuations in the support of Israeli Jews for the idea of Arab parties in a governing coalition or of a coalition depending on the external support of Arab parties. In April 2021, for example, 44 percent of Jews were in favor of the latter, with 41 percent opposed (i24 News 2021).

REFERENCES


