Israel's Regime Untangled

Between Democracy and Apartheid

Gal Ariely

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Israel attracts enormous attention among scholars, journalists, politicians, and the general public. Some regard the country as an apartheid regime that can only be challenged through boycotts and sanctions. Others believe it as a stable liberal democracy, created under extreme conditions. This book seeks to unravel these conflicting interpretations by focusing on three questions: How can the Israeli regime be classified? What are the borders of the Israeli regime? And what are the key factors that shape the regime and support its relative stability? Gal Ariely calls for an approach which disaggregates democracy into specific dimensions, examining the diverse aspects of the Israeli regime to determine the level of "democraticness" exhibited rather than classifying the regime as a whole. In doing so, he provides a comprehensive account of the Israeli regime, untangling conflicting interpretations and illustrates the advantages of using this approach for analyzing disputed regimes more widely.

Gal Ariely is Professor in the Department of Politics and Government at Ben-Gurion University of the Negev where his research focuses on democracy and national identity.

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GAL ARIELY
Ben-Gurion University of the Negev

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Introduction

A tourist arriving in 2018 to Jerusalem – the declared but internationally unrecognized capital of Israel – might visit the Knesset, the Israeli parliament. Here, the tourist might encounter Member of Knesset (MK), Hanin Zouabi, an Arab-Palestinian citizen of Israel who has represented the Arab party Balad for almost a decade. As a member of this party – many of whose members openly declare their sympathy with those Israeli Jews perceive to be Israel's most intransigent enemies – Zouabi participated in the 2010 Marmara Flotilla that sought to defy the Israeli blockade of the Hamas-controlled Gaza Strip. Accused by Jewish MKs of being a traitor, numerous attempts were made to oust her from the Knesset and prevent her and the Balad party from reelection. These efforts were blocked by the Supreme Court and Zouabi was reelected in both 2013 and 2015. Her political activities are not, however, limited to the conflict, and her feminist agenda challenges the exclusive authority over personal status held by the religious (Jewish and Islamist) courts that undermines gender equality. Despite her strong political commitment, Zouabi did not run in the April 2019 elections, but her Balad party continued to take part in the elections.

Continuing eastward from the Knesset, our visitor enters East Jerusalem, a territory Israel occupied from Jordan in 1967 and subsequently annexed – an area that is also designated as the future capital of the Palestinian state. At present, the majority of East Jerusalem Palestinians – around 37 percent of the city's population – are not Israeli citizens. Just over one-third of the residents of the self-proclaimed "united capital" of Israel are thus excluded from citizenship, lacking the right to vote for the Israeli parliament which is located in their city. Wandering around East Jerusalem, the tourist will pass by areas with a strong visible presence of the Israeli state and neighborhoods beyond fences and walls with scant manifestation of the state. Proceeding on the tour, our visitor then reaches territory that

challenges the definition of Israel as a democracy even more significantly: the West Bank. Occupied in 1967, about 40 percent of this region has been under the (partial and limited) control of the Palestinian Authority since the 1990s, while the remaining 60 percent continues to be directly governed by Israel, albeit not formally annexed like East Jerusalem. In the West Bank, there is a dual legal system: one for Jewish settlers as Israeli citizens and another for Palestinians as subjects, challenging the classification of Israel as a democracy yet more. However, while strolling around the West Bank and passing through Israeli checkpoints and meeting the Palestinian Authority police, the visitor might find it hard to understand where Israel begins and where it exactly ends.

What is our tourist to make of these circumstances? On the one hand, the reactions to Zouabi's views and actions demonstrate just how far short Israel falls with respect to one of the fundamental requirements of established liberal democracies, namely, political tolerance. On the other hand, despite efforts to disqualify her, Zouabi was twice reelected and her party is still part of the Knesset. Although framed as a traitor and constantly struggling for her seat in the Knesset, she remains within the Israeli parliamentary system. Her citizenship enables her to be elected to the Knesset, while the Palestinians in Jerusalem are denied this right and the Palestinians in the West Bank are denied both civil and political rights. Having traveled the country, our visitor will likely find it very difficult to decide whether Israel is a democracy or not, given that the regions visited, the people met, and the institutions and practices encountered provide evidence of diverse types of regimes with inherent contradictions.

If a political scientist, our visitor might wonder what can explain such a close intertwining of democratic and undemocratic, liberal and illiberal elements, and possibly even ponder whether democracy is a relevant concept for analyzing the Israeli regime at all. This political scientist might even question where exactly Israel is, noticing that the state lies beyond the regular constitutional or juridical order in which there is a political entity with clear borders. Is the Israeli regime limited only to the territory over which it holds formal sovereignty or does it include the entire territory under its various forms of control and influence? The visitor's first challenge in the attempt to make sense of what is seen in this tour has two components: how to classify the Israeli

regime in light of these contradictory elements and how to decide on the borders of the Israel regime. If the visitor stays in Israel for a longer period, questions might also emerge concerning what factors shape the regime and how, despite the inherent tensions and contradictions, the regime remains fairly stable.

This book is an attempt to address such wonderings by focusing on three questions:

1. How can the Israeli regime be classified?
2. What are the borders of the Israeli regime?
3. What are the key factors that shape the regime and support its relative stability?

The question of how the Israeli regime can be classified is not new. There are various conflicting classifications of Israel. While it is frequently regarded and analyzed as a democracy (Lijphart 1984; Sprinzak and Diamond 1993), it is also classified as undemocratic (Jeenah 2018), an "ethnocracy" (Yiftachel 2006), a "*herrenvolk* democracy" (Benvenisti 1988), or an "apartheid regime" (Greenstein 2012). Between these extremes, it is variously labeled as a limited type of democracy, an "ethnic" (Smooha 1990) or "illiberal" democracy (Peleg 2007). This book is not looking to suggest the correct classification of the Israeli regime; instead, I argue that the Israel case illustrates the analytical weakness of the concept of democracy in the context of disputed regimes. There is an inherent challenge in the classification of a regime as a whole in cases that deviate from the model of established liberal democracies or rigid authoritarianism, which undermines the efficacy of the concept of democracy as an analytical tool for studying regimes.

Using the Israeli case to illustrate this, I follow the approach that calls for disaggregating democracy into specific dimensions (Coppedge et al. 2011). The term "democraticness" is the pivot for this approach; neither a typology nor a classification of a specific form of regime, democraticness describes a continuum along which are situated more and less democratic systems of government. By looking at diverse aspects of the Israeli regime, it seeks to determine the level of democraticness exhibited rather than classifying the regime as a whole. This shift of focus from a "closed" definition of democracy to the disaggregated examination of levels of democraticness across different dimensions provides better analytical leverage, allowing an

exploration of both the thin minimalist components and the more extensive thick elements of democracy. These are analyzed across three dimensions: (1) political contestation – the procedural and institutionalized arrangements for political competition for power; (2) protection – the defense of citizens against arbitrary state activity; and (3) coverage – the extent to which the entire population can participate in political processes and enjoy protection from the state without segmentation or sectorization. The levels of democraticness of these dimensions are used to sketch the Israel regime, offering a disaggregated view of the regime that also illustrates a novel perspective on the third question, namely, the key factors shaping the regime and supporting its stability.

The question regarding the borders of the Israeli regime is also not new. The bulk of the existing scholarly literature has addressed what is termed Israel proper – a unit that does not include the Occupied Territories (Sasley and Waller 2017). This approach is also in line with the classifications of Israel in cross-national regime indexes. Though less common, the Israel/Palestine definition is offered as a critical alternative to the focus on Israel proper (Azoulay and Ophir 2012; Ghanem et al. 1998). The location of Israel's borders defines the unit of analysis, and that definition determines how the regime is classified; in other words, determining the unit of analysis as Israel proper or as Israel/Palestine establishes the nature of the regime as a democracy/diminished democracy or a type of non-democracy, respectively. I argue that the justifications advanced for the choice of borders are rather limited. This flawed approach can be rectified by a conceptual discussion on the notions of state and regime – a discussion that will lead to an alternative classification of the unit of analysis. A conceptual elaboration shows that the units of Israel proper or Israel/Palestine cannot be used to define the borders of the regime. I propose instead a spatial analysis that divides the Israeli regime into different zones of control at different time periods.

The first two questions focus on the question of the classification of the Israeli regime, namely, what is the appropriate notion for describing the regime. Much less attention has been given in the existing literature to the third question. Most studies that focus explicitly on the Israeli regime have overlooked this question of the key factors shaping the regime and supporting its stability, while comparative studies of regimes rarely include the case of Israel. I suggest moving

away from just debating regime classification, i.e., naming the dependent variable, toward examining independent variables that shape the regime and explain its stability.

There are dozens of potential explanations of the Israeli regime. The major distinction between such explanations in the literature is between actors and macro factors (see Linz and Stepan 1996). Actors in the case of Israel could be institutions like the military and the Supreme Court or politicians like David Ben-Gurion or Benjamin Netanyahu. Macro factors could be economic development, political culture, geostrategic environment, and others. This book does not offer a complete account of all the factors that shape the Israeli regime; a comprehensive inspection would require several books. Instead, I focus on just two key contextual factors: the conflict and state capacity. I illustrate how the Arab–Israeli conflict shapes the regime in order to demonstrate how the disaggregated view offers new insights for the link between the conflict and the regime – insights overlooked by previous accounts that analyzed the regime as a whole. I suggest that the relative stability of the regime as well as some changes in the levels of democraticness and zones of control can be explained by state capacity and offer an outline of how the ability of the state to "get things done" via coercive and administrative capabilities sustains the regime's stability despite the various challenges.

This book thus provides a comprehensive account of the Israeli regime according to a comparative politics framework on regimes. It contributes to the field by providing a better understanding of the Israeli case, its inherent contradictions notwithstanding. Beyond the specific Israeli case, it also illustrates the pros and cons of this framework for analyzing disputed regimes.

A Note on the Method

In order to answer the aforementioned three questions, this book adopts a comprehensive outlook which is based primarily on previous studies on regime and on Israel. The book does not explore new archival sources, interview key actors, or generate any novel data. The answers to the three questions are instead grounded on the theoretical framework, and the conceptual discussion is based on reviews of previous accounts of the regime.

The answer to the question concerning the classification of the Israeli regime follows an overview of what can be termed the local debate on the topic. It shows that very few studies have provided explicit descriptions of the assumptions and premises on which their arguments rely. In addition, the majority of studies have made rather limited use of the literature on regime conceptualization and classification, and their primary goal appears to have been determining whether or not Israel is a democracy. Beyond the local debate, I show how cross-national regime indexes, the benchmark for studying regimes, cannot be used to circumvent the challenges of Israel's classification. Once challenges to the definition of democracy are taken into account, the debate of the general classification of the Israeli regime can never be conclusively resolved. Instead, conflicting interpretations of the Israeli regime can be bypassed by following the current trend in studies of regimes: disaggregated analyses of different levels of democraticness across different dimensions. The conceptual discussion is therefore used here to offer an alternative outlook on the Israeli regime.

In a similar way, the question of the unit of analysis, namely, borders, is based on a discussion about the concept of state and regime. This conceptual elaboration shows that the units of Israel proper or Israel/Palestine cannot be used to define the borders of the regime; instead, a spatial analysis is required, which divides the Israeli regime into different zones of control at different time periods. The description of the regime, the discussion of the impact of the conflict, and the elaboration of state capacity as key explanations for the regime's relative stability are all based on ideas gathered from previous studies conducted by prominent scholars of Israel. My added value here is the integration of these perspectives into a general discussion of the regime through theoretical lenses.

The discussion of the key factors which shape the regime also follows the theoretical framework from the existing literature on regimes and democratization. Its inherent limitations should therefore be clear from the outset. Explanations for democraticness are limited. Despite the fact that political regimes have been studied for decades, it is clear that the knowledge in this field is "partial, probabilistic, conditional and forever, and always provisional" (Coppedge 2012: 326). The only thing that is clear by now is that there is no general theory for regimes and that even the most common explanations, like economic development, are subject to debate (Morlino 2012). Furthermore, part

of the debate on the explanations of democratization is caused by the challenges to defining and measuring democracy that are emphasized when discussing the Israeli case. Therefore, it should be understood that any attempts to offer definitive explanations of the Israeli regime's levels of democraticness are limited.

A Note on the Israeli Case

One glance at the academic literature on the Israeli regime and our wandering tourist might be even more confused. Not only can the regime be classified along an extensive spectrum that is anchored by liberal democracy on one end and proceeds through different types of partial or diminished democracy before reaching the opposite end of the spectrum that is occupied by non-democracy, but there are different frameworks for understanding Israel from the very start. According to one approach, Israel should be analyzed as a so-called normal state that doesn't differ much from countries elsewhere. Put differently, there is no need for a special framework to analyze Israel, and issues like the place of the Palestinian citizens of Israel in the state can be analyzed from the perspective of general majority–minority relations that can be found across many countries. This approach is common among many Israeli scholars and can be found in journals like *Israel Studies* as well as key publications by political scientists (see, for example, Lijphart 1984; Sprinzak and Diamond 1993). Not surprisingly, this approach tends to view Israel as a democracy. A completely different approach proposes that the colonial/postcolonial framework is a more suitable way of studying Israel and Palestine. Israel should be understood as a settler colonial society (Busbridge 2018), and therefore the Palestinian citizens of Israel should not be analyzed from the perspective of majority–minority relations but as part of an ongoing colonial situation. This approach can be found mainly among Palestinian and Arab scholars (see, e.g., Rouhana and Huneidi 2017) and in journals such as *Settler Colonial Studies* and *Journal of Palestine Studies*. According to this approach, only wide-scale decolonization can transform the Israeli non-democratic apartheid regime into a democracy. These two perspectives differ fundamentally and are subject to methodological and epistemological polemics across various disciplines (see, e.g., Ghanim 2018; Peled 2017; Sternberg 2016; Zureik 2016). Beyond

such debates, however, they don't usually engage with one another as they exist in isolated academic circles.

These opposing perspectives are not just manifestations of a theoretical debate; after all, the classification of the regime has broad political implications. A country's definition as a democracy or non-democracy can have far-reaching effects on its internal and external legitimization. Regime classification has thus evolved into a highly politicized discussion (Munck 2009), and for countries that are neither clearly democratic nor authoritarian, this issue is fiercely contested. Israel's categorization as a democracy could therefore be viewed as promoting the legitimization of its regime; defining it as a non-democracy, on the other hand, may call its legitimacy into question while indicating the need for a radical regime change. Categorization as a democracy is beneficial to many states but for Israel it is especially crucial given its alliance with the United States and its use of "the only democracy in the Middle East" slogan for international legitimization.

This book has chosen to follow insights from previous studies regardless of whether their framework is based on the assumption that Israel is a normal state or a settler colonial society. I have used a tight conceptual discussion following studies from both approaches to provide a comprehensive account of the Israeli case. I do not advance any claims about the legitimacy or illegitimacy of the Israeli regime, preferring to use theoretical lenses for a better understanding of the three overarching questions. Nor do I have any claims about the social groups mentioned in the analysis. For example, Palestinian citizens of Israel, Palestinian subjects, and the Jewish settler movement are all framed as potential challenges to the stability of the Israeli regime in the discussion on state capacity. Combining these three groups is not based on any normative argument about their actions and motivations nor is there any implicit assumption that they should be viewed on a parallel level; they are simply used to emphasize the functions of state capacity.

Outline of the Book

The attempt to answer the question about the classification of the Israeli regime starts with a comprehensive review of previous classifications. Chapter 1 reviews these classifications while focusing on two fundamental questions: the definition of democracy and the

parameters of the unit of analysis. It provides a detailed description of the local dispute among students of Israel and examines the way in which Israel is categorized in cross-national regime indexes. It thus exposes the limits of attempts to classify the Israel regime, arguing that this debate can never be conclusively resolved.

An attempt to bypass the inherent limitations in the debate about classification takes place in Chapters 2 and 3. Chapter 2 maintains that the way in which the concept of democracy is usually employed limits its potential analytical leverage and argues for the need to shift the focus from classification to a multidimensional understanding of democraticness with three proposed dimensions. It demonstrates that the use of disaggregated regime dimensions to classify different types of democracies overcomes the inherent limits of the whole-regime classifications that have been used in former analyses of Israel and other disputed cases. A comparative analysis demonstrates that only regimes whose levels of democracy are not contested can be classified in toto. Chapter 3 moves to the question of the unit borders, arguing for the need for a spatial analysis of the Israeli regime across diverse zones of control. It reviews the answers given to the question of the Israeli regime's borders to date and points to their flaws in analyzing the Israeli regime. The changes that have occurred since the 1990s also challenge clear divisions, especially when distinguishing between control and influence. Rather than examining Israel proper or Israel/Palestine, Chapter 3 proposes three spatial zones: the 1949 borders (1949–2019), Israel and the Occupied Territories from the Jordan River to the Mediterranean Sea (1967–1994), and Israel and parts of the Occupied Territories (1994–2019). Chapter 4 provides a comprehensive description of the regime across the three regime dimensions and zones of control via a short historical overview combined with several indexes that reflect different components of the regime. It shows that in Israel proper the highest levels of democraticness are in political contestation followed by protection, while the levels of coverage are much more limited. The regime in Israel proper is, overall, fairly stable despite some increase in democraticness after state consolidation and some more recent signs of possible decline in protection and coverage. In the Occupied Territories, on the other hand, the levels of democraticness are minimal in the dimension of political contestation and coverage and highly limited in the area of protection. The regime in the Occupied Territories is not as stable as the regime in Israel proper due to changes in the zones of control.

Chapters 1 to 4 are thus the attempts to offer an alternative perspective on the classification and borders of the Israeli regime. This perspective is subsequently used to discuss the key factors which shape the regime in Chapters 5 and 6. Chapter 5 explains the function of the conflict in shaping the regime's democraticness across different dimensions and the ways it influences the regime's zones of control via a review of the main theoretical frameworks for understanding conflicts and regimes. As this specific conflict has external and internal dimensions, I inspect both, before outlining the main elements of the conflict, explaining how these dimensions are interlinked and offering an explanation of how the conflict has shaped the regime. Despite the conflict and the potential for instability, the regime is, by and large, quite stable. Changes in the levels of democraticness have been fairly modest, and the gaps between the different dimensions of democracy are also quite stable; the major change in the regime has been in its zones of control. Chapter 6 outlines state capacity as a possible explanation for this general stability and emphasizes the importance of the state in explaining the regime. After clarifying the concept of state capacity and its relationship with regime stability and reviewing the historical origins of the Israeli state capacity, it discusses the ways that state capacity sustains the regime despite the various challenges. Three such challenges are discussed: the internal aspect of the conflict, the challenge to state authority from political tensions among Jews, and the ways that the zones of control shifted under the limited ability of state capacity to ensure direct control of the entire Occupied Territories. In the conclusion, I highlight the book's contribution to understanding Israel as well as other disputed cases, including a discussion on the implications of the key arguments.

1 *How the Israeli Regime Is Classified?*

Israel has often been considered and classified as a democracy. In his classic study *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*, Lijphart (1984) included Israel in the category of "clear and unquestionable cases of democracy" (38). Ever since then, however, scholars from a range of disciplines – sociology, geography, philosophy, history, and political science – have been challenging Israel's status as a democracy. While many still regard Israel a democracy (see Arian et al. 2003; Neuberger 2000; Yakobson and Rubinstein 2009), some have questioned the verity of this classification, suggesting that Israel is an "ethnocracy" (Yiftachel 2006), a "*herrenvolk* democracy"(Benvenisti 1988), or an "apartheid regime" (Davis 2003; Greenstein 2012; Pappé 2015). Between the two poles of democracy and non-democracy, others have classified Israel as a type of diminished democracy, labeling it an "ethnic democracy" (Smooha 1990), "illiberal democracy" (Peleg 2007), "hybrid regime" (Harel-Shalev and Peleg 2014), "Orthodemocracy" (Giommoni 2013), or a "theocratic democracy" (Ben-Yehuda 2010).

How do observations of a single case lead to such contradictory classifications and interpretations of a regime? This chapter offers a critical overview of how the Israeli regime is classified, addressing two fundamental issues in the debate over its suitable classification: the definition of democracy and the parameters of the unit of analysis. In providing a detailed description of the local dispute among students of Israel, it shows that very few local scholars or studies (e.g., Peled and Navot 2005) provide explicit descriptions of the assumptions and premises on which their arguments are based. In addition, they often ignore the literature on regime conceptualization and classification or limit their focus to the comparative politics discussion regarding regime categorization and analysis. Rather than seeking to understand the Israeli regime from a theory-driven, comparative perspective and

contextualizing it within the field of regimes and democratization, their primary goal appears to be determining whether or not Israel is a democracy. The chapter then examines how Israel is categorized in cross-national regime indexes, demonstrating that such indexes cannot be exploited to bypass the local dispute. In so doing, it exposes the limits of restricting the focus to the classification of the Israel regime, arguing that this debate can never be conclusively resolved. Finally, it lays the foundation for an alternative approach to describing the Israeli case.

1.1 The Local Debate on How to Classify the Israeli Regime

While the debate on the classification of the Israeli regime is wide in scope, it remains largely confined to Israeli scholars and to those interested in Israel. In this sense, it is a local dispute conducted primarily among students and specialists of Israel. Indeed, very few scholars of regimes who work in the field of comparative politics outside Israel pay much attention to the country. Israel has rarely been included in the extensive discussions prompted by the inundation of new democracies that emerged in the 1990s from regimes that deviated from the Western liberal model of democracy (Armony and Schamis 2005; Zakaria 1997); nor do comparative studies of regimes and democratization generally address the Israeli case (for an exception, see Rubin and Sarfati 2016). Generally taking place outside the framework of comparative political studies of regime classification and democratization, the local debate also frequently examines Israel in isolation from other cases. When comparative analysis is undertaken, its primary purpose is to justify Israel's uniqueness or to support specific classifications of the regime. Scholars who take an inductive approach have developed models based on the Israeli case and, proposing such categories as ethnic democracy or ethnocracy, have explored whether these models can be applied to other cases (Smooha and Järve 2005; Yiftachel and Ghanem 2004). Those who adopt a more deductive approach appeal to cross-national indexes or specific elements from other countries to support the classification of Israel as a democracy (Fox and Rynhold 2008). However, neither analytical approach employs robust comparative politics standards.

I review this debate by focusing on two highly relevant questions. First, how, if at all, is democracy defined and conceptualized? Second,

how, if at all, is the question of Israel's borders factored into the discussion? This approach is motivated by the assumption that how democracy is conceptualized in analyses of the Israeli regime directly affects how it is ultimately classified. Those who adopt a thin definition of democracy generally term Israel a democracy. When thicker definitions are employed, however, Israel's status as a democracy tends to be called into question. Many of those who set out to define the Israeli regime have paid little attention to the classification literature. Most predicate Israel's categorization on the status of its Arab citizens and rarely on other regime components. Thus, even within its 1949 borders, Israel is frequently classified as a liberal democracy by some and a non-democratic regime by others.

The question of regime border, i.e., which borders to relate to and what territory to include, also determines how Israel is classified, with the definitions Israel proper (Israel within the 1949 borders) and Israel/Palestine (the entire territory between Jordan and the Mediterranean Sea, including the West Bank and Gaza Strip) being the most prevalent. On the basis of the former, Israel is generally classified as a democracy or as a partial democracy. When Israel/Palestine is used as the unit of analysis, on the other hand, Israel is defined as anything but democratic. Despite the importance in scholarly analyses of clearly defining Israel's borders and territorial possessions, the grounds for adopting one unit of analysis over the other are not self-evident and are rarely discussed or stated explicitly. Moreover, the chosen unit of analysis is often not strictly adhered to.

A review of the debate through these lenses allows us to recognize the limitations under which the classification of Israel labors. The grounds on which the definition of democracy rests and the question of Israel regime borders ignore the conceptual difficulties they entail. While thick classifications of Israel as an ethnic democracy, ethnocracy, or dual regime are helpful in adducing certain aspects of the Israeli case, they lack a firm foundation in regime classification methodology.

1.1.1 Israel as a Democracy

The prevalent view among scholars of Israel is that Israel is a democracy – a belief that is clearly reflected in the annual democracy indexes produced by the Israel Democracy Institute (IDI). Established in 1991,

the IDI is an influential "independent, nonpartisan 'think and do tank' dedicated to strengthening the foundations of Israeli democracy" that inter alia seeks to fulfill its mission by engaging in academic research (The Israel Democracy Institute, n.d.). Over the years, IDI has been home to many prominent scholars and public figures. Its mainstream status was displayed in 2009 when it was awarded the Israel Prize for Lifetime Achievement and Special Contribution to Society and the State in recognition of its public and professional impact on constitutional and democratic discourse in Israel.

In 2003, the IDI introduced its annual Israeli Democracy Index, the stated purpose of which is to "evaluate the quality and functioning of Israeli democracy by collecting quantified and comparable information that is comprehensive, precise, clear, reliable, and valid" (Arian et al. 2003: 4). In confirmation of its acceptance, the index's publication is celebrated every year in a ceremony attended by the president of Israel and other prominent public figures. The only such national index to do so, it combines common cross-national indicators of democracy, such as the Freedom House civil and political rights scales, with representative national public survey. Rather than including in its annual report an explicit definition of the concept of democracy on which it is based, the IDI index provides a comprehensive description of a multidimensional phenomenon that incorporates institutions, rights, and public opinion.

The IDI index thus presumes that Israel is a democracy and questions only the quality and stability of its democratic institutions; from the IDI's perspective, whether or not Israel can be defined as a democracy is not an issue for debate. Also lacking from the index is a definition of the political unit it is measuring; it virtually ignores the subject of whether Israel's borders are relevant to the classification of the regime. Very few of the annual reports published by the IDI refer to "the Occupation," or the "Green Line" (see Chapter 3 for elaboration). Moreover, the index extracts cross-national data from the Economist Intelligence Unit, Freedom House, and the Organization for Economic Co-operation and Development (OECD), none of which cover the Occupied Territories as part of Israel. The democracy of the regime is thus measured solely on the basis of data relating to Israel proper; its survey of the Israeli public, however, includes settlements in the Occupied Territories. This combination of data relating primarily to the 1967 borders with that pertaining to areas beyond these reflects

an inherent lack of methodological coherence. The unit of analysis is therefore never explicitly defined or even addressed in the indexes or, in fact, in other IDI discussion about the Israeli regime (e.g., Sprinzak and Diamond 1993).

The few scholars who have addressed this stance have done so in response to criticism of Israel and in order to demonstrate that Israel is not a non-democracy or diminished type of democracy. The most comprehensive description of Israel as a liberal democracy is Yakobson and Rubinstein's (2009) *Israel and the Family of Nations: The Jewish Nation-State and Human Rights*. A professor of ancient history at The Hebrew University of Jerusalem, Yakobson joined forces with Rubinstein, a prominent law scholar and former liberal left-wing MK and minister, to defend the idea of the "Jewish State." In so doing, they argued that Israel is both "Jewish" and "democratic," with its "Jewish" character deriving directly from universal democratic values and international law. Contending that their view was not "based on an abstract, radical and rather utopian model of liberal democracy" (4), whose validity they asserted was being questioned, they set out to demonstrate that, as a Jewish state, Israel meets the requirements of a liberal democracy.

This defense of Israel as a democracy is based on comparisons with European countries and on international treaties. From this perspective, Israel is not unique, as it espouses the same principles of liberal democracy that many other nations claim to uphold. The Israeli law of return, for example, parallels similar repatriation laws in places such as Finland, Germany, and Ireland that adhere to the standards of liberal democracy. The status of the Arab minority, a potentially confounding issue vis-à-vis democratic principles, is depicted as the result of flawed policy – and as a function of the ongoing conflict – rather than as a structural defect of the regime. From this comparative perspective, the Arab minority in Israel is portrayed as enjoying a better status than minorities in many other liberal democracies.

Yakobson and Rubinstein's classification of Israel as a liberal democracy does not therefore rest on a specific definition of democracy but on comparisons with cases from other countries across a range of domains, such as immigration laws, the status of minorities, state symbols, etc. Rather than employing a comprehensive deductive approach, it uses comparison to prove parity, seeking to show that Israel is like other countries. Where Israel does not meet the same

standards – with respect to ethnic relations, for example – it is perceived as merely diverging from the conventional model of liberal democracy: "The reality which has come about on the ground is in breach of all democratic principles" (103).

The reference to the reality on the ground indicates the unit of analysis adopted by Yakobson and Rubinstein, i.e., Israel proper. This view is dictated by their support for a two-state solution – a position that necessarily precludes discussion of Israel within its current borders. Thus, although it is the most thorough attempt to date to classify Israel as a liberal democracy, it nevertheless only relates to Israel proper. Moreover, it offers no clear definition of democracy as a standard of measure.

A similar approach uses religion as the criterion for classifying the Israeli regime. In an effort to counter arguments that the lack of separation between religion and state undermines Israeli claims to democracy, Fox and Rynhold (2008) compare Israel with other countries. Gathering data on types of government involvement in religion (GIR) across a range of countries, they explored the levels of GIR in a range of domains: support, regulation, restrictions, etc. On this basis, Fox and Rynhold determine whether GIR levels in Israel are unique or also occur in other democracies. According to their analysis, Israel has the highest level of involvement in religion of all Western and non-Western democracies. They nonetheless maintain that

> It is reasonable to argue that the extent of GIR in Israel is not incompatible with democracy for two reasons. First, Israel does score a 10 on the Polity measure of democracy, which is the highest possible score. Second, as noted above, almost all of the types of GIR that exist in Israel exist in other democratic states. Thus to say that Israel is not democratic because of any one of these types of GIR would also disqualify other states which are generally considered democratic. (524)

From this perspective, Israel is democratic, but the government's level of engagement with religion is closer to the involved end of the continuum. This, Fox and Rynhold claim, is a function of the specific context in which Judaism is practiced rather than a deviation from the democratic model. Similar to the approach taken by Yakobson and Rubinstein (2009) in the ethnic sphere, Fox and Rynhold argue that the empirical reality in the realm of state and religion in Israel is a matter of relativity. The quality of the country's democracy, therefore, is simply lower than that of some of the other countries examined.

They too ignore the question of borders, employing indexes that pertain exclusively to the 1949 borders.

Israel has also been defended as a democracy from a political science perspective (Dowty 2018). Criticizing the ethnic democracy debate, Dowty posits that any attempt to classify Israel must first address the question of how democracy is defined. By examining how four prominent political scientists conceptualized democracy, he points out that Israel meets all four of their definitions. First, referring to Dahl's (1971) eight requirements for polyarchy, he claims that Israel in 1969 could be classified as a fully inclusive polyarchy. Relating to the notions of democracy advanced by Lijphart (1984), Powell (1982), and Rustow (1967), which do not require either the inclusion of minorities or clear borders, Dowty asserts that the definitions on the basis of which Israel is disqualified as a democracy have no connection to the way democracy is understood in political science. Nor, in his view, does Israel constitute a unique case; from a comparative perspective, it can, he claims, be classified as a democracy by using, for example, its categorization as a free state under the Freedom House indexes. Although Dowty addresses the issue of how democracy is defined, he does not tackle the problem of the unit of analysis. Despite acknowledging that critics of Israel use the lack of clear borders and the state's recognition of Jewish but not Palestinian citizenship beyond the 1949 borders to discredit the Israeli version of democracy, he argues that clear borders are not a prerequisite for a definition of democracy (see Chapter 3).

Other scholars who view Israel as a democracy also cite the gap between the liberal ideal and the reality on the ground. Responding to the claim that Israel is an ethnic democracy, Neuberger (2000) argues that it is a "democracy with four stains": it lacks a written liberal constitution, its matrimonial law is restrictive, it controls the Occupied Territories, and it denies Arabs some forms of legal status (for example, ownership of so-called national land). However, these "stains" are all manageable, he believes, and do not impinge on Israel's fundamental status as a democracy. Here, too, the notion that Israeli democracy is marred by policy rather than suffering from an inherent, structural flaw is expressed. Neuberger (2000) follows Zakaria (1997) in defining liberal democracy as characterized by free and fair elections, rule of law, limited rule, and the separation of powers and freedoms of the individual. From this perspective, ethnic relations are not the principal criterion for defining the regime.

Although his "stains" include the occupation, thus implying a chosen unit of analysis, Neuberger does not address this issue explicitly.

Classifications of Israel as a democracy are thus based primarily on two elements. First, the unit of analysis is Israel proper, and whatever happens beyond the 1949 borders is not part of the discussion. The underlying assumption is, in fact, that the question of the unit of analysis is irrelevant, reflecting the belief that when relating to Israel in terms of the territory it actually controls, it cannot be considered a democracy under any definition. This stance is represented by all the IDI indexes and by the analyses advanced by Fox and Rynhold (2008), assumed by Neuberger (2000), and justified by Yakobson and Rubinstein (2009). Cross-national indexes, such as the Freedom House index, are also used to prove the validity of Israeli democracy, as they analyze only Israel proper.

Second, Israel's policies on ethnic relations, immigration, and religion are compared with similar policies in other states and then used to support the claim that Israel is not unique. However, based as it is on the assumption that Israel does not fundamentally deviate from the model of democracy, this approach does not meet the standards for the use of comparative methods in regime classification and evolution, which hold that regimes can only be evaluated on the basis of systematic, theory-driven analysis. While Fox and Rynhold (2008) adopted a systematic, comparative approach to measuring state involvement in religion, they nonetheless overlooked the explanation of how their approach functions in regime classification. The different classifications of Israel as a democracy are mainly apologetic. Methodologically, therefore, arguments in support of Israel's classification as a democracy are essentially flawed and are thus of limited value in the discussion about the classification of the Israeli regime.

1.1.2 Israel as a Partial Democracy

Questions regarding Israel's status as a democracy were first broached by sociologists. As early as 1977, Shapira proposed that Israeli democracy is formal rather than liberal, since political power is concentrated in the hands of a closed political elite in an atmosphere completely devoid of genuine political competition. Shapira's study is important because it relates solely to the Jewish sector of Israeli society in Israel proper; in other words, it pertains exclusively to Jewish-Israeli society, classifying it as democratic merely in formal terms.

Subsequent sociological analyses focused on the Jewish–Arab ethnic-national divide in the country. In a series of studies (1990, 1997a, 2002), Smooha developed the notion of Israel as an ethnic democracy. Highly influential, his work generated a plethora of studies in response (Berent 2010; Danel 2009; Dowty 2018; Gavison 1999; Ghanem et al. 1998; Jamal 2002; Peled 2013; Sa'di 2000). Extending the analysis beyond Lijphart's (1977) classical distinction between majoritarian and constitutional systems, Smooha examined how democracies deal with their ethnic or religious sectors. States that identify with and serve one of their component ethnic groups can be defined as ethnic states, wherein the ethnic nation rather than the citizenry forms the core of the state. Ethnic states thus diverge from the pure model of liberal democracy, which is civic in nature. As Smooha (1990) stated, "Ethnic democracies combine the extension of political and civil rights to individuals and certain collective rights to minorities with institutionalized dominance over the state by one of the ethnic groups" (391), and they therefore meet minimal procedural definitions of democracy. However, the quality of their democracies is typically much lower than Western models of democracies, as the ethnic state does not grant its citizens equal rights and practices a biased application of the rule of law to deter perceived threats from minorities. Ethnic democracy is, therefore, a diminished type of democracy.

According to Smooha, Israel's self-proclaimed status as Jewish and democratic reflects the inherent tension between its ethnic composition and its democratic obligations, given that Israeli ideology and praxis are both informed by the principles of Zionism. Immigration and naturalization policies thus reflect the belief that, as Israel is the Jewish homeland, every Jew has the right of citizenship therein; non-Jews, however, do not possess the same right. Insofar as Israel is the Jewish homeland, ownership of land must, as much as possible, remain in Jewish hands, and Zionist institutions have the right to acquire and hold land on behalf of the Jewish People. Therefore, the Israeli regime can only be a diminished democracy for its Arabs citizens. While Palestinian Arab Israelis (PAI) enjoy individual and (some) collective rights, they have only partial citizenship.[1] Their right to land

[1] Palestinians who form part of the Israeli regime are divided between those living in Israel proper, who hold formal citizenship, and those in the Occupied Territories, who do not. The choice of name for the first group is of serious political import and is heavily disputed, and the literature refers to them in many ways (Amara 2016; Ghanem and Mustafa 2018). I follow Haklai (2011) in

is limited by state (Jewish) control of what the state defines as "national land." Beyond these distinctions, PAI are also marginalized by the state in numerous domains (Smooha 1997a).

Smooha (1990) proposed a model of ethnic democracy which is graded rather than fixed. At one end of the spectrum lie rigid ethnic democracies, in which minorities are systematically controlled to ensure their denied access to political power. At the other end, minorities can negotiate in order to improve their socioeconomic status. Somewhere between these two poles lies the standard ethnic democracy (Smooha 2002). In the 1950s and 1960s, when PAI were governed by military rule, Israel was a rigid ethnic democracy; since the 1980s, however, it has moved closer to being a standard ethnic democracy. This model was developed inductively from the Israeli case. Israel thus both forms the archetype on which it is based (Smooha 1990) and explains the factors that lead to its emergence and stability (Smooha 2002). While Smooha was the first to define the term and develop the model, Linz and Stepan (1996) employed the same concept in their seminal study of democratization. Here, they applied the model to a political system in which the majority enjoys full democratic political processes, while minorities only possess civil rights as resident aliens. Insofar as this violates the criterion of democratic inclusivity, Linz and Stepan argue that ethnic democracy cannot be categorized as a form of democracy. Although they differ from Smooha in contending that if a state denies its minorities full political rights, it cannot be classified as democratic according to even the most minimalist definition, their concept of ethnic democracy does not lend itself to generalization, rendering it of limited value. Moreover, they do not include Israel in any format in their analysis.

Some attempts have been made to extend the ethnic democracy model to Northern Ireland (Smooha 1997b) and to the Eastern European countries of Estonia, Latvia, and Serbia (Smooha and Järve 2005). However, as Smooha (2005) himself acknowledged, "None of these seven cases qualify as a stable ethnic democracy, like that found in Israel" (241). In a later study, Smooha (2009) posits that while Israel is closer to the ideal model than any other nation, ethnic democracies exist at least partially in other countries. Support for the model's

referring to the first group as Palestinian Arab Israelis (PAI) in order to distinguish them from Palestinian subjects in the Occupied Territories.

comparative validity can be found in Peled's (2013) comparison of Israel, interwar Poland, and Northern Ireland. Comparative studies of this type have been criticized, however, on the grounds that Israel's unique national identity makes it difficult to generalize the model to other cases, as Israel does not allow for assimilation (Berent 2010).

While Smooha claims that the model is not unique to Israel, the theoretical and methodological frameworks of the ethnic democracy model raise questions about its validity. The shortcomings of the ethnic democracy model are rooted in part in its lack of a clear definition of democracy (see Smooha 1990). In some of its later renditions, it assumes a minimal procedural definition of democracy – free elections, universal franchise, changes in leadership, and citizenship rights (Smooha 2002). Jamal (2002) argues that this move represents an attempt to circumvent the contradiction inherent in the concept of ethnic democracy. The majority principle is violated when a specific national group becomes the ruling elite and imposes its will on others, thus no longer constituting an aggregative, voluntary, and neutral majority. Employing a minimal definition of democracy allows the disregard of cases in which tyranny by the majority is disguised as democracy (Jamal 2002).

Indeed, the model rests, first and foremost, on the institutionalization of ethnic relations rather than the conceptualization of democracy. According to Smooha (2002), all democratic regimes can be classified as either civil democracies, in which citizenship forms the cornerstone of the regime, or ethnic democracies that are dominated by ethnic nations. He concludes his extensive discussion of the ethnic democracy model by adducing theories of nationalism and the combination in nation states of civic and ethnic elements that can change across time. The core of the theoretical model and its empirical illustration in the Israeli case is the Jewish–Arab ethnic relationship. But as a one-dimensional conceptualization of democracy, it excludes outright other important aspects that are commonly included in regime classifications. This raises the question of why the ethnic democracy model is presented as a regime model rather than as a framework of ethnic relations, particularly in light of its apparent applicability to the Israeli reality exclusively. The fact that ethnic relations do not require a unique regime model is demonstrated by Peleg's (2007) concept of "ethnic constitutional order," in which a single ethnic group dominates a polity via either democratic or authoritarian rule. However, the idea

that this exists as a distinct incarnation of democratic order is difficult to maintain in light of the shallow democratic values that characterize it. Peleg classified Israel as an "illiberal democracy with inherent flaws" (176). In his view, the country's ethnic relations do not require a unique regime model.

The ethnic democracy model also overlooks other components that partially determine how state regimes are classified. Likewise, while Jewish–Arab ethnic relations lie at its core, they are limited to the 1949 borders. The unit of analysis is a priori defined as Israel proper (Smooha 2002), with the justification for this resting on the debate over the future of the Occupied Territories, a debate whose very existence reflects the fact that they are not part of Israel.

One of the few attempts to analyze Israel as an ethnic democracy while also including the current borders of control is *The One-State Condition: Occupation and Democracy in Israel/Palestine* (Azoulay and Ophir 2012). Azoulay and Ophir criticize the tendency of their contemporaries to focus on Israel proper, thus ignoring the current borders of control and conceptualizing the occupation as an external project that is effectively separate from the Israeli regime. At the same time, however, they argue that Israel cannot be classified as non-democratic based solely on its control over the Occupied Territories. They thus posit that Israel is "a regime that is not one" but rather two distinct entities that exist in conjunction and are headed by a single government (183). This classification identifies Israel as an ethnic democracy within the 1949 borders but as an authoritarian regime in the Occupied Territories. The perception of the occupation as an external project enables Israel proper to remain democratic while simultaneously creating and maintaining the conditions for the occupation. The Palestinians in the Occupied Territories are both subject to and excluded from the regime, which distinguishes between its two main citizen groups by exploiting two parallel principles of differentiation: between citizens and noncitizens in the Occupied Territories and between Jews and non-Jews in Israel proper. These citizenship classifications exemplify the duality of the Israeli regime.[2]

Azoulay and Ophir also maintain that classifications such as *herrenvolk* democracy or apartheid are too limited. In their view, the Israeli

[2] Grinberg (2008) offers a similar definition of post-1967 Israel as a peculiar dual domination democratic and military regime.

dual regime is unique, and they are thus not interested in applying their model to other current or historical cases or to comparisons with other countries. While they discuss concepts such as state, regime, and sovereignty, they do not offer a definition of democracy. In their analysis, democracy serves as a normative rather than an analytical concept, thereby positioning Israeli democracy as a discursive construction of legitimacy.

All classifications of Israel as a partial or diminished democracy discussed thus far have focused on the ethnic component. There is room, however, to add other dimensions, the most prominent being religion. Giommoni (2013), for example, defined Israel as an Orthodemocracy.[3] Rather than constituting a new model or an innovative conceptualization of democracy, Giommoni refers to Orthodemocracy as the undue influence of orthodoxy on the quality of democracy, sometimes to the extent that it overrides democracy. Her definition is predicated on the fact that "the Israeli State considers its citizens first as members of religious groups, then as members of ethnic groups and only at the end, as citizens of the State" (331). While Israel is a democracy in procedural terms, its democratic character is undermined by the encroachment of Orthodox Judaism on the principle of equality, the rule of law, participation, competition, and electoral accountability. In fact, both Jews and Arabs suffer from the discriminatory effects of their religious orthodoxy. While the regime's structure is plagued by an inherent inequality between Jews – members of the preferred religious and ethnic groups – and Arabs, deviations from the principle of equality can also be found between the members of the various branches of Judaism and between the genders. Deviance from equality along gender line can also be found among Arabs under the impact of the religion establishment. Under the best of circumstances, therefore, Israel can be defined as a minimalist but not a liberal democracy.

The classification of Israel as a partial type of democracy – an ethnic democracy or illiberal democracy – rests primarily on three pillars: a thin definition of democracy, i.e., a system that sustains democratic procedures – although a diminished type of democracy, Israel is still a

[3] See also Ben-Yehuda's (2010) definition of Israel as a "theocratic democracy," which is not informed by any conceptual discussion of democracy but based primarily on the influence of the Ultra-Orthodoxy on the regime.

democracy; the ethnic component, i.e., Israel's Arab–Jewish relations; and a distinction between Israel proper and the current parameters of Israeli control. A focus on just Israel proper allows Israel to be classified as a type of democracy, albeit a diminished one. After all, even Azoulay and Ophir's (2012) identification of Israel/Palestine as a "regime that is not one" does not preclude Israel proper from being classified as an ethnic democracy.

1.1.3 Israel as a Non-Democracy

Arguments that Israel is a non-democracy have two main premises. First, by using a thick definition of democracy that emphasizes the dimension of equality, Israel is said to fail to meet the necessary standards for democratic status. Second, the territorial possessions of Israel extend beyond the 1949 borders to include all the territory it currently controls. Here, too, Israel falls short, as its governing of the Occupied Territories cannot be described as democratic from any perspective.

The first to assert that Israel was not a democracy was Benvenisti (1988, 1995). An Israeli historian and pundit, Benvenisti's primary concern was the Arab–Israeli conflict rather than regime classification. He objected to the prevalent view held by both the Israeli public and academics that Israel proper (pre-1967) and Israel post-1967 constitute two separate units – a distinction that is driven by the belief that eventually the settlements can be evacuated and a two-state solution be achieved. In his opinion, the "Second Israeli Republic" established after 1967 made Israel sovereign over all the territory it occupied. Indeed, the Occupied Territories were incorporated into Israel in diverse ways, with new legal and administrative systems being introduced to ensure that Israeli interests were upheld and to provide the necessary support for their colonization. This integration, particularly with regard to the settlements, is an irreversible process and a hard fact. The distinction made between Israel proper and its actual borders is thus purely an illusion.

The "Second Israeli Republic" is a binational regime with robust stratification based on ethnic categorization. In practice, although two communities exist under the same system of control, they are governed by separate legal systems. The Israeli (Jewish) settlers in the Occupied Territories enjoy full citizenship and civil and political rights. The

Palestinians, on the other hand, are subject to military rule and possess neither citizenship nor political and civil rights. These violations of fundamental democratic values preclude Israel from being regarded as a democracy, restricting it instead to the category of a *herrenvolk* democracy.

Coined by Van den Berghe (1967), the term *herrenvolk* democracy describes a regime in which "the exercise of power and suffrage is restricted, de facto and often de jure, to the dominant group" (p. 29). Certain benefits of democracy, such as voting rights, are enjoyed exclusively by the dominant group, while the minority is denied such privileges. Benvenisti argues that features of *herrenvolk* democracy can be found in Israel proper: For example, Palestinians are second-class citizens because they lack substantive citizenship and the Israeli regime is based on a clear hierarchy of Jews, Palestinian citizens within the pre-1967 borders, and Palestinian subjects in the West Bank and Gaza Strip. Even before 1967 and up until 1966, Palestinian citizens had been subject to a military regime.[4] Benvenisti's analysis is not underpinned by a particular definition of democracy. Moreover, due to the fact that he relates to Israeli control of the entire territory, Israel cannot, in the framework of his analysis, be regarded as a democracy. Although he maintains that it can only be classed as a *herrenvolk* democracy, he neither used a comparative framework within which regime classification literature can be cited nor offered any other cases for comparison.

The early decades of the twenty-first century witnessed the emergence of a similar argument against the classification of Israel as a democracy based on an analogy between Israel and the apartheid regime in South Africa (Davis 2003; Greenstein 2012; Jeenah 2018; Peteet 2016; Soske and Jacobs 2015). Rather than being an analysis of the Israeli regime per se, this argument functions mainly as a tool with which to criticize Israel, advocating the adoption of strategies similar to those used to abolish South Africa apartheid. As Dayan (2009) observed:

The tendency in most comparisons of the state of Israel to the apartheid regime is to take at face value seemingly apparent analogies and to draw

[4] Lustick's (1980) model of control over Palestinian citizens provides a more nuanced description of domination. He, too, however, focused primarily on Israel proper without explicitly addressing the question of regime classification.

straightforward, easy conclusions. The problem with various genres through which comparisons are made is that they attempt to capture complex processes and conditions in occupied Palestine through the lens of extremely narrow and superficial catch phrases about apartheid. (282)

Its dubious comparative value notwithstanding, the concept of apartheid may be exploited to understand what Yiftachel (2018) referred to as "creeping apartheid" – an "undeclared yet structural process through which new, oppressive sets of political geographic relations are being institutionalised for Jews and Palestinians living under the Israeli regime between Jordan and the sea" (95). It can also be used to help describe the motivations behind policy shifts undertaken by the Israeli regime and to provide a detailed account of the regime across diverse dimensions and zones of control. To date, however, it has yielded no such analysis. The school that classifies Israel as an apartheid regime based on the analogy with South Africa thus offers no comprehensive analysis of the regime in a regime classification framework of comparative politics.

Scholars have also argued that, even within the 1949 borders, Israel cannot be defined as a democracy. According to Kimmerling (1999), Israel meets only one of the criteria for democracy: free and fair elections. Regarding the other foundational trademarks of democracy, he described Israel's failure to provide them: For example, the sovereignty of the people is violated by religious interference in politics; equal and inclusive citizenship does not exist because PAI are excluded; and universal suffrage, under which every vote is equal, is also nonexistent because PAI parties are not regarded as legitimate. Despite noting that an undisputed definition of democracy is lacking, Kimmerling does not contribute one of his own.

The most comprehensive attempt to classify Israel as a nondemocratic regime has been advanced by proponents of the ethnocracy model (Rouhana and Ghanem 1998; Yiftachel 1997). Developed partly in response to the model of ethnic democracy and partly to counterarguments asserting that Israel is a democracy (Ghanem et al. 1998), the ethnocracy model finds its fullest expression in Yiftachel's (2006) *Ethnocracy: Land and Identity Politics in Israel/Palestine*. Here, Yiftachel claims that an ethnocracy is based on the "*expansion, ethnicization and control* of a dominant ethnic nation (often termed the character or titular group) over contested territory and polity" (111 [original italics]). Ethnocratic regimes are thus characterized by

the dominant role ethnicity plays in determining the rights they grant their citizens and how they allocate resources; in other words, such regimes revolve around ethnos rather than demos. Public policies and practices typically exclude minorities (who are viewed as a threat to the state) and empower the dominant ethnic group. The types of government practiced by ethnocratic regimes as described by Yiftachel are therefore situated somewhere between the two poles of democratization and ethnicization. Some regimes are "closed," oppressive ethnocracies, while others have democratized their governments to varying degrees. In his analysis, Yiftachel focuses on regimes that represent themselves as democratic, contending that these are "open" ethnocracies, in which some of the principles of democracy, such as civil rights, political competition, and a free media, are upheld.

According to Yiftachel, Israel is the classic case of an ethnocratic regime. From the beginning of Zionism until today, Jewish group motivations and actions have embodied the Zionist imperative of establishing dominance and control over the territory of Israel. Rather than creating an Israeli demos, the establishment of the State of Israel led to the adoption of state mechanisms designed to exclude Arabs and to increase Jewish control over the land within the 1949 borders. The 1967 war further emboldened the state to extend its colonization project into the West Bank, Gaza Strip, and East Jerusalem. The logic of ethnicization and control dictates state policies in the Occupied Territories and the treatment of the Bedouin in southern Israel. It also explains Jewish socioeconomic stratification and the role the Jewish diaspora plays vis-à-vis the sovereign entity of Israel. In addition, the ethnocratic model is also used to classify Israel as a non-democracy on other grounds, namely, the political role played by religion and the non-democratic Ultra-Orthodox (*Haredim*) agenda (Yiftachel 2006). Although Israel portrays itself as a democratic regime, as long as ethnicity remains the dominant logic and the driving force behind its organization, its democratic procedures can be nothing more than a facade.

Taken together, the definition and characteristic features of ethnocratic regimes suggest that, like Smooha's ethnic democracy, Yiftachel's model was also constructed inductively to provide a thick description of the Israel/Palestine case. It too has been applied to other cases: Sri Lanka, Malaysia, Australia (in the nineteenth century), Canada (until the 1960s), South Africa (before 1994), Northern

Ireland, Belgium, Spain, and Greece (Yiftachel and Ghanem 2004). Focused comparisons with Israel, which have been made regarding Sri Lanka, Estonia, and Australia, are all designed to highlight the intrinsic instability of open ethnocratic regimes. Nonetheless, the Israeli case continues to lie at the heart of ethnocratic regime analysis. Like that of ethnic democracy, the model of ethnocracy is used primarily to explain ethnic relations rather than to advance efforts toward regime classification.

Some comparative studies, however, have been conducted outside the context of Israel. Hiers (2013) uses the term racial ethnocracy in his historical analyses of the United States, South Africa, Australia, Rhodesia (Zimbabwe), and Canada because it is more amenable to comparative analyses than the terms apartheid regime, *herrenvolk* democracy, and racial domination. Others have classed Hong Kong as a semi-ethnocracy on the basis of its gender and immigration hierarchies (Sautman 2004). Howard (2012) defines an ethnocracy as a "political system in which political and social organizations are founded on ethnic belonging rather than individual choice" (155). As such, in contrast to a true democracy, an ethnocracy is a type of hybrid regime that manifests both democratic and non-democratic features. Howard regards Bosnia, Lebanon, and Belgium as ethnocracies, while acknowledging that the term's haphazard application in the field has bred confusion among researchers and readers alike. Another study that compares India with Israel classes the former as a type of ethnocracy (Sen 2015). These comparative studies notwithstanding, the Israel/Palestine case remains as the basis for the concept of ethnocracy (Yiftachel 2000).

Israel can only be classed as a democracy by stretching conventional definitions via, for example, the application of ideas such as liberalism and freedom to the Israeli reality (Yiftachel 2006). While Israel is not an absolutely authoritarian regime, neither is it a *herrenvolk* regime. Rather, the Israeli case constitutes a gray zone in which both democratic and non-democratic regime structures, norms, and practices coexist. Many people believe Israel to be democratic because they do not recognize the difference between a regime's structure and its outward manifestations. Thus, while Israel has a free media, holds periodic elections, and possesses an autonomous judiciary, these are only superficial features of the regime. Below the surface, its fundamental structure – predicated upon the seizure of territory, resources, and power on behalf of the dominant ethnic group – is essentially non-

democratic. The classification of Israel as a democracy functions as a tool to legitimize the status quo rather than as an empirical, conceptually coherent categorization of the regime (Yiftachel 2006).

Yiftachel also argues that the notion of democracy can only be applied to a sovereign state with clear borders; insofar as Israel cannot be analyzed within the 1949 borders, it cannot be regarded as a democracy. Analyses that did not include the territory that Israel occupied and settled in 1967 constitute artificial acts that promote the belief that these borders are only temporary. Indeed, from a political geography perspective, all the territory controlled by the state must be included in any analysis. Both the system of control implemented by Israel and its settlements in the West Bank challenge the assumption that its occupation of territory beyond the 1949 borders is temporary – the reason often cited for situating the Occupied Territories outside Israel's borders in regime analyses (Yiftachel 2006).

In short, classifications of Israel as a non-democracy are based on a thick conception of democracy (in Israel proper) and the use of the inclusive unit of Israel/Palestine. Given these assumptions, it is clear why Israel cannot be considered as even a diminished type of democracy.

1.1.4 Summary of the Local Debate

The above discussion shows that the classification of Israel as a democracy, partial democracy, or non-democracy rests, in each case, on a distinct definition of democracy and on the unit of analysis employed. On the basis of thin, minimalist definitions, Israel qualifies as a democracy, but when examined through the lens of thick, maximalist conceptions, it does not. Similarly, using the unit of Israel proper in analyses supports the definition of Israel as democratic, but when the Israel/Palestine unit of analysis is taken into account, the regime cannot be classed as a democracy. Table 1.1 summarizes the three dominant classifications of Israel's regime with their theoretical and methodological underpinnings.

1.2 Regime Index Ratings of Israel

1.2.1 Regime Indexes of Democracy

While comparative views are adopted primarily to justify or disqualify regime classifications, cross-national regime indexes are regularly

Table 1.1 *Summary of the local debate about Israeli regime classification*

	Israel as a democracy	Israel as a partial democracy	Israel as non-democracy
Definition of democracy	Thin, minimalist	Extended definition of democracy	Thick, maximalist
Unit of analysis (borders)	Israel proper	Israel proper	Israel/Palestine
Core argument	Ethnic relations are not unique	Ethnic relations require a specific model	The regime is predicated upon ethnic domination across the entire territory
The use of comparisons	Deductive: partial justification across some domains of the regime	Inductive: Israel as the archetype of the model	Inductive: Israel as the archetype of the model

called upon to support conflicting claims about the Israeli regime. Smooha, Dowty, Yiftachel, and Ghanem, for example, all draw on the Freedom House political rights and civil liberties indexes, which are measures of democracy widely employed in regime evaluation. Smooha (2002) argues that Israel's status as "free" is erroneous and serves to endorse its classification "as a viable democracy that meets the minimal and procedural definition of democracy" (495). Yiftachel and Ghanem (2004) claim that the Freedom House index demonstrates the spectrum of ethnocratic regimes, citing Israel's score of around 2 since the 1970s, Sri Lanka's shift from 2.5 to 4.5 and subsequent back to 2.5, and Estonia's shift from 3 to 1.5.[5] Dowty (2018), on the other hand, classified Israel as a democracy on the basis of the Freedom House and other regime indexes.[6]

[5] Freedom House indexes rate regimes on a scale of 1 (highest) to 7 (lowest).

[6] Others have used the Israeli case to contend that indexes such as that of Freedom House are limited in accuracy and significance (Mchenry and Mady 2006).

Cross-national regime indexes are devised to classify countries on the basis of clear conceptual and empirical standards. Numerous democracy indexes have been developed since the end of the Cold War in the wake of the emergence of more democracies and the correspondingly heightened scholarly interest in democratization, de-democratization, and the quality of democracy (Munck 2009). Though they present a broad range of classifications and exploit various measurement designs, the shared goal of such indexes is to provide rich and multidimensional descriptions in order to identify a wide variety of countries that occupy different places along the continuum between the established liberal democracy and the rigid authoritarian regime. Democracy indexes thus facilitate the examination of a state in terms of theoretical standards of democracy.

Despite the weaknesses of democracy indexes (Coppedge et al. 2011; Munck 2009), insofar as they are based, to a certain extent, on standardized measures, they may offer a viable approach to overcoming the innate limitations of the local debate about the classification of the Israeli regime. Principal among these limitations is, as noted, the lack of a clear and irrefutable conceptualization of democracy. Such indexes are, I believe, ideally suited to the intrinsic challenges of classifying the regime of Israel. In the following, I examine three key cross-national regime indexes – Freedom House, Polity, and Varieties of Democracy (V-Dem) – to demonstrate how Israel is classified from a comparative perspective.

1.2.2 *Israel's Classification in Regime Indexes*

From measures of the specific components of democracy to assessments of its quality, dozens of cross-national indexes of democracy exist. In general, most adopt rather thin definitions of democracy that focus on procedural aspects such as political competition, while those that employ thicker definitions include aspects such as civil rights. However, despite their differences, the purpose of each index is to provide a single score that accurately reflects the overall status of each country's regime (Coppedge et al. 2011). I now look at a typical example of each of the three index types: the Polity score as an index of procedural democracy, the Freedom House political rights and civil liberties indexes, and the V-Dem liberal democracy index which is based on a thicker definition of democracy. These are the most commonly used regime indexes for regime classification.

Freedom House is an American society dedicated to supporting the expansion of freedom and democracy across the globe. Among its various activities, it measures political rights and civil liberties annually (from the 1970s), rating countries' overall levels of freedom and liberties on a scale that is widely used to measure liberal democracy (e.g., Norris 2012). Polity, an academic initiative whose aim is to provide measures of state regimes for comparative analysis, constitutes one of the primary sources for studying regimes (e.g., Acemoglu et al. 2008). Basing its democracy index on a measure it terms "institutionalized democracy," the Polity score measures the extent to which a regime fulfills the following three criteria: the presence of institutions and procedures through which citizens can express effective preferences about alternative policies and leaders, the existence of institutionalized constraints on the exercise of power by the executive branch of government, and the guarantee of civil liberties to all citizens in their daily lives and in acts of political participation (Marshall et al. 2019). Lastly, the V-Dem indexes, which evolved in part in the wake of criticism of the traditional indexes of democracy, reflect more recent developments in the study of democracy (Coppedge et al. 2011; Lindberg et al. 2014). As the most up-to-date method available for the conceptualization and measurement of regimes, the V-Dem indexes incorporate the multidimensionality of democracy (V-Dem n.d.). From the various V-Dem indexes, I have chosen the Liberal Democracy index, which measures the extent to which the ideal of liberal democracy is realized (Coppedge et al. 2016).

Figure 1.1 presents Israel's ratings from the three key cross-national regime indexes: from 1949 to 2018 for V-Dem, from 1949 to 2018 for Polity, and from 1973 to 2018 for the Freedom House indexes. The original scales have been standardized to a 100-point scale, on which 100 is the highest score. Even a cursory examination of the figure yields two significant findings: the ambiguity of the Israeli case and the question of border changes, which is not reflected in the regime ratings.

Of particular note in Figure 1.1 are the significant differences between the indexes. On the Polity index, Israel was assigned the maximum possible score between 1948 and 1966, whereas the V-Dem liberal index was much lower during the same period.[7] Until

[7] It should be noted that previous versions of the Polity index rating for Israel from the 1960s to the 2000s were much higher.

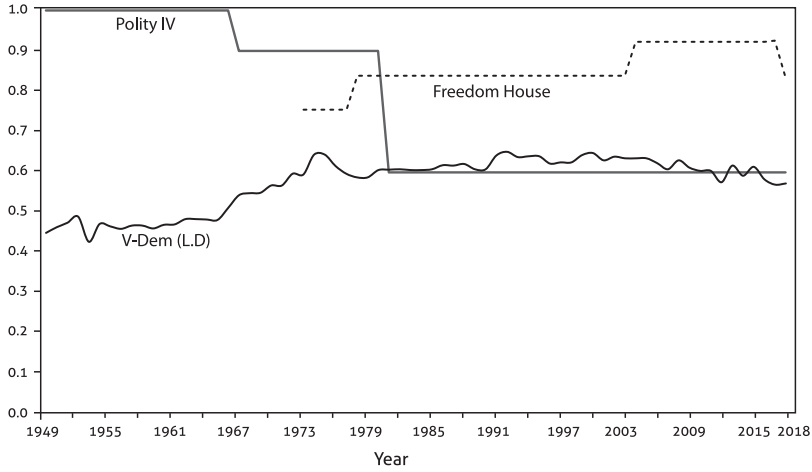


Figure 1.1 Cross-national index ratings of the Israeli regime
Notes: Indexes standardized to a 100-point scale.
Sources: Freedom House political rights and civil liberties indexes; Marshall et al. 2019. Polity IV dataset version IV; Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project. (v2x_libdem was used).

the 1970s, the disparities between Polity and V-Dem are as high as 50 percent. While the divergences between the scales narrowed for some time as of the early 1980s, from 2004 to 2016 the Polity and the Freedom House indexes differ by 32 percent. Such discrepancies are not, however, unique to the Israeli case. Because the scales employ divergent conceptualizations and measurement designs, disagreements between the ratings of the same regime across the indexes are inevitable (Munck 2009). Nevertheless, while the Polity index can be used to support Israel's classification as an institutionalized democracy until 1966, the V-Dem index for the same period suggests that it was far from even a minimalist democracy. These discrepancies between the ratings assigned to a given regime expose the use by the different indexes of varied, a priori definitions of democracy that effectively predetermine whether the regime can be classified as democratic. Different scales can therefore be used to justify different classifications of the case. Taking 2012 as an example, on the democracy scale, the Israeli regime is rated at 92 percent according to Freedom House, 75 percent according to V-Dem, and only 60 percent according to Polity. Therefore, similar to the local debate reviewed in the previous

section, different definitions lead to different conclusions and can be exploited to achieve the desired classification of a given case. These differences also demonstrate the ambiguity of the Israeli case, which, as noted, lends itself to diverse interpretations.

In addition, Figure 1.1 clearly indicates that Israel's rating does not parallel changes and developments in Israeli zones of control. For example, the rating-assigned Israel is unaffected by either the events of 1967 or the Oslo Accords in the 1990s; rather, all three indexes define Israel according to its de jure borders. As the review above illustrates, it is questionable to focus only on these borders of the regime. The cross-national indexes thus overlook the challenge of the unit of analysis – a topic that will be addressed in Chapter 3. From my analysis thus far, it is clear that the cross-national indexes cannot be used to circumvent the local debate regarding the classification of the Israeli regime.

1.3 Conclusion: The Irresolvable Classification Puzzle

This brief review of the protracted debate over the classification of Israeli regime has shown that efforts at classification appear to be dictated by the vagueness of the concept of democracy. This fundamental shortcoming is still largely unacknowledged by students of Israel, and the implicit adoption of the flawed theoretical and methodological principles upon which the classifications are based has been ignored. Most comparative analysis has been guided by attempts to justify the regime's classifications and not by methodological considerations. This chapter showed that the myriad efforts to classify the Israel regime have suffered from inherent limitations.

How democracy is defined largely predetermines how the Israeli regime is classified. When regarded as a democracy from the start, a thinner definition of democracy is usually adopted; when its democratic nature is being challenged, thicker definitions are offered. The thin definitions underlying the cross-national indexes of democracy also bias the debate in favor of democracy. Thick definitions focus on the status of PAI, making this the key test for whether Israel's regime fits the definition of democracy. However, the question of how and why a specific definition of democracy is employed in analyses remains unexplored and unexplained. This regrettable outcome is not surprising, as the lack of a rigorous conceptualization of

democracy has resulted in a correspondingly wide spectrum of definitions of the term. When regime classification is under dispute, the analytical weakness of the notion of democracy is evident. Chapter 2 suggests an alternative approach to regime classification in light of the conceptual limitations of the notion of democracy.

The justification offered in support of the unit of analysis (borders) employed also reflects a predisposition toward the classification of Israel that has little methodological foundation. Those who define Israel as a democracy relate to Israel proper on the premise that Israeli politics exist solely within the 1949 borders. The validity of this approach is further buttressed by the fact that it underpins most comparative indexes. Others take into account the entire territory between the Jordan River and the Mediterranean Sea, including the Occupied Territories. When this expanse forms the unit of analysis, it is difficult to maintain that Israel is a democracy. The question of what the borders of the unit of analysis should be is addressed in Chapter 3, where I evaluate the justification for this choice of unit of analysis and propose an alternative approach.

2 *Circumventing the Challenges in the Classification of Israel (A)*

A Disaggregated Analysis of the Israeli Regime across Dimensions of Democraticness

The previous chapter illustrated how a case such as Israel can be classified along an extensive spectrum that, anchored by liberal democracy on one end, proceeds through different types of partial or diminished democracy to the opposite end of the spectrum that is occupied by non-democracy. How can these conflicting classifications of the Israeli regime be explained? As shown in Chapter 1, the first explanation is rooted in the concept of democracy itself and the second is based on the question of the chosen unit of analysis. Any analysis of the Israeli regime requires these challenges to be addressed. The approach I offer in this book involves circumventing these challenges by offering an alternative framework for the notion of democracy and the borders of the unit of analysis.

This chapter focuses on the first aspect: the notion of democracy. It elaborates on how the concept of democracy is used to define the regime as a whole, showing that this use limits potential analytical leverage. The current usage precludes, in particular, the development of a thorough understanding of the multidimensional nature of democracy and of the ability to explain variant levels of democraticness along different dimensions. I therefore adopt an analytical approach that combines thin and procedural aspects of democraticness with thicker and more extensive properties and suggest examining the regime's democraticness via these different dimensions rather than debates on regime classification. This approach enables a bypass of conflicting interpretations of the Israeli regime, and this chapter thus begins to lay the foundation for the description of different levels of democraticness across different dimensions, which is further developed in Chapter 4.

2.1 The Analytical Limits of the Concept of Democracy

To the question of what accounts for the sharply contrasting and conflicting classifications of the Israeli regime, one response might be

that the scholars who have focused on the Israeli case did not adopt a rigorous conceptual framework of analysis. A democracy that is loosely conceptualized is likely to be identified, understood, and interpreted in myriad ways. From this perspective, a more rigorous notion of democracy might resolve the debate by defining the phenomenon more accurately and thereby making classification more straightforward. In this section, I offer an alternative explanation for the conflicting classifications of the Israeli regime. This explanation is driven by the idea that the notion of "democracy" suffers from inherent limitations as an analytical concept for disputed cases, limitations that significantly weaken its applicability in attempts to resolve the persistent problem of definitively classifying the Israeli regime.

This section shows that using the concept of democracy for analytical purposes prevents it from being applied to its full potential. Although the classification of the regime as a democracy/non-democracy or as a specific subtype of democracy is valuable for regime categorization, the concept of democracy itself is rife with certain inherent flaws that compromise this. I thus show how the focus on the ethnic component as a key to defining the Israeli regime overstretches the concept of democracy. Even a systematic analysis of the Israeli regime cannot overcome the inherent limitations of the concept of democracy; instead of attempting to classify the Israeli regime as a "democracy," I suggest analyze its democraticness across different dimensions.

2.1.1 Israel and the Ethnicization of the Concept of Democracy

The focal point of interest shared by many of the analyses of the Israeli regime is its ethnic component, namely, the relationship between Jews and PAI. The institutionalized inequality between Jews and PAI is often the pivot for qualifying or disqualifying the classification of Israel as a democracy. The question of the extent to which the inequality inherent in Israel's ethnic arrangement is central to the concept of democracy is, however, typically overlooked. Of the few researchers who have examined this issue, Ghanem and Rubin (2015) argue that focusing solely on the inequality blurs the boundaries of democracy as a concept. They showed that while the seminal definitions of group relations have scarcely been addressed in the traditional definitions of democracy, there have been numerous attempts since the 1990s to incorporate

ethnic relations in fundamental conceptualizations of democracy. Such attempts were applied not only to the Israeli case but also to countries whose ethnic makeup has been altered by increased immigration. This analytical trend reflects general concerns about the asymmetric power relationships that develop between ethnic groups in ethnically heterogeneous societies and the impact these relationships can have on democratic governance. The inclusion of the component of group relations in the definition of democracy was based on the assumption that the equal allocation of resources and the promotion of minority cultures are necessary conditions for a regime to be defined as a democracy. However, Ghanem and Rubin, who labeled this approach the "democratic overstretch school" (2015: 716), argue that

> Notwithstanding its contributions, however, the democratic overstretch school suffers a serious shortcoming in that it imposes distinct social goals, important though these might be, into the already very complex definition of democracy. In so doing, scholars affiliated with this school unjustifiably stretch the boundaries of the concept democracy, and treat democracy as a panacea for many of the ills that afflict contemporary societies. Consequently, the term democracy loses its analytical rigor and is exposed to excessive criticism, and its ability to serve as a useful concept in various socio-political contexts is gravely diminished. (717)

By exploiting the case of the classification of Israel to illustrate this conceptual ambiguity, they propose that analyses of ethnic and cultural group inequalities should be discussed within the framework of distributiveness and not democracy. In other words, rather than arguing that the models of ethnic democracy and ethnocracy are regime models, Ghanem and Rubin posit that they are instead descriptions of ethnic relations and power distribution. It can therefore be argued that while basing analyses of the Israeli regime mainly or exclusively on the ethnic component may yield important knowledge, its narrow focus can provide only a limited understanding of the regime. Following this argument, the inequality between Jews and PAI should be evaluated as just one of many components that together define the regime. Other important aspects of democracy – e.g., political competition, protection of freedoms, accountability, etc. – should also be systematically assessed in order to provide a more accurate evaluation of the "correct" way of classifying the Israeli regime. Such a systematic analysis of the Israeli regime is, however, rare, and even if conducted, it is doubtful whether it can bypass the limits of democracy as an analytical concept.

2.1.2 The Limits of the Concept of Democracy in Whole-Regime Analyses of Israel

Even systematic investigations of the Israeli regime that transcend the regime's ethnic component are inevitably constrained in their ability to classify Israel. Merkel (2012), whose methodical analysis of the Israeli regime is based on a rigid conceptualization of democracy, uses the Democracy Barometer index which measures "embedded democracy" (Merkel 2004). Created to offer a robust conceptualization of democracy based on more demanding analytical criteria than those used in other indexes, the Democracy Barometer index enables an analysis of the quality of democracy practiced by countries regardless of whether they are well-established or fledgling democracies (Bühlmann et al. 2008). In other words, the index provides a thick conceptualization of democracy that assesses how democracy is embedded in a given state from a multidimensional perspective. It does this by measuring the regime's performance in terms of electoral regime, political rights, civil rights, horizontal accountability, and the guarantee that the effective power to govern lies in the hands of the democratically elected representatives.

Applying this approach to the analysis of Israel enables an examination of the qualities of these five dimensions vis-à-vis the average rates measured for the 30-best democracies. By judging Israel according to these dimensions (for the years 1990–2007), Merkel (2012) showed that while the Israeli average in the dimension of electoral regime is higher than the average of the thirty best democracies (by a ratio of 1.25), its rates for political liberties (0.88), civil rights (0.73), horizontal accountability (0.60), and effective power to govern (0.61) are much lower. Moreover, Israel's overall "quality of democracy index" rating is 0.66 lower from the average rate of the thirty best democracies. Merkel concluded his analysis with a statement that Israel is a "defective, illiberal, and semi-exclusive democracy" (220).

Thus, when a thick conceptualization of democracy is used, Israel clearly fails to uphold the standards of the well-established democracies assessed by the index. In fact, from Merkel's analysis, it is not clear why Israel should be classified as a democracy at all. Why is a rating of 0.66 lower than the average rate of the thirty best democracies sufficient to define Israel as a democracy, and what is the threshold that justifies a regime's definition as a democracy? In addition, while Merkel's decision to aggregate the five specific components used reflects

the notion of an "embedded democracy," he does not explicitly state why this concept is better nor does he provide a more accurate picture than any of the hundreds of other definitions of democracy. As we saw in the discussion of the local debate in Chapter 1, here, too, the definition of democracy predetermines the ultimate classification of the regime.

These and other attempts to parse the concept of democracy evoke once again questions about how the use of such varied definitions of democracy in scholarly analyses can be justified in the first place. They also reiterate the inherent limits of democracy when used as an analytical concept for disputed cases. Most cross-national indexes reflect thin conceptualizations of democracy that can be used across cases and time and that lend themselves to quantitative analysis; thick conceptualizations of democracy, with their deep, rich descriptions of some, but not all, countries, are used for qualitative analysis. As a result, as Coppedge (2012) stated, "when qualitative and quantitative analysts say 'democracy,' they literally mean different things" (23). The lack of coherence between classifications of Israel in cross-national indexes and those formed at the local debate such as ethnic democracy or ethnocracy reflects the recurring gaps in the conceptualization of democracy. Not unique to Israel, similar incongruities can be found in the efforts to classify other countries, especially in Latin America (Collier and Levitsky 1997). Taken together, these cases reflect the limited ability of democracy to address vague cases.

In fact, the Israeli case can be viewed as just one of many regimes whose classifications deviate from the dominant Western liberal model of democracy. Since the so-called third wave of democratization and the emergence of regimes that are neither established Western liberal democracies nor rigid authoritarian states, countless regime classifications have emerged, for example, "hybrid," "delegative," "imperfect," "illiberal," and "immature" democracies (see Diamond 2002; Zakaria 1997). Using Western democracies as their benchmark, these classifications are applied to countries that do not meet Western standards and that are often portrayed as defective, "half-baked" regimes (Armony and Schamis 2005). However, as Armony and Schamis observed, the taxonomy engendered by this approach is characterized by blurred boundaries, conceptual ambiguity, and empirical confusion. In addition, the new classifications are based on the presumptuous assumption that established Western liberal democracies are "qualified," whereas the new states are "unqualified." Citing these efforts to

capture those characteristics of democracy that run counter to conventional wisdom, Armony and Schamis declared that they merely "contribute to expanding the terminological Babel" (2005: 125).

There is also an inherent theoretical challenge with the concept of democracy. Despite the heretofore intensive efforts to address the challenges in the conceptualization and definition of democracy, it is clear that "since definitional consensus is necessary for obtaining consensus over measurement, the goal of arriving at a universally accepted summary measure of democracy may be illusory" (Coppedge et al. 2011: 248). The lack of such a definitional consensus challenges the ability to aggregate the different dimensions of democracy into a clear scale. Although Merkel (2012) rated Israel as a democracy by using the overall index that aggregates five dimensions, how the aggregation of the different dimensions can result in a single scale remains an open question, as, for example, assigning different weights to the different dimensions may completely alter the results and the overall rating of a given country.

Coppedge (2012) posits that the consequences of having alternative definitions of democracy are not serious, provided the elements of the dimensions are all strongly correlated with a common, underlying dimension. In most regime analyses, however, this is not necessarily the case. This analytical shortcoming is exhibited in Merkel's (2012) analysis of Israel, in which, considering the gap between the high rating for electoral regime and the low rating for each of the other four dimensions of democracy he inspected, the different elements are not based on a single, underlying dimension.

By now, it should be clear that the conflicting classifications of Israel expose the inherent limitations of democracy as an analytical concept in the local debate and when cross-national indexes are used. Indeed, the debate over the Israeli case reveals the fact that the question of whether a regime can be classified as a democracy or non-democracy underlies the most difficult challenge in the study of democratization: reaching an agreed-upon definition of democracy. As Diamond (2002) explained: "Few conceptual issues in political science have been subjected to closer or more prolific scrutiny in recent decades than this problem of 'what democracy is. . .and is not,' and which regimes are 'democracies' and which not" (p. 21). As an "essentially contested concept" (Collier et al. 2006), the notion of democracy presents a formidable hurdle for students of democracy. In brief, it is a complex, multidimensional, and value-laden concept whose very essence precludes its use for analytical purposes – an

endeavor that is fundamentally flawed. Therefore, in the unresolvable debate about the definition of democracy, there is no definitive answer as to which of the competing conceptions of democracy is the most valid (Coppedge 2012). In addition, the vagueness of the concept of democracy has, at times, led to an overextension of its analytical applicability, and it has thus been applied not only in regime analyses but also in evaluations of state and social relations (Collier and Levitsky 1997).

In response to the flaws plaguing the efforts of the regime analysis field to apply the varied conceptualizations of democracy analytically, in his book *Democratization and Research Methods*, Coppedge (2012) proposed a shift in approach: Rather than debating what democracy is and is not, scholars should work toward developing a disaggregated approach of democracy. Its very multidimensionality complicates efforts to reach an agreed-upon definition of democracy, and discussions about the nature of its definition merely serve to spawn further disagreement. Coppedge concluded his book by arguing that "before proposing more definitions of democracy, we should, therefore, disaggregate the concept, that is, break it down into its constituent components and focus our attention on the specific institutions, practices and conditions rather than on democracy as a whole" (311).

I review the debate on the classification of the Israeli regime to show that restricting the focus to the question of whether a regime is a democracy, partial democracy, or non-democracy did not exploit the full spectrum of democratization research. It did not enable us to explain how or why the different dimensions of democraticness vary so much within the same country. Rather than using the concept of democracy as a whole, this book follows Coppedge's approach and inspects each of the different dimensions used to measure regime democraticness, thus allowing to analyze and understand regimes from a more enlightened perspective; for example, it facilitates an explanation of why Israel rates as high in the dimension of political competition but relatively low in the other dimensions and opens new avenues for the analysis of additional ambivalent cases.

2.2 From Regime Classification to Dimensions of Democraticness

Attempts to exploit the concept of democracy as an analytical tool can thus be seen to be flawed; as such, rather than providing enlightenment, they merely serve to further obfuscate the issue.

Notwithstanding its ability to discriminate countries that are clearly democratic from those that are clearly non-democratic, for many other countries, like Israel, which are clear-cut cases of neither, the concept of democracy has only limited analytical applicability. The literature review has thus far illustrated that even a focused case-specific examination cannot prevent scholars from proposing conflicting classifications of the Israeli regime. Therefore, in order to bypass its analytical weakness, I will separate the concept of democracy into several dimensions and assess the levels of democraticness of each, instead of attempting an overall classification of the regime.

The typical starting point of regime classification is to choose a definition of democracy – as Dahl (1971) did when he proposed his now famous criteria for polyarchy – and then to judge a case against this definition. As argued above, the weakness of this approach is in the choice of the definition of democracy from the variety of possible definitions which merely cloud the issue. A focus on the levels of democraticness of particular dimensions of a regime can provide better analytical leverage. Neither a typology nor a classification of a specific form of regime, democraticness describes a continuum along which are situated more or less democratic systems of government rather than a set of specific threshold values according to which a regime is defined as a democracy or not. Democraticness is a matter of degree rather than of categorical definitions, and as such it emphasizes the dynamic processes that can foster change in the level of a specific dimension. Put differently, a regime dimension's shift toward greater or less democraticness effectively describes the democratization and de-democratization of a regime. Note, however, that the dimensions of any given regime do not necessarily vary in conjunction with the democratization axis: Some may move toward democratization while others stagnate or even move in the opposite direction. In fact, most of the so-called illiberal democracies or hybrid regimes exhibit such disparities in the democraticness levels of their regime dimensions. Accordingly, some hold competitive elections while simultaneously limiting the political activities of NGOs, for example.

As with the lack of agreement on the definition of democracy, there is also no consensus on which dimensions of democracy to use in disaggregated analyses. Scholars of democracy have emphasized a range of different dimensions and varieties of democracy (Held 2006). But herein lies a key advantage of the disaggregated approach:

It enables both the thin and the thick features of democracy to be accounted for without attempting to combine them into one single score of limited applicative value. It therefore allows for the bypassing of the unresolvable debate over definition (Coppedge 2012).

In addition to circumventing the analytical weaknesses of the concept of democracy itself, the disaggregated approach to analyses of democracy provides a theoretical grounding that enables rigorous analyses of processes of democratization. The end of the "third wave" of democratization saw the emergence of the democratic grey zones and hybrid regimes that dominate much of the so-called non-Western world today. Efforts to analyze them prompted a proliferation of adjectives to qualify democracy that was aimed at classifying each regime as a whole (Bogaards 2009), an approach with only limited ability to explore the process of democratization and de-democratization. These shortcomings are eliminated by examining the different dimensions of democracy independently, a strategy that can, for example, provide valuable insight into why some hybrid regimes allow limited political competition but fail to provide for the establishment of solid institutional executive constraints.

The theoretical value of this approach is not limited to the non-Western world; however, some Western countries exhibit democratic backsliding that the conventional regime indexes did not monitor (Waldner and Lust 2018). In addition, recent changes even in established Western democracies require a more fine-grained approach for analyzing their regime. Indeed, a disaggregated conceptualization of democracy was recently introduced in the Varieties of Democracy (V-Dem) project. The V-Dem project proposes an approach to conceptualizing and measuring democracy that is fundamentally different from previous regime indexes. Instead of providing a measure of democracy that is based on one definition, V-Dem is multidimensional and disaggregated and aims to define better indicators of democracy. It distinguishes between some high-level principles of democracy as well as between different socioeconomic and political dimensions. Following these insights, the dimensions for analyzing democraticness in the current case were not chosen based on an a priori definition of democracy. Rather, the selected dimensions reflect a continuum ranging from the thinnest to the thickest conceptualizations of democracy, thus sidestepping the debate over whether the Israeli regime is democratic or not.

The three dimensions used in the current analysis, ranging in order from minimalist or thin components of democracy to maximalist or thick elements, comprise (1) political contestation, (2) protection, and (3) coverage. These three dimensions were conceived neither as representative of the essence of democracy nor as necessarily exclusive of other components, and other dimensions can, of course, be examined; they were chosen, however, because they tend to form the basis according to which the Israeli regime is classified.

Political contestation, which epitomizes the thin conception of democracy, relates to the procedural and institutionalized arrangements that ensure political competition. These arrangements constitute the mechanism linking society with government. Free elections, insofar as they hold the government accountable to society, form the core institutional pillar of political contestation. Indeed, this is the dimension of democracy to which most studies relate: Scholars examining regime change investigate the occurrence and nature of elections and the extent to which free competition and universal suffrage are upheld (Huntington 1993; Levitsky and Way 2010). While political contestation is at the foundation of democracy – a regime cannot be considered democratic if it lacks true competition – an exclusive focus on its measures neglects other important features of democracy (Diamond 1999).

The dimension of protection, which is associated with thicker conceptions of democracy, is rooted in the liberal notion of democracy, buttressed by the belief that natural rights are embodied in individual civil liberties. Institutionalized in constitutional rights, the rule of law, and the justice system, these aspects are implemented to safeguard people from arbitrary state action and interference in their private lives. In their analyses of diverse regimes, scholars have adopted this thicker definition of democracy in their attempts to differentiate political contestation from other aspects of democraticness (Bühlmann et al. 2008).

Perhaps the thickest attribute of democracy, coverage, expresses the extent to which people are allowed to participate in political processes and enjoy protection from the state, irrespective of sectorization. A regime lacks coverage if it excludes groups – gender, religious, ethnic, etc. – from political contestation and protection. Although less commonly examined than political contestation and protection (Lindberg et al. 2014), coverage is important in the Israeli case where

regime classification frequently revolves around the issue of ethnonational inequality and exclusion.

A key part of the debate about Israel's regime classification is between scholars whose analyses are driven by thin notions of democracy (see Neuberger 2000) and those who take thicker approaches (see Yiftachel 2006). The former argue that Israel's high level of political contestation is sufficient to classify it as a democracy; the latter posit that the limited coverage that afforded the PAI is indicative of a diminished democracy, at best. My proposed disaggregated approach, on the other hand, examines the different dimensions separately, precluding the need to decide between a thin and a thick approach. Such a disaggregated approach is relevant not only to the Israeli regime but is highly applicable to other regimes with unclear and disputed classifications.

2.3 Disaggregating Regime Dimensions: A Comparative View

The use of disaggregated regime dimensions to classify different types of democracies overcomes the inherent limits of the whole-regime classifications that have been used in former analyses of Israel and other disputed cases. From a comparative perspective, breaking the regime into dimensional indicators shows that only regimes whose levels of democracy are not contested can be classified in toto. Indeed, for dubious cases like Israel's, the disaggregated approach can shed more light on the regime. In this section, I therefore compare Israel to five other entities – one whose classification is unquestionable and four with more dubious regimes – according to the three regime dimensions of political contestation, protection, and coverage defined above.

Fundamental to any comparative study are the criteria used to choose the cases for the analysis. Here, I follow past comparative studies of Israel, which has frequently been compared with countries whose citizenry comprises prominent ethnic and/or religious groups, e.g., Canada, Serbia, India, Turkey, and South Africa. Canada, an established, Western liberal democracy, shifted from an ethnocratic model to a more inclusive type of regime that is significantly different from Israel (Haklai and Norwich 2016; Yiftachel and Ghanem 2004). Serbia is often used in comparisons using the ethnic democracy model (Smooha and Järve 2005). India is compared with Israel on the basis of

the policies adopted and implemented by governments in deeply divided societies (Harel-Shalev 2010). Turkey is commonly regarded as an electoral democracy or hybrid regime, with its ethnic division and the role of religion in political life forming the basis of comparison with Israel (Rubin and Sarfati 2016). Lastly, (pre-1994) South Africa is regularly compared with Israel as two examples of settler colonial societies that have oppressed the native inhabitants of their respective regions under apartheid regimes (Peteet 2016; Soske and Jacobs 2015).

For the comparative analysis, V-Dem regime indexes are used. One of the key advantages of using such indexes lies in the fact that they are standardized across countries; Israel is thus coded according to the same criteria employed in the experts' assessments of all countries. This standardization helps clarify and sharpen the currently prevalent concept of democracy that is, as stated, broad and vague. It enables an examination of the independent dimensions of Israeli regime in comparison with other regimes, revealing, first and foremost, the inherent limits of attempts at whole-regime classification in disputed cases.

Indexes are not objective data about a given regime but an estimation drawn from the responses of a group of coders to a standardized questionnaire. Nonetheless, they provide comprehensive data relating to the three chosen regime dimensions beyond the description yielded by any single interpretation. They therefore supply a more robust account of the regime which can be used for comparative studies. The V-Dem index reflects recent developments in the study of democracy. Evolving in part in response to criticism of the traditional indexes (Coppedge et al. 2011; Lindberg et al. 2014), its approach highlights democracy's multidimensional fabric and it constitutes the most up-to-date methodology (Pemstein et al. 2017).

Figures 2.1–2.3 present the three regime dimensions across these six countries for the period of 1949–2017. Figure 2.1 focuses on political contestation while using the Additive Polyarchy Index. This index aims to measure to what extent the electoral principle of democracy is achieved: "This is presumed to be achieved when suffrage is extensive; political and civil society organizations can operate freely; elections are clean and not marred by fraud or systematic irregularities; and the chief executive of a state is selected (directly or indirectly) through elections" (Coppedge et al. 2019b: 41). Figure 2.2 focuses on protection using the Liberal Component Index. This index inspects to what extent the liberal principle of democracy is achieved and "emphasizes

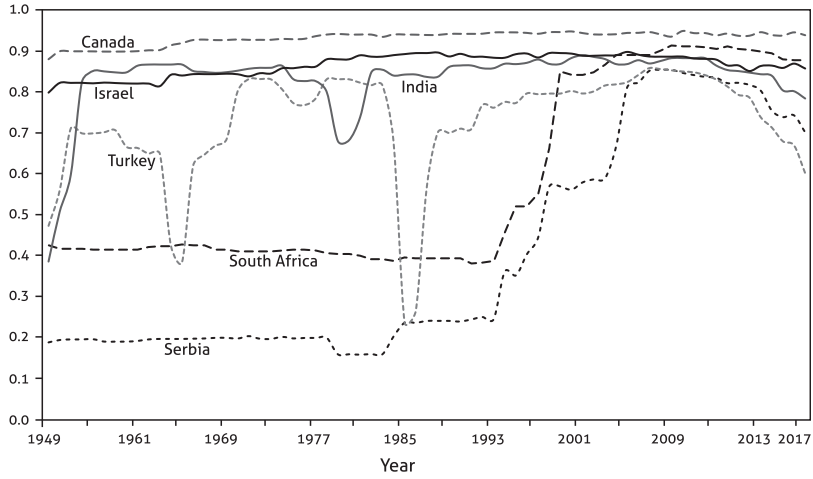


Figure 2.1 Comparative ratings of political contestation

Notes: Political contestation is measured using the Additive Polyarchy Index (v2x_api).

Source: Coppedge et al. (2019a). V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

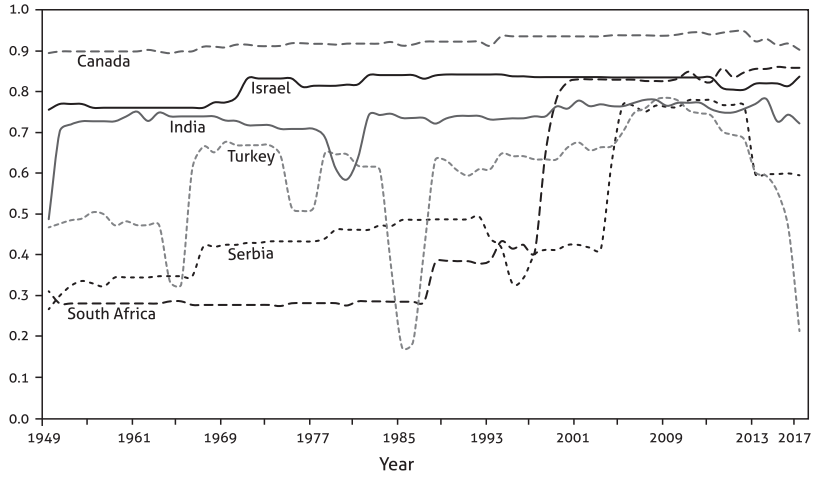


Figure 2.2 Comparative ratings of protection

Notes: Protection is measured using the Liberal Component Index. (v2x_liberal).

Source: Coppedge et al. (2019a). V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

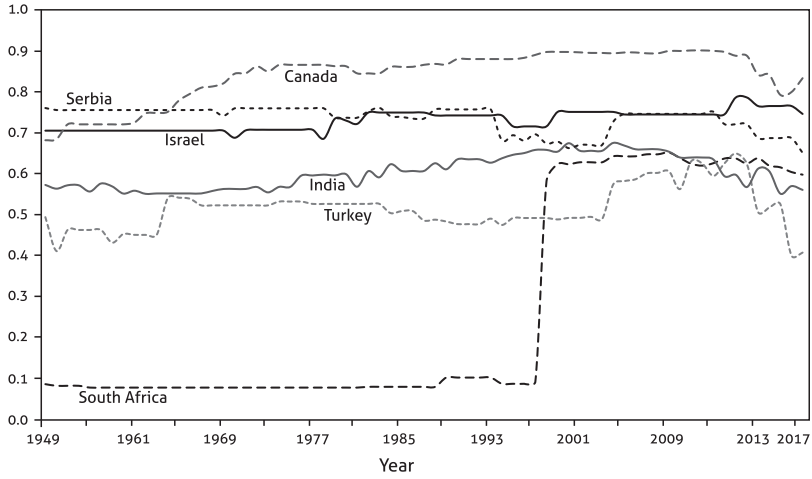


Figure 2.3 Comparative ratings of coverage

Notes: Coverage is measured using the Egalitarian Component Index (v2x_egal).

Source: Coppedge et al. (2019a). V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

the importance of protecting individual and minority rights against the tyranny of the state and the tyranny of the majority. The liberal model takes a 'negative' view of political power insofar as it judges the quality of democracy by the limits placed on government" (Coppedge et al. 2019b: 45). Figure 2.3 deals with coverage measured using the Egalitarian Component Index: "The egalitarian principle of democracy holds that material and immaterial inequalities inhibit the exercise of formal rights and liberties, and diminish the ability of citizens from all social groups to participate" (Coppedge et al. 2019b: 50).

Looking at the three figures, it is apparent that Canada's levels of democraticness are the highest across all three dimensions throughout the years, reflecting that Canada is not a regime whose classification is under dispute. For the other five countries, the picture is far more complex. In postapartheid South Africa, for example, the rating in political contestation and protection is similar to Israel's, but its rating in coverage is more than 10 percent lower than Israel's. In post-1990s Serbia, the rating in coverage is fairly similar to Israel's and is higher than the rating of South Africa, India, and Turkey. At the same time,

Serbia's rating in political contestation and protection is almost the lowest of all six countries. The average gaps between the dimensions in Turkey and India are rather similar to those found in Israel, where the higher rating is for political contestation, followed by protection, and then coverage.

This brief comparative analysis demonstrates the advantages of the proposed disaggregated approach to analyses of the concept of democracy in contrast to the overwhelmingly futile attempts to provide an all-inclusive estimate of the country's regime definition. Of the countries examined, only Canada had consistently high levels of democraticness across the three dimensions for most of the period, and it can thus be regarded as the most democratic state of the six. Among the other five countries, however, none rated consistently lower than any other in any of the three dimensions for the entire period assessed. In other words, the democraticness level of each dimension fluctuated across the years, such that the level of at least one dimension was either lower or higher in some countries than in others at any given time. It is therefore difficult to determine which state was the least democratic overall, as, Canada aside, the disparities between the various dimensions of democracy undercut attempts to classify them in overall terms as democracies. For example, Serbia's level of democraticness in the dimension of political contestation from the 1950s to the 1990s was 50 percent lower than in coverage. During this period, Serbia was part of the Socialist Federal Republic of Yugoslavia, which did not meet even the most minimal criteria of democracy.

In fact, gaps between dimensions of democracy can be found even beyond deeply divided societies. Figure 2.4 presents the calculated average gap between political contestation and coverage (using the aforementioned measures) for fifty-two countries between 1949 and 2017. The aggregation across sixty-eight years includes countries that were democratic across all these periods (e.g., the United States), non-democratic (e.g., China), and with regime shifts (e.g., Poland). The added value of the figure is in its overall estimation of the gap between the democratic dimensions. Put differently, the figure does not reflect regime levels of democracy but the gap between political contestation and coverage.

Smaller gaps are apparent mainly in the established liberal democracies of Western Europe, while in the authoritarian regimes the gap is negative, reflecting the lower levels of political contestation. Positive

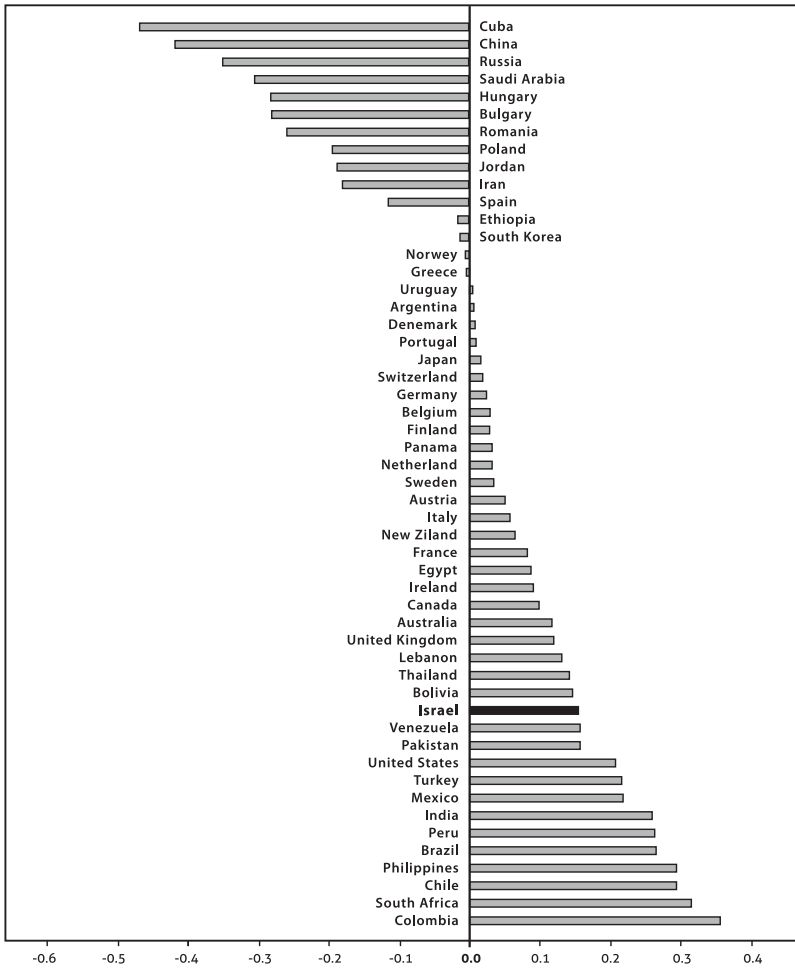


Figure 2.4 Gaps between political contestation and coverage across countries
Notes: Gaps for 1949 to 2017 overall average. Political contestation is measured using the Additive Polyarchy Index (v2x_api) and coverage is measured using the Egalitarian Component Index (v2x_egal).
Source: Coppedge et al. (2019a). V-Dem [Country-Year/Country-Date] Dataset 9. Varieties of Democracy (V-Dem) Project.

gaps, reflecting higher levels of political contestation than coverage, can be found in various countries, reflecting different sources for inherent inequality. For example, the average gap in the United States and in Turkey are similar throughout this time period despite the

different reasons for them and the fact that while the former is considered an established Western liberal democracy, Turkey's classification as a democracy is disputed. The countries in the lower part of Figure 2.4 are all countries with deep-rooted inequalities between the different sectors in their societies. In some countries (apartheid in South Africa and Jim Crow in the Southern United States), these inequalities were institutionalized, and in other countries (India), there were attempts to restrict such inequalities. Overall, except for very few regimes, gaps between dimensions of democracy can be found across a wide range of cases.

Such a comparative analysis assumes that the concept of interest, i.e., the regime, is equivalent across the cases. The relations between a state and a society in a given territory are expected to reflect a similar logic from case to case that enables between-case comparisons of the ratings assigned for the different dimensions of regime democraticness. Although these relations can be found in the entire territory under the state's control, an in-depth look at the question of the exact territorial definition of the state whose regime is being measured reflects some of the weaknesses of making the assumption of regime equivalency. As such, while the territories controlled by some countries are not disputed, this is not the case for all countries. For example, does Turkey include Northern Cyprus from 1974? Is the coding applied to South Africa inclusive of all the Bantustan countries (including Namibia) or just a part or parts of these zones? And how exactly does one define the territory of the Israeli regime? Only according to its formal borders? These questions all relate to the contentious issue of the regime borders to be discussed in Chapter 3.

2.4 Conclusion: Reconfiguration of Regime Inquiry

The aim of this chapter was to provide an alternative interpretation of the lively debate over the classification of the Israeli regime that was reviewed in Chapter 1 and, in so doing, to expose the inherent limits of democracy as an analytical concept for vague cases. The concept of democracy is regularly used in ways that limit its potential analytical leverage, as previous classifications generate a taxonomical system characterized by blurred boundaries, conceptual ambiguity, and empirical confusion. Despite intensive efforts to address the challenges in the conceptualization and definition of democracy, it is clear that

there is no wide agreement as to what defines democracy. As such, this book adopts a disaggregated approach to the concept of democracy that dismantles the concept into different dimensions and assesses the democraticness levels of these dimensions rather than attempting to provide an overall classification of the regime. The dimensions used to analyze Israel's democraticness are not based on any a priori definition of democracy but were chosen to reflect the continuum, from a thin to a thicker conceptualization of democracy, in order to ensure that the debate over whether the Israeli regime can be classified a democracy is approached from different angles.[1] Rather than initiating an argument over regime classification, as has occurred after past attempts to describe Israeli regime, the disaggregated approach can create a new dialogue that elucidates the observed variations in the democraticness levels of the different dimensions.

[1] It is important to emphasize that other aspects of thick conceptualizations can be used. The three dimensions used here are just one option.

3 *Circumventing the Challenges in the Classification of Israel (B)*

A Spatial Analysis of the Israeli Regime

Chapter 1 emphasized that the boundaries of the regime are often not explicitly stated in analyses of the Israeli regime. However, the location of Israel's borders defines the unit of analysis, and that definition, in turn, determines how the regime is classified; in other words, determining the unit of analysis as Israel proper or as Israel/Palestine establishes the nature of the regime as a democracy/diminished democracy or a type of non-democracy, respectively. While different definitions of the borders that form the unit of analysis lead to different classifications of the regime, the justifications advanced for the choice of borders are rather limited. This flawed approach can be rectified by a conceptual discussion on the notions of state and regime – a discussion that will lead to an alternative classification of the unit of analysis.

This chapter, therefore, addresses the challenge of defining the borders of the unit of analysis. After a short historical overview of Israel's borders, I discuss the justifications provided in previous analyses of Israel for the boundaries chosen to define the unit of analysis and their weaknesses. Additionally, I demonstrate that the problem of choosing these borders is not fully addressed even by the cross-national indexes, which detracts from their applicability in regime classification efforts. A conceptual elaboration on state and regime shows that the units of Israel proper or Israel/Palestine cannot be used to define the borders of the regime, and I thus conclude the chapter by proposing a spatial analysis, which divides the Israeli regime into different zones of control at different time periods.

3.1 Israel's Changing Borders: A Short Overview

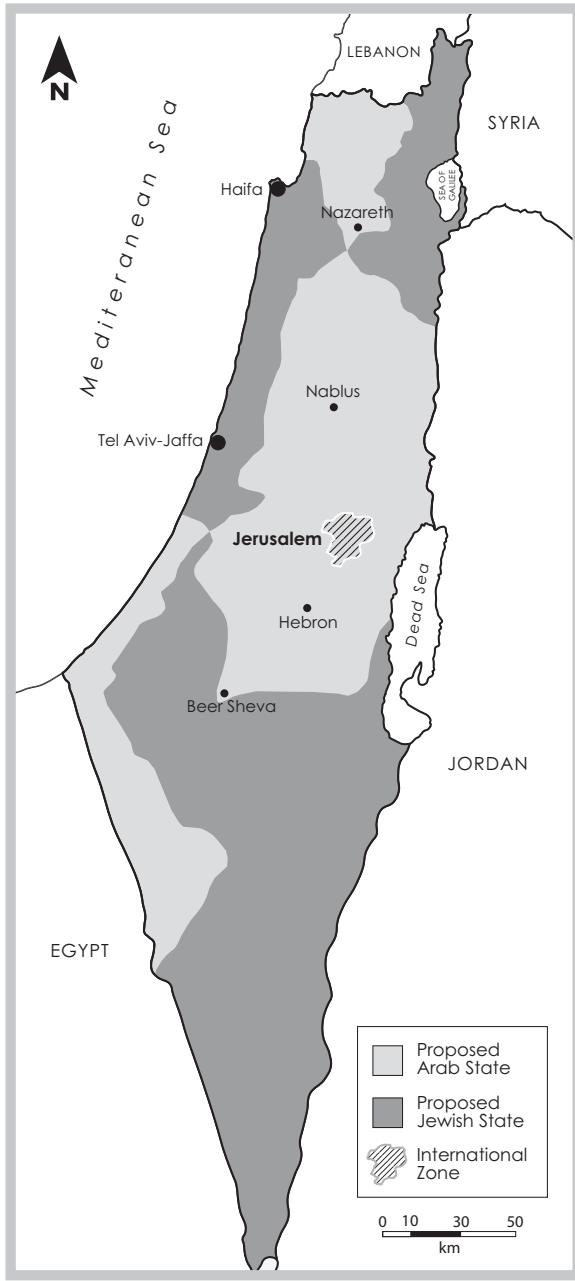
The point of departure for understanding the issue of the borders of the Israeli regime is the impact of World War I on the Middle East. The downfall of the Ottoman Empire following the war led to the division of the Middle East between the main colonial powers, Britain and

France. The territory between the Jordan Valley and the Mediterranean Sea was designated part of British-controlled Mandatory Palestine. During the Mandate period (1922–1948), the Jewish community in this territory grew significantly due to immigration to Israel. Despite the evolving conflict between this growing Jewish community and the Palestinian people, the internal borders of this unit were not changed until 1948.

According to the 1947 UN Partition Plan (see Map 3.1), the unit constituting Mandatory Palestine was supposed to be divided into an Arab and a Jewish state with a special status for Jerusalem; due to various developments, this plan was never implemented. Principal among these developments was the 1948 war between the Jews and the Arabs. As a consequence of the war, the fledgling Israeli state gained control over 78 percent of Mandatory Palestine, while the remaining 22 percent of the territory was divided between Egypt, which controlled the Gaza Strip – a small (365 km^2) swath of land running along the southwest coast – and Jordan, which controlled the much larger West Bank (5,640 km^2), located in the center of the territory and including part of Jerusalem.

Although an independent Palestinian state was not created and some of the 1948 borders formed in the wake of the war were the subject of immediate fierce dispute, the 1949 Armistice Line was drawn, thus establishing the State of Israel as a distinct unit. The borders demarcated by the 1949 Armistice Line remained in effect until the 1967 Arab–Israeli War, when the borders between Israel, Egypt, and Jordan changed markedly. In the aftermath of the war, Israel occupied, among other areas, the territories that had been under Egyptian and Jordanian control, i.e., the Gaza Strip and the West Bank, respectively, conferring on post-1967 Israel control over all of Mandatory Palestine. However, Israel never formally annexed either the West Bank (except for East Jerusalem) or the Gaza Strip, and herein lies the basic distinction between Israel proper and Israel/Palestine, i.e., Israel with the Occupied Territories.

Following various developments in the region, Egypt and Jordan relinquished their demands for control over the Gaza Strip and the West Bank, giving way to the Palestinians' claims. During the 1990s, following Palestinian resistance to Israeli control and repression, inter alia, the status of the Occupied Territories underwent various changes. The agreements between Israel and the Palestine Liberation



Map 3.1 The 1947 UN Partition Plan of Mandatory Palestine.

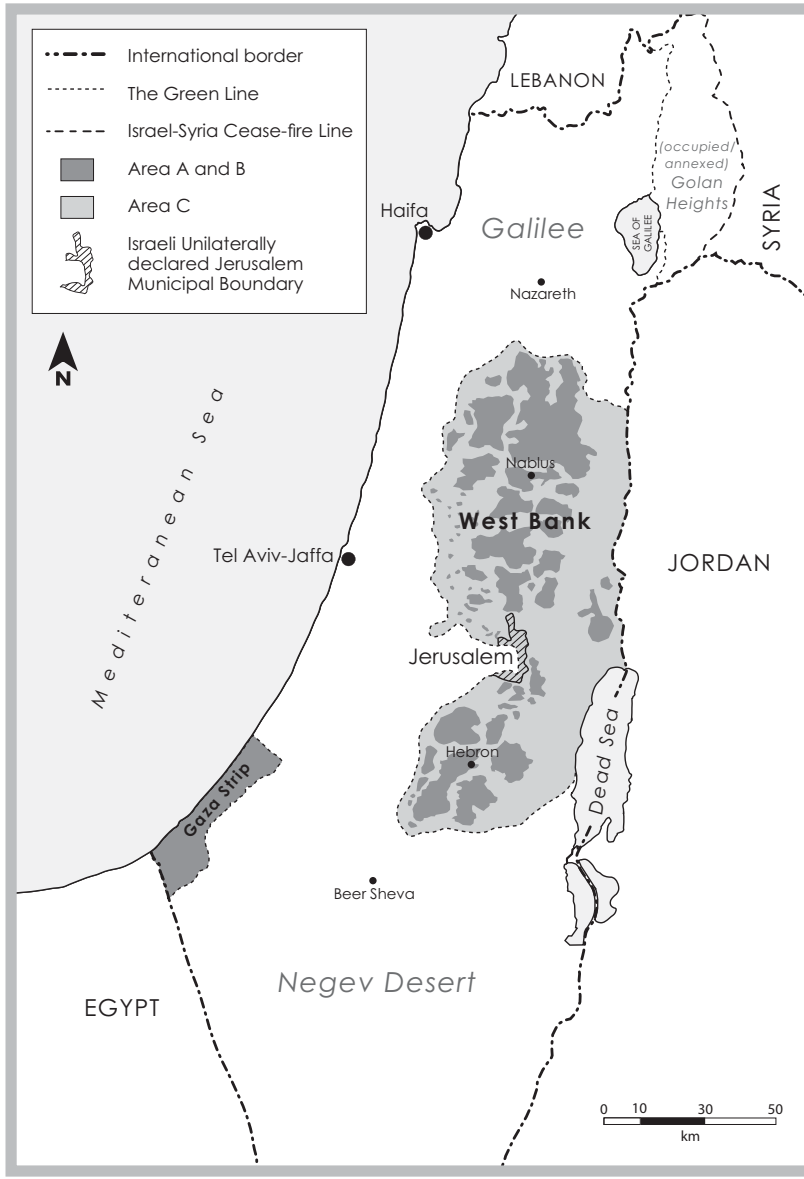
Organization (PLO) in 1993 granted some level of self-rule and autonomy to the Palestinian Authority in Gaza and in urban centers of the West Bank, which were divided into administrative zones labeled Areas A and B. In the remainder of the West Bank, defined as Area C, Israel maintained administrative responsibility for public order and for civil issues relating to territory and not just for security. Therefore, the current key division in the West Bank is between Area C, which comprises 60 percent of the West Bank and is under full Israeli control, and Areas A/B, which are under varying levels of limited control by the Palestinian Authority, with their immediate surroundings tightly controlled by Israel. According to the agreements, this division of the territory was meant to be a temporary arrangement until the end of the negotiations between Israel and the PLO, by which time Israel was to have withdrawn from the West Bank and Gaza Strip.

Map 3.2 illustrates the divisions between the units. In the West Bank, the Palestinian Authority holds separate, noncontiguous enclaves (Areas A/B) that are surrounded by Israeli-controlled areas. While most West Bank Palestinian inhabitants live in Areas A and B, Area C contains Jewish settlements and relatively few Palestinian settlements. Israel also maintains control over the border between the West Bank and Jordan and annexed East Jerusalem in 1967. In the Gaza Strip, on the other hand, Israel controls its sea and air border but not the land border with Egypt (for a comprehensive review of the borders, see Newman 2019).[1]

3.2 How the Question of the Unit's Borders Has Been Addressed?

The bulk of the scholarly literature has addressed Israel proper – an approach that is also in line with the classifications of Israel in cross-national regime indexes. Though less common, the Israel/Palestine definition has been used to criticize the focus on only Israel proper. This question regarding the unit of analysis is not only relevant to the

[1] Map 3.2 also indicates the existence of another territory that is controlled by Israel and is beyond Israel proper, namely, the Golan Heights, which was captured from Syria in the 1967 war. However, Israel's control of the Golan Heights differs fundamentally from its control in the West Bank given the ethnic cleansing that took place in the Golan Heights (Gordon and Ram 2016) and the territory's formal annexation.



Map 3.2 Unit of analysis space.

discussion of regime classification but, in fact, reflects a broader debate among scholars about the framework for understanding Israel from the outset. In short, the controversy revolves around whether Israel should be analyzed as a so-called normal state or whether the colonial/

postcolonial framework is a more suitable way of studying Israel and Palestine. These perspectives, however, overlook the question of how units of analysis are determined when regimes are measured and classified beyond the local debate. Despite the fact that answers to this question constitute a key element of not only regime classification but also other scholarly analyses of Israel, the two approaches' justifications for the borders chosen to form the unit of analysis are somewhat narrow from a methodological perspective.

Limiting the focus to Israel proper is justified from three main perspectives: the "externality" of the Occupied Territories, the judicial justification, and the temporality of the occupation. The externality argument is based on the notion that the Occupied Territories and their inhabitants are outside of Israeli politics and follows the assumption that "Israeli politics is centered on the space within the Green Line," as stated in a discussion of the question "Where is Israel?" in a recent handbook on Israeli politics (Sasley and Waller 2017: 8). Accordingly, supporters of the externality argument cite the lack of any shared values or goals between (Jewish) Israeli society and Palestinian society (in the Occupied Territories) and assert that not only the two societies but also the two political entities should be treated as separate units, i.e., as external to one another. This approach can be found among both scholars of Israeli society and those who study the Palestinian regime separately from Israel (see Ghanem 2001). Some adopt the logic of separate analyses for comparative investigations of the Israeli and Palestinian regimes. Möller and Schierenbeck (2014), e.g., examined the role of leadership in the democratization processes that occurred during the nascent statehood period by comparing Israel, Palestine, India, and Pakistan. They argued that while Palestine is not a state in the same sense as the other three, the state-like structures cultivated by the Palestinian Authority render Palestine a valid case for a comparative analysis. Although the notion of separate societies with competing and even conflicting goals and values may seem to validate the externality-driven approach, it does not necessarily mean that the regimes should undergo the same treatment. After all, distinct societies can be subject to the authority of the same regime, and indeed, the majority of the Occupied Territories is under the control of one regime most of the time, as will be discussed later. The argument that the Occupied Territories is external to the Israeli regime does not therefore hold for regime analyses.

Judicial justification, the second perspective on limiting the focus to Israel proper, is based on international law, which defines Israeli

control in the Occupied Territories as occupation. Accordingly, Israeli control of the Occupied Territories should be analyzed mainly through the lens of the treaties upon which the definitions of both the spaces of recognized sovereignty and the spaces of occupation are based, despite the fact that international law has essentially overlooked the unique case of the extended Israeli occupation (Benvenisti 2012). Moreover, Israel never formally or legally annexed the Occupied Territories, and Israel's current borders of control are not internationally recognized. The Israeli and Palestinian entities are thus two well-defined, distinct legal units that should be analyzed separately. Citing international law, some scholars have claimed not only that these units are different legal entities but also that Palestine is a state that is clearly distinct from Israel (Quigley 2010). The validity of this distinction is supported by noting the Palestinian Authority's membership in several international bodies and, most importantly, its recognition by the UN as a nonmember observer state in 2012. While Israeli control is expressed through two separate judicial conditions, it is not clear why this should necessitate a distinction between the regimes of the two entities. The judicial perspective defines borders according to the international recognition of the state. This perspective, however, is different from that of a regime, which requires neither a coherent and universal legal system nor international recognition. In fact, the geopolitical dynamics of legal statuses across the different zones of state control merely constitute a feature of the regime and do not define its distinctiveness. The formal legal statuses of the two entities may be different, but state-level decisions are made by a single authority.

Closely related to the judicial justification is the argument for the temporality of the occupation. Given the ongoing negotiations between Israel and the Palestinians about this territory known as the "peace process," the future "two-state solution" should also be considered. Being of a temporal nature, Israeli control in the Occupied Territories need not, therefore, be seen as an inherent feature of the Israeli regime. While the two-state solution may eventually be realized, it is not clear why this should have any effect on the regime analyses of the 53 years of Israeli control of the Occupied Territories. Furthermore, the validity of the temporality argument is also doubtful. Ben-Naftali and his colleagues (2009), e.g., asserted that Israeli rule over Palestine evolved from a "temporary" pursuit with a definite end to an endeavor of unlimited or indefinite duration. According to their argument,

the temporality of Israel's control ended many years ago. More significantly, even were the occupation to eventually come to an end, some of its aspects have, nonetheless, been part of the regime for a long time.

Those who define the Israeli regime from the Israel/Palestine perspective reject the justifications given for limiting the focus to Israel proper. A good starting point for such analyses can be found in Kimmerling's (1989) call to analyze the "Israeli control system." Kimmerling argued that the inclusion of new peripheral territories under Israel's control after 1967 marked the end of the "continuity" of the Israeli social system. Instead of using the term "state" for Israel and the Occupied Territories, he therefore suggested the more inclusive "control system," which refers to "a territorial entity comprising several sub-collectivities, held together by purely military and police forces and their civil extensions" (266). A control system evolves when the "field of power" (the territory Israel actually controls) is much larger than the "field of authority" (the territory where Israel has formal sovereignty). In other words, according to Kimmerling (1989), the entire territory between the Jordan and the Mediterranean Sea should be analyzed as a single unit, divided by Israel into areas in which it implements different mechanisms of control in order to ensure its transformation into Israeli territory from which Palestinians are excluded. Israeli control over the Occupied Territories is neither a temporary nor an external situation, and therefore, any analysis of the Israeli regime must include the Occupied Territories. Likewise, Hofnung (1996) elaborated on the justification for analyzing Israel and the Occupied Territories as one single, unified system for the period between 1967 and 1994, during which time the same executive power enacted major policies in both the Occupied Territories and in Israel proper. The legal distinction between these entities, he posited, is blurred: Israeli primary legislation is applied through the military rule of the Occupied Territories, and the Israeli Supreme Court rules over both subsystems.

A comprehensive discussion of the control system approach can be found in the study by Azoulay and Ophir (2012), who argued that Israeli control in the Occupied Territories is constructed as external to the Israeli regime; though the occupation is perceived as "a problem," the Occupied Territories are not regarded as an inherent part of Israel. The externalization of the occupation is thus not only a key element of

the explanation of how Israel sustains its legitimacy, it also supports the democratic structure of Israel proper. However, this separation between Israel and the Occupied Territories is merely a façade advanced by the regime. The Occupied Territories are neither a periphery of Israel nor a contested zone; they are an intrinsic part of Israel. Granted the control system implemented in the Occupied Territories is separate from that in Israel proper, but it is not external to the regime, and thus any analysis of Israel must, perforce, include the Occupied Territories.

While the Israeli control system model was published in 1989, Azoulay and Ophir's study came out in 2012 in the wake of the major transformations that Israeli control system functions underwent during the 1990s and early 2000s. Prior to the 1990s, Israel maintained direct rule over all the Palestinians in the Occupied Territories. As a consequence of the First Intifada and other factors, relations between Israel and the Palestinians changed over the course of what became known as the Oslo process (Shafir 2017). Agreements reached between Israel and the PLO in 1993 engendered changes in the model of control implemented in the Occupied Territories, according to which a certain level of self-rule and autonomy was granted to the Palestinian Authority in most populated centers of the West Bank (Areas A and B) and in Gaza. As of 2007, after the removal of Israeli settlements and the formal withdrawal of Israeli direct military presence from Gaza in 2005, another entity, separate from the Palestinian Authority, has been developing in the Gaza Strip under the control of Hamas (Berti 2015). Thus, the Palestinian Authority in the West Bank and Hamas in Gaza perform certain state functions, raising the question of whether they are part of the Israeli regime, as suggested by the Israeli control system model.

Despite these changes, Azoulay and Ophir (2012) claimed that the entire area between Jordan and the Mediterranean Sea, including the Gaza Strip, should be viewed as part of the same regime. The Oslo process and the Israeli withdrawal from the Gaza Strip were, in their opinion, a means of maintaining Israeli control over the Occupied Territories. There was no shift of sovereignty from the occupation regime to the Palestinian Authority; this was just a cover-up looking to sustain Israel's ability to control the Occupied Territories without taking responsibility for its Palestinian population. In Area C, which comprises 60 percent of the West Bank, Israel maintains responsibility

for both public order and civil issues related to territory, while Palestinian Authority control is restricted to small enclaves whose immediate surroundings are tightly controlled by Israel. As Dana and Jarbawi (2017) explained: "While some 'cosmetic' economic functions were transferred to the PA [Palestinian Authority] to serve as symbolic trappings of quasi-statehood and help relieve Israel from the burden of overseeing civil services (e.g., welfare, education, health, and other social services), Israel maintained sole control of essential pillars of the economy" (16) (see also Amir 2013; Berda 2017). Azoulay and Ophir also maintained that the withdrawal from Gaza did not change the fundamental logic of the Israeli regime of control; despite having no direct presence in Gaza, Israel's land, air, and sea blockades of Gaza make it subject to Israeli control.

Taken together, interpretations of the unit of analysis guided by the three main perspectives used as justification for limiting the focus to Israel proper – the externality of the Occupied Territories, the judicial justification, and the temporality of the occupation – lead to conflicting classifications of the regime. This leaves us asking how the regime is analyzed from a comparative perspective in cross-national regime indexes and whether there are alternative interpretations of the unit of analysis.

3.3 The Unit's Borders through the Lens of Cross-National Indexes

The distinction between Israel proper and Israel/Palestine is a subject of vigorous debate that is confined mainly to scholars of Israel. From a comparative perspective, the Israel proper approach is used by the cross-national regime indexes. Accordingly, the indexes that were used to describe Israel in Chapters 1 and 2 do not include the Occupied Territories in their assessment of Israel. Their ratings of the Israeli regime, which remained unchanged both in the wake of the 1967 war and after the Oslo Accords, do not therefore reflect the changes and developments that have occurred in the Israeli zones of control. Put differently, cross-national indexes examine Israel within the country's formal, legal borders and do not code the Occupied Territories as part of the regime. Perhaps the adoption of this approach could be seen as a viable way of resolving the dispute over the question of the unit's borders. After all, such indexes should provide

comprehensive accounts of how the "state," their fundamental unit of analysis, has been coded. However, an in-depth examination of how the cross-national indexes address the Israeli case reveals fundamental discrepancies that effectively preclude their use.

The issue of defining the unit of analysis is underdeveloped in states indexes, particularly in cases that involve disputed borders. One way to address the issue of borders is to be guided by legal doctrine and to focus only on states within their legally recognized borders. This approach can be found, for example, in the Polity project:

> The Polity project does not consider the special authority and participation issues raised in cases of extra-territorial administration in assessing and coding the authority characteristics of the state polity. In such cases of "colonial," "occupied," or "trust" territories under the effective extra-territorial administration of a state polity, a separate polity is assumed (but not coded as a separate case). (Marshall et al. 2019: 2)

The Polity project is one among many cross-national indexes that use legally defined borders to define the unit of analysis. The logic of this approach notwithstanding, its inherent weakness vis-à-vis disputed cases was exposed in the earlier description of the Israeli case.

Unlike Polity, the Freedom House indexes code not only for states but also for what they term "territories." The Freedom House score for 2017 includes fourteen such "territories": Abkhazia, Crimea, Gaza Strip, Hong Kong, Indian Kashmir, Kurdistan, Nagorno-Karabakh, Northern Cyprus, Pakistani Kashmir, Somaliland, South Ossetia, Tibet, Transnistria, and Western Sahara (Freedom House, 2019).[2]

[2] While the Freedom House index provides scores for these "territories," its methodological section does not provide any clarification of why these specific units are observed each year, besides a general statement that the criteria are: "Whether the territory is governed separately from the rest of the relevant country or countries, either de jure or de facto; Whether conditions on the ground for political rights and civil liberties are significantly different from those in the rest of the relevant country or countries, meaning a separate assessment is likely to yield different ratings; Whether the territory is the subject of enduring popular or diplomatic pressure for autonomy, independence, or incorporation into another country; Whether the territory's boundaries are sufficiently stable to allow an assessment of conditions for the year under review, and whether they can be expected to remain stable in future years so that year-on-year comparisons are possible; Whether the territory is large and/or politically significant." (Freedom House, n.d.) In addition, the removal from the list of "territories" previously included in the reports, such as West Papua, Chechnya, Kosovo, Northern Ireland, and Puerto Rico, is not satisfactorily addressed.

Table 3.1 ***Freedom House political rights and civil liberties (combined) index rating of the Occupied Territories***

	West Bank and Gaza Strip	Israeli-Occupied Territories	Palestinian Authority-Administered Territories	West Bank	Gaza Strip
1978–1995	30				
1996–2009		20	26		
2010–2018				23	15

Notes: Reserve indexes – a lower score reflects fewer political rights and civil liberties. Adjusted to a scale of 0 to 100, the scores are the average ratings for the years listed.
Source: Freedom House.

Likewise, in the Israel/Palestine sphere, it classifies the Occupied Territories as distinct units. Table 3.1 presents the ratings for these units for the years in which coding is available. The figures show that the West Bank and Gaza Strip are coded as a single unit until 1995. From 1995 until 2010, the Palestinian Authority is distinguished from the "Israeli-Occupied Territories." However, it is not clear whether the term "Israeli-Occupied Territories" refers to only Area C in the West Bank or also includes the Gaza Strip. And more importantly, as written in the Freedom House annual survey: "Beginning with the 2011 edition, the Territories are divided along geographical, rather than shifting jurisdictional, lines, with one report for the West Bank and one for the Gaza Strip" (Freedom House, 2019). Therefore, from 2011, it is unclear whether the coding of the West Bank as a unit refers to the Palestinian Authority, to Area C, or to both. While the unit in the Gaza Strip under the control of the Hamas can be clearly defined, it is unclear what territory the West Bank unit includes.

A similar coding challenge can be found in the definitions of the units of analysis used by the V-Dem project. Employing a functionalist approach to the definition of borders, the V-Dem project codes Israel and Palestine separately as three units: Israel, Palestine/West Bank, and Palestine/Gaza.[3] However, the V-Dem coding of the Palestine/West Bank unit does not include areas over which Israel has complete

[3] The V-Dem justification for coding Palestine/Gaza as a separate unit from 2007 is that this is when Hamas gained control over Gaza.

control, namely, the territory contained in Area C. In other words, from 1994, the coding of Palestine/West Bank refers only to the Palestinian Authority. Area C is curiously neglected by V-Dem, which does not code the area at all, meaning that 60 percent of the West Bank territory, which is under direct Israeli control, is not considered part of either the West Bank or the Israeli unit. This separation into different units reflects the V-Dem approach to polities as "political institutions that exist within large and fairly well-defined political units and which enjoy a modicum of sovereignty or serve as operational units of governance (e.g., colonies of overseas empires)" (Coppedge et al. 2017: 15). Colonies are thus analyzed as separate units by V-Dem, according to the logic that any unit that has some level of autonomy, even if only in local affairs, should be analyzed as a distinct unit. In the frame of a comparative project, the West Bank and Gaza territories should therefore be coded as distinct units when they were under Israeli control and understood to have functioned as distinct units with certain levels of autonomy during the periods of Palestinian Authority rule in the West Bank from 1994 and of Hamas rule in Gaza from 2007.

The logic that the semiautonomous functionality enjoyed by the disputed territories renders them eligible for separate analyses does not address the challenges of coding Area C: Should it be part of Israeli unit or part of the West Bank unit? Both V-Dem and Freedom House did not address this question satisfactorily. The former simply avoids coding the area at all, and it is not clear whether the latter codes Area C as a separate, distinct zone or as part of the West Bank, despite the fact that since 2011 it has been coding the entire West Bank. The challenges to defining cross-national indexes – and ultimately classifying the regime – are illustrated by the problematic nature of coding Area C. Given that the West Bank and Gaza (1967–1993) units under Israeli control are both rated at 25 percent by V-Dem (similar to the Freedom House rating), which classifies both areas as "autocratic" (Coppedge et al. 2016), this is not just a question about the borders of the unit of analysis. If the West Bank and Gaza Strip between 1967 and 1993 are understood to be part of the Israeli regime or if Area C is understood to be under Israeli control, then there is a 50 percent gap between the democraticness rating assigned to Israel proper and the rating assigned to the West Bank/Gaza Strip. Therefore, the attempt to address this issue using cross-national indexes to classify Israel as Israel proper do not provide an accurate measure of the regime.

The shortcomings of relying on the cross-national indexes for regime analyses are especially poignant in the case of Israel with its disputed borders and a sharp distinction between the country's citizens and the subjects under its control. But Israel is not alone in this ignominious distinction, and the Freedom House indexes address around two dozen other cases of disputed "territories," including Northern Cyprus, Tibet, Kurdistan, and Puerto Rico. Florea (2014), for example, identified "Palestine" (from 1995) and "Gaza" (from 2007) as part of thirty-four cases of "de facto states" created between 1945 and 2011. These are separatist entities exercising some level of monopoly on the use of violence in a given territory yet lacking universal recognition.

Classification of the unit of analysis is even more problematic for historical regime analyses. Modern history is rife with examples of nationalities that, while subject to a state's authority, are nonetheless excluded from the community of its citizens who are able to participate in crafting its laws. The extent to which colonies should be kept separate from their colonizing state regimes, however, is an open question that is beyond the scope of this study. Nevertheless, this short review of how the cross-national indexes have traditionally coded disputed cases emphasizes the conceptual challenge of defining the Israeli unit.

3.4 How Should the Unit of Analysis Be Defined?

3.4.1 State and Regime: A Conceptual Discussion

The scholarly disagreement over how the unit of analysis should be defined in the Israeli case also reflects the different disciplinary approaches, which are also determined by the focus of inquiry. From the legal framework perspective, for example, it is reasonable to adopt the unit's borders as they are defined by local or international laws. However, when the focus of the analysis is the regime, a conceptual discussion is required to lay the foundation for the definition of the unit of analysis.

The justifications offered by scholars for limiting the focus of their analysis to the unit of Israel proper or, alternatively, including the entire Israel/Palestine unit are, in my opinion, finite. The unit of analysis should, instead, be determined by the concepts of state and regime, thus requiring a definition of "state" and a clear distinction

between state and regime, with the latter being used to describe various phenomena such as international regime or economic regime. The classical definition of the modern state is rooted in Weber's (1958) definition that a state is a "human community that (successfully) claims the monopoly of the legitimate use of force within a given territory" (78). The state's distinctiveness from other political organizations is therefore in its claim to a monopoly on violence. While the monopoly on the use of force is an important aspect of what states do, this is just one aspect of the ways in which states project their authority over territory and population. Mann (1984) developed this approach further by describing state uniqueness: "Only the state is inherently centralized over a delimited territory over which it has authoritative power" (198). The state is thus an organization that exercises a prioritized authority over all other organizations that are active within its territory. It is the ultimate source of authority.

The state can treat the society(s) under its control in either similar or distinct fashions. In other words, the functions of a state do not require the existence of a single, unified society. Indeed, a single state can control multiple societies and even established yet dissimilar national groups while still meeting the criteria for Weber's definition of a state. The functional point of view can also be examined in terms of the legal framework in place, such that state function is based on rational bureaucratic management of control over a given territory. The mere functions of the state, however, contribute nothing to the international recognition of its borders. Moreover, a clear, judicial definition of the territory is not required for the state to exist. International recognition together with an overlap between state and society and clearly declared borders may, indeed, help ensure the state's ability to function both locally and in the international arena, but state functionality is not dependent on these attributes. There are states like Taiwan with limited international recognition that hold effective prioritized authority over their territory, while others like South Sudan have international recognition but only ineffectual authority.

In fact, reliance on a clear judicial definition and international recognition as the criteria for defining a state reflects a decidedly unhistorical understanding of the notion of state. Historically, the development of the state typically entailed a lengthy process during which military and political power were centralized by a bureaucratic body in its efforts to gain control over a given territory and its

inhabitants. Well-defined and recognized borders reflect the outcome of the protracted process of state formation and manifestation. Such was the scenario in Europe, where state formation typically required several centuries and included efforts to gain control of the bureaucratic body through stages characterized by inclusion, exclusion, nationalization, and homogenization and by frequent disputes over borders (Fukuyama 2011). Outside of Europe, state formation processes are a more recent phenomenon. Some states have managed this process more efficiently than others, many of whom remain fragile and still lack the ability to function despite their clearly recognized borders. Regardless of this variability in state functionality, I contend that state function does not require clear, recognized borders. Indeed, functional development of the state is partly dependent on the declaration of clearly defined borders and, when possible, obtaining international recognition of those borders. Nevertheless, clear and recognized borders are not an a priori requirement for the existence of state functions. Likewise, the state does not require coherent and universal forms of coerciveness or resource allocation toward all those that are under its bureaucratic control.

Political regime is a characteristic of a state. While there are numerous definitions of political regimes, their essence describes the relationships between a given political authority and those who are subject to state control, i.e., the society(s) residing within the territory that is under the state's authoritative power. These relationships can be realized in myriad ways, from simple despotism to the established and institutionalized limitations on state power implemented in liberal democracies, and may also vary over time or between zones of control. As discussed in Chapter 2, the regime's levels of democraticness can vary across time and between dimensions.

Following this perspective, the distinction between those who argue that Israel should be analyzed as a normal state and those who see it as a colonial/settler colonial state is less relevant for analyzing the regime. Whether normal or colonial, a state's fundamental function is to exercise authoritative power over a territory and people. Despite the varying definitions of the unit of analysis, the approaches from both the Israel proper and Israel/Palestine perspectives reflect a similar understanding of the notion of state. Both assume that a state exists within an undisputed territory and that there is an overlap between the state's universal legal framework and the territory under its control.

Those who focus on Israel proper view the Occupied Territories as a blatant deviation from a "normal" conceptualization of the state and ignore Israeli state functions and control of the Occupied Territories through a group of centralized, bureaucratic bodies. Dowty (2016), for example, in defense of focusing on only Israel proper for analyzing the Israeli regime, argued that

> The "occupied territories" were never a part of Israel's political system, nor was there ever any pretense of democracy there. . .It has been argued that Israel and the territories it controls in the West Bank (which include the Jewish settlements there) should be analyzed as a single "control system," but the stark differences in the two situations require different frameworks of analysis. (759)

Indeed, there are stark differences between Israel proper and the Occupied Territories, particularly in light of the fact that the Palestinians in the Occupied Territories do not hold Israeli citizenship. Do these differences imply, however, that all the Palestinians in the Occupied Territories were not subject to Israel's coerciveness or resource allocation between 1967 and 1994? Do they mean that the Palestinians in East Jerusalem have not been subject to Israel's resource allocation until the present day? If one accepts the conceptualization offered here of a regime as a relationship between a political authority and those subject to the state authoritative power in a given territory, the argument that the Palestinians in the Occupied Territories are not part of the regime does not hold. Likewise, those who argue for the Israel/Palestine unit also hold a "normal" conceptualization of the state, according to which "'Israeli realities' question the very existence of a 'state' in its conventional sense" (Kimmerling 1989: 266) or the Israeli situation is "sui generis" (Azoulay and Ophir 2012: 228). What, however, is the conventional sense of a state and how does it differ from the state as an authoritative power over a given territory?

This fluid understanding of the notion of state is not unique to the Israeli case. In fact, similar approaches have dominated the conceptualizations of states in comparative politics studies. Moreover, nearly all the definitions of a state are based on the idea of a defined and undisputed territory (Kaspersen and Strandsbjerg 2007). Yet, the question of how a given territory came to be is not part of the general definition of the state, as it takes the existence of defined and

recognized borders as a given. Most sociological approaches to the state take the question of territory for granted (Brenner et al. 2003).

Studies of regimes thus often perceive the regime as coherent across the dissimilar spaces of a given state. It is, therefore, no wonder that cross-national indexes cannot fully address disputed cases or cases with subnational variations of the regime. Pepinsky (2017) views such situations as "regions of exception," which can "describe a mode of governance that lies outside of the regular constitutional or juridical order" (1035). He used this term to point to the methodological challenges of such regions to subnational investigations. These are situations in which the units' boundaries are vague, and it is therefore unclear what exactly is being measured. These "regions of exception" defy the ability to measure the regime, as well as other variables, of a given unit. Likewise, the case of Israel proper or Israel/Palestine challenges a clear definition of the unit.

The assumption in comparative politics is that a unit has clear boundaries. In his clarification of the case study method, Gerring (2004) presented the following definition: "A unit connotes a spatially bounded phenomenon – e.g., a nation-state, revolution, political party, election, or person – observed at a single point in time or over some delimited period of time. (Although the temporal boundaries of a unit are not always explicit, they are at least implicit)" (342). A unit is, therefore, a political phenomenon that can be distinguished from other units due to its clear borders in time and space; if deprived of these clear borders, it is impossible to measure the variables of a unit. It is therefore not surprising that cross-national indexes were limited in their attempts to measure the Israeli regime, as elaborated above (Section 3.3). If there are no clear units, then an alternative classification is required.

3.4.2 *Alternative Classification of the Unit of Analysis*

The approach proposed here challenges the strict adherence to a definition of either Israel proper or Israel/Palestine as the unit of analysis. Following the conceptualization of regime as a characteristic of a state, namely, authoritative power over a given territory, the unit of analysis cannot be just Israel proper nor, from the 1990s onward, Israel/Palestine.

Israel proper exists to the extent that the regime behaves according to a certain set of rules and extracts resources from the territory

contained within the 1949 borders. The levels of democraticness in this zone are inherently different from those beyond the 1949 borders. These differences, however, do not imply that the regime itself is limited to only the 1949 borders. From 1967 and until the 1990s, the West Bank and Gaza Strip were under Israel's authoritative power. Regardless of the legal or international definitions of Israeli control, the regime claimed a monopoly on the legitimate means of violence between the Jordan River and the Mediterranean Sea. It was the sole authoritative power in this territory and suppressed any attempts to challenge its position. The regime's levels of democraticness toward its Palestinian subjects differed from those found in Israel proper; this does not mean, however, that there wasn't one sole regime controlling the entire territory.

In 1994, this scenario changed. After the establishment of the Palestinian Authority under the Oslo Accords and the initiation of Hamas control of the Gaza Strip in 2007, the functions of the Israeli control system were fundamentally altered, rendering the notion of Israeli control questionable. In Area A, the Palestinian Authority now maintains a certain level of control over the legitimate means of violence and the resources that are allocated in these territories. The extent of actual Palestinian Authority control, however, is limited by Israeli control of the areas surrounding the isolated Palestinian enclaves in Area A and by the occasional acts of violence carried out there by the IDF (Israel Defense Force). More importantly, the IDF holds the ultimate control of what Israel considers as its security in the West Bank. Israel also controls the Palestinian population registry and uses it in various ways to limit Palestinian movement and to expel Palestinians (Azarov 2014). In addition, Israeli control of the economy in the Occupied Territories damages the Palestinian Authority's ability to efficiently allocate resources to its citizens and thus to function as a state (Dana and Jarbawi 2017). In contrast to the level of Palestinian Authority control in Area A, Hamas has managed to wrest greater autonomy from Israeli control in the Gaza Strip, assuming, in the process, more control over the legitimate means of violence. Yet, Hamas autonomy is also restricted by Israel's control of most of the external borders of the Gaza Strip and the ongoing air, sea, and land blockade.

The differences in authoritative power are reflected in Israel's use of force against the Palestinians. Gordon (2008) analyzed this following

Ron's (2003) distinction between ghettos and frontiers. Shaped by the institutional setting within which it takes place, state violence in ghettos – areas within the state's legal sphere of influence with unwanted and marginalized populations – varies markedly from that doled out in frontier regions, which are differentiated from the controlling state's territory by clear boundaries. Frontiers, Ron claimed, are prone to more brutal and lawless violence, whereas ghettos are characterized by ethnic policing, mass incarcerations, and ongoing harassment of the population. Ron's comparison between Israeli violence in Lebanon and in the Occupied Territories prior to the 1990s led him to claim that while Lebanon was a frontier, the Occupied Territories were qualified as ghettos. Gordon (2008) used this distinction to show how Israeli violence in the Occupied Territories has changed since the 1990s. Gordon claimed that the sharp increase in the numbers of Palestinians killed by Israel since the 1990s reflects the Israeli regime's gradual shift from the violence of ghettos to the violence of frontiers. Following this logic, this distinction is evident in Israel's use of violence in the Gaza Strip in 2008–2009, 2012, and 2014, occasions when a number of Palestinians were killed and the intensity of the warfare outnumbered the 1990s. Likewise, parts of the Occupied Territories shifted to frontier rather than ghetto status – a change that reflects a change in the model of control over the Occupied Territories.

From a functional perspective, the justifications for restricting the analysis of the Israeli regime to Israel proper or analyzing the entire zone as Israel/Palestine are limited. Given the understanding of regime as a certain class of relations between a given state and those subject to its control, a focus on only Israel proper excludes territory and inhabitants that are under the state's control. In light of the numbers of Jews and Palestinians living outside Israel proper and the tremendous influence of the settlement project in the Occupied Territories, this is not a marginal issue but a key aspect of the Israeli state. At the same time, it is not clear to what extent the Palestinian Authority (Areas A/B) and the Gaza Strip under Hamas are subject to Israel's exclusive control as part of the regime or whether they are, in fact, only under the strong influence of the state. Following Kimmerling's (1989) aforementioned definition of a control system, Areas A/B and the Gaza Strip are not merely "held together by purely military and police forces" (p. 266). Rather, they are strongly influenced by Israel across many domains

with varying levels of control and influence. Therefore, instead of defining the territory between the Jordan River and the Mediterranean Sea as the "Israeli control system," I suggest describing it as a system of *control and influence* whose implementation varies across time and space and depends on the type of people who populate the territory. This system is, however, distinct from the Israeli regime, which should be analyzed only according to the system of direct and exclusive Israeli control.

My argument departs from the Israel/Palestine approach. Many observers (Azoulay and Ophir 2012; Berda 2017; Gordon 2008; Handel 2009) have claimed that ultimate control over the Occupied Territories and the Gaza Strip is in the hands of Israel, as Israel maintains the occupation through other means. Gordon (2008), for example, explained that the Oslo Accords were not about the withdrawal of Israeli power; rather, they created a situation in which the Palestinian Authority received limited sovereignty over occupied people, while Israel continued to control most of the occupied land: "The overarching logic informing the different agreements is straightforward: transfer all responsibilities (but not all authority) relating to the management of the population to the Palestinians themselves while preserving control of Palestinian space" (173). The fact that Israel has complete control over the borders and the territory within the perimeters of the enclaves of Areas A and B indicates that it possesses the ultimate power of sovereignty. Similar logic is used to claim that Israel is sustaining the occupation of the Gaza Strip. Not only does Israel maintain thorough control over Gaza's airspace and territorial waters, it also controls the Palestinian population registry, which is used to manage population movement from the Gaza Strip to Israel. This claim is also supported from the perspective of international law regarding Areas A/B and is under debate regarding Gaza (Cuyckens 2016; Darcy and Reynolds 2010).

Regardless of whether or not the Israeli presence in the West Bank and Gaza is described as occupation, it is still less relevant to analytical analyses of the regime from a functional perspective. I assert that the Israeli regime should be analyzed in terms of how, across the space that it controls, it has pursued a monopoly on the means of violence and the allocation of resources for the territory and its inhabitants. Such a spatial analysis across the varied degrees of control and influence is, in my opinion, a prerequisite for understanding the Israeli regime. The

different regions of the West Bank and Gaza Strip discussed herein form a continuum: from areas that are under strict and direct Israeli control which can be formal (annexed East Jerusalem) or informal (Area C), where Israel bans or strictly limits (Area B) other agents of violence, to a zone of strong Israeli influence and indirect control (Areas A), where other agents of violence (the Palestinian Authority) are present and lastly, to a zone characterized by strong Israeli influence but with more limited Israeli control (the Gaza Strip).

It should be noted that these distinctions reflect the actual functions of the regime rather than either its legal status or the standards of international law. Therefore, despite the divergent legal statuses of annexed East Jerusalem and Area C, the two areas are under direct Israeli control. Moreover, the Israeli regime has intentionally reshaped these areas through its ongoing construction of Jewish settlements, on the one hand, and its attempts to exclude Palestinian inhabitants, on the other. Differentiating between Israel's modes of control is thus an attempt to conduct a thorough spatial analysis of the Israeli regime. This is an analysis which the following chapters conduct from the perspective of the different units, whose borders and definitions have changed over time. I limit my analysis to Israel proper and the territories where Israel maintains direct control: (1) Israel within the 1949 borders (1949–2019); (2) Israel and the Occupied Territories (including the Gaza Strip), i.e., the entire unit between the Jordan River and the Mediterranean Sea (1967–1994); and (3) Israel and the Occupied Territories, i.e., annexed East Jerusalem and Area C (1994–2019). Due to the transformation of the Israeli regime in the 1990s, when the influence of its direct control shrank drastically from control over the entire territory to control over only annexed East Jerusalem and Area C, the unit of analysis for defining the regime since 1994 can be divided into two distinct units with different levels of democraticness: Israel within its 1949 borders (Israel proper) and East Jerusalem/Area C.

3.5 Conclusion: Reconfiguration of the Regime Zones of Control

The aim of this chapter was, following on from Chapter 2, to provide an alternative interpretation of the vigorous debate over the classification of the Israeli regime that was reviewed in Chapter 1.

This chapter pointed out the conceptual challenges undermining efforts to clarify how the border of the unit of analysis should be determined in analyses of the Israeli regime. The classical Weberian definition of the state is inherently contradictory vis-à-vis the Israeli case. If a state is an organization that successfully claims a monopoly on the legitimate means of violence in a given territory, one might wonder what the "given territory" is and to what extent Israel manages to maintain its monopoly across this territory. By limiting the classification of Israel to Israel proper, there is no such contradiction, since the "given territory" reflects the legal framework that defines Israel according to both international and domestic laws that preserve the distinction between Israel and the Occupied Territories. However, the legal framework does not address the fact that Israel retained its monopoly on the means of violence over the entire territory between the Jordan River and the Mediterranean Sea from 1967 until the implementations of the Oslo Accords, from when it has been restricted to certain parts of the West Bank.

This explains why cross-national regime indexes do not provide an accurate definition of the Israeli case. Likewise, the fact that in Area C, which comprises 60 percent of the West Bank, Israel not only holds a monopoly on the means of violence but also allocates resources to undermine the Palestinian presence while extending Jewish settlement and control implies that the analysis cannot be limited to Israel proper. Similar contradictions can be found in analyses that define the entire territory between the Jordan River and the Mediterranean Sea as Israel/Palestine – one unit that should be analyzed as regime. In this territory there are zones of direct control, i.e., Area C, and there are zones with tremendous Israeli influence but not direct control, i.e., the Gaza Strip and, to a more limited extent, Areas A/B. So, while the territory between the Jordan River and the Mediterranean Sea can be seen as a system of *control and influence*, it is different from the Israeli regime, whose analysis should be limited to the system of direct control.

This contradiction raises key questions about the conceptualization of the state's borders and functions, especially in cases of disputed lands. One might similarly wonder whether cases of direct rule (the French model) or indirect control (the British model) of colonies imply different definitions of France or Britain. Such questions are, however, beyond the scope of this book and have been discussed elsewhere (see

Brenner et al. 2003). I do not advocate here for a strict definition of what the borders that form the unit of analysis should be when other issues are analyzed; instead, I argue that a spatial approach is required when analyzing the Israeli regime. By describing a certain type of relationship between a state and those who are subject to its control, the definition of the regime codifies how the relations between society(s) and political authorities are handled. The major shift that occurred in the regime of the Occupied Territories was the move from direct control over the entire territories between 1967 and 1994 to direct control of only Area C thereafter. The Israeli regime does not, therefore, include the Gaza Strip or Areas A/B. The main shift in the Israeli regime was a consequence of the First Intifada and the establishment of the Oslo process in the 1990s. The factors that supported and shaped this change are explained in Chapters 5 and 6.

4 *Democraticness of the Israeli Regime Across Dimensions and Zones of Control*

It should be clear by now that the Israeli regime cannot be defined via an established classification or a single index for the regime as a whole. Instead, the regime must be described across three dimensions – political contestation, protection, and coverage – and across different zones of control. This chapter provides a comprehensive description of the regime across these dimensions and zones of control based on a short historical overview combined with several indexes reflecting different components of the regime. I show that in Israel proper the highest levels of democraticness are in political contestation followed by protection, while the levels of coverage are much more limited. The regime in Israel proper is, overall, fairly stable despite some increase in democraticness after state consolidation and some more recent signs of possible decline. In the Occupied Territories, on the other hand, the levels of democraticness are minimal in the dimension of political contestation and coverage and highly limited in the area of protection. The regime in the Occupied Territories is not as stable as the regime in Israel proper due to changes in the zones of control.

4.1 Dimensions of Democraticness in Israel Proper

4.1.1 Political Contestation

Political contestation reflects the idea that there is a competition between leadership groups which makes rulers responsive to citizens through periodic elections. The main arena for political contestation is thus elections, and political parties are the key actors in this procedural account. The competition is institutionalized in formal procedures and actual practices that support the existence of a potential genuine contest for political power. The democraticness of political contestation is determined not by the mere existence of elections but by the presence of political competition over elected offices.

Several institutional aspects support the competitiveness of Israeli elections, originating in pre-independence era attempts to include the different factions of the Zionist movement (Medding 1990). The logic of inclusion persisted after the establishment of the State of Israel and its parliamentary regime, and the institutional configurations supporting the inclusiveness of the elections to the Knesset have been relatively stable, at least until recent years.

Given that there was a relatively low legal electoral threshold throughout most of Israel's parliamentary history and there is just a single national constituency with 120 seats, it is no wonder that Israel's electoral system is considered as one of the most extreme cases of proportional representation (Latner and McGann 2005). The electoral system was stable from the very first elections, so the potential for using election rules in order to undermine representation or competition was limited. In most elections (prior to 2015), the system did not create a high barrier to the entrance of new parties: The threshold was 1 percent until 1992, then 1.5 percent until 2004 when it increased to 2 percent, and only from 2015 elections was it 3.25 percent. The function of the threshold to undermine political contestation was, therefore, limited. In addition, the lack of electoral districts in Israel limits an incumbent's ability to manipulate districts in order to restrict the scope of political competition. Even David Ben-Gurion, the founding father of Israel, was unable to transform the election rules to a first-past-the-post system that would allow his party, Mapai, a majority of the seats and ensure its domination (Rahat 2001). The only major transformation in the election rules was the deviation from a pure parliamentary system by creating a rather unique structure of direct elections for the prime minister alongside elections for the Knesset. This (temporary) transformation did not, however, change the election rules for the Knesset. More importantly, the direct elections for the prime minister in 1996, 1999, and 2001 reflected an attempt not to undermine the competitiveness of the elections but rather to bypass some of the system's weaknesses (Kenig et al. 2005).

In addition to the proportionality of the electoral system, there are also some measures in place to increase the number of citizens able to vote. For example, voting is not compulsory, but election day is a national holiday. Likewise, there is no need to register to vote, as the voting records are managed by the Central Elections Committee.

The ability to manipulate voting records is fairly limited due to the involvement of the various political parties in the supervision of this process. Suffrage rules are highly inclusive (Beckman 2013), and citizens are free to take part in the electoral competition. Given these institutional features, it is no wonder that Israel's electoral integrity is rated by the Election Integrity Index to be in the upper 15 percent of countries that hold elections. This index measures the extent to which international standards and global norms govern the appropriate conduct of elections (Norris et al. 2014). Israel's overall rating in the Perceptions of Electoral Integrity Index is 23 out of a total of 166 countries (Norris and Grömping 2019).

Periodic elections have been held in Israel since 1949, but in the first three decades, there was no shift in the major party that was responsible for forming the coalition: Mapai and its successor, the Labor party. In other words, the incumbents held office from 1949 to 1977 despite some changes in the configuration of the coalition governments. The first change in the party forming the coalition occurred in 1977 when the Likud party won more seats than Labor. Such an alternation in executive power via elections is considered a strict test of democratic consolidation, since it is the most direct test of elites' willingness to hand over power according to the rules of competition (Power and Gasiorowski 1997). There were additional shifts in power after 1977, reflecting the fact that Israeli elections were becoming more competitive. However, in more recent years there have been less shifts, as Likud has formed the coalition after the 2009, 2013, and 2015 elections. Despite its dominant position since 2009, Likud, under the leadership of Benjamin Netanyahu, has not formally changed the rules of political competition to its advantage.

When considering the dimension of political contestation, Israel does overall enjoy relatively high rates, especially since 1977. The institutional features of the electoral system are one of the explanations for the fairly high participation in the elections, at least until the 2000s: around 80 percent of the electorate. Levels subsequently dropped significantly, with the lowest turnout (62 percent) being in the direct elections for the prime minister in 2001. There was then a steady increase up to 72 percent in 2015 but with a decline to 68.5 percent in the April 2019 elections (Central Elections Committee 2019). These turnout levels are a further indication of high political contestation.

The proportionality of the electoral system is reflected in the relatively large number of parties in the parliament over the years.[1] In fact, the number of parties in Israel, measured using the Effective Number of Parliamentary Parties Index, varies from as low as 3.13 to as high as 8.69, and the overall average is high in comparison to other countries (Kenig and Tuttnauer 2017).[2] This multiparty structure is also reflected in the fact that no single political party has ever won a majority of seats in the legislative and all Israeli governments are coalition governments; most, in fact, have been surplus coalitions.

The high proportionality of the Israeli electoral system and the fact that a single party never holds an absolute majority are crucial factors in constraining the power of the executive. Given that in the parliamentary system, it is the executive branch, through coalition politics, that controls the majority of the votes in the legislature, the executive tends to be in a stronger position than the legislature. However, the fact that a coalition is always required is a check against the abuse of power by a single political party. The coalition can, of course, abuse power on behalf of the executive, but the abuse is more limited than in a situation with only a single party ruling the executive. Political contestation is not limited only to election periods but is an inherent part of the struggle between the parties forming the coalition. As long as the coalition is not monolithic, there is a need to balance various interests, and the competition between the different parties balances potential abuse of the executive power by any single party. The existence of coalition governments is, most of the time, an important barrier to any institutional changes, like electoral reforms, that are made to benefit a specific party (Rahat 2008) or the potential abuse of emergency laws to undermine political contestation.

The Israeli regime can thus be seen to have political contestation between parties both during and in between elections. An examination of the V-Dem subindexes that are used for measuring political contestation supports the description of high levels of democraticness in this

[1] The large number of parties in the Israeli parliament is not just a consequence of the electoral system; there are other social and political factors that also influence the number of parties (Lijphart et al. 2000).

[2] The Effective Number of Parliamentary Parties Index (ENPP) reflects the number of parties as well as their actual size relative to other parties, thus giving an accurate measure of parliament fragmentation. This might vary from around two in the US Congress to around nine in Brazil's multiparty system.

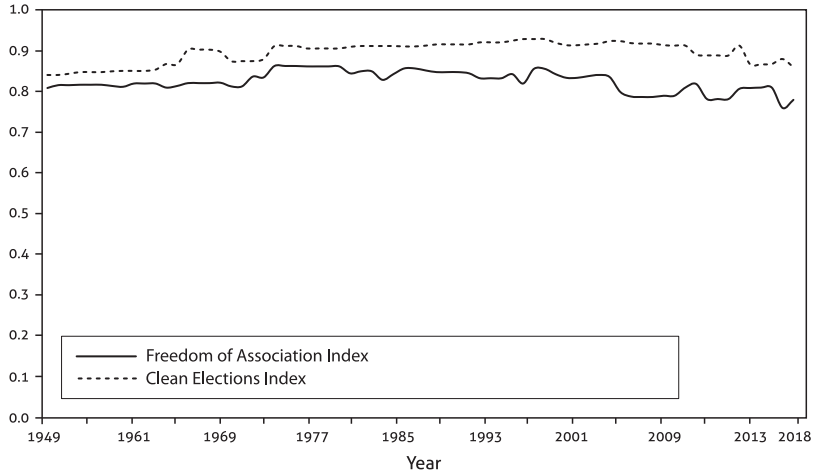


Figure 4.1 Political contestation in Israel proper 1949–2018.
Notes: Clean Election Index (v2xel_frefair) and Freedom of Association Index (thick) (v2x_frassoc_thick).
Source: Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

dimension, which have remained stable since 1949 (see Figure 4.1). For example, in the Clean Election Index, which measures to what extent elections are free and fair, Israel receives very high ratings; likewise, in the Freedom of Association Index, which measures, among other things, to what extent parties, including opposition parties, are allowed to form and participate in elections, Israel also receives high ratings.

4.1.2 Protection

Beyond political contestation, a thicker conception of democracy emphasizes its liberal dimensions, which are reflected in protections from the abuse of power and civil liberties. These protections are manifested in sets of freedoms such as the freedom of association, the freedom of expression, and the freedom of the press. Such freedoms not only protect from an abuse of power by the state but are also required for ensuring that civil society is able to act beyond state intervention (Lindberg et al. 2014). Different institutional settings are required in order to provide protection from abuses of power: for example, constitutional protection of the individual, the rule of law,

and an independent justice system. The variety of institutions aimed to ensure protection challenges the ability to draw a simple picture of this dimension in the Israel regime throughout the past seven decades. Yet, the fundamental characteristic of this dimension in the Israeli regime is the lack of established formal protections from state power. On the one hand, formal protection is extremely limited; on the other hand, practices of genuine protection have, nonetheless, developed over the years.

Israel lacks a rigid, formal, and codified document known as "The Constitution." Despite some intentions to write a constitution in the formative years after independence, the objections were strong then and remained so when later attempts were made. While there are several explanations for this, the primary historical reason was the concern that it would restrict the executive power (Medding 1990; Rosenthal and Doron 2010) – restrictions that were rejected due to the challenges of the nation-building project during the early years of the state. A constitution would have limited the state's ability to advance Zionist policy and might have required assurances of equality between Jews and non-Jews. This same logic was held, however, even after the formative period. It was clear that a constitution that includes a bill of rights would require the dissolution of the executive emergency powers which would thus undermine executive power (Gavison 2003). Likewise, a constitution that includes a formal obligation to equality would challenge the national, religious, and gender inequalities that are intrinsic to the Israeli regime (Giommoni 2013). Given the dominant political position of the forces opposing change in these inequalities, there would be limited ability to form a bill of rights as part of any constitution. Thus, regardless of which political parties were forming the coalition government, no constitution was ever adopted, and attempts to form a constitution by civil society organizations such as Constitution for Israel (in the 1990s) or the Israel Democracy Institute (1990s–2000s) did not succeed.

Despite this lack of a codified constitution, a set of basic laws was supposed to evolve over the years to form a constitution. So far, thirteen basic laws have been passed by the Knesset. This constitutional arrangement is rather limited in its protections from power and guarantees of civil liberties; yet, all attempts to form a full codified Bill of Rights have failed so far. Only in the two basic laws passed in the 1990s were some aspects of individual liberties introduced: "Human Dignity and Liberty" (1992) and "Freedom of Occupation" (1992).

These laws are unique in that they restrict the authority of the Knesset to enact laws that violate these basic rights. These two basic laws went on to have a tremendous impact, as will be discussed later. Very few aspects of the basic laws are safeguarded against amendments passed with a regular or absolute majority. In Israel's parliamentary system, the executive holds an absolute majority of the Knesset, and therefore this structure allows for constitutional changes in line with the incumbent's interests. The actual constitutional framework that exists in Israel thus gives enormous power to the executive (Mehozay 2016), a rationale which has not changed despite shifts in the parties controlling the executive.

Another aspect of rather limited protection is religious domination over certain individual liberties. While there is, mostly, freedom of religion in Israel, there is no freedom from religion (Triger 2012). In the sphere of personal status, citizens are subject to religious (rabbinical, Sharia, and Druze) courts. For Jews, marriage and divorce are conducted exclusively according to the religious laws of the rabbinical court, while for Muslims, there is general jurisdiction over all matters of personal status. These exclusive authorities in matters of personal status give legitimacy to the sets of religious norms governing these matters that are extended to all citizens regardless of their level of religiosity. As a result, some citizens, especially women, suffer discrimination and are denied basic civil rights (Giommoni 2013).

The lack of protection from state power is also evident in what are known as the "Defense (Emergency) Regulations." These regulations were enshrined in Israel's law book from the time of the British Mandate, when their purpose was to enable the Mandate authorities to suppress Jewish resistance and terror. The regulations grant various extraordinary powers to the executive authority with limited restraints and include emergency rules to be activated in limited times of emergency. A state of emergency is, however, permanent in Israel; it has not been canceled since the founding of the state. These defense regulations, along with other sources of emergency legalization, can be and are used by the authorities (Hofnung 1996). In fact, emergency laws are not used only at times of security crises; they are a key tool in the hands of the executive used to regulate economic activity and markets and implement economic policy. The emergency laws and regulations are, in fact, a systematical element of the regime (Mehozay 2016), allowing the executive to bypass certain Knesset legislative procedures.

The function of the judicial branch of the Israeli government in providing protection has developed over the years. Following the establishment of the state in 1948, the British Mandate's legal system was adopted. Judicial review was not regarded by the ruling elite as one of the functions of the judicial branch, and thus the legislature was immune from judicial review (Hofnung and Wattad 2018). Nonetheless, the lack of a codified constitution with an established bill of rights did not prevent Israel's Supreme Court from developing a judicial review as of the 1950s. From the 1970s, the court began applying more substantive criteria in reviewing administrative decisions and extended the recognition and protection of some civil rights. A bill of rights was thus created organically by court decisions over the years, despite the absence of formal constitutional protections. This process was further supported by several changes that weakened the Knesset vis-à-vis the judicial authority. Barzilai (1998) argued that the Supreme Court even received hegemonic status during the 1980s and 1990s. After the introduction of the basic laws in 1992 and the development of what is known as the "constitutional revolution," according to which Knesset laws became subject to judicial review, the Supreme Court's ability to provide protection was fully demonstrated. Even issues of security that had been under the sole control of the executive in the 1950s and 1960s were now subject to the increasing (but limited) influence of the judicial system (Cohen and Cohen 2012). The Supreme Court thus become a major veto player in Israel politics from the 1990s, and, as such, was able to extend protection.

The judicial constraints on other political authorities are clearly reflected in the sphere of political competition, where there have been attempts to limit the scope of political participation of PAI. In the previous section, I asserted that there is no single party rule in the election committee that can be exploited to limit political contestation. While this is true and there is no abuse of power by any one party, the committee's Jewish majority allows it to disqualify Arabs parties from participating in the elections according to constitutional limitations on political competition. The Knesset Basic Law was amended in both 1985 and 2002 so that candidates and parties can be disqualified from participating in elections for the following reasons: "Negation of the existence of the State of Israel as a Jewish and democratic state, incitement to racism, or support of armed struggle, by a hostile state or a terrorist organization, against the State of Israel" (Knesset Basic

Law 7A). While the amendment was originally justified according to the notion of "defensive democracy," the election committee used it to disqualify Arab political parties from participating in the elections. The Supreme Court, however, prevented the disqualification of Arab parties or Arab political candidates (as well as the disqualification of parties or candidates in other but not all cases).

This so-called constitutional revolution created a backlash, reflecting attempts to restore the old balance of powers and allow the government's elected branches to operate freely with minimal intervention from the court. The backlash was framed mainly by the composition of the ruling coalitions from the 2000s; governments have been led by either Likud or former Likud prime ministers with liberal, left-wing parties occupying the opposition benches. Legislative and administrative reviews have restrained the right-wing or center-right coalitions, especially given the focus of some of the court rulings that questioned practices and policies in the Occupied Territories – rulings that were perceived as undermining security or Zionist practices. These enable a depiction of the court as ideologically motivated by a hostile, secular, left-leaning agenda by factions that oppose the power of the court (Hofnung and Wattad 2018).[3]

It is therefore no wonder that since the late 1990s there have been efforts to limit the Supreme Court autonomy and ability to exercise judicial review. The attempts to establish a constitutional court along political lines aimed explicitly to limit the power of the judicial review and were led by those opposing liberalization and equality (Gavison 2003), which includes political actors from the executive as well as conservative factions. This backlash notwithstanding, in the years following the "constitutional revolution," there has been a sort of dynamic balance of power between the Supreme Court, the government, and the Knesset, with the court maintaining its independence and ability to exercise judicial review and provide protection (Meydani 2011). However, with the lack of established and unconditional constitutional protections of rights and the polemic on the status of the Supreme Court, there is no guarantee that such a balance will hold. In recent years, there have been growing attempts by those opposing liberalization and equality through judicial review to limit the court's independence by constitutional amendments and intensive delegitimization of the court. There have also been many legislative attempts to

[3] For a more comprehensive review of the backlash, see Saban (2017).

restrict the court's ability to exercise judicial review, reflecting the backlash against the Supreme Court (Roznai 2018). Members of the ruling coalition between 2015 and 2019 have delegitimized the Supreme Court and issued ongoing threats to its status. Chapter 5 reveals how the conflict was mobilized for this process.

Turning to the media sphere, there are relatively few practical restrictions in place. While the media is under rather rigorous military censorship and gag orders, its political abuse by the executive declined after the early decades of the state. The media environment became more pluralistic and today provides a lively arena for political debate with a diverse range of views and, on the whole, an environment for informing citizens about politics (Esser et al. 2012). Despite the fact that the executive holds powers enabling censorship and influence of the media, the freedom of the media was preserved mainly due to arrangements that are not regulated by law (Hofnung 1996). Nonetheless, the media is also subject to economic stresses alongside government regulations limiting its autonomy. This allows for political influence to be exerted on the media and limits its ability to provide information for the public. Such conditions have shaped the media environment in recent years to such an extent that it was classified as only "partly free" in the 2016/2017 Freedom of the Press report by Freedom House (Freedom House 2019). The explanation for this classification was that economic conditions in Israel undermine the stability of media outlets and encourage the unchecked expansion of paid content – some of it were government-funded. In addition, government intervention in media regulation was also found to limit its autonomy.

In the sphere of civil society, the formation of the regime did not include clear elements that constrain civil society organizations, thus demonstrating the fact that confrontational civil society did not emerge during the state's first decades due to the dominance of the elite over political life and civil society. Only from the 1970s did a relatively autonomous civil society develop, intensifying from the 1990s with the emergence of many NGOs (Yishai 2018). The Amutot (Non-Profit Organizations) Law that regulates civil associations was only introduced in 1980. Civil society organizations were, by and large, able to form and operate quite freely. There is, nonetheless, an article in the law that can restrict the freedom of association, and the defense regulations can be used to declare organizations as unauthorized or terrorist organizations. These regulations have been used several times

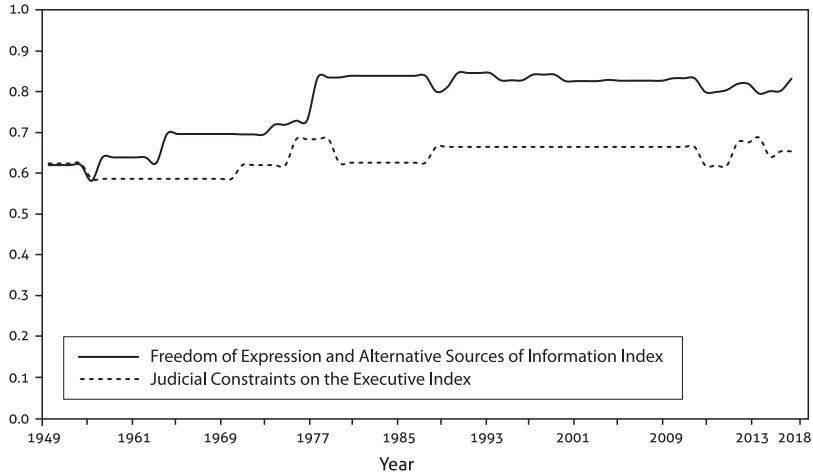


Figure 4.2 Protection in Israel proper 1949–2018.
Notes: Freedom of expression and alternative sources of information index (v2x_freexp_altinf) and judicial constraints on the executive index (v2x_jucon).
Source: Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

to restrict PAI associations. Since the 2000s there has been a shift toward the delegitimization of some civil society organizations that promote criticism of the government – a shift that climaxed in a law targeting left-wing NGOs (see Chapter 5).

These changes in the last decade demonstrate a minor regression in the dimension of protection, namely, a slight decline in the level of democraticness. These changes are incremental and have varying levels of significance across different spheres, but their aggregation shows a path toward what some have described as "constitutional retrogression" (Mordechay and Roznai 2017). According to Mordechay and Roznai, they demonstrate a type of counterrevolution to the 1990s' "constitutional revolution," with the right-wing elites undermining the democraticness of protection. This process of regression focuses on the Supreme Court statutes and some NGOs.

To conclude this section, Figure 4.2 illustrates Israel's democraticness in two areas of protection: First, the Freedom of Expression and Alternative Sources of Information Index, which examines "To what extent does government respect press and media freedom, the freedom

of ordinary people to discuss political matters at home and in the public sphere, as well as the freedom of academic and cultural expression." (Coppedge et al. 2019b: 42); and second, the Judicial Constraints on the Executive Index, which measures, "To what extent does the executive respect the constitution and comply with court rulings, and to what extent is the judiciary able to act in an independent fashion." (Coppedge et al. 2019b: 46). The levels of democraticness for these indexes as well as other dimensions of protection were rather limited until the 1970s; however, there has been increase in democraticness since the 1970s. Despite the fact that the executive holds tremendous power and there are very few formal constraints, practices of protection have developed, especially with the evolution of judicial review, and thus the overall levels of protection in Israel proper are rather high. The question remains, however, whether protection is consolidated. Development since the 2000s and especially in recent years implies that this is not the case and that there is, in fact, some signs of decrease in the democraticness of levels of protection across various spheres. These signs do not, however, indicate a general decrease in the levels of democraticness, as reflected in the indexes, and the overall evaluation of the regime in the dimension of protection appears fairly stable.

4.1.3 Coverage

A regime is capable of having high levels of political contestation and robust measures of protection for just some parts of the population. When certain social groups do not enjoy political contestation and protection, then the regime lacks coverage. This dimension is very limited in Israel. As mentioned previously, women in Israel enjoy less protection regarding their personal status than men due to the place of religious courts. However, the group that suffers the most limited political contestation and protection is PAI. As illustrated in Chapter 1, the status of PAI fuels the debate about Israel's very definition as a democracy. A detailed description of this situation is beyond the scope of this book and has been analyzed in countless scholarly accounts (Haklai 2011; Peleg and Waxman 2011; Rouhana and Huneidi 2017). Consequently, I refer here to PAI status only in the dimensions of political contestation and protection. A more detailed account of the democraticness of these dimensions is presented in Chapter 5 as part of the discussion of the explanatory factors for these conditions.

Following the 1948 war, around 160,000 Arabs remained under Israel's control and were granted citizenship, thus creating the category of the Palestinian Arab Israelis in the State of Israel. The shared citizenship did not alter the logic of the tension between Jews and PAI (see Chapter 5). Between 1948 and 1966, Arab citizens were subject to military rule – the major instrument through which the government exercised its policy of control over the Arab minority. Military rule has almost unlimited powers, and these were manifested in the government's authority to restrict the movements of Arab citizens and expropriate their land and property, thus ensuring their fragmentation and dependence (Cohen 2010; Lustick 1980; Sa'di 2016). During this period, Arab citizens were barely part of the political contestation. Only Maki, the joint Arab-Jewish communist party, was not a patronage party and provided some genuine representation in the Knesset (Rekhess 2007). The protection of Arab citizens from state authority was virtually nonexistent, given the fact that they were subject to a military regime under the defense regulations. Their property rights, in particular, were limited in light of the expulsions from their lands. In addition, they were, until 1963, subject to the military courts without the right to appeal (Hofnung 1996).

The abolishment of military rule in 1966 marks the beginning of a shift in the sphere of coverage. In the sphere of political contestation, different political parties emerged during the 1980s and 1990s that were beyond the grip of the ruling elite and the previous pattern of patronage voting. The low threshold for gaining representation in the Knesset enabled the emergence of parties representing different PAI factions. During this period, there was a steady increase in the use of voting as a manifestation of collective interests and identity (Ghanem and Rouhana 2001; Shihadeh 2015). This peaked in the 2015 elections when the Joint List, an alliance of the main Arab parties, gained nearly 11 percent share of the seats and became the third largest party (Kook 2017). While inclusion in the sphere of parliament representation increased, this did not correspond to participation in the executive.

To date, Arab parties have never been part of a coalition that forms the government; due to Israel's parliamentary system, they are thus permanently in the opposition. The climax of their political influence was during the twenty-fifth government of Israel, and this can shed light on the limits of their inclusion in the political sphere. The twenty-fifth government, which was responsible for launching the Oslo process with

the Palestine Liberation Organization, was formed after the 1992 elections from three parties: Labor Party (center-left, forty-four seats) Meretz (left-wing, twelve seats), and Shas (religious, six seats). After Shas left the collation in 1993, the government gained, until 1995, the external support of the Arab parties (Democratic Front for Peace and Equality, three seats; Arab Democratic Party, two seats). While the Arab parties were not part of the coalition, they prompted a tremendous shift in the allocation of resources to Arab citizens. No less importantly, their support for the government took place during the Oslo process, which was addressing constitutive issues. This situation led to public outcry from large segments of the Jewish population who challenged the legitimacy of a government that was perceived to be deviating from the "appropriate way of doing politics" (Haklai and Norwich 2016: 280). Put simply, the fact that the government was based on the Arab parties' external support cause its delegitimization among many Israeli Jews.

The possibility that PAI could hold such sway over the government and even be part of the government and not just gain representation in the Knesset led to a backlash, and no government since 1995 has similarly relied on the Arab political parties. Even Jewish parties that have been in positions to potentially form a coalition with Arab parties did not form a government with their support for fear of antagonizing key sectors of the Jewish electorate. For example, on election day 2015, Binyamin Netanyahu, the incumbent prime minister and Likud party leader, released a video accusing the left of transporting thousands of Arab voters to the polls in order to remove him from power. This video was an attempt to mobilize Likud voters in order to form what he called a "Jewish government."[4] In the April 2019 and 2020 elections, a similar tactic was used, with Blue and White, the Likud's main challenger, being accused of intending to form a coalition with the Arab parties. Delegitimization of the participation of Arab parties in the government is not only in the domain of political rights, however, there is limited support among the Jewish public as a whole for granting political rights to PAI (Ariely 2011). At the same time, it is important to emphasize that the Arab parties are themselves rather ambivalent about participating in any government coalition, as this would require them to take responsibility for government policy in

[4] Netanyahu, March 17, 2015, https://www.youtube.com/watch?v=Q2cUoglR1yk.

areas where the government is in conflict with the PAI in Israel proper, the Palestinians beyond Israel proper as well as Arab people.

In addition, there have also been some attempts to restrict PAI representation in the Knesset. A key change along this line was the shift of the legal threshold from 2 percent to 3.25 percent in 2014. This change was, among other reasons, in order to exclude some of the Arab parties from entering the Knesset (Ghanem and Khatib 2017). The unification of three Arab parties (and one Jewish-Arab alliance (Hadash) into one joint party (the Joint List) prevented this attempt in the 2015 elections. In the April 2019 elections, after the Joint List had been dismantled, another two parties combined (the Ra'am-Balad party), enabling them to pass the threshold. At the same time, more and more Arab citizens have been abstaining from participation in elections: Voter turnout has decreased dramatically, and fewer PAI tend to vote in the national elections than in local elections (Rosenthal et al. 2018). One of the possible reasons for the low turnout in the 2019 elections was the dismantling of the Joint List, whose creation in the 2015 elections had inspired a larger turnout among PAI. Unlike the patronage voting that dominated their electoral behavior under the military regime, this nonparticipation in elections signifies a lack of confidence in the regime. It has not, however, developed into the extensive organized behavior of boycotting the elections or the creation of alternative channels of representation (see more in Chapter 6). In fact, in the September 2019 elections, there was an increase of 10 percent in the PAI voter turnout.

The extension of the rule of law as a result of the "constitutional revolution" also affected, to a certain extent, the coverage of protection to Israel's Arab citizen. Due to an increasingly active civil society (Jamal 2011), some exclusionist policies were eliminated. Nonetheless, despite some liberalization, the court's ability to lead a fundamental change in the status of PAI was very limited (Sultany 2017). Arab inclusion in the political sphere and the abolishment of these exclusionist policies was fought by major factions of the Jewish elite, culminating in the introduction of the "Basic Law: Israel – the Nation State of the Jewish People" in 2018, which attempted to restrict any potential increase in the dimension of coverage. The motivation behind this law was to provide a counterbalance to the "constitutional revolution" elements that were perceived to threaten the Jews' dominant status and to guide court rulings, as explicitly stated in the 2015 proposal of the law: "The purpose of this law is to protect, through legislation of a Basic Law, Israel's status as the state of the Jewish people. This

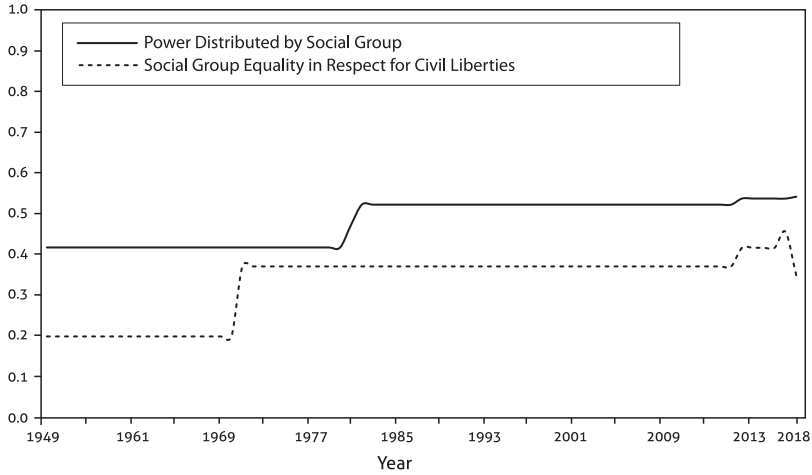


Figure 4.3 Coverage in Israel 1949–2018.
Notes: Power distributed according to social group (v2pepwrsoc) and social group equality regarding civil liberties (v2clsocgrp).
Source: Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

protection will be equal to the protection granted to the State's democratic character and to human rights by Israel's existing Basic Laws."[5] The law defines Jewish Zionist state symbols like the flag and national anthem but also includes a clause declaring that "[t]he exercise of the right to national self-determination in the State of Israel is unique to the Jewish People" and "The State views the development of Jewish settlement as a national value, and shall act to encourage and promote its establishment and strengthening."[6] As such, the law expresses symbolically the supremacy of Zionism over citizenship. While it might have the potential for genuine influence on various aspects that are related to PAI coverage (Jabareen and Bishara 2019), future Supreme Court rulings will determine the extent of this basic law's influence.

Figure 4.3 provides an overview of the levels of PAI coverage with a variable measuring power as distributed according to social group and

[5] Bill proposal 65913, 1989/20. July 29, 2015. Knesset documents. https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=LawReshumot&lawitemid=565913.
[6] https://knesset.gov.il/laws/special/eng/BasicLawNationState.pdf.

social group equality in respect for civil liberties.[7] The levels of democraticness were very limited after the establishment of the state, as reflected in the military regime's control of the PAI. The abolishment of the military regime led to some, albeit limited, increase in democraticness. However, as in the dimension of protection, this process created a backlash, and there have been increasing attempts to restrict the levels of coverage for PAI in recent years.

4.2 A Spatial Analysis of the Israeli Regime beyond Israel Proper

The description of the three regime dimensions in the previous section was limited to the 1949 borders. The fundamental characteristic of this unit is the overlap between state control and the legal framework that guides the relationship between the state and the subjects in this territory who are categorized as citizens. While there are differences in the ways the regime relates to different groups of citizens in this unit, shared citizenship is a key component in determining the democraticness of the regime. Yet, as discussed in Chapter 3, defining the Israeli regime as this unit alone provides a limited description of the regime. This section, therefore, presents an outline of the regime beyond the 1949 borders.

As a consequence of the 1967 war, Israel occupied the West Bank from Jordan and the Gaza Strip from Egypt, ultimately controlling the entire unit that had been under British Mandate rule from 1922 to 1948. Beyond this simple fact, there are various approaches regarding the framework for understanding and analyzing this situation. Some have focused on the legal aspects of this situation as framed in international law (Ben-Naftali et al. 2005), while others have exposed its settler colonial character and practices (Veracini 2013) or emphasized the lack of clear policy toward the Occupied Territories (Ranta 2015). My focus is on how the Israeli regime manages its relations with the territory and inhabitants of the West Bank and Gaza Strip. In other words, I concentrate on the ways in which the regime's functions are reflected in the levels of democraticness.

[7] Unlike Figures 4.1 and 4.2, the rates in Figure 4.3 are based on single variables and not a combined index, as the V-Dem indexes for coverage do not focus on ethno-national distinctions.

4.2.1 Democraticness in the Occupied Territories

Prior to giving a description of the regime, a short note on the overall structure of the regime is required. The fundamental logic of the regime is based on controlling the territory while keeping the Palestinians excluded from Israeli citizenship. This helps preserve the distinction between Israel proper and the Occupied Territories and reduces the visibility and the burden of the occupation (Azoulay and Ophir 2012; Shafir 2017). The differences between the military government (martial law) and the civil administration that was founded in 1981 are thus relatively minor when it comes to the basic structure of the regime. Such a system of control allows for two contradictory trends: selective incorporation and absorption of the territory alongside total externalization of the Palestinian population. This is characterized by entirely different rules of the game and institutional arrangements in Israel proper and in the Occupied Territories: in the former, a legal system and citizenship, and in the later, a variant of military rule over Palestinian subjects as well as partial rule by the Palestinian Authority.

Until the 1990s, the Palestinian subjects in the Occupied Territories were excluded not only from participating in political contestation of the regime that controlled them but also from developing their own separate institutions to manage political contestation. Israel harshly repressed any Palestinian attempts to develop genuine political representation; not only were elections not held but any efforts to create political organizations were crushed by the authorities. The only acceptable political representations and contestation were within spheres that did not challenge the regime such as municipal elections, and these were only held in 1972 and 1976. Open political activity was simply not allowed in the Occupied Territories between 1967 and 1990s. Any printing, publishing, or distribution of materials with political significance without permission from the military command was forbidden (Gordon 2008).

Restrictions of political activity are also found among the Palestinians of annexed East Jerusalem. Despite the fact that in the annexed East Jerusalem there is civil and not military control as in other parts of Occupied Territories, East Jerusalem Palestinians are "permanent residents" of Israel and not citizens. Their (potential) political participation is therefore limited only to the municipal elections in Jerusalem. The dominant approach among East

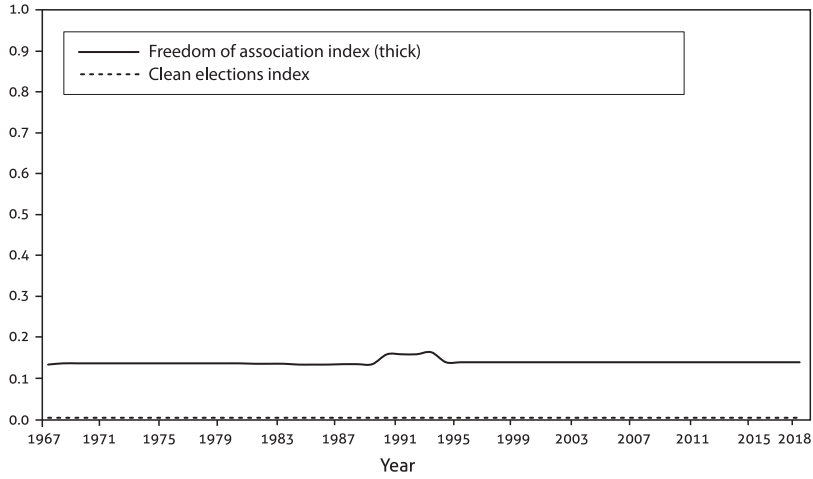


Figure 4.4 Political contestation in the Occupied Territories 1967–2018.
Notes: Clean Election Index (v2xel_frefair) and Freedom of Association Index (thick) (v2x_frassoc_thick).
Source: Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

Jerusalem Palestinians, however, is to avoid taking part in the municipal elections as participation would demonstrate acknowledgment of the occupation. Despite this annexation, East Jerusalem Palestinians cannot take part in national elections to the Knesset. Since the application of the Oslo Accords in the 1990s, the political contestation of Palestinians across the Occupied Territories has been directed at the institutions of the Palestinian Authority. But, East Jerusalem Palestinians are restricted from taking part in this process, as part of the Israeli attempt to deepen the distinction between East Jerusalem and other parts of the Occupied Territories.

When examining the dimension of political contestation, the democraticness of the Israeli regime in the Occupied Territories yields overall the lowest score. The Palestinians are ruled by Israel but are not represented and the Knesset is not accountable for them. Applying the Clean Election Index to the Occupied Territories would receive a rating of 0, as there have been no elections in the Occupied Territories. The Freedom of Association Index, which reflects the ability of political parties and groups to act freely, might not receive a rating of 0, but the rating is also minimal, as evident in Figure 4.4.

It is important to emphasize that the ratings are based on the V-Dem original rating of the unit from 1967 until 1993, which reflects the West Bank and Gaza under Israel's control. The ratings from 1994 to 2018 *are my addition* and are based slowly on the average of the 1967–1993 period. It should be noted that this figure does not reflect the changes in the zones of control discussed in Section 4.2.2.

The dimension of protection like that of political contestation was directed by the military rule. Several court systems can be found in the Occupied Territories, and Palestinians were subjects to military courts in all matters relating to Israeli control. They therefore had very limited protection from the authorities, which was apparent in the restrictions on the freedom of the press, the freedom of association, and the freedom of movement enabled by the systematic application of the defense regulations. These limitations have been documented in numerous reports and studies since 1967 (e.g., Berda 2017; Gordon 2008). East Jerusalem Palestinians are more protected than Palestinians in other parts of the Occupied Territories since they are subject to Israeli civil law and not to military rule; their freedom of movement, in particular, is less restricted.

These limitations notwithstanding, one place that does provide some form of protection is the Supreme Court. Since the enactment of Israeli control on the Occupied Territories and to date, the Supreme Court regards military government officials as part of Israel's executive branch. While there is a theoretical debate on Supreme Court jurisdiction in the Occupied Territories (Gordon 2008; Kretzmer 2002), the Supreme Court does seem to provide some degree of protection from the total arbitrary use of force by the authorities, and many Palestinians appeal to the Supreme Court against actions of the military government in the Occupied Territories. These include petitions relating to the legality of such varied actions as house demolitions, deportations, land requisition, entry permits, and others. On the one hand, the very existence of the judicial review has had some restraining effect on the authorities in the Occupied Territories; on the other hand, while providing this rather limited protection, the Supreme Court has often backed the authorities even in the face of harsh human rights violations. Furthermore, the Supreme Court frequently ignores international law and human rights standards (Kretzmer 2002). In fact, it was under the Supreme Court that Israel was able to gain control over

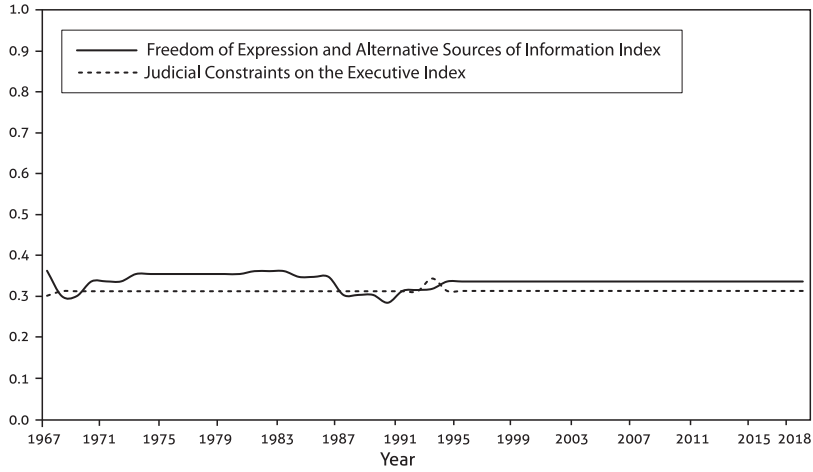


Figure 4.5 Protection in the Occupied Territories 1967–2018.
Notes: Freedom of expression and alternative sources of information index (v2x_freexp_altinf) and judicial constraints on the executive index (v2x_jucon).
Source: Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project. *See Figure 4.4 for clarifications on the ratings after 1994.*

massive portions of Area C and to expand Jewish settlements while restricting Palestinian presence. When the overall dimension of protection is analyzed, the levels of democraticness are low, yet still high when compared to the total lack of political contestation. As can be seen in Figure 4.5, application of the Freedom of Expression and Alternative Sources of Information Index and the Judicial Constraints on the Executive Index to the Occupied Territories indicates the low levels of protection.

The dimension of coverage is determined by the fact that in the Occupied Territories there is a clear differentiation between Palestinian subjects and Israeli citizens. For Jews in the Occupied Territories, political contestation is like that of Jews in Israel proper; unlike the Palestinians, they are not subject to limitations. Their level of protection is also much higher than the Palestinians, despite the fact that the settlements were not formally annexed to Israel. For Jews in the Occupied Territories, be they settlers or not, protection from the authorities is higher than the protection for Palestinian subjects who

are subject to both Israeli jurisdiction and Jordanian law (Shafir 2017). There are, in other words, two separate legal systems under the same authority. The protection of Jews in the Occupied Territories is, however, potentially more limited than that of their counterparts in Israel proper due to military rule and the possible yet rare use of repressive measures. Given these differences, the level of coverage is minimal, and if the indexes were to be applied, then the rating would be practically zero.

4.2.2 *Changes in the Zones of Control*

The structure of the regime was stable from 1967 to the 1990s, and all the Palestinians in the Gaza Strip and the West Bank were subject to this regime. The regime was subsequently transformed due to the Oslo Accords as well as other developments that changed the spheres of Israeli control and influence in the Occupied Territories, namely, the First Intifada in 1987. Until the First Intifada, the regime had managed the life of the Palestinian subjects in the Occupied Territories and was able to deal with the various attempts by Palestinians to challenge Israeli control. The main logic determining the regime's mode of control at this point can be defined as the colonization principle. According to Gordon (2008), this is a situation in which the colonizer (i.e., Israel) manages the lives of the colonized inhabitants (i.e., the Palestinians) while exploiting the resources of the colonized territory. Accordingly, until the 1990s, Israel undertook the administration of the major civil institutions through which modern societies are managed such as education, healthcare, welfare, and the financial and legal systems.

The stability of this regime changed as a consequence of the First Intifada. Detailed accounts of the First Intifada can be found elsewhere (Alimi 2007); here, I focus only its impact on the regime's control. The intifada aimed to sever Palestinian relations with the Israeli regime via methods such as a tax strike in order to achieve self-rule and, in doing so, posed a genuine challenge to the Israeli system of control (Shafir 2017). As a consequence of the First Intifada inter alia, changes took place in the relationship between Israel and the Palestinians as a consequence of the Oslo Accords and the accompanying process of reconciliation. The Oslo process has received a lot of varied scholarly attention in attempts to understand its causes and failures (Barak 2005;

Lustick 1997; Mahle 2005). Of relevance here is their impact on the regime since, as a result of the agreements, there were changes in the mode of control over the Occupied Territories which hold until today (See Chapter 6).

As discussed in Chapter 3, ever since the agreements between Israel and the PLO in 1993, there has been a distinction between the zones of control and influence in the West Bank. While the Palestinian Authority holds principal responsibility over the civil institutions in the West Bank, there are genuine differences between Areas A, B, and C, which reflect the shift in the regime's zones of control. The Israeli regime does not, as of 2005, include Gaza and Areas A and B in the West Bank, but it does include East Jerusalem and Area C, the territory in which nearly all the Jewish settlers live. The settlements in Area C are not part of an isolated society with a different logic from Israel proper; rather, their normalization indicates that they are not as distinct as one might assume (Allegra et al. 2017). The settlements reshape the socio-spatial fabric of the West Bank and its geographical landscape. In this space, Palestinian inhabitants and nearly all the Israeli Jewish settlers live under complex sets of rules that aim to seize the land for Jews and limit the presence of the Palestinians (Handel 2009). Area C was not annexed to Israel like East Jerusalem. Nonetheless, this zone is subject to what several scholars have described as a process of assimilation and annexation (Dajani 2017; Panepinto 2017). Despite the fact that Palestinians in Area C are under the control of the Palestinian Authority in civil matters such as health, education, and welfare, Israel has great control over their lives. The zone is not marked by the clear declared act of legal annexation but rather by a political, legal, and social process through which a geographical unit becomes, practically, a part of Israel.

Regardless of the changes which led to the distinction between zones of direct control that are part of the regime and zones that are not part of the regime, the basic aspects of the regime's democraticness across the three regime dimensions have not changed. Palestinian subjects in Area C are excluded from the Israeli political contestation, although they can participate in the elections to the Palestinian Authority (the last elections were held in 2006) and in the local elections to Palestinian municipalities. Their level of protection from Israel did not change as a result of the Oslo Accords; neither did the separation between Jewish citizens who enjoy protection and political participation and

Palestinian subjects who are not citizens and are excluded from the potential to influence the regime. In fact, in some aspects, the annexation of Area C even increased (Dajani 2017). This explains why I have chosen not to change the democraticness ratings in Figures 4.4 and 4.5 for the post Oslo Accords period. The major change was regarding the scope of control; a look back at Map 3.2 in Chapter 3 shows a shift from control over the entire territory of the West Bank and Gaza to control over Area C and East Jerusalem.

4.3 Conclusion: A Multidimensional Perspective on the Israeli Regime across Dimensions and Zones of Control

The aim of this chapter was to provide an alternative take on the debate about the classification of the Israeli regime that was reviewed in Chapter 1. Following the discussion in Chapters 2 and 3, a multidimensional perspective across three dimensions and zones of control was offered in order to describe the Israeli regime. This view focuses on the democraticness levels of these dimensions rather than on an overall classification of the regime. The three proposed dimensions, ranging from the minimalist, thin component of democracy to more extensive, thick components, are political contestation, protection, and coverage.

In general, the highest level of democraticness in Israel proper is in the dimension of political contestation, while the levels of democraticness are lower in the dimension of protection and even lower in the dimension of coverage. Despite these gaps, the regime has been relatively stable across the three dimensions throughout the state's entire history. There was, nonetheless, some increase in the levels of democraticness after the 1960s and some evidence of an incremental decline in the dimension of protection and coverage in recent years.

There are huge differences between the regime's levels of democraticness in Israel proper and in the Occupied Territories. In Israel proper, there are high levels of political contestation and protection from state authority and limited levels of coverage. Outside the 1949 borders, political contestation is repressed, there is very limited protection from state authority under military rule, and coverage is differentiated by separate systems of law for Jews and Arabs. Figure 4.6 illustrates the differences between Israel proper and the Occupied Territories across these three dimensions, differences which run along the whole spectrum of democraticness. The figure also reflects that the

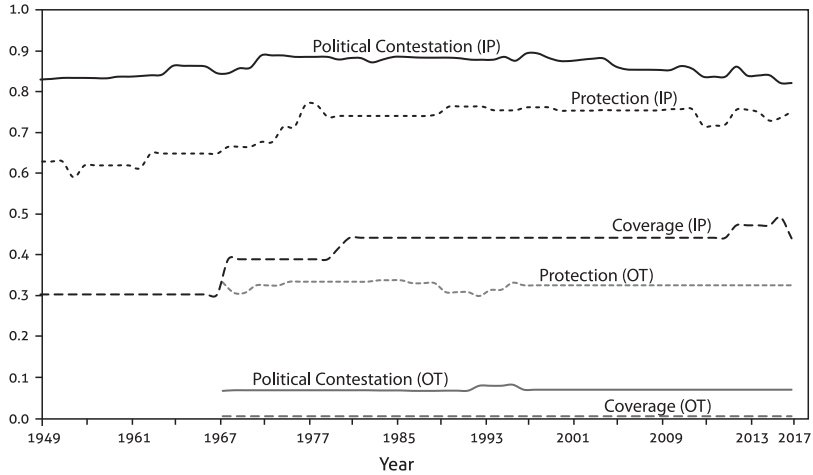


Figure 4.6 Democraticness in Israel proper [IP] and the Occupied Territories [OT].

Notes: The measures of the regime dimensions are the averages of the indexes that were used in Figures 4.1 to 4.5 (See Figure 4.4 for clarifications on the ratings in the Occupied Territories after 1994).

Source: Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project.

levels of democraticness in the Occupied Territories are fairly stable. What the figure does not show, however, is the fact that the zones of control shifted after the 1990s – a shift that can be seen as the major transformation of the Israeli regime. Chapters 5 and 6 focus on the key macro-level factors that shape the regime, its stability, and some of the changes in the democraticness and zones of control.

5 *The Conflict and the Israeli Regime*

This book has, thus far, offered an alternative perspective on the classification and borders of the Israeli regime. This chapter uses this perspective in order to demonstrate how this framework can be applied to one of the key factors that shape the regime: the conflict.

Israel is deeply involved in a conflict on a territory perceived as a homeland by Jews and Palestinians as well as in a conflict with the wider geopolitical environment. The intensity of the conflict and its appeal to different spheres – territory, identity, religion, and demography – are all indications that the conflict should have a profound impact on the regime. Previous accounts on the impact of the conflict on the regime have followed the framework of defining the regime as a whole. Some have therefore argued that despite the conflict there is a democracy, while others have classified Israel as non-democratic or as a diminished democracy due to the conflict (Ben-Eliezer 1997; Goldberg 2006; Kimmerling 2001; Peri 1983). The complexity of this particular conflict challenges the ability to provide an in-depth historical review or to address all the possible perspectives regarding the conflict. Instead, I argue that the conflict has formed the regime differently across varying dimensions and zones of control. This chapter therefore looks to explain the function of the conflict in shaping the regime's democraticness across different dimensions and the ways it influences the regime's zones of control via a review of the main theoretical frameworks for understanding conflicts and regimes. Given that this specific conflict has external and internal dimensions, the review inspects both, before outlining the main elements of the conflict and explaining how these dimensions are interlinked. The final part of the chapter offers an explanation of how the conflict has shaped the regime.

5.1 Conflicts and Regimes: Theoretical Framework

5.1.1 Conflicts as External

The relationship between regime types and conflict has mainly been examined by researchers in the field of international relations. Scholars of regimes have not emphasized conflicts and wars as key explanations over other macro explanations such as economic development or political culture which are internal to the state. Nonetheless, conflicts have been regarded as an external explanation for democratization that seems to have an important impact on the regime. Two alternative interpretations about the effects of conflict on a regime have been developed: the first views conflicts and wars as obstacles to democratization, while the second claims that conflict can lead to democratization. Both interpretations are rooted in sociohistorical accounts of state's development.

According to the first approach, countries that develop in threatened environments will tend to concentrate political power within the state, because war-making encourages and often rewards more authoritarian approaches to resource mobilization and decision-making. If such countries participate frequently in warfare, especially intensive warfare, they are less likely to adopt decentralized power-sharing arrangements, seen by state elites to be inefficient and undesirable. The geostrategic location of the state plays an important role at this point; continental states that face persistent territorial threats from neighboring countries are in risky environments. The ongoing potential threat to their territory leads to the development of strong land armies and the tendency to build the highly centralized state apparatuses needed to support large standing armies. In more peaceful regions, on the other hand, the rationale for democratization works in the opposite direction. States protected by geographic conditions, such as islands, tend to build decentralized state apparatus, as they enjoy some degree of insulation from the demands of external military competition. Peaceful environments can facilitate the gradual expansion of power beyond the hands of the rulers and support the democratization of the regime. It is thus no wonder that democratization was more successful in peaceful North America and Scandinavia than in more conflictual environments and that Britain was one of the first countries to democratize (Thompson 1996). A peaceful environment is therefore an

important precondition for the democratization process during the period of state formation.

Conflicts impact regimes not only in the period of state formation but also in the most consolidated states. Lasswell (1941) famously claimed, under the impact of World War II, that a garrison state, "a world in which the specialists on violence are the most powerful group in society" (455), is developed in conditions of wars despite formal democratic procedures and structures. A regime as a whole might be classified as a democracy but under the impact of war and external threats, the level of democraticness might be reduced across some dimensions. Protection and even legislative debate are sometimes perceived as a luxury when coping with external threats becomes state priority. On reviewing the effects of the "war on terror" on liberal democracies since 9/11, Krebs (2009) identified a consensus regarding the short-term impact of security crises on some aspects of the regime, namely, the power of the executive and the scope of human rights. Under the conditions of a security crisis, there is an expansion of arbitrary executive authority alongside a reduction in the power of legislators and judicial branches. This growth of autonomous executive authority runs contrary to the dimension of protection. Security crises tend, likewise, to contribute to the dimension of coverage: the more intense the security threat, the more likely there will be substantial restrictions on civil liberties among minorities.

In contrast to the first approach that conflicts and wars undermine democraticness, the second approach suggests that wars create possible paths for democratization during the period of state formation. This approach is rooted in the war-making/state-making perspective on state formation (Tilly 1992). War-making rulers need to find ways to finance their wars and mobilize their armies, especially after the development of mass armies during the nineteenth century. Consequently, there is an exchange of workforce, taxes, and compliance for some semblance of political participation. Ever growing proportions of the adult population received political rights in exchange for their readiness to support and participate in the increasing war efforts. Not coincidentally, in the nineteenth and twentieth centuries, the scope of these franchise extensions expanded along with the number of people regarded as important to the war-making efforts, either as conscripts or war industry workers, and capable of paying taxes. The formation of the mass army in late nineteenth-century Europe led to

democratization through the extension of the franchise and the creation of representative assemblies (Tilly 1992). Under the impact of the World Wars, this process expanded to include women and minorities and culminated in universal adult franchise.

Beyond these historical and theoretical accounts, systematic analyses of the effect of conflicts on regime types have been inconclusive. While democracies indeed do not usually wage war on other democracies, the relations between conflict and a regime's levels of democraticness are more complicated (see Reiter 2001). One possible explanation for these conflicting findings was given by Gibler (2007) who emphasized the importance of territorial conflicts between states. He argued that democracy and peace are both symptoms – not causes – of the removal of territorial conflicts between neighboring states. Democracy is more likely only after the removal of territorial threats posed by neighboring states, which then reduces the need for a large land-based military and centralized authority to defend the state subsidies. This is then followed by decentralization of authority and democratization. The focal point of Gibler's (2007) argument is that territorial conflicts are different from other causes for conflict. Unlike disputes on questions of policy or ideological differences, the defense or pursuit of territory is related to a state's most fundamental function, that is, ensuring territorial integrity. Threats to territorial integrity or to the state's very existence enable the rulers sufficient leverage to centralize authority.

Gibler's thesis is important here, not because it offers a possible explanation for the different studies' contradictory findings but rather because it emphasizes the unique importance of territorial conflicts. Territorial conflicts are different from other conflicts: They dispute the fundamental ability of a specific political entity to hold its functions in this territory and for the population living in this territory. Control of territory is a central function of the state; when territories are directly targeted, survival thus becomes the prime goal of policy. It is therefore not surprising that students of conflicts consider territory to be the most significant source of conflict (see Vasquez 2001).

The defense or pursuit of territory not only prompts states to engage in provocative and violent behavior and, consequently, to develop large armies, it also undermines a society's democratic norms and practices. When territorial conflicts are unsettled, there are internal mechanisms that undermine regime democraticness. Under their impact, internal cohesion tends to increase as citizens "rally around

the flag." In addition, during such times of salient external threats to the state, individuals seek safety and value conformity and deference to the leadership (Hutchison and Gibler 2007). Deviation from established group norms are discouraged, and citizens become willing to restrict political liberties to marginalized groups in society at a time when tolerance and minority rights and opinions are seen as a sign of weakness. Threats also impact state willingness to use measures of repression. Groups that are seen to be either tied to the opposing state, such as a potential fifth column, or a hindrance to the conflict effort, such as war protesters, may be regarded by the elites pursuing the conflict and the general public as a threat to security (Wright 2014). In such cases, repression of those segments within the population that appear to be impeding the conflict effort could bolster the public image of domestic security and benefit the government. In such contexts, citizens are, in addition, more likely to prefer the state leader to be unconstrained by legislative processes or other checks and balances (Miller 2017). Likewise, mainstream opposition parties are less likely to challenge ruling policy, and the opposition's willingness to check the domestic powers of the incumbent is limited. In this environment, it makes sense that leaders will use their advantage and try to eliminate checks against their power (Gibler 2010). All the studies referred to here demonstrated that the significant effects of territorial conflicts can be found both in and after the period of state establishment.

Territorial conflicts seem to have a key impact on a regime's levels of democraticness. It should be noted, however, that not all territorial conflicts are the same; it is important to distinguish between any conflict on territory and conflicts on homeland territory, which are especially relevant in the case of Israel. Homeland territory is different from any other territory regardless of its material or strategic value (Shelef 2016). The value of homeland territory lies in its essential role in constituting a nation from the very outset. The territorial dimension of nationalism is so fundamental that it is usually embedded in the nation's definition; the homeland territory is viewed as a sacred ground whose value is not interchangeable. Shelef (2016) analyzed homeland status and found that the division of homeland territories is particularly likely to lead to conflict. Homeland territory is thus more prone to conflict than other types of territory.

To sum up, there are several theoretical arguments for the effects of external conflicts on the type of the regime. First, when required to

cope with external threats, states tend to centralize power and are less likely to democratize. This is especially true in the period of state formation. Under the effect of conflict, the army and other security agencies are significant political actors that undermine democraticness. Beyond periods of state formation, security threats increase executive power and undermine protection. This claim is most relevant for territorial conflicts, especially regarding homeland territory, due to their implications for state integrity and the very definition of the nation. Peaceful settlement of territorial conflicts on homeland territory is a precondition for democratization. Conflicts might, in addition, be viewed as supporting democratization, as rulers need the public's cooperation in order to address the challenge of the conflict. Under the impact of conflicts, rulers provide political rights for those segments of society that they want to mobilize. Conflicts might, therefore, trigger opportunities to participate in the electoral process and increase the democraticness of the political contestation dimension. The logic of conflict is related to the logic of inclusionary political competition for society's mainstream. This logic, however, is not applicable to the dimensions of protection and coverage.

5.1.2 Conflicts as Internal

Not all conflicts, however, are external to the state; there are also internal conflicts that seem to influence the regime no less and perhaps even more than the external conflicts. Furthermore, the distinction between external and internal conflicts is not always clear-cut, as illustrated in the case of Israel. Some conflicts have both external and internal dimensions.

The effects of internal conflicts on regime types are less straightforward than external conflicts. One approach to internal conflicts perceives democracy as a solution for the initial causes of the conflict. This is the democratic civil peace hypothesis, according to which full democracies are seen to reduce civil conflicts (Fearon and Laitin 2003). The primary function of the democratic regime is to facilitate nonviolent ways of addressing social conflict. Nonviolent forms of protest expedite a peaceful resolution of conflict through bargaining and constrain leaders from resorting to repression due to fears of electoral repercussions. The grievances that might fuel revolution in a non-democracy can, in a democratic state, be addressed through nonviolent means

because the leaders are subject to the discipline of the ballot box (Goodwin and Skocpol 1989); the ballot boxes thus replace the need to rebel. If the regime is indeed democratic, the incentive for armed conflict is limited as there are less costly channels of action. In line with this approach is the view that democratic arrangements and, especially, power-sharing mechanisms are solutions for internal conflicts in deeply divided societies. Accordingly, democratization and the establishment of power-sharing mechanisms create long-term solutions for internal conflict, even for countries that have suffered civil war (Lijphart 2004).

Yet, this view of democracy as a solution for internal social conflicts overlooks the fact that internal conflict is, in the first place, a challenge to regime legitimization.

In *Considerations on Representative Government* (1861 [2011]), John Stuart Mill famously stated: "Free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion necessary to the working of representative government cannot exist" (221). This argument can be found in the key studies of democratization from the 1970s until the present day. In one of the first analyses of democratization, Rustow (1970) emphasized the importance of a consensus on national identity prior to democratization. Linz and Stepan (1996) stressed the centrality of internal conflicts in their seminal analysis of democratic consolidation. They pointed out that shared and agreed citizenship among all the members of the political units is crucial for democratic consolidation. In countries that are composed of different national groups, the lack of such agreements might, they asserted, intensify internal conflicts among segments of the population. Their assertion is not that internal conflicts are deterministic but rather that the greater the number of people who don't want to be members of a specific territorial unit, the harder it is to consolidate democracy in this unit (Linz and Stepan 1996). A precondition for democratization is, therefore, resolving the internal conflict.

When democratization is only partial, the risks of internal conflict are high. In fact, there is evidence that hybrid regimes, i.e., regimes that are not classified as either full and established democracies or as full autocracies, have the greatest potential for internal conflict. While full democracies have the means to accommodate contenders and full autocracies have the means to repress them, hybrid regimes often lack

both, leading to the highest risk of conflict. The inconsistent nature of such regimes explains this tendency. By mixing a level of repression that is not comprehensive enough to quell the opposition with some degree of political competition that is not sufficient to fully accommodate the opposition, hybrid regimes both motivate violence and fail to counter it (Bartusevičius and Skaaning 2018). Therefore, despite the expectation that full democratic regimes are less prone to internal conflicts, this is not the case for hybrid regimes.

Of all the different types of internal conflict in a given society, ethno-national conflicts are the most intensive. There is general agreement in the literature that ethno-national identity is a powerful factor in the structuring of internal conflicts. Ethno-national groups see themselves as communities of shared culture and common ancestry and can be seen as one of the most powerful justifications for political legitimacy (Mann 2005). The combination of nationalism and democracy during the development of the modern nation-state is reflected in the idea that "ethnic likes should rule over ethnic likes" (Cederman et al. 2010: 92). In the reality of multiethnic states, ethnic inequalities developed between the dominant ethno-nationalist groups and other groups. Ethno-national identity becomes one of the main pillars for determining access to resources, opportunities, and political power. Given the importance of ethno-national identity for political legitimization, it is little wonder that ethnic cleavages are often considered more conflict-prone than other social cleavages (Wimmer 2002). Ethno-nationalist civil wars have constituted a substantial proportion, if not the majority, of all wars since the late 1950s (Wimmer and Min 2006). While ethnic cleavages might be a key source of internal conflicts, special attention should be given to ethnic cleavages that have the potential to cross state boundaries, namely, situations in which secession and irredentism are on the line. Among the different types of civil war, ethnic secession civil wars are longer and deadlier (Fearon 2004). Ethno-national secession occurs when an ethno-national group demands independence or significant autonomy from the control of the state – a specific moment that might lead to civil war.

The threat of ethno-national secession has a strong influence on the state due to its potential implications. First and foremost, it challenges the basic function of a state, namely, the preservation of territorial integrity. As emphasized above, when territory is at stake, particularly

homeland territory, conflicts are all the more intense. In addition to the threat on territorial integrity, ethno-national secession might also be feared due to a potential future conflict between the ethno-national seceded group and their previous states. If the ethno-national group does gain a state by secession, the balance of power between them and the group that controls their original state will change dramatically. Gaining a state allows the seceded group to use state functions to enlarge its power by developing military and increasing its economic potential. If, in addition, the seceded group is related to a broader ethno-national diaspora, gaining a state will enable the group to encourage policy that increases the immigration of their co-ethnics to the new state. Such changes shift the balance of power with the previous states and provide important leverage for the seceded group to increase its power (Butt 2018).

At this point, internal conflict is affected by potential external conflict. Butt (2018) analyzed the factors that shape states' reactions to secessionist movements. His findings indicated that states' strategies toward secessionist movements are heavily affected by the external security implications of the secession. The changes in the balance of power and the seceded group alone are not sufficient to intensify the conflict or to make the state adopt a coercion strategy against the secessionist movements. What makes the difference is the broader geopolitical environment; in more threatening environments, the change in the balance of power can weaken the state. The state is, therefore, vulnerable to its environment and, in such conditions, will be more likely to adopt coercion in order to forestall the possibility of border changes. Internal ethno-national conflicts that have secessionist potential to threaten the geopolitical environment are thus the most likely to diminish a regime's democraticness.

There are, in short, several arguments regarding the effects of internal conflicts on regimes. First, while democracy might be a solution for internal conflicts, resolving the internal conflict is a key condition for democratization from the outset. Second, countries that are not fully democratic or fully autocratic are more prone to violent internal conflicts. Third, ethno-national conflicts have the most devastating effect on democratization, especially those with the potential for secession. These are the most intense types of conflict, particularly, if the seceded group has a potential connection to other countries in a geopolitically threatening environment.

5.2. Israel: An Internal and External Protected Conflict

5.2.1 Understanding the Complexity of the Conflict

The Arab–Israeli conflict is probably the most studied conflict in the world, with hundreds of new books and articles on the topic published every year. There are numerous frameworks for understanding the conflict, which are almost as controversial as the conflict itself. Even the terms used to name the conflict are disputed. For example, should the conflict be labeled the Arab–Israeli conflict, overlooking the internal national division in Israel, or the Zionist–Palestinian conflict, in order to focus on the internal aspect of the conflict as well? Moving beyond the label, there are debates about the relevant framework for analyzing the conflict. For example, is it a bilateral conflict between two national movements or should the conflict be understood within the framework of settler colonialism with Israel as a settler colonial entity (Rouhana 2018)? Or, is the conflict part of a broader rejection of Israel's legitimacy to exist in the Middle East?

The question of what exactly the conflict is about is also subject to debate. Is it a materialistic conflict about the control of limited territory, a religious conflict between Jews and Muslims or a national conflict? This complexity is reflected not only in scholarly accounts but also in public understanding. Jews and Palestinians comprehend the conflict in different ways: for the Palestinians, the dominant frame is religious; for the Jews, it is mainly a national conflict (Canetti et al. 2019). Differing interpretations can also be found within the societies themselves. Lewin (2014), for example, identified two competing mindsets regarding the conflict among Jews in Israel: one of conflict and one of peace. Each outlook has a totally different perception of the logic of the conflict and its impacts.

Another aspect of complexity is that while the conflict addresses security concerns, the very concept of security itself is controversial. It is quite possible that many social and political issues are "securitized," i.e., portrayed as issues of security without being actually related to security. Even a social group's identity can be securitized, so a threat to a group's identity or cohesion can be viewed as a threat to its security. Just as states cannot survive if they lose territory, so too with groups if they lose their identity. The securitization of identity is prominent in Israel as national security is understood in terms of the

security of the Jewish people (Olesker 2014). The Palestinians, whether citizens or subjects, are perceived as a threat to the Jews' dominant position in the state. In fact, securitization in Israel, which is deeply rooted in the Zionist movement's goals, actions, and perceptions (Abulof 2014), goes beyond the issue of Jewish identity to address many aspects of social and political life. Therefore, the question of what is security and whose security is considered has important implications for understanding the conflict. Notwithstanding these different interpretations of the conflict and the notion of security, the fundamental aspects of the conflict can be outlined.

5.2.2 *The Key Elements of the Conflict*

The intensity, scope, and nature of the conflict are, first and foremost, rooted in history: the Zionist movement's construction of a stronghold for Jews. The attempts to create a Jewish state in the territory called "Eretz Israel" or "Palestine" determine the basic logic of the conflict. From the very first days of Zionist settlements at the end of the nineteenth century, there was a conflict with the environment, namely, the Arab inhabitants of the land who opposed these settlements and colonization attempts (Kimmerling 2001). The conflict with the Arab inhabitants intensified after World War I and the early attempts by the British Mandate to support the Zionist goals. The Arab inhabitants of this territory and of neighboring Arab countries tried hard to thwart the Zionist movement's attempts during the British Mandate period. However, both their political and violent attempts failed. According to the UN Partition Plan in 1947, the British Mandate was supposed to be replaced by a division of the land into two states: one Jewish and one Arab. The 1948 war between the State of Israel and the Arabs in Palestine and the neighboring countries comprised the peak of Arab resistance to Jewish state construction but enabled the Jews to conquer a massive portion (78 percent) of the Mandate territory. The logic of the conflict, therefore, is rooted in the very creation of Israel as a political entity prior to its independence.

The conflict is not, however, restricted to just the state formation period. The State of Israel's fundamental raison d'être was and still remains the Zionist logic that views Israel as a Jewish state and uses state means to fulfill Zionism. The Zionist logic defines policies in many spheres, among them are the attempts to settle Jews and exclude

the Palestinians from effective control of the territory and from political influence. While there have been many nuances to this policy over the years and across different spheres, this is a fundamental aspect of Israel as a state fulfilling its Zionist mission. As Sela (2018) concluded in his account of the relationship between Israel and the Palestinians, "Israel's theory and practice in the conflict with the Palestinians since the beginning of the Zionist enterprise reveal more continuity than change. Regardless of their varied formulation and implementation, both essentially reflect Israel's constant striving for secure Jewish territorial sovereignty committed to the needs of all Jews regardless of the Palestinians' collective rights" (18–19). The logic described by Sela is evident in various spheres, such as the way in which the territory is shaped and the demographic composition of the state.

In the sphere of territory, Yiftachel (1999) identified this process as "Judaizing" the territory. Judaization is the process of ensuring Jewish control of the territory while, at the same time, guaranteeing the "de-Arabization" of the territory. An illustration of how the Judaization process shapes the territory can be found in the numbers. Prior to 1947, only about 5 percent of the territory (Israel/Palestine) was controlled by the Jews; as of 2017, Jews controlled 85 percent of the territory. Palestinian possession of the territory has shrunk from 45 percent in 1947 to 16 percent in 2017. Between 1948 and 2017 more than 800 new Jewish settlements were established by the state; very few settlements were established for Palestinians during the same time period (Yiftachel 2018); in fact, the state policy was and still is to limit Palestinian settlements. In a series of studies, Yiftachel and others identified how the logic of Judaization determines Israel's planning policies and has shaped the territory in various ways (see Kedar et al. 2018; Yiftachel 2006). Jabareen (2017) labeled the ongoing Israeli project of gaining more and more territory as "obsessive territoriality" (261). The Judaization of the territory reflects the Zionist rationale and has been accompanied by inherent conflict with the Palestinian inhabitants from the beginning of the Zionist settlements until the present day.

While the Judaization of the territory is imperative to Israel, another aspect should be considered, namely, the assurance of demographic dominance in the controlled territory. From the very first days of the British Mandate until today, there has been an intrinsic concern, shared by all Zionist factions (Siniver 2012), that Jews should have clear demographic dominance over Arabs, i.e., Jews will be a clear

majority in the political unit. Over the years, this fear became an omnipresent "demographic demon" (Abulof 2014); demography is, therefore, an important part of the notion of security.

At this point, it should be noted that by emphasizing the rationale of the conflict, I am not looking to imply a deterministic view of inevitable conflict along the course of history. It is more than reasonable to assume that different decisions by the main historical actors might have changed the intensity of the conflict or its course. Yet, it is important to recognize that the Zionist project is the focal point of the conflict. If there had been no attempt to create, preserve, and extend a Jewish political entity, there would have been no conflict in the first place and the vicious circle of conflict would not emerge. A key element of the conflict, therefore, is that it is fundamental to the creation of the political entity itself and its basic Zionist logic. When analyzing the regime, it is important to acknowledge that this is an ethno-national (and religious) conflict about controlling both the territory and the political entity. The conflict is not just a dispute over borders; rather, despite changes in its scope, it is essentially a conflict over most if not all of the territory between Jordan and the Mediterranean Sea and over who should dominate this territory and the political entity.

The different phases of the conflict illustrate the significance of the territorial facet. In the first phase, under British rule, the leading Zionist logic was to accrue as much land as possible under the (sometimes limited) protection of the British Mandate up to the 1930s. Jewish immigration and settlement policies were dictated by the need for Jewish domination in at least some parts of this territory. In the second phase, with the end of the British Mandate, several steps were made to ensure effective Jewish control of the territory. First, the 1948 war was exploited to ensure the conquest of additional territory beyond the borders of the 1947 Partition Plan. Most of the Palestinian inhabitants were uprooted beyond the 1949 borders, as Israel's motivation was to ensure control over as much territory with as few Arabs as possible. Second, after the 1948 war, the state itself was used to guarantee Jewish control of the territory: For example, numerous state policies and practices were implemented to enable the state to seize the land of PAI while limiting their control of the land (see Falah 2003). In the third phase, after the 1967 war, the control of territory shifted between zones of withdrawal from control of the land and

zones of continued dispute. Yet, Israel, all along, prevented the creation of genuine Palestinian statehood in this territory. From the Camp David negotiations with Egypt in the late 1970s to the peace process in the 1990s, Israel's logic was to guarantee its control over the territory while limiting the Palestinian entity and promoting its expunction (Anziska 2018). The ongoing struggles over the control of different parts of the territory indicate the centrality of territory in the conflict.

It would be misleading, however, to view the establishment and preservation of a Jewish state as the sole explanation of the conflict. The conflict is multidimensional, involving elements such as religion, the geopolitical orientations of the actors, and other aspects which relate to the wider geopolitical environment. The intensity of the conflict, therefore, is determined not only by the fact that this is a conflict over territory but also by Israel's threatening geostrategic environment. Israel is surrounded by Arab and mostly Muslim countries perceived as fundamentally hostile to the existence of the state or to its regional status. Even after Israel signed peace treaties with Egypt and Jordan, there was much skepticism about the stability of the peace and its duration, emphasizing that Israel's basic security dilemma had not changed (Inbar 2008).

Israel's basic strategic perception is based on an imbalance of power with the Arab world. Israel suffers inherent quantitative inferiority in the face of the demographic, budgetary, and military potential resources of the whole Arab world. Given Israel's geostrategic location, relatively small size, and asymmetric material and human resources in comparison to its rivals, the potential costs of the conflict are high (Rodman 2019). Added to this is the fundamental belief of the Israeli (Jewish) mainstream that there are major non-state actors in the regions (such as Hezbollah and Hamas) whose strategic objective is the extermination of the state. This perception is supported by ongoing terror attacks and eruptions of violence. The geostrategic threat is not limited to the neighboring countries and non-state actors; Iran too is perceived as an increasingly meaningful threat (Merom 2017). While Iran does not share a border with Israel, it fights Israel via proxies like Hezbollah that are a serious security challenge. More significantly, its nuclear aspirations are regarded as a threat to Israel's existence. Israel's relative security in the face of these challenges is perceived as an outcome of Israel's power. According to this perspective, Israel's existence in the Middle East is tolerated but not legitimized and, thus,

invalidating the Zionist logic of the state will not necessarily eliminate the conflict.

The insecurity derived from the persistent Arab hostility toward the Jews and the trauma of the Nazi Holocaust was consolidated by the Arab attacks immediately following the establishment of Israel and hence created an entrenched belief – hard to delete from the minds of Jews even today – that the priority of most Arabs is the destruction of Israel (Siniver 2012). Security threats are thus regarded as a potential "destruction of the Third Temple" or genocide (Merom 1999). While the different political camps in the Jewish sector argue over how to handle the conflict, the fundamental belief of Israeli Jews reflects a deep distrust of Arabs and an ever present feeling of threat. Numerous psychological studies have documented the implications of these threat perceptions on Jews in Israel, and anxiety and siege mentality have been found to develop and thrive in such an environment of threats and ongoing conflict (e.g., Sharvit and Halperin 2016). Despite Israel's security capabilities, Israeli Jews suffer an inherent sense of insecurity (Freilich 2018)

The conflict is both an external conflict and an internal multidimensional conflict. The external aspect reflects Israel's relations with some of the neighboring countries as well as with certain other countries and actors in the region. While the intensity of this aspect of the conflict was high during the first three decades when interstate war dominated the conflict, it lessened somewhat from the end of the 1970s. The peace agreement with Egypt – the largest Arab state and Israel's erstwhile main enemy – reduced the intensity of the interstate aspect of the conflict. There are, nonetheless, external states (Syria) and actors (Hezbollah) that remain part of the external dimension of the conflict.

The internal aspect of the conflict relates mainly to PAI. The PAI are regarded as part of the threat given that they were historically and still remain to some extent from the two sides of the Arab–Israeli conflict. The ethno-national conflict in Israel proper is part of the larger conflict of Israel with the Palestinians and the Arabs as Peleg and Waxman (2011) and Frisch (2011) emphasized in their thorough analysis. Historically, after the 1948 war ended, around 160,000 Arabs remained under the control of Israel. At first, Israel refused to grant them citizenship but was subsequently obligated by international pressure. Granting citizenship did not alter the logic of the conflict between Jews and PAI that is inherent to the Zionist rationale. The government

considered the remaining Arab population a security threat and a potential or real fifth column. Despite sharing citizenship for more than seventy years now, PAI are still viewed through the prism of security. This prism goes beyond the inherent tension between the logic of Israel as a Jewish state and the existence of PAI as a distinct ethno-national group. The security concern is based on PAI's family and national ties with the Palestinian subjects beyond the 1949 borders and within the other Arab states. Incidents in which PAI have identified with Israel's enemies are commonly used to intensify the Jewish conviction that PAI are a security threat. It is, therefore, no wonder that there is a strong fear of potential PAI irredentism or secession that will challenge Jewish control even within the 1949 borders. This is why the broader geostrategic environment is an important factor in shaping the ways in which PAI are perceived as a threat (Frisch 2011; Peleg and Waxman 2011).

An illustration of how security concerns dominate attitudes toward PAI can be found in the Israeli Jewish reactions to the publishing of *The Future Vision of the Palestinian Arabs in Israel* in 2006–2007. These are a set of documents that were published by Arab civil society organizations in Israel outlining their views of the future of the State of Israel. They are seminal documents, constituting the first collective expression by PAI. They reflect a turning point in relations between PAI and Israeli Jews and the Israeli establishment (Jamal 2011). On the whole, the documents challenge the Zionist rationale of Israel, demanding that the Israeli state relinquishes its exclusive Jewish identity and recognizes its Arab citizens as an innate national minority with collective rights. While most Jews oppose this vision, it is important to emphasize the reactions of the security apparatus. In 2007, the head of the General Security Agency (known as the Shabak) was reported as saying in a special discussion with the prime minister that the *Future Vision Documents* are a potential strategic danger for the existence of the state (Yoaz and Khourie 2007). Of great significance at this point is the fact that the General Security Service made such an announcement even forty years after the abolishment of military rule over the PAI. It demonstrates very clearly how PAI demands to transform Israel into a binational state are securitized in order to preserve Jewish majority supremacy (Ghanem and Khatib 2017). While not, of course, new, as security has always been used in order to promote and sustain Jewish dominance (Rouhana 1997), the

rationale of security can be seen here to go way beyond classic security issues to address the key question of identity.

Another dimension of the conflict is the Palestinian subjects in the Occupied Territories. Among the various reasons why Israel has held and colonized (parts of) the Occupied Territories for more than fifty years, the security concern is key. Israel's opposition to the establishment of a Palestinian state in the West Bank and Gaza can be partly explained by the fear of a future security threat (Anziska 2018), a fear that can be found across nearly all political camps. Both those who advance compromise with the Palestinians and those who oppose any compromise use the language of security for justifications (Butt 2018). Security justifications are used not only for controlling the territory but also for controlling the numbers; given that an agreement with the Palestinians might include the "right of return" for Palestinian refugees to Israel proper, there is also strong demographic anxiety. As with the PAI, the internal conflict is contingent on controlling the territory while ensuring Jewish demographic domination.

It is important to recognize that this description of the conflict does not necessarily imply that security threats are either subjective or objective. In fact, there is a gap between the state's ability to ensure security and Israeli perceptions of the conflict. On the one hand, Israel holds formidable military might. Maoz's (2009) analysis of Israel's military capacity in comparison to Arab countries found that as of the 1960s, the balance of power has tended to favor Israel. Israel has, in addition, developed a thriving economy and improved its international status (see Merom 1999). No less important, "the Jewish state is widely recognized as an entrenched reality, even by its Arab and Muslim rivals" (Inbar 2013: 11). On the other hand, however, Israeli decision makers and the Israeli public continue to suffer from perceptions of vulnerability and fears of Israel's annihilation. After the collapse of the Oslo process and the outbreak of violence during the 2000s, the dominant perspective in Israel is of an alliance of evil forces that are primed to destroy the Jewish state. Israeli Jews feel (once again) that they are under siege (Del Sarto 2017). This gap emphasizes the fact that perceptions of threat might actually be greater than the objective threat. These perceptions could be manipulated by different political actors and institutions to oppose changes in the status quo (Maoz 2009) or to promote ideologies and interests like the settler movement. They could also be a consequence of the role of the security

sector and security networks in exaggerating threats in order to preserve their dominant position (Sheffer and Barak 2013).

Overall, the conflict should be understood in line with the theoretical arguments outlined in the previous section. The conflict is relevant from the early years of state formation until today with internal and external aspects which are interlinked. It is an ethno-national (as well as religious) conflict – the most intense type of conflict – over a territory which is perceived as homeland territory by both Jews and Palestinians. Moreover, the potential for secession due to its geopolitical environment further escalates the conflict, given Israel's relations with other actors in the region. It is, therefore, not at all surprising that the conflict has a prominent role in shaping the regime.

5.3 How the Conflict Shapes the Israeli Regime?

The first section of this chapter has shown the clear theoretical grounds for expecting the conflict to have a profound impact on the regime. The metaphysical status of "security" and indeed the scope of securitization in Israel seem to be key factors in shaping the regime. This said, we are left with the question: How can the influence of security over the regime be explained? Many scholars and, especially, students of civil–military relations have wondered over the influence of an intensive conflict, existing in what they see as a democracy in which the military is a, if not the, central social actor (Goldberg 2006; Maman et al. 2001). They were puzzled by the fact that such dominance of the military should hinder democracy. Other voices have doubted whether the concept of democracy, and especially liberal democracy, can be applied to Israel from the outset. One of the prominent researchers in the field wondered as early as 1983 whether Israel would evolve into a "military democracy" (Peri 1983). Others have argued that there is no real puzzle since Israel is not a "mature, liberal democratic system" (Ben-Eliezer 1997: 370); the so-called democratic arrangements in Israel are, it has been claimed, just a cover for the inherent militarism that dominates Israeli politics (Kimmerling 2001).

Is there indeed a puzzle? I see no puzzle in the ways that the conflict and the regime are interrelated in Israel. This is not because the conflict or military–society relations in Israel are unique or because Israel should be defined as a democracy. Rather, following the argument

about the concept of democracy, it is the way in which we understand democracy that determines whether or not there is a puzzle. A disaggregated understanding of democracy dimensions indicates that there is, in fact, no puzzle and the conflict just shapes the regime in diverse ways. Its effects have been evident in political contestation, protection, and coverage over the years and in the different zones of control. Patterns that were created due to the conflict in the period of state formation have been institutionalized in the regime structure and affect levels of democraticness until today. However, changes in the intensity of the conflict have also lead to shifts in democratization and de-democratization over time. I now go on to outline the possible influences of the conflict on the regime.

5.3.1 The Conflict and Political Contestation

The theoretical predisposition is that under conditions of territorial conflicts over homeland territory states centralize power and are less likely to democratize, especially during the period of state formation. Thus, in Israel, the need to centralize power in light of the internal and external conflicts and the challenges of state formation determined the basic structure of the Israeli regime. Elman (2009) argued that the security context had a great impact on the institutional choices taken in the formative years of the state. In contrast to the usual explanation that Israel adopted the Westminster parliamentary model due to the influence of the British, Elman claimed that this model was adopted due to the conflict. The Westminster model is based on majority rule and has relatively few limitations on the power of the executive. As long as the coalition retains the support of the Knesset, there are few constraints on the executive. While the electoral system is based on consensuality in the form of proportional representation, it was constructed to fit the size of one party. The Mapai party knew that the balance of power would allow to rule in a pattern that is similar to a single-party government despite never holding a majority in the Knesset and therefore supported this institutional structure, which was vital for justifying the centralization of power in the hands of the executive (Elman 2009). During the formative years, this fundamental structure that centralizes power in the hands of the executive structure was framed by the political elites as benefiting the state under the conditions of extensive conflict.

It should, however, be recognized that this did not affect the institutional structure of political contestation per se. The electoral rules were constructed according to the principles of proportional representation with a minimum threshold for entering the Knesset. The system was open for political contestation by the political parties. Even David Ben-Gurion, the founding father of Israel and the head of Mapai, was unable to transform the elections rules to a first-past-the-post system (a change that would have granted a majority of the seats to Mapai) (Rahat 2001). These institutional arrangements originate in pre-independence era's attempts to provide an inclusive structure for the different factions of the Zionist movement (Medding 1990), thus guaranteeing broad legitimization of the Zionist institutions (Horowitz and Lissak 1977). This structure for ensuring political contestation, which continued also postindependence, was an important way of mobilizing Jewish society in both the Jewish diaspora and Palestine for the sake of Zionist goals. It created a rule of the game dictating that political struggles would be handled by compromise (among Jews) and not by exclusive control. The basic structure was of centralized political power that was balanced by the need to form coalitions and agreements. Political participation and competition were achieved primarily via political parties.

In a sense, an institutional structure that supports political contestation accords with the idea that rulers who are involved in conflicts create an exchange of resources from the people and public participation in the political process. This theoretical idea is based on the experience of European countries where, prior to democratization, elites possessed the power to rule. It is based on a situation in which the state was already in place prior to its democratization (Tilly 1992). Nonetheless, the logic of the exchange of political participation for support under the influence of external conflict can also be applied to a case, like Israel, where the ruling elites were constructed alongside the development of the political entity. A political system that allowed for political contestation was important for ensuring the legitimization of the Yishuv – the Jewish community under the Mandate, institutions (the Jewish Agency, the Histadrut, and the National Council) prior to the establishment of state. Just as war-making rulers provide political rights in return for support for their conflict, so too the Zionist elites needed to ensure legitimization through participation. The difference is that war-making rulers were affected by conflicts with other

war-making rulers. In the case of the Zionist movement, however, this was not a violent conflict with other armies but a conflict with alternative non-Zionist solutions to the so-called Jewish problem in the Jewish diaspora as well as a conflict with the Arabs in Palestine.

Another difference is that unlike war-making rulers, the control of Zionist elites prior to the state's establishment was not based on sovereign power, and therefore their need for legitimization was even stronger. Enabling political contestation was an important component in ensuring legitimization without coercion (Horowitz and Lissak 1977). The need to mobilize Jews across a diverse diaspora as well as in the Yishuv created the pattern for political contestation during the formative years of the regime – a logic which remained after this period also. However, beyond the construction of the institutional arrangements, there was no abuse of the conflict to prevent political competition or to establish the exclusive rule of one actor.

While numerous political actors certainly used the notion of security in the process of political contestation, for Jews, political contestation was rarely limited under the justifications of security. The only occasion of elections being delayed was in 1973 due to the war.

Interestingly, the external conflict might even be seen to have supported an increase in the democraticness of political contestation. In 1977, there was the first change in the party forming the coalition as the Likud party won more seats than Labor. This alternation in executive power via elections indicates an increase in the levels of contestation. While there were many reasons for this change, the conflict played a crucial rule. From state formation until 1973, the ruling political elite was trusted to deliver security. Yet, the results of the 1973 war challenged this fundamental belief. In this war, Egypt and Syria surprised Israel by occupying territories that had been held by Israel since 1967, and there was a high number of casualties. The war cracked Israel's belief in its invincibility – a belief that was almost a national mania given the results of the 1967 war – and thus contributed considerably to the change in power.

The conflict thus seems to have impacted the structure of the basic institutions of the regime in the form of the centralization of power in the hands of the executive. Yet, it has not shaped the levels of democraticness when it comes to political contestation for Jews. In fact, some aspects of the conflict have even supported increasing levels of contestation, thus explaining how the democraticness level of this

dimension has remained relatively high despite the intensity of the conflict.

5.3.2 The Conflict and Protection

The conflict was a key factor in shaping one of the most important decisions of the regime, namely, the decision not to create a codified constitution in the formative years after independence. Despite the fact that the Declaration of Independence stated that "the Constitution. . .shall be adopted by the Elected Constituent Assembly not later than the 1st October 1948," no constitution establishing the legal legitimate right to rule was written and a bill of rights was not part of Israel law until 1992.

While some have explained the lack of a constitution as reflecting the dispute between the secular and the religious, the main reason seems to be that a codified constitution would have restrained the executive power (Medding 1990; Rosenthal and Doron 2010). A constitution with a bill of rights would have required the abolishing of the executive emergency powers and would have thus undermined executive power. Likewise, it would have provided protection for Arab citizens and limited the state's ability to Judaize the territory under its control. With no constitutional limits, the executive could advance policies ensuring Jewish control of the land while denying Arab citizens their rights during the military regime of the 1950s and 1960s. As Ben-Gurion claimed in 1949, "A year ago we stood the crucial battle, last year it was prominent, armies of Arabs came to slaughter us. . .we are fighting our existence this year [1949] no less than last year. . .and just as it was crazy to debate the constitution then, it is the same now."[1]

Beyond the lack of constitutional protection from the power of the executive, another aspect of the conflict's influence lies in the emergency laws and regulations. The fact that the conflict has never ended is used to extend, year upon year, the temporary emergency status that was declared in 1948. Emergency regulations were imposed on Jewish and Arab citizens alike, having a potentially profound impact on civil and political rights. They were and are used to control freedom of movement, the entering and exiting of Israel, property rights, and the freedom of expression. They are a key tool in the hands of the

[1] Mapai meeting, June 14, 1949. Quoted in Kedar (2015: 91).

executive, enabling the control of economic activity and markets and the implementation of economic policy and allowing the executive to bypass certain Knesset legislation procedures (Mehozay 2016). The decision not to create a constitution or adopt a bill of rights alongside the use of emergency power reflects the unwillingness of the executive to put formal limits on its power during the period of state formation. The intensity of the conflict supported the limited democraticness levels of protection in the formative years and in the early decades of the state. Israel's fluid constitutional framework has given the executive enormous power ever since. With the lack of clear protection of citizenship and human rights, this power can be used for different policies beyond just security (Mehozay 2016).

The democraticness levels of protection also vary in line with the intensity of the conflict. A relative reduction in the intensity of the conflict during the 1990s was accomplished by increasing the levels of protection. At this time, some aspects of civil and human rights gained constitutional status and the Supreme Court accrued increasing influence as an institution that supports growing protection under judicial review, known also as the "constitutional revolution" as explained in Chapter 4. Conversely, an increase in the intensity of the conflict from the 2000s reduced the levels of protection. Indeed, from 2000, there were new eruptions of the conflict, which started in October 2000 with the violent clashes between Palestinians and Jews known as the Second Intifada or the Al-Aqsa Intifada (Ben-Eliezer 2012). During this period there were intense levels of violence as civilians were targeted by suicide bombers in larger numbers than before. Since 1948 Israel citizens had not suffered such a high sense of insecurity as between 2000 and 2005, and this violence had a great impact on the Israeli public (Rodman 2019). This Intifada, unlike the first one, was framed in Israel as an existential struggle that continued the 1948 war (Barak 2017). The demonstrations and violent clashes of PAI at the beginning of this Intifada blurred the distinction between the internal and external aspects of the conflict. Likewise, the escalation of the conflict during the 2006 war between Israel and Hezbollah in Lebanon intensified the sense of insecurity as the public experienced ongoing missile attacks in the northern part of the country. The fact that Hezbollah has massively increased its missile arsenal since 2006 continues to fuel anxiety today. Three rounds of intensive clashes with Hamas-controlled Gaza in 2008, 2012, and 2014 further contributed to the perceived threat and the direct impact of the conflict on the public.

There is evidence that political tolerance dwindles with such exposure to violence as people are much less likely to tolerate dissenting opinions and the inclusion of minorities (Peffley et al. 2015). Indeed, the eruption of violence from 2000 onward and the place and form of the security threat were used to mitigate against the growing levels of protection and especially against the Supreme Court. Key political actors and some right-wing NGOs launched increasing attacks on protection as an idea and on the institutional configurations that enable protection, fearing its potential to undermine the executive's ability to meet the challenge of the conflict. They mainly targeted the power of human rights NGOs to appeal to the Supreme Court, claiming that Supreme Court rulings restrained the capacity of the IDF and the security sector to manage the conflict. Securitization allowed them to challenge the legitimization of the protection practices that had extended during the 1990s.

Since the 2000s there has been growing delegitimization of various civil society organizations with critical voices. This includes attempts by some right-wing NGOs and the right-wing coalition to censure left-wing Jewish NGOs and PAI NGOs, such as Breaking the Silence (Shovrim Shtika), B'Tselem, and Adalah, that oppose the occupation and the military activities. The main target for delegitimization was the New Israel Fund, a US-based Jewish NGO that provides support and resources for NGOs in Israel, that was accused of promoting a liberal agenda that undermines Zionism. Petitioning the Supreme Court is one of the major tools used by these organizations to restrict attempts by the executive to Judaize in Israel proper and in the Occupied Territories and to restrain security sector activities. For example, in 2002, several organizations appealed to the Supreme Court against the IDF use of "human shields" in the Occupied Territories. This was the tactic of using innocent Palestinian subjects for military activities that could endanger their lives, for example, physically shielding soldiers while they were firing or removing suspicious objects from roads. The Supreme Court accept the petition in 2005 and ordered the IDF to stop using "human shields." This court ruling led to public outrage as it was framed in such a way that accused the Supreme Court of risking soldiers' lives. Rulings like this were used to mobilize against the left-wing organizations and the New Israel Fund, culminating, after the 2008 Gaza War, in the accusation that they were providing the

United Nations Fact Finding Mission on the Gaza Conflict with information that was used to blame Israel for war crimes.[2]

This delegitimization was institutionalized in the Duty of Disclosure of Support by a Foreign Political Entity Law enacted in 2016. NGOs that receive more than half of their funding from foreign governments must disclose this fact publicly and in any written or oral communication with elected officials. The law does not apply to Zionist organizations like the Jewish Agency for Israel, thus reflecting its aim to target pro-Palestinian and human rights organizations. The measure mainly affects groups associated with the political left that oppose Israel's policies toward the Palestinians in its attempt to damage their public credibility and restrict their ability to enjoy foreign aid. It should be noted that laws restricting the flow of foreign aid to domestic NGOs are not unique to Israel. In fact, in the last two decades, many countries, such as India, Thailand, Rwanda, Jordan, and Egypt, have adopted similar laws and policies (Dupuy et al. 2016).

The Supreme Court was also subjected to attempts to restrict its power to review the executive and the Knesset's laws. Supreme Court rulings limiting Judaization and security sector activities are framed as a threat to national and personal security. The backlash against the increasing influence of the judicial system from the 1990s (Cohen and Cohen 2012) used security concerns as a pretext. The climax of the attacks on the Supreme Court's so-called restriction on the security forces was during the April 2019 election campaign, in which the right-wing parties presented various options for limiting the court's autonomy by mobilizing security. For example, one of the campaign slogans of the New Right party was "Shaked [then minister of justice] will preside over the Supreme Court and Bennet [then minister of education] will defeat Hamas" – a slogan that placed the Supreme Court in line with Hamas, a key enemy of Israel. Despite these intensive campaigns, there have been no formal structural changes in the Supreme Court's power to protect. It is yet to be seen where these attempts may lead in the future.

From the 2000s, the level of democraticness across the dimension of protection was slightly reduced, as demonstrated by the growing

[2] It is important to note that a comprehensive examination of NGO appeals to the Supreme Court indicates their poor record of success, showing only a marginal impact on the governance of the Occupied Territories (Golan and Orr 2012).

attacks on the HJC and other actors with the potential to limit executive power such as human rights NGOs. This process was not, of course, only a result of the conflict. Specific actors advanced the interpretation of the HJC as limiting Israel's ability to address security challenges. These actors comprised both right-wing NGOs and right-wing politicians who believe that limitations on the power of the executive will undermine state ability to continue Judaizing the Occupied Territories. Feinstein and Ben-Eliezer (2019) argued that the dominance of illiberalism in Israel is the outcome of a process in which illiberal (largely religious fundamentalist) nationalists who had "contributed to the failure of the peace processes were empowered by the effects of the war and terrorism on the Israeli public and then continued to push for the perpetuation of war and resist reconciliation" (6). This is, they claimed, a spiral process in which the conflict plays an important role. Due to the new waves of security anxiety experienced by the public as a result of suicide bombings in the cities and, especially, rocket attacks from Lebanon and Gaza Strip, these actors were able to mobilize public support against this process of democratization, and the democraticness levels of protection eroded slightly after the 2000s and, particularly, in more recent years.

5.3.3 The Conflict and Coverage

The conflict is a major factor in explaining the lower levels of democraticness in the dimension of coverage toward PAI. With the end of the 1948 war, Israel was obligated to grant citizenship to the Palestinians who were under its jurisdiction. The estimated number of Palestinians remaining in Israel in 1949, either in their own homes or as internally displaced people, who were granted citizenship is 160,000, constituting 15 percent of the number of citizens at the time (Haidar 2005). Despite various efforts to reduce the number of Palestinian citizens to a minimum, the state could not avoid granting them citizenship, and Jews and Arabs thus began sharing citizenship, at least from a formal perspective. Citizenship notwithstanding, security concerns as well as the logic of Judaization amounted to very limited PAI coverage after 1948. As a result of the 1948 war and previous periods of conflict with the Arabs, the PAI were considered a security risk and a potential or real fifth column (Cohen 2010).

Security concerns were used to justify the imposition of military rule over the Arabs between 1948 and 1966. The securitization of military rule enabled the use of the emergency laws inherited from the British which gave military officers executive, legislative, and juridical power. This power was used both to ensure control in the narrow sense and to support policies advancing Jewish control of the territory in line with Zionist logic. The protection of Arab citizens from state authority was virtually nonexistent, given the fact that until 1966 they were subject to the military regime under these emergency laws and, consequently, to the military courts (until 1963) without the right to appeal (Hofnung 1996). Military rule should not be seen just as a reaction by the state to the threat of the external conflict; rather, it was an important aspect of the internal conflict as it was a key means of Judaizing the territory. It enabled the state to limit Arab control over the territory while encouraging Jewish settlements (Jamal 2019). It was also an important tool in the state's attempts to fend off 1948 refugees who tried to enter Israel after the war ended. Only after the abolishment of the military regime in 1966 were there some improvements in the democraticness levels of the dimension of coverage.

One might wonder why, if the PAI were framed as such a security threat, the ruling elite granted them the right to participate in the elections and be part of the political contestation. While the PAI were thus able to take part in elections, their voting reflected less a sign of political contestation and more a pattern of patronage voting. Most of the PAI parties were satellite parties of Mapai, and the voting for these parties was dictated by the military regime in cooperation with the traditional Arab leadership and used the mechanism of patronage as a means of gaining support (Ghanem and Rouhana 2001). In addition, given their share of the electorate, PAI participation in the elections did not pose a risk to Jewish domination of the Knesset.

Despite the abolishment of the military regime, it was only from the 1980s that the PAI parties started to challenge this Jewish dominance. At this time, two new trends emerged in Arab political life, exemplified by the National Democratic Assembly (Balad) and the Islamic movement with parties such as the Arab Democratic Party, the United Arab List, and the Arab Movement for Renewal. Competition among the Arab minority parties for the Arab vote led to an outbidding dynamic whereby each party needed to prove its credentials as the best representative of the Arab minority's interests (Frisch 2011; Haklai 2011;

Jamal 2011). There has, subsequently, been a growing number of PAI MKs, a process that peaked in the 2020 elections. Despite these growing numbers, however, the ability of PAI MKs to influence the political process is also framed by the prism of security concerns. The minority government (1993–1995), which was based on the external support of Arab parties, suffered intensive delegitimization (Haklai and Norwich 2016) as cooperation with the PAI parties was regarded as fraternizing with the "enemy" (the PLO) against the Jewish state.

In his analysis of the policies toward PAI over the years, Frisch (2011) concluded that they were determined primarily by the security fears of the Jewish elite. He argued that changes in policies reflect changes in the geostrategic environment of the state and highlighted a high correlation between the state's geostrategic predicament and the quality of relations with PAI. There have been, he noted, improvements during periods of external calm and decline under increasing threats, especially threats that are related to the Palestinians in the Occupied Territories. The relative improvement in security conditions following the first two decades of the state contributed to some liberalization and an improvement in the democraticness levels of coverage as manifested in the abolition of the military regime. Similarly, the collapses of the Soviet Union and the Oslo process transformed the external geostrategic environment of Israel into a more secure setting. Alternative perspectives might argue that Israel would securitize its relations with its Arab citizens regardless of their real threat to the state (Jamal 2019). Whether or not the security threats are real or used for other purposes, it is abundantly clear that security shapes the dimension of coverage in the regime.

The intensification of the conflict since the 2000s has had various implications for coverage. The outbreak of the Second Intifada was accompanied by massive protests by the PAI. These were very intense and were perceived by the security sector as a growing threat. The Israeli police used great force to repress these protests, shooting and killing twelve Palestinian citizens and injuring hundreds more with live ammunition and rubber-coated steel bullets. The conclusions of the official commission established by the Israeli government to investigate the events (Orr Commission Report 2003) indicated how the wider context of the conflict intensified the escalation of the events. On the one hand, the police reacted with an unnecessarily excessive use of force, reflecting the basic assumption that PAI are a security threat. On

the other hand, the proximity of the riots to the Intifada and their intensity explain why they were perceived by the security sector as part of the larger security concern (Orr Commission Report 2003).

The October 2000 events have wide implications for the way securitization is used in relation to PAI. The events were used to claim that the PAI are a fifth column and a potential security risk[3] and to exacerbate the discussion of the "demographic demon" as a threat to the State of Israel from PAI and not just from the Palestinian subjects in the Occupied Territories (Abulof 2014). The securitization of PAI following 2000 was used to mobilize support against their growing coverage. Despite some voices of dissent, the majority of Jews did, in fact, support restricting their coverage (Abulof 2014), and there have, ever since, been increasing attempts to restrict PAI's coverage in the sphere of political contestation and protection, framing the issue as a security concern; Some of these attempts have even found their place in laws.

The basic structural change in the form of contestation has taken place in the electoral system. The legal threshold for representation was raised from 2 percent to 3.25 percent in 2014. This was justified by the need to ensure governability in a highly fragmented parliament but has also be seen as a means to block various PAI parties from entering the Knesset (Ghanem and Khatib 2017). However, this barrier was not effective, as the Arab parties united in the 2015 elections to form a joint party (the Joint List) – a move which, conversely, increased the participation of PAI in the elections. Other attempts to limit contestation were aimed to PAI MKs through laws affecting the rights of MKs and allowing for their exclusion from the Knesset. In 2002 Amendment No. 29 of the Knesset Members Immunity, Rights and Duties Law determined that MKs can be stripped of their parliamentary immunity for expressions that, inter alia, reject the existence of Israel as the state of the Jewish people, support the armed struggle of an enemy state, or support acts of terror against the state. This change enables the lifting of the immunity of MKs who visit countries like Syria or Lebanon in violation of the Prevention of Terrorism Ordinance. In 2016, an amendment of the Knesset Basic law enabled MKs, with the approval of 90 of the total 120, to impeach other MKs if they backed armed

[3] The events also crystallized PAI's view of the limited meaning of Israeli citizenship.

struggle against Israel or incited racial hatred. While not yet implemented, this amendment was aimed at some Arabs MKs who had expressed sympathy for Israel's enemies.

As of 2000, there have also been attempts to limit PAI's protection. A prominent example can be found in the changes of naturalization policy that affected PAI's right to family life. The Knesset enacted the Citizenship and Entry into Israel Law in 2003 that denies spouses from the Occupied Territories and countries defined as enemy states the right to naturalize in Israel through marriage regardless of individual circumstances. This form of naturalization is relevant for PAI, and thus this law violates PAI family and citizens' rights (Peled 2007). The security justification of terror is thus used to limit the potential increase in the number of PAI through marriage and immigration to Israel proper (Peled 2007). Another example of the way the conflict limits PAI can be found in Amendment 40 of the Budget Foundations Law, also known as the "Nakba Law." This amendment cuts the funding of organizations that are supported by the state if they challenge the master Zionist narrative of the establishment of Israel, i.e., if they don't accept the existence of Israel as a Jewish and democratic state or if they refer to Independence Day as a day of mourning. This amendment too was justified using security rhetoric (Olesker 2014).

The collapse of the Oslo process in 2000 and the violent clashes between PAI and the police in Israel proper thus reduced somewhat the levels of coverage. There are also signs of decline in protection levels manifested in the growing attempts to limit Arabs MKs' representation and the power of PAI civil society to challenge Jewish domination. Security, in its broader sense, is used to restrict PAI's use of political contestation and protection to challenge the dominant position of Jews and the Zionist rationale.

5.3.4 The Conflict and the Regime in the Occupied Territories

In order to understand how security considerations have shaped conditions in the Occupied Territories from the very beginning, the broader historical and geopolitical context should be taken into account. The outcome of the 1948 war was a significant Zionist achievement, enabling Israel's control of huge sections of the Mandate territory. The Palestinian national movement was unable to prevent the partition and the establishment of a Jewish state, and, no

less important, a Palestinian state was not established in the remaining 22 percent of the territory. Egypt controlled the Gaza Strip, which was under military rule, and the West Bank (and East Jerusalem) was annexed by Jordan. In the face of the Palestinians' defeat, the focus of the conflict was with the surrounding states, especially Egypt. Israel's main security concerns after 1949 were from an interstate war. Despite the fact that Israel was capable of using force effectively as proved in the 1956 war with Egypt, this did not undermine the dominant perception of existential threat, which included, significantly, the 1949 Armistice Line with Jordan. The short distance from the West Bank to Israel's main population centers and the coast was seen as a serious risk to the ability to handle future wars (Freilich 2018). While revisionist intentions toward the entire West Bank were marginal between 1949 and 1967, the 1949 Armistice Line remained a major security concern.

This perception of threat intensified in the period leading up to the 1967 war. The war resulted in a fundamental shift in the geostrategic environment: Israel occupied, among others, the territories controlled by Egypt and Jordan, i.e., the West Bank and the Gaza Strip. Since 1967 the key justification for Israel's control of the Occupied Territories has been security considerations. The 1949 Armistice Line was portrayed as something that Israel simply could not bear, as illustrated in a famous quote, (wrongly) attributed to Israel's renowned diplomat Abba Eban, that withdrawal from the entire Occupied Territories would be tantamount to a return to "Auschwitz borders" (Mann 1998). Security considerations were seen as the leading reason for holding actual control of the Occupied Territories while also allowing the preservation of their status as under dispute and avoiding their formal annexation. Formal annexation would have required granting citizenship to the Palestinian subjects and would have changed the Jewish demographic dominance among the body of citizens. The territorial aspects of security were therefore used to justify the need to control (at least part of) the Occupied Territories, while the demographic aspects of security were used to defend the exclusion of Palestinian subjects from being formal members of the regime.[4]

[4] Security considerations aside, this situation also helped to maintain international support for Israel. One of the key factors explaining Israel's ability to conduct such a long occupation is the lack of international pressures to withdraw (Shafir 2017).

After 1967, security concerns, such as the potential security risk from Arab states (the so-called Eastern Front), justified the need for controlling the Occupied Territories. Later on, the justification shifted to the need to control the territory in order to fight terrorism (Freilich 2018). In the name of security, Israel has reshaped the space of the Occupied Territories, and various parts of the Israeli executive and other actors have supported the expansion of the settlements in (parts of) the Occupied Territories. Considerable time, effort, and resources have been invested in making the Occupied Territories inseparable from Israel (Barak 2017), including the building of military bases and settlements in areas perceived to be of strategic importance and the construction of roads and other infrastructure in order to expand control. As in 1949, this was mainly achieved by the mass confiscation of Palestinian land (Barak 2017).

Security justifications have also been used to determine the levels of democraticness. The repression of any Palestinian political activity in autonomous organizations has been framed as threat of terror and security risk. The separation between the Jewish settlers and the Palestinians (see Chapter 4) is likewise justified by security considerations. The settler movement itself manages to exploit the security discourse in order to gain support and justify the need for control to guarantee their security.

As discussed in the previous chapter, the regime in the Occupied Territories was fairly stable as of 1967, and Palestinian attempts at opposition were effectively suppressed. The major change in the structure of the regime happened after 1987 as a result of the First Intifada, which was an organized attempt by the Palestinians in the Occupied Territories to form a separatist movement. Following the security imperative to maintain control, Israel's reaction was to suppress this succession attempt via mass imprisonments, and other coercive methods of interrogation. When these policing methods failed, Israel looked for an alternative solution that was based on partial recognition of the Palestinian separatist movement. This solution found its way to the Oslo process, in which Israel negotiated certain arrangements with the PLO. While there are many accounts why the Oslo process did not end with a two-state solution (see Golan 2014; Podeh 2015), I would like to emphasize the importance of security considerations in this process. No Israeli governments that negotiated with the PLO during and after the Oslo period fully trusted the Palestinians, and they all

emphasized the importance of security measures. Both the moderate center-left government of Rabin and the right-wing governments of Netanyahu opposed full Palestinian sovereignty and the possibility of a real Palestinian state alongside Israel. Concerns about an external security threat were a major factor standing behind Israeli reluctance to grant a state, or anything close to one, in the aftermath of the First Intifada. Even during the talks, Israel's vision of a future Palestinian state entailed some form of Israeli military presence and a demilitarized Palestinian state. The mainstream of the Israeli body politic views the creation of a Palestinian state as an apocalyptic threat despite the massive gulf in capabilities dividing the two entities. For mainstream Israeli leaders, it is therefore external security fears that have motivated the refusal to grant the Palestinian national movement a state since the 1990s (Butt 2018).[5]

The fact that security considerations have both territorial and demographic components explains the shift to the separation principle – the principle of more control of the land and less direct control of the people that has dominated Israel policy since the 1990s. Given the inherent contradictions in the Occupied Territories between controlling the land and the potential threat of incorporation into the regime, the separation principle gives Israel direct control in as much territory as possible while avoiding the burden of direct control of the Palestinians. In addition, the control of Area C allows the regime to advance the settlements and to shape the space to ensure Jewish control over the territory. More importantly, Israel can control the external borders of the Occupied Territories, thus limiting potential security risks, and the IDF can continue to operate in the territory controlled by the Palestinian Authority. The territorial and demographic components of security were also used to justify the unilateral withdrawal from Gaza in 2005. Gaza's territorial value is far less than the West Bank and it is heavily populated by Palestinians, thus enabling the regime to solicit support for this withdrawal. In short, the territorial and demographic components of security can thus be seen to explain the shift in

[5] There are, of course, other factors besides security such as the impact of the strong religious-nationalist settler lobby. However, the religious value of the West Bank was limited mainly to the religious Zionist faction, and they too used security considerations to mobilize the mainstream public against any compromises with the Palestinians.

the nature of the regime from the 1990s – the most significant shift in the Israeli regime.

5.4 Conclusion: The Conflict's Multidimensional Influences on the Regime

The theoretical argument is that conflicts have a profound impact on a regime. Under the conditions of internal and external unsettled conflict, states tend to centralize power and are less likely to democratize, especially in ethno-national territorial conflicts on homeland territory. Israel is deeply involved in one such conflict that has both internal and external dimensions. The intensity of the conflict and the appeal of securitization to different spheres – territory, identity, and demography – should further intensify the impact of the conflict. Given the theory, one might therefore wonder whether Israel is an outlier. I argue, however, that viewing Israel as an outlier is based on the overall classification of the regime. The disaggregated approach proposed in this book suggests that Israel is not an outlier; rather, the conflict shapes the regime differently across the various dimensions and zones of control. The high levels of political contestation are explained by the need to ensure legitimacy and by the PAI's diminished power of contestation. The lower levels of protection and coverage are also explained by the internal and external aspects of the conflict. The largest shifts in the Israeli regime – the expansion beyond Israel proper after 1967 and the reshaping of the zones of control after the 1990s – can also be explained by security considerations. Despite these changes in the zones of control, the Israeli regime is, by and large, a stable regime. Chapter 6 offers a possible explanation for this overall stability.

6 *State Capacity*

Stability and Changes in the Israeli Regime

The review of the Israeli regime thus far has shown that it is, by and large, quite a stable regime. Changes in the levels of democraticness have been modest and the gaps between the different dimensions of democracy fairly stable. The major change in the regime has been in its zones of control. This chapter outlines a possible explanation for this overall stability based on the concept of state capacity, namely, the ability of the state to use coercive and administrative capabilities to "get things done." It therefore emphasizes the role of the state itself in explaining the regime.

The first section provides a short conceptual clarification of the concept of state capacity and its relationship with regime stability. This is followed by a presentation of the historical origins of Israeli state capacity and some measures of its capacity. The main part of this chapter discusses the ways in which state capacity sustains the regime's stability in light of three challenges: the internal aspect of the conflict, the challenge to state authority from political tensions among its Jewish citizens, and the ways in which the zones of control have shifted according to the limited ability of state capacity to ensure direct control of the entire Occupied Territories.

6.1 State Capacity and Regime Stability

6.1.1 The Concept of State Capacity

The overarching notion of state capacity has been the focus of many studies from a range of disciplines and is used extensively to explain various political and economic outcomes (for review, see Andersen et al. 2014a; Lindvall and Teorell 2016). Challenges to democratic consolidation since the 1990s and authoritarian stability led to intensive research on the relevance of state capacity to regimes (Fukuyama 2005; Møller and Skaaning 2012). Studies have defined state

capacity in various ways ranging from Skocpol (1985), who explained it as the ability to "implement official goals, especially over the actual or potential opposition of powerful social groups or in the face of recalcitrant socioeconomic circumstances" (9), through Migdal (1988), who sees it as the "capacities to penetrate society, regulate social relations, extract resources, and appropriate or use resources in determined ways"(4), and to Fukuyama (2004), for whom it is "the ability of the state to plan and execute policies and enforce laws cleanly and transparently" (9). Common to all the different definitions is the ability of the state to perform its fundamental tasks according to the idea that the state organization has distinct and unique function and reflects the ability of "the agents of the state to get members of society to do things that they would not otherwise do" (Lindvall and Teorell 2016, 7). State capacity is, therefore, the power that enables the state to promote different outcomes. It is the ability of the state apparatus to coerce (sticks), bribe (carrots), and persuade (sermons) members of society. State capacity, like power, is a relational term (Lindvall and Teorell 2016) that refers to the interactions that occur between the state apparatus and the people under its authority.

In order to understand state capacity as relational, it is necessary to distinguish between the state and state capacity. The state refers to the organization that projects political power on a given population in a given territory; state capacity is the ability of this organization to project political power. State capacity is not an inherent feature of the state itself. There are indeed tremendous variations in the ability of the state to project political power: from countries like Sweden and China with their effective control over land and people to failed states like South Sudan. State capacity not only varies between countries but also within each country. The capacity of the state to project power can change over time, as a state might gain or lose resources that can be used as carrots or the ability to persuade and coerce. Changes in capacity can also be consequences of changes among the different parts of the society controlled by the state. State capacity might also vary across the state's territory and between segments of the society. There are states whose capacity is restricted to parts of their territory, while others establish effective control over their entire territory. State capacity is thus not a dichotomist but a sequential description (Andersen et al. 2014a).

While state capacity refers predominantly to the ability of the state to be effective, it is recognized as a multidimensional concept and different dimensions have been offered. Since this book focuses on state capacity and the regime, I follow Andersen, Møller, and Skaaning's (2014b) distinction between the two dimensions of coercive capacity and administrative capacity. Coercive capacity, often labeled as despotic capacity, refers to the most basic attribute of the state, namely, monopolizing the administration of coercive power as embedded in the Weberian definition of the state. A monopoly on violence is the capacity of the security apparatus to impose public order throughout the territory of the state. Coercive capacity and the monopoly on violence is not an either/or issue but rather a question of degree (Andersen et al. 2014a). States can hold different degrees of coercive capacity for different segments of its population and different areas of its control and are rarely effective in their exercise of administrative capacity without a monopoly on violence. In that sense, coercive capacity is a precondition for administrative capacity. Administrative capacity, which is sometimes labeled as infrastructural capacity, is the ability of the civil administration to construct and implement policies regarding public services and regulations throughout the state territory. The administrative capacity of the state is also rooted in the Weberian tradition of the modern state and the existence of a professional and insulated bureaucracy. Like coercive capacity, administrative capacity too is a question of degree.

Focusing on the ability of the state to "get things done" via coercive and administrative capacities is also important in order to make a distinction between the state's different scopes of activities. There are great differences between states' interventions in society and the economy: For example, the United States and Singapore both have high state capacity, but interventions regulating social behavior and the economy are far more intensive in Singapore. Differences in the scope of interventions can also be found within the same state across time. In many states, the mode of economic intervention and control shifted as they reduced their direct control over welfare provision and economic activity. For example, in the United Kingdom, the share of state control in the economy decreased dramatically from the 1970s. Yet, the state's ability to "get things done" through its administrative capacity did not decrease during this time, as was the case in other capable states. State capacity is therefore different from the size of the state apparatus or the amount of its intervention and control of the economy.

6.1.2 State Capacity and Regime Stability

The ways in which state capacity and regimes are interlinked has been the subject of numerous studies. Studies that focused on Western Europe have argued that the development of the state as an efficient and credible enforcer occurred before any attempts were made to limit the power of the state. Without sufficient levels of state capacity, democratic consolidation is doomed to failure (Fukuyama 2005; Linz and Stepan 1996), and therefore, a capable state is considered as a precondition for democracy. Other studies that examined the experience of postcolonial countries claimed the opposite: Democratic rule can support the increase of state capacity as it contributes to the state's legitimization (Carothers 2007). Despite the numerous studies, there is no general theory on the state–democracy nexus (Mazzuca and Munck 2014); instead, there are just various theoretical propositions for the ways in which state capacity and regimes are interlinked. This chapter uses these propositions to discuss the Israeli case.

A combined perspective on the ways state capacity and regimes are interlinked was proposed by Andersen and his colleagues (2014b) who argued that instead of viewing state capacity as a precondition for democracy or vice versa, the focus should be on regime stability. They followed Huntington's (1968) seminal work on political order which argues that state capacity strengthens rulers, irrespective of the form of the regime. State capacity is, therefore, a servant to be used by any regime. It can be used to ensure political and civil rights in democracies just as well as it can be used to suppress such rights in an autocratic setting and can thus stabilize both democratic and authoritarian regimes.

The mechanism that helps state capacity to support the regime stability relies on coercive and administrative capacity (Andersen et al. 2014b). Coercive capacity is, as mentioned above, essential for ensuring social order. Social unrest that undermines the state monopoly on violence is likely to undermine the democraticness of the regime, and coercive capacity is, therefore, a prerequisite for supporting the stability of democratic regimes. For authoritarian regimes, coercive capacity is even more crucial, serving as the main deterrence against opponents and uprising; opponents of the regime are likely to avoid direct violent confrontation if the regime has a strong coercive capacity. In democratic and authoritarian regimes, however, reliance on

coercive capacity has limitations, as repressive means might be costly and trigger mass uprisings. Administrative capacity is therefore important for achieving long-term performance legitimacy that cannot be achieved by brute force alone. Administrative capacity produces economic growth and provides public goods, thus helping to legitimize the regime according to its performance. In democracies, in which governments are accountable to their citizens in a much more direct sense than in autocracies, administrative capacity is a stronger stabilizing factor than coercive capacity. State failure in public goods provisions and a lack of performance legitimacy are challenges for new and poor democracies and might, at times, undermine the regime's democraticness while increasing the incentives for coup attempts or popular uprisings. In autocratic regimes, administrative capacity is also important to ensure long-term stability despite the role of coercive capacity as the pillar of the regime. While authoritarian regimes can survive despite bad performance, in the long run, public goods provisions and performance legitimacy sustained by administrative capacity is an important stabilization force for the regime (Andersen et al. 2014b). Combinations of capacity dimensions were found to be key explanations for the ability of autocratic regimes to manipulate elections while repressing the opposition (Van Ham and Seim 2018).

While state capacity can be understood as a precondition for regime stability, it would be misleading to draw the causal arrow only from state capacity to the regime; the regime can also contribute to the capacity and performance of the state. In that sense, there is a sort of a mutually reinforcing process between the construction of a capable state and regime consolidation – a cycle that can lead to the advancement of state and regime alike. To understand this logic, one can follow those who challenge the main thesis that state capacity is a precondition for democratization. Carbone (2015), for example, identified mechanisms of the causal connection between democratic advances and state strengthening. There is a chain-like link between democratic inclusion, acceptability, and efficiency. Participation in the democratic process is likely to reduce resistance to the social and territorial penetration of state structures, assisting the enforcement of domestic political order. Citizens who have the possibility of political participation are more likely to accept the legitimacy of the state's authority. Political competition also contributes to regime

accountability and public goods provision. Democratic competition ensures the presence of political challengers and creates incentives for incumbents seeking reelection to focus on the provision of public goods rather than on the predation of public resources. This is likely to advantage state performance.

Overall, then, state capacity is a key explanation for the stability of both democratic and authoritarian regimes. It is the possibility of using state apparatus in order to shape social order via sticks, carrots, and sermons that sustains the stability of the regime. However, the regime itself can contribute to the state's ability to perform well. While the literature has focused mainly on the contribution of state capacity to sustaining democracy, it also recognizes its contribution to the stability of autocratic regime. While the Israeli regime classification might be subject to dispute, it is overall a fairly stable regime. The insights from the literature on state capacity can explain the relative stability of the regime's structure as well as some changes in its zones of control. Such explanations are based on both a general overview and a focused discussion on the key challenges to the regime's stability.

6.2 The Israeli State Capacity

6.2.1 Historical Origins

The scholarly analysis of state capacity has emphasized the need to examine the historical circumstances which determine the course of state development. Often, the conditions during a state's establishment and consolidation determine the long-term state capacity. Israel's high state capacity is no exception, as the pre-state period was highly influential in determining the course of the state. In his book, *Strong States, Weak Societies* (1988), Migdal used Israel as an example of the effects of the period of colonialism and state formation on the development of a strong state. Migdal's sociocentric perspective offers a dynamic understanding of how a state's strength is a result of how it interacts with society. According to Migdal, state strength is determined by the different patterns of colonialism. The colonial power had a key role in determining how governmental organizations would develop under its influence. In cases where power was transferred to local strong stakeholders, a weak state developed; in cases where there was centralized social control and resources, stronger states developed.

Israel's state capacity originated in the formative years of the British Mandate and the development of the institutions that came to be the core of the Israeli state (Migdal 1988). These central Yishuv institutions had a key advantage in controlling the Jewish society; they had developed alongside the very creation of the Jewish society during the process of migration and social change. These institutions did not, therefore, have to address significant challenges to their control from a preexisting social structure; the Jewish society created during this period was an almost entirely new society. In addition, British policy was central to isolating the developing Jewish society from the society that already existed in the territory, namely, Arab society. The British were aware of the infeasibility of forming governmental organizations that would include both Jews and Arabs, given their inherent rivalry. They also realized the impossibility of creating a strong mandatory state capable of achieving control over the entire population. They therefore developed separate communal institutions for Jews and Arabs. In addition, and in contrast to their policy throughout the empire, the British did not develop distinctions within the Jewish community, thus further supporting the Yishuv institutions' social control. In fact, the autonomy and capacity of the Yishuv's core institutions were much greater than usual in colonial-type situations (Migdal 1988). The Yishuv institutions expanded their spheres of responsibility to such domains as welfare, health care, media, education, and employment, thus ensuring their means of social control. The unwillingness of the British to take on the task of direct social control was pivotal in the creation of capable institutions.

In addition to this British policy, one should remember that capacity must be understood in relational terms, i.e., between the institutions and the society itself. The ability of the Yishuv's core institutions to control Jewish society without state sovereignty also reflects the willingness of its members to legitimize their control. While the Yishuv did not have sticks, it possessed significant sermon potential in the form of Zionist ideology. The dominance of Zionist motivation for meaningful parts of Jewish society was fundamental to the legitimization of the Yishuv's core institutions. Internal disputes reflected mainly different perspectives about the goals and the means of achieving Zionist ends and not disputes about Zionism itself. Despite the fact that the Jewish community contained some very radical ideological groups that believed in using force in order to achieve their goals, this did not

develop into a full-scale armed struggle with the Yishuv's core institutions.

An additional factor that supported these core institutions was the evolving conflict with the Palestinians. Threats to the further development of the Zionist project prompted the development of social control and ensured cooperation beyond internal struggles. Coercive capacity was developed semi-legally and, at times, underground, but growing Arab resistance encouraged its expansion. Some form of pre-state administrative capacity was developed in order to manage Jewish immigration and support the settlement attempts across the land. The ability of the Yishuv's core institutions to mobilize society and ensure social control was the source of these developments.

The ultimate test for these pre-state governmental organizations came at the end of the British Mandate, when the land was due to be divided between the Jews and the Arabs according to the 1947 UN Partition Plan. In the intensive war that erupted at this point between Jews and Arabs, the Jews' ability, despite numbering less than a million, to mobilize and control society led them to triumph over the Arabs in Palestine as well as the Arabs states with their vast populations (Migdal 1988). Not only were the Jews able to foil the attempts to eliminate their state, but the 1948 war enabled them to conquer a massive portion of the Mandate territory beyond the UN borders of partition. The results of the war also suppressed the main Zionist foe, the Palestinian national movement, which was unable to prevent the partition and the establishment of a Jewish state, with most Palestinians being uprooted beyond its borders. The results of the 1948 war demonstrate how the process of state establishment during the Mandate period led to the creation of a political entity with strong state capacity.

Several factors were crucial in determining Israel's state capacity. The external factors were British policy and the conflict with the Arabs. The internal factors were the ability to construct social control over the Jewish population, which comprised immigrants with some level of commitment to the Zionist project. These factors led observers to identify the pre-state period of power without formal sovereignty as a defining feature of the Yishuv (Horowitz and Lissak 1977). A combination of these factors provided the foundations of Israeli state capacity that have endured from its establishment until today.

6.2.2 The Capacity of the Israeli State

The social control mechanism developed in Israel's formative years was shifted onto state institutions after the establishment of the state. The development of this capacity should be understood in the context of the challenges the Israeli state was facing. As one observer of Israel's development pointed out in 1959:

> A small country, poor in physical resources, struggling with the nearly insurmountable task of assimilating more than one million immigrants, and endowed with a tradition of financial dependency, Israel has undertaken a highly ambitious set of government programs under conditions hostile to national security. The scope of the government's activities is suggestive not of a new state in the Near East but of a mature Western society with ample physical resources and a stable, integrated population. (Bernstein 1959: 415)

Besides this early observation, there are various other proofs of Israel's state capacity that can be seen from common measures of state capacity. Of the many indexes used to measure the different components of state capacity, one of the most common is the Combined Index of State Capacity which includes various dimensions and is based on a robust measurement model that enables an overall estimation of capacity (Hanson and Sigman 2013). In the Combined Index of State Capacity, in the year 2000 for example, Israel ranked 14 of all the countries measured, located between Norway and Ireland. This high rank might have been biased by Israel's mobilization of resources for dealing with the conflict. A focused look at administrative capacity shows that there is no bias based on the size of Israel's coercive capacity. In the Indicator of Quality of Government index – a common indicator for the quality of bureaucracy which is part of administrative capacity – the 2014 rating indicated that of the 138 states monitored, Israel was ranked 20 with a grade of 0.81 (on a 0–1 scale), above France and identical to the United States (Teorell et al. 2019). These levels of administrative capacity help to support a country's overall development, thus allowing Israel to be ranked 22 in the 2018 Human Development Index.

While these indicators provide some assessment, one should recognize that state capacity is not just the resources that a state possesses. It is a relational term, and the indicators are only an estimation of the resources the state possesses and quality of its apparatus (Lindvall and

Teorell 2016). The capacity of the state is projected on the society, and consequently, the ways in which the society accepts the state is a key aspect of the state–society nexus. A state might have enormous resources that can be used to coerce, bribe, and persuade members of society, but without their cooperation, the utility of such resources can be limited. This understanding of state capacity complicates the ability to identify state capacity. While the empirical indicators used to describe the state resources are based mainly on "hard" measures, state legitimization might be based on "soft" measures such as public opinion surveys. Soft measures of legitimization are very limited in their ability to provide a comprehensive account over the years due to the lack of sufficient reliable public opinion data across the time frame; at best, surveys might have been used for just more recent years. Given this inherent limitation in grasping state capacity, the discussion of the ways in which Israeli state capacity supports the regime's is not based on robust evidences.

6.3 State Capacity and the Israeli Regime

6.3.1 State Capacity and the Consolidation of the Israeli Regime

State formation is the process through which new states are created. During the period of state formation, a political regime is initiated, the nature of the regime is determined, and the basic political order, administration, and legitimacy are established. While state formation refers to a specific historical period, it does not undermine the understanding of state building as a continuous process. Nonetheless, this phase is distinct from the achievement of a well-functioning state through the development of an effective professional state bureaucracy (Carbone 2015). In the case of Israel, state formation refers to the transition from the pre-state period under the British Mandate to the establishment of a Jewish state in 1948 and the years after 1948. The process of state formation became the process of state building. It would be misleading, however, to identify a specific event or date that marks this event. Instead, state building is a long process comprised of different phases across different spheres.

As described in Chapter 4, during Israel's state formation period and formative years, the fundamental characteristics of the regime were

fixed: high levels of political contention, a lack of formal protection from the state, and very low coverage. While the state was new, its capacity supported the formation of this new regime. Numerous observers of this process identified the relative smoothness of the transition from Yishuv to state and the continuity of the Yishuv's core institutions to state institutions (Horowitz and Lissak 1977). The Yishuv's high levels of social control were now added to the institutions of the state itself, in particular, the formal control over the means of coercion.

Understanding the formation of the state is therefore critical for understanding the stability of the Israeli regime and the role of state capacity in supporting this stability. The main framework of the literature on democratization focuses on transition. Some types of autocratic regimes are replaced by democratic regimes through a process which is affected by factors such as economic growth. Yet, there are countries which are formed from the outset as democratic or autocratic, and their processes of state formation are therefore separate from the processes of regime transition (Denk and Lehtinen 2019). The political institutions established at the time of independence act as the new state's initial regime. According to Denk and Lehtinen (2019), these institutions can be autocratic or democratic, but the regime itself is determined at its critical moment of birth. Applying this logic to the case of Israel, state formation determined the nature of the regime as reflected in the gaps between its dimensions. The basic structure of the regime was determined in this period, and Israel's state capacity supported this transformation and enabled the regime to cope with various challenges.

During the period of the establishment of the State of Israel and its first decade, the efficient coercive capacity helped the regime suppress attempts from some elements of Jewish society to challenge the regime's monopoly on violence. The most famous of these attempts were carried out during the 1948 war by paramilitary Jewish organizations (the Irgun [the national military organization in the Land of Israel] and Lehi [fighters for the freedom of Israel]), culminating in June 1948 with the Altalena affair – a violent confrontation between the newly established IDF and the Irgun which resulted in several deaths. This affair was a serious test to establishing the legitimization of the new state and was the closest Israel has ever come to a civil war (Sprinzak 1999).

Coercive capacity continued to play a role also after the 1948 war, as there were some (relatively) minor incidences of violence and dissent among certain Jewish factions: small violent organizations of the militant Ultra-Orthodox who objected to the Zionist character of the state and radical right-wing groups (Pedahzur 2002). The suppression of violence and dissent eventually redirected some of these elements to participation in the electoral process, thus further supporting high levels of political contestation among Jews. Coercive capacity was also crucial in maintaining the regime's very low levels of PAI coverage; the military rule was a central tool in performing this capacity.

The legitimization of the regime was not based just on coercive capacity. Administrative capacity was also an important factor in enabling the provision of public goods and economic development. During Israel's first decade, administrative capacity was crucial for supporting the integration of Jewish immigrants, who more than tripled the population from around 800,000 in 1948 to around 2,700,000 in 1968. It enabled the provision of certain levels of housing, education, and welfare to the huge number of Jewish immigrants and the maintenance of economic growth. From 1950 to 1973, Israel's economic growth was exceptional: an annual growth of more than 8 percent. The state possessed a high ability to shape processes of public policy and act according to state preferences with limited social pressure (Levi-Faur 1998). In short, while coercive capacity was crucial to the period of state formation, administrative capacity supported the process of state building.

6.3.2 Increase in Democraticness Following State Consolidation

As described in Chapter 4, after the late 1960s and early 1970s, the levels of democraticness in the dimensions of protection and coverage began to increase slightly. This process marked the influence of state capacity to ensure a transition from the formative years to a more consolidated state. The state's consolidation, among other factors, supported the increase in levels of democraticness. It is reasonable to assume that if the state was unable to ensure social order and sufficient legitimacy across time, the path of gradual increase in democraticness might not have emerged or would have developed differently.

Many observers have pointed out that this process also marked a shift in the functions and the place of the state versus society since the 1970s (Kimmerling 2001; Migdal 2001); the political center was under increasing pressure from various social groups and its ability to advance its goals was limited (Horowitz and Lissak 1989). Some even described the political establishment as suffering a crisis of governability which set the system in a policy gridlock (for review, see Rosenthal 2017). In a parallel manner, the economic domain was also subject to enormous change. Until the 1980s, the state functioned in the socioeconomic field according to the principles of the model of the developmental state (Levi-Faur 1998), and the scope of involvement in economic processes was extensive. From the 1980s onward, there was a dramatic shift from tight control of the government to an open and liberalized economy. From direct intervention, the policy tipped in favor of deregulation, liberalization, and privatization, and various neoliberal reforms were made in the economy and the welfare system (Paz-Fuchs et al. 2018).

This political and economic shift could be understood as a significant decrease in state capacity. If the government were to retreat from direct intervention in the economy and the executives were to suffer from a crisis of governability, one might wonder whether the state would be unable to perform its basic task. This interpretation, however, is imprecise as it is based on a misinterpretation of the concept of state capacity and on the nature of the shift itself. Conceptually, state capacity was not the existence of a political center that was dominated by a single political actor, Mapai, and its successors. Instead, state capacity focused on the ability of the state apparatus, namely, the security forces and the bureaucracy, to perform their tasks. This does not imply that there was no social pressure as part of this process; indeed, following the 1970s, the Israeli state apparatus had less authority over society than in the 1950s and 1960s due to an increase in the level of democraticness in the dimension of protection.

Nonetheless, this reduction in power does not imply that the state apparatus was unable to deliver, as illustrated in the next section. The shift in the socioeconomic domain does not imply that the state lost its administrative capacity. Despite the adoption of neoliberal policies, the state was not necessarily weakened; rather, its mode of involvement in the economy changed as state agencies continued to play a crucial role

in the economic arena via methods of regulation and control (Maman and Rosenhek 2012). Some have even argued that the state played a major rule in the neoliberal reforms from the very start (Maron and Shalev 2017).

State capacity can thus be seen as a key factor in the relatively swift transition from the pre-state period to a consolidated state. The established state was able to use sticks, carrots, and sermons to sustain its legitimization, which, in turn, further supported the increase in the democraticness. However, after the transition period, there was a potential challenge to the regime's stability in various aspects.

6.4 Challenges to Regime Stability and State Capacity

6.4.1 The Internal Conflict Challenge

Chapter 5 claimed, following Peleg and Waxman (2011) and Frisch (2011), that the place of PAI in the Israeli regime should be understood as an internal aspect of the conflict. Despite sharing citizenship, Jews' and Arabs' most basic orientations toward the state differ fundamentally. For most Jews, the establishment of the state was a fulfillment of Zionism; for PAI, on the other hand, this was Al-Nakba, their most significant national catastrophe. They lost the war to the Zionist movement, become a minority in their homeland, and suffered substantial personal losses across many domains (for review, see Sa'di and Abu-Lughod 2007). This national disaster was not just a historical event but, for PAI, it reflects the state policies of Judaizing the territory and the public sphere which has endured for seventy years (Mustafa 2018). This perspective was clearly stated in one of the *Future Vision Documents* (see Chapter 5) by the National Committee for the Heads of the Arab Local Authorities in Israel (2007):

> The war of 1948 resulted in the establishment of the Israeli state on a 78% of historical Palestine. We found ourselves, those who have remained in their homeland (approximately 160,000) within the borders of the Jewish state. Such reality has isolated us from the rest of the Palestinian People and the Arab world and we were forced to become citizens of Israel . . . Since the Al-Nakba of 1948 (the Palestinian tragedy), we have been suffering from extreme structural discrimination policies, national oppression, military rule that lasted till 1966, land confiscation policy, unequal budget and resources allocation, rights discrimination and threats of transfer. (5)

This is not just a historical account but a day-to-day reality in which there is a structural conflict between the state and the (Palestinian) people in various spheres – from state symbols through property rights to episodes of violence (Jamal 2011). This is probably the most challenging issue for the stability of the Israeli regime. After all, from a theoretical perspective, an ethno-national conflict on homeland territory (which, in this case, is also a religious conflict) with potential for secession is the most intensive type of conflict, especially in a threatened geopolitical environment. Given this reality and this theoretical expectation, one might have anticipated the challenge to the regime stability to have materialized in many ways ranging from a lack of cooperation with the regime and the development of alternative political institutions to demands for secession and large-scale violent clashes. Notwithstanding such expectations, there is, from a comprehensive perspective, a gap between the potential of the conflict and its actual manifestation. In fact, there are several intimations of incorporating most of the PAI in the regime.

First and foremost, except for the Northern Faction of the Islamic Movement, the PAI have not developed large-scale political forces that challenge the existence of the state and the notion of Israeli citizenship. The PAI are not, of course, a monolithic group, and they have a spectrum of approaches toward the state. On one side of the spectrum is the complete acceptance of the state as a Jewish state, to the extent of denying identification as Palestinians, which can be found among the mainstream Druze community.[1] On the other side are those who reject the state and call for its replacement by an alternative political entity – one state across all of Palestine in the case of secular movements like the Sons of the Village or an Islamic state in the case of the Islamic Movement. While this spectrum reflects the complexity of approaches, an overall generalization can be applied.

One indication of acceptance of the regime is participation in the Knesset elections. Since the 1949 elections, the PAI, under the immediate influence of their devastating defeat (the Nakba), have participated in the elections while legitimizing the Israeli regime (Jabareen 2014).

[1] The Druze are a distinct religious group that comprises approximately 10 percent of the PAI population. Since 1948, Israel authorities, with the help of the coopted Druze elite, have supported the development of Druze particularism which is separate from Arab and Palestinian national sentiments. For example, Druze men, unlike other Arabs, are conscripted to the IDF (Firro 2001).

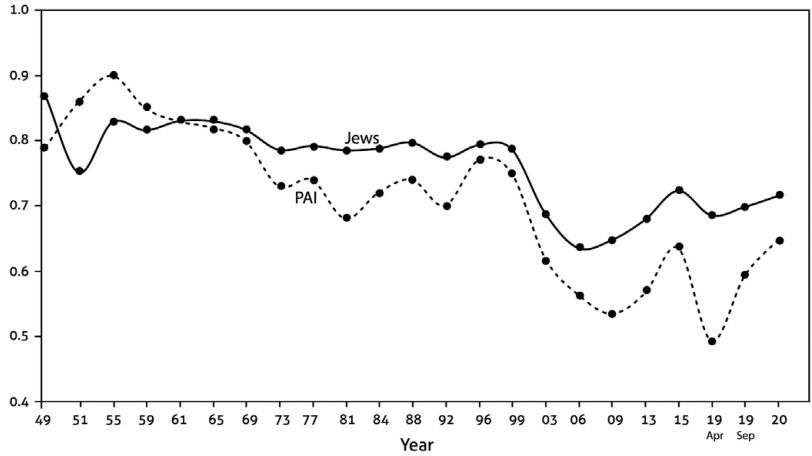


Figure 6.1 Gap between turnout of Jews and PAI in the Knesset elections. *Source:* IDI 2020.

Besides the Northern Faction of the Islamic Movement that boycotts participation in the elections, there is no influential organization that has promoted comprehensive, large-scale boycotting of the elections over time. Figure 6.1 presents the gaps between the turnout of Jews and PAI in Knesset elections since 1949 and up to the April 2019 elections. For most of the elections, the gap was positive, i.e., the turnout was higher among Jews. The figure also shows that the gap was dynamic, which reflects changes in the PAI voting patterns. Under military rule, participation in the elections was based mainly on patronage voting, demonstrating the regime's overall control over PAI (Cohen 2010; Ghanem and Rouhana 2001; Lustick 1980). Between 1951 and 1959, the turnout was higher among PAI, and from then until 1969 there was almost no gap in the turnout. However, after the abolishment of military rule, there was no dramatic shift in the turnout gap. Until the 2009 elections, the gap was lower than 10 percent, and until the April 2019 elections, there was a more than 50 percent turnout among PAI. The interpretation of the lack of meaningful gap as an indication of cooperation with the regime can be further supported by the low turnout (18 percent) in the 2001 special elections for just the prime minister. In this direct election – the only elections of this kind (Kenig et al. 2005) – most PAI boycotted the elections as a result of the October 2000 clashes and the perception of the election as a competition between Jewish political elites.

Despite this overall pattern, the turnout gap increased dramatically (almost 20 percent) in the April 2019 elections (IDI 2019). This shift might reflect a response to growing attempts to reduce PAI coverage (see Chapter 4 [4.1.3]) and to the dismantling of the Joint List that had combined all the Arab parties in the 2015 elections. However, in the September 2019 elections, the turnout gap narrowed. On the whole, PAI participation demonstrates their acceptance not only of the state but also of the regime. A rejection of the state and the regime would be expected to lead to nonparticipation in the elections and the development of alternative autonomous institutions. PAI voters and parties played inside the regime rules and not against them.

Another indication of acceptance of the regime can be found in the sphere of civil society and the demands and channels of activity of PAI NGOs, which are also framed within the realm of the state. The *Future Vision Documents* are a key example of civil society activity as they are manifestation of the collective effort of various NGOs to define PAI community in Israel in light of its Israeli and Palestinian surroundings (Jamal 2011). These documents display PAI's recognition of their distinctiveness from other parts of the Palestinian people and the distinction between the Palestinian right to self-determination in a state adjacent to the State of Israel and the need to integrate the national identity and culture of the Palestinian minority in the State of Israel (Jamal 2011). While the vision documents called for a shift from the Zionist model to a binational model in Israel proper, they did not challenge the existence of the state itself. This exhibits the PAI's persistent strategy to act within the state and not against it (Ghanem and Mustafa 2018).

Further evidence of regime acceptance can be found in the overall scope of violence. PAI experience more conflict with the state agencies, especially the police, than Jews (Ben-Porat and Yuval 2019; Hasisi and Weitzer 2007). The few occasional violent clashes peaked with the October 2000 events. Yet, despite these events, the PAI's grievances never materialized into enduring mass violence between Jews and PAI. There have been no civil war or large-scale communal riots, and PAI's involvement in organized violence or membership in Palestinian and/or Islamic terror organizations is relatively minor. The few attempts to create insurgent activity were interim and not supported by the PAI mainstream. This demonstrates the fact that most PAI made a decision to act within the Israeli legal system and according to the law (Jamal 2019).

This lack of violence is especially conspicuous given the extent of violence between Israel and the Palestinians outside of Israeli proper: for example, the series of violent clashes between Israel and the Hamas in the Gaza Strip in the last decade. These clashes have been extremely violent and have caused great harm to the Palestinian population and civilian infrastructure with the death of hundreds of Palestinian civilians and many more wounded in each escalation (Levy 2017). Nonetheless, despite the shared national identity and the fact that many PAI have relatives in the Gaza Strip, there have been no violent clashes with PAI either during or after these events. To frame it rather provocatively, despite the fact that their conationals and even relatives were suffering from severe state violence, which they could watch online due to the intensive coverage by the Arab media, most of the PAI kept to their daily routines.

These indications are, on the whole, in line with Haklai's (2011) comprehensive analysis of the development of ethno-politics among PAI. Haklai showed the development of political activism by multiple ethno-nationalist minority organizations as a result of changes in the institutional structure of the Israeli state since the 1990s. He observed that "Despite the growing tensions between the majority and minority and the rise in popularity of ethnocentric political parties on both sides, the Jewish–PAI conflict has rarely manifested itself outside the established institutional framework" (173). The gap between the destabilizing force of the internal conflict and the relative stability of the regime requires explanation; of the various possible options, I propose that state capacity should also be considered.

The state's coercive and administrative capacities provide the regime with the sticks and carrots necessary to persuade PAI to accept the state as a political entity despite its Zionist character. The coercive capacity was the most crucial in the formative years of the state, enabling the state, under military rule, to Judaize the territory as much as possible. Without sufficient effective coercive capacity, the state would not have been able to ensure its control and sustain its policies in the territory. In this respect, the coercive capacity supported the administrative capacity that was used to advance the policy of territorial control and the changes in the demographic structure. The state's capacity to integrate large waves of Jewish immigrants and settle them on Palestinian land was an essential aspect in further cementing the consequences of the 1948 Jewish victory and setting the status of PAI as a numerical minority.

The coercive capacity was also an important element in deterring PAI from challenging the state and its policies. While the coercive capacity was limited by the PAI's various forms of resistance (Cohen 2010; Darweish and Sellick 2017), it established the tenacity of the state against internal and external challenges and the recognition that the Israeli state is not transient. After the period of state establishment, the coercive capacity allowed Israel to address external rivals in the wars of 1956, 1967, and 1973, thus further demonstrating that the Arab countries cannot undermine its existence. It was also important in discouraging attempts to challenge the regime through internal violence. While there has been no military rule over the PAI since 1966, the security apparatus operates various mechanisms of control and surveillance. The few sporadic attempts at organized political violence have been met with effective repression. For example, during the 1970s and 1980s, violent underground anti-Jewish activities by the Islamic Movement were repressed and the movement's activities were channeled to mainly communal activities (Ali 2004). Unlike among the Palestinians outside of Israel proper, there is no ongoing PAI insurgency. The coercive capacity in Israel proper is used not only in cases of violent defiance but also as a mechanism of control over political challenges from possible dissenters, for example, PAI organizations perceived as challenging the regime like the Northern Faction of the Islamic Movement. According to the Israeli authorities, this organization denies Israel's right to exist, calls to replace the State of Israel with an Islamic caliphate, and is closely related to the Muslim Brotherhood, Hamas, and others of Israel's rivals (Nasasra 2018). It was therefore outlawed in 2015 and its public activity banned. While there is no definitive evidence, there are some signs that the Shabak operates a system of strict surveillance of the entire PAI population; for example, there is close scrutiny of teachers and elimination of any significant reference to Palestinian identity from school curricula and activities (Agbaria and Pinson 2019).

Despite supporting the process of Judaizing and extending the control of the territory, the administrative capacity has also supported the (limited) provision of public goods to PAI. This should be viewed alongside the fact, documented in numerous studies (see Haidar 1995), that Israel policy in the provision of public goods to PAI is based primarily on exclusion and marginalization. Given the territorial segregation between Jewish and PAI localities, with more than

99 percent of Israel's 1,200 localities in 2012 either exclusively Jewish or exclusively Palestinian, this preference is an essential component in the provision of public goods (Cohen 2014). These gaps are stable and can be found across various domains of social and economic aspects and well-being, as even some government reports like the Orr Commission Report (2003) have admitted.

Nevertheless, a process of some limited inclusion has emerged over time in a certain aspect of the provision of public goods: the welfare state. This is a result of the resource-rich and interventionist character of the state in spheres such as income maintenance and health services (Rosenhek and Shalev 2000). A recent analysis of transfer payments has shown that the gap between Jews and PAI is fairly small when all other aspects are considered (Shalev and Lazarus 2016). Likewise, in the sphere of education, despite the ongoing inequality, there is some evidence of increasing public goods provision. For example, the number of PAI schools from 1948 to 2014 increased twenty-one-fold, while Jewish schools increased only sixfold. Similarly, in PAI communities, the percentage of public schools grew from 64 percent in 1945–1946 to 92 percent in 1989–1990 (Abu Saad and Khamaisi 2015). The education system is not just a state mechanism for controlling PAI but also a provider of mass education (Al-Haj 2012). While there has been no systematic analysis, it can be hypothesized that, despite the inherent inequality and exclusion, the administrative capacity's provision of public goods in areas such as welfare, education, and health might contribute to performance-based legitimization of the state among PAI.

State capacity supported the ability to cope with any potential challenge presented by the internal conflict. However, this should not be viewed as just as a consequence of state capacity; some aspects of the regime were also important in sustaining state capacity. Despite the limited coverage of the Israeli regime, various channels of PAI political activity supported some incorporation in the regime after the abolishment of military rule. Political contestation, its limitations aside, enabled institutionalized participation and probably reduced resistance to the social and territorial penetration of state structures. While a lack of analyses of PAI's voting motivation over the years prevents the monitoring of any such impact, it can be assumed that after the abolishment of military rule and patronage voting, those who participated in the elections were more likely to accept the

legitimacy of the state's authority. As Figure 6.1 indicates, the gap between Jewish and PAI turnout was relatively minor until the April 2019 elections.

In addition to political contestation, protection also provides a channel for promoting regime legitimization. In spite of the more limited levels of democraticness in protection and the limited coverage of PAI, it might well have been sufficient to ensure some legitimization of the regime since the 1990s. For example, Haklai (2011) claimed that the empowerment of the Supreme Court in the 1990s created an opportunity for PAI NGOs to direct their activity toward the legal process. There were even some Supreme Court rulings that impacted PAI's coverage somewhat (e.g., the approval of a party's participation in elections despite its disqualification, see Chapter 4 [4.1.2]) and might have further boosted the regime's legitimization. Here too, there is no systematic analysis of legitimization and no clear evidence of the dimension of protection like the turnout figures. Nonetheless, it is feasible that some increase in the dimension of protection encouraged regime legitimization among PAI who focused on civil society and NGOs.

Since the creation of the PAI as a distinct category in 1948, the internal conflict has never become a full-fledged destabilizing force. Despite the limited coverage embedded in the Israeli regime, both state capacity and the regime itself are possible explanations for the gap between the potential of the internal conflict and the actual manifestation of the internal conflict. This is not a static condition, as changes in the regime itself should be considered. As Haklai (2011) argued, PAI's ethno-national mobilization advanced due to, inter alia, the erosion of executive power and control of society that impacts both Jews and PAI. This did not, however, lead to large-scale attempts to adopt exit strategies from the state but rather to the sounding of a clear voice within the state itself. Without sufficient state capacity, the challenge of the internal conflict to the regime's stability might, presumably, have taken an entirely different course. Nonetheless, there are hints that the backlash against the PAI's voice that is evident in the "Basic Law: Israel – the Nation State of the Jewish People" (see Chapter 4 [4.1.3]) will reduce the level of coverage democraticness even further and push PAI to look for alternative methods of collective activity. Only time will tell to what extent this process will erode regime stability.

6.4.2 State Capacity and Challenges Among Jews

Unlike with the PAI, state capacity among Jews is based on a fundamentally different approach toward the state. If for PAI the establishment of the state was a historical disaster which, in many ways, continues until today, for most Jews it was the fulfillment of Zionism. Of course, not all the Jews who immigrated to Palestine/Eretz Israel during the Mandate period and after the establishment of the state were Zionists; there were many motivations and conditions affecting Jewish immigration to this part of the world. However, Zionism was by far the dominant ideology and remains dominant among most Jews in Israel. Despite the development of a critical approach toward Zionism in some academic circles in the 1990s labeled post-Zionist (for review, see Ram 2005), this is a relatively marginal view in the mainstream Israeli political sphere and Jewish-Israeli society, as evidenced by the fact that, excluding the Ultra-Orthodox, there is no single durable Jewish political party with a platform that opposes Zionism.

In light of the dominance of Zionism, it is little wonder that during the state formation period the state was not perceived as something to be protected from. On the contrary, the state was perceived as sacred, and the principle of statism, i.e., the state as the central focus of loyalty and identification, prevailed (Liebman and Don-Yiḥya 1983). This notion, which formed a key component of the "civil religion" that has developed in Israel, is exemplified in the "after 2000 years" motto that became popular among Israeli Jews after independence, giving prominence to Jewish sovereignty. This statism was clearly reflected in the state's tight control over society immediately after its establishment (Migdal 2001). Such control was also expressed in state paternalism toward its citizens and limited tolerance for bottom-up demands (Wolfsfeld 1988). Israel's state capacity toward Jews is not just a consequence of its ability to gain and allocate resources and control violence but also its inherent legitimization as a consequence of Zionist ideology. Yet, even among Jews, there have been several potential challenges to the stability of the regime along religious and political lines which sometimes overlap.[2]

[2] The question of the ways in which religion and regimes are connected has been the subject of a long-lasting debate that focuses mainly on Christianity and Islam

As mentioned already, the establishment of Israel was the fulfillment of Zionism for most Jews; not all Jews, however, are Zionists. The main group that, at least historically, opposed Zionism was the Ultra-Orthodox. While the Ultra-Orthodox are not a monolithic group, their main characteristic is a total commitment to Jewish tradition and the Halacha (the corpus of Jewish religious laws) and a rejection of modernity. Their perspective is based on a sense of collective trauma resulting from the choice of the majority of Jewish society to leave the folds of traditional life in favor of other religious or secular options under the impact of modernity (Ravitzky 1996). Historically, they rejected Zionism, and during the pre-state period, they held an ambivalent position toward the Zionist elite. After 1948, their willingness to cooperate with the state was based primarily on pragmatic grounds, and their mainstream still rejects the idea that there is any inherent value in a Jewish state. This is demonstrated by the notion of the "exile of Israel in the holy land" (Ravitzky 1996: 8), meaning that the era of exile persists despite the existence of the Jewish state and only the arrival of the Messiah can bring the exile to an end. Ultra-Orthodox ambivalence toward the state varies between those who nonetheless participate in the government coalitions and the few militant groups that use limited and sporadic violence as a form of resistance. However, the challenge of even the most extreme Ultra-Orthodox factions has been limited. They are involved in occasional confrontations with the secular authorities that are expressed in street demonstrations, rock throwing, and occasional physical clashes with the police but these have never reached the level of a national crisis (Sprinzak 1999). These extreme acts aside, the overall pattern of Ultra-Orthodox behavior has always been pragmatic cooperation with the state that is necessary in order to support their main strategy of living, which involves maintaining separate communities with limited participation in the Israeli labor market and no conscription to the army (Stadler et al. 2008).

The Ultra-Orthodox community's anti-Zionist sentiments have not, unlike the PAI, led to their marginalization. On the contrary, the Ultra-

and emphasizes the complexity of these relations and the limits of generalization (Anderson 2004). Regarding Judaism and regimes, there are also opposing interpretations (Shafir 2014). It would therefore be inaccurate to argue about the overall role of the "Jewish religion"; instead, my focus is on the relevant political forces which justified their activities in the name of religion.

Orthodox are considered to be an authentic representation of Jewish religion and tradition, and this has enormous influence on their status. They were incorporated into the Zionist project in order to boost its legitimacy, and this position granted them privileges from the very outset (Shafir and Peled 2002). So the Ultra-Orthodox challenge to regime stability has always been far more modest than the PAI. More importantly, despite their anti-Zionist historical position, many observers have stressed that the Ultra-Orthodox perspective on the state has shifted over time, reflecting wider changes in their relationship with the surrounding society (see Sivan and Kaplan 2003). The aspect of state capacity should be emphasized here, in particular, the ways in which the characteristics of the regime contribute to state capacity and increase regime legitimization among the Ultra-Orthodox.

Coercive capacity is, thus, far less relevant for ensuring the cooperation of the Ultra-Orthodox. Their range of violence was and has remained limited. Much more pertinent is the administrative capacity in the form of the state's ability to allocate carrots to the Ultra-Orthodox. The Ultra-Orthodox way of life, which is based on limited participation in the job market and dedicated daily learning in yeshivas, requires state support. The facilitation of such a way of life requires the provision of universal public goods by the state in addition to specific support for the Ultra-Orthodox. Social and economic benefits as well as political arrangements such as exemption from conscription were crucial for enabling the preservation of the Ultra-Orthodox community's distinct way of life (Stadler et al. 2008). These benefits then contribute to the legitimization of the state and the regime. The ways in which the administrative capacity contributes to this distinct way of living should be understood in light of the regime's high levels of political contestation. The effective participation of the Ultra-Orthodox in political contestation, especially since 1977, has helped them to achieve political gains that are above and beyond what would be expected according to their actual share in society. Their participation in nearly every government is key to their ability to mobilize state resources in support of their distinct lifestyle. This participation has also contributed, over time, to the increasing process of state legitimization among the Ultra-Orthodox even beyond the mainstream (Hakak 2006).

A much greater challenge to the stability of the regime can be found in the political division between Jews on the left and on the right,

which sometimes also overlaps with religious distinctions. In his seminal review of political violence among Jews in Israel, Sprinzak (1999) identified this issue as more prominent than other sources of violence. As mentioned above, potential risks to the regime during the period of state formation peaked with the Altalena affair. Yet, after the state formation period and, especially, after the early 1950s, the political debate on the left–right spectrum was, for the most part, within the framework of the regime. Political violence among Jews was limited and sporadic, as was the extent of the violence and the threats from radical left and right groups (Sprinzak 1999). The main potential threat came from destabilizing forces that emerged as a consequence of the 1967 war.

The 1967 war and the ensuing occupation of territories was a seminal moment for the political distinction between left and right in Israel, as it led to disputes over the future of the territories seized in the war. It created a distinction between the camp that supports some form of territorial compromise in exchange for peace on the left and the camp of "Eretz Israel," a greater and indivisible "Land of Israel" with control over entire territories, on the right. This political divide also overlaps with religious divisions as the dominant force in the right-wing camp are the religious Zionists who form the dominant part of the settler movement. While a review of these developments and the settler movement can be found elsewhere (Feige 2009), I focus here at other potential challenge to regime stability from certain aspects of this conflict, as can be seen in the central settlers' organization, Gush Emunim (bloc of the faithful), and its successor organizations, which have wide influence over Israel politics and society (Newman 2005). Gush Emunim, established in 1974, was identified as both a fundamentalist group and a messianic movement (Feige 2009; Sprinzak 1999), whose challenge to the regime can be found in the prioritization of the sacred land (manifested in settlements in the Occupied Territories) over state authority (Sprinzak 1999).[3]

[3] One might wonder why the radical group Kach, established by Meir Kahane and outlawed as a terror organization by Israel, is not part of the review of potential challenges to the regime. Kach, identified by Pedahzur (2002) as the most anti-democratic phenomena Israel has ever known, was quite marginal and had very limited mobilization capabilities, thus its overall challenge to the regime was also limited.

Gush Emunim's main path of action in the promotion of Jewish redemption was advancing the construction of settlements in the Occupied Territories in order to guarantee the state's commitment to these territories and hinder possible territorial compromises and withdrawal. Their actions occasionally led to confrontations with officials and challenged state authority (Sprinzak 1999). However, these did not develop into large-scale violent confrontations with the state, and most were cases of unlawful disobedience at times of settlement evacuations. This was not, on the other hand, the case regarding settler violence against the Palestinians in the Occupied Territories. Some Gush Emunim members launched violent attacks on Palestinians and their property; the most violence was manifested in the activities of the Jewish Underground, which included prominent members of Gush Emunim, in the late 1970s and early 1980s. The Jewish Underground was considered the most sophisticated and brutal Jewish terror organization that Israel had known (Sprinzak 1999). It was responsible for murdering Palestinians in the West Bank, carrying out assassination attempts on three West Bank Arab mayors, and advancing a plan to blow up the mosques on the Temple Mount in Jerusalem – a plan with potentially devastating consequences for Israel's relations with Muslims.

While the Jewish Underground was eventually handled by the authorities, settler violence against Palestinians continued, especially after 1993 with the Oslo process and the possibility of an Israeli retreat from some parts of the Occupied Territories. Routine settler violence aimed to achieve territorial gains (by taking over land), take revenge on the Palestinians (after settlers had suffered violence) or, in rarer cases, create escalations (by causing massacres of Palestinians) that would impact Israel policy.[4] Another form of violence that has developed in the last ten years is the so-called price tag attacks. The main aim of the price tag attacks is to prevent the government from dismantling settler outposts and destroying houses built illegally on private Palestinian land and to encourage a stronger stance against the Palestinians.

[4] The most extreme case of a massacre of Palestinians took place in Hebron on February 25, 1994, when Baruch Goldstein killed twenty-nine Muslims during their prayers in the Cave of the Patriarchs, a shrine sacred to both Jews and Muslims. This event leads to a series of confrontations between protesting Palestinians and Israeli soldiers all over the West Bank and Gaza Strip, leading to more dead and wounded Palestinians.

According to Eiran and Krause (2018), the "price tag" attacks differ from the settlers' earlier approaches toward the state; while previously settlers largely cooperated with the state, this new form of violence confronts the state and delegitimizes it.

While the settlers' unauthorized violence against the Palestinians might be viewed as a challenge to the regime in the Occupied Territories, it would be simplistic and even wrong to describe the settlers and the state as coming from the two sides of confrontation. Regarding the settlements, there has been considerable sympathy with the settler movement across the political spectrum (Barak 2018), demonstrating that the settlers, in many ways, fulfill the Zionist imperative of gaining control over the land. This is evident in the support that the settlements have received from nearly all Israeli governments.

According to Gazit (2015), the void status of the Occupied Territories allows the settlers to act as agents of the state while limiting state responsibility for their actions. In other words, the elusive political and legal structural frameworks provide degrees of freedom that enable the settlers to function beyond the formal restrictions of the law. This is evident in the settlers' violence against Palestinian civilians who exercise control over Area C. It is also displayed in the very status of the settlements. In the Occupied Territories, there is a distinction between the so-called legal (authorized by the government) or illegal (unauthorized by the government) settlements and outposts. Nonetheless, there is evidence that the state supports the "illegal" settlements and outposts, thus permitting the ongoing appropriation of territory in Area C yet avoiding international pressure. The distinction between "legal" and "illegal" does not reflect the existence of clear state authority in the Occupied Territories but rather a way to bypass the inherent restrictions of the state itself (Gazit 2015).

Similarly, the routine of violence – 119 Palestinians were killed by settlers between 1987 and 2001 (Eiran and Krause 2018) – is not harshly repressed. The settlers' violence is a sort of vigilante action that fills the gaps that the state cannot manage. According to Gazit (2015), this violence contributes to the manifestation of Israeli rule by ensuring effective control over Area C even in the absence of state officials and highlighting the role of the Israeli security forces as protectors of the local Palestinian population. Even in cases of large-scale violent acts, there is inherent sympathy toward those who committed the violence; most cases of Jewish terrorism received forgiving

treatment even when the potential damage is enormous, for example, in the case of the Jewish Underground plan to blow up the mosques on the Temple Mount (Pedahzur 2002). It is therefore not surprising that only 5 percent of the "price tag" incidents have resulted in the arrests of suspects despite exhibiting delegitimization of the state (Eiran and Krause 2018).

It is thus clear that most of the settlers' activities in the Occupied Territories, even if not formally legalized by the state, form a rather limited challenge (except in cases of extreme violence or potential acts with broader political and international implications).[5] A larger challenge can be found in the use of violence or the potential use of violence between Jews. The two most extreme cases here are the murder of Yitzhak Rabin, the ninth prime minister of the State of Israel, in 1995 and the removal of the settlements from Sinai in 1982 and the Gaza Strip in 2005.

Yitzhak Rabin led a government that advanced a left-wing agenda based on comprise with the PLO that have led to withdrawal from some parts of the Occupied Territories. There was harsh resistance to this policy from the right wing and, in particular, the settler movement. This resistance was limited primarily to large-scale demonstrations and, on the margins, to civil disobedience, but confrontation with the authorities was limited. Nonetheless, Yigal Amir, one of the radical right-wingers, assassinated Rabin in November 1995 in order to stop the peace process (Sprinzak 1999). Of all the incidents of political violence among Jews in Israel, Rabin's murder stands out, since political assassination is very rare and this was an assassination of the highest political rank.

Political assassination of a country's highest political figure can be a destabilizing force if the assassination escalates the struggle between the different political camps. Yet, in this case, there was no such intensification of the conflict. While Yigal Amir was not a member of an organized settler or radical right-wing movement, he was a product of the same cultural and theological milieu. Despite this fact and the massive opposition to Rabin's agenda among this camp, the assassination did not escalate the political clash between left and right; in fact, there was, at least in the period immediately after the assassination,

[5] As, for example, it was in the case of Duma village (2015) when a family home was firebombed, leading to three Palestinians death.

condemnation of Yigal Amir's act even among the most radical parts of the right wing and the settler movement (Sprinzak 1999). According to Sprinzak's (1999) analysis, despite Yigal Amir's attempt to justify it on religious grounds, Rabin's assassination was a deviation from the Jewish tradition of avoiding inter-Jewish violence that was accepted even on the radical fringe. At the same time, the government did not use the murder in order to launch large-scale repression of the radical components of the settler movement or to evacuate some settlements. There were punitive countermeasures against the fringe of the radical right wing that expressed support for the murder but not against the various activists of the radical right wing (Pedahzur 2002). Instead, the dominant political mode after the murder was the need to ensure (Jewish) unity and to play within the rules and not against them.

The second extreme case comprises clashes with the authorities over evacuations of settlements. The first episode was in 1982 during the withdrawal from Sinai and evacuations of settlements as a result of the peace treaty with Egypt. However, due to the relatively small numbers of settlers, the fact that Sinai was not perceived as an integral part of the sacred Land of Israel, and the enormous public support for the treaty with Egypt, this challenge was rather limited (Hellinger et al. 2016). The second episode, the evacuation of the settlements from the Gaza Strip, was a challenge on a totally different scale. As a consequence of various internal and external factors, Prime Minister Sharon announced in 2003 his plan for a unilateral "disengagement" from the Gaza Strip (Pressman 2006). After the settlers' long political battle against the plan, in August 2005, all 8,600 Jewish settlers (as well as 5,000 supporters) in twenty-two settlements were evicted from the Gaza Strip as well as hundreds of settlers from four settlements in the northern West Bank. This move caused the most confrontational clash between the state and the settler movement with the potential to destabilize the regime.

Prior to the implementation of the evacuation, there were expectations of large-scale settler violence, possibly to the extent of a civil war. Such expectations were based on both the longstanding view of the settler threat in the event of a large-scale evacuation and specific aspects of the disengagement plan itself. These aspects included the settlers' sense of betrayal by Sharon, their longtime ally, the economic interests of the settlers in the Gaza Strip and the West Bank, and the need to prevent any future evacuations from the West Bank (Roth

2019). Yet, despite these expectations, the opposition to the disengagement plan and the struggle during the actual evacuation did not develop into mass violence beyond civil disobedience (aside from the murder of 4 PAI in an attack that was thought to have been a response to the disengagement plan). Not a single settler used weapons against a soldier or police officer. In fact, the process took less time than expected as nearly all the settlers, despite their opposition to the eviction from their homes, did not use harsh violence to delay the evacuation.

Thus, despite the potential for large-scale violent clashes, the scale of violence was once again restrained. What explains the gap between the potential for violence and its actual manifestation? Why did the struggle to stop the disengagement not develop into a full-fledged challenge to the regime? The settler leaders could quite easily have resisted forcefully and made the event traumatic, thus defining the terms of any future evacuation of settlements in the West Bank. While some explanations might refer to the Jewish tradition of preserving Jewish solidarity, I would like to offer another possible reason, namely, the capacity of the state as reflected in its coercive capacity. From the Altalena affair and up to the disengagement from the Gaza Strip, the executive was determined and efficient in their actions to prevent the existence of groups that use political violence against Jews (this was less the case regarding violence toward Arabs). It was much harder for insurgent groups of Jews to organize when facing such effective control.

Efficient use of the coercive capacity was palpable during the disengagement process. The state mobilized its security apparatus – more than 40,000 soldiers and police – in order to advance the disengagement plan and prevent the settlers and their supporters from thwarting it. The peak of the effective use of force was displayed in the attempt by opponents to the disengagement plan to organize a march to the Jewish settlements in the Gaza Strip. Three weeks before the date for disengagement, a mass rally of around 40,000 citizens set off for the settlements with the intention of staying there and obstructing the evacuation. However, their way was blocked by about 20,000 soldiers and police officers, preventing them from getting even close to the Gaza Strip. Another aspect of the state's coercive capacity was its ability to ensure the coherence of the security apparatus throughout. Expectations that orders to evacuate would be disobeyed in masse,

particularly by religious soldiers who are identified with the settlers, proved completely false; the scope of refusal was, in fact, very small (Levy 2007). More importantly, none of the military units showed any sign of using force to hinder the withdrawal. The ability of the state to mobilize and activate its security apparatus so efficiently is a central explanation for the lack of violence.

However, it should be remembered that state capacity is a relational concept – some level of state legitimization is required in order to avoid a situation in which security forces use extreme force. The potential for political violence is limited by the total rejection of civil war among almost the entire Jewish public. Sprinzak (1999) summarized his analysis of political violence among Jews by emphasizing that the fear of civil war is a key restraint on violence. This logic can also be seen in the disengagement. The settlers avoided launching large-scale violence that would challenge the security apparatus. They did not defy the soldiers and police officers blocking their way during the march to Gaza Strip nor did they greet the evacuation forces with arms. According to some observers, the settlers chose to avoid significant violence in favor of preserving the sanctity of the State of Israel and the unity of the nation of Israel according to their theological interpretations of the State of Israel (Hellinger et al. 2016; Roth 2019). Levy (2007) offered an alternative explanation based not on the sanctity of the state but on the status of its key agent – the IDF. Settler clashes with the IDF could have undermined the IDF's status and, subsequently, the status of religious Zionism within the IDF and among the general public. Regardless of the exact interpretation of the settlers' motivation to avoid violence, it is clear that it was the inherent legitimization of the state and its apparatus that prevented the manifestation of any fatal violent struggle.[6]

Israel's state capacities can thus be seen to have contained the political struggle between the left and the right and to have avoided large-scale inter-Jewish violence even during peaks of confrontation. Yet, as in the case of the PAI and the Ultra-Orthodox, it would be too simplistic to draw the line of influence just from the state capacities to the regime. The interactions between the regime and the state are of

[6] It is important to note that after the disengagement from the Gaza Strip there was another case, Amona in 2006, that saw far more instances of struggle between the settlers and the authorities (see Alimi 2016 for the differences).

special importance when it comes to the left–right struggle and, especially, the settler movement. The high levels of political contestation allow the settlers to achieve political influence through their own political parties or through their influence in the Likud, the dominant political party. Despite the fact that mainstream Jewish society rejects the settlers' religious ideology and the fact that they constitute less than 7 percent of the Israeli electorate, they have gained significant political influence, in particular, following the disengagement. The representation of the settlers and their supporters in the Knesset is larger than their actual numbers, and like the Ultra-Orthodox, they have been part of nearly every coalition (Del Sarto 2017). Yet, unlike the Ultra-Orthodox, the settlers have also gained influence among agents of the state itself. For a long time, the settlers have held various strongholds in the different branches of state bureaucracy, which is no less important than having political influence through political contestation (Pedahzur and McCarthy 2015). This could undermine state autonomy and limit the state's bureaucracy ability to exercise power independently in the face of resistance from the settlers. The disengagement was the most momentous test of this challenge thus far. It is yet to be seen to what extent state autonomy will be challenged in the future or whether the regime will change its course as a result of the settler's influence.

6.4.3 Challenges to State Capacity and the Shift in the Zones of Control

State capacity explains the relative stability of the regime inside Israel proper in the face of various potential challenges. Instability in the zones of control can be explained, among other internal and external factors, as a result of the limitations of state capacity to ensure effective control across the entire Occupied Territories. Detailed descriptions of the history of Israeli control and its different mechanisms across the periods can be found elsewhere (Gordon 2008; Ron 2003; Shafir 2017); here, I focus only on the way that state capacity can explain changes in the regime's zones of control.

The basic logic of the regime after 1967 was, as mentioned earlier, to keep Palestinian subjects excluded from Israeli citizenship and to repress their genuine autonomy or self-rule while managing their lives and, most importantly, controlling the territory. This allows for the

preservation of the distinction between Israel proper and the Occupied Territories and reduces the visibility and the burden of the occupation (Azoulay and Ophir 2012; Shafir 2017). This structure, with relatively few changes, was stable from the early 1970s to the late 1980s. While many factors support the feasibility of the ongoing occupation – primarily the lack of an effective international demand that Israel withdraws – the stability of the situation until 1987 can also be explained by Israel's coercive and administrative capacities.

The coercive capacity employed in the Occupied Territories has proved extremely efficient. In the years after the 1967 war, there were some episodes of Palestinian armed resistance to the occupation in the Gaza Strip and in the West Bank, where Palestinians insurgents crossed over from Jordan. This resistance was short-lived: Israeli security forces crushed the resistance in the Gaza Strip, blocked the Jordanian border, and attacked Palestinians insurgents in Jordan. By 1970, the Palestinians insurgents had moved from Jordan to Lebanon due to pressure stemming from the risk they posed to Jordan's stability. In Gaza and the West Bank, Israel's counterinsurgency apparatus, led by the Shabak, was very effective in subduing Palestinian resistance, and by 1971, four years after the beginning of the occupation, Israel had eliminated all serious external and internal armed challenges to its rule (Ron 2003).

The coercive capacity used in the Occupied Territories was also supported by the administrative capacity. Unlike in Israel proper, this administrative capacity did not aim to ensure the provision of public goods to the Palestinian subjects; instead, it served to support the repression of any resistance. From 1967, Israel's bureaucracy cast a firm organizational web across the West Bank and Gaza, setting up a centralized hierarchy of command and responsibilities and extending, almost immediately, the authority of Israel's civilian ministries to the Occupied Territories. This bureaucratic incorporation was matched by the military government's need to monitor and survey as many Palestinian subjects as possible. Gathering information about Palestinians and their land was an important part of this process. The Palestinian population was registered, and each Palestinian received a numbered identity card from the state that was to be carried at all times, thus facilitating the military's ability to track dissidents and rebels (Ron 2003).

Evidence of the efficiency of the Israeli control lies in the fact that during the first twenty years of occupation no more than

650 Palestinians were killed by the Israeli military in the West Bank and the Gaza Strip (Gordon 2008). This relatively low number demonstrates the competency of both the coercive and administrative capacities at avoiding the development of any escalations into large-scale killings. This competency notwithstanding, the regime failed to address the challenge of the Palestinian uprising in 1987, the First Intifada, which stemmed from the Palestinians' political, social, and economic grievances. The Palestinians launched strikes, tax avoidance, a series of mass demonstrations, and stone-throwing (or occasional firebombing) incidents against Israeli troops across all of the Occupied Territories. In spite of the various violent means used, including mass incarcerations, coercive interrogations, and general beatings, Israel was unable to crush the uprising (Ron 2003). As Gordon (2008) observed: "The 'iron fist' policy, which was implemented in reaction to the mass unrest and which emphasized sovereign power through the deployment of a large number of troops and the incursion of armored vehicles into Palestinian cities, towns, and villages, was, paradoxically, a sign of the failure of existing forms of control" (20).

This failure in state capacity led, among other internal and external factors, to a major change in the regime as, due to the implementation of the Oslo Accords in the 1990s (as described in Chapter 3), the zones of control shifted. This change was embedded deeper after the eruption of the Second Intifada in 2000 and the disengagement from Gaza in 2005. The disengagement also demonstrated a new mode of handling the external conflict with the Palestinians, namely, withdrawal from areas populated by Palestinians yet ensuring military influence without physical presence. A distinction was made between the Palestinian enclaves in the Gaza Strip (controlled by Hamas) and in Areas A and B (under the Palestinian Authority) and the Israeli-controlled Area C and annexed East Jerusalem.

However, the failure to address the challenge of the First Intifada and the change of zones of control following the disengagement was, in some respects, short-lived, and the regime has been fairly stable since the mid-2000s. The Palestinian enclaves are maintained without the direct control or physical presence of Israeli troops, while the process of Judaizing and gaining control over the territory in Area C and East Jerusalem continues apace. In fact, concerning Israel's policy of building and expanding Israeli settlements – some variations among governments notwithstanding – the elements of continuity have certainly

exceeded the elements of change (Barak 2018). To date, there are 413,400 settlers in the West Bank (in 132 settlements built with government approval and 113 outposts built since the 1990s without approval) and 215,067 Jews in East Jerusalem (Peace Now 2019). There is a huge infrastructure that supports the expansion of settlements. For example, Israel has built a system of roads, checkpoints, and other means in order to minimize the day-to-day contact between the settlers and the Palestinians. Across the West Bank, concrete walls and fences guarantee the separation between the Palestinians and the settlers as well as ensure Jewish domination of the space.

The impact of the infrastructure is most obvious when it comes to East Jerusalem. Unlike Area C, East Jerusalem was formally annexed to Israel while denying East Jerusalem Palestinians citizenship. Despite this annexation and Israeli leaders' obligation to so-called united Jerusalem as the capital city, the presence of the state in East Jerusalem Palestinian neighborhoods was, until the 2000s, rather limited as Jordanian and Palestinian elites continued to hold genuine status and fulfill some managerial tasks. The main arena of Israel policy was in the building of separate Jewish neighborhoods. However, since the 2000s, there has been a shift in Israel policy. A separation wall was built around vast areas of East Jerusalem, disconnecting it from the West Bank. Israel has promoted a policy of isolation and segregation of East Jerusalem Palestinians from West Bank Palestinians and Palestinian political leadership (Nasasra 2019). Studies of this process have identified the ongoing encroachment of Israeli administration and government into the Palestinians neighborhoods of East Jerusalem, increasing Palestinian dependency and adaptation to Israeli governmental order, and the partial inclusion of East Jerusalem into the Israeli state apparatus (Shlomo 2017). There are even indications that growing numbers of East Jerusalem Palestinians are requesting Israeli citizenship and adopting the Israeli education curriculum in their schools (Ramon 2017; Shlomo 2017).

This process as well as the stability of the regime in the West Bank and East Jerusalem is supported by state capacity. The coercive capacity is assisting the practical annexation of parts of Area C to Israel as well as suppressing Palestinian attempts to challenge Israel, as seen in the response to the outbreaks of violence in 2015 and 2016. During these years, in addition to widespread protests in the West Bank, there was a series of "lone wolf" stabbings targeting Israeli

security forces and citizens across the West Bank and, primarily, in Jerusalem – a sort of undeclared uprising which was based not on the clear organizational structure but on the actions of individuals (Tuastad 2017). Nonetheless, the Shabak and the IDF managed to repress this unorganized uprising, which proved to be just a limited challenge to the ability of Israel's administrative capacity to reshape the landscape of the Occupied Territories.

Despite being based on military and not civil rule; the administrative mechanism Israel uses in the Occupied Territories should be regarded as part of an efficient administration that supports the settlement project. The combination of coercive and administrative capacities has enabled Israel to reshape parts of East Jerusalem and Area C, thus gaining control over massive parts of the territory in the West Bank, building numerous settlements, and moving hundreds of thousands of Jews to the West Bank and East Jerusalem. Without these capacities, Israel would not have been able to perform this task. At this point, it should be reinforced that capacity is not an either/or matter but rather a question of degree (Andersen et al. 2014a). Israel's capacity in the West Bank and East Jerusalem should be understood as reflecting varying levels of efficiency across different spaces according to the structure of the territory, the population, and other factors. For example, in East Jerusalem, there are some Palestinians neighborhoods where the presence of Israeli state apparatus is felt strongly, while in others, especially those beyond the separation wall, the presence is far more restricted; there are even some places with no state presence whatsoever. Despite the fact that all of Jerusalem is under the formal jurisdiction of the state, there is a sequence in the manifestation of state capacity from very high capacity in some places to much lower capacity in other places. On balance, though, the state ensures its control over the city and the extension of its Judaization.

6.5 Conclusion: State Capacity and the Israeli Regime

The central theme of this chapter was Israel's state capacity as an explanation for the relative stability of the regime. Despite various potential challenges to the regime's stability, there have been no dramatic regime shifts in Israel proper. The biggest change in the regime – the configuration of the zones of control – was a consequence of the coercive capacity's failure to handle the Palestinian uprising in 1987.

Yet, beyond this general picture, it is important to emphasize that the relationship between state capacity and the regime is dynamic and open to developments in which political actors offer alternative outlines of the regime in light of emerging challenges and opportunities. This might, in a sense, explain the recent reduction in the levels of democraticness of protection and coverage described in previous chapters.

The coercive capacity of the state has been challenged since the 2000s, starting with the Second Intifada, which was framed in Israel as an existential struggle continuing the 1948 war (Barak 2017), and continuing to the increase in rockets attacks threatening the general public, as mentioned in Chapter 5. This eruption of violence and the place and form of the security threat was used to prevent increasing protection and, in particular, to organize against the Supreme Court and the judicial review of the executive and the security agencies. Key political actors and some right-wing NGOs have launched ever more attacks on protection as an idea and on the institutional configurations that enable protection. They mainly target the ability of human rights NGOs to act and to appeal to the Supreme Court, claiming that the growing protection undermines the ability of the executive to meet the challenges of the conflict. They assert, in particular, that the security sector's ability to "win" in the conflict is restrained by Supreme Court rulings. This is part of a broader process of limiting the constitutional restraints on executive power (Mordechay and Roznai 2017) – a process in which political actors use the conflict in order to influence the democraticness of the regime, at least when it comes to the dimension of protection. The limitation of Israel's coercive capacity in preventing the exposure to violence and threats is a possible explanation of this process; if Israel's coercive capacity had prevented this exposure from the very start, these actors might not have gained public support for their attempts to undermine the dimension of protection. This process demonstrates the dynamic interplay between state capacity and the regime in the ongoing struggle between political actors to determine the course of the state and the nature of the regime.

Conclusions
The Israeli Regime Untangled

The Israeli reality provides evidence of conflicting regime classifications ranging from a liberal democracy to various types of non-democracy. Gaps between political contestation, protection, and coverage in Israel proper as well as the regime's ambiguous borders enable such conflicting interpretations. Nevertheless, these conflicting classifications are not just a consequence of the contradictory elements in the Israeli regime; they are also a consequence of the concept of democracy itself. Notwithstanding its attractiveness, democracy's very essence precludes its use for analytical purposes in some cases. These inherent limitations undermine the ability to use it for classifying disputed cases such as Israel. By emphasizing this theoretical weakness of the concept of democracy, this book has argued that classifications of regimes cannot be conclusively applied in all cases and that there are cases in which the disaggregated approach of analyzing the democraticness of various dimensions might be more illuminating than merely debating classification.

The implications of this argument extend beyond the Israeli case. There is nothing unique about regimes whose classifications are subject to dispute. Numerous concepts have been developed in order to provide classifications for such regimes, resulting in a proliferation of definitions. While the question of whether a regime can be classified as a democracy is significant, there are also clear advantages to the disaggregated approach as it enables additional insights about the regime. As demonstrated in Chapter 5, the disaggregated approach offers a better understanding than an overall classification of the ways in which, in the Israeli case, the conflict influences the regime across the various dimensions. Similarly, state capacity, long held as a precondition for democracy, can be seen to support the stability of a regime that combines both democratic and non-democratic elements. This approach can thus be applied to other cases and explanations for the factors that shape regimes.

Disputes about regime borders are less common than disputes about regime classification, but Israel is not the only state with ambiguous borders. There are several political entities where there is no overlap between the territory controlled by the state and its recognized borders. There are even more cases where there are differences in the levels of democraticness of different zones of control under the same regime. Consider India, for example, where there are differences between the levels of democraticness in Kashmir and in the rest of India. How can these differences be combined to provide an overall assessment of the Indian regime? Only spatial analysis can provide an accurate account of the regime. If one extends this view toward history, the question of unit borders becomes even more problematic, as it calls for an examination of the extent to which colonies should be regarded as distinct from the colonized states' regimes. In the cases of France and Algeria, for example, should the definition of France be limited to European France until the withdrawal from Algeria or should it include parts such as Algeria or other French-controlled territories? This is a crucial question as it determines how the French regime can be defined and analyzed throughout most of France's history as a state. If the regime includes Algeria, French democratization must be understood in very different terms than an account that focuses on the democratization of just European France. Most regime indexes, as well as other cross-national indexes, do not offer a robust elucidation of this issue, as demonstrated in Chapter 3.

This book has attempted to apply theoretical lenses in order to examine a case which is disputable not only conceptually but also politically. This attempt does not, however, imply that the arguments are limited just to the sphere of theory, as they also have some potential political propositions. When supporters/opponents of Israel describe it as a democracy/non-democracy, they show their blind spots by choosing a priori their definition of democracy in line with their basic predisposition. Although such blind spots can be found in many debates, they have serious implications for regime classification given the comprehensive consequences of such definitions. If Israel is a democracy or a diminished democracy, it has greater legitimization. Calls for changes in the status quo are based on acting within the regime; they are not looking for its complete transformation. If, however, Israel is a non-democracy, a radical alteration of the regime is required, which justifies acting against the regime and not within it. Despite these implications,

the blind spots undermine the arguments made by supporters/opponents of Israel. For example, if Israel is "the only democracy in the Middle East," how is it possible that over one-third of the residents of the capital city cannot vote in national elections? Exclusion from participation in elections is far from even the most minimalist definitions of democracy. If, on the other hand, Israel is an apartheid regime, why do relatively large numbers of PAI choose to participate in the elections? After all, by participating in the elections, they legitimize the regime as a democracy and not as an apartheid regime.

The theoretical weakness of the concept of democracy does not, however, undermine its political utility. Regardless of the question about the overall classification of the regime, its democraticness across different dimensions and zones of control can be used as benchmark for calls for further democratization. Democratization of the Israeli regime requires lifting the levels of protection and coverage in Israel proper. Even more importantly, the spatial levels in democraticness across the zones controlled by Israel demand a change in the status quo. Future developments in the occupation notwithstanding, the low levels of democraticness in annexed East Jerusalem and Area C, which is under increasing practical de facto annexation, cannot be defended.

The structural factors that shape the regime discussed in this book should not be seen to imply a deterministic view of the regime or a justification of its levels of democraticness. The internal and external conflict is a key factor in shaping the regime and influencing the democraticness of protection and coverage and the zones of control. Yet, it is important to note that structures shape but do not determine outcomes – actors do. There is therefore nothing deterministic in the course of the developments so far and into the future. As argued in Chapter 5, in recent years, specific actors have used the conflict in order to reduce democraticness in the dimensions of protection and coverage. Other actors can, however, shape things to follow a different course, and the political spectrum is open for alternative prospects. Emphasizing Israel's state capacity as key to the regime's relative stability does not imply that stability is a desired outcome. Likewise, state capacity cannot be used to assume the future stability of the regime. There are other important factors, like the international environment, that influence the stability of the regime but have been overlooked in this book. Predictions about the relations between state and

society are also limited; actors can change the course of the state and use its capacity for various goals.

Nonetheless, the arguments proposed here might contribute to speculations about future scenarios. Reductions in the levels of the external conflict are essential for limiting the intensity of the internal conflict. This will lead to less visible and perceived threats to Israeli Jews and thus limit the ability to use the conflict in order to securitize PAI and restrict their coverage. As for 2020, given the complexity of the conflict and the number of actors involved, it seems a little optimistic to predict a decline in the conflict. In fact, it is even possible that future escalations will be used to limit the democraticness levels of coverage even more. Escalation of the conflict might also further reduce protection and provide the executive with yet more power. The recent signs of decline in levels of protection illustrate how some prominent actors use the conflict to shift the regime in this direction. Other strong political actors might also influence the levels of democraticness for other reasons. For example, in early 2020, there were some indications of such a possibility due to the corruption allegations against the prime minister, Benjamin Netanyahu.

State capacity is an important factor for any future change in the conditions in Israel/Palestine. The dominant approach in the international community has for a long time been the "two-state solution," according to which a Palestinian state will be established in the Gaza Strip and West Bank alongside the Israeli state. Since the failure of the Oslo process, calls for alternative visions have become more prominent. These visions are important as they, unlike the two-state solution, consider also the internal conflict and the status of the PAI. Suggestions vary from some versions of a binational state to one liberal secular state in the territory of Mandatory Palestine or just in Israel proper. Currently, however, these visions seem politically implausible and the status quo prevails.

Regardless of the situation that might emerge in Israel/Palestine, this book points to the importance of state capacity in sustaining shifts in the regime. The ability of state capacity to prevent opponents to any transformation – be it a two-state, binational state or liberal secular state solution – from acting during and after the implementation is crucial for its survival. An alteration in the status quo will require the capacity of the state to support its persistence against various opponents. A binational or liberal secular state which does not guarantee the

preservation of some form of a Jewish state will face a deep challenge to its legitimization from Israeli Jews; for nearly all Israeli Jews, the imperative source of legitimization is in the very existence of a Jewish state. As emphasized in Chapter 6, capacity is relational and is based on some level of cooperation from society. Any future regime shift will thus require overcoming the vicious circle of delegitimization among its opponents. Put differently, the high state capacity which supports the relative stability of the Israeli regime will also be required for promoting its democratization. The essential question therefore is how, if at all, this vicious circle can be broken.

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