Fathom Journal

Issue 22

DEBORAH FINEBLUM

AMOS YADLIN

SHABTAI SHAVIT

GARY KENT

JOEL SINGER

NADAV EYAL

RAPHAEL ALMAGOR

PAUL IDDON

JOHN LYNDON

LIAM HOARE

ADAM LEBOR

JAMES SORENE

PHILIP MENDES

ALAN JOHNSON

JOHN STRAWSON

YOCHANAN PLESNER

ERAN EZTION

SETH ANZISKA

SHANY MOR

THE ACCIDENTAL WISDOM OF ISRAEL'S MALIGNED ELECTORAL SYSTEM, REVISITED

SHANY MOR

In late 2013 Shany Mor was commissioned to write an [article](#) *about Israel's much-criticised proportional electoral system for the very first issue of Fathom. The result was 'The Accidental Wisdom of Israel's Maligned Electoral System', a robust defence of the status quo that was much commented on. Six years and two general elections later, and with another looming, the editors asked Mor to revisit his essay. He argues below that the case against Israel's very proportional system of parliamentary representation is as empirically weak now as it was then, and that the demand for its reform continues to parallel frustrations with political facts of life that have nothing to do with constitutional provisions.*

The Israeli electoral system has never wanted for critics nor for well-intentioned reformers, yet its basic contours have remained remarkably unchanged since the first general election in 1949. Unchanged and unloved, it is also vastly underappreciated. Its quirks and supposed deficiencies, by historical accident rather than design perhaps, have made an enormous contribution to Israeli political stability and to the normalisation of democracy in a society that by any comparative reckoning should never have had it so good.

Naysayers, particularly from the English-speaking world, have accused Israel's proportional representation system of breeding constant instability and empowering fringe elements and extremists, while an undercurrent of domestic discourse pines for 'strong leadership' that isn't always looking over its shoulders to please coalition partners.

Mythical Vices

When I first wrote this article, it was a matter of nearly universal consensus among critics that the electoral threshold for the Knesset is simply too low. It stood then at 2 per cent, having been raised twice already (from 1 per cent and 1.5 per cent). If we were to judge by the indignation this supposedly low threshold inspired, we might expect to see a Knesset with lots of tiny parties just squeaking past the 2 per cent with only two seats. In fact, parties entering the Knesset near the threshold are extremely rare (in the last four elections, only one — Kadima in 2013 — did).

Nor is Israel's low threshold particularly unique. A threshold of 4 per cent or 5 per cent is common in many democracies, but of those, some, like Poland and Romania, make exceptions for national-ethnic minorities, and others, like Germany or New Zealand, don't apply the threshold

to parties which win direct mandates in regional districts. Mature democracies in Finland and the Netherlands, among others, do just fine with no threshold. Only Turkey imposes a high 10 per cent threshold.

Raising the threshold to 3.25 per cent, as happened by law in 2014, has had almost no appreciable effect on the makeup of Parliament. The number of parties has not changed. Three previously separate Arab lists combined into one aptly named Joint List in the most recent election in 2015, but they have split again into two lists for the upcoming 2019 election.

To be sure, there are quite a few parties in the Knesset, though the number is far from extraordinary when compared to some European parliaments. Even the UK, the most radically anti-proportional parliament in Europe, returned ten parties after the most recent general election (and, lest anyone think that was a fluke, eleven in the one before that). In Israel, the number of parties returned at each recent election has held steady at around twelve, and this number, believe it or not, is an accurate reflection of the existing political cleavages in Israel's very diverse and deeply divided political society. Israel's real 'problem' is not the proliferation of tiny parties but the growth of medium-sized parties and, in the last two decades, the decline of large ones. In all of Israel's first thirteen general elections (out of eighteen so far), at least one party was returned to Parliament with 40 or more seats (out of 120). In the Seventh and Eighth Knessets, one party even exceeded 50, and in the Tenth and Eleventh, two parties topped 40. Since 1996, no party has come even close, and three of the last four Knessets have been elected without any party even crossing 30 seats. Is this because of inroads made by small parties creeping across a low threshold? Not at all. In fact, at the peak performance of the two large parties in the 1980s, there were more parties in the Knesset than today (15 rather than 12).

Election results for the Knesset have evolved in three distinct, identifiable phases. The first eight elections (1949-1973) returned Knessets with one large party and its satellites and opponents. The next five (1977-1992) gave us two large parties and ten or more small ones. And the most recent five (1996-2009) have left us with a smattering of medium-sized parties. The action, as it were, has simply not been anywhere near the threshold.

The ethnic, religious, and ideological cleavages in Israeli politics are more or less faithfully represented by the existing parties. Raising the threshold much higher than it is today won't push out the cranks. It will, rather, leave entire constituencies unrepresented by their own parties, with no real leverage over larger parties to broaden their bases either. Do we really want to see a consolidated Arab bloc pandering only to its Islamist element? A joint ultra-Orthodox list with no issue binding it but draft-dodging and welfare entitlement? These would be the comparatively optimistic scenarios with a higher threshold. The more likely outcome would be a complete exit from democratic politics by precisely those groups whose connection to the state's 'rules of the game' is already tenuous at best.

The kinds of parties ordinarily believed to be swatted away by higher thresholds exist more in people's imaginations or exaggerated memories than in the actual Knessets of recent years. Single-issue parties rarely cross the threshold and never survive more than one Knesset anyway. The vanity list, a faction built around a notable figure and one or two hangers-on, has largely disappeared from the Israeli electoral scene. These parties were almost always led by prickly former generals who were either frustrated and bewildered by their less than meteoric rise to the top of an established party or who left an established party in a huff over some principle which no one can remember a week or two after the dramatic split. In the original article leading up to the 2013 election, I predicted that the one extant vanity list (a result of Ehud Barak's split of the Labor party) of the time wouldn't make it into the next Knesset, and indeed it did not.

Of course, the scourge of tiny parties isn't the only thing critics of Israel's proportional representation find fault with. We are commonly told that it is nearly impossible to put together a coherent government here, though in fact every election — even the most seemingly indecisive ones (1984, 2009) — has led to a government being formed within the allotted 45 days. This is in stark contrast to situations that routinely emerge in Belgium where months pass between an election and a coalition. Britain had to go to the polls twice in 1974 to get a manageable governing majority.

Minority governments, too, have been a rarity in Israel, though they are currently in power in both Denmark and the Netherlands. The longest-lived minority coalition, from 1993 to 1996, rested on the anomaly of Arab parties remaining outside a government they supported. So much has changed in Israeli politics since the 1990's. The Joint List, as presently constituted, couldn't realistically enter into any governing coalition. But there's no reason to assume that at least one of its non-Islamist non-nationalist components — specifically the Hadash party — couldn't be a part of a future left-wing coalition, especially if its votes are pivotal in defeating the right.

If the threshold is not really ushering in tiny parties, governing coalitions are relatively easy to form, and minority governments are rare and not genuinely minorities anyway, then what's left on the charge sheet? A common complaint is that elections are too frequent and parliaments rarely last their full terms. The latter is true of the Knesset, but it is equally true of nearly every parliament. In the Knesset's first sixty years, there were exactly seventeen Parliaments, an average duration of three and a half years — not bad considering a full term is four years. Even this statistic leaves out the good part of the story, as it includes in it two very short-lived Knessets from the state's early days. In the last fifty years, no Knesset has sat for less than three years.

But aren't governing coalitions unstable? Aren't prime ministers always struggling to hold on to precarious majorities? The short answer is no. The long answer is no, too, actually. Again, it helps to separate out the first five Knessets — two of which were 'short Knessets' lasting only two years each, and one of which featured no fewer than four governing coalitions — from the twelve subsequent Knessets, each of which has served between three and four years and none of which had more than one reshuffle. In fact, even the numbers for the first five Knessets hide a certain

stability — all were dominated by the same man, David Ben-Gurion, who was prime minister for the duration of all five, save for two years at the end of the Second Knesset and two years at the end of the Fifth.

After my original article was published, Israel elected another 'short' Knesset which sat for only two years from 2013 to 2015. Three short parliaments out of 20 is not terribly alarming, but it's notable that all three occurred not in periods of governmental instability but rather in the middle of periods of exceptional stability. Ben-Gurion and Netanyahu are the only Prime Ministers to have served for more than a decade and the only ones to have served for more than seven consecutive years. All three short parliaments were during their tenures.

And nevertheless, we are told that governments are unstable and prime ministers are always struggling for survival rather than making long-term decisions. Perhaps they're not thinking for the long-term, but parliamentary survival can't take all the blame. The total number of governments that have fallen by no confidence votes in all of Israeli history is one (in 1990), and if it were zero, I would argue that that is a defect.

The Knesset is a noisy and chaotic place, but Israel is a noisy and chaotic place. The problem, if it is one, isn't in the elections. The noise and chaos of people who don't agree with me tends to be particularly annoying. To me. But that is the point, isn't it? Even after 70 years of statehood, it remains the only forum in the entire country where Israelis of all kinds actually have to listen to each other. Even when the outcome of a decision is easily known in advance, it still must go through trial by discussion according to formalistic procedures that gives it a status no other public decision has. No other Israeli institution does this — not the army, which doesn't draft Arabs or Haredim, not the High Court, certainly not the media.

Hidden Virtues

A society as deeply divided as Israel is — across race, religion, ideology — with such a high tolerance for violence and such a broad familiarity with weapons, should have by all comparative measures long ago descended into civil war. Nearly every other newly independent post-1945 state certainly did. Political violence has not been a completely absent feature of Israeli political life (November 1995 and October 2000 are two recent examples), but its few actual outbursts are memorable precisely for being so rare; it is generally experienced more as a menacing threat *in potentia*, a foreboding presence sublimated beneath the surface (the 1981 general election campaign, for example).

How did Israel manage to avoid the fate of nearly every other post-colonial state and avoid descending into civil war? At the moment of statehood, two immediate factors stood out. First, there was an enormous imbalance between the potential factions, unlike, say in Ireland of 1922 where those that were willing to accept partition and those that insisted that anything less than the entire island was a betrayal were roughly even. Second, Israel's national liberation, unlike so many

other post-colonial births, wasn't just the end of one foreign domination, it was also the most threatening moment of another. Having to fend off a combined Arab invasion united disparate pre-statehood factions as no ideology could have.

Beyond 1948, though, there are two more factors that precluded a descent into internal fighting. The first is the civic religion which was constructed in Israel and known by the untranslatable Hebrew word *mamlakhtiut*. This austere republicanism, created almost entirely in the image of one man, David Ben-Gurion, never demanded from its citizens that they put aside their own communal or ideological attachments, but only that those always take second place to the institutions and interests of the state and its value as an end, rather than a means. The high point of this civic religion came four years after Ben-Gurion left the Prime Minister's Office for the last time in the Six Day War. In one of those historical ironies that should only exist in the theatre, *mamlakhtiut's* greatest success ushered in its undoing, unnoticed at the time by nearly everyone save for Ben-Gurion himself.

But by far the biggest institutional keeper of the peace, even in the face of the decline of the old republicanism — no, *especially* in the face of its decline — has been the very broad and inclusive basis of representation in the Knesset. The payoffs for marginal groups to stay in the legitimate game of Israeli domestic democratic politics are often quite small (and why should it be otherwise?), but they have always, thus far at least, been big enough to keep nearly everyone inside arguing rather than outside shooting. The only significant election boycott was in 2001 by the Arab sector in a special election for the Prime Minister only — a one-of-a-kind event that was made possible by the now defunct Direct Election Law. The stakes were low — Arik Sharon was due to win by a landslide with or without Arab participation — and no Knesset seats were up for grabs. Very few of this community's grievances were answered in the two years that ensued, yet when the Knesset was dissolved in 2003, there was no recurrence of the boycott. The risks to Arabs of a boycott are too high, and the kind of Knesset that could be elected without their votes would make a return from such a boycott in a subsequent election exceedingly difficult and costly. It would be a breaking point for Israeli democracy, and, while the tacit, implicit threat might yield modest results, its actual use is saved only for extreme circumstances.

The Arab minority is not the only social group in Israel with a problematic relationship with the state and its institutions. Other sectors have their own resentments and parochial agendas, but having to present them in speech acts and public acts of bargaining, having to phrase them, however hypocritically and piously, in terms of the general interest, has a moderating influence on all parties. And the few policy treats the establishment throws at marginalised groups have been enough to keep the talking game going.

Bringing in as many voices as possible was the animating idea behind the electoral system the first time it was used in 1949. What is largely forgotten was that this was for a constituent assembly, not a regular Parliament. It was only once the assembly met that it retroactively declared itself

the First Knesset and put off the business of writing a constitution — indefinitely (and, in my opinion, wisely). A different electoral system would have had to surmount logistical hurdles and need some sort of constitutive moment to legitimate itself, so the status quo, which has done so much to preserve the internal peace, has survived and thrived, despite all the scorn heaped upon it. If there was ever any hope that Israel might introduce an element of geographic representation into its electoral rules, the settlement of civilian populations in territories occupied but not annexed rendered that nearly impossible. Drawing constituency boundaries would require an honest discussion of the state's boundaries and risk highlighting the anomalies of Israeli democracy for the Israelis who have made their home beyond the frontier.

Learning by Example?

Why then does the Israeli electoral system attract so much ire? And how do easily refutable claims about the supposed instability of Israel's governments, the frequency of its elections or the proliferation of its parties attain such an impressive intellectual shelf-life despite being so clearly wrong?

One explanation is the dominance in Israeli political discourse of a referent which couldn't be any less relevant to Israeli democracy. Two centuries of American constitutional self-government leave much to admire and study, but very little of it will be useful to anyone trying to tackle the problems of Israel's democracy. For reasons that are obvious, but which have nothing to do with institutional or constitutional questions, the American example — or, more accurately, the American example as imagined by partially informed outside observers — looms very large in the Israeli imagination, largely due to its availability and familiarity, not to its applicability. The latest round of legislative elections in Sweden or Switzerland don't excite the news-consuming public in Israel in quite the way that American mid-term elections understandably do. As a result, Israelis often have a familiarity with the workings of American democracy and governance far beyond that which they have for any other country. It becomes the most readily available source for alternatives — even if only for ones that are to be rejected.

This is understandable but regrettable, because we are now learning from the experience of the one democracy that resembles Israel the least. To see this, it might help to list some of the salient structural features of Israeli democracy and come to grips with the kind of problems Israel's electoral method needs to provide solutions for.

Israeli democracy is characterised first by its (1) moderate (between 5 and 20 million citizens) size — not a micro-state or one large metropolis surrounded by hinterland, nor an enormous country with tens or hundreds of millions stretching over a gigantic land mass. It is further characterised by its (2) central, unitary government (rather than a federal system) and lack of natural geographic divisions which might lend themselves to a federal administration. Its national identity has been an enormously successful project of (3) linguistic and cultural consolidation across diverse immigrant groups, rather than a projection of an old identity (or an image of one) on small numbers of

newcomers. Its national ethos, though retaining many civic, republican, and ideological aspects, has a strong affinity to a particular (4) religious tradition; religious symbols are part of its flag and national narrative, and they are deeply meaningful for most of the population, even the majority that are not actively practising. It has a large (5) ethnic-linguistic minority, with its own collective memory and political traditions, and its own affinities with nations outside its boundaries; this minority is native to the land and not just an immigrant group in a suspended state of assimilation. And, as a mirror image to that, the majority ethnic group has a (6) large diaspora in other countries throughout the world. It retains a (7) large extra-territorial settler population with full voting rights in domestic elections in a territory where the non-settler majority enjoys no such right and no realistic hope or desire of gaining full citizenship.

Of lesser importance, though still relevant, is Israel's geostrategic position. It is surrounded (8) by much less developed, economically as well as politically, neighbours whose attitudes range from quite to very hostile. There is no plausible scenario in which the gaps in standards of living or quality of life between Israel and any of its neighbours will close; nor is there much more hope that the hostility will attenuate dramatically in our lifetimes. It (9) does not have borders which are both internationally recognised and domestically accepted. And it has for its entire history been (10) firmly in the pro-American camp of the post-1945 international order.

Of all these eleven characteristics of Israeli democracy, only (7) is unique. To the best of my knowledge, nothing like it has existed in any other advanced state since the end of the Portuguese presence in Mozambique and the French presence in Algeria. What is astonishing about the remaining ten items on this list is how many are shared with other advanced democracies — and how few are relevant for US democracy, except for (3) and, trivially, (10). On the other hand, countries as diverse as Ireland, Belgium, the Netherlands, Denmark, Singapore, South Korea, and Taiwan all share between five and eight of the traits enumerated above. Each has carved a different path to its present democratic arrangements, with all the expected burdens of history and accident. Israelis would do well to learn from both the successes and failures of those countries' institutional arrangements long before trying to foist upon their own country a provincially misunderstood American method.

Too much viewing of *The West Wing* could leave anyone longing for a presidential system, but we easily forget what little power over legislation an American president has at the federal level, and that anyway most law-making occurs at the state level where he has none. No such balance is plausible in the Israeli context, where the predictable result of a strong president with no one to report to would more closely resemble presidential experiments of other small and young democracies — intrigue, excess, attempts by the winner to shut out the loser, and a hunt by whoever is shut out for forums outside the constitutional order to press their cause.

It's easy to look at a newly elected Parliament and say, *there's far too little of me in there and way too much of you.* But this cannot be the basis for any serious institutional reform. When I first

approached this topic seven years ago, the problem that most vexed critics of Israel's electoral system was governmental instability; today it is the lack of term limits. Oddly, the only electoral change in the interim was the raising of the threshold. On the other hand, there has been a steady tenure of a Prime Minister that most of the intellectual class dislikes intensely. You'll have to pardon my cynicism.

Israeli parliamentarism has served its people well, and we should exercise extreme caution in changing it. Some caution would have been in order before Israeli political parties rushed headlong into the single most destructive reform in democratic life in Israel (and not just in Israel): primaries. But this was a reform that was never legislated and is anyway fading.

More meaningful electoral reform has been more difficult to pass, and we should probably be grateful for that. Not that I don't have my own wish list. At 120 seats, the Knesset is far too small to adequately represent Israel's large population and its various divisions. Occasionally a crucial constituency only has two or three representatives. When one becomes a minister or deputy minister, there is really no one left to do important parliamentary work. At least 60 more MKs (or even 120 more), with some elected on a regional basis, would be a welcome modernisation.

But I'd rather keep the current system than risk letting today's winners entrench their victories with an imagined efficiency that solves problems we don't have and erases the unique benefits of a system that has managed to keep everyone inside, gives everyone a voice to be heard, and lets no one dominate. The risks of driving people to the outside (i.e. civil violence) are just too high.

fathom

For a deeper understanding of Israel and the region

2019