

# Introduction

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q1 This volume supplements *Israeli Democracy at the Crossroads*.<sup>1</sup> It is aimed to shed light on Israeli democracy and its institutions. The articles are written from different perspectives, employing different methodologies that enrich the discussion and exhibit a multitude of views. The collection brings together contributions of leading scholars and decision makers that reflect on crucial themes and questions. Their careful consideration and insights will undoubtedly enrich public discourse concerning Israeli democracy and its institutions.

For each of the themes a leading scholar or decision maker was selected to write the article. Contributors were given a long period of time to write their essays, and then received comments and critique aiming to improve the quality of their pieces and to sharpen arguments. Sometimes contributors submitted a third and a fourth draft, after digesting the constructive critique.

## GENERAL THEMES

David Nachmias and Ori Arbel-Ganz analyze bureaucratic efficiency and the stability of the regime. They argue that government instability coupled with the highly centralized public bureaucracy are the main factors that hinder the capacity to govern. They further assert that the public administration is overly centralized, rife with numerous unqualified political appointments, outdated budgeting procedures and impervious to long-term planning. Policy planning is short-term and improvised, the only programmes implemented being of relatively minor importance. Their critique also indicates that the political system is highly partial in its coalition politics behaviour as well as in parliamentary representation. Governments rarely complete more than two-thirds of their possible term in office. The turnover of prime ministers and of cabinet ministers is quite hasty, and the political culture has no institutionalized norms that uphold accountability and transparency. All this combined results in poor governance ability.

The second article by Orit Ichilov, Gavriel Salomon (laureate of the Israel Prize) and Dan Inbar argues that citizenship education progressed

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from a highly emotional nationalistic focus, centring on civic obligations, to a more cognitive, discipline-oriented civic education with greater awareness of civil liberties, minority rights and human rights. However, despite the great variety of programmes and projects, in addition to the teaching of civic studies and other relevant school subjects, turning Israeli schools into islands of peace and democracy is not a simple undertaking. Citizenship education is still inadequately implemented in the schools. A central problem is that the Ministry of Education seems reluctant to implement its explicitly adopted policies. Citizenship education remains a marginal school subject, and it continues to be an eclectic and fragmented endeavour. Ichilov, Salomon and Inbar conclude that although important strides were made over the years to promote citizenship education, it is naïve to expect that citizenship education in its present form would further the emergence of a shared civic identity that would bridge national, cultural, ethnic and social schisms within Israeli society.

In turn, Yoram Peri describes the political-military complex, which existed in Israel in the 1990s. He presents the theoretical problem, and explains how the IDF (Zahal) adopted a policy which supported arriving at a peace pact with the Palestinians. Peri further discusses the means used by the military in its political actions and the ways in which it pursued its agenda, even to the point of tension and conflict between the IDF and the political stratum during the Netanyahu government's term in office.

The last article in this section relates to the need for a comprehensive constitution that will secure basic rights. Former President of the Supreme Court, Meir Shamgar, describes the Israeli constitution as partly written and partly unwritten. The constitutional rules of Israel are included in Basic Laws and other constitutional provisions, in abstract legal norms defined in Supreme Court rulings as well as in customs and practices. The constitution is thus evolutionary in character, exhibiting a gradual organic growth and development. Shamgar notes that its composition changes from mainly ordinary laws, norms and customs to constituting Basic Laws.

Shamgar, laureate of the Israel Prize, maintained that presently Israel has a series of Basic Laws but only two Basic Laws defining part of the human rights: Basic Law: Human Dignity and Freedom, and Basic Law: Freedom of Occupation. It is still in need of a complete, codified and consolidated constitution, which covers each and every subject normally included in such constitutional code. Among the missing Basic Laws, Shamgar mentions laws on Freedom Expression, Freedom of Religion, Freedom of Scientific Research, Freedom of Demonstration, etc.

## INSTITUTIONS

This section is a bit unusual. By and large collections of essays such as this one, which speak of institutions, include papers by scholars scrutinizing

the decision makers and the bodies within which they operate. Here I made every effort to recruit decision makers who write about their own roles, analyzing their own institutions. Their articles supply a fresh and unusual outlook, combining personal experience with critique of their respective roles, their advantages and limitations.

Yitzhak Navon, the President of Israel during 1978–83, argues that the president has quite a lot to do although he does not have any actual powers, and that there is no need to add powers to the very few he possesses. Navon describes the Basic Law: The President (1964) and provides a subjective description of his term in office, the ways he acted and achieved the goals he had set for himself, in spite of the limited presidential powers. In his opinion, all this evolves around one question: how does the president see his ability to function being a symbol and a symbol only. Navon describes the relationships he struck with minorities and different segments of the Israeli population, the tensions he had with the political establishment and his relationships with the Jewish Diaspora. Clearly, Navon enjoyed his term in office. He is considered by many, including myself, as one of the best presidents Israel had known, arguably the best of all.

Gad Yaakobi, who served in several Labour governments, discusses the government institution. He opens with some observations on the modern state and then considers the rule of law in a democratic society, emphasizing that all people, without any exceptions, must accept the rule of law and abide by it. Yaakobi explains the principles of constitutionality and separation of powers and makes a plea for increased public involvement in social affairs. This plea is joined with a warning against excessive centralization, which might transform democracy into mere formal structure. A further warning is made against the almost natural inclination on the part of politicians to seek personal power, often at the expense of public interests. Yaakobi also suggests recommendations as to how to improve the electoral system and the ability to govern effectively.

Naomi Chazan, former Deputy Speaker of the Knesset, critically examines the Knesset's formal and informal structures. She explains its operations and role performance, and takes a close look at its standing in the public eye. Chazan assesses the relative power and influence of the Knesset today, arguing that the parliament has undergone a severe depreciation in human resources, organizational capabilities, performance and public standing. She contends that the Knesset's malfunctioning in its communication and deliberation roles means that it has not been able to adequately perform the tasks of public education and socialization to binding political values. Members of the Knesset in recent years have not acted as role models and are not perceived as such. The Knesset's public image has consequently declined, and with it the faith of many citizens in the regime it symbolizes. In Chazan's grim view, the Knesset is viewed

nowadays as the antithesis of the model of desirable behaviour. The Knesset mirrors the multicultural character of the country, but it adds to the society's division and discord. Former member of Knesset Chazan goes as far as saying that the Knesset appears eager to forfeit its authority on ethical and immunity matters, which are the basis for its conduct and the key to its institutional independence, and that it does not constitute an instrument of socialization – except in the negative sense – and its mode of operation provides a major disincentive in efforts to attract potential competent political recruits. Furthermore, the Knesset has failed in its basic democratic function: mobilizing consent for the system of government. The overall confidence of the public in the Knesset had fallen drastically from 41% in 1995 to 14% in 2000. Chazan ends her highly critical essay with some recommendations for improvement, saying *inter alia* that if the Knesset wants to maintain its autonomy and improve its public standing, it has to tighten its rules of procedure, draft a binding code of conduct, and augment its disciplinary sanctions.

Elyakim Rubinstein, Israel's attorney general during the time of writing the article, provides an illuminating account of his roles and responsibilities. The position is complex, as the attorney general heads the criminal prosecution, and is the representative of the state and the government in all litigation, both criminal and civil. The attorney general is called upon to defend the government and public authorities in issues of administrative and constitutional law. Furthermore, the attorney general is the legal counsel to the government, and is also the representative of the public interest.

Rubinstein discusses the duties of the attorney general, the tradition the role carries, as well as the difficulties connected with the discharge of these duties. This includes the modalities of appointment, its main responsibilities, and the principal spheres of public law involved. He speaks of the difficult task of deciding to open, not to open, or to close investigations concerning public officials. During his tenure he opened investigations concerning a president, prime ministers and ministers, Knesset members and mayors. Clearly he is very much concerned about the criticisms voiced against his office as well as against the courts.

Rubinstein then probes the question whether the attorney general should participate in cabinet meetings and voices a positive opinion in favour of participation. He explains why he is opposed to the idea of a separation between the roles of the attorney general in the areas of counsel to the government and those related to criminal prosecution. The attorney general voices grave concerns regarding the Palestinian Authority legal system and argues that the establishment of a functioning legal system there is a must for a safe future of good relations between Israel and the Palestinian Authority. Finally, Rubinstein offers some proposals for change.

Eliezer Goldberg, the state comptroller, argues that the achievement of national goals can prompt a disregard of rules that are defined as appropriate operational norms. Such disregard may be conscious and volitional, or incidental and unintended. Where tension exists between the realization of national goals and rules that 'disturb' such realization, it should not necessarily be assumed that the norms should invariably prevail. Quite often they are considered as being of secondary importance, or even an obstacle to the promotion of goals regarded as crucial. The result is explicit or implicit legitimacy for violation of the normative system. Furthermore, the repeated states of crises in which Israel finds itself strengthens that sense of urgency and provides legitimization for 'breaking the rules'. Inevitably, this thwarts the internalization of a consensual commitment to compliance with rules.

Goldberg warns against the negative phenomenon of public servants being guided by sectorial considerations. He reports that quite often persons in positions of power find themselves in a conflict of interests, torn between the broad public interest and their desire to act on behalf of a sectorial interest. Unfortunately, the latter interest often enjoys precedence. This phenomenon receives expression at many levels, including the direct allocation of financial resources, the allocation of land and appointments of designated people. Goldberg proposes that in certain cases, where the temptation to act out of party motives is great, the onus moves to the authority to present the data and the considerations, in order to demonstrate that it acted on the basis of relevant considerations. Should it fail to do so, the questionable decision will be declared null and void.

Another flaw against which Goldberg warns is the absence of a strategic perspective in the execution of governmental actions. The operational mode does not necessarily perceive long term goals as preceding or taking precedence over immediate interests and short term political bonuses; in fact it sees a justification for preferring the latter. The Israeli government has no organized process for determining long term national priorities.

The aim of my own essay is to review the work of the Israel Press Council. The essay considers the history of the Press Council, analyzing the way it has developed, its work, and how it reached its current status. As a former member of the Press Council I am quite dissatisfied with the work and achievements of this organization. It is argued that the existing situation is far from satisfactory, and that the media should advance more elaborate mechanisms of self-control, empowering the Press Council with greater authority and equipping it with substantive ability to sanction. There is a real danger that if the Press Council remains a weakling body then the legislature might resort to drafting laws that would limit free press and media in Israel.

Some readers may find it strange that this section on institutions does not include discussion on the Supreme Court. I can assure you that this is

not because of lack of trying. Two senior members of the court committed themselves to contribute but were unable to submit it on time. I will make some reflections on the major bones of contention regarding the work of the court in my Final Word, which further develops some of the themes presented in the articles. I highlight problems and pitfalls and suggest amendments and improvements.

#### CONCLUSION

This is one of the most comprehensive volumes ever to be written on the Israeli institutions. Its topics and main concerns are timely, politically significant, very controversial and hence intellectually compelling. The book offers its readers wealth of information and different perspectives on major themes and institutions. Its originality lies in the combination of scholarly articles, and articles written by public officials who were/are involved in the actual decision making process and the drafting of policies.

The book offers rich analysis that would be useful to people who are interested in Israel studies: scholars and students, philosophers, political scientists, politicians, historians, sociologists, media educators and professionals, jurists and lawyers, and the public at large. The chapters cover timely concerns which democracies confront time and again. They ponder practical problems arising from the tensions involved in democratic processes, and analyze the work of important institutions. The authors share a belief in democracy and seek to promote a better, more workable and sustainable polity amidst a hostile environment.

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#### NOTES

1. London: Routledge, 2004.

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