

Israeli Democracy Is Alive, Kicking and Screaming



Alexander Yakobson



Is Israeli democracy in danger? One often hears nowadays that it is. It is worth recalling how often, and how confidently, this has been asserted in the past. Since May 1977, when the right-wing religious coalition first came to power, it has been claimed repeatedly that Israel's democracy is deteriorating and some form of clerical fascism is emerging. In the aftermath of the 1977 election a member of the outgoing Labor government burned his papers, fearing what might happen if they fall into the new regime's hands. These fears, then, were not confined to some radical fringe. In a somewhat less dramatic fashion I shared and voiced them too.

I voiced them under Begin, whose bombastic nationalistic rhetoric before adoring and wildly enthusiastic crowds I cannot even now recall without shuddering. I voiced them under Shamir, when many of us had occasion to miss Begin's firm commitment to liberal democracy (insufferable rhetoric notwithstanding). I voiced them well into the 1990s. Then, at some point, I started noticing what an abyss had opened between the "anti-fascist" rhetoric and the Israeli reality. While we were warning against the ever more imminent danger of fascism, and sometimes bemoaning the cruel fate of the Israeli democracy as if already sealed, Israel was undergoing a far-reaching and wide-ranging process of liberalization.

As part of this process, it has become much more acceptable to label Israel a fascist (or semi-fascist) state. Nowadays, much more than in 1977 when such views were largely confined to fringe outlets, this can easily and comfortably be done using the mass media and every established public platform; this can be done from within the establishment, without any risk of compromising one's position there; quite often this is financed by the state; every now and then one gets some official prize for it. You do

not believe that fascism is engulfing us? Why, only the other day I heard it all explained so nicely on Army Radio.

Of course, wild rhetorical exaggerations are nothing new, or unique to Israel. Nor are they by any means confined to one side of the political spectrum: the Israeli far right, whenever it feels that the state has failed to pamper it sufficiently, immediately proceeds to denounce it—in the same grotesquely self-refuting manner—as a Stalinist dictatorship. Admittedly, a certain overstatement of an existing problem or a looming danger (preferably, without losing all contact with reality) may sometimes be condoned. But the real question is: In which direction are things moving? What has actually happened to Israeli democracy since it became fashionable to talk about its deterioration?

This fashion goes back to before 1977, when Professor Yishayahu Leibovich made his famous prediction that the occupation of the West Bank and Gaza would destroy Israeli democracy. I must admit I found this thesis very convincing when I first heard it. How can a people remain free when they rule another people by force? It turns out they can, sometimes. One might argue that we do not actually deserve to be a democracy, because of the occupation. Perhaps. In order to determine what each side to this conflict deserves, their respective contributions to the conflict and attitudes toward the other side's national rights need to be impartially examined. I still believe that in the long run, regardless of how one apportions the blame, perpetuating the occupation would doom Israeli democracy because it would doom Israel itself. If the land is not partitioned between its two peoples, eventually a single state will emerge—not bi-national, as some delude themselves, but Arab and Muslim. This does not, however, change the fact that Israel today is much more democratic and liberal than it was in the 1970s.

Unlike Israel before 1977, today it is a country in which the electorate can realistically be expected to vote the ruling party out of power. The Knesset is much stronger vis-à-vis the executive. Much legislation originates now in private members' bills, quite often initiated by opposition deputies—supported by coalition ones, frequently in defiance of coalition discipline—including those from the radical opposition. When Tamar Gozansky, a Communist deputy famous for carrying dozens of bills on social matters, retired from the Knesset several years ago, her accomplishments as a parliamentarian were rightly celebrated. Israeli parliamentarism had a share in the celebration: such a legislative career would have been unthinkable in the good old days of Labor hegemony, when Communist members of the Knesset were shunned and isolated. Nor, indeed, would such a thing be possible today in most countries with a parliamentary system (least of all in Britain, where a private member's bill is not allowed to increase government expenditure).

The Israeli political parties, once ruled firmly from atop, have become much more democratically governed (and, I am afraid, considerably more corrupt as a result). The local self-government is less dependent on the central government. The state comptroller, once a thoroughly unimportant institution, has grown powerful enough to imperil a prime minister's political survival. Civil society is much more developed, vibrant, and influential. The judiciary has grown much stronger—primarily the High Court of Justice, but also the independent attorney general. Even military courts, after decades of alleged fascization and militarization, are quite capable of overruling the government on matters that it regards as a vital national interest: witness the relatively light prison sentences imposed by military judges (much shorter than would probably be imposed by American courts in a similar situation) on high-ranking Hamas officials after Gil'ad Shalit's abduction, frustrating the government's obvious intention to keep those people behind bars long enough to pressure Hamas into releasing the Israeli soldier.

The High Court has grown much more activist and interventionist, much more likely to overrule the government on sensitive issues, including security. The security establishment is under a much greater legal, parliamentary, and media scrutiny. The media is much freer, aggressive, and biting. The military censorship has largely become a joke. Every Zionist sacred cow is slaughtered with gusto—in the media, in academia, in the arts, and in the state-funded cinema industry—incomparably more so than in the 1970s. Thanks in large measure to increased judicial activism, the rights of the Arab minority are much better (though still far from perfectly) protected and enforced; the High Court is now, for example, willing to interfere in budgetary allocations in response to claims of discrimination.

Despite the religious parties' coalition clout, the status quo on religion and state (still quite unsatisfactory from the liberal standpoint) has been eroded in favor of the secular public in many areas. The country has been covered with places open on Saturday and offering non-kosher food. Gay pride parades are officially sponsored in Tel Aviv, but they also take place in Jerusalem—a sure sign that we have become, or are fast becoming, a Middle Eastern theocracy. The Israel Defense Forces (IDF) have long left the Clintonian “don't ask, don't tell” far behind. People praise Tel Aviv as an island of liberalism and tolerance in a sea of clerical fascism—as if such a sea could ever have tolerated such an island in its midst. Most of what Tel Aviv is praised for emerged, or reached its peak, during the decades in question.

None of this is meant to present an idealized picture of the past decades. All the negative phenomena and warning signs that people talk about today were in evidence throughout that period; our rhetoric on the coming

of fascism was not wholly groundless—just dead wrong. Shrill nationalistic rhetoric abounded; at its worst it was (and is) indeed racist and fascist. Appalling things were said in the name of Judaism. People on the left were routinely accused of disloyalty, quite often of actual betrayal; what they themselves sometimes said about their opponents is beside the point right now. Grave instances of extremist violence occurred, including, on several occasions, murder. Wild illiberal measures were often proposed.

On some occasions, undemocratic steps were actually taken by the authorities; some draconian laws were passed. The Supreme Court turned them into a dead letter. The same Court will today deal in the same spirit with any undemocratic bill that is passed—if it passes (for there is, in such cases, a huge difference between what is originally proposed and what is eventually adopted). Now, however, unlike in the 1970s, the Court has the power to actually annul illiberal legislation.

In the 1980s, the Knesset passed a law banning parties that oppose Israel's right to exist as a Jewish state, as well as those espousing racism or hostile to democracy, from participating in elections. At the time, the Zionist left voted for the law (rightly expecting that it would lead to the disqualification of Meir Kahane's racist movement); under today's liberal standards, such a law would have been roundly denounced as draconian and racist. But although the Arab parties in the Knesset have turned the rejection of the Jewish state into their most important political banner, the Supreme Court has rejected, and will undoubtedly continue to reject, using its power of interpretation with considerable flexibility and ingenuity, all attempts to disqualify them based on this law.

Today, a so-called Nakba bill is before the Knesset. In its original form, it sought to criminalize the practice of marking Israel's Day of Independence as a day of mourning, on the part of Arab citizens, for the defeat in the 1948 War and its consequences. Any law adopted in this form would be sure to be annulled by the Supreme Court as violating the freedom of expression. The bill has now been watered down to a partial and qualified ban on government subsidies to any group that practices what it originally tried to criminalize. Why anyone who insists on turning a country's day of independence into a day of public mourning should seek government subsidies for this particular act of offence and provocation, rather than doing it at their own expense, is rather a mystery. The law, if adopted, will be pretty meaningless in practice, for it will presumably not be easy to prove that what any particular act of mourning referred to was the day of independence as such.

That a string of dubious, and sometimes clearly undemocratic, private members' bills is now, regrettably, before the Knesset does not at all mean that civil rights, and in particular the freedom of expression, in Israel are

likely to suffer erosion. I venture to predict that Israeli citizens, Jews and Arabs, will continue to enjoy the right not merely to reject the Zionist ideology and narrative, but to express open support for the other side during actual armed conflict—something that is not always tolerated in other contemporary democracies.

Sometimes it seems that tabling draconian bills is mainly an attempt to score points in the public opinion, rather than to bring about the changes specified. Avigdor Lieberman's party, Israel Beitenu, is behind most of this legislative-demonstrative frenzy. Some people are nowadays shocked, shocked! to find that many of Lieberman's voters have come from a country with an undemocratic political culture. Well, what else is new? This is the remarkable story of the Israeli democracy: millions came here, overwhelmingly from non-democratic countries, and built a vibrant democracy under a chronic state of emergency and in the midst of a nasty national conflict, and all this in the heart of the Middle East.

The price of freedom is eternal vigilance—not eternal panic-mongering. Democratic values and norms can never be taken for granted. To some extent they are always in danger—liable to be infringed even when democracy as such is in no danger at all. The 1960s in the United States saw, overall, a great improvement in civil rights; democracy was never in danger, which is not to say that democratic norms were never violated. Certainly, there are illiberal and undemocratic phenomena and forces in Israel. They need to be vigorously confronted. Crying “fascist wolf” is not the right way to do it.

ALEXANDER YAKOBSON is an Israeli historian and a senior lecturer at the Hebrew University of Jerusalem.