One State, Two Regimes: Subnational Authoritarianism in Israel

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On February 1, 2022, Amnesty International released a report entitled Israel's Apartheid Against Palestinians (2022). It began with an epigraph from a former Israeli Prime Minister: "Israel is not a state of all its citizens … [but rather] the nation-state of the Jewish people and only them." This report was preceded by another one released by Human Rights Watch nine months earlier, entitled *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution* (Shakir 2021). The report came on the heels of a position paper by the Israeli rights organization B'Tselem, subtitled simply "This is Apartheid" (2021) – a description echoed by a growing majority of scholars of the region (Lynch and Telhami 2021). Other Israeli organizations like Yesh Din and Adalah have come to similar conclusions (Sfard 2020; Adalah 2020). Palestinian thinkers have, for their part, compared Israel with South Africa's apartheid regime for decades (Sayegh 1965: 27-8; Suleiman 1970, 144; Abu Lughod 1977; Said 1992 [1979], 36; Zureik 1979, 16).

How is it, then, that the most commonly used democracy indices rate Israel as being democratic? Polity V, for instance, gives Israel a perfect score of 10 on its institutionalized democracy variable from 1949 until 1966, a 9 out of 10 from 1967 until 1980, and a 7 out of 10 from 1981 until 2018.[1] Likewise, Israel scores 0 out of 10 on Polity's institutionalized autocracy scale from 1949 until 1980 and 1 out of 10 on the same scale from 1981 through 2018. As such, Polity classifies Israel as a democracy for its entire existence. To make sense of this discrepancy, I briefly discuss conflicting studies of Israeli regime type and suggest the use of subnational authoritarianism as an analytical lens.

Debating Israeli Democracy

The debate about Israeli regime type can be broken down into three strains of literature that span the gamut from classifying Israel as a liberal democracy (Dowty 2018), as a flawed democracy (Smooha 2002), and as a non-democracy (Ghanem et al. 1998; Yiftachel 2006; Lustick 2019).[2] Much of this wide variation in the description of post-1967 Israeli regime type can largely be accounted

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[1] Israel's Polity IV scores were even higher: a perfect 10 for every year between 1949 and 2015 with the exception of a score of 9 between 1967 and 2000.

[2] See Yiftachel (2006) and Ariely (2021) for summaries of this debate. The literature characterizing Israel as a non-democracy can be further split into approaches that focus on settler colonialism and/or apartheid.

for by differences in the conceptualization of Israel's boundaries.[3] The literature that focuses on Israel as a democracy, liberal or otherwise, has as its object of analysis what is often referred to as "Israel proper," which excludes the occupied West Bank and Gaza.[4] On the other hand, the literature that focuses on Israel as a non-democracy generally refers to all areas under Israeli control, including the West Bank and Gaza. Recently, this has been expressed by the term "Israel/Palestine."

Whether implicitly or explicitly, the conceptual underpinning for distinguishing between "Israel proper" and the rest of the people and territory under Israeli control is the understanding of the occupation as temporary, and thus somehow a departure from Israel's democratic norms. After half a century of

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Israeli occupation, however, it is difficult to justify thinking about the situation as temporary. The occupation now accounts for nearly 55 of the state's 73 years of existence. For comparison, apartheid in South Africa lasted 46 years (1948-1994). Besides the length of the occupation, another reason it no longer makes sense to ignore the occupied territories when thinking about regime type is the continuous settlement of this territory by Jewish Israeli citizens. Already in the late 1970s and early 1980s, Israeli journalists were describing the Jewish settlements in the Palestinian territories as permanent obstacles to the

establishment of a Palestinian state (Lustick 2020). In 1982, the former deputy mayor of Jerusalem Meron Benvenisti, who was also a political scientist, described the settlements as *de facto* annexation and the situation more generally as "five minutes to midnight," meaning that Israel had arrived at a point of no return (Lewis 1982). This opinion was shared across the Israeli political spectrum, even as some saw the situation as a positive development while others considered it as a threat to democracy (Lustick 1993, 11-21).

Since then, the number of Jewish settlers and permanence of their presence have only grown. In the 1980s, the specter of 100,000 settlers was seen as shocking by analysts like Benvenisti. Today, B'Tselem (2019) estimates the number of Jewish settlers in the West Bank and East Jerusalem to be over 620,000.[5] In other words, Jewish settlement of the West Bank and East Jerusalem has continued at a brisk pace for the last half a century, leaving Dov Weisglass (2012), an advisor to former Prime Minister Ariel Sharon, to note with approval: "Israel has the authority of the sovereign in the territories – without the obligations." In short, as Ian Lustick has recently put it, "There is today one and only one state ruling the territory between the Mediterranean Sea and the Jordan River, and its name is Israel" (2019, 2). He continues:

[N]o state whose policies toward half the people under its control include overwhelming rates of incarceration, heavy and constant surveillance, a strangulating system of pass laws and checkpoints, collective

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[3] It should be noted, however, that this cannot account for discrepancies in regime type classification for the period between 1949 and 1967 when the vast majority of Palestinian citizens of Israel lived under military rule and lacked fundamental civil rights (Jiryis 1976; Zureik 1979; Lustick 1980; Robinson 2013).
[4] "Israel proper," however, presumably includes areas that Israel has annexed de jure, namely East Jerusalem and the Golan Heights.
[5] Of these, around 200,000 are in East Jerusalem (B'Tselem 2019).

punishment, and bloody violence can con-vincingly claim the mantle of democracy. (Lustick 2019, 123)

Likewise, although Arend Lijphart includes Israel among the 36 states under discussion in his work comparing varieties of democ-racy, he nonetheless remarks that Israel has violated the principle of universal suffrage "on account of its control over the occupied territories" (2012, 50).

Understanding Authoritarian Enclaves

If it is no longer tenable to conceptually sepa-rate "Israel proper" with its democratic insti-tutions, flawed as they may be, from the rest of the territory it controls and occupies, how are we to make sense of such widely divergent governing regimes under a single government without engaging in the egregious conceptual stretching inherent in disregarding the core meaning of democracy? In the context of differences between the conceptualization of democracy and its operationalization regard-ing women's suffrage, Pamela Paxton has convincingly shown how such gaps can have important analytical consequences (2000). I argue the insights Paxton offers can influence in substantial ways how we think about the situation in Israel/Palestine. For instance, re-gime type could influence public opinion on foreign military aid.

Rather than rely on further graded or dis-aggregated measures of democracy (e.g., Coppedge et al. 2011) or diminished subtypes (Collier and Levitsky 1997), the concept of authoritarian enclaves offers a more useful analytical tool. In particular, the concept

can be fruitful for analyzing Israeli politics, because it allows for what Edward Gibson has called "regime juxtaposition," which he describes as "two levels of government with jurisdiction over the same territory oper-at[ing] under different regimes" (2013, 5). In the context of the Americas, where this situa-tion has been most thoroughly theorized, this regime juxtaposition is typically observed in federal systems.[6] Israel does not have a federal system, but the divisions between territory and people subject to either military or civil-ian rule operate in a similarly distinct man-ner. The concept of subnational authoritari-anism can help us tease out this distinction.

Part of the confusion about regime classi-fication is the way the civil/military regime cleavage in society cuts across several dif-ferent types of categories: namely, territory, ethno-religious belonging, and citizenship status. These three categories relate to each other in complicated ways, which creates a patchwork of different statuses for different groups of non-Jews under Israeli sovereignty at different times. Territorially speaking, status on either side of the green line is ex-tremely important, but due to the citizenship differential between Jews and most non-Jews in the West Bank and East Jerusalem, territo-ry is insufficient for predicting regime type. Jewish settlers are subject to civilian rule, while their Palestinian neighbors are subject to military rule.

Likewise, ethno-religious belonging is also insufficient, since the status of Palestinian citizens of Israel has fluctuated over time and territory. For instance, Palestinian citizens of Israel now enjoy civil rights inside the green line, but this was not true between 1948 and

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[6] Gibson (2013) uses cases studies from the United States, Argentina, and Mexico, while Dickey (2015) looks at Mississippi, South Carolina, and Georgia. Fox (1994) also compares Latin American cases with the United States.

1967, when most Palestinian citizens of Israel were subject to military rule.[7] Further, they have more rights than most Palestinian residents of annexed East Jerusalem. Some argue that differences in regime are a simple issue of citizenship, but this ignores the ethno-religious bases of citizenship in a state that explicitly privileges one ethno-religious community at the expense of others, as well as the history of unequal citizenship during the nearly two decades of military rule over Palestinian citizens of Israel. Subnational authoritarianism based on military or civilian rule can help make sense of the three overlapping but different categories of territory, ethno-religious belonging, and citizenship.

Israeli Regime Juxtaposition in Theoretical Perspective

One could argue that the Israeli system is too complex for more generalized typologies — in other words that Israel is exceptional or unique, but this same argument for exceptionalism has previously been made about authoritarian enclaves elsewhere (Fox 1994, 109; Gibson 2013, 4). Authoritarian enclaves are not peculiar islands of uniqueness; rather, their maintenance "in a nationally democratic country is driven by strategic interactions between local and national politics" (Gibson 2013, 6). It is exactly this connection between the national and local that is important for understanding Israel's regime juxtaposition.

By thinking about Israel through the lens of subnational authoritarianism, it is possible to better integrate the study of Israel in the field of MENA politics, not just as an exceptional case or exogenous factor that influences the regional international environment or intervenes in the domestic politics of neighboring states, but instead as a case that can be leveraged for studying varieties of regional authoritarianism. Instead of thinking about Israel as a regional outlier, scholars of Israel might have important insights into the politics of authoritarian enclaves across the region – for example the use of military trials for sections of the population in neighboring Egypt. In short, thinking about Israel in terms of subnational authoritarianism can help us make conceptual sense of a single state with two regimes while simultaneously offering instructive comparisons within the region. ◆

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[7] This situation is described in a fictional account by Emile Habiby in his novel The Secret Life of Saeed the Pessoptimist, when the Arabic language broadcast of Radio Israel tells the "defeated Arabs" in 1967 to raise white flags on the roofs of their homes. The narrator Saeed, a resident of Haifa and citizen of the state, is confused about which "defeated Arabs" are being referred to, so just to be on the safe side, he raises a white sheet on a broomstick.

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