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# What kind of democracy is Israel ?

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Among the successes Israeli leaders pride themselves of having achieved is the fact they have established in the Middle East the only genuine democracy which has worked without an interruption since more than sixty-five years. When they went to the polls for the twentieth time since 1948, in March 2015, to choose 120 deputies from ten lists, among a record 26 lists, Israeli citizens proved certainly that Israel is a vibrant parliamentary democracy with a regular, open and pluralist electoral race. Electoral choices were made following lively public debate, relayed by an independent press, under the vigilant control of a Supreme Court that for the last two decades has been especially attentive to the respect for public freedoms. The results are all the more flattering when the geopolitical situation of the region is taken into account. Indeed, this democracy has functioned uninterruptedly despite the fact that the country was surrounded by authoritarian states with which it has been engaged in a full confrontation for thirty years up until the signing of the peace agreement with Egypt in 1979.

However, this is only part of the picture. Indeed, regularly a heated debate resurfaces among scholars working on Israel centered on the quality of its democracy. The rationale behind this debate is perfectly understandable. Indeed, if elections are regularly taking place in Israel and basic freedoms are protected, Israel has undoubtedly many features which distinguishes it from Western democratic states alongside which its leaders list their country routinely. Three features stand out quite clearly. First, Israel defines itself as a Jewish state i.e. a state which promotes overtly a specific Jewish collective identity. This structural link cannot but have consequences first for the non Jewish citizens (mainly Arabs) who cannot be part of this core identity but also for the Jewish majority which has to abide by certain rules (as for example for Jewish marriage and divorce on which there is rabbinical monopoly). Secondly, Israel is a polity whose borders are fuzzy.

The 159 States which maintain diplomatic relations with Israel acknowledge the “1949 borders” which are partly the former borders between Mandate Palestine and the neighboring countries and partly the 1949 armistices lines (with the exception of Jerusalem which is legally treated by the international community as subjected to the international regime foreseen by the UN 1947 partition plan). Some of these borders have been stabilized following the peace treaties with Egypt and Jordan, but nothing is settled with Lebanon and Syria. What is more Israel is still considering the West Bank as a disputed territory which it controls in various ways, including militarily. 350000 Israeli citizens live in settlements in the West Bank and coexist with 2,5 M. Palestinians who do not partake to the same citizenship regime. Partly indeterminate and insecure borders leads to a situation in which 7% of Israelis live with full citizenship rights, outside the boundaries of the state recognized internationally<sup>1</sup> while Palestinians are subjected to a complex regime mixing self-rule (via the Palestinian Authority) and occupation. Thirdly, Israel is since its creation a country at war where national security plays a key role. This situation has two consequences quite unique in comparison with Western democracies. While subordinated to political authorities, the military institution has a room of action which is by no means insignificant and weighs heavily on democratically elected decision-makers. War has also led to the persistence in Israel of a legal state of emergency. Never revoked since 1948, the state of emergency gives in principle a wide range of action to the executive to use exceptional powers to suspend and limit public freedoms. Luckily this was rarely the case within Israel for two reasons. Firstly, the emergency powers were largely used with caution by state institutions; secondly, all of the measures adopted within this framework were subject to the control of the judge who thereby played the role of guaranteeing the fundamental principles of democracy. However, the liberticidal potential of the state of emergency remains and stresses that Israel remains, contrary to Western states, a democracy at war.

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<sup>1</sup> To the 350000 Israelis living in the West Bank should be added 200000 living in East Jerusalem and 20000 on the Golan Heights

## The state of the debate about Israeli democracy

It is precisely the hybrid nature of Israel where democratic standard features (separation of powers, competitive political pluralism, recognition of popular sovereignty and fundamental freedoms...) coexist with idiosyncratic characteristics (Jewishness of the state, lack of clear territorial/political borders, war context) which has led to a recurring debate on the nature of Israeli democracy. In fact the answer provided by each one follows largely from the weight given to each of the two dimensions of the state: those who look mainly or exclusively at the standard democratic features of Israel will set indisputably Israel in the democratic camp; those who favor the exceptional features of Israel will relativize the democratic credentials of the country or dismiss them altogether. Thus we end up with two extreme positions: the first claims that Israel is purely and simply a liberal democracy<sup>2</sup>, the other that it is a “*Herrenvolk* [master race] democracy” (as apartheid South Africa) where power is confiscated by the politically dominant group<sup>3</sup>. From the outset, it is obvious that the first position cannot be sustained. Just take one point: the institutional link between Judaism and the state. It has clearly negative repercussions on the rights of individuals. The rabbinic monopoly on the marriage of Jews legally prevents the conclusion of any union between Jews and non-Jews in Israel.<sup>4</sup> The application of Halakha also has particularly negative effects on women in terms of divorce since women cannot take the initiative to dissolve a marriage. To require all Israeli citizens, including non-Jews,<sup>5</sup> to celebrate their unions on the basis of religious law limits both freedom of conscience and the contractual freedom of marriage and is hardly compatible with liberal democracy.

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<sup>2</sup> Gabriel Sheffer writes in 1996 that we are witnessing a transition from a “consensual and democratic model to private liberal democracy”. “Has Israel Really been a Garrison Depocracy? Sources in Israel’s Democracy”, *Israel Affairs*, vol. 3 (1), Autumn 1996, p. 35.

<sup>3</sup> Meron Benvenisti speaks about *Herrenvolk* democracy because for him the Israeli polity encompasses all area between the Mediterranean and the Jordan where the disenfranchised Palestinians coexist with a Jewish majority enjoying the full attributes of democracy. See his book: *Conflicts and contradictions*, New York, Villard Books, 1986, p. 182-185.

<sup>4</sup> This also makes the marriage of some Jews impossible. For example, a Cohen (supposedly descended from the sacerdotal cast) cannot marry a divorcee or a woman who is a convert to Judaism.

<sup>5</sup> Muslims are married in this way under the Sharia law, which is also discriminatory in regard to women.

In fact, those who stick to conjoin liberalism and democracy in the Israeli case have to grant so many deviations from the norm that they are emptying the very meaning of liberalism of any content. Thus, Benjamin Neuberger analyses Israel as a liberal democracy with “four flaws”: lack of a written constitution, specific relationship between religion and State, subordinated status of Israel’s Arab citizens and continuous occupation of Palestinian territories<sup>6</sup>. These are no more flaws, but big holes which can only lead to the logical conclusion that Israel is surely not a liberal democracy. What about the opposite position taken by those who claim that Israel is a “master’s” democracy? To begin with the expression itself is conceptually contradictory: if, indeed, only part of the population has civil and political rights, it is no more a democracy, but an oligarchy. Beyond that, such an approach takes for granted that the appropriate unit of analysis should not be Israel within its pre-1967 borders but the whole area “from the sea to the river” where a system of control is at work which, although with different tools, is systematically discriminating against the Arabs whatever their legal status. For this reason, at the end of the day, Israel cannot pretend being a democracy at all, it is an ethnocracy where power is held by the dominant group in order to keep control over contested territory<sup>7</sup>.

Such a perspective raises a “big question”. Is the obliteration of the green line between Israel itself and the territories occupied in 1967 warranted? The answer is no. The state of Israel always claimed that it held the West Bank and the Gaza Strip (till 2005), within the framework of international law, under belligerent occupation. We may dispute the genuine respect by Israel of the law of armed conflict as Israel transferred part of its population in territories occupied in 1967, a practice which is forbidden by the Fourth Geneva Convention. However, the fact remains: with the exception of East Jerusalem

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<sup>6</sup> Benjamin Neuberger : “Israel. A Liberal Democracy with Four Flaws” in Joseph David (ed.), *The State of Israele. Between Judaism and Democracy*, Jerusalem, The Israel Democracy Institute, p. 361-307.

<sup>7</sup> Oren Yiftachel : *Ethnocracy : Land and Identity Politics in Israel/Palestine*, Philadelphia, University of Pennsylvania Press, 2006 ; As’ad Ghanem, *Ethnic Politics in Israel : the Margins and the Ashkenazi Center*, London, Routledge, 2010.

and the Golan Heights which were annexed by Israel, the West Bank (and the Gaza Strip till 2005) were subjected to a military government. The consequence is crystal clear: Israel does not apply democratic rules in these territories and never pretended it did. If, as claimed by scholars defending the idea of ethnocracy, the green line is completely erased, Israel should treat its Arab citizens in the Galilee and the Negev exactly the same way it treats the Palestinians in Nablus and Hebron. Obviously, it is not the case which means that, despite its shortcomings, citizenship matters: it protects, at least partially, the Arabs within Israel from major encroachments from the state. This means that the distinction between Israel proper and the occupied territories has to be kept because in sovereign Israel democratic processes, even imperfect, are still working. In fact, the followers of the “ethnocracy model” cannot stick to it completely: they have to admit that Israel has important democratic features (political competition, significant civil rights, free media...), even if they deny the existence of a democratic state structure<sup>8</sup>. By doing that they acknowledge that Israel proper is indeed a democracy, even if it is a defective one.

If Israel is neither a liberal democracy, nor a “Herrenvolk” democracy, what is Israel ? Israel qualifies certainly as a political democracy because it meets the standard features generally used to build the democratic model (competitive political pluralism, fairness of elections, freedom of expression...). Not surprisingly, political scientists dealing with democracy have always ranked Israel among the democratic countries<sup>9</sup>.

However, beyond the general idea that, in Israel, “the government of the people, by the people, for the people” is respected, it is necessary to dwell on the political practices developed within the Israeli polity in order to assess really how democracy works. Indeed, democracy is above all

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<sup>8</sup> Oren Yiftachel and As’ad Ghanem : “Understanding ethnocratic regimes: the politics of seizing contested territories”, *Political Geography*, 23 (2004), p.666-667.

<sup>9</sup> Robert Dahl: *Polyarchy, Participation and Observation*, New Haven, Yale University Press, 1971, p. 246; G. Bingham Powell: *Contemporary Democracies: Participation, Stability and Violence*, Cambridge (Mass.), Harvard UP, 1982, p.5; Arend Lijphart: *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*, New Haven, Yale UP, 1984, p.37-45.

an experience which takes place differently in various societies which are themselves the product of historical processes. Rather than speak of democracy in general it is more heuristic to look at the forms taken by democracy in different countries. Even if they share common features, French democracy is different from British democracy which is itself different from German democracy. The same with Israel: democracy has to be assessed not by measuring its degree of conformity with an abstract model but by studying it as an evolving practice over the last sixty five years.

### The infancy of Israeli democracy

The first twenty years were those of the *mamlakhtiout* (literally, “Statism”), associated most closely with Ben Gurion. It was a matter of consolidating the State as the supreme authority, the guarantor of the general interest, and this manifested in the transfer of the public sector and the monopolization by the State of areas of activities that had until then been solely the jurisdiction of political groups (defense, education, employment). As the privileged object of political allegiance, the State was also the motor behind national integration (absorption of immigrants, socialization through schools and the army). At first sight, democracy seems well established : parties, from different political trends, compete; the Knesset elections are held regularly every four years; a court system is set up ... However, the absolute priority granted to reinforcing the State tempered somewhat the democratic modes of expression. As the dominant party until 1977, the socialist Mapai party – later on the Labor party - dominated the political game. In order to secure their authority and promote their projects, its leaders did not hesitate to justify certain infringements of the rule of law.<sup>10</sup> The Histadrut, which was linked to Mapai, functioned more as its partner than as a union defending the rights of workers before the State, which was then omnipresent in the economy. Likewise many newspapers were structurally linked to the party in power or to semi-public bodies, while the radio, which was directly associated with the council’s presidency in many ways acted as the government mouthpiece. The content of the news was, in

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<sup>10</sup> Ehud Sprinzak: “Elite Illegality in Israel and the Question of Democracy” in Ehud Sprinzak and Larry Diamond: *Israeli Democracy Under Stress*, Boulder and London, Lynne Rienner, 1993, p. 173-198.

addition, subjected to a strict censorship, especially in matters affecting the security of the state, in accordance with the British Emergency Regulations of 1945, incorporated into Israeli law. However, the main infringement of democracy had to do with the status of the Arab minority (160000 people in 1949). From 1948 to 1966, it was subjected to a military administration that severely restricted the exercise of its civil liberties. There were frequent house arrests, administrative detentions, and censorship of the Arab press. The freedom to political assembly was itself subject to innumerable restrictions. While some measures applied to the Arab population certainly responded to security needs (espionage prevention, fight against terrorism), their generalized application over a long period, and in a collective fashion, amounted to a veritable control regime.<sup>11</sup> They facilitated, in particular, the pursuit of an eminently political objective: the massive transfer of Arab land. At the time when it came into being, the State of Israel was in the highly unusual situation of exercising political sovereignty over a country in which Jews owned only 9% of the land.<sup>12</sup> As a successor State, Israel naturally took possession of all public land, as well as land that was considered without owner, but a third of the land nevertheless remained legally Arab private property. The emergency legislation enabled the appropriation not only of the land and buildings of Palestinian refugees, but also half of the land belonging to Israeli Arabs. The security rationale therefore in fact served as a useful pretext for acquiring the majority of privately owned Arab land. The net result is that Arabs now own nothing but 3.5% of the surface area of the country, while the State controls 93% (the rest belongs to private Jewish landowners).

The existence of this exceptional arrangement in regard to Arab citizens emphasizes the extremely ethnic character of the Israeli polity in its early stages. The citizenship status granted to Arabs certainly allowed them to vote – within the framework of a relatively controlled

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<sup>11</sup> Ian Lustick: *Arabs in the Jewish State: Israel's Control of a National Minority*, Austin and London, University Press of Texas, 1980.

<sup>12</sup> 4.5% were bought by the Jewish National Fund, 2.15% were acquired by the Palestine Jewish Colonization Association (PICA) of Baron de Rothschild, and the remainder belonged to other Jewish individuals.

electoral race – but it did not guarantee full respect for their fundamental rights, including freedom of movement and the right to own property.

Through the clearly subordinated status of the Arabs, it is indisputable that an analytical distinction should be made between the political community (comprising all citizens) and the national community (restricted to the Jews), the first being the legal community, the second the legitimate community.

Further evidence of the saliency of the dividing line between Jews and non-Jews is shown by the fact that democracy was based, in the Jewish camp, on a very broad consensual basis. Mapai never got, alone, an absolute majority (due to proportional representation) and therefore it had to come to terms with smaller parties (liberals, religious parties, leftist Mapam). However, its parliamentary basis usually exceeded by far what simple arithmetic would have required as if the dominant party wanted to have the broadest political support possible. This strategy was largely successful because there was indeed a strong national consensus around the defense of Zionist values (Jewish patriotism, conquest of the land, ingathering of the exiles ...). Even Ben Gurion's most consistent opponent, Menahem Begin, took part in this general consensus. Undoubtedly, the two men differed on their approach, more pragmatic for the Labor leader who was mindful of the international context, more ideological for the Herut leader who was convinced that the use of military force was entirely legitimate to recover all of Eretz Israel (West Bank and Jordan), but they shared a common vision of national restoration. The exclusion of the right from the various Labor coalitions was the outcome of a deep political enmity, and in particular, the stubborn refusal of Begin to accept, not the authority of the head of government, but the hegemony of Mapai upon the state. This political exclusion was different from the stigma associated with Maki (the Communist Party): the later was illegitimate - while operating legally - because it did not share the Zionist state ideology which explains that its electorate was more and more made up of Arab citizens, Herut was only removed from power as a political rival.

### National intransigence and democratic ripening

With the Six-Day War came the occupation of the West Bank and the Gaza Strip which opened a political debate on the future of these territories. While the Labor party adopted the principle of territorial compromise (with Jordan), the right boosted by the “liberation of Judea-Samaria” became the advocate of a strident nationalism tinted with religious messianism. Two divided political camps gradually crystallized: the uncompromising nationalists (gathered around Likud) and the moderate nationalists (around Labor).

The first got a more and more larger following to the detriment of the later which were weakened by being in power for too long. Finally, in 1977 Likud won the general elections: it was the first political changeover, an event that is known as *maapakh* (literally, reversal) and which attested to the institutional consolidation of democracy. An authentic democracy in fact assumes “a system of electoral change of political specialists in which some are endowed with the highest responsibilities while others find themselves thanked by the electorate while they retain the high probability of returning to power in a future election.”<sup>13</sup>

This changeover of political power was made possible by the mobilization of Sephardic Jews who turned away from the Labor party which had maintained them in a state of paternalistic dependency. By offering the majority of their votes to the “pariah” of Israeli political life, Menahem Begin, they asserted themselves as autonomous agents. In parallel, the victory of Likud also marked the true entry into politics of another group that had previously been on the periphery of the political system, the ultra-orthodox Jews (the famous “men in black”). From then on, by participating in different governments, ultra-orthodox Jews contributed to the functioning of the Zionist State they had for so long denounced. The 1977 power changeover is thus an indication of the integrating force of Israeli democracy. Yet the paradox remains: this full and complete insertion into politics rallied around the right, which

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<sup>13</sup> Guy Hermet: *Le passage à la démocratie*, Paris, Presses de Sciences Po, 1996, p.18 (my translation).

defended a strong nationalism which is hard to reconcile with a democratic ethos. In fact, the mainstream rightist trend represented by Likud never advocated the establishment of an authoritarian regime or rejected outright democracy. However, if one scratches the surface, it appears that the acceptance of democracy is tempered. Ariel Sharon said once : "Our ancestors and our parents did not come to establish democracy even if it's a good thing that democracy has been established, but they came to create a Jewish state"<sup>14</sup>. The message is clear: the Zionist goals (freedom of Jewish immigration, integrity of the land ...) have the upper hand and cannot, therefore, be challenged, even by a democratically elected majority. It is precisely in the name of these " higher values" that the right denounced the 1993 Oslo Accords : although they were backed by a majority of Knesset members, they were not backed by a Jewish majority as the supporters of Oslo included Arab MKs of non-Zionist parties. The challenge to democracy is even more blatant among the far-right which emerged at the end of the 70s. At best, its supporters have a conditional acceptance of democracy. Thus, the National religious party was won over by messianic Zionism which clearly legitimized resistance to the state authorities as soon as they took decisions deemed in contradiction with the process of messianic redemption (as territorial withdrawal). Heteronomy i.e. the existence of a religious commandment seen as superior to human law makes it impossible to recognize democracy as a principle of universal validity.

This relativization of democracy is also apparent from various opinion polls from the 1980s. Although the overall support for democratic values (recognition of equal rights, freedom of conscience ...) was high (70% to 85%), it is a very different picture if we look at attitudes. Thus, 42% of those polled said they were in favor of a strong leadership able to impose order without having to depend on elections or the parliament. 34% were also of the opinion that even a minor

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<sup>14</sup> Ariel Sharon: "Beyond democracy", *Jerusalem Post*, 2 juin 1993.

threat to state security warranted serious restrictions on democracy.<sup>15</sup> These non-democratic attitudes were clearly far more pronounced in two categories, the religious and Sephardic people, in other words, in the social groups that supported the “nationalist camp.” In both cases, the religious variable is the determining factor. Since levels of religious practice tend to go hand in hand with more ethnocentric behavior, the Sephardim, who are generally more religious than the Ashkenazim, adhere to a strong collective identity and are more inclined to believe that its preservation justifies, if necessary, limitations to the application of democratic rules.

The consolidation of an intransigent nationalism during the 1970s did not, however, prevent a parallel strengthening of the rule of law through the activism of the Supreme Court and the consolidation of a more professional bureaucratic class, implementing a "legal-rational" authority that treats citizens in an impersonal fashion according to universally applicable rules. Although during the early period, society had largely been organized by a mobilizing state according to the imperatives of nation building, it gradually gained autonomy. One illustration is the increase in protest movements, which usually took the form of demonstrations. From 1948 to 1955, there were less than fifty demonstrations a year; in the early 1980s, there were four times as many. This protest activism shows that, as in other countries, there was a crisis in political mediation but that it found compensation in the emergence of a “participatory democracy.”<sup>16</sup>

#### Between liberalization and "identity politics"

In the 1990s Israeli democracy entered a new phase that showed an increase in elements of liberalism without putting into question the ethno-national dimension of the State. The fact that the liberal aspect of Israeli democracy shone all the brighter is shown by the 1992 adoption of two Basic Laws (on freedom of occupation and on human dignity and liberty) that protected certain public freedoms on a constitutional basis. This promotion of universally applicable rights

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<sup>15</sup> Figures taken from Yochanan Peres and Ephraim Yuchtman-Yaar: *Trends in Israeli Democracy*, Boulder & London, Lynne Rienner, 1992.

<sup>16</sup> The expression comes from Gadi Wolfsfeld, *The Politics of Provocation: Participation and Protest in Israel*, Albany, State University of New York Press, 1988, p.164.

emphasizes a fundamental trend in Israeli society that cannot be denied despite the presence of nationalist-religious groups: the growth of individualism and a self-based culture. This concept of individualized identity is a major break from the communitarian ethos, shared in various forms by all Zionist movements (religious, socialist, nationalist right) that systematically valorized the collective at the expense of the individual.<sup>17</sup> The reinforcement of subjectivity is a sign of a deep cultural transformation, even if it is not generalized, since it affects primarily Mediterranean and lay Israel. Moreover, this faithfulness to the self is expressed not only at a strictly individual level, for in some cases it is also expressed by individuals voluntarily joining identity based groups. In other words, individuals today may choose to situate themselves in identity groups (religious, cultural, sexual) in the name of respect for their own subjectivity. Unlike traditional communities (that were essentially religious) in which the individual is entirely submerged by the collective, “new communities” (ethnic groups, gays, women) are constructed by individuals. The concomitance between individual affirmation and communitarian developments is thus not a coincidence. In many respects, it can be claimed that Israeli society has become authentically plural, and thus also more democratic, in as much as it explicitly recognizes its internal diversity. Although the ideology of the *melting pot* that sought to create a standard *homo israelicus* was abandoned in the mid 1960s, the dominant norm of conformity to the socio-cultural model forged by the Russian and Polish pioneers continued to influence Israeli society for a long time. This became no longer true during the 90’s when acceptance of the multicultural nature of society is a reality. This community pluralism should not, however, be seen as an “isolation strategy” from the surrounding society. Whether it is called for by Sephardic Jews or new “Russian” immigrants, ethnicity is used as a resource to gain recognition and concessions from the political center in order to achieve social progress, rather than a withdrawal into the self.

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<sup>17</sup> Yaron Ezrahi, *Rubber Bullets. Power and Conscience in Modern Israel*, New York, Farrar, Straus & Giroux, 1997.

Even the Arab citizens of Israel seemed on the verge of becoming more integrated in the political and social fabric of the country. Politically, although the number of seats obtained by the Arab parties in the Knesset (Hadash, Arab Democratic Party, Progressive List for Peace) remained stable at the beginning of the 90s, what changed was their bargaining power. Indeed, the two main parties, Likud and Labor, contending for the constitution of a parliamentary coalition, were neck and neck: after the 1988 elections, the results were so tight that they had no choice but to form a unity government. In such a context, small parties had a disproportionate weight as they could have a decisive contribution in building a coalition. It was particularly obvious in 1992 when the Labor party headed by Yitzhak Rabin was clearly ahead but had not many partners to form a government coalition: it needed absolutely the support of the Arab parties and their five seats<sup>18</sup>. This parliamentary backing – without ministerial participation in the government - became even more crucial after Rabin took the bold decision of starting negotiations with the PLO. Of course, this support was not for free: they asked for a betterment of their lot which translated for instance in the rescission of the discriminatory law subjecting the receipt of some family subsidies to the completion of military service (the Arabs are not called up), a halt in the confiscations of land in Arab areas and an increase in the representation of Arabs in the higher ranks of public administration.<sup>19</sup> This political integration went with a growing presence of Arabs in everyday life.

Legally, things seemed also on the right track with the Qaadani decision taken by the Supreme Court in 2000. In that ruling, Israel's highest judicial authority stated that it was illegal to refuse to lease land to the Qaadanis, an Israeli Arab couple, on the pretence that the "community settlement" of Katzir was created by the Jewish Agency which works for the sole benefit of Jews. For the court, the state cannot discriminate between its Arab and Jewish citizens in the allocation of land even if it is done through a proxy like the Jewish Agency. Even if the decision

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<sup>18</sup> Laurence Louër : *To be an Arab in Israel*, London, Hurst, 2007.

<sup>19</sup> Elie Rekhess, "Israel's Arab Citizens and the Peace Process" in Robert O. Freedman (ed.), *Israel under Rabin*, Boulder, Westview Press, 1995, p. 191-93.

concerned only the Qaadans, it signaled a breach in the public land management which clearly favors Jews.

However, the hope that an inexorable liberalizing trend was underway in Israel was shattered precisely the same year the Supreme Court took its bold decision. Late September 2000, the outbreak of the al-Aqsa Intifada which opened a vicious circle of Palestinian suicide attacks in the heart of Israeli cities and of military incursions into Palestinians cities had profound negative consequences for Israel's democracy.

#### The partial deliberalization of Israel

The indiscriminate violence against Israeli civilians between 2000 and 2004 led to a clear right turn in the elections : since 2001 the Labor party was not once the first party in electoral terms and thus was unable to build a sustainable left coalition till today. The former dominant party of the early years became sometimes an additional force for another party (Likud, Kadima) or remained in the opposition. However, it would be a mistake to understand this extended shift to the right only as an outcome of the insecurity which was genuine in the "Intifada years" and even beyond. Indeed, the firing of rockets both by Hezbollah in the north and by Hamas in the south, although it was less dreadful than the suicide attacks, entertained the feeling that Israel was surrounded by enemies and that the tough policy advocated by the right was the only avenue.

Two deep sociological have also to be taken into account to explain the political domination of the right. The first is the massive influx of Russian speaking Jews which constitute about 20% of the Jewish population. Although they are overwhelmingly secular, they are not, on the whole, politically liberal, but deeply nationalist. They are committed to the fact that Israel is only the state of the Jews and that the Palestinian citizens of Israel are here on sufferance. With Avigdor Liberman, the leader of Israel Beitenu, they have found their hero. The second noticeable trend is the fact that Israel has become more religious. More people are defining themselves as orthodox: in 1999, 15 % did so, ten years later there were 22%. Both trends are leading in the same

direction: assertion of a strong identity (national or religious) which goes with a clear relativization of democracy. Thus, various surveys have shown that FSU immigrants have more authoritarian and intolerant attitudes. Support for a strong leader is higher than among old-timers (74% vs 60%). Support for encouraging Arab emigration from Israel is impressive (77% vs 47%)<sup>20</sup>.

As for religious Jews, another survey stressed that only 14% of those who define themselves as Orthodox and 6% of the ultra-Orthodox think that democratic principles should take precedence if they are in contradiction with halakha. Conversely, 84% of the secular anti-religious and 65% of the secular not anti-religious favor democratic principles over religious law. The divide is wide and shows clearly that democracy is not valued by religious and secular people the same way which is problematic for rooting a democratic culture<sup>21</sup>.

The outburst of violence in 2000 was not only a turning point for the Jews, it was also a major rupture point for the Arab citizens of Israel. Indeed, their demonstrations of solidarity with fellow Palestinians, sometimes marred by violence against properties, was harshly repressed by the police leaving thirteen people dead. It was a shock for the Arab community which couldn't imagine that another Land Day was possible: in fact the 2000 October events were worse than the March 30<sup>th</sup> 1976 Land Day when six people were killed. The widespread feeling within the Arab public was that a genuine integration in a Jewish state was just impossible and that they would never get more than a hollow citizenship<sup>22</sup>. The first direct consequence was a sharp drop in the voting rate of Arabs : in the 1999 elections, 75% had participated; in the 2013 elections they were only 56%. Such a level of abstention, concentrated within a large minority, is bad for

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<sup>20</sup> Data taken from Asher Arian, Michael Philippov, Anna Knafelman : *The 2009 Democracy Index. Auditing Israeli Democracy. Twenty Years of Immigration from the Soviet Union*, The Israeli Democracy Institute, 2009, p. 59 and 65.

<sup>21</sup> Asher Arian and Ayala Keissar-Sugarmen: *A Portrait of Israeli Jews: Beliefs, Observance, and Values of Israeli Jews*, Jerusalem, Guttman Center for Surveys of the Israel Democracy Institute/ Avi Chai Foundation, 2009, p.66.

<sup>22</sup> To use Amal Jamal's expression : " Nationalizing States and the constitution of "hollow citizenship" : Israel and its Palestinian citizens ", *Ethnopolitics*, 2007, vol. 6 (4), p. 471-493.

democracy because it sets the minority group on the margins of the system. Unfortunately, the situation of insularity has only grown. A dangerous dialectics evolved. As the elites of the Arab community (MKs, mayors, professionals, academics...) were convinced that there was no future for the Arabs in the present state of Israel they made extensive proposals to transform Israel in a binational democratic state (alongside a Palestinian state in the West Bank and the Gaza Strip). Those proposals were presented in three so-called vision documents published in 2006-2007 which caused an uproar among the Jewish public as they denied the right of self-determination to the Jews <sup>23</sup>. They bolstered a trend towards the strengthening of Israel's Jewish national identity which took especially the form of illiberal laws adopted by the Knesset. In 2011, the Parliament adopted the Nakba law which allows the ministry of Finance to cut financial support to every institution that support events "threatening the existence of Israel as a Jewish and democratic State, desecrates the State symbols or commemorates the birth of Israel as a day of mourning". The law targets clearly the annual commemoration by the Arabs of their uprooting from Palestine in 1948. The same year the "Admissions committee law" was passed: it allows small towns in the Negev and Galilee to reject would-be residents based on their social "unsuitability" – a cover word used to bar mainly Arabs from living in those communities. This law is a weapon to counter the Qaadan jurisprudence. But Arab citizens are not the only one to be targeted, so are NGO's which are part of a vibrant civil society. Thus, the law on "Funding from State Entities" requires that NGO's which get money from foreign states should make it public. If the law was driven by the need for transparency, it would be acceptable. However the aim is quite different: to brand human rights organizations, which get steady financial support from the EU, as "unpatriotic" and delegitimize their actions. Interestingly, organizations which support for instance settlements in the West Bank won't be hit as they get money from private donors (mainly Americans).

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<sup>23</sup> An analysis of those documents is provided by Sammy Smooha : " The Israeli Palestinian-Arab Vision of transforming Israel into a Binational Democracy ", *Constellations*, 2009, 16-3, p. 509-522.

All those laws – and other bills under discussion – are highly problematic<sup>24</sup>. First, they have clearly political aims whereas the law should set forth general principles. Secondly, they undermine democratic culture by discriminating among citizens and infringing on basic rights (freedom of speech, protest...). Ironically, Israeli democracy is undermined by those who are his representatives.

It is now time to come back to the initial question : what kind of democracy is Israel ? How can we describe a polity which has at the same time accepted the principle of citizenship on an individual basis and set up preferential links between one ethnic group (the Jews) and the State? The answer given by the sociologist Sammy Smooha 25 years ago seems to me still valid : it is an “ethnic democracy” where political sovereignty belongs to the Israeli citizens as a whole (and only to them), but where the State is that of the Jewish people<sup>25</sup>. Such a patchwork is bound to be precarious, since the preponderance of the main group frequently clashes with equality of all citizens. Sometimes, the balance swings in the direction of democracy, as was the case in the 1990’s when liberalization trends grew; sometimes, the balance swings in the other direction and the core Jewish collective identity is reasserted as was the case in the last decade. A strong caution should be uttered here: ethnicity cannot override some important democratic principles, one being the respect of minority rights. A parliamentary political majority cannot use its privileged position to disenfranchise in one way or the other the minority and enhance the status of the dominant ethnic group. Having a political majority does not mean having a free hand to impose the tyranny of the majority over the minority. So far, the worst has been avoided due to the activism of the Supreme Court and to the resilience of civil society. But an extreme vigilance is required: democracy is, by definition, fragile.

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<sup>24</sup> The laws and bills are examined by Mordechai Kremnitzer and Shiri Krebs : "Form Illiberal Legislation to Intolerant Democracy" , *Israel Studies Review*, summer 2011, vol. 26 (1), p. 4-11.

<sup>25</sup> Sammy Smooha, "Minority Status in an Ethnic Democracy: The Status of the Arab Minority in Israel" *Ethnic and Racial Studies*, 13(3), 1990, p.389-413.

Sammy Smooha, "Ethnic Democracy: Israel as an Archetype" *Israel Studies*, 2(2), 19, Fall 1997, p.198-241.