

1 | *How the Israeli Regime Is Classified?*

Israel has often been considered and classified as a democracy. In his classic study *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries*, Lijphart (1984) included Israel in the category of “clear and unquestionable cases of democracy” (38). Ever since then, however, scholars from a range of disciplines – sociology, geography, philosophy, history, and political science – have been challenging Israel’s status as a democracy. While many still regard Israel a democracy (see Arian et al. 2003; Neuberger 2000; Yakobson and Rubinstein 2009), some have questioned the verity of this classification, suggesting that Israel is an “ethnocracy” (Yiftachel 2006), a “*herrenvolk* democracy”(Benvenisti 1988), or an “apartheid regime” (Davis 2003; Greenstein 2012; Pappé 2015). Between the two poles of democracy and non-democracy, others have classified Israel as a type of diminished democracy, labeling it an “ethnic democracy” (Smootha 1990), “illiberal democracy” (Peleg 2007), “hybrid regime” (Harel-Shalev and Peleg 2014), “Orthodemocracy” (Giommoni 2013), or a “theocratic democracy” (Ben-Yehuda 2010).

How do observations of a single case lead to such contradictory classifications and interpretations of a regime? This chapter offers a critical overview of how the Israeli regime is classified, addressing two fundamental issues in the debate over its suitable classification: the definition of democracy and the parameters of the unit of analysis. In providing a detailed description of the local dispute among students of Israel, it shows that very few local scholars or studies (e.g., Peled and Navot 2005) provide explicit descriptions of the assumptions and premises on which their arguments are based. In addition, they often ignore the literature on regime conceptualization and classification or limit their focus to the comparative politics discussion regarding regime categorization and analysis. Rather than seeking to understand the Israeli regime from a theory-driven, comparative perspective and

contextualizing it within the field of regimes and democratization, their primary goal appears to be determining whether or not Israel is a democracy. The chapter then examines how Israel is categorized in cross-national regime indexes, demonstrating that such indexes cannot be exploited to bypass the local dispute. In so doing, it exposes the limits of restricting the focus to the classification of the Israeli regime, arguing that this debate can never be conclusively resolved. Finally, it lays the foundation for an alternative approach to describing the Israeli case.

1.1 The Local Debate on How to Classify the Israeli Regime

While the debate on the classification of the Israeli regime is wide in scope, it remains largely confined to Israeli scholars and to those interested in Israel. In this sense, it is a local dispute conducted primarily among students and specialists of Israel. Indeed, very few scholars of regimes who work in the field of comparative politics outside Israel pay much attention to the country. Israel has rarely been included in the extensive discussions prompted by the inundation of new democracies that emerged in the 1990s from regimes that deviated from the Western liberal model of democracy (Armony and Schamis 2005; Zakaria 1997); nor do comparative studies of regimes and democratization generally address the Israeli case (for an exception, see Rubin and Sarfati 2016). Generally taking place outside the framework of comparative political studies of regime classification and democratization, the local debate also frequently examines Israel in isolation from other cases. When comparative analysis is undertaken, its primary purpose is to justify Israel's uniqueness or to support specific classifications of the regime. Scholars who take an inductive approach have developed models based on the Israeli case and, proposing such categories as ethnic democracy or ethnocracy, have explored whether these models can be applied to other cases (Smootha and Järve 2005; Yiftachel and Ghanem 2004). Those who adopt a more deductive approach appeal to cross-national indexes or specific elements from other countries to support the classification of Israel as a democracy (Fox and Rynhold 2008). However, neither analytical approach employs robust comparative politics standards.

I review this debate by focusing on two highly relevant questions. First, how, if at all, is democracy defined and conceptualized? Second,

how, if at all, is the question of Israel's borders factored into the discussion? This approach is motivated by the assumption that how democracy is conceptualized in analyses of the Israeli regime directly affects how it is ultimately classified. Those who adopt a thin definition of democracy generally term Israel a democracy. When thicker definitions are employed, however, Israel's status as a democracy tends to be called into question. Many of those who set out to define the Israeli regime have paid little attention to the classification literature. Most predicate Israel's categorization on the status of its Arab citizens and rarely on other regime components. Thus, even within its 1949 borders, Israel is frequently classified as a liberal democracy by some and a non-democratic regime by others.

The question of regime border, i.e., which borders to relate to and what territory to include, also determines how Israel is classified, with the definitions Israel proper (Israel within the 1949 borders) and Israel/Palestine (the entire territory between Jordan and the Mediterranean Sea, including the West Bank and Gaza Strip) being the most prevalent. On the basis of the former, Israel is generally classified as a democracy or as a partial democracy. When Israel/Palestine is used as the unit of analysis, on the other hand, Israel is defined as anything but democratic. Despite the importance in scholarly analyses of clearly defining Israel's borders and territorial possessions, the grounds for adopting one unit of analysis over the other are not self-evident and are rarely discussed or stated explicitly. Moreover, the chosen unit of analysis is often not strictly adhered to.

A review of the debate through these lenses allows us to recognize the limitations under which the classification of Israel labors. The grounds on which the definition of democracy rests and the question of Israel regime borders ignore the conceptual difficulties they entail. While thick classifications of Israel as an ethnic democracy, ethnocracy, or dual regime are helpful in adducing certain aspects of the Israeli case, they lack a firm foundation in regime classification methodology.

1.1.1 Israel as a Democracy

The prevalent view among scholars of Israel is that Israel is a democracy – a belief that is clearly reflected in the annual democracy indexes produced by the Israel Democracy Institute (IDI). Established in 1991,

the IDI is an influential “independent, nonpartisan ‘think and do tank’ dedicated to strengthening the foundations of Israeli democracy” that *inter alia* seeks to fulfill its mission by engaging in academic research (The Israel Democracy Institute, n.d.). Over the years, IDI has been home to many prominent scholars and public figures. Its mainstream status was displayed in 2009 when it was awarded the Israel Prize for Lifetime Achievement and Special Contribution to Society and the State in recognition of its public and professional impact on constitutional and democratic discourse in Israel.

In 2003, the IDI introduced its annual Israeli Democracy Index, the stated purpose of which is to “evaluate the quality and functioning of Israeli democracy by collecting quantified and comparable information that is comprehensive, precise, clear, reliable, and valid” (Arian et al. 2003: 4). In confirmation of its acceptance, the index’s publication is celebrated every year in a ceremony attended by the president of Israel and other prominent public figures. The only such national index to do so, it combines common cross-national indicators of democracy, such as the Freedom House civil and political rights scales, with representative national public survey. Rather than including in its annual report an explicit definition of the concept of democracy on which it is based, the IDI index provides a comprehensive description of a multidimensional phenomenon that incorporates institutions, rights, and public opinion.

The IDI index thus presumes that Israel is a democracy and questions only the quality and stability of its democratic institutions; from the IDI’s perspective, whether or not Israel can be defined as a democracy is not an issue for debate. Also lacking from the index is a definition of the political unit it is measuring; it virtually ignores the subject of whether Israel’s borders are relevant to the classification of the regime. Very few of the annual reports published by the IDI refer to “the Occupation,” or the “Green Line” (see Chapter 3 for elaboration). Moreover, the index extracts cross-national data from the Economist Intelligence Unit, Freedom House, and the Organization for Economic Co-operation and Development (OECD), none of which cover the Occupied Territories as part of Israel. The democracy of the regime is thus measured solely on the basis of data relating to Israel proper; its survey of the Israeli public, however, includes settlements in the Occupied Territories. This combination of data relating primarily to the 1967 borders with that pertaining to areas beyond these reflects

an inherent lack of methodological coherence. The unit of analysis is therefore never explicitly defined or even addressed in the indexes or, in fact, in other IDI discussion about the Israeli regime (e.g., Sprinzak and Diamond 1993).

The few scholars who have addressed this stance have done so in response to criticism of Israel and in order to demonstrate that Israel is not a non-democracy or diminished type of democracy. The most comprehensive description of Israel as a liberal democracy is Yakobson and Rubinstein's (2009) *Israel and the Family of Nations: The Jewish Nation-State and Human Rights*. A professor of ancient history at The Hebrew University of Jerusalem, Yakobson joined forces with Rubinstein, a prominent law scholar and former liberal left-wing MK and minister, to defend the idea of the "Jewish State." In so doing, they argued that Israel is both "Jewish" and "democratic," with its "Jewish" character deriving directly from universal democratic values and international law. Contending that their view was not "based on an abstract, radical and rather utopian model of liberal democracy" (4), whose validity they asserted was being questioned, they set out to demonstrate that, as a Jewish state, Israel meets the requirements of a liberal democracy.

This defense of Israel as a democracy is based on comparisons with European countries and on international treaties. From this perspective, Israel is not unique, as it espouses the same principles of liberal democracy that many other nations claim to uphold. The Israeli law of return, for example, parallels similar repatriation laws in places such as Finland, Germany, and Ireland that adhere to the standards of liberal democracy. The status of the Arab minority, a potentially confounding issue vis-à-vis democratic principles, is depicted as the result of flawed policy – and as a function of the ongoing conflict – rather than as a structural defect of the regime. From this comparative perspective, the Arab minority in Israel is portrayed as enjoying a better status than minorities in many other liberal democracies.

Yakobson and Rubinstein's classification of Israel as a liberal democracy does not therefore rest on a specific definition of democracy but on comparisons with cases from other countries across a range of domains, such as immigration laws, the status of minorities, state symbols, etc. Rather than employing a comprehensive deductive approach, it uses comparison to prove parity, seeking to show that Israel is like other countries. Where Israel does not meet the same

standards – with respect to ethnic relations, for example – it is perceived as merely diverging from the conventional model of liberal democracy: “The reality which has come about on the ground is in breach of all democratic principles” (103).

The reference to the reality on the ground indicates the unit of analysis adopted by Yakobson and Rubinstein, i.e., Israel proper. This view is dictated by their support for a two-state solution – a position that necessarily precludes discussion of Israel within its current borders. Thus, although it is the most thorough attempt to date to classify Israel as a liberal democracy, it nevertheless only relates to Israel proper. Moreover, it offers no clear definition of democracy as a standard of measure.

A similar approach uses religion as the criterion for classifying the Israeli regime. In an effort to counter arguments that the lack of separation between religion and state undermines Israeli claims to democracy, Fox and Rynhold (2008) compare Israel with other countries. Gathering data on types of government involvement in religion (GIR) across a range of countries, they explored the levels of GIR in a range of domains: support, regulation, restrictions, etc. On this basis, Fox and Rynhold determine whether GIR levels in Israel are unique or also occur in other democracies. According to their analysis, Israel has the highest level of involvement in religion of all Western and non-Western democracies. They nonetheless maintain that

It is reasonable to argue that the extent of GIR in Israel is not incompatible with democracy for two reasons. First, Israel does score a 10 on the Polity measure of democracy, which is the highest possible score. Second, as noted above, almost all of the types of GIR that exist in Israel exist in other democratic states. Thus to say that Israel is not democratic because of any one of these types of GIR would also disqualify other states which are generally considered democratic. (524)

From this perspective, Israel is democratic, but the government’s level of engagement with religion is closer to the involved end of the continuum. This, Fox and Rynhold claim, is a function of the specific context in which Judaism is practiced rather than a deviation from the democratic model. Similar to the approach taken by Yakobson and Rubinstein (2009) in the ethnic sphere, Fox and Rynhold argue that the empirical reality in the realm of state and religion in Israel is a matter of relativity. The quality of the country’s democracy, therefore, is simply lower than that of some of the other countries examined.

They too ignore the question of borders, employing indexes that pertain exclusively to the 1949 borders.

Israel has also been defended as a democracy from a political science perspective (Dowty 2018). Criticizing the ethnic democracy debate, Dowty posits that any attempt to classify Israel must first address the question of how democracy is defined. By examining how four prominent political scientists conceptualized democracy, he points out that Israel meets all four of their definitions. First, referring to Dahl's (1971) eight requirements for polyarchy, he claims that Israel in 1969 could be classified as a fully inclusive polyarchy. Relating to the notions of democracy advanced by Lijphart (1984), Powell (1982), and Rustow (1967), which do not require either the inclusion of minorities or clear borders, Dowty asserts that the definitions on the basis of which Israel is disqualified as a democracy have no connection to the way democracy is understood in political science. Nor, in his view, does Israel constitute a unique case; from a comparative perspective, it can, he claims, be classified as a democracy by using, for example, its categorization as a free state under the Freedom House indexes. Although Dowty addresses the issue of how democracy is defined, he does not tackle the problem of the unit of analysis. Despite acknowledging that critics of Israel use the lack of clear borders and the state's recognition of Jewish but not Palestinian citizenship beyond the 1949 borders to discredit the Israeli version of democracy, he argues that clear borders are not a prerequisite for a definition of democracy (see Chapter 3).

Other scholars who view Israel as a democracy also cite the gap between the liberal ideal and the reality on the ground. Responding to the claim that Israel is an ethnic democracy, Neuberger (2000) argues that it is a "democracy with four stains": it lacks a written liberal constitution, its matrimonial law is restrictive, it controls the Occupied Territories, and it denies Arabs some forms of legal status (for example, ownership of so-called national land). However, these "stains" are all manageable, he believes, and do not impinge on Israel's fundamental status as a democracy. Here, too, the notion that Israeli democracy is marred by policy rather than suffering from an inherent, structural flaw is expressed. Neuberger (2000) follows Zakaria (1997) in defining liberal democracy as characterized by free and fair elections, rule of law, limited rule, and the separation of powers and freedoms of the individual. From this perspective, ethnic relations are not the principal criterion for defining the regime.

Although his “stains” include the occupation, thus implying a chosen unit of analysis, Neuberger does not address this issue explicitly.

Classifications of Israel as a democracy are thus based primarily on two elements. First, the unit of analysis is Israel proper, and whatever happens beyond the 1949 borders is not part of the discussion. The underlying assumption is, in fact, that the question of the unit of analysis is irrelevant, reflecting the belief that when relating to Israel in terms of the territory it actually controls, it cannot be considered a democracy under any definition. This stance is represented by all the IDI indexes and by the analyses advanced by Fox and Rynhold (2008), assumed by Neuberger (2000), and justified by Yakobson and Rubinstein (2009). Cross-national indexes, such as the Freedom House index, are also used to prove the validity of Israeli democracy, as they analyze only Israel proper.

Second, Israel’s policies on ethnic relations, immigration, and religion are compared with similar policies in other states and then used to support the claim that Israel is not unique. However, based as it is on the assumption that Israel does not fundamentally deviate from the model of democracy, this approach does not meet the standards for the use of comparative methods in regime classification and evolution, which hold that regimes can only be evaluated on the basis of systematic, theory-driven analysis. While Fox and Rynhold (2008) adopted a systematic, comparative approach to measuring state involvement in religion, they nonetheless overlooked the explanation of how their approach functions in regime classification. The different classifications of Israel as a democracy are mainly apologetic. Methodologically, therefore, arguments in support of Israel’s classification as a democracy are essentially flawed and are thus of limited value in the discussion about the classification of the Israeli regime.

1.1.2 Israel as a Partial Democracy

Questions regarding Israel’s status as a democracy were first broached by sociologists. As early as 1977, Shapira proposed that Israeli democracy is formal rather than liberal, since political power is concentrated in the hands of a closed political elite in an atmosphere completely devoid of genuine political competition. Shapira’s study is important because it relates solely to the Jewish sector of Israeli society in Israel proper; in other words, it pertains exclusively to Jewish-Israeli society, classifying it as democratic merely in formal terms.

Subsequent sociological analyses focused on the Jewish–Arab ethnic-national divide in the country. In a series of studies (1990, 1997a, 2002), Smootha developed the notion of Israel as an ethnic democracy. Highly influential, his work generated a plethora of studies in response (Berent 2010; Danel 2009; Dowty 2018; Gavison 1999; Ghanem et al. 1998; Jamal 2002; Peled 2013; Sa’di 2000). Extending the analysis beyond Lijphart’s (1977) classical distinction between majoritarian and constitutional systems, Smootha examined how democracies deal with their ethnic or religious sectors. States that identify with and serve one of their component ethnic groups can be defined as ethnic states, wherein the ethnic nation rather than the citizenry forms the core of the state. Ethnic states thus diverge from the pure model of liberal democracy, which is civic in nature. As Smootha (1990) stated, “Ethnic democracies combine the extension of political and civil rights to individuals and certain collective rights to minorities with institutionalized dominance over the state by one of the ethnic groups” (391), and they therefore meet minimal procedural definitions of democracy. However, the quality of their democracies is typically much lower than Western models of democracies, as the ethnic state does not grant its citizens equal rights and practices a biased application of the rule of law to deter perceived threats from minorities. Ethnic democracy is, therefore, a diminished type of democracy.

According to Smootha, Israel’s self-proclaimed status as Jewish and democratic reflects the inherent tension between its ethnic composition and its democratic obligations, given that Israeli ideology and praxis are both informed by the principles of Zionism. Immigration and naturalization policies thus reflect the belief that, as Israel is the Jewish homeland, every Jew has the right of citizenship therein; non-Jews, however, do not possess the same right. Insofar as Israel is the Jewish homeland, ownership of land must, as much as possible, remain in Jewish hands, and Zionist institutions have the right to acquire and hold land on behalf of the Jewish People. Therefore, the Israeli regime can only be a diminished democracy for its Arabs citizens. While Palestinian Arab Israelis (PAI) enjoy individual and (some) collective rights, they have only partial citizenship.¹ Their right to land

¹ Palestinians who form part of the Israeli regime are divided between those living in Israel proper, who hold formal citizenship, and those in the Occupied Territories, who do not. The choice of name for the first group is of serious political import and is heavily disputed, and the literature refers to them in many ways (Amara 2016; Ghanem and Mustafa 2018). I follow Haklai (2011) in

is limited by state (Jewish) control of what the state defines as “national land.” Beyond these distinctions, PAI are also marginalized by the state in numerous domains (Smootha 1997a).

Smootha (1990) proposed a model of ethnic democracy which is graded rather than fixed. At one end of the spectrum lie rigid ethnic democracies, in which minorities are systematically controlled to ensure their denied access to political power. At the other end, minorities can negotiate in order to improve their socioeconomic status. Somewhere between these two poles lies the standard ethnic democracy (Smootha 2002). In the 1950s and 1960s, when PAI were governed by military rule, Israel was a rigid ethnic democracy; since the 1980s, however, it has moved closer to being a standard ethnic democracy. This model was developed inductively from the Israeli case. Israel thus both forms the archetype on which it is based (Smootha 1990) and explains the factors that lead to its emergence and stability (Smootha 2002). While Smootha was the first to define the term and develop the model, Linz and Stepan (1996) employed the same concept in their seminal study of democratization. Here, they applied the model to a political system in which the majority enjoys full democratic political processes, while minorities only possess civil rights as resident aliens. Insofar as this violates the criterion of democratic inclusivity, Linz and Stepan argue that ethnic democracy cannot be categorized as a form of democracy. Although they differ from Smootha in contending that if a state denies its minorities full political rights, it cannot be classified as democratic according to even the most minimalist definition, their concept of ethnic democracy does not lend itself to generalization, rendering it of limited value. Moreover, they do not include Israel in any format in their analysis.

Some attempts have been made to extend the ethnic democracy model to Northern Ireland (Smootha 1997b) and to the Eastern European countries of Estonia, Latvia, and Serbia (Smootha and Järve 2005). However, as Smootha (2005) himself acknowledged, “None of these seven cases qualify as a stable ethnic democracy, like that found in Israel” (241). In a later study, Smootha (2009) posits that while Israel is closer to the ideal model than any other nation, ethnic democracies exist at least partially in other countries. Support for the model’s

referring to the first group as Palestinian Arab Israelis (PAI) in order to distinguish them from Palestinian subjects in the Occupied Territories.

comparative validity can be found in Peled's (2013) comparison of Israel, interwar Poland, and Northern Ireland. Comparative studies of this type have been criticized, however, on the grounds that Israel's unique national identity makes it difficult to generalize the model to other cases, as Israel does not allow for assimilation (Berent 2010).

While Smootha claims that the model is not unique to Israel, the theoretical and methodological frameworks of the ethnic democracy model raise questions about its validity. The shortcomings of the ethnic democracy model are rooted in part in its lack of a clear definition of democracy (see Smootha 1990). In some of its later renditions, it assumes a minimal procedural definition of democracy – free elections, universal franchise, changes in leadership, and citizenship rights (Smootha 2002). Jamal (2002) argues that this move represents an attempt to circumvent the contradiction inherent in the concept of ethnic democracy. The majority principle is violated when a specific national group becomes the ruling elite and imposes its will on others, thus no longer constituting an aggregative, voluntary, and neutral majority. Employing a minimal definition of democracy allows the disregard of cases in which tyranny by the majority is disguised as democracy (Jamal 2002).

Indeed, the model rests, first and foremost, on the institutionalization of ethnic relations rather than the conceptualization of democracy. According to Smootha (2002), all democratic regimes can be classified as either civil democracies, in which citizenship forms the cornerstone of the regime, or ethnic democracies that are dominated by ethnic nations. He concludes his extensive discussion of the ethnic democracy model by adducing theories of nationalism and the combination in nation states of civic and ethnic elements that can change across time. The core of the theoretical model and its empirical illustration in the Israeli case is the Jewish–Arab ethnic relationship. But as a one-dimensional conceptualization of democracy, it excludes outright other important aspects that are commonly included in regime classifications. This raises the question of why the ethnic democracy model is presented as a regime model rather than as a framework of ethnic relations, particularly in light of its apparent applicability to the Israeli reality exclusively. The fact that ethnic relations do not require a unique regime model is demonstrated by Peleg's (2007) concept of "ethnic constitutional order," in which a single ethnic group dominates a polity via either democratic or authoritarian rule. However, the idea

that this exists as a distinct incarnation of democratic order is difficult to maintain in light of the shallow democratic values that characterize it. Peleg classified Israel as an “illiberal democracy with inherent flaws” (176). In his view, the country’s ethnic relations do not require a unique regime model.

The ethnic democracy model also overlooks other components that partially determine how state regimes are classified. Likewise, while Jewish–Arab ethnic relations lie at its core, they are limited to the 1949 borders. The unit of analysis is a priori defined as Israel proper (Smootha 2002), with the justification for this resting on the debate over the future of the Occupied Territories, a debate whose very existence reflects the fact that they are not part of Israel.

One of the few attempts to analyze Israel as an ethnic democracy while also including the current borders of control is *The One-State Condition: Occupation and Democracy in Israel/Palestine* (Azoulay and Ophir 2012). Azoulay and Ophir criticize the tendency of their contemporaries to focus on Israel proper, thus ignoring the current borders of control and conceptualizing the occupation as an external project that is effectively separate from the Israeli regime. At the same time, however, they argue that Israel cannot be classified as non-democratic based solely on its control over the Occupied Territories. They thus posit that Israel is “a regime that is not one” but rather two distinct entities that exist in conjunction and are headed by a single government (183). This classification identifies Israel as an ethnic democracy within the 1949 borders but as an authoritarian regime in the Occupied Territories. The perception of the occupation as an external project enables Israel proper to remain democratic while simultaneously creating and maintaining the conditions for the occupation. The Palestinians in the Occupied Territories are both subject to and excluded from the regime, which distinguishes between its two main citizen groups by exploiting two parallel principles of differentiation: between citizens and noncitizens in the Occupied Territories and between Jews and non-Jews in Israel proper. These citizenship classifications exemplify the duality of the Israeli regime.²

Azoulay and Ophir also maintain that classifications such as *herren-volk* democracy or apartheid are too limited. In their view, the Israeli

² Grinberg (2008) offers a similar definition of post-1967 Israel as a peculiar dual domination democratic and military regime.

dual regime is unique, and they are thus not interested in applying their model to other current or historical cases or to comparisons with other countries. While they discuss concepts such as state, regime, and sovereignty, they do not offer a definition of democracy. In their analysis, democracy serves as a normative rather than an analytical concept, thereby positioning Israeli democracy as a discursive construction of legitimacy.

All classifications of Israel as a partial or diminished democracy discussed thus far have focused on the ethnic component. There is room, however, to add other dimensions, the most prominent being religion. Giommoni (2013), for example, defined Israel as an Orthodemocracy.³ Rather than constituting a new model or an innovative conceptualization of democracy, Giommoni refers to Orthodemocracy as the undue influence of orthodoxy on the quality of democracy, sometimes to the extent that it overrides democracy. Her definition is predicated on the fact that “the Israeli State considers its citizens first as members of religious groups, then as members of ethnic groups and only at the end, as citizens of the State” (331). While Israel is a democracy in procedural terms, its democratic character is undermined by the encroachment of Orthodox Judaism on the principle of equality, the rule of law, participation, competition, and electoral accountability. In fact, both Jews and Arabs suffer from the discriminatory effects of their religious orthodoxy. While the regime’s structure is plagued by an inherent inequality between Jews – members of the preferred religious and ethnic groups – and Arabs, deviations from the principle of equality can also be found between the members of the various branches of Judaism and between the genders. Deviance from equality along gender line can also be found among Arabs under the impact of the religion establishment. Under the best of circumstances, therefore, Israel can be defined as a minimalist but not a liberal democracy.

The classification of Israel as a partial type of democracy – an ethnic democracy or illiberal democracy – rests primarily on three pillars: a thin definition of democracy, i.e., a system that sustains democratic procedures – although a diminished type of democracy, Israel is still a

³ See also Ben-Yehuda’s (2010) definition of Israel as a “theocratic democracy,” which is not informed by any conceptual discussion of democracy but based primarily on the influence of the Ultra-Orthodoxy on the regime.

democracy; the ethnic component, i.e., Israel's Arab–Jewish relations; and a distinction between Israel proper and the current parameters of Israeli control. A focus on just Israel proper allows Israel to be classified as a type of democracy, albeit a diminished one. After all, even Azoulay and Ophir's (2012) identification of Israel/Palestine as a “regime that is not one” does not preclude Israel proper from being classified as an ethnic democracy.

1.1.3 Israel as a Non-Democracy

Arguments that Israel is a non-democracy have two main premises. First, by using a thick definition of democracy that emphasizes the dimension of equality, Israel is said to fail to meet the necessary standards for democratic status. Second, the territorial possessions of Israel extend beyond the 1949 borders to include all the territory it currently controls. Here, too, Israel falls short, as its governing of the Occupied Territories cannot be described as democratic from any perspective.

The first to assert that Israel was not a democracy was Benvenisti (1988, 1995). An Israeli historian and pundit, Benvenisti's primary concern was the Arab–Israeli conflict rather than regime classification. He objected to the prevalent view held by both the Israeli public and academics that Israel proper (pre-1967) and Israel post-1967 constitute two separate units – a distinction that is driven by the belief that eventually the settlements can be evacuated and a two-state solution be achieved. In his opinion, the “Second Israeli Republic” established after 1967 made Israel sovereign over all the territory it occupied. Indeed, the Occupied Territories were incorporated into Israel in diverse ways, with new legal and administrative systems being introduced to ensure that Israeli interests were upheld and to provide the necessary support for their colonization. This integration, particularly with regard to the settlements, is an irreversible process and a hard fact. The distinction made between Israel proper and its actual borders is thus purely an illusion.

The “Second Israeli Republic” is a binational regime with robust stratification based on ethnic categorization. In practice, although two communities exist under the same system of control, they are governed by separate legal systems. The Israeli (Jewish) settlers in the Occupied Territories enjoy full citizenship and civil and political rights. The

Palestinians, on the other hand, are subject to military rule and possess neither citizenship nor political and civil rights. These violations of fundamental democratic values preclude Israel from being regarded as a democracy, restricting it instead to the category of a *herrenvolk* democracy.

Coined by Van den Berghe (1967), the term *herrenvolk* democracy describes a regime in which “the exercise of power and suffrage is restricted, de facto and often de jure, to the dominant group” (p. 29). Certain benefits of democracy, such as voting rights, are enjoyed exclusively by the dominant group, while the minority is denied such privileges. Benvenisti argues that features of *herrenvolk* democracy can be found in Israel proper: For example, Palestinians are second-class citizens because they lack substantive citizenship and the Israeli regime is based on a clear hierarchy of Jews, Palestinian citizens within the pre-1967 borders, and Palestinian subjects in the West Bank and Gaza Strip. Even before 1967 and up until 1966, Palestinian citizens had been subject to a military regime.⁴ Benvenisti’s analysis is not underpinned by a particular definition of democracy. Moreover, due to the fact that he relates to Israeli control of the entire territory, Israel cannot, in the framework of his analysis, be regarded as a democracy. Although he maintains that it can only be classed as a *herrenvolk* democracy, he neither used a comparative framework within which regime classification literature can be cited nor offered any other cases for comparison.

The early decades of the twenty-first century witnessed the emergence of a similar argument against the classification of Israel as a democracy based on an analogy between Israel and the apartheid regime in South Africa (Davis 2003; Greenstein 2012; Jeenah 2018; Peteet 2016; Soske and Jacobs 2015). Rather than being an analysis of the Israeli regime per se, this argument functions mainly as a tool with which to criticize Israel, advocating the adoption of strategies similar to those used to abolish South Africa apartheid. As Dayan (2009) observed:

The tendency in most comparisons of the state of Israel to the apartheid regime is to take at face value seemingly apparent analogies and to draw

⁴ Lustick’s (1980) model of control over Palestinian citizens provides a more nuanced description of domination. He, too, however, focused primarily on Israel proper without explicitly addressing the question of regime classification.

straightforward, easy conclusions. The problem with various genres through which comparisons are made is that they attempt to capture complex processes and conditions in occupied Palestine through the lens of extremely narrow and superficial catch phrases about apartheid. (282)

Its dubious comparative value notwithstanding, the concept of apartheid may be exploited to understand what Yiftachel (2018) referred to as “creeping apartheid” – an “undeclared yet structural process through which new, oppressive sets of political geographic relations are being institutionalised for Jews and Palestinians living under the Israeli regime between Jordan and the sea” (95). It can also be used to help describe the motivations behind policy shifts undertaken by the Israeli regime and to provide a detailed account of the regime across diverse dimensions and zones of control. To date, however, it has yielded no such analysis. The school that classifies Israel as an apartheid regime based on the analogy with South Africa thus offers no comprehensive analysis of the regime in a regime classification framework of comparative politics.

Scholars have also argued that, even within the 1949 borders, Israel cannot be defined as a democracy. According to Kimmerling (1999), Israel meets only one of the criteria for democracy: free and fair elections. Regarding the other foundational trademarks of democracy, he described Israel’s failure to provide them: For example, the sovereignty of the people is violated by religious interference in politics; equal and inclusive citizenship does not exist because PAI are excluded; and universal suffrage, under which every vote is equal, is also non-existent because PAI parties are not regarded as legitimate. Despite noting that an undisputed definition of democracy is lacking, Kimmerling does not contribute one of his own.

The most comprehensive attempt to classify Israel as a non-democratic regime has been advanced by proponents of the ethnocracy model (Rouhana and Ghanem 1998; Yiftachel 1997). Developed partly in response to the model of ethnic democracy and partly to counterarguments asserting that Israel is a democracy (Ghanem et al. 1998), the ethnocracy model finds its fullest expression in Yiftachel’s (2006) *Ethnocracy: Land and Identity Politics in Israel/Palestine*. Here, Yiftachel claims that an ethnocracy is based on the “*expansion, ethnicization and control* of a dominant ethnic nation (often termed the character or titular group) over contested territory and polity” (111 [original italics]). Ethnocratic regimes are thus characterized by

the dominant role ethnicity plays in determining the rights they grant their citizens and how they allocate resources; in other words, such regimes revolve around ethnos rather than demos. Public policies and practices typically exclude minorities (who are viewed as a threat to the state) and empower the dominant ethnic group. The types of government practiced by ethnocratic regimes as described by Yiftachel are therefore situated somewhere between the two poles of democratization and ethnicization. Some regimes are “closed,” oppressive ethnocracies, while others have democratized their governments to varying degrees. In his analysis, Yiftachel focuses on regimes that represent themselves as democratic, contending that these are “open” ethnocracies, in which some of the principles of democracy, such as civil rights, political competition, and a free media, are upheld.

According to Yiftachel, Israel is the classic case of an ethnocratic regime. From the beginning of Zionism until today, Jewish group motivations and actions have embodied the Zionist imperative of establishing dominance and control over the territory of Israel. Rather than creating an Israeli demos, the establishment of the State of Israel led to the adoption of state mechanisms designed to exclude Arabs and to increase Jewish control over the land within the 1949 borders. The 1967 war further emboldened the state to extend its colonization project into the West Bank, Gaza Strip, and East Jerusalem. The logic of ethnicization and control dictates state policies in the Occupied Territories and the treatment of the Bedouin in southern Israel. It also explains Jewish socioeconomic stratification and the role the Jewish diaspora plays vis-à-vis the sovereign entity of Israel. In addition, the ethnocratic model is also used to classify Israel as a non-democracy on other grounds, namely, the political role played by religion and the non-democratic Ultra-Orthodox (*Haredim*) agenda (Yiftachel 2006). Although Israel portrays itself as a democratic regime, as long as ethnicity remains the dominant logic and the driving force behind its organization, its democratic procedures can be nothing more than a facade.

Taken together, the definition and characteristic features of ethnocratic regimes suggest that, like Smooha’s ethnic democracy, Yiftachel’s model was also constructed inductively to provide a thick description of the Israel/Palestine case. It too has been applied to other cases: Sri Lanka, Malaysia, Australia (in the nineteenth century), Canada (until the 1960s), South Africa (before 1994), Northern

Ireland, Belgium, Spain, and Greece (Yiftachel and Ghanem 2004). Focused comparisons with Israel, which have been made regarding Sri Lanka, Estonia, and Australia, are all designed to highlight the intrinsic instability of open ethnocratic regimes. Nonetheless, the Israeli case continues to lie at the heart of ethnocratic regime analysis. Like that of ethnic democracy, the model of ethnocracy is used primarily to explain ethnic relations rather than to advance efforts toward regime classification.

Some comparative studies, however, have been conducted outside the context of Israel. Hiers (2013) uses the term racial ethnocracy in his historical analyses of the United States, South Africa, Australia, Rhodesia (Zimbabwe), and Canada because it is more amenable to comparative analyses than the terms apartheid regime, *herrenvolk* democracy, and racial domination. Others have classed Hong Kong as a semi-ethnocracy on the basis of its gender and immigration hierarchies (Sautman 2004). Howard (2012) defines an ethnocracy as a “political system in which political and social organizations are founded on ethnic belonging rather than individual choice” (155). As such, in contrast to a true democracy, an ethnocracy is a type of hybrid regime that manifests both democratic and non-democratic features. Howard regards Bosnia, Lebanon, and Belgium as ethnocracies, while acknowledging that the term’s haphazard application in the field has bred confusion among researchers and readers alike. Another study that compares India with Israel classes the former as a type of ethnocracy (Sen 2015). These comparative studies notwithstanding, the Israel/Palestine case remains as the basis for the concept of ethnocracy (Yiftachel 2000).

Israel can only be classed as a democracy by stretching conventional definitions via, for example, the application of ideas such as liberalism and freedom to the Israeli reality (Yiftachel 2006). While Israel is not an absolutely authoritarian regime, neither is it a *herrenvolk* regime. Rather, the Israeli case constitutes a gray zone in which both democratic and non-democratic regime structures, norms, and practices coexist. Many people believe Israel to be democratic because they do not recognize the difference between a regime’s structure and its outward manifestations. Thus, while Israel has a free media, holds periodic elections, and possesses an autonomous judiciary, these are only superficial features of the regime. Below the surface, its fundamental structure – predicated upon the seizure of territory, resources, and power on behalf of the dominant ethnic group – is essentially non-

democratic. The classification of Israel as a democracy functions as a tool to legitimize the status quo rather than as an empirical, conceptually coherent categorization of the regime (Yiftachel 2006).

Yiftachel also argues that the notion of democracy can only be applied to a sovereign state with clear borders; insofar as Israel cannot be analyzed within the 1949 borders, it cannot be regarded as a democracy. Analyses that did not include the territory that Israel occupied and settled in 1967 constitute artificial acts that promote the belief that these borders are only temporary. Indeed, from a political geography perspective, all the territory controlled by the state must be included in any analysis. Both the system of control implemented by Israel and its settlements in the West Bank challenge the assumption that its occupation of territory beyond the 1949 borders is temporary – the reason often cited for situating the Occupied Territories outside Israel's borders in regime analyses (Yiftachel 2006).

In short, classifications of Israel as a non-democracy are based on a thick conception of democracy (in Israel proper) and the use of the inclusive unit of Israel/Palestine. Given these assumptions, it is clear why Israel cannot be considered as even a diminished type of democracy.

1.1.4 Summary of the Local Debate

The above discussion shows that the classification of Israel as a democracy, partial democracy, or non-democracy rests, in each case, on a distinct definition of democracy and on the unit of analysis employed. On the basis of thin, minimalist definitions, Israel qualifies as a democracy, but when examined through the lens of thick, maximalist conceptions, it does not. Similarly, using the unit of Israel proper in analyses supports the definition of Israel as democratic, but when the Israel/Palestine unit of analysis is taken into account, the regime cannot be classed as a democracy. Table 1.1 summarizes the three dominant classifications of Israel's regime with their theoretical and methodological underpinnings.

1.2 Regime Index Ratings of Israel

1.2.1 Regime Indexes of Democracy

While comparative views are adopted primarily to justify or disqualify regime classifications, cross-national regime indexes are regularly

Table 1.1 *Summary of the local debate about Israeli regime classification*

	Israel as a democracy	Israel as a partial democracy	Israel as non-democracy
Definition of democracy	Thin, minimalist	Extended definition of democracy	Thick, maximalist
Unit of analysis (borders)	Israel proper	Israel proper	Israel/Palestine
Core argument	Ethnic relations are not unique	Ethnic relations require a specific model	The regime is predicated upon ethnic domination across the entire territory
The use of comparisons	Deductive: partial justification across some domains of the regime	Inductive: Israel as the archetype of the model	Inductive: Israel as the archetype of the model

called upon to support conflicting claims about the Israeli regime. Smootha, Dowty, Yiftachel, and Ghanem, for example, all draw on the Freedom House political rights and civil liberties indexes, which are measures of democracy widely employed in regime evaluation. Smootha (2002) argues that Israel's status as "free" is erroneous and serves to endorse its classification "as a viable democracy that meets the minimal and procedural definition of democracy" (495). Yiftachel and Ghanem (2004) claim that the Freedom House index demonstrates the spectrum of ethnocratic regimes, citing Israel's score of around 2 since the 1970s, Sri Lanka's shift from 2.5 to 4.5 and subsequent back to 2.5, and Estonia's shift from 3 to 1.5.⁵ Dowty (2018), on the other hand, classified Israel as a democracy on the basis of the Freedom House and other regime indexes.⁶

⁵ Freedom House indexes rate regimes on a scale of 1 (highest) to 7 (lowest).

⁶ Others have used the Israeli case to contend that indexes such as that of Freedom House are limited in accuracy and significance (Mchenry and Mady 2006).

Cross-national regime indexes are devised to classify countries on the basis of clear conceptual and empirical standards. Numerous democracy indexes have been developed since the end of the Cold War in the wake of the emergence of more democracies and the correspondingly heightened scholarly interest in democratization, de-democratization, and the quality of democracy (Munck 2009). Though they present a broad range of classifications and exploit various measurement designs, the shared goal of such indexes is to provide rich and multidimensional descriptions in order to identify a wide variety of countries that occupy different places along the continuum between the established liberal democracy and the rigid authoritarian regime. Democracy indexes thus facilitate the examination of a state in terms of theoretical standards of democracy.

Despite the weaknesses of democracy indexes (Coppedge et al. 2011; Munck 2009), insofar as they are based, to a certain extent, on standardized measures, they may offer a viable approach to overcoming the innate limitations of the local debate about the classification of the Israeli regime. Principal among these limitations is, as noted, the lack of a clear and irrefutable conceptualization of democracy. Such indexes are, I believe, ideally suited to the intrinsic challenges of classifying the regime of Israel. In the following, I examine three key cross-national regime indexes – Freedom House, Polity, and Varieties of Democracy (V-Dem) – to demonstrate how Israel is classified from a comparative perspective.

1.2.2 Israel's Classification in Regime Indexes

From measures of the specific components of democracy to assessments of its quality, dozens of cross-national indexes of democracy exist. In general, most adopt rather thin definitions of democracy that focus on procedural aspects such as political competition, while those that employ thicker definitions include aspects such as civil rights. However, despite their differences, the purpose of each index is to provide a single score that accurately reflects the overall status of each country's regime (Coppedge et al. 2011). I now look at a typical example of each of the three index types: the Polity score as an index of procedural democracy, the Freedom House political rights and civil liberties indexes, and the V-Dem liberal democracy index which is based on a thicker definition of democracy. These are the most commonly used regime indexes for regime classification.

Freedom House is an American society dedicated to supporting the expansion of freedom and democracy across the globe. Among its various activities, it measures political rights and civil liberties annually (from the 1970s), rating countries' overall levels of freedom and liberties on a scale that is widely used to measure liberal democracy (e.g., Norris 2012). Polity, an academic initiative whose aim is to provide measures of state regimes for comparative analysis, constitutes one of the primary sources for studying regimes (e.g., Acemoglu et al. 2008). Basing its democracy index on a measure it terms "institutionalized democracy," the Polity score measures the extent to which a regime fulfills the following three criteria: the presence of institutions and procedures through which citizens can express effective preferences about alternative policies and leaders, the existence of institutionalized constraints on the exercise of power by the executive branch of government, and the guarantee of civil liberties to all citizens in their daily lives and in acts of political participation (Marshall et al. 2019). Lastly, the V-Dem indexes, which evolved in part in the wake of criticism of the traditional indexes of democracy, reflect more recent developments in the study of democracy (Coppedge et al. 2011; Lindberg et al. 2014). As the most up-to-date method available for the conceptualization and measurement of regimes, the V-Dem indexes incorporate the multidimensionality of democracy (V-Dem n.d.). From the various V-Dem indexes, I have chosen the Liberal Democracy index, which measures the extent to which the ideal of liberal democracy is realized (Coppedge et al. 2016).

Figure 1.1 presents Israel's ratings from the three key cross-national regime indexes: from 1949 to 2018 for V-Dem, from 1949 to 2018 for Polity, and from 1973 to 2018 for the Freedom House indexes. The original scales have been standardized to a 100-point scale, on which 100 is the highest score. Even a cursory examination of the figure yields two significant findings: the ambiguity of the Israeli case and the question of border changes, which is not reflected in the regime ratings.

Of particular note in Figure 1.1 are the significant differences between the indexes. On the Polity index, Israel was assigned the maximum possible score between 1948 and 1966, whereas the V-Dem liberal index was much lower during the same period.⁷ Until

⁷ It should be noted that previous versions of the Polity index rating for Israel from the 1960s to the 2000s were much higher.

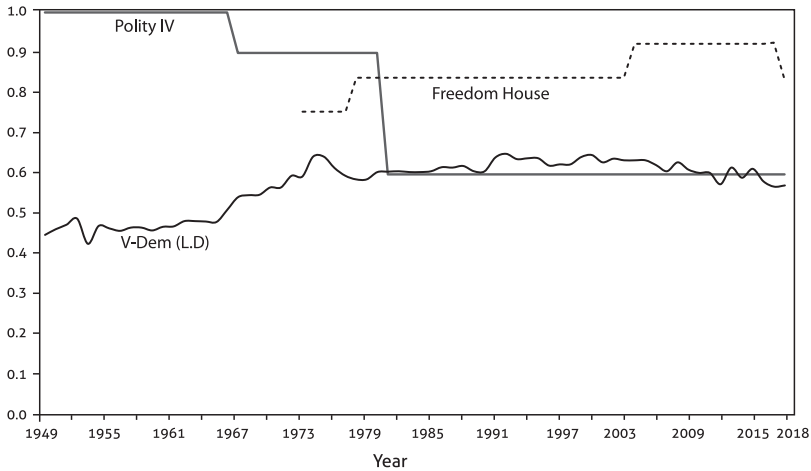


Figure 1.1 Cross-national index ratings of the Israeli regime

Notes: Indexes standardized to a 100-point scale.

Sources: Freedom House political rights and civil liberties indexes; Marshall et al. 2019. Polity IV dataset version IV; Coppedge et al. (2019a), V-Dem [Country-Year/Country-Date] Dataset v9. Varieties of Democracy (V-Dem) Project. (v2x_libdem was used).

the 1970s, the disparities between Polity and V-Dem are as high as 50 percent. While the divergences between the scales narrowed for some time as of the early 1980s, from 2004 to 2016 the Polity and the Freedom House indexes differ by 32 percent. Such discrepancies are not, however, unique to the Israeli case. Because the scales employ divergent conceptualizations and measurement designs, disagreements between the ratings of the same regime across the indexes are inevitable (Munck 2009). Nevertheless, while the Polity index can be used to support Israel's classification as an institutionalized democracy until 1966, the V-Dem index for the same period suggests that it was far from even a minimalist democracy. These discrepancies between the ratings assigned to a given regime expose the use by the different indexes of varied, a priori definitions of democracy that effectively predetermine whether the regime can be classified as democratic. Different scales can therefore be used to justify different classifications of the case. Taking 2012 as an example, on the democracy scale, the Israeli regime is rated at 92 percent according to Freedom House, 75 percent according to V-Dem, and only 60 percent according to Polity. Therefore, similar to the local debate reviewed in the previous

section, different definitions lead to different conclusions and can be exploited to achieve the desired classification of a given case. These differences also demonstrate the ambiguity of the Israeli case, which, as noted, lends itself to diverse interpretations.

In addition, Figure 1.1 clearly indicates that Israel's rating does not parallel changes and developments in Israeli zones of control. For example, the rating-assigned Israel is unaffected by either the events of 1967 or the Oslo Accords in the 1990s; rather, all three indexes define Israel according to its *de jure* borders. As the review above illustrates, it is questionable to focus only on these borders of the regime. The cross-national indexes thus overlook the challenge of the unit of analysis – a topic that will be addressed in Chapter 3. From my analysis thus far, it is clear that the cross-national indexes cannot be used to circumvent the local debate regarding the classification of the Israeli regime.

1.3 Conclusion: The Irresolvable Classification Puzzle

This brief review of the protracted debate over the classification of Israeli regime has shown that efforts at classification appear to be dictated by the vagueness of the concept of democracy. This fundamental shortcoming is still largely unacknowledged by students of Israel, and the implicit adoption of the flawed theoretical and methodological principles upon which the classifications are based has been ignored. Most comparative analysis has been guided by attempts to justify the regime's classifications and not by methodological considerations. This chapter showed that the myriad efforts to classify the Israel regime have suffered from inherent limitations.

How democracy is defined largely predetermines how the Israeli regime is classified. When regarded as a democracy from the start, a thinner definition of democracy is usually adopted; when its democratic nature is being challenged, thicker definitions are offered. The thin definitions underlying the cross-national indexes of democracy also bias the debate in favor of democracy. Thick definitions focus on the status of PAI, making this the key test for whether Israel's regime fits the definition of democracy. However, the question of how and why a specific definition of democracy is employed in analyses remains unexplored and unexplained. This regrettable outcome is not surprising, as the lack of a rigorous conceptualization of

democracy has resulted in a correspondingly wide spectrum of definitions of the term. When regime classification is under dispute, the analytical weakness of the notion of democracy is evident. Chapter 2 suggests an alternative approach to regime classification in light of the conceptual limitations of the notion of democracy.

The justification offered in support of the unit of analysis (borders) employed also reflects a predisposition toward the classification of Israel that has little methodological foundation. Those who define Israel as a democracy relate to Israel proper on the premise that Israeli politics exist solely within the 1949 borders. The validity of this approach is further buttressed by the fact that it underpins most comparative indexes. Others take into account the entire territory between the Jordan River and the Mediterranean Sea, including the Occupied Territories. When this expanse forms the unit of analysis, it is difficult to maintain that Israel is a democracy. The question of what the borders of the unit of analysis should be is addressed in Chapter 3, where I evaluate the justification for this choice of unit of analysis and propose an alternative approach.