

ISRAEL

Introduction

At a three-day conference held at Sedom, near the Dead Sea, from January 8-10, 1987, NDI brought together 50 prominent U.S. and Israeli government officials, legislators, military officers, political party and labor leaders, journalists and academics. (See Appendix A for a list of participants.) In addition, Prime Minister Yitzhak Shamir and Foreign Minister Shimon Peres addressed the gathering, which was held at the Dead Sea Moriah Hotel.

The conference was divided into four workshop sessions, which focused on security, political, social and economic issues. Examining subject areas with practical relevance to other geographic regions, the conferees discussed safeguards for ensuring effective checks and balances; the relationship between security and the rule of law; civil-military relations; institutional development and democratic values; rights and responsibilities of a free press; tolerance for diversity; crisis management; civil-military relations; and economic austerity measures. (See Appendix B for the conference agenda.)

NDI Chairman Mondale led the U.S. delegation. In his opening address he noted that the conference was unique for

NDI since the Institute usually works in new or emerging democracies. "This time NDI is doing something different," he said. "We are here to study an example of a solid, stable democracy that operates in an environment of crisis."

Beating the Odds

In his opening remarks to the conference, Hebrew University Professor Shlomo Avineri asked the participants to imagine themselves as political scientists in 1948 who have been given the following scenario:

A small state has been established in a region of non-democratic regimes. Surrounded by larger, hostile states it will not see one day of peace for the next 40 years.

Five major wars and chronic terrorism force it to organize as a besieged nation. The army emerges as a dominant institution, absorbing a large percentage of the GNP.

Immigrants flood in from over 100 countries, quadrupling its population. Most have known only non-democratic regimes. The state's social welfare ideology generates high expectations among the newcomers that cannot be fully met.

What kind of government would you predict this country to have after 40 years? Avineri asked. A democracy, or something else?

The country, of course, is Israel. Like many newborn states, Israel started life with a liberal democracy modeled after the Western system. Unlike many others, Israel's democracy has survived.

How has Israel maintained its democracy? What lessons from the Israeli experience may be of use of democrats elsewhere struggling to build and maintain democratic systems? The Sedom conference sought to address these questions.

The Israeli system, like all democracies, is neither complete nor flawless. While not ignoring the problems of Israeli democracy, this report focuses on what can be learned from its strength and vibrancy. The sections of this report roughly parallel the sessions of the conference.

Origins of Israeli Democracy

Why was Israel originally founded as a democracy?

Roots in Judaism? Countries of Origin?

Two reasons are often given for Israel's democratic origins: 1) Judaism extols democratic values; and 2) the early settlers brought a democratic system with them from Europe.

Both explanations miss their mark, although both also contain an element of truth. Traditional Judaism, like most religions, contains democratic as well as non-democratic elements. On one hand, it is based on principles such as respect for individuals, juridical resolution of disputes, and the pluralism inherent in Talmudic discourse, which allows for questioning and alternative interpretations of text.

On the other hand, biblical history and Judaic traditions contain much that is undemocratic. In his prepared remarks, Avineri observed, "The rulers of the First and Second Commonwealths were Eastern potentates. If you want a good example of oriental despotism, read the Book of Kings." The Torah teaches that higher laws take precedence over majority opinion, as in Moses' confrontation with his people over worship of the golden calf.

Similarly, one cannot conclude that the early settlers simply brought their political system with them. The early leaders came almost exclusively from Eastern Europe. Moreover, they came precisely from those places where Jews and others minorities were most persecuted. As Avineri concluded, "If the founders had copied the governmental institutions of their countries of origin, we would not have democracy today."

The most direct source of Israeli democracy may be found not in the normative tenets of Judaism, but in the practical life of the village; not in the political systems of countries of origin, but in the ideals of the Enlightenment that inspired Zionism. Both sources shaped the democratic style of the two precursors of Israel government, the Zionist organizations and the self-governing bodies of the Jewish settlers in Palestine.

Born in the *Shtetl*

Jewish village communities in Eastern Europe, known as *shtetls*, were each governed by local councils, known as the *kehillot*. The *kehilla* was elective and consensual. Each autonomous community worked out its own rules of governance, with many variations. The results were relatively liberal by then-current standards. The most severe legal punishment, rarely invoked, was excommunication.

As a persecuted minority in autocratic societies, the Jews had to cope with a hostile environment and externally imposed decisions. National authorities were hostile and capricious. The *kehillot* had to deal with crises and make decisions under pressure. It is ironic that among an oppressed minority struggling to survive the whims of empire, the seeds of an electoral process, as well as consensus and representation, emerged. Avineri noted, "The mayor of Kiev was appointed by the Czar, but the head of the Jewish community in Kiev was elected by those downtrodden and persecuted Jews."

Inspired by the Enlightenment

In the late 18th century, the precarious but enduring life of the *shtetl* was buffeted by social change and the fresh ideas sweeping across Europe. Jewish life was shaken by political upheavals and violent oppression, and it was inspired by the ideas of the Enlightenment – nationalism, democratic liberalism, social revolution and egalitarianism. Out of this storm emerged Jewish nationalism, or Zionism, fired by visions of return, redemption and national liberation. Political Zionism's secular and assimilated founder, Theodore Herzl, was far better versed in the modern ideologies of his time than in Judaism.

Representatives to the first Zionist Congress in 1897 were not elected. Herzl invited prominent figures based on reputation and representation of diverse communities. But immediately they adopted a constitution calling for regional elections. All dues-paying members, including women, could vote. At this time, no country except New Zealand allowed women's suffrage. Soon factions formed, the precursors of Israel's political parties.

In the early 20th century, Zionist settlers arriving in Palestine created self-governing, agrarian communities – the *kibbutzim*.

Highly idealistic and founded by voluntary association, the kibbutzim experimented with democratic decision-making and egalitarian, socialist economies. As Avineri noted, "When they came and decided to set up a kibbutz, there was no central committee to do it for them. So they sat around a table and decided to vote because they knew what voting was." During British rule following World War I, as earlier under the Turks, each religious community developed its own institutions. The Jewish community in Palestine, known as the Yishuv, was granted a remarkable degree of autonomy. The Yishuv developed its own governing bodies, opened schools, provided services, taxed and organized for defense.

Elections to the Jewish national assembly, the precursor to the Knesset, began in the early 1920s. Fifteen parties represented the various Zionist movements with diverse ideologies. There, they elected the national committee, or executive committee. As Avineri pointed out, "Years before the founding of the state, the Yishuv had developed all of the elements of a polity, except sovereignty and coercive power.

A Crucial Variable: Leadership

Tradition alone cannot explain the emergence of democracy; there are many examples of states such as Spain, with long histories of dictatorship, in which democracy has recently taken root. Leadership plays an undeniable role.

The giants of Zionism and founders of the state, Theodore Herzl, Chaim Weizman and David Ben Gurion, were all profoundly committed to democratic values. As Israel's first prime minister and defense minister, Ben Gurion exerted his immense personal prestige to forge a unified, non-political army out of several militias associated with political factions. He also institutionalized the practices that later made the Israeli army among the most respected and most democratic in the world.

Israel's Citizen Army: Safeguarding Security and Maintaining Democracy

How has a small nation under constant threat, with a huge military establishment, managed to maintain civilian control and prevent undue military influence in politics?

A Tiny Nation Under Siege, A Regional Power

Immediately after Israel declared its independence in 1948, five Arab states declared war and invaded. Since then, Israel has been in a constant state of conflict with its neighbors, punctuated by large-scale wars in 1956, 1967, 1970, 1973, and 1982. Terrorism, border conflicts, and the threat of total war have been a daily fact of life for all Israelis.

To defend itself, Israel has built a large military establishment. Nearly one-third of the government's budget, and 17 percent of the GNP, is allocated to defense. The army is arguably the dominant institution in Israeli life.

Over 90 percent of Jewish Israelis serve in the Israel Defense Force (IDF). Men serve for three years at age 18, and continue to serve one or two months of reserve duty every year until age 55. Women serve for two years and single women remain eligible for duty until age 34.

Israel defies the conventional wisdom that democracy interferes with military success. Israel's military victories over numerically superior foes are legendary. The prowess of its armed forces is admired by military professionals the world over.

Some Israeli military and political figures maintain that it is precisely Israel's democratic nature that enabled it to overcome great odds. One Knesset member pointed out the fallacy that authoritarian systems are more effective militarily than democracies:

Totalitarianism is intrinsically inefficient in the military sense. They always lose. There is no historical example of a totalitarian state which ever had long-term military success. Totalitarian states all build up their army, idolize it, then lose their wars with a uniform consistency which must affect people with any historic imagination.

Total Integration With Society

An Israeli political scientist commented on the relationship between the military and society, "If you look at societies in which there were successful *coup de etats*. . . [you find] that the military had a very high level of corporatism and and alienation from civilian society. In Israel, you never had that gap between society and the military."

The country's small size and large defense needs dictated the structure of the IDF – a citizen army characterized by compulsory universal service, modeled in part on the Swiss system.

Since almost all Jewish citizens serve, the army mirrors Israeli society – reflecting its beauty, blemishes, and diversity. The army is neither separate nor distinct from the rest of society. Soldiers and military institutions are integrated in virtually every conceivable way.

The IDF may be the most permeable military institution in the world. Soldiers constantly come and go between the army and civilian life. They take leaves during compulsory service. Neither officers nor the rank-and-file live in closed communities, as in many countries. When possible, soldiers live at home. One Israeli political scientist noted, "Israel has no West Point, no St. Cyr, no Sandhurst. In fact, Israel has no military academies whatsoever. Soldiers study in regular high schools and universities, even during their period of service."

The same political scientist contended that the Israeli practice of integration could be applied elsewhere:

Many of the Israeli officers do study in the universities during the military period so they are mixed with civilian society, which by the way is a very important remedy for the Latin American problem where there are major rivalries between the universities and the officers.

And if you send university people to the military and you send officers to the university, you can change that sort of relationship.

As another indicator of integration, the same analyst reported on a study in which, "We asked officers how many of your five closest friends are military men. It was not more than two [out of five friends, on average]."

Career Tracks: No Military Caste

Built on its reserves, the IDF maintains only a small professional officer corps. Professional officers emerge out of the compulsory service; there is no separate officers' track. The only career ladder leads from basic training to private, to noncommissioned officer, and finally to officer candidacy.

Frequent rotation of commands prevents excessive personal loyalties from developing between units and their commanders. Each chief of staff serves only three to five years. Mandatory early retirement — between ages 45 and 50 — ensures a dual career pattern. Officers must integrate with civilian society as they prepare for a second, civilian career. An Israel participant said that, "Even the most professional of them [officers] regards it [military service] as a transitory state in a career which had a previous revelation and which will have an expression later on."

The army takes responsibility for ensuring that officers are adequately prepared for their return to civilian life. During their service, they are allowed to spend up to two years in liberal arts study at universities. Before they retire, professional education for their civilian career begins, again, at regular universities.

No Tilt to the Right

The officer corps, like the reserves, reflects society. The demographic composition of the professional corps is similar to that of other elite segments of Israeli society. There is no bias toward the right, as described by one political scientist:

In the West, you'll find the majority of officers reflect the right-wing, conservative, authoritarian pole of the political and personality spectrum. In Israel, you don't find that.

I've interviewed 100 generals, brigadiers, and colonels, and I found that they reflect the entire political spectrum, from right to left, from socialist to capitalist, from doves to hawks, from conservatives to radicals, etc.

...[There is] even an inclination to reflect more the progressive pole than the conservative pole.

This modest but seemingly surprising bias toward left-of-center politics among Israeli officers is partly historical. The

IDF grew out of the underground of the pre-state Haganah. The Haganah was associated with the dominant Labor Zionist groups and their associated kibbutzim. Kibbutz traditions of service and heroism fostered outstanding military contributions among kibbutz youth, and these traditions still persist. Although kibbutz members today represent only three percent of Israel's population, they constitute roughly 20 percent of the officer corps.

Army Education: A Top Priority

An unusual emphasis on liberal education in the IDF also contributes to the lack of authoritarian tendencies among officers. The IDF takes education very seriously. A special Education Corps headed by the senior education officer, currently a brigadier general, defines its mission as not only preparing recruits for army service and leadership, but socializing young Israelis as citizens during a crucial phase in their development.

In addition to military subjects, soldiers study Jewish and Israeli history, geography, cultural arts and current social and political issues and controversies. Vocational training is available prior to demobilization. Throughout its curriculum, the IDF relies heavily on civilian educators, sending "university people to the military and officers to the university," according to one participant.

Army education programs do not shy away from the most controversial issues of the day, emphasizing diversity of opinion and critical thinking. In 1986, in response to polls revealing that many Israeli youth had developed undemocratic attitudes towards ethnic minorities, the IDF augmented its studies of democracy, minority rights and the role of the army in a democratic state.

A current IDF Education Corps brochure reads:

Deriving from the essence of the IDF as the army of a democratic state and an inseparable part of Israeli society, the *hasbara* (dissemination of information) activity strives to achieve the involvement of officers and soldiers in Israel's problems of existence and their personal commitment to the rules of democracy...

The Education Corps promotes intensive treatment of the various elements of growing polarization in the Israeli political system: the borderlines between religious and secular; the awakening problem of relations with Palestinian Arabs; the problems with which the IDF has to contend in Judea, Samaria and Gaza; and the lowered level of tolerance among the Israeli public, with its accomplished blurring of commitment to the principles of democratic government.

The same brochure notes that time spent away from military duties provides for open discussion and relaxation in an education setting. Independent thinking – during and after military service – is constantly stressed:

Within the army, there is no indoctrination towards particular positions, but rather explanation of all; education on the personal right of every citizen and soldier to independent thought and to the strengthening of his own opinions by knowledge and understanding.

Democracy Within the Army

As in the rest of Israeli society, informality characterizes relations among soldiers of all ranks. Customs indicating rank, such as saluting and formal address, vary from unit to unit. Israeli soldiers tend not to be overawed even by high officers. One's commander during reserve service may be one's neighbor or insurance salesman in civilian life. Israeli soldiers take pride in independent thinking and are instructed to disobey unlawful orders. No Israeli officer contemplating issuing questionable orders can count on the automatic compliance of his troops.

Communication is fluid up and down the hierarchy. Two different army ombudsmen provide channels of communication across lines of command. One serves soldiers, the other civilians. A soldier can complain about his commander, and even visit the chief of staff at his home on Saturday.

The army itself, along with a free press, can serve as a check on military misbehavior. An Israeli correspondent who reported on army negligence during the massacre of Palestinians by Lebanese Christian militiamen at the Sabra and Shatila refugee camps in 1982, recalled that "out of the blue I got into my

hands a top secret telegram," contradicting official army statements.

Civilian Control Established Early

The principle of civilian supremacy was firmly established even prior to the creation of the state. The socialist ideology of the early Zionist groups dictated that "the party will control the gun." This legacy of civilian control continued with the Labor movement, and later the Knesset.

Soon after victory in the War of Independence, Ben Gurion saw the danger of preserving independent militias allied to competing political factions. He quickly imposed a non-political, unified army with the main features of today's IDF — universal service, rotation of command, no separate track for officers, early retirement and dual career patterns.

Ben Gurion also separated the IDF's general headquarters from the powerful civilian-run defense ministry. One retired Israeli military officer noted that separate general headquarters and defense ministries exist in many countries. However, he asserted that in Israel the degree of separation is greater than in most countries. The military budget and logistics are all controlled by civilians.

Ben Gurion further insisted that the chief of staff may not be promoted directly to minister of defense. In fact, he denied the request of his friend and protege, the then-IDF Chief of Staff Moshe Dayan, to become defense minister. To ensure what this participant called a "cooling-off period," Ben Gurion appointed Dayan minister of agriculture. "[A decision] for which we all suffered because of the drop in projected revenue from tomato production," quipped another Israeli conferee.

Danger Points Openly Discussed

All of the above factors contribute to the paradox noted by one conference participant, that "Israeli society is militarized but not militaristic." Yet no institution is perfect, and Israelis remain concerned about the danger of excessive military influence, lapses in civilian oversight, and the possible adverse effects on professional and reserve soldiers who must police the West Bank and Gaza.

The popularity of leading generals once made the army a major avenue of mobility to top political echelons. One Israeli politician observed that no other democracy in the West has so many former generals in its cabinet, and so many former officers in its parliament. However, others countered that only one former general (Yitzhak Rabin) has ascended to the premiership, while many highly visible military men have failed in their bids for high office.

The military occupation of the West Bank and Gaza remains a major concern, but Israelis disagree about its effect on the army and society. Several Israelis expressed their conviction that military occupation is incompatible with democracy and will inevitably lead to a decline of democratic values. Another cited a study showing that service in the West Bank and Gaza has not adversely affected soldiers; they return from service with the same political attitudes with which they entered. Participants added that the problem of restraining the behavior of soldiers in the territories is not one of principle, but of implementation and control at the squad level.

The army openly discusses these issues and takes steps to address them, notably through its educational programs. This reflects one of the greatest strengths of the Israeli system, which partly accounts for its persistence and resiliency; its capacity for self-criticism and self-correction.

The Political Institutions of Israeli Democracy

What institutions have played important roles in maintaining Israeli democracy? Without a constitution, how does Israel protect civil liberties and manage relations among the branches of government?

No democracy is ever complete: its very essence is ongoing political evolution. Israel's political system, only 40 years old, is clearly still in its early stages of development. Interestingly, where some institutions are weak — or nonexistent — other institutions have expanded to fill the void. In other cases, strong but informal democratic norms and traditions compensate for institutional weaknesses.

Proportional Representation: Too Much of a Good Thing

One Israeli politician commented, "Israel's system is the most democratic in terms of representation, but the most inefficient in terms of governing."

Israel's founders adapted an essentially European parliamentary system to the small size of the country, to its unique circumstances, and to the traditions already established in the Yishuv. Israel has no electoral districts. All voters choose from the same party lists. Each party submits a ranked list of 120 names, and is awarded seats in the 120-seat Knesset in proportion to its share of the popular vote.

In the 1984 elections, 35 parties appeared on the ballot. Since only one percent of the popular vote is needed to win one seat, some 15 parties found their way into the Knesset. Virtually every point of view is represented, which is both a strength and a weakness. The wide range of choice may contribute to Israel's relatively high turnouts: roughly 80 percent of the electorate votes in national elections. (Ease of registration undoubtedly also contributes to Israel's high voter turnout. Everyone, 18 years or older, whose name appears on the census list and who has been issued an I.D. card is automatically entitled to vote.)

But a number of conference participants argued that the plethora of parties means that no single party can form a government without forming a coalition with smaller parties. This gives the small parties disproportionate bargaining power. In particular, the religious parties whose ideology permits them to coalesce with either of the major blocs, Labor or Likud, often extract concessions far out of proportion to their numbers. Dependence on coalitions can paralyze the government if neither block can assemble a governing coalition.

Also, the low, one percent minimum has allowed embarrassing personalities to appear in the Knesset, such as Meir Kahane's extremist Kach Party and French fugitive Shmuel Flatto-Sharon's one-man party.

Many Israelis express concern about weak ties between voters and their representatives because Knesset members are not accountable to any constituency. Instead, they are dependent on party leaders, who can grant or deny them a "safe spot" on the party list.

These concerns have led to calls for electoral reform, such as adopting a district system or a mixed system of districts and at-large seats. Advocates claim that in a district system, representation of the large parties would grow, the power of small parties would shrink, and tiny fringe parties would disappear. Also, district elections could open up local avenues for new young leaders to emerge, thereby weakening the influence of party leaders. Knesset members could be held accountable by a specific geographical constituency, and a citizen could then petition a specific representative.

Opponents of reform warn that if highly ideological, geographically dispersed communities such as orthodox Jews are not adequately represented in the Knesset, disaffection could occur, and Israel would lose one of the main ties binding its diverse factions.

Strong Political Parties

Nowhere in the West do political parties play as dominant a role in daily life, as in Israel. As one Israeli scholar noted, "We don't have the problem of establishing strong political parties; the parties established the state of Israel."

Before the formation of the state, parties provided most services. Today, organizations affiliated with political parties are still involved in housing, sports, medical services and almost every aspect of economic life.

Several U.S. conference participants envied the level of party discipline found in Israel. In the U.S., they noted, legislators are accountable more to their constituents and funders than to their party. The two-party system further weakens party platforms by forcing both parties to vie for the center. This structure, and the growing dominance of television as the medium of political communication, has led to an undue focus on personalities — and money — instead of issues.

In Israel, party loyalty and platforms still dominate; money is controlled by the parties and not by individual candidates. The Israeli system gives tremendous power to party leaders. Until recently, lists of candidates were drawn up by the central committee in a long, smoke-filled bargaining session. Because this system limited access by young politicians, both parties

introduced reforms to open up their parties and provide more rank-and-file participation in drawing up the lists.

The Likud bloc in opposition from 1948 until 1977, could never match Labor's constituent services and Labor's penetration of all aspects of Israeli life. Likud became, instead, a different type of party: a coalition of factions. Seeking to attract members from the new immigrant groups from middle Eastern and North African countries (Sephardi Jews), Likud was the first to make it easier for young leaders to move in and up quickly. In 1987, Likud could count 12 Knesset members age 40 or under; Labor had only one.

During its reign, Labor became a gerontocracy. One Labor Party leader admitted that "one party being in power for nearly 30 years is disastrous, for the ruling party as well as the political system." A complete democracy, he argued, implied rotation of power.

Only the shock of defeat, first in 1977 and again in 1981, forced Labor to begin the painful, slow process of self-examination and internal reform. Now a number of seats on Labor's central committee are reserved for young leaders, a broader group names the lists to be put forth in election, and grassroots activists more often question the decisions of party leaders.

Some advocates of electoral reform believe that internal party reforms are equally important. One Labor member of Knesset warned, "If we only change the national electoral system without changing the way our party functions, nothing is going to happen."

The Knesset: A Lively Legislature

No Israeli institution reflects the openness, range and intensity of Israeli public debate better than the Knesset. The Knesset has become almost synonymous with vociferous and occasionally unruly discourse. However, several Knesset members at the conference complained about their lack of subpoena and investigatory powers. Speaking of his experience in the U.S. Congress, one American participant agreed:

If I had only three powers and had to give up two, I would give up the powers of appropriations and legislation and retain the discovery process.

The power to subpoena, to interrogate, to search out the truth on public issues is one of the greatest engines of a stable democracy we have [in the U.S.]...

The gravest threats to our democracy in our history have been runaway presidents and bureaucrats who tried to run free of restraint, law and trust. We hauled them before these committees and forced a return to sanity.

Others pointed out that one cannot compare the discovery powers of the U.S. Congress with those of the Knesset because the legislative and executive branches are less distinct in parliamentary system. Majority members in any parliamentary system almost never pursue an investigation to the point of exposing a scandal that could lead to a no confidence vote. Robust, aggressive legislative investigation is almost unique to the U.S.

In Israel, special investigatory commissions partly fill the gap. The Israeli prime minister has the authority to name such commissions to investigate and report on government failures. For example, the Agranat Commission investigated the intelligence failure prior to the surprise Syrian and Egyptian attacks in 1973, and the Kahan commission investigated charges of army negligence in regard to the massacres at Sabra and Shatila in 1982. Both commissions produced harsh reports, which recommended strong corrective actions and led to resignations of top officials.

Constitutionality Without a Constitution: Filling the Void

If representation of public opinion is one of Israel's greatest institutional strengths, underdeveloped checks and balances and lack of a constitution are perhaps its greatest structural weaknesses. Some Israelis worry that their system lacks formal safeguards against majority despotism. Nevertheless, minority rights are generally well-protected in Israel. Other legal institutions — the Knesset, the Supreme Court, and the attorney general's office — have expanded and innovated to fill the void created by lack of a single constitutional document.

In 1949, Israel's first Knesset deliberately deferred drafting a constitution, in part because basic issues concerning state and religion had not yet been resolved. Orthodox religious parties

insisted that Jewish religious law become Israel's civic law. Others demanded a separation of "synagogue and state." To force this issue would have proved extremely divisive. Moreover, Ben Gurion and his ruling party, Mapai (precursor to the Labor Party), did not want to enter into a bargaining situation that would have required concessions to the opposition.

Instead, the Knesset decided to draft a constitution piecemeal, through a series of Basic Laws covering constitutional matters. The Basic Laws deal mostly with the structure of government – the Knesset, the army, the office of the president, and the cabinet. Some require super-majorities for rescission.

Drawing on British tradition, Israeli courts protect individual rights (e.g., *habeas corpus*) through various methods of legal construction, such as reference to Israel's Declaration of Independence (see Appendix C) or to the general democratic nature of the state. In their interpretations of laws, the courts rely on a strong legal presumption that the Knesset never intended to curtail human rights.

The Supreme Court's high prestige derives from its image as a non-political body in a country where partisanship pervades almost every other aspect of national life. Like the army, the Court stands above the fray, symbolizing unity and national survival.

A special committee of representatives from the Knesset, the Cabinet, the Bar Association and the Supreme Court appoints Supreme Court justices. This insulates the appointment process from the bitter partisanship and mistrust that often characterizes court appointments in other democracies.

The Court's high public prestige and the loosely-defined mandate have allowed it to extend its authority, partly compensating for the lack of a constitution. Sitting as the High Court, it may intervene whenever necessary to serve justice, passing judgment on actions by any individual or organization in society.

The system is accessible; anyone may bring a complaint about misuse of authority directly to the Supreme Court. The cost is low and the procedure simple. If a case has constitutional significance the Court will consider it. As a result, the Court each year considers, by one estimate, 10 times as many cases as the equivalent institution in England.

The Court's scope and power remains fluid and largely informal. Without a constitution, it cannot declare new legislation unconstitutional, but it interprets how a law shall be applied and may rule new statutes in contradiction with previous laws. Theoretically, the Knesset could simply pass revised legislation to overturn any Court decision, or the government could nullify a decision by executive action. But the other two branches almost always refrain from directly challenging the Court because to do so would undermine their own legitimacy in the eyes of the public. In turn, the Court refrains from issuing a decision that goes so far beyond the popular consensus that it could provoke the Knesset to override the Court's decision, thereby lowering the status of the Court.

This is one of many examples where restraint of governmental abuse in Israel rests not on a constitution or institutional checks and balances, but on a democratic political culture that constrains politicians from violating democratic norms. The Court protects individual rights, but the democratic culture protects the Court.

The attorney general's office has similarly expanded to fill the constitutional void. Like the Court, the attorney general enjoys nonpartisan public prestige. The chief Israeli judicial officer generally views himself as more independent of the chief executive than is his U.S. counterpart. The attorney general stands outside the government, a watchdog over civil liberties and the rule of law.

The state comptroller is another link in the chain that restrains the government in lieu of a constitution. The comptroller, nominated by the Knesset and appointed by the president, supervises a staff of hundreds who audit all government agencies, broadly evaluating their performance and reporting back to the Knesset. This is one of the Knesset's strongest tools for holding the executive branch accountable.

The Press – “The Single Most Important Safeguard of Democracy”

An Israeli journalist made the following observation:

There are different systems of democracy all over the world. You can have proportional representation or

regional representation. You can have an independent attorney general or a politically-appointed attorney general. You can have separation of powers or non-separation of powers. You can do without checks and balances or with them.

But you never, anyplace, have a democracy without a free press. And this is my message to all other countries which are trying to build a democracy.

An Israeli legal expert agreed that an unbridled press is "the most important and effective safeguard of democracy in Israel," because those who control the centers of power fear the press more than the legislature or the courts. Authorities must always consider the possibility – indeed, in Israel, the probability – that their acts will be leaked and exposed. This possibility is "the main check against arbitrary, unwise or inefficient decisions," he added. In this respect, he continued, Israel's "well-developed and widespread system of leaks from the government, what you call 'leaking government'," is a strongly positive feature for maintenance of democracy.

At the same time, the tradition of leaking has not crippled the effectiveness of Israel's foreign policy, as one might fear. On the contrary, it acts as a constraint against abuse and as a corrective mechanism.

A nation at risk is a news-hungry nation. Everywhere in Israel, including buses, radios are played almost continually. Ten Hebrew dailies reach some three million people. Another seven foreign language papers appear in Tel Aviv alone. And, as one Knesset member noted, the papers all have "one common denominator: they all criticize the government!" Like the American press, the Israeli press is competitive, aggressive and, at times, brutal.

Freedom Despite Censorship

One Israeli legal expert made this observation: "According to the formal legal situation, freedom of the press does not exist in Israel. Yet, as a matter of fact, we know we have a press as free as in any other country."

No Israeli law specifically prescribes freedom of speech. Rather, freedom of the press has been established through High

Court decisions, which in some cases, were drawn from British common law. Efforts to restrict press freedom have been resisted by defiant editors and the public.

As a country in a constant state of war, Israel must allow military censorship. Through an agreement (based on a law from the British mandate) between the publishers of the dailies and the military, a military censor reviews material related to national security and excises portions deemed harmful. The military censor is regarded as independent, accountable only to the chief of staff, so his judgement cannot be influenced by political considerations.

In practice, the system works surprisingly well, perhaps because both sides exercise restraint. Only in rare instances have sanctions been applied to a Hebrew newspaper. An Israeli journalist expressed the defiant and confident attitude that make censorship difficult to enforce in Israel.

If there is something about which I feel strongly, and I know it won't be permitted, I will just not submit it [to the censor], so there is nothing, absolutely nothing the censor can do.

It won't be brought to court, and he won't want it in front of the court... Once in a blue moon they'll fine me, and the Association of Journalists will get the money. It's very much a family affair.

Arab-language and far-left newspapers experience closer scrutiny and greater restrictions. The East Jerusalem Palestinian press, oriented toward the West Bank, is heavily censored and occasionally shut down. Yet several East Jerusalem Palestinian newspapers such as *Ai-Fajr*, which identify with the PLO, continue to publish. They are extremely critical of the Israeli government, condemn the occupation in the harshest terms, accuse the army and settlers of the worst abuses, reaffirm the leadership of the PLO, and call for continued struggle toward the establishment of a Palestinian state. The Israeli journalist pointed out:

There is no precedent whatsoever in any Arab country for an Arab newspaper to publish what they publish in Israel — against the government, against the military,

against the regime, against the system, against anybody.
I'm proud of it.

Maintaining freedom of the press is a two-way street, a former Israeli government official warned. Many Israelis view some segments of the press as irresponsible, emphasizing sensationalism, failing to check facts, and mixing commentary with the news. Continued loss of public respect could lead to increased restrictions, this official argued. He suggested that mechanism for self-regulation to maintain high standards are needed. A journalist countered that low standards and sensationalism result from market demand. Some members of the press, he said, will always print whatever the public wants to buy.

Another Key Element: Free Trade Unions

Israeli's federation of trade unions, the Histadrut, is far more than just a bargaining instrument. The Histadrut and its related institutions play an entrepreneurial role, taking responsibility for generating national wealth in addition to redistributing it.

The Histadrut has founded corporations, schools and hospitals and provides a myriad of social services. Through the development activities of the Histadrut, which accounts for roughly 20 percent of Israeli's economy, Israel's workers have become industrialists, property owners, and exporters, with a stake in the growth of the economy.

The Bedrock: Israel's Culture of Democracy

What informal norms and cultural elements contribute to the maintenance of Israeli democracy?

One participant summed up the key to Israel's success this way:

The strength of Israeli democracy is not based on strong democratic institutions.

The strength of Israeli democracy comes from the political culture...the fact that people do not keep secrets. People are involved in politics...80 percent of Israelis take part in elections.