

Does the End of the Netanyahu Government Mark the End of “Democratic Backsliding” in Israel?

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The End of the Longest Term

On Sunday, June 13, at 8:45 pm , the new Israeli government gained the confidence of the Knesset, Israel’s Parliament, and was sworn into office. This marks the end of twelve consecutive years of Benjamin Netanyahu’s term as Israel’s Prime Minister (PM) on behalf of the right-wing Likud party, in addition to his three-year term as PM in the second half of the 1990s. Netanyahu’s fifteen-year tenure as PM makes him the longest serving Israeli PM, surpassing David Ben-Gurion, Israel’s first PM who (also over two separate terms) served for thirteen and a half years, far longer than Israel’s ten other PMs, who were in office for two to seven year terms.

[Whereas the early Netanyahu fit the American neo-conservative model, the latter one increasingly resembled the model of right wing populism](#) with authoritarian tendencies. In the last few years of his tenure, he was often cited alongside his friends Trump, Orbán, and Bolsanaro as representing right-wing nationalist populism. The question now is whether the end of the Netanyahu era marks the end of a period where Israel is included among countries experiencing “[democratic decline](#),” “[Constitutional Democracy in Crisis](#),” in which [populism](#) is on the rise, and where “[constitutional capture](#)” is feared. What does the end of the Netanyahu era mean for “[constitutional populism](#)” in Israel, where [Basic Law: The State of Israel as a Jewish State](#) (known as the “Nation-State Law”), was [cited as one of the main components of an “anti-constitutional” revolution](#)?

To answer these questions, we should recall that the Israeli version of “democratic decline”/constitutional crisis/populism developed against a complex background. The most important element of it is the attempt to entrench Israel’s ethnic nature as a “Jewish state,” against liberal currents epitomized for the right wing in several rulings of the Israeli Supreme Court on such issues as [equal rights for Palestinian citizens of Israel in access to land](#), or [rights of asylum seekers not to be detained indefinitely without trial](#). Moreover, [as I have argued before](#), the constitutional changes and [the attack on civil society](#) could not be detached from the context of the [ongoing Israeli occupation](#) of the Occupied Palestinian Territory, and the wish of the right wing to entrench Israeli control of the territories while preventing any judicial restraints on Israel’s expansionist policies.

Two Versions of Israeli Populism

In recent years, the right wing adopted the populist rhetoric arguing that interventions or criticism of nationalist policies by the judiciary or by civil society amounted to “undemocratic” attempts to undermine the policies of the chosen government and parliament. Former Minister of Justice [Ayelet Shaked](#) may be the most [prominent representative](#) of this discourse, in [her pronouncements](#) on the need to repair the gap that, in her view, had opened up between the people’s power to decide and the fact that the most significant issues of government are, (since the enactment of Israel’s Basic Laws on human rights in 1992) settled by the Court. Shaked described this as a gap between the *demos* and the *kratos* and [noted](#) that Zionism “will not continue to bow down to the system of individual rights interpreted in a universal way.” As Minister of Justice, she was effective in using her power as Chair of the Judicial Appointments Committee [to appoint conservative judges](#) to Israel’s courts, especially the Supreme Court, which now has a bigger conservative constituency than in previous years.

Netanyahu himself never placed these issues high on his agenda. He did eventually support the infamous “Jewish State” Basic Law, but he did not initiate it. I am not implying, however, that he did not engage in populist moves. Indeed quite the opposite: attacks on civil society and the left as not loyal to the “Jewish state” and [incitement](#) against [Israel’s Palestinian citizens](#) were part of Netanyahu’s tactics, and during his many years as PM we certainly witnessed more and more attempts to consolidate executive power. Yet, it was only when the criminal investigation against him on corruption charges rolled out that he became a major critic of the legal system, with most of his wrath directed at the prosecution [which he accused, following his indictment, of an attempted coup intended to oust a right-wing Prime Minister.](#)

Thus, although Shaked and Netanyahu share the vision of a judicial elite that attempts to undermine the democratic wish of the people they supposedly represent, the focus of their attack on the judicial system has been different. And while Netanyahu can surely identify with Shaked’s position even though it was never a centerpiece of his discourse, Shaked ([no love lost](#) between her and the outgoing PM) would probably not subscribe to the theory that Netanyahu’s indictment is the product of some conspiracy. Perhaps Shaked’s successor as Minister of Justice, [Amir Ohana](#), embodied more than any other Israeli politician the combination of [Shaked’s](#) and [Netanyahu’s versions of populism](#). In his tenure in the Justice and later in the Interior Security portfolio in the last years of Netanyahu’s rule, he appeared to many as a personification of the threat to the liberal understanding of the rule of law in Israel. Many will be relieved to see a new Minister of Interior Security from Labor taking over his job.

The Result of a Fourth Election Round

So, what does all this tell us about what to expect from the new government? Recall that the new government was sworn in after four rounds of inconclusive

elections. After the two election rounds in April 2019 and then in September 2019, the Netanyahu government that had been formed after the March 2015 elections continued its rule as a caretaker government, given that neither Netanyahu nor his challengers managed to form a coalition government. Following a third round of elections in March 2020, both Netanyahu and Benny Gantz, who led a bloc of centrist parties, failed each, in turn, to form a coalition and eventually formed a power-sharing government built on rotation in the PM role mid-way, each one holding the title of “Alternate Prime Minister” while the other is in office. [This arrangement, justified as an emergency measure](#) needed to address the [COVID-19 crisis](#), required constitutional changes in [Basic Law: The Government](#). Power-sharing was built on parity within the government between the right-wing bloc headed by Netanyahu and the center-left one headed by Gantz, with mutual veto power over important issues. [But this government collapsed](#) after seven months and Gantz never made it to the top job, pushing Israel into a fourth elections round in March 2021. After Netanyahu again failed to form a coalition, Israel’s President gave the mandate to Yair Lapid, head of the centrist Yesh Atid party that came second in the elections. Lapid has now succeeded in bringing together an odd combination of parties, united mostly by their wish to replace Netanyahu. To attract and appease the right-wing yet anti-Netanyahu parties he needed to form a coalition, he offered Naftali Bennet, the head of the “Yamina” (meaning “to the right”) party, which has only seven seats in the Knesset, a power-sharing agreement that, ironically, relies on the constitutional model created to enable the outgoing Netanyahu-Gantz government. Under this agreement, Bennet, a pro-settlement leader of Israel’s religious right, will serve for two years as PM with Lapid as the “alternate,” and they will then change roles. In addition to Lapid’s and Bennet’s parties, the coalition includes— from the left— the Labor Party and Meretz (the social democrat-liberal party to the left of Labor), and from the right, the New Hope party headed by Gideon Saar who left Likud following a rift with Netanyahu, and Avigdor Liberman’s “Israel is our Home” party that, traditionally, builds on votes of immigrants from the former Soviet Union. Finally, the coalition also includes Ra’am, an Islamist party that left the Joint Arab List. Its leader, Mansour Abbas, has been flirting with mainstream Israeli politics for some time by shifting his focus from the contested issues of the occupation and Israel’s identity as a “Jewish” state to budgets for the Palestinian sector within Israel and legal status for unrecognized Bedouin settlements.

A Hodge-Podge of a Government

The new government is in many ways an experiment. It is the first government to be headed by the leader of a party that won only seven mandates, the first to bring parties to the right of Likud with parties to the left of Labor, and the first to include an Arab party.

How will this hodge-podge of a government stick together? This is uncharted territory. Part of the experiment is the accord to promote issues that the various factions can agree on, such as the need to heal the health system and the economy after the COVID-19 crisis. [The new government’s platform states that it will focus on the civic and economic spheres](#), meaning that the government is not expected or supposed to take major steps regarding the Israeli Palestinian conflict — neither

the annexation the right wing wants nor the peace negotiations and withdrawal from the occupied territories (or parts therein) and the recognition of a Palestinian state that the left wants. This expected stalemate on the Israeli-Palestinian front does not bode well for the Palestinians. The occupation is a situation that deteriorates just by continuing, as we have just seen in the contexts of East Jerusalem and Gaza, and the implication is that the [dispossession and de facto annexation](#) of the Palestinians and their territories will go on.

The coalition agreement seems to offer a little something to each partner. For example, [the agreement with the right-wing party New Hope](#) promises the development of better transportation for Israeli settlers in the West Bank, while [the agreement with the left-wing parties Meretz](#) and [Labor](#) promises steps toward public transportation on the Sabbath (a long-term secular cause) and advancement of LGBT rights. [The agreement with Ra'am](#) promises budgets and better housing policies to the Arab sector in Israel, including legal status to unrecognized Bedouin settlements. But at the very same time, the coalition agreements with the right-wing parties include clauses about strengthening Israel's "interest" in "Area C," which comprises most of the Occupied Palestinian Territory, reflecting [the work of right-wing lobbies](#) advocating harsh Israeli policies toward Palestinian construction in this area.

Change or Continuity?

Despite the strong hold of the right wing in this government, many in the center and the moderate left of Israeli politics see it as a necessary and inevitable first step in the attempt to save democracy from its decline under Netanyahu. Some also see value in bringing together the right, center, and left in a government that they hope will help heal rifts that have typified Israeli politics in recent years. Regarding the issue of democratic decline, the picture is mixed. Fears that Netanyahu, to protect his personal interest, would go on attacking the integrity of the judicial system while still serving as PM and take radical steps—such as replacing the Attorney General with one who would halt his current criminal trial or pass an amnesty law that would cancel it—are indeed gone. On the other hand, Shaked, who is Bennet's number two in the Yamina party, will serve in the first half of this government's term as Minister of Interior (where she will have great influence on policies regarding asylum seekers) and in the second half will return to her favorite post as Minister of Justice. Her stubborn insistence on holding one of the two seats assigned to the government in the Judicial Appointments Committee throughout the government's full term points to her plans to continue shaping the judiciary in ways that fit her view, now with a PM of her own party at the helm. The discourse, then, will probably be more civilized and involve less delegitimation of the opposition than what we experienced in the Netanyahu government, in addition to ending a situation that many in Israel have resisted, of the PM remaining in office as his criminal trial is proceeding. And yet, key advocates of the Israeli version of populism will still be powerful agents, and the fundamental undermining of democracy through the long-term occupation will continue.

The new government's platform expressed an intention to legislate for the role of PM two-term limits or eight years (the longest of the two), possibly a novelty in a parliamentary regime but perhaps a required lesson from Netanyahu's long span and its effect on power entrenchment. The [coalition agreement between Yesh Atid and Yamina](#), as well as [other coalition agreements](#), stipulate that there will be no new Basic Laws or any amendments to the existing ones unless all coalition parties agree. One exception is some amendments to the Basic Laws stipulated in the coalition agreement itself regarding the working of the power-sharing government and a shift to a biannual budget.

Consequently, the left parties in the coalition will not be able to advance their agenda of abolishing or at least amending the "Nation-State" Basic Law, but also that Shaked will not be able to advance her longstanding proposal of an "override" clause that would allow the Knesset to legislate anew laws that the Supreme Court found unconstitutional. Yet, the coalition agreements indicate that the government will consider the option of legislating Basic Law: Legislation, a long-discussed component of Israel's fractured constitution that is supposed to resolve disputes on the issue of judicial review and possibly include an override clause that, however, the left-wing parties are expected to veto.

The new coalition has been nicknamed the anti-Netanyahu coalition or, more sympathetically, "the coalition of change." Despite some changes and the possibility of new ministers in portfolios such as health, environment, and education doing good and introducing positive changes, the bigger picture may suggest that this government is more a government of continuation than of change. Only time will tell whether it will be able to survive the huge gaps between its partners and what changes if any it will bring. Another question is whether this is the end of the Netanyahu era. We have already seen that Netanyahu knows how to make a comeback, and he has already [said that the new coalition is the result of "the greatest election fraud" in the history of democracy](#). Against this Trump-style talk, taking Netanyahu out of office and [showing that he is not entrenched as PM forever and ever and can be replaced](#), could turn out to be this government's greatest achievement.

