

Embedded and Defective Democracies: Where Does Israel Stand?

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The twentieth century saw an impressive advance in democracy worldwide. The third wave of democratization, which had started with the fall of the last rightist dictatorships in Western Europe (Portugal, Greece, Spain) in the mid-1970s, continued in Latin America during the 1980s, reached East Asia, swept over the communist regimes of Eastern Europe and the Soviet Union, and even touched a few African countries, is without comparison in history. Especially from a long-term perspective, the third wave of democratization has left a more lasting political heritage for the twenty-first century than all the various types and ideologies of totalitarian rule. Therefore, the twentieth century was, mainly in its last quarter, the century of democracy. Freedom House (FH) numbers leave no doubt of this—at first glance.

Freedom House has become the preferred source of data on democratization used by journalists, publicists, essayists, and political scientists around the world since they provide on the Internet easily accessible data on countries worldwide and timelines for the democratic development of each country over the last three decades. The minimal requirement for a state to be listed as democratic by Freedom House is called *electoral democracy*. It is the basis for these successful statistics. This term, however, is unsatisfactory from both a theoretical as well as normative perspective. It is an even narrower understanding of democracy than Robert Dahl's polyarchy concept (1971) with its

institutional minima. *Electoral democracy* merely means that the election of the ruling elite is based on the formal universal right to vote, i.e., that elections are general, free, and regular. Freedom House does not take into consideration further thoughts about the meaningfulness of “democratic elections,” as demanded by Hadenius (1992).

The term *electoral democracy* is therefore theoretically incomplete and analytically not very useful. To be able to use it for conceptually meaningful, comparative research on democracies the term must be differentiated or replaced. Though relying on the Freedom House data (Karatnick 1999; Diamond 2000), one can distinguish between *liberal*, *semi-liberal*, and *illiberal democracies*. Already this simple differentiation taints the picture of successful democratizations of the twentieth century.

Table 1 Semi-liberal, illiberal, and liberal democracies as share of electoral democracy (2008)

Electoral democracies	Liberal democracies	Semi-liberal democracies	Illiberal democracies
<i>Percent of political regimes</i>	<i>Percent of electoral democracies</i>	<i>Percent of electoral democracies</i>	<i>Percent of electoral democracies</i>
61.7 119	69.6 78	21.4 24	8.9 10

Source: Freedom House (2009).

These numbers show that a considerable percentage of the states Freedom House lists as *electoral democracies* are not liberal, constitutional democracies. In 2009, only 61.7% of all electoral

democracies can be called liberal. However, the differentiation into liberal, semi-liberal, and illiberal democracies is based on a theoretically unsophisticated measure of democracy. Karatnicky (1999, 95) and Diamond (2000, 95) simply use numerical thresholds of the *civil rights scale*, one of the two measurement scales used by Freedom House. Any regime scoring one or two points on this 7-point scale counts as a liberal democracy. A score of 2.5–3 counts as semi-liberal and everything below 3.5 counts as an illiberal democracy.¹ There is no reason to restrict the scores only to civil liberties, excluding political rights. Therefore, I will combine both scores but still use the thresholds outlined above. Of all political regimes in 193 sovereign countries, 119 (61.7%) can be considered by the FH data electoral, i.e., minimalist defined democracies. Out of these electoral democracies are 69.6% liberal democracies, i.e., working democracies based on a solid rule of law. According to Freedom House, Israel is among them. Of the others, 21.4% are semi-liberal and 8.9% are illiberal democratic regimes. Roughly one-third of all formal, electoral democracies are diminished subtypes, i.e., defective democracies. These defective democracies are rather not simply transitional regimes on the way toward consolidated democracies or full blown autocracies. However, this first glance is simply based on numerical definitions of regime types based on the FH data. Theoretically, the diminished subtypes are still underspecified. Contrary to Freedom House, we have a bulk

1 The 7-point regime scale spans from fully consolidated constitutional “liberal” democracies like Denmark (1) to absolutely closed totalitarian dictatorships like North Korea (7). It is not very convincing, however, that 5.5 (1.0–5.5) points on this scale are reserved for different types of democracies (liberal, semi-liberal, and illiberal) whereas the differentiation of authoritarian and totalitarian takes up only 1.5 points (5.5–7.0).

of purely theoretical literature on democratic theory which cannot easily be applied to comparative empirical research on real existing political regimes.

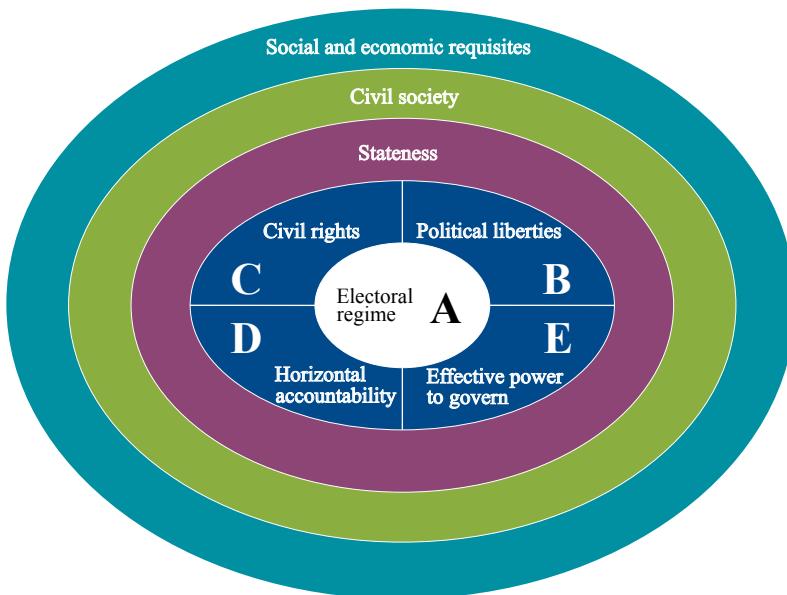
Yet, there is a third way between purely theoretical debate on democracy or single-country case studies and the statistical survey of all states worldwide for comparative research on democracy. Its point of departure, however, has to be a more meaningful concept of democracy with more demanding normative and analytical criteria than that of Freedom House. From a normative perspective, this concept also has to include both the necessary condition of free elections and those partial regimes of a political system, which guarantee that these elections are “meaningful” (Hadenius 1992) for democratic rule. Furthermore, it has to take into account whether vertical and horizontal accountability of the governing to the governed is secured between elections, and if democratic norms and institutions, which are defined later in this paper, are guaranteed. A functioning constitutional state based on the rule of law is an explicit part of this concept (Böckenförde 1991; Habermas 1992, 166ff., 199; Lauth 2001). What is needed is a mid-range root concept of democracy that can be applied in comparative research on democracies.

Embedded Democracy as Root Concept

Modern democracies are complex structures of institutions. They have to cope with the structural conditions of modern rule, internally with complex societies and externally with a challenging environment. They have to develop certain structures to be able to fulfill various functions.

The concept of *embedded democracy*² follows the idea that stable constitutional democracies are embedded in two ways. Internally, the specific interdependence and independence of the different partial regimes of a democracy secure its normative and functional existence. Externally, these partial regimes are embedded in spheres of enabling conditions of democracy that protect it from outer as well as inner shocks and destabilizing tendencies.

Figure 1 The concept of embedded democracy



2 The concept of *embedded democracy* was developed in the Research-Project “Defective Democracies,” by Wolfgang Merkel (Heidelberg/Berlin), Hans-Jürgen Puhle (Frankfurt a.M.), Aurel Croissant (Heidelberg), and Peter Thiery (Heidelberg). See, among others, Merkel, Puhle et al. (2003; 2005); Croissant and Merkel (2004).

The Partial Regimes of a Democracy

An embedded, constitutional democracy consists of five partial regimes: a democratic electoral regime (A), political rights of participation (B), civil rights (C), horizontal accountability (D), and the guarantee that the effective power to govern lies in the hands of the democratically elected representatives (E). These five partial regimes show that our concept of democracy goes beyond the definitions put forth by Downs (1968), Huntington (1991), Przeworski (1991), and even Robert Dahl's concept of polyarchy (1971). Still, the concept is "realistic" in that it is based exclusively on the institutional architecture of a democracy and does not use *outputs* or *outcomes* as defining characteristics of a constitutional democracy. Our understanding of democracy therefore lies between the ones put forth by Joseph Schumpeter and Hermann Heller. A welfare state, fair distribution of economic goods, or even "social justice"³ may be desired policy results of democratic processes of decision-making, but they are not its defining elements. A sufficient definition of democracy has to go beyond simple democratic electoralism because only the other four partial regimes guarantee that not only the procedural aspect but also the goals of democratic elections are secured. For democratic elections to be "meaningful," not only does the selection process of the governing elite have to be democratically fair, but there also has to be an institutional guarantee that the democratically elected representatives rule by democratic and constitutional principles between elections. At this point, the simple term *electoral democracy* turns out to be too narrow from

3 For a discussion of the problematic and construction of a modern understanding of justice, see Rawls (1971, 1991); Walzer (1998); Kersting (2000); and Sen (2000).

a normative and logical perspective.⁴ It reduces democracy to the correct procedure of democratic elections, but it does not include sufficient institutional guarantees assuring that those elections are “meaningful,” i.e., that the democratically elected elites will rule according to constitutional principles of democracy.

A. The Electoral Regime

In a democracy, the *electoral regime* has the function of making the access to public power positions in the state dependent on the results of open, competitive elections. The electoral regime has the central position among the five partial regimes of *embedded democracy* as it is the most obvious expression of the sovereignty of the people, participation of citizens, and equal weight of their individual preferences. Moreover, open pluralistic competition over central power positions is the distinguishing difference between democracy and autocracy. Equal political rights (partial regime B) are the minimal requirements for a democratic electoral regime (regular, free, general, equal, and fair elections) (Hadenius 1992). The two closely interconnected partial regimes mentioned, therefore, embody the essence of vertical accountability in a democracy (Merkel 1999).

Borrowing from Robert Dahl (1989, 221), a democratic electoral regime has four supporting elements: universal, active suffrage; universal, passive right to vote; free and fair elections; and elected representatives. Elections are a sanctioning mechanism that can—periodically—be used as processes of vertical accountability. They

4 Many critics who claim that our concept of embedded or defective democracy is normatively overstretched fail to recognize the logically forcing functional complementarity of the five partial regimes. We do not talk about a “perfect democracy,” as many insinuate, misinterpreting the semantic antonym (perfect is not the semantic-logic opposite of defect), but about a “functioning constitutional democracy.”

are fraught with consequences as access to and retention of power positions in the state are directly dependent on the preferences of the voter. The voters can therefore sanction elected representatives. However, this control is limited to the election of the governing elite and does not have any influence on how power is exercised between elections. At most, voters have continuing control in so far as a rational politician who wants to be reelected will conform his governing to the wishes of the voters. However, this does not guarantee democratic or constitutional governing, as many examples of young democracies of the third wave show (see Merkel, Puhle et al. 2003). A democratic electoral regime is therefore a necessary—but not sufficient—condition for democratic governing.

B. Political Rights

Political rights of participation are preconditions for elections. They go beyond the right to vote. They complete the vertical dimension of democracy and make the public arena an independent political sphere of action where organizational and communicative power is developed. Here, collective formulation of opinions and demands determines and supports competition over positions of power. Political rights have the function of enabling democratic elections that are bound to the organized and unorganized pluralistic interests of complex societies. The institutional core of political rights is the right to political communication and organization, which are vital parts of a complete democratic regime (Dahl 1971, 1989). They are embodied in the unlimited validity of the right to freedom of speech and opinion and the right to association, demonstration, and petition. Besides the public media, private media must have considerable influence. The distribution as well as reception of information and news cannot be regulated by politically motivated restrictions. No political party following the procedures of a democratic constitution can be denied

the right to political organization and free speech. Citizens must have the opportunity to form interest groups freely and independently from the state and be able to act within those groups (Hadenius 1992, 51ff.).

These rights constitute an independent sphere of democracy and can therefore be regarded as the “backbone” of a distinct partial regime (Beetham 1994; Bollen 1993, 6ff.). It is of central importance that the institutionalized rights of freedom aim at the possibility of formulation, presentation, and equal consideration of citizens’ preferences (Dahl 1971, 2). The internal logic of political rights of communication and organization goes beyond a focus on political power in the stricter sense. In the public arena, social and communicative power must have the ability to organize in advance and without the formalized processes of the development of political opinion and demand (Habermas 1962, 1992). This kind of public arena allows the complete development of political and civil society, which again promotes the sensitivity of state institutions to the interests and preferences of society. From this point of view the two partial regimes A and B can only secure the functional logic of democratic elections when they are mutually connected. Together they promote responsive governing by supplementing the periodical control of elections with soft but steady public control between elections. Both partial regimes together, however, still cannot secure alone the constitutional democratic standards of responsive and responsible governing.

C. Civil Rights

Partial regimes A and B have to be supplemented by civil rights. Even more than the institutionalization of mutual checks and balances, civil rights are central to the rule of law in an *embedded democracy*. In research on democracy, the term “rule of law” is often used in a non-uniform manner and without theoretical substantiation (Nino 1996, 2; Reitz 1997). To put it simply, the rule of law is the principle that the state is bound to the effective law and acts according to clearly

defined prerogatives. The rule of law, therefore, is understood as containment and limitation of the exercise of state power (Elster 1988, 2f.). Historically, this principle developed from growing control over monarchs. Here it is seen as a functionally necessary part of a democratic regime. The actual core of liberal rule of law lies in basic constitutional rights. These rights protect the individual against the state executive and against acts of the elected legislator which infringe on an individual's freedom. For this to be guaranteed, there need to be further aspects of the rule of law such as independent courts. Courts have to serve as an independent authority authorized to execute judicial review of legislative (surveillance of norms) and executive (surveillance of bureaucracy) acts. They function as constitutional custodians of the legislature and supervisors of executive conformity to law.⁵ At the same time, the rule of law is effective as a horizontal "strut" for the above-mentioned institutional minima of democratic elections and democratic participation.

As "negative" rights of freedom against the state, civil rights touch on questions about the reach of and claim to power. In a constitutional democracy these rights have to be put out of reach of majority decisions. Otherwise, majoritarian democracies could turn into despotism of the majority (Tocqueville 1985[1835]). The executive and legislative branches need barriers that prevent individuals, groups, or political opposition from being oppressed by a democratic (majority) decision. Civil rights, therefore, are a basic condition of the existence of the concept of citizenship (Linz and Stephan 1996, 10). Individual rights of protection grant legal protection of life, freedom, and property—the threefold meaning of Locke's term *property*—and protection against illegitimate arrest, exile, terror, torture, or forbidden intervention into personal life, by the side of the state and by the side

5 Claims Maus (1994, 298ff.) following Kant.

of private or anti-state forces and actors. Equal access to the law and equal treatment by the law are basic civil rights.⁶ These civil rights tame majoritarian democratic cycles of power and thereby support—seemingly paradoxically—the democratization of democracy. This is another point the “electoralists” have not thought through sufficiently.⁷ But even the interdependent and mutually supporting partial regimes of democratic elections (A), pluralistic free participation (B), and the guarantee of civil rights (C), cannot alone sufficiently constitute or support a constitutional democracy.

D. Division of Powers and Horizontal Accountability

The fourth partial regime of a constitutional democracy is division of powers and the resulting “horizontal accountability.” By horizontal accountability we understand in accordance with O’Donnell (1994, 61) that elected authorities are surveyed by a network of relatively autonomous institutions and can be pinned down to constitutionally defined, lawful action. The institutionalization of horizontal accountability between state powers closes a central gap of control in the basic democratic structure, which is not covered by the first three partial regimes.⁸ Institutions of vertical accountability control the government only periodically through elections and referendum or “softly” through the public arena. Securing civil rights, guarantees barriers against

- 6 This also means that cultural, ethnic, linguistic, or religious minorities are not prevented from practicing their culture, language, or religion and are not legally discriminated against.
- 7 These violations of civil rights can be found especially in young democracies (cf. Merkel, Puhle et al. 2003). How else other than “defective” should these democracies be named then?
- 8 This dimension is absent in the more recent research of Robert Dahl (1989). While in 1971 Dahl thought such control to be a necessary point among his eight institutional minima for the polyarchy concept, he drops it in 1989.

the state infringing on individual freedoms. However, civil rights do not offer further safety measures preventing self-perpetuation or abuse of power generated by polyarchy. Horizontal accountability of power concerns the structure of power. The term includes lawful government action that is checked by division of power between mutually interdependent and autonomous legislative, executive, and judiciary bodies. The guarantee of institutional horizontal autonomy in a constitutional state thereby does not imply that the three powers are strictly separated from each other. Horizontal autonomy rather means that the three bodies check each other reciprocally, without dominating or interfering with the functional sphere of another power.

Through horizontal accountability, responsiveness and the responsibility of government are not only secured periodically by elections but also permanently by constitutional powers mutually checking and balancing each other. The exercise of executive power is especially limited (Beetham and Boyle 1995, 66ff.). This requires an independent and functional judiciary that can review executive and legislative acts. The question of if or how far the division of power between the executive and the legislative is part of the rule of law and democracy is controversial. At least in the American and German tradition this is generally answered in the affirmative, although the emphasis has been shifted toward a functionally necessary fusion of powers. This can be seen most obviously in parliamentary systems, where the division of executive and legislative is to a large extent replaced by the dualism of government and opposition (Beyme 1999). In presidential systems, in which the executive and the legislative are each independently legitimized through elections, this separation is more obvious.

E. Effective Power to Govern

The fifth and last partial regime stresses the necessity that the elected representatives be the ones actually governing. The criterion of

effective power to govern refers to a feature which can be considered self-evident in old democracies but cannot be taken for granted in new democracies (Schmitter and Karl 1991, 81; Collier and Levitsky 1997, 442ff.). This criterion prevents extra-constitutional actors which are not subject to democratic accountability, like the military or other powerful actors, from holding (final) decision-making power in certain policy fields. Specifically, this refers to so-called reserved policy domains, areas over which the government and parliament do not possess sufficient decision-making authority, as well as the specific problem of insufficient control over the military and police (Morlino 1998, 71ff.). It is crucial for the concept of *embedded democracy* that effective power to govern lies in the hands of democratically elected representatives. This becomes clear when examining the many young democracies in Latin America and East, South, and Southeast Asia, where the military still has autonomous policy domains in foreign and national security policy, which are incompatible with “meaningful” democratic elections.

Reserved political domains, however, have to be strictly separated from such political matters, which must be taken out of reach of (simple) democratic majority decisions through constitutional consent, whether to secure the continued existence of the democracy itself (e.g., constitutional court) or to provide certain organs with more autonomy (e.g., central bank). As demonstrated above, organs such as a constitutional court are legitimate parts of the institutional arrangement of a democracy. In the case of a central bank, however, the argument of principal revocation is valid. At present there is no observable tendency in established democracies to limit the autonomy of central banks again, as the example of the EU suggests. Still, such a withdrawal of authority is neither unthinkable nor beyond the reach of political processes and could not be prevented by the actors concerned. However, there is a clear difference in the power positions of veto powers, which often

have secured their prerogatives during the transition from authoritarian to democratic regimes and therefore gained privileges for themselves in an act of self-empowerment. These are not cases of democratic delegation of power and competences as it is in the case of a central bank or an office for the control and supervision of cartels, but it is instead the usurpation of power against democratic institutions.

Table 2 again shows the five partial regimes with their most important elements. In empirical analyses, these elements can be further differentiated into test criteria to analyze more precisely the condition of an existent democracy or compare specific democracies (Merkel, Puhle et al. 2003).

Table 2 Dimensions, partial regimes and criteria of embedded democracy

I. Dimension of vertical legitimacy and control

- A. Electoral regime
 - (1) Elected officials
 - (2) Inclusive suffrage
 - (3.) Right to candidacy
 - (4.) Correctly organized, free and fair elections

- B. Political rights
 - (5) Press freedom
 - (6) Freedom of association

II. Dimension of liberal constitutionalism and rule of law

- C. Civil rights
 - (7) Individual liberties from violations of own rights by state/private agents
 - (8) Equality before the law
- D. Horizontal accountability
 - (9) Horizontal separation of powers

III. Dimension of effective agenda control

- E. Effective power to govern
 - (10) Elected officials with the effective right to govern

Internal Embeddedness

The partial regimes described can only function effectively in a democracy if they are mutually embedded. Mutual embeddedness means that some partial regimes support the functioning of another partial regime—for example the partial regimes B (political rights) and C (civil rights) support partial regime A (democratic election)—and at the same time some partial regimes make sure that a certain partial regime does not infringe on the functional spheres of another regime, for example the partial regimes C, D, and E. Functional and normative interdependence and independence characterize the “code of communication” (Luhmann 1984) between the five partial regimes. The balance between them is fragile and varies from democracy to democracy.

We see democracy, therefore, as a complex of partial regimes.⁹ The different partial regimes are arranged in such a way that they provide the potentially conflicting sources of power in a democratic system with consistent rules. This consistency has to guarantee the functional interdependence as well as the independence of the partial regimes to enable legitimate as well as effective governing subject to both vertical and horizontal accountability. Democracy can be disaggregated into its five partial regimes. These, however, are mutually connected. The functional logic of each partial regime is

⁹ We owe this term to Philippe Schmitter (1997, 243) who introduced the concept of partial regimes for the differentiation of various types of democracies. In our understanding, however, these partial regimes refer to the basic parameters of power, which have to be regulated in any democracy. Functionally this concept rather follows the system-theoretical ideas of Luhmann, who describes the ecological communication of partial regimes with interdependence and independence strictly or loosely coupled.

preserved by this embeddedness, but at the same time a partial regime is hindered from infringing on other partial regimes. The dominant position of one of the regimes is made more difficult, thereby easing the tension between the principles of political equality, freedom, and control. It is the mutual embeddedness of the different institutions of democracy in a network of institutional partial regimes which guarantees a functioning and resilient democracy.

This differentiation into partial regimes shows clearly that normatively the concept of embedded democracy goes beyond an electoral democracy. The subdivision into partial regimes has a considerable analytical advantage. First, it enables a precise determination of the location of defects within a democracy. Second, aggregate defects within a democracy can be recognized in a comparative study of countries. Third, it allows for the systematic analysis of how defects in one partial regime infect other partial regimes, thereby slowly undermining that country's democratic functioning and leading to a slinking autocratization, despite periodical pluralistic elections.

External Embeddedness

Every democracy as a whole is embedded in an environment that is surrounding, enabling, and stabilizing the democratic regime. Damage to this environment often results in defects and destabilization of the democracy itself. The rings in which a democracy is externally embedded are conditions of possibility and impossibility, which raise or lower the quality of a constitutional democracy, but are not defining components of the democratic regime itself. The most important of these externally embedding rings are socioeconomic context, civil society, and international integration (cf. Figure 1).

A. The Socioeconomic Context

Lipset concisely formulated the *locus classicus* of the correlation between the socioeconomic development of a society and its capability to sustain a democracy: “The more well-to-do a nation, the greater the chances that it will sustain democracy” (Lipset 1959; 1981, 31). In the last 40 years the connection between economic development and the capability to sustain democracy has been tested over and over again. It has proven extraordinarily stable (comp. among others: Cutright 1963; Dahl 1971; Vanhanen 1984, 1989; Lipset 1993; Przeworski and Limongi 1997; Welzel 2002). Even though the roughness of the measuring indicators (GDP per capita; electoral democracies) has rightly been criticized from time to time, the importance of a well-developed and prospering economy for the consolidation of a democracy is undisputed. Two qualifying arguments, however, seem appropriate. A well-developed and prospering economy is not the *condition sine qua non* for a democracy, nor is it possible to use economic development to predict thresholds (Przeworski and Limongi 1997) and economic transition zones (Huntington 1991) for the capability or irreversibility of democratization. Furthermore, Lipset’s dictum “*the more well-to-do . . .*” cannot automatically be extended “upwards” as the conditional clause suggests. In the year 2003, the prosperous US under George W. Bush is neither more democratic and more sensible regarding the rule of law than in 1976 under Jimmy Carter, nor can its democracy today (GDP/capita 2001: \$36,000) attest to a higher quality than the Finnish democracy (GDP/capita 2001: \$26,000).¹⁰ Within the OECD world Lipset’s causal relation loses its meaning.

10 Violations of the rule of law and human rights violations by the US following September 11 rather indicate the opposite.

Another connection should be mentioned here: inequality. If unequal distribution of economic resources does not only lead to a striking gap between incomes and wealth, but also pushes a consistent part of the population below the poverty line, it has effects on a democracy. This does not only apply to countries in the economic take-off stage and countries in the third world whose poor population parts Guillermo O'Donnell (1998) has perceptively diagnosed as *low intensity citizenship*. It also applies to the richest democracy, namely the United States, where the percentage of the population living in poverty during the 1990s lies at 18% (Merkel 2001). This means that for almost a fifth of US citizens, chances for political participation are massively reduced, merely on intellectual grounds.¹¹ O'Donnell's argument of low intensity citizenship applies here in the same way as Hermann Heller's (1971[1928]) theoretical democracy explanations, which stress the need for a sufficiently homogenous material basis among citizens to enable equal participation opportunities in the democratic process. Only when citizens are secured and educated by means of a sufficiently egalitarian social and economic status, will they be able to form independent opinions as *citoyens*. The principle of political equality is inevitably connected to the principle of democracy. This principle is violated when extreme socioeconomic inequality undermines real political equality. Many indicators regarding political participation and actual equality before the courts show that poverty as an extreme form of inequality puts the poor at a

11 American research on democracy close to Freedom House neglects the connection between poverty and low intensity citizenship. So Germany has been scolded or even downgraded for surveying a dubious quasi-religious sect like Scientology with its intelligence service, whereas totally ignored is the fact that almost 20% of US citizens (predominantly Afro-Americans) are disadvantaged in the exercise of their civil and political rights through poverty.

disadvantage in the exercise of their civil and political rights. In this regard, and only in this regard, political arguments on distribution have a meaning for the political quality of a democracy.

Summing up, a developed economy, prevention of extreme poverty, pluralization of the social structure, and even distribution of the material and cognitive resources of society create a shield for democracy and in most cases enhance the quality of a democratic political unit with regard to rule of law and participation. Inversely, the lack of a well-developed economy or abrupt downward economic change endangers the stability and quality of a constitutional democracy.

B. Civil Society

The conviction that a well-developed civil society strengthens democracy has a long tradition. It is based on important arguments developed by philosophers such as John Locke, Montesquieu, and Alexis Tocqueville as well as by Ralf Dahrendorf and Jürgen Habermas of today. The four most important arguments are briefly outlined below.

Protection from Arbitrary State Rule: The Lockean Function

The liberal tradition, which has its origins in the work of John Locke, mainly stresses the importance of an independent societal sphere vis-à-vis the state. Locke, and later on even more strongly Adam Smith, conceives of society as a sphere beyond the political space. Vested with natural rights, people form a community in which social life can flourish. In the best case this pre- or apolitical sphere is secured and fostered by the state, but it should never be lead by state authority (Taylor 1993, 130). From this perspective, the central tasks of civil society are the protection of individual autonomy, the development of individual natural rights, and the protection of individual property. Civil society, therefore, has mainly the function of securing negative

rights of freedom, i.e., protecting individual freedom from state intervention. Civil society is the protective space of the individual from the state (see also Held, 1996).

The Balance between State Authority and Civil Society: The Montesquieuian Function

Montesquieu dissolves the sharp contrast between state and society. In his complex model of separation of powers and mutually regulating powers, he discusses the balance between central political authority and societal networks of “*corps intermédiaires*.” “Rule of law” and checking powers have to limit and contain the strong (monarchic) central government. Montesquieu, however, argues that law loses its power to rule when it is no longer supported by independent, legally protected bodies. These “*corps intermédiaires*” are “amphibian” bodies existing within and outside of the political structure and thereby linking the societal and state spheres together (Montesquieu 1838, 280 ff.). Montesquieu relies on institutions and organizations and does not primarily trust in “virtues,” as did the philosophers of the ancient polis or postmodern communitarians.

School of Democracy: The Tocquevilleian Function

Tocqueville (1985[1935]) stresses the thought of “free associations” as an important guarantee of a free community. For him, civil-societal associations are “schools of democracy” where citizens practice democratic thinking and civil behavior and become used to it on a daily basis. For these associations to truly be places of self-government they cannot be too large, but have to be numerous. They should exist on all levels of the political system, as freedom and democracy at the national level will be in danger if local associations dwindle. Civil associations serve to establish and embody civil virtues such as tolerance, mutual acceptance, honesty, reliability, trust, and civil courage. Thereby, they accumulate *social capital*, without which,

the American democracy researcher Robert Putnam (1993, 163) would formulate 150 years later, democracies can neither emerge nor consolidate themselves in the long term. Seen from a Tocquevilleian point of view, civil society puts normative and participatory potential at a democracy's disposal. This serves as an immunization of freedom against the authoritarian temptations of the state and limits the tyrannical ambitions of societal majorities.

The Public and Criticism: The Habermasian Function

Civil society expands the sphere of interest articulation and aggregation by establishing “pre-institutional” pluralistic interest mediation, argues Jürgen Habermas. Here especially, interests that are disadvantaged and difficult to organize have the possibility of acting in an open public area. Through self-determined forms of participation these interests should influence the agendas of politics beyond political power and business interests. For any truly democratic formulation of opinions in interest groups, parties, and parliaments “rely on the supply of informal public opinion” which can only “form outside of the structures of a non-power driven political public” (Habermas 1992, 374). Spontaneously created organizations and movements form the core of this civil society. They “find, absorb, condense and pass on” public problems “to the political public like an amplifier” (*ibid.*, 443).

The four aspects of civil society named above protect the individual from the arbitrary use of state power (Locke), support the rule of law and the balance of powers (Montesquieu), educate citizens and recruit political elites (Tocqueville), and institutionalize the public sphere as a medium of democratic self-reflection (Habermas). If civil society fulfills these functions, it generates and enables checks of power, responsibility, societal inclusion, tolerance, fairness, trust, cooperation, and often also efficient implementation of accepted

political programs. Civil society, thereby, not only enhances the democratization, pacification, and self-organization of society, but also controls, democratizes, and provides support for the state and makes it more effective. In a strict sense, civil society does not belong to the defining core of a constitutional democracy. It is outside of this core and therefore can be regarded as externally embedding it. The functions civil society carries out, however, have considerable implications for the sustainability effect of democratic constitutional institutions.

C. International and Regional Integration

Integration into international—and especially regional—economic or politically democratic organizations has considerable implications for the stability and quality of a democracy. However, military alliances or foreign-policy security structures, like NATO, cannot develop the same democratic effect even if they are dominated by democratic states. The examples of Portugal (until 1974) or Turkey show that authoritarian states or defective democracies violating civil and human rights can survive in such alliances since their inner structure is subordinate to the particular purpose of foreign-policy security.

The denser, more consolidated and more resilient this external embeddedness of democracy is, the less vulnerable the internal partial regimes are toward external threats. The more densely interdependence between the partial regimes is institutionalized, the stronger the cooperation between the actors of these regimes. And the higher the acceptance and respect towards mutual independence, the more democratic is the whole regime. The inverse is true, too: The weaker the external embeddedness and the lower the mutual respect and cooperation between the actors of the partial regimes, the closer the regime is to a defective democracy.

Defective Democracies: Types, Defects, Causes

If one of the partial regimes of an *embedded democracy* is damaged in such a way that it changes the entire logic of a constitutional democracy, one can no longer speak of an intact embedded democracy. Depending on which of the partial regimes of an embedded democracy is damaged, we are then dealing with a certain type of defective democracy. From this perspective, defective democracies are democracies in which the partial regimes are no longer mutually embedded and the logic of a constitutional democracy is disrupted.

Defective democracies are not necessarily transitional regimes developing into democratic or autocratic regimes to regain a systemic equilibrium. Depending on their political power and social, economic, and cultural embeddedness, they can establish themselves for a longer time. This is the case when specific defects are supported by political power, socioeconomic and sociocultural contexts and develop within a mutually supportive coexistence of environment and partial regimes. On the eastern edge of Eastern Europe, in East Asia, but also in Latin America, many of these (defective) democracies have now been established (Merkel, Puhle et al. 2003).

Types of Defective Democracy

We distinguish between four types of defective democracies: exclusive democracy, domain democracy, illiberal democracy, and delegative democracy (*ibid.*):

Exclusive democracy: Sovereignty of the people is the basic concept of democracy and has to be guaranteed by universal electoral rights and their fair execution. This is not the case if one or more segments of all adult citizens are excluded from the civil right of universal suffrage.

Domain democracy: If “veto powers”—such as the military, guerillas, militia, entrepreneurs, landlords, or multi-national corporations—take certain political domains out of the hands of democratically elected representatives. The creation of such political domains can occur by constitutional and extra-constitutional means. Although the latter has to be seen as a more severe damage to a constitutional democracy, the former also represents a type of defective democracy. Domain democracy is a regionally specific type occurring in Latin America and Southeast Asia, where the military often takes over a political (veto) role. Domain democracies are rare in Eastern Europe or Central Asia.

Illiberal democracy: In intact democracies, legitimate representatives are bound to constitutional principles. In an illiberal democracy, with its incomplete and damaged constitutional state, executive and legislative control of the state is limited by the judiciary. Additionally, constitutional norms have little binding impact on government actions and individual civil rights are either partially suspended or not yet established. In illiberal democracies, the principle of the rule of law is damaged, affecting the actual core of liberal self-understanding, i.e., the equal freedom of all individuals. This is the most common type of “defective democracy,” and it can be found all over the world.

Delegative democracy: In a delegative democracy, the legislature and the judiciary have only limited control over the executive. Actions of government are seldom committed to constitutional norms. The checks and balances that functioning democracies need to maintain a balanced political representation, are undermined. Governments usually led by charismatic presidents, circumvent parliament, influence the judiciary, damage the principle of legality, undermine

checks and balances, and shift the equilibrium of the balance of power unilaterally to favor the (president's) executive.¹²

Causes for Defective Democracies

Our research (Merkel, Puhle et al. 2003; Croissant and Merkel 2004) has shown that no single outstanding factor can be singled out as the primary cause for the formation of grave defects in young democracies. Rather, specific combinations of causes that shape special opportunities for certain actors to usurp power, suspend constitutional norms, or circumvent checks limiting power are responsible. Here is not the place to present the specific connection between structural opportunities and the action of actors, which is particular to every country. Instead, one hypothesis for each of the most important groups of causes will summarize the findings of our research. We take into account the path of modernization, the level of modernization, economic trends, social capital and civil society, state- and nation-building, the type of authoritarian predecessor regime, transitional modus, political institutions, and the international context.

Path of modernization: The probability for the occurrence of a defective democracy rises if the socioeconomic modernization of a country proceeds along a semi-modern path producing acute imbalances of power and if the property-owning classes regard democracy as a threat to their economic and political interests.¹³

Level of modernization: The probability of the emergence of a defective democracy is higher the lower the socio-economic level of development and the more unequal the distribution of societal

12 This understanding of the term “delegative democracy” is close to the definition used by O’Donnell (1994).

13 Our research confirms this thesis by Moore (1969) and Rueschemeyer et al. (1992).

resources in a society. An asymmetrical distribution of economic, cultural, and intellectual resources promotes acute inequality of political resources of action and power among political actors. It further complicates the enforcement of constitutional and democratic standards against the rational self-interest of the powerful as well as endangering marginalized groups' loyalty to the regime, even after democratic institutions are formally established.¹⁴

Economic trend: Economic crises offer situational incentives to institutionalize defects in an unconsolidated democracy. This is often the “hour” of special emergency legislation and decrees in presidential and semi-presidential systems.¹⁵ Governing by decree is often expanded beyond its constitutional limits and stays in place after the acute state of emergency.

Social capital: The occurrence of defective democracies is closely related to the type and extent of historically accumulated social capital in a society. An emergence of (ethnically) exclusive and illiberal democracies is more probable if social capital is accumulated along ethical and religious lines. The “Tocquevillean version” of social capital, however, works against exclusive or illiberal tendencies.

Civil society: A lack of interpersonal trust in a society makes the formation of a well-institutionalized system of political parties, interest groups, and associations in civil society more difficult. Without these institutions, important intermediary pillars for the

14 This hypothesis is based on empirical evidence and confirms Lipset's “Social Requisites for Democracy” (1959/1981) and Vanhanen's (1989) hypothesis regarding the connection between the dispersion of power resources and chances of democratization.

15 This supports the thesis that parliamentary systems of government ceteris paribus are more favorable for the consolidation of young democracies than presidential or semi-presidential systems (Linz 1990; Lijphart 1992; Stepan and Skach 1993; Merkel 2010).

exercise of political rights and the protection of civil rights are absent. In such a context charismatic and popular justifications for defective democratic patterns of decision-making are a promising alternative to gain public support.

The more civil society is organized along ethnic cleavages, the more it contributes to the intensification of political polarization. This makes the acceptance or enforcement of the limitation of the political rights of minorities in multi-ethnic or multi-religious societies easier. Ethnically mobilized civil societies often reveal the “dark side” of civic mobilization against other communities.

State- and nation-building: Conditions for the development of a liberal democracy without grave defects are especially unfavorable if unsolved identity or stateness crises in the political community burden the transformation. Efforts to secede or discrimination against minorities will damage the indispensable civil rights to freedom and political rights of participation.

Type of authoritarian predecessor regime: The longer totalitarian, post-totalitarian, sultanistic, or neo-patrimonial regimes have been institutionalized in a country and had the chance to influence the political culture of society, the more probable are defects in the subsequent democracy. Such societies tend to reward circumvention of checks and balances and application of “delegative” ruling practices with electoral rewards.

Transitional modus: The more inclusive the elite settlement directly after the system change, the more relevant actors will accept and protect the new democratic rules of the game. The more elites follow the new democratic institutions, the faster broad popular support legitimizing the system will grow. Therefore, negotiated transitions better avoid severe democratic defects than system changes steered from above or forced from below.

Political institutions: The more “informal” authoritarian inheritance (e.g., clientilism, patrimonialism, corruption) shapes patterns of interaction between elites and the population at large, the more difficult it is for the new “formal” institutions to be validated and standardized. Informal institutions threaten to crack the functional code of formal, democratically legitimized institutions, deforming and displacing them. In essential domains of decision-making, democracy can then only function according to non-legitimized, informal institutions and rules which contradict the principles of a democratic state based on the rule of law. These defects of the formal democratic institutions are supported by highly habitualized behavioral patterns in society, such as clientilism, patronage, and corruption.

International and regional context: If regional mechanisms (e.g., EU, European Council) securing liberal-democratic institutions are weak or absent, governments have a broader range of options to violate the rules of these institutions because the opportunity costs for such actions are considerably reduced.

In the following, I will apply the concept of embedded and defective democracies to the case of Israel. It is only a first glance at the state of democracy in Israel, which certainly requires deeper investigation.

Israel: Embedded or Defective Democracy?

If one follows Freedom House, Polity, or the Democracy Barometer, Israel is the only liberal democracy in the region of North Africa and the Middle East. Israel was rated by FH in political rights with the best score 1 and in civil rights 1.5, i.e., clearly as a “free” and democratic country. All the other 18 countries in the region are rightfully qualified as “partially free” or “not free.” It has to

be considered a tremendous achievement that Israel developed and maintained the only viable democracy in the region since 1948. The external political world of secular and religious autocracies within the same (enlarged) “region” demonstrate the dramatic differences between Israel and the Arab-Muslim countries. This is still true after the Arab Spring. Although the dictators of three countries were ousted in 2011, they (Tunisia, and particularly Egypt and Libya) are far from being liberal democracies, and probably won’t be for many years.

The achievement is the more astonishing as Israel has to cope with at least two conditions which are seen by democratic theory and empirical research as eminently adverse to sustainable democracies: First, the extreme religious, ethnical, and socioeconomic heterogeneity of the Israeli society. According to John Stuart Mill (1861) and Robert Dahl (1971), it is difficult to sustain democracies in ethnically deeply divided societies. Second, Israel has to live in “bad neighborhoods,” since it is surrounded by deeply autocratic regimes. Moreover, most of these autocratically governed countries are declared enemies of Israel, some of them even aiming to eliminate the state of Israel from the map. Three major wars launched by Arab dictatorships against democratic Israel prove the seriousness of those hostile declarations. However, the hostility by Arab autocracies probably causes ambiguous impacts on the democratic character of Israel’s political regime. On the one side, it gives the military, secret services, and the executive an enormous and, therefore, problematic weight vis-à-vis the legislature. But on the other side the hostile external environment may moderate the internal conflict of deep multiethnic and socioeconomic cleavages in Israel’s society. As such, the resilience of Israel’s democracy must be considered a clearly deviant case among the sustainable democracies. Of course the high level of economic modernization

and education speak for the sustainability of Israel's democracy as the sheer fact does the democracy in Israel has survived for more than six decades.

Israel's democracy survived, but it is an "embedded democracy" on par with the UK, France, Scandinavia, or the USA? Let us give an initial answer by using FH data. For three years now FH has also been publishing subscores behind the aggregate scores of political rights and civil rights. These subscores are related to the following spheres of democracy: electoral process (A), political pluralism and participation (B), functioning of government (C), freedom of expression (D), associational and organizational rights (E), rule of law (F), and personal autonomy and individual rights (G). Democracies such as most of the Scandinavian states or some of the (old) European Union countries reach the highest scores in all these dimensions of democracy. Finland as a case in point achieves in all these seven subcategories the optimum of 100% of the scores.¹⁶ Now I am attributing these subcategories to the five partial regimes of the root concept "embedded democracy" in order to systematize the strength and weaknesses of Israel within a coherent model of democracy. The attribution from FH to the partial regimes can be done according to the theoretical description of their properties as follows and shows for Israel the following results:

16 I am using percentage here, because Freedom House attributes to some categories a maximum of 16 points and to some 12 points. If one transforms these different maximums into percentage (each maximum gets 100%), they can be better compared.

Table 3 Israel's quality of democracy, 2006-2010

Freedom House	Embedded democracy	Israel 2006-2010 (percent)
Electoral process (A)	Electoral regime	100
Political pluralism and participation (B) Associational and organizational rights (E)	Political liberties	90
Freedom of expression (D) Personal autonomy and individual rights (G)	Civil rights	75
Rule of law (F)	Horizontal accountability	69
Functioning of government (C)	Effective power to govern	83

The calculations of the quality of democracy were based on the subscores behind the aggregate scores of political rights and civil rights of the Freedom House. The subscores were grouped to match the root concept of “embedded democracy.” The scores are expressed in percentages; calculations are based on the maximal score for individual category. The maximum score equals 100%.

Source: Freedom House (2010) Freedom in the World Aggregate and Subcategory Scores Internet: www.freedomhouse.org/template.cfm?page=276 accessed January 7, 2012

Regarding the freedom and fairness of election, Israel achieves the optimum of 100%. This is not only due to the free and fair character of the elections, but also to the high degree of electoral competition. With respect to political liberties the country scored still an impressive 90%. Both partial regimes are most closely connected and can be considered as working democratically very well. Also, the functioning of government reached 83% between 2006 and 2010, which is a

considerable achievement for a country which has had to live for three decades with grand coalitions or complex multiparty coalitions. But the problems in Israel's democracy begin with the guarantee of civil rights (75%) and horizontal accountability plus rule of law (69%). Both partial regimes are functionally highly dependent. If one regime does not work, it affects the working of the other. If a democracy performs relatively badly in partial regimes closely associated with two of the three core principles of democracy, namely *freedom* and *control*, the logic of the democratic game is severely disturbed. In addition, those citizens who are particularly negatively affected by the insufficient guarantee of civil rights through a defective rule of law are concentrated among the Muslim-Arab populations. The unequal distribution of these negative defects along ethnic and religious cleavages violates the third core principle of democracy, *equality*, too. All three core principles of democracy are impaired within the political regime of Israel. I therefore would no longer call Israel a consolidated liberal, but a defective democracy. We know from empirical research on democracies in almost all regions of the world, that defective horizontal accountability and rule of law tend to infect all the other partial regimes of democracy. They also tend to be rather resilient against democratic cures, if they are deeply engrained into the institutions of the political system and the habits and minds of the elites and the population. Israel's polity and society are confronted with exactly this risk.

Let us control the FH figures by the data of the newly established Democracy Barometer.¹⁷

17 The three core principles of democracy standing behind the five partial regimes are freedom, equality, and control (cf. Bühlmann, Merkel, and Weßels 2008). The aggregated Democracy Index contains 100 single indicatios. For the index and all data from 1990 to 2007, see www.democracybarometer.org.

Table 4 Israel's quality of democracy 1990-2007

Democracy Barometer	Embedded Democracy	Israel 1990-2007	30 best democracies* 1990-2007
Aggregated Democracy Index	Quality of Democracy	42,58	64,34
Competition	Elections	80.29	64,37
Participation, Representation	Political rights	52.81	59,33
Individual Liberties, Rule of Law, Public Sphere	Civil rights	44,72	60,56
Mutual Constraints	Horizontal accountability	33,27	55,01
Governmental Capability	Effective power to govern	47,89	76,34

The calculations of the quality of democracy were based on the scale developed for Democracy Barometer. The indicator scores were regrouped to match the root concept of “embedded democracy.” The scores are expressed in average values for each concept across the entire time span of the available data. The scores range between 0 and 100.

* The 30 best democracies were selected by the combined measure of FH and Polity during the years 1995-2005. The scores are calculated by the indicators of the Democracy Barometer. For the indicators and measurement rules, see www.democracybarometer.org.

Source: Democracy Barometer (2007) Democracy Barometer Data standardised indicators Internet: www.democracybarometer.org/Data/DB%20Data_1990-2007_standardised.xls accessed January 12, 2012

The comparison of the aggregated democracy index of Israel with the average of the same index for the 30 best performing democracies in the world indicates a clear difference.

Israel's overall quality of democracy score figures distinctly below the average of the 30 best democracies. The observation becomes even more convincing if one looks into the broken up, partial regimes of democracy. The degree of electoral competition is much higher in Israel compared to an average score of the 30 best democracies, but in all other four partial regimes Israel performs worse than the combined average score of the 30 best democracies. This is particularly true with regard to the partial regimes of civil rights, horizontal accountability, but also to the governing capability of Israel's executive. While the evaluation of the last variable differs from the FH—they evaluate the governmental capability visibly better (cf. Table 4) than the Democracy Barometer - the deficits and defects observed in the realm of civil rights and horizontal accountability are assessed equally severely. To conclude, the results of Table 5: together with a different set of data and a different mode to measure the quality of democracy reveal the partial illiberal character of Israel's democracy.

Sammy Smooha (2002) aptly calls Israel an “archetype” of an “ethnic democracy.” Since the low scores of civil rights are not due to a general grossly violation of the citizens’ rights, but due to a clear ethnical discrimination of the Israeli Arabs. Smooha (2002: 216) names four reasons for it: There is no constitution or bill of rights which provides the Arab citizens with an independent legal base to protect their civil rights; the emergency laws discriminate particularly the Arab Israeli citizens; the Jewish-Zionist character of the Israeli state degrades Arab citizens culturally; and last but not least, the majoritarian opinion of Jewish citizens prefer their own preferential treatment vis-à-vis the Arab fellow citizens. This majoritarian opinion spills over into the programs of Israel’s major parties and influences

their campaigning strategy in the electoral arena, thereby contributing to the perpetuation of the ethnically motivated discrimination of the Arab part of Israel's population.

Moreover, Rosenhek and Shalev (2000) demonstrate that it is mainly the Arab citizens who are on the losing side of the major socioeconomic cleavages. The social exclusion and the civic-political discrimination are mutually reinforcing and therefore tend to perpetuate the second-class citizenry of the Israeli Arabs. As long as they have systematically lower life chances (Sen) and are discriminated against by the political regime and the societal majority, they will be disloyal to Israel's democracy. As long as they are disloyal, they will be discriminated against by its "own" democratic regime, and it can be patriotically justified by their identification with Israel's fiercest enemies. The vicious circle is certainly not easy to break as long as this fundamental cleavage between Arab and Jewish citizens in Israel is reinforced by the hostile regional environment of the neighbouring Arab regimes, no matter whether (highly) defective democracies or outright dictatorship will be emerging there.

Conclusion

The above discussion on embedded and defective democracies shows a variety of things. It is analytically not sufficient to understand the term *electoral democracy* as synonymous with democracy. Democratic elections alone, though, do not make a political regime a liberal democracy. If this would be the case Israel would be a "100%" democracy on par with Finland, Sweden, and Switzerland. If the complementary support of the four other partial regimes (political liberties, civil rights, horizontal accountability, and effective power to govern) is missing, important functions indispensable for the self-government of a political community are absent and free elections

risk the loss of their democratic meaningfulness. “Electoralists” underestimate especially the importance of rule of law and horizontal accountability for a democracy. But exactly these core elements are defective in the current political system of Israel.

Defective democracies are by no means necessarily transitional regimes gravitating either to liberal democratic or fully autocratic regimes. They are able to form stable links to their environment and are seen by considerable parts of the elites and the population as adequate solutions to the extreme accumulation of social and political problems.

Israel’s democracy can rely on a highly developed economy. However, the ethnic, religious and social cleavages within its society are deep and cumulative. Among the privileged Jewish citizenry of the Israeli population these cleavages do not seem to endanger the fundamental loyalty versus state and democratic regime. But the deep split between the Arab and Jewish parts of Israel’s citizens jeopardizes the necessary minimum of the common political belongingness seriously. The *de facto* and sometimes *de jure* discrimination of the Arab citizens by the “Jewish state” and the fact that they claim loyalty not to “their” country but to Israel’s harshest enemies complicates the functioning of democracy, which has to rely on a solid political community (Easton 1965). Nevertheless, Israel is the only democracy in the whole region surrounded by rigid autocratic or problematic transitional regimes. This is an admirable achievement. But as long as the Jewish political elites and the Jewish population are not prepared to overcome the ethno-religious discrimination of a considerable part of their citizens, Israel will remain a “defective, illiberal, and semi-exclusive democracy.”

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