Part 1 Judocracy Talshir

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**Introduction: The Quest for Lasting Power**

The Knesset seeks to legislate us through, and the court assumes roles that extend beyond its duty. The conduct of some of our authorities threatens more and more of our liberties and the governability of our elected officials. We have to quickly return the train of governability to its proper track – based on the definition of Israel as Jewish and democratic (Ayelet Shaked, Minister of Justice, Oct. 2016).

Benjamin (Bibi) Netanyahu is the longest-serving prime minister of Israel. Longevity in power is perhaps the feature most identified with Bibi. Nevertheless, loyalists from the right and adversaries from the left would both find it hard to say what Netanyahu’s regime actually stand for. The myth – and power – of the Netanyahu regime, which has dominated Israeli politics for the last two decades, transforming Israeli democracy beyond recognition, has yet to be deciphered. Brute force, opportunism, the will to power, tyranny of the majority – these are the kind of answers offered by the media, rival politicians and scholars to explain the driving force of Netanyahu’s government. Even the president of Israel, Reuven Rivlin, in a speech at the Knesset’s opening session in October 2017, referred to the Netanyahu government as generating an “everything is political” revolution:

Majority rule – is the only ruler… a reality where “everything is political” is developing. The media – political; the democratic institutions, all of them, from the professional bureaucracy to the state comptroller – political; the Supreme Court – political; the security forces – political. Is even the IDF, our defense force, political? All the country and its institutions – political. This revolution apparently attempts to tear, at last, the mask of hypocrisy from the gatekeepers. In this revolution, the ruler is also the victim. “We will show you what it really is” – that’s the voice of this revolution, there is no more statehood. After us, the deluge. (Rivlin, 2017)

The sentiment identified by the president – once a true-blue member of the right-wing camp – is correct. But every struggle for power is also a struggle over perceptions, ideas and worldviews. Beneath the will to power and the desire for pure, unrestrained rule, an ideology emerges, a different vision of rule for the Jewish state. This ideology, translated into legislation and policies, is not just a different way to follow the rules of the game; it changes the rules of the game, and with it the game itself.

This book offers a first ideological exposition of the makeup of the right-wing governments in Israel, highlighting the profound transformation of the once-shared worldview that saw Israel as equally Jewish and democratic. The Netanyahu regime took Israeli society from a representative democracy, an egalitarian state with universal welfare and public education based on a collective Israeli identity, to a neoliberal Jewish state. Israel is perhaps a “start-up nation,” but it is also a fragmented, ethnically divided society with high child poverty rates. The Netanyahu regime has made the cornerstones of Israeli democracy – the judicial system, the civil service, the attorney general, the state comptroller, unions, the media and the universities – into the people’s enemies.

Two key concepts in understanding this transformation are *people* and *governability*. The ideal of an Israeli democracy has transformed into the majoritarian notion of the Jewish people. The system of a democratic regime with checks and balances is replaced by a government-centered notion of power and a preoccupation with governability and “eliminating the obstacles” – that is, the judicial system, regulation, the public service, civil rights organizations, the media and other critics of the regime. This government is loath to interfere in the market, thus encouraging the private market to take over state functions, while eager to engage in promoting Judaism as a collective identity – the classic neoliberal/neoconservative contradictions of the new right (King, 1987). The main question is whether the Netanyahu regime merely offers an alternative (and legitimate) vision of Israeli democracy, or whether it undermines the democratic character of the sole democracy in the Middle East.

**The Structure of the Book**

The book has three parts. The first part analyzes the constitutional changes that dramatically altered Israeli democracy. The first chapter looks at the issue of illegal immigrants in Israel – referred to as “infiltrators” by Netanyahu’s ministers – as a case in point. I apply all three levels of analysis to this case: the concept of Netanyahu’s rule, encapsulated in the term governability; the emerging image of the people, the Jewish people who must be protected from the infiltration of non-Jewish immigrants; and the ideological tension between neoliberalism and neoconservatism, as exemplified in the policy battle in the Prime Minister’s Office regarding the illegal immigrants. Neoconservatism defines Netanyahu’s government – the Likud party and its “natural partners” (the religious and ultra-Orthodox parties) – as a radical right-wing coalition. Under the government’s populist neoconservative approach, the party system has realigned: Shas, United Torah Judaism and the Jewish Home, which used to be considered pivot parties that could partner with either leftist or rightist coalitions and remain neutral – have closed ranks with the deep right. This realignment serves as a foundation for Netanyahu’s continued hold on power.

The second chapter centers on the Basic Law: Israel as the Nation-State of the Jewish People, the “law of all laws” as the joint committee that drafted the legislation often referred to it. The new basic law, enacted in 2018, does much more than just state a historical fact. It involved a vehement struggle over the definition and character of the State of Israel. In particular, this struggle came to fore in the debate over adding an equality clause affirming that Israel is not only the nation-state of the Jewish people, but also a democracy that extends equal rights to all its citizens. (Netanyahu’s coalition won the battle against adding the equality clause.) Likewise, a fierce debate raged on whether to stipulate in the law (or at least in its introduction) that Israel is both Jewish and democratic, as noted in Basic Law: Human Dignity and Liberty (1992). The Nation-State Law transformed the constitutional design of the state in a way that actually threatens its democraticness. Ultimately, a state in which collective rights are equal, or superior, to individual rights cannot be considered a democracy.