

DAILY COMMENT

NETANYAHU'S GOVERNMENT TAKES A TURN TOWARD THEOCRACY

The Israeli Prime Minister's new coalition includes members who would enforce religious prohibitions over democratic liberties.

By Bernard Avishai

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Netanyahu clasps the hand of Itamar Ben Gvir, Israel's national-security minister, after the new coalition government was sworn in last week in Jerusalem. Photograph by Amir Levy / Getty

Prime Minister Benjamin Netanyahu's new coalition government, which was sworn in last week, is routinely referred to as “extreme right,” but this tortures the meaning of conservatism in a democracy. Thirty-two of the coalition's members in the Knesset (out of a hundred and twenty parliamentary seats) are disciples of so-called religious parties, the political arms of theocratic communities. These parties, and factions of parties, can be divided into three groups: The largest alliance, with fourteen seats, is religious Zionism, whose forebears were preoccupied with preserving the rabbinic privileges afforded by the British Mandate in the new state of Israel—such as supervision over marriage, burial, conversion, and dietary laws, and state-supported religious schools—but which, since 1967, has been overtaken by the messianic claims of West Bank settlers. The Haredi, or ultra-Orthodox, with seven seats, represent self-segregating communities living mainly in and around Jerusalem. Shas, with eleven seats, are a populist, anti-élite party of Orthodox Mizrahi immigrants from North Africa and the Middle East, who tend to be poorer and less educated.

In recent years, the three groups have meshed ideologically into the “national camp,” adhering in particular to the ultranationalist, Greater Israel vision of the religious-Zionist alliance: prohibiting the surrender of Biblically promised land, and moving the state further toward Orthodox law. Indeed, the other, anchoring half of the government majority, Netanyahu's Likud party, includes many rank-and-file members who also openly identify with religious Zionism. (The new minister of environmental protection, Idit Silman, is a former backbencher of a religious-Zionist party who jumped to the Likud last summer, abandoning the “change government” of Yair Lapid and Naftali Bennett, thereby helping to bring it down.)

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So, at least half of the coalition government cannot be said to be on the right in any ordinary sense, because its leaders and followers aren't really committed to the secular social contract, founded on scientific skepticism and liberal norms, that even Zionist rightists including Vladimir Jabotinsky embraced. A 2016 Pew study found that eighty-nine per cent of Haredi, and sixty-five percent of *dati*—others who feel themselves governed by Jewish ritual law and practice, or *Halacha*—believe that, if the choice is between democratic principles or *Halacha*, the latter should “take priority.” Yair Nehorai, a former acolyte of religious Zionism, and the author of “The Third Revolution,” a book documenting the teachings of the rabbinic mentors of the messianic movement, believes that these attitudes amount to a novel politicized Jewish creed, advanced by “Jewist” activists who, in pressing for a Halachic state, are equivalent to “Islamist” activists who advocate for Muslim governmental supremacy and Sharia law. “Rabbi Eliezer Sadan, a renowned Israel Prize winner, set up a program in 1998 that’s prepared twenty-five hundred young men for the military—half of whom became officers, even senior officers,” Nehorai told me. “My book quotes him from 2017 preaching that the ‘Torah is our constitution,’ and the nation, ‘living in its land,’ should conduct its life on the basis of ‘divine precepts.’ ”

Accordingly, the coalition wasted little time trying to “land a knockout to liberal-democratic Israel,” as the editor-in-chief of *Haaretz*, Aluf Benn, put it. The new Knesset was sworn in on November 16th, two weeks after the election and more than a month before Netanyahu presented his government. The coalition rushed to use its fresh majority to amend various laws and ordinances, including the nation’s Basic Law—a set of quasi-constitutional provisions that define government functions and guide the High Court of Justice, Israel’s Supreme Court. Alarming, Netanyahu agreed to appoint as national-security minister Itamar Ben Gvir, a lawyer and a settler zealot who is the leader of a religious-Zionist group called Jewish Power, and who has been charged more

than fifty times by the justice system (he says he was exonerated forty-six times). He has been convicted for incitement to racism and support for a Jewish terrorist organization—a record that caused the army to refuse his induction. Ben Gvir also champions unrestricted Jewish prayer at the Temple Mount, the Haram al-Sharif, in Jerusalem. By precedent, the Islamic authorities who administer the Haram's ancient mosques have allowed Jews to visit the Mount, but not to establish prayer groups there. The Border Police are routinely tasked with keeping order at the site. But, as of a Knesset vote last month, which changed the law governing the administration of the national police, the border force is now under the direct supervision of the national-security minister—Ben Gvir—rather than the independent commissioner of police. The coalition also changed Basic Law to remove the supervision of the civil administration in the occupied territories from the minister of defense, and created a minister in the defense ministry to do the job. It handed that post to another religious-Zionist leader of the settler movement, Bezalel Smotrich, who is also the designated finance minister.

These changes pave the way for encroachments on the Temple Mount and for a de-facto annexation of “Area C,” the sixty per cent of the West Bank where the settlements are situated and an estimated three hundred thousand Palestinians live. Ben Gvir made a surprise visit to the Mount's Al-Aqsa compound on Tuesday morning, earning a strong rebuke from, among others, the U.S. Ambassador and the United Arab Emirates, which postponed a planned visit to that nation by Netanyahu. (He denied that this was the reason.) Before Ben Gvir's visit, King Abdullah II had warned Israel not to cross “Jordan's red lines” in Jerusalem's holy places. Netanyahu, deflecting the criticism, claims to have ultimate authority over occupied territory, implying that the status quo will not be disturbed. But the status quo is something that Ben Gvir and Smotrich can work with. On Thursday, Smotrich told the Knesset that he will enjoy increased budgets to “regulate and strengthen our grip on the homeland,” meaning to legalize new settlement outposts and to increase construction in existing settlements, while Ben Gvir and the army suppress resistance to settler provocations. Correspondingly, a coalition agreement signed before the

government took office pledged to limit options for prosecuting soldiers and Border Police for acts committed during their operations, but to institute the death penalty for acts of “terrorism.”

There is more. The coalition has appointed to head both the health and interior ministries Shas's leader, Aryeh Deri, who a year ago agreed to a plea bargain, entailing a suspended sentence, on charges of tax fraud. (It was not his first conviction.) To enable the appointment, the coalition first amended the Basic Law to allow a person who, having bargained for a suspended sentence, is not actually in prison, to hold a ministerial position. But the coalition agreement commits to further amendments to Basic Law that limit the Court's authority to decide the constitutionality of any Knesset legislation—in effect, subordinating the judiciary to the executive. The change, an “override clause,” will empower a simple majority of the Knesset to nullify High Court objections. I hasten to add that Israel has no Bill of Rights, only Basic Law—in this case, the Basic Law of Human Dignity and Liberty, passed in its final form in 1994—which the High Court has interpreted as giving it warrant to nullify laws that encroach on civil rights. Moreover, appointment to the Court is by a judicial selection committee composed of politicians, judges, and Bar Association members; this tends to promote a kind of self-perpetuating professionalism on the Court rather than political allegiances. To override the Court, in this context, is to remove protection against the tyranny of Knesset majorities.

The ultra-Orthodox parties have not been overlooked. The coalition commits to new Basic Law declaring that “Torah study is a fundamental principle in the heritage of the Jewish people.” An intent here is a general exemption from military service of Haredi students—who study the Torah and Talmud, but more than a quarter of whom do not study math, science, or English—an exemption that the High Court ruled against in 2017. (Only half of the Haredi men in Israel are employed; demographers project that, by the end of the decade, the Haredi will comprise sixteen per cent of the population.) In a speech to the Knesset, the outgoing Prime Minister, Yair Lapid, charged that

the new government's educational budgets will fund Haredi students at a higher rate than students in the secular state-education system. In fact, the ultra-Orthodox leader Moshe Gafni, the newly elected chair of the Knesset's finance committee, suggested that, as in the days of King David, "half the people will study Torah and half will serve in the army." Economists in the finance ministry project that ultra-Orthodox communities stand to gain almost six billion dollars in government spending, although, per capita, secular Israelis—most of whom do serve in the military—pay six times more in taxes than the ultra-Orthodox do.

The coalition further agreed to empower the religious-Zionist leader Avi Maoz, who is notorious for bigoted and homophobic views, to take charge of some school curricula even in secular schools. And it agreed to amend the Law of Return, itself an illiberal anachronism that awards Jews defined by faith and bloodline immediate citizenship; the proposal is to amend the criteria for bloodline from "child and grandchild of a Jew" just to "child," allowing rabbis to assess the stringency of immigrants' faith, by considering the homes of their parents. It would thus restrict the ability of many asylum seekers to immigrate—perhaps some of the thousands of refugees from Ukraine, who may be secular, have non-Jewish parents, but have at least one Jewish grandparent. Other changes will deny refugees from sub-Saharan Africa a legal right to appeal their incarceration in detention camps. Religious Zionism, in other words, is mixing a notion of divine election with state power. Not coincidentally, *Haaretz's* Anshel Pfeffer reports that the Likud agreed to Ben Gvir's demand to relax laws that prohibit members of openly racist parties, such as the now defunct Kahanist party Kach, from running for the Knesset.

The speed and the depth of these changes have shocked liberal Israelis, thousands of whom gathered outside the Knesset during the government's swearing-in, chanting "Iran is already here." They are not alone. More than a thousand former senior Israeli Air Force officers, including the former I.D.F. chief of staff Dan Halutz, delivered a letter to the country's top jurists, stating that the government would "destroy" the democratic country for which they had fought. Four hundred leading entrepreneurs, managers, and investors sent

Netanyahu a letter warning of “the devastating consequences for the economy in general, and the high-tech industry in particular, that may result from the legislative processes taking place in the Knesset.” Last Friday, the former Prime Minister Ehud Barak said that “this government is carrying out a coup in Israel before our eyes, with its racism, corruption, neutering of the justice system, politicization of the police, and undermining of the chain of command in the I.D.F.” The shock is worse because, out of more than four and a half million votes cast, Netanyahu’s bloc won just thirty thousand votes more than the opposition did, and only gained a majority in the Knesset because some opposition parties did not cross the four-seat threshold required for entering it.

It is debatable whether religious Zionists are Netanyahu’s favored allies; to distance himself a bit, he appointed as the Knesset speaker a loyalist, Amir Ohana, who is openly gay and has children with his partner. But it is clear that Netanyahu is colluding with these groups precisely because of their cavalier approach to liberal rule of law. He has been on trial for bribery, fraud, and breach of trust (all of which he has denied), and the proceedings cannot simply be halted just because he’s now Prime Minister again. But it seems clear that he wants his partners to help preempt any outcome that would land him in jail or force him to give up the Premiership. He appointed his closest Likud ally, Yariv Levin, as justice minister. On Wednesday evening, Levin presented a series of proposals to overhaul the judiciary—calculated, he said, for “strengthening democracy,” but seemingly aimed at limiting the High Court’s power over elected politicians, and changing its composition by adding justices more sympathetic to the national camp. Levin’s proposals would explicitly prevent the High Court from ruling on the basis of Israel’s Basic Laws. Only a “special majority”—reportedly, unanimity—of High Court justices will be able to strike down a law. And new justices and ministerial legal advisers will become, in effect, political appointees.

This all sets the table for Netanyahu. As a last resort, Levin could probably muster the Knesset to proffer immunity on a Prime Minister while in office for the violations for which Netanyahu was indicted. The High Court would step

in, but Yair Lapid said it would do so after “the government put a loaded gun on the table.” A first resort seems more obvious for Netanyahu, though, now that the Basic Law has been amended—for the sake of Shas’s Aryeh Deri—to allow a convicted man who’s bargained for a suspended jail sentence to hold a ministerial position. Suzie Navot, the vice-president of research at the Israel Democracy Institute, told me that “Netanyahu’s lawyers could perhaps negotiate the same plea-bargain agreement that he had negotiated with the former attorney general, Avichai Mandelblit, last spring.” That agreement was reached, leaked to the public, but was never consummated—because it included a concession of “moral turpitude” on Netanyahu’s part, entailing a suspended prison sentence, which at the time *would* have barred him for some years from any appointment to the cabinet. Ironically, Deri himself may not be saved by this amendment, since he is a serial offender; the current attorney general, Gali Baharav-Miara, refuses to defend Deri’s appointment as “unreasonable.” Nevertheless, the amendment might work for Netanyahu. “It means that, perhaps, agreeing to ‘moral turpitude,’ and getting a suspended sentence, will not mean Netanyahu’s exclusion from the cabinet,” Navot said.

In the weeks, possibly years, ahead, Netanyahu will posture as a vigilant statesman. Already, he is speaking about bringing Saudi Arabia into the Abraham Accords. The day after Volodymyr Zelensky, the Ukrainian President, visited Washington, Vladimir Putin, the Russian President, called Netanyahu to congratulate him on forming a government. Netanyahu is railing against the Iranian nuclear program and pledging to stop it. As the tensions in the occupied territories mount—Israeli occupation forces killed almost a hundred and fifty Palestinians in the West Bank in 2022—and Arab-Israeli communities feel increasingly estranged from this government’s version of the Jewish state, attacks on Jewish Israelis, particularly in the territories, will likely increase. (The Palestinian Center for Policy and Survey Research reports that seventy-two per cent of West Bank residents now favor forming paramilitary groups not under the command of the Palestinian Authority.) Any such attacks would, in turn, provoke media outrage in Israel and solicitations of ministerial action, normalizing the new government.

But this government is not normal. It is a turn in Israeli history, with dangerous consequences for Israeli liberals, Arab Israelis, Palestinians, and the region. Chaim Weizmann, a principal organizer of the Balfour Declaration, and Israel's first President, warned in his memoirs of the "menace" of the rabbi who will "make a heavy bid for power by parading his religious convictions." Weizmann continued, "It is useless to point out to such people that they transgress a fundamental principle which has been laid down by our sages: 'Thou shalt not make of the Torah a crown to glory in, or a spade to dig with.' "They have made a spade of Netanyahu, too—as he has of them. ♦

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