

**Fragmentation or Cooperation:
Consociational Structures in Israel and Germany**

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POLI 140: Foundations of Comparative Politics

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December 18, 2023

Abstract

In the past several years, Israeli politics have entered an unprecedented era of divisiveness and vitriol. After five contentious elections in four years, an analysis of this decline of institutions is crucial to understanding how democratic trajectories function, especially in societies as diverse as Israel's. Germany's contrasting maintenance of many of Israel's lost democratic habits serves as an intriguing prism through which to view Israel. What do the two countries' systems do differently? This paper will argue that Israel's recent turn and Germany's stability are the result of the fundamental flaws of the Israeli political system's structure as it relates to Arend Lijphart's consociational model for governing divided societies. Even if not in a purely consociational system, are there features of Germany's political structure Israel could implement? Three of Lijphart's tenets will be dissected with respect to these differences: segmental autonomy, proportional representation, and balance of power.¹

Keywords: consociationalism, electoral threshold, executive overreach, Israel, Germany, fragmentation

¹ I acknowledge the recent events in Israel and Palestine. I began fleshing out my ideas for this paper before the Israel-Hamas war began, and while the Israel-Palestine conflict does play a role in this piece, it is not central to understanding the structure of Israel's political system. In the interest of impartiality and pure political analysis, the conflict will only be discussed in relation to divides between Israeli citizens.

Fragmentation or Cooperation: Consociational Structures in Israel & Germany

The Federal Republic of Germany and the State of Israel are both parliamentary republics formed in the late 1940s under systems of proportional representation (Bischof, 1992). Taking inspiration from similar lessons of the previous decade, they attempted to avoid those mistakes with their new systems. Both of their systems included national legislatures that used proportional representation to create a microcosm of the nation with enumerated powers for the different sections of society. In other words, Germany and Israel feature aspects of what Arend Lijphart (1979; 2004) calls consociationalism: they use democracy to facilitate power sharing in divided societies. However, their political trajectories have diverged considerably. Germany is now renowned for its robust institutions and as the stable hand at the helm of the European Union. Israel, by contrast, has gained a reputation for impassable social fissures, inconclusive elections, and personality politics. These differing outcomes result from the German and Israeli political systems and how successful their consociational mechanisms have been. Given their similarity, Germany's example can serve as a tool for diagnosing Israel's ills.

Applying those concepts requires a brief introduction to consociationalism and how it relates to democratic consolidation. According to Acemoglu and Robinson (2005), a consolidated democracy is an arrangement where elites and the people both believe their fortunes are best served through democratic elections. It is in the interest of the populace to desire a voice; the challenge is winning over the elites. Consociationalism takes this one step further, detailing how a democratic system can encourage both the elite and the populace to buy in with special attention paid to societies that are unusually fragmented. Kerr (2006) provides a modern analysis of Lijphart's theory. He breaks it down into several factors, including segmental autonomy, a

moderate multi-party system, and a balance of power. These three forces and their stability elucidate Israel and Germany's difference in consociational trajectory.

Segmental Autonomy

Lijphart describes this 'segmental autonomy' as a means to maintain cross-factional faith in the political system by allocating power to the diverse segments of society, be they religious, ethnic, or regional. He proposed that if a group has control over issues that are entirely internal alongside some sway over the central government, it is likely to buy into the system. Lijphart expects the elites to calculate that that amount of influence over the government is unlikely to come any other way, and they enjoy a reasonable amount of autonomy at the same time. This same calculus is performed by each group, resulting in stability (Lijphart, 1979).

Still, the state neglects factional concerns. One of the only substantial powers afforded to the Sunni Muslim, Christian, and Druze minority communities is their own religious courts that have jurisdiction over family law (Hacker, 2012). That is valuable but does not equate to substantial political power in Lijphart's view. A consociational structure would entail control over all internal affairs that do not affect other communities. Furthermore, those same religious courts erase the autonomy of certain groups. For example, Jewish religious courts have jurisdiction over the family law of Israeli Jews. The issue is that only the Orthodox Rabbinate is recognized, meaning Orthodox religious law applies to Jewish people regardless of their sect of Judaism. Seeing as the religiosity cleavage is the widest split within Israel's Jewish community, there is no reason for secular and non-Orthodox practicing Jews to not have the authority to govern their own affairs, especially as they comprise the single largest religious community in

the country (*Israel's Religiously Divided Society*, 2016). It should come as no surprise that this motivates many secular parties to rally behind identity-based rhetoric and against the Orthodox community because of preferential treatment. This is a clear example of the government allocating neither enough nor consistent autonomy to segments of the population. It is a violation of the principles of consociational governance.

Germany, by contrast, incorporates equal segmental autonomy into the foundation of its government through its federal structure. Its constitution proclaims a federation of states (“Länder” in German) that dilute the power of the central government in Berlin. The Länder have state parliaments and certain powers delegated to their governments. Additionally, the proportional party votes for federal elections are tabulated on the state level, magnifying each Land’s image as a unique constituency with unique concerns. The Länder even elect the upper house of the German parliament, the Bundesrat, just as American state legislatures once did (O’Neil et al., 2021). That federation is one interpretation of Lijphart’s segmental autonomy. It is not winner-take-all where one party rules from on high, but rather, a system where everyone resides in a state that controls its local concerns and impacts federal decision-making. Strong federalism is by no means a unique solution, but it is an effective one.

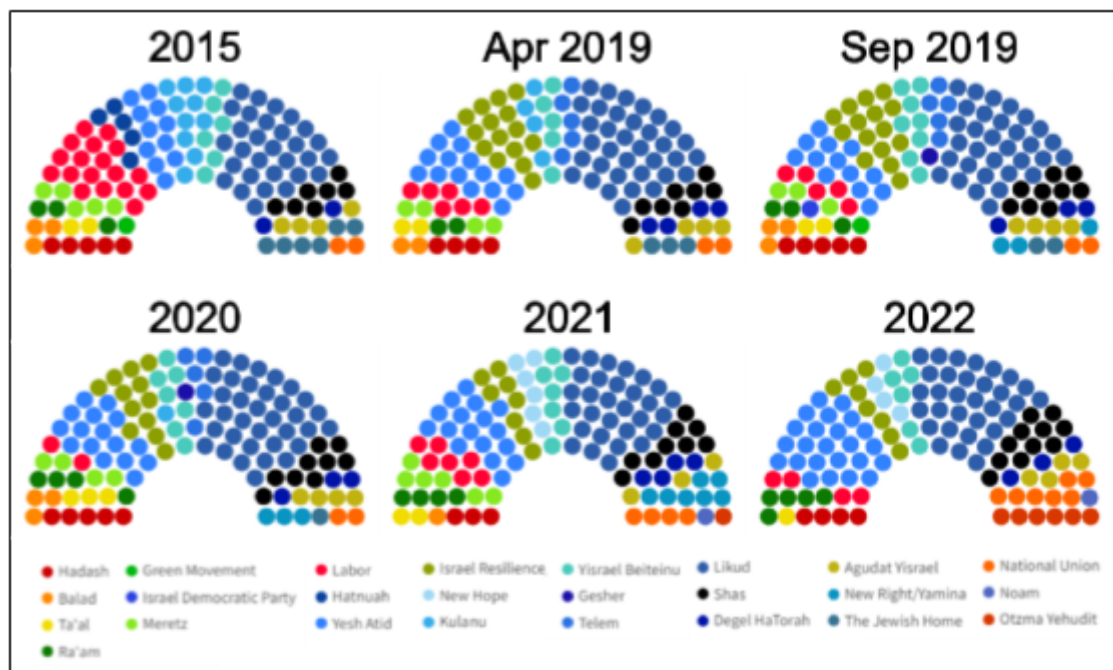
Germany’s segmental autonomy looks different from Israel’s, but it is fundamentally the same concept. Federalism does not make sense in Israel since it is a large country where ethno-religious identity plays a larger role than regional identity. Both Israel and Germany have social cleavages. Germany addresses them through uniform self-rule, while Israel barely attempts to.

Electoral Structure

The second fundamental flaw that leads to the subversion of consociational democracy is the electoral system. Both Israel and Germany use proportional representation to elect the members of the national legislatures. Lijphart (2004) contends that is the best electoral way to achieve consociationalism because it ensures that a majority of parliament mirrors a majority of people, no matter how divided. Every proportional representation system, including Germany and Israel, has electoral thresholds to determine how many votes a party must get to be eligible for seats. That number is somewhat arbitrary, but it can have massive repercussions for the composition of the legislature and the political order as a whole. The threshold is almost always a percentage of the total vote in the single digits. While a high threshold can prevent new parties from breaking in and is less representative of the vote, in the extreme, Turkey's 10% threshold caused 47% of votes to be spoiled, and only two parties ended up with seats (*Islamic party wins Turkish general election, 2002*). On the other hand, a low threshold can embolden anti-consociational radicalism and subvert proportional politics.

Israel has a fairly low threshold at 3.25% which has resulted in disastrous consequences. In the last Knesset election, 58.81% of seats were allotted to parties that won under 15% of the vote (*Israel Election Final Results: Netanyahu, Jewish Far Right Win Power, Fiasco for Left, 2022*). These are hyper-niche factions, as evidenced in Figure 1.

Figure 1

The Last Decade of Knesset Elections

Note. Numbers above the hemicycles represent the month/year of the election, and parties appear in the hemicycles in the same order as in the legend (Israeli Central Elections Committee, 2023).

They cater to specific identity groups, and no one else, since the threshold is low enough. Take, for example, Otzma Yehudit (Hebrew for "Jewish Power"), a far-right religious party whose predecessor was banned for engaging in terrorism, including the attempted bombing of the office of a United States Congressman (*Jewish radical sentenced for bomb plot*, 2005). Thanks to the low threshold and agreements with other parties, Otzma Yehudit, who won just six seats in the last election, is now in the governing coalition (Ahren, 2015).

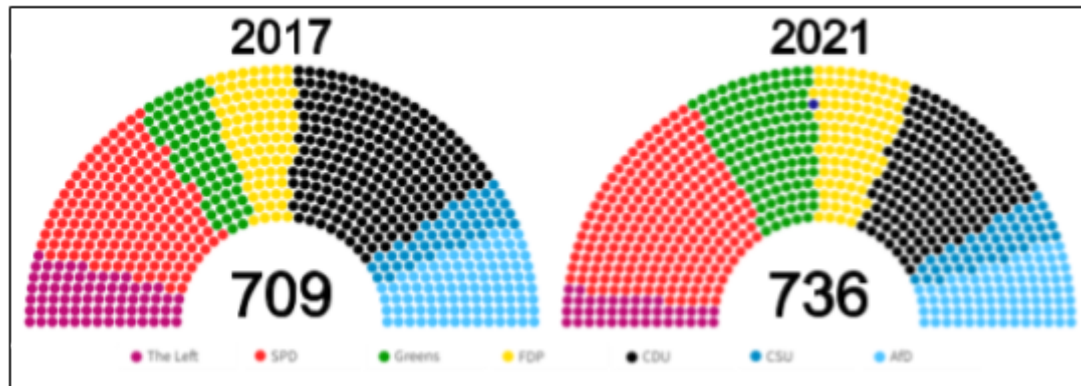
Otzma Yehudit is also an example of the vicious cycle that fragmentation causes. The more fragmented the legislature, the harder it is to form a governing coalition. The harder it is to form a coalition, the more mainstream party leaders will be willing to stomach a deal with radicals. However, the radicals do not experience the same pressure, so Otzma Yehudit has not

been forced to tone down its rhetoric. That, in and of itself, threatens consociational democracy, as parties like Otzma Yehudit oppose any negotiation or power sharing.

However, these radicals also experience what Shelef and Shelef (2013) call the radical flank effect. If they moderate, they may lose legitimacy in the eyes of their base and be outflanked by more extreme politicians. That creates a drive to radicalize which is normally counteracted by the fact that they will not see power if they do not tack to the center. As Israel has fragmented even more, that deradicalizing effect has evaporated. Now, the increasingly ally-hungry mainstream has become more tolerant of extremism in their coalitions, and radical parties have avoided moderation as a result.

This has turned what was once a vibrant, isle-crossing, coalition-forming forum into a strictly two-camp chamber divided between those who are willing to work with the radicals and those who are not. In other words, it has turned a proportional body into a majoritarian one which negates the intent of proportional representation. If there is no negotiation between the various segments of society, the consociational mechanism does not work. So long as radicals retain influence, there is no negotiation and there is an existential risk to the system itself.

By contrast, Germany has a more typical 5% electoral threshold, which meant that in the last election, only five nation-wide parties won seats (Stabe et al., 2021). They each represent a sizable slice of the political spectrum, which is reflected in the composition of the Bundestag in Figure 2.

Figure 2*The Last Decade of Bundestag Elections*

Note. Numbers inside the hemicycles are the number of seats, and numbers above the hemicycles are the years of the elections (Stabe et al., 2021).

As a result of the higher threshold and lower fragmentation, German elections result in debate over which aisle-crossing coalition will govern next. For 12 out of the last 20 years, the country was actually under the joint rule of its two largest historical political rivals in what is known as the “Grand Coalition” (Schotel, 2021). That political breadth is possible because larger parties have forced smaller factions to subsume themselves under their umbrellas, which is a result of the 5% threshold. That calculated consolidation written into the German constitution demonstrates the alternative to Israel's fragmentation: a true maintenance of consociationalist government and proportional representation. German coalitions still straddle the political spectrum to get things done through tactical negotiation.

Balance of Power

Lijphart emphasizes a balance of power between factions as crucial for the functioning of a consociational system. Without a framework for distributing that authority, a balance ranges from unlikely to impossible. Therefore, a set of rules that codify what an executive can and

cannot do is essential to consociationalism. Without them, overreach in the favor of the head of government's faction is probable.

Israel's rulebook is quite unique. During its founding, a temporary set of "basic laws" were introduced as a statutory substitute for a constitution with the assumption that a full one would be worked out later. That never happened (Hazan et al., 2021). While modifying some of the Basic Laws requires a supermajority in the Knesset, an enormous amount of power is still vested in the majority coalition to alter certain constitutional mechanisms of the state.

This unusual lack of a constitution has disrupted the balance at the hands of the executive. In 2014, Prime Minister Benjamin Netanyahu raised the electoral threshold slightly with the intent of locking out opposition political parties (Greene et al., 2022). That may seem like a moderating move, but he did it while simultaneously orchestrating the formation of the aforementioned alliance between Otzma Yehudit and several other radical parties. He knew that the opposition parties would not survive the higher threshold and that the new far-right alliance would join his coalition if they got elected. In other words, the lack of a constitution let Netanyahu bend foundational electoral laws to his faction's advantage. While becoming Prime Minister may be a genuinely consociational process, that division of power must continue when the Premier takes office. In Israel, there is no structural guarantee that it will because of the constitutional order. If the executive can alter the rules to their faction's advantage, it is not consociationalist.

Germany, on the other hand, has been much more cautious about even moderate reform of its elections by the head of government. Take the example of the German Constitutional Court: a constitutionally created body that retains jurisdiction over the government. That ability

to exist above the current government, enshrined by the existence of a German constitution, means that Germany can resist attempts by executives to overhaul the system. In 2013, Angela Merkel's government tried to limit the number of compensatory "overhang" seats any one party could receive in the Bundestag. Those seats are written into the German Constitution to ensure that no matter the result in the local constituencies, the Bundestag's composition always remains proportional to the party list vote. In 2012, Chancellor Merkel attempted to change that rule because the Bundestag's size had gotten out of hand. Critics accused her of unfairly modifying the system for her own benefit since some of her key opponents, like the Greens, rely heavily on overhang seats to achieve substantial representation. In the end, the change was challenged, and the German Constitutional Court decided that the new law violated the promise of proportionality in the constitution (*Top court voids electoral law*, 2012). Unlike Israel, Germany has a concrete rulebook. The constitution cannot be violated, so the Chancellor cannot amend the rules without a formal process that would require the consent of other factions. That is consociational in Lijphart's eyes. The rules can change, but one faction cannot change them.

Conclusion

Lijphart developed consociationalism as a model to govern deeply divided societies. According to the model, the various factions of a deeply divided society must and are incentivized to play by certain political rules. His enumerated consociational principles: segmental autonomy, proportional representation, and a balance of power serve to explain why Israel's recent political history has been so dysfunctional, while Germany's has been a paragon of stability. Neither country is purely consociational, but Germany's structures are much stronger

than Israel's. In the realm of segmental autonomy, Germany provides its states with large levels of autonomy. In contrast, Israel does not allow freedom for all of its ethnoreligious groups to govern their own affairs. Israel's electoral system also possesses an electoral threshold, which encourages dangerous political fragmentation. Germany's threshold is high enough that that is not an issue. Finally, Germany has constitutional safeguards in place to prevent the concentration of power, which Israel lacks since it does not have a constitution. It is important to examine cases like these as applications of the consociational model. Understanding why some countries' systems deteriorate while others' thrive informs how to preserve democracy around the world.

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