Abstract: Constitutional Perception within Israel
Jenine Saleh

In 1947 the United Nations Partition Plan for Palestine aimed to create two independent and equal Arab and Jewish States, the separate states were to each draft a democratic constitution. On May 14th, 1948 the State of Israel declared their Proclamation of Independence, citing the termination of the British and French Mandates and a transfer of temporary power to the Provisional Government while promising to set up a constitution. To this day a constitution has yet to be established. My research focused on the possible reasons and explanations as to why no official constitution exists. I gathered my data through interviews, excursions, and selected readings. While it is shown that a constitution is needed to define the rights and liberties of people living within Israel, who those rights encompass is a difficult question to resolve. Minorities within Israel, which is every one out of five people – not including religious minorities such as Ethiopian Jews or the Ultra-Orthodox – makes establishing a constitution difficult due to the ranging views of opinions and solutions, which range from what rights minorities should have to if minorities even have the right to live on this land. Drafting a constitution might seem like a simple task to some, but sometimes-simple issues cannot be resolved due to the range of complications of opinions and solutions.
Constitutional Perception within Israel

Jenine Saleh

I came to Israel expecting to acquire a general sense of what Israelis think about Israel’s government structure and to measure Israelis approval of parliament; I leave Israel thinking it will take me one hundred years to be able to formulate a single fact. The complexities of the views and opinions’ people have make it difficult to come to a conclusion when the facts one uses to formulate their opinion could be considered fiction to some. As a political science major I’ve learned and discussed various aspects of Israel’s government in some of my classes, but I’ve always questioned how accurate what I was reading online was to Israeli’s actual perceptions of their own government. My interest grew as I took this class and was able to read and learn about the creation of Israel.

The creation of the state of Israel has its origins in the late nineteenth century with the birth of the modern concept of Zionism within the programmatic writings of Theodore Herzl. Herzl argued that the ‘Jewish question’ was a national question that was to be settled by the nations of the world. Modern Zionists express the need for a sovereign, Jewish, nation state, known by the name “Israel” that was to be created out of either the lands of Palestine, Uganda, or Argentina. However, the First World War utterly changed the geopolitical landscape of the Middle East with the fall of the age-old Ottoman Empire and the creation of French and British mandates in the area. In August 1897, the First Zionist Congress: The Basle Declaration stated
“the aim of Zionism is to create for the Jewish people a home in Palestine secured by public law”; and in 1947 the United Nations Partition Plan for Palestine aimed to create two independent and equal Arab and Jewish States. Following the guidelines in the United Nations Charter, a “Special International Regime” for the City of Jerusalem was to be created to distribute power equally within the region, granting both states equal access. The Partition Plan called for the withdrawal of the British and French mandates and the transfer of power to the independent Arab and Jewish States under control of the United Nations General Assembly under the guidance of the Security Council. The separate Arab and Israeli states were to each draft a democratic constitution, granting freedom of transit and freedom to political, economic and religious rights.

On May 14th, 1948 the State of Israel declared their Proclamation of Independence, citing the termination of the British and French Mandates and a transfer of temporary power to the Provisional Government while promising to set up a constitution. To this day a constitution has yet to be established. My personal view before coming to Israel was that every democratic nation should have a constitution. I started to question why Israel might not have a constitution. Is clear that there would even be benefits for Israel if it had a constitution? Would there be problems? If an official constitution were adopted would it be used to oppress rather than liberate?
I gathered my data by approaching people, casually introducing myself, and starting a conversation. I would then explain to them why I’m in Israel and would then ask them a general question about the government that would be open-ended. I would listen to what they would say and my questions afterwards would be follow-ups to something they have stated in their response - this way they would feel comfortable during the conversation and would be more open in their responses. I would also go on excursions with my fellow classmates and would gather information from guest speakers and questions asked.

When asked if an official constitution should be adopted no one I’ve interviewed opposed the idea and many stated the need for an official constitution. While in Tel Aviv, “Andy” a man in his upper forties, explained how a constitution in Israel is needed to regulate, define, and formalize what is important to the government. He believes Israel is responsible for it’s citizens. The rights and freedoms of these citizens are important and need to be defined in a legal document. “Bill”, who lives in central Jerusalem, believes Israel’s government is completely polarized, religious groups run a secular government, and this creates conflict that is hard to overcome. There exists polarization within the United States as well, but in comparison, at least the United States has a constitution and a set of laws to interrupt and argue over. He believes Israel has no such thing; there is no structure or constitution to discuss. He understands the government has specific laws on how to treat the differences between church and state but he
believes they are random. The policies and guidelines are in conflict with one another, and a constitution is needed to resolve this conflict.

In David Grossman’s book, *Sleeping on A Wire*, he seeks to answer the question of the Arab minority that lives in Israel. One-fifth of Israel’s citizens are not Jewish but live in what Israel describes as a Jewish State. One conversation David Grossman had described why there is no constitution to this day; it was a question of what to call Israel. “A Jewish State” would not include the minorities in question. Rasan states: “Israel can be a country with a Jewish majority but shouldn’t define itself as a Jewish state. When its symbols include me as well, I’ll have something to say and even more to give to such a country.” (120) A constitution cannot be drafted until the issue of what to call Israel, and who is allowed to govern Israel, could be determined and agreed upon. They argue that the constitution must clearly ensure the rights and freedoms of all citizens. “There will be a constitution. There will be a Jewish majority. But its laws will protect my rights as well. They’ll allow me, not some Jewish official in the education ministry, to decide what my son learns in school. Under those conditions it wouldn’t bother me that the majority is Jewish.” Lutfi Mashourr adds: “A country with a majority of Jewish residents—I have no problem living with that. Even if the country tries by all sorts of legal means to preserve the Jewish majority, I have no problem, on condition that it be determined with the agreement of the minority. […] Am I equal to you or aren’t I? In practice, do I or don’t I
have rights? […]], let it be a Jewish state. But give us the same opportunities you have!” (121-122)

I’ve found myself having conversations similar to the conversations David Grossman had. “Chris” also questioned what Israel should be called and questioned why the government wants Israel to be named “the Jewish State”. He didn’t understand what’s wrong with the name Israel. He believes there are many minorities in Israel; Israel isn’t just a Jewish state. He also relates to what Lutfi Mashour stated, expressing how he’s living in his country, his own country, where he is just identified as a question mark. He feels the government doesn’t know what to do with Arabs, even though they are citizens. “Darrell” who lives within the Old City, believes it’s not fair for Jerusalem to be just Jewish. He feels that a constitution wouldn’t encompass all the minorities that live within Israel and grant them rights. In his opinion a constitution would enforce Judaism. He believes that there should be a constitution, and a constitution would help the government “flow” and be able to pass laws more readily, although, he is worried it might oppress some. “Eddie” who lives in Central Jerusalem, believes there is no true minority in Israel, Israel is an immigrant nation, and everyone within Israel are all minorities. There is no majority. He adds there are many beliefs in Israel and it’s hard to coordinate them, but Israel shouldn’t be called a Jewish State when there are many minorities and immigrants as well.
Contradictory to what I believed previously, drafting a constitution isn’t as simple as I thought. Issues, such as what rights should be granted to whom, what to name the state of Israel, how to govern minorities, and how the constitution would legislate religion, adds profound complexities to what seems like a simple solution. It makes me question if other countries in comparison to Israel also had a difficult process of drafting a constitution. I’ve also learned that my perception of how the Israeli government functions before coming to Israel was a dramatic understatement that overlooked some of the issues the government faces. Previously, in my political science classes, we’ve learned how Israel has a parliamentary system that contains different coalitions, including some religious coalitions. Until I came to Israel and talked to Israelis and began understanding the issues of the government, I’ve never even questioned if such religious coalitions could cause issues within the government.

In the article “The New Second Generation: Non-Jewish Olim, Black Jews and Children of Migrant Workers in Israel” Nelly Elias and Adriana Kemp state how “national governments must confront complex issues and implement policies that often involve contradictions.” (84) “Fred” expresses the contradictions Israel’s government faces stating how the problem is that the Israeli government is a secular government that contains religious values, which, in his point of view, creates conflict with no resolutions. He believes that the religious values within the secular government are the basis of all the problems since religion working within a secular government
is completely contradictory. He argues for a separation of church and state. He then discusses how the government will only continue getting worse. It is “doomed to fail”. The Arab and Ultra-Orthodox minorities will soon become the majorities by 2030, in the Knesset this will create a political disaster.

However, there are many views on the issue of religion and politics, some of which completely disagree with “Fred’s” opinion and urge a strong religious presence within government. “Gilda” argues that the ‘Holy Spirit’ is always with someone and that they need to include it and act upon it at all times, no matter their occupation. If someone is a politician, they should be acting on and making decisions based on their moral views. “Gilda” even mentions how the government should be controlled solely on religion. The Bible never mentioned democracy, there is only one opinion and that is of God, and that the opinion of God should govern. Arguing against this position is “Horatio” who gives an example of how religion and politics are very bad. Using “Gilda’s” argument of governing based on the Bible, he refutes that “there are no rights to this land” and that everyone can share. He defends his position by explaining how twenty-five years before Israel became a country, Palestinians and Israelis all lived together, they all lived free, and there was no fighting. He explains how both Israelis and Palestinians believe that they are entitled to the same land, which is granted and promised to them due to religious reasons. The difference between the two is not merely a political
designated by border disputes and sovereignty. Instead, these claims have a deeply rooted religious basis for devout Jewish Israelis and religious Muslim Palestinians. He believes if religion were kept out of politics it would have saved thousands of lives.

The United Nations Partition Plan for Palestine created separate Arab and Israeli States on the condition that both draft democratic constitutions that grant freedoms to everyone in their nation. As shown above, citizens of Israel also express the need for a constitution, yet none has been drafted due to complexities over a range of issues. I’ve learned that such a simple issue cannot be resolved due to the range of complications of opinions and solutions. While it is shown that a constitution is needed to define the rights and liberties of people living within Israel, who those rights encompass is a difficult question to resolve. A constitution cannot be established until the question of how integrated religion should be within the government. Some argue that religion only creates conflict and is contradictory to a secular government, while others argue that the government should be run solely based on religion. Religion also affects what to call the state of Israel and if Israel should be considered being named the “the Jewish State”, which some believes undermines the minorities living within Israel. Minorities within Israel, which is every one out of five people – not including religious minorities such as Ethiopian Jews or the Ultra-Orthodox, makes establishing a constitution difficult due to the ranging views of opinions and
solutions, that range from what rights minorities should have, to if minorities even have the right to live on this land.

My experiences within Israel have taught me numerous things that went beyond my research. The class has taught me to become more aware of biases, it may not be apparent that what someone is telling you has a bias when you are not looking for it. I’ve also learned a different method of learning that I have never used previously but have been more beneficial than any textbook or publication can provide. It makes learning personal and emotional which makes it easier for one to remember what they have learned since it is relatable and not just “another statistic”. My experiences have taught me to question, reflect, and relate experiences to my own community and life. What I learned is personal and I will always carry my experiences in Israel with me wherever I go. It’s an experience that can never be forgotten.