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Israel's Governance Law: Raising the Electoral Threshold

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Far from disenfranchising certain groups, the pending legislation could spur smaller parties to form new political alliances that would likely favor the center-left opposition in future elections.

As the Israeli Knesset prepares to pass a series of electoral reforms under the rubric of a new "Governance Law," one provision has drawn particularly strong criticism: the raising of the threshold required for political parties to obtain seats in the legislature to 3.25% of total votes cast. Media attention has focused on opposition concerns about the measures being "anti-democratic" and potentially disenfranchising Arab Israeli citizens. Yet close analysis of recent electoral results and political realities indicates that the new law could actually help the Israeli center and left.

BACKGROUND

Israeli parliamentary elections are conducted on the basis of nationwide proportional representation, with parties gaining a share of Knesset seats based on the number of votes they receive -- provided they meet a minimum threshold of votes. Until 1992, that threshold was 1% of all votes cast; parties falling under that requirement were not granted seats. The threshold was raised to 1.5% for the 1992 election, and to 2% for the 2003 election. The new Governance Law would raise it to 3.25%, among other measures.

The primary initiators of the bill are Foreign Minister Avigdor Liberman (of the Likud-Beitenu alliance) and Finance Minister Yair Lapid (of the Yesh Atid Party). Lapid demanded that the measures be included in the coalition agreement he signed with Prime Minister Binyamin Netanyahu after the January 2013 election. While Lapid has championed government reform and, as he terms it, a "new politics," the idea of raising the threshold is not new. The twilight of overwhelming electoral successes by the Likud and Labor Parties in the 1990s saw the concurrent rise of smaller niche parties. In order to form -- and maintain --

stable governing coalitions, prime ministers required the support of these oftentimes single-issue parties, leading to distortions in government priorities (or, as it is referred to domestically, political blackmail). Supporters of the current reform bill believe it will cut down on fragmented coalitions, increase government stability, and reemphasize overarching national priorities.

Yet opposition criticism of the proposals has been vociferous. On January 20, Labor chairman Isaac Herzog called the move "a danger to pluralism and the lifeblood of democracy." The same day, Meretz chairwoman Zehava Galon opined that the government was trying to "throw out of the political arena populations that are already discriminated against" and to "mortally harm Israeli democracy." And Ahmad Tibi -- head of the Raam-Taal alliance, a primarily Arab Israeli faction -- called the move "anti-democratic" on December 26, describing it as "a right-wing initiative" aimed at Arab parties and other minorities. Currently, opposition figures are boycotting debate of the bill in the Knesset and have stated their intention to boycott the Tuesday vote.

PUTTING THE THRESHOLD IN PERSPECTIVE

Criticisms aside, Israel's electoral threshold will remain relatively low in comparative perspective even if the new law passes. Exact comparisons are difficult given that Israel, unlike other countries, has no district or direct constituency voting, only one national poll. Yet electoral thresholds around the world are generally higher than 3.25%. For instance, Poland, New Zealand, and Germany have a 5% threshold, while Turkey's is 10%. Twenty of the EU's twenty-eight states also have thresholds, only two of which are below 3%.

In Israel, raising the threshold will undoubtedly have political repercussions, but opposition fears appear to be overblown. In fact, the results of last year's general election should give center-left factions reason for optimism.

In January 2013, over 268,000 votes -- or 7% of the total -- went to parties that did not pass the 2% threshold. The hodgepodge of factions receiving these "lost votes" championed a wide array of causes, including the pro-marijuana Ale Yarok Party, the Pirate Party, the anticorruption Eretz Hadasha Party, and the Am Shalem Party, which opposes the orthodox Shas Party. Yet only one prominent sub-threshold party -- Otzma LeYisrael, a pro-settler faction to the right of Naftali Bennett's Jewish Home faction -- could be considered right-wing in the Israeli political sense of the term (i.e., against a negotiated two-state solution to the Palestinian conflict). Although the party garnered nearly 67,000 votes (or 1.76%, just missing the threshold), the remaining 200,000 "lost votes" overwhelmingly went to parties considered leftist (on social issues) or libertarian (on economic issues).

Backers of the higher threshold appear to believe that many of these fringe parties will either merge with more established parties or drop out of future elections entirely given their reduced likelihood of gaining seats. Yet if last year's results are taken as a baseline, these factions and the votes they represent would likely be drawn to center-left parties by a margin of 3:1 over center-right parties.

For example, the nearly 44,000 voters who cast their ballot for Ale Yarok could easily be drawn to the liberal Meretz Party if it publicly championed more permissive drug laws. To put this in perspective, Meretz garnered just over 172,000 votes in 2013, winning six

seats. Another 44,000 votes would have given it at least one more seat -- in a legislature where the right-wing and religious parties hold sixty-one seats and the centrist and left-wing parties hold fifty-nine.

The biggest hypothetical prize, however, would be the 79,000 voters who supported the centrist Kadima Party, which squeaked into the current Knesset with 2.09% of the vote, garnering two seats. Given the higher threshold, Kadima and its chairman, former defense minister Shaul Mofaz, may choose to merge with another party in the next election, most likely a centrist faction.

THE ARAB ISRAELI VOTE

Opposition vehemence against the Governance Law has largely centered on the fear that Arab Israeli parties will be unable to pass the higher threshold, effectively disenfranchising a fifth of Israel's citizenry. If the 2013 election results are taken as a baseline, then two of the three primarily Arab Israeli parties -- Balad (2.56% of the vote) and Hadash (2.99%) -- would not be represented under a revamped 3.25% threshold, though the third, Raam-Taal, would have just made it in with 3.65% of the vote.

Passage of the proposed electoral reforms may lead these factions to run on a unified party list. Arab politicians have resisted that idea for years given their serious ideological differences, and they may decide to continue running separately despite the new threshold, whether out of confidence in their chances of surpassing it or complete distaste for cooperation with one another. Yet under Israel's political system, they would not have to officially unite; rather, they could run on a joint electoral list and then disband it after the election, divvying up seats to the individual parties based on either past electoral results or election-eve opinion polling. Indeed, Raam-Taal itself is a coalition of Islamist and Arab nationalist parties.

More than a few observers have also argued that a unified list would increase Arab Israeli voter participation, thereby increasing their influence in the political system. According to official Israeli election figures, 77% of the valid votes cast in primarily Arab population centers last year went to the three main Arab parties, while just 1.6% of the votes were "wasted" on parties that failed to pass the electoral threshold (compared to the aforementioned 7% national figure for "lost votes"). Moreover, only 56% of eligible Arab Israeli voters went to the polls in 2013 -- 10 percentage points less than the overall national turnout and 20 points less than the Arab Israeli vote in 1999. In other words, the potential exists for much greater Arab Israeli vote tallies that would make the new threshold a nonissue.

Even as they criticized the proposed reforms this weekend, several Arab Israeli politicians publicly indicated that they would run on a joint list in the next election. Balad chairman Jamal Zahalka predicted that a combined list would garner up to fifteen seats (compared to the current eleven seats for Arab Israeli parties), noting that "such a move has impressive public support and would encourage voters to go to the polls." Similarly, Raam-Taal leader Ahmad Tibi, a longtime advocate for a unified slate, argued that a "joint list would increase voter participation in the elections and the number of Arab members in the next Knesset."

CONCLUSION

Based on recent voting patterns and political realities, the level of vitriol directed at the proposed Governance Law and electoral threshold reform is simply not warranted. Indeed, many current opposition leaders, including Meretz chairwoman Zehava Galon, came out in favor of the previous threshold increase in years past.

Israeli political history is rife with examples of parties merging or running on unified slates in order to bolster their electoral fortunes, including the recent Likud-Beitenu alliance, United Torah Judaism (a merger of two ultraorthodox parties), Meretz (an alliance of three left-wing parties), and even the creation of the modern Labor (1968) and Likud (1973). While it is still too early to tell what shifting alliances the new electoral threshold will usher in, the bill could actually assist many of those now denouncing it as an "anti-democratic" or "right-wing" attempt to disenfranchise minority groups. Such a development could in turn alter the makeup of the next Knesset, and by extension the next government, with all that entails for future Israeli policymaking.

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