Introduction:
the 'defending democracy' in Israel –
a framework of analysis

THE TRIP TO Jerusalem on Monday morning, 6 November 1995, was uncomfortable, to put it mildly. The bus, provided by the *Egged* public transportation system, for citizens who wanted to take part in the funeral of Prime Minister Yitzhak Rabin was more than filled to capacity. Many of the travellers, mostly the younger ones, were teary-eyed. Others simply did not hold back, and their sobbing could be heard throughout the bus. I looked out of the window at the arid landscape of the hot Israeli autumn and tried to collect my thoughts. From within the deep sorrow that engulfed me something else was preying on my mind, yet, at that consequential moment, I found it hard to pin down. It was only a few days later that the picture began to become clear in my mind.

For a period of forty-seven years, from the day of its establishment to the day of the Prime Minister's assassination, the State of Israel has been fighting on many fronts – including the 'home front' – in order to stabilise its governmental system and try to fashion it after the exemplar of the democratic tradition. I, and many like me, often had strong misgivings over the malleable interpretation of the concept of a *defending democracy* held by the people of this country. I had grave doubts especially over the restrictions imposed upon those citizens, whether Arabs or Jews, secular or religious, left-wing or right-wing, who aspired to realise their basic rights within a democratic governmental system and who struggled to organise their cause into political action. The leaders of this country are accustomed to explain that the high price paid by a democracy which more than occasionally limits the freedom of expression of its citizens is ultimately justified. As they see it, enforcing the powers at the government's disposal against radicals and antagonists is the inevitable price which the democratic polity has to pay in order to maintain stability.

All through the days of mourning the prime minister the sense of frustration was unrelenting. The political murder itself, and the ominous process of delegitimation the Government of Israel had gone through prior to the murder,

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only proved that the forceful approach assumed by the country toward internal threats – and which exacted such a high price in terms of the quality of Israeli democracy – had helped little in terms of its stabilisation.

The key question that continued to perplex me in face of this reality was why had Israel become so entrapped in the snares along the way? The plural is used because I am speaking of more than one simple failing. On the one hand, the State was incapable of eradicating the political extremism and violence threatening it and, on the other, in trying to defeat these phenomena, it had caused grave harm to the democratic foundations on which it was based.

The near undoing of the State of Israel in this regard leads us to the essential theoretical discussion of one of the paradoxes which has been debated in democratic thought for many years. It focuses on the question: to what extent is it conceivable for a democratic polity to grant all its citizens – including those intent on undermining it – full liberty of action and thus, in effect, expedite their efforts in bringing about the possible demise of that same democracy? This quandary, otherwise christened the 'paradox of tolerance' by Karl Popper, embodies a further and inverse paradox which can be called the 'paradox of the defending democracy'. This paradox raises the question: to what degree does a democratic polity have the mandate to suppress or overpower extremist elements germinating from within its borders – elements which often seek to challenge its stability and core values? For a heavy-handed response might lead to an erosion of those very same principles upon which the democracy is structured. Erosion of these foundations might well lead to a predicament where the boundaries between the methods used by the struggling democracy and those extremist threats aspiring to undermine it are rendered indistinct. An operative perspective deriving from this paradox focuses on the effectiveness of counteraction policy and especially on the question of whether a severe response initiated by the democracy – which evidently carries a high ethical price – does in fact eradicate extremism and violence and consequently uphold the polity's stability.

These convoluted problems and their derivatives have occupied philosophers and scholars for many years. Among them were John Stuart Mill, who lengthily contemplated the notion of freedom of expression,[1] Karl Popper, who explored the question of tolerance toward the intolerant,[2] and John Rawls, who studied the scope and limitations of the individual's action in a democratic state.[3] In effect, the core of the argument addressing the tension between the defence of the democracy and the guaranteed protection of its basic liberties has for a long time been restricted to the philosophical playing field or the 'theoretical–normative level', to use a term made popular by Ignazi.[4]

As time passed, and particularly in the 1950s–1960s, this discourse was supplemented with another level of analysis – the political–institutional level. Close scrutiny of the argument involving this term indicates two principal lines

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of research. The first type, i.e. the legal–judicial, which finds its roots in works penned by Loewenstein in the late 1930s, focuses on the judicial statutes and verdicts handed down against extremist parties and violent organisations.[5] The second course, the military–operative, places its emphasis on military–intelligence–policing strategies and tactics in the battle against subversion, political violence and terror in democratic systems.

Although discussions couched in the terminology of theoretical–normative level were generally distinct from those on a political–constitutional scale, mention should be made of theorists such as Raphael Cohen-Almagor, Peter Chalk, Ronald Crelinsten, Alex Schmid and, more recently, Giovanni Capoccia,[6] who were successful in bridging between these two levels of analysis. Works by these scholars were helpful in presenting a more inclusive theory regarding the democratic response to extremism, subversion and political violence. At the same time, their research still suffered from the lack of a comprehensive model which could account for additional levels of analysis and, in particular, the social level of analysis.

In this book – whose goal is the academic discussion and analysis of the Israeli democracy's response to the various challenges facing it – other than coping with the ethical aspect of this concern, an attempt is made to suspend, to some extent, the theoretical–normative aspect and instead to place the political–institutional frame, as well as the social frame of analysis, at centre stage. The combination of these two latter frameworks carries the potential to take us a step further toward understanding whether the 'golden path' does in fact exist – whether there is a course enabling democratic systems of government to effectively protect themselves without crossing the legal and ethical boundaries on which they are founded.

The defending democracy: the search for a definition

In the attempt to address dilemmas encountered in the democratic response to extremism and violence, scholars, and particularly those affiliated with judicial schools of thought as well as judges and policy-makers, have searched for a terminology that would accurately describe democratic polities caught up in the struggle against powerful extremist elements. The first term of note is the *militant democracy* prescribed by Loewenstein to indicate certain polities which held sway in the period between the two world wars. This designation carried normative implications and was intended to define the legal measures deemed worthy of use by European democracies in order to deal with the growth of fascism.[7] Another term meriting attention is *wehr-hafte Demokratie*, associated with the democratic constitution adopted by Germany in the wake of the Second World War. In English, the term indicates a 'defensive', 'protective' or 'watchful' democracy. The statutory–judicial interpretation of this construct in Germany

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was: 'wehr-hafte Demokratie is one that dos not open its doors to acts of subversion under the cover of legitimate parliamentary activity'.[8]

This brief definition leaves the student of political science who wishes to put it to academic use somewhat at a loss. Do subversive elements, which in fact pose a threat to democracy, take on the guise solely of parliamentary organisations, to wit, political parties? Furthermore, what is the genuine intention behind keeping the doors of democracy shut in the face of the same subversive groups? Does the *wehr-hafte Demokratie* disbar these organisations from taking part in elections? Or, even more stringently, does it outlaw them and imprison their members?

These questions, for the greater part, are left unanswered despite the efforts of Carlo Schmid, chairman of the committee in charge of consolidating the German constitution following the Second World War, to invest the construct with more meaning:

> It is not part of the concept of democracy that it creates the preconditions of its own destruction. I would even like to go further. I would like to say: democracy is more than a product of utilitarian considerations only in those places where the courage exists to believe it as something indispensable for the dignity of man. If this courage exists, we should also have the courage to be intolerant towards those who wish to use a democratic system in order to kill it off.[9]

These words are indicative of the conventional approach assumed by democratic forms of government according to which a democracy has an absolute justification to protect itself from insurgents, whoever they may be. Still, the key question remains: using what kinds of methods? Are all ways and means legitimate in a democratic state's struggle for its existence?

In the effort to find resolution to this question, I have elected to appropriate a second term – the *defending democracy*. This notion is also a derivative of the judicial school of thought and is associated with the State of Israel and its decision, in the mid-1960s, to prevent the Arab Socialist List from taking part in parliamentary elections. The 'defending democracy', according to the Israeli court of law, is defined as: 'the state [that] possesses an implied power, similar to self-defence, to fight against subversive attempts designed to destroy it'.[10]

Prima facie, this definition is a significantly softer rendition than is the German *wehr-hafte Demokratie*. Yet review of the statements issued by Israeli Justice Zusman, who made broad use of the term 'defending democracy', shows that the difference between the two concepts is minimal. According to Justice Zusman:

> Just as a man does not have to agree to be killed, so a state too does not have to agree to be destroyed and erased from the map. Its judges are not allowed to sit back idly and to despair from the absence of a positive rule of law when a plaintiff asks them for assistance in order to bring an end to the state. Likewise, no other state author-

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ity should serve as an instrument in the hands of those whose, perhaps sole, aim is the annihilation of the State.[11]

Regardless of the fact that his conclusions are not very useful in bringing sharper relief to the definition, Zusman's assertions do provide an answer of sorts to the question regarding the measures which the democracy is entitled to use in its efforts at defending itself. Zusman clearly states that in a 'war like any war', the democratic polity has the right to exercise its power, even in the absence of empowering legislation, if that power is applied in self-defence.

Surprisingly, the appropriation of the 'defending democracy' concept from the judiciary and its application to the sociological realm by two of the leading political sociologists in Israel, Dan Horowitz and Moshe Lissak, has neither assisted in developing the various dimensions of the concept nor relieved us of its ambiguity. The defending democracy is defined by Horowitz and Lissak as 'a democracy which excludes from the democratic game groups whose aims or actions may endanger the state, its political regime or its basic national consensus'.[12]

This formulation indicates that these two social scientists chose to pursue the same path laid down by legalists while expanding it on two counts. First, as Horowitz and Lissak see it, a democracy has the right to exclude all dangerous groups from the political system, that is, they do not limit a democracy's jurisdiction of defensive action only to political parties. Second, groups that may be excluded from the democratic process are not only those allegedly endangering a state or a polity's stability, but also those that threaten its basic national consensus.

From the above, it appears that a majority of scholars agree that democratic systems of government have the right to exclude from the political arena those organisations, and especially political parties, whose ideology or actions may endanger, first and foremost, the actual democracy and, in certain cases, also the system of principles forming its basis of legitimisation.

An attempt to apply the construct of the 'defending democracy' in its present form for the analytic purpose of inquiring into democracies' responses to extremism, subversion and violence will apparently not yield the anticipated result. Accordingly, the term must be elucidated, the elements which comprise it must be underscored, and the distinctions among them highlighted. For this purpose, I submit a theoretical framework based on both the political–institutional level and the social level which spells out the guiding principles and tools used by democratic countries in their struggle against perceived adversaries.

The defending democracy: a framework of analysis

Before introducing the framework employed in this analysis, a methodological reservation in regard to the use of the term 'defending democracy' is in place.

The coupling of the word 'defending' with the word 'democracy' may in fact be misleading because it produces an idiom the reader may think is a *type* of democracy along the lines of the 'liberal democracy' or 'consensus democracy' – and this is not the case. 'Defending democracy' and its various derivatives do not indicate a form of governmental system but rather the course chosen by a democracy in its efforts to protect itself. Assuredly, this does not disallow the possibility that the nature of the democracy may in fact dictate the nature of its response to provocation (often, certain courses of counteraction are identified with certain types of democracy); however, for the sake of clarity and to avoid confusion, modes of response should not be treated as part of the definition of the political system. Therefore, it is to be assumed that all democratic systems endeavouring to protect themselves in the face of radical and violent elements do indeed fulfil the requirements of the general framework of the defending democracy. Having said that, it should be stressed that this term alone does not suffice toward understanding the various types and degrees of response. Hence, I propose that the notion of the 'defending democracy' in effect represents a continuum extending from a more belligerent, that is 'militant', approach to the other extreme, the 'immunised' approach. Of course, these two exemplary approaches signify ideal types,[13] which are not necessarily empirically proven concepts but, at the same time, they represent a continuum along which can be found the responses of the majority of democratic polities facing serious challenges.

The basis for the operative definitions of the 'militant' and the 'immunised' routes of counteraction draws principally on the various theoretical references to barriers or controls used by a democracy against antagonists, but it also derives from an inductive review of the practices of Western countries against elements constituting a threat to their regime. In the light of this, four principal categories of controls are offered that will later on serve as the basis for the definition of the various orientations:

Legal and judicial controls

Legal and judicial controls include measures at the disposal of democratic countries implemented in their struggle against extremist insurgents, whether speaking of political parties, social movements or individuals. This network of controls includes, *inter alia*, constitutions or statutes stipulating under what conditions partisan political activity can be restricted, as well as laws establishing which tools are legitimate and which are not, in instances of anti-governmental protestation such as incitement or subversive action. Included in this category are also those legal barriers regulating the relations among the different groups in society and, in particular, controls intending to restrict racist or other expressions which may offend various social groups. The notable aspect

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of these barriers is that they are most often predicated on constitutional or legal frameworks and are subject to continuous judicial review. Barriers of this type carry the potential for suppressing challenges posed by anti-governmental extremist factions, but at the same time they have the power to check and restrain the governmental response to those same extremist elements, thus preventing the undermining of the democracy's ethical foundations.

Administrative and intelligence controls

Contrary to legal and judicial barriers, which are distinguished by a complete adherence to the frame of the 'rule of law',[14] there are other more flexible measures often extending beyond the limits of state laws, in fact occasionally disregarding the basic liberties inherent to the democratic idea, such as civil liberty, the freedom of expression and the freedom of assembly. Despite the sharp contradiction between these orientations and the liberal democratic paradigm, there is abundant testimony of their use, particularly when the polity senses its stability is in significant jeopardy.[15] Under extreme circumstances, these measures may include the use of army forces against seditious elements, although in many cases the security services or secret police are assigned the responsibility for dealing with them. Unlike the police forces, whose actions are bound by strict codes regarding all aspects of the nature and the range of its operations, the secret services, in democratic countries as well, enjoy a broader field of operation and in many cases also have access to 'grey' means of control at variance with the tools at the police's disposal.[16] Additional evidence of controls of this nature can be found in those cases where the state devises a broader 'semi-legal' infrastructure with the intent of paving the way for a more forceful policy of response to seditious events. This infrastructure may include emergency legislation, the use of administrative regulations, modifications to the legal process in order to facilitate a smoother conviction of extremist elements and occasionally, in fact, the creation of special courts of law whose specific role is to preside over concerns related to subversive violence and, principally, terrorists.

Educational controls

This area is of considerable significance because, by exercising educational means, the state is able to contend with the challenges of extremism a good while earlier than their materialisation into political alternatives. To be specific, with the aid of the education system and particularly, but not exclusively, civic studies, the future citizens of a state can be introduced to the key notions fundamental to the democratic system of governance. Moreover, in many democracies, civics' pedagogy consists of a diversified curricula based on instruction in basic democratic rights such as freedom of expression and assembly, freedom

of religious expression, freedom of property, the right to own property, the right to privacy and to take political action. In addition, most pupils are exposed to the formal aspect of the governmental process, i.e. the constitutional and statutory processes that form the basic structure of the liberal state, as well as to the social aspect, i.e. the complex of groups comprising society, the rights of these groups, the prominent cleavages dividing society and the major political concerns of the day. In this fashion, pupils become acquainted with the guiding principles of the polity in which they live, its basic essentials, the problems confronting it and the political *modus operandi* of its country.

Social controls

Another social domain historically absent from the discourse on the 'defending democracy', yet one that in recent years has maintained a high profile in the discussion of the factors contributing to the normal functioning of democratic polities, is the 'civil society'. In the view put forward here, and as noted in the past,[17] together with the other functions filled by the 'civil society' in the democratic system, it holds a central role in the protection of democracy. The regulating mechanism formed by the 'civil society' is manifested in the actions of social organisations which are non-governmental yet concerned about the expansion of extremism in society and the flagrant acts of provocation against the democratic foundations of the governing state. 'Civil society' organisations can operate in either political or community frameworks by employing educational and informational campaigns; or they may publicly respond to acts of extremism. In certain cases, they may mobilise efforts to influence governmental authorities. In these aspects, we find an additional contribution to the fortitude of the democratic government. The 'civil society' enjoys both worlds – it is able to voice objection to provocateurs and, alternatively, it may form a system of accountability aimed at restraining over-aggressive governmental counteraction by mobilising public opinion and/or going to law against undemocratic activities in the name of upholding democracy. The goals of these organisations and the tactics employed by them may tend to vary, yet the emergent pro-democratic social controls positioned in-between the state and subversive factions may, on the one hand, carry significant potential in reducing the threats confronting the state, and, on the other, may limit countering governmental action to a more democratically tolerable standard.

The defending democracy:
in between the 'militant' and the 'immunised' route

In order to classify these numerous controls and measures and help elucidate the ideal types of response, they are categorised according to two criteria: scope

and intensity. *Scope* indicates the democracy's range of responses, that is, whether the state limits its response to extremist elements alone or whether it extends policy to the social level as well? *Intensity* denotes the types of mechanism utilised by the state. That is, does a particular democracy choose to respond to extremist challenges by using the more moderate means of countermeasure, such as education, expanding civil society activity, and imposing minimal statutory restrictions on antagonistic elements? Or, on the contrary, does it find that more drastic steps must be taken which may entail stretching the idea of the 'rule of law'? An arrangement of the controls and methods of action employed by democracies trying to protect their dominion brings into prominence the two polarities, the 'militant' and the 'immunised' routes, which democratic systems may choose in their struggle against subversive elements. Between these two axes, there is a broad continuum along which it is possible to pinpoint the majority of democratic countries and estimate, in this fashion, the extent of their 'militancy' or 'immunisation'. Furthermore, this continuum enables a diachronic analysis of isolated cases and, principally, an estimation of the movement of single countries along the axis of time from one type of response to another. The following chart represents in more detail the features of the routes of response.

The chart demonstrates that at one end of the continuum the 'militant' route is to be found. Borrowing from the definitions presented above, this denotes a political system whose goals are very narrow and one that is principally restricted to defending the state from manifestations of political extrem-

Figure I.1 *The defending democracy and its different routes*
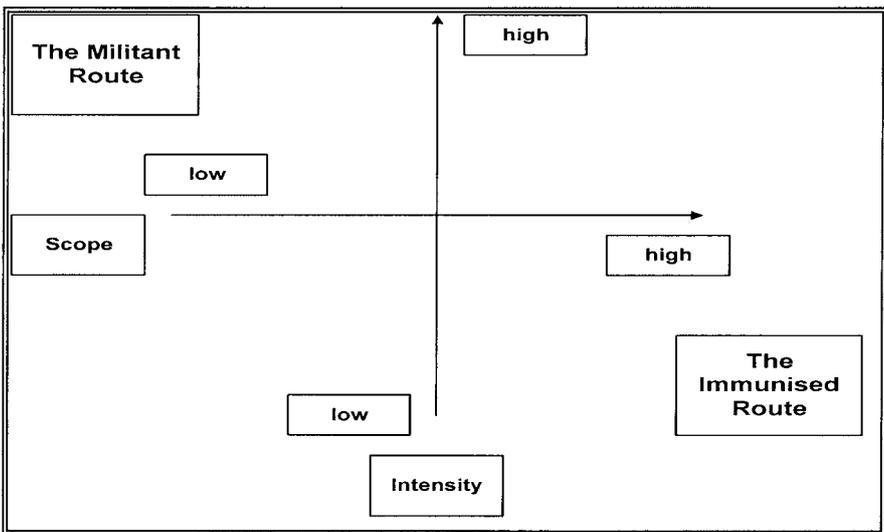
ism, incitement and violence. At the other end we find the 'immunised' route. The state adopting this route in effect seeks to shore up its governmental system against subversive acts of defiance, and if and when these provocations in fact are realised it deploys defensive means which form a more comprehensive treatment of those elements. At the same time, it still accounts for the liberal principles of freedom of expression and action, and the 'rule of law'.

In order to help draw comparisons among the guiding principles of either model, a medical metaphor is proposed. The 'militant route' adopts methods of treatment targeting the symptoms of the 'illness of extremism'. These symptoms are principally political parties, radical movements and manifestations of incitement, sedition and political violence. Particularly strong medication must be prescribed by the 'militant route' for these same symptoms, with the result that the patient – that is, the polity itself – will most likely suffer from severe side- and after-effects. This medicinal plan includes a list of unconventional measures which circumvent standard legal and judicial processes.

The 'immunised route', on the other hand, assumes a more holistic view by treating both the symptoms and the illness's aetiology. This orientation focuses primarily on preventive medicine whose goal is to maintain a steady stream of antibodies against the spreading of disease, mostly by the inculcation of democratic values and tolerance, and by providing the opportunity for the 'civil society' to take an active role in the political theatre. Nevertheless, the holistic approach does not neglect the treatment of the symptoms of the illness in the event that, after all the preventive measures have been taken, extremism and violence still break out. However, in that case, since we are speaking of a more immunised body, the medical measures applied are more conventional; that is, they are within legal limits and do not threaten to subsequently weaken the body.

With regard to its policy towards radical parties, the 'immunised route' underscores the legal–judicial aspect. In other words, the state employs constitutional and statutory measures which benefit from a broad consensus and the essential principles of the 'rule of law' in its deliberations regarding a party's disqualification or the prevention of its registration. As for extra-parliamentary movements, the 'immunised route' renounces the approach based on an extensive use of administrative procedures, i.e. the enforcement of regulations and injunctions outlawing these movements, their definition as terrorist organisations and also the restriction of their members' freedom of movement regardless of the conventions of state criminal law. The democracy that chooses the 'immunised route' will act against subversive movements using the same practices mandated by criminal law while also maintaining a meticulous and invariable scrutiny of the judicial authority.

Summing up the distinctions drawn between the two routes, it is argued here that although in the short run the 'militant' course may be more effective

in dealing with various manifestations of extremism and violence, the 'immunised' route is still the more effective in the longer term. This assumption is listed primarily in the 'immunised' model's strong connection to the public and is based on the perception that in order to successfully fight extremism its roots must first be detected. Next, two flaws inherent to the 'militant route' impair its effectiveness in the longer run. The first shortcoming is related to the aforementioned paradox, that the more a democracy adopts the more 'militant' mode of distinction, the more it undermines its own liberal principles, a fact that may eventually lead it to become an authoritarian regime under the name of democracy. The second drawback pertaining to the 'militant' strategy becomes clear when the ethical perspective is replaced by the practical–tactical perspective. Examination of the 'militant route' from this perspective, together with the test of consequences, demonstrates that the effectiveness of this route is indeed questionable. A case in point is Germany,[18] where labelling a particular political movement 'illegal' may lead to a 'self-fulfilling prophecy'. That is to say, the same movement that has so far operated in full view is now forced 'underground' and will radicalise its operations in order for its goals to remain on the public agenda. On the other hand, in the absence of persistent enforcement, outlawing the movement can be just minimally effective because parties and movements have the ability to adapt and adjust themselves to changing circumstances. A movement which has been legally banned can occasionally assume various other guises by changing its name or the composition of its key activists, and, in the long run, can make things more difficult for the democracy.

In sum, using the theoretical constructs elaborated above, an attempt is made in this book to illustrate the changes in the response of the State of Israel to its internal adversaries in the last fifty-three years. This treatise will focus on the transition from a heavy-handed and often, in democratic terms, problematic policy of counteraction which marked the State in the first decades of its existence to a more moderate response whose confinement to democratic and even, at times, liberal boundaries, characterises it with the advent of the present decade. Each chapter attends to a different domain of the State's reaction and explicates the changes in its reaction, including the forces accelerating or decelerating it. The ultimate goal is to present the construct of the 'defending democracy' to the reader as a broad, holistic and operational framework, embodying a number of different levels of analysis found in constant interaction among themselves, and enabling the transference of the construct to the scrutiny of other nations and states as well as comparative research.

The Israeli political context

In order to evaluate the changes in the Israeli response to Jewish extremism and violence, I begin by presenting the discussion of those particular political char-

acteristics of the State of Israel which have, to a significant degree, shaped it as a 'defending democracy'. Concurrently, the depiction of the extremist and violent events the State has had to contend with are also presented.

Israel: a non-liberal democracy

The first topic to be addressed regarding Israel's status as a 'defending democracy' is the non-liberal character of the Israeli State's system of governance or, in other words, the democratic status of Israel in the procedural more than *bona fide* sense of the term.[19] The reason for this is that while the formal foundations of a democratic system – free and fair elections, inter-partisan competition, periodic governmental rotation, etc. – are maintained, other essential components of the democratic epitome, such as the protection of fundamental rights, including the freedom of expression, freedom of assembly and freedom of religious expression, are all, to varying extents, flawed.

Like Yoav Peled, Uri Ben-Eliezer and Yael Yishai, I too find the construct of the 'non-liberal democracy' to be the terminological frame most suited to defining the political reality that has emerged since Israel's inauguration.[20] In contrast to the liberal democracy, whose first priority is the individual and his/her rights, the 'non-liberal democracy' puts a strong emphasis on the collective or the community. Democracies of this type stress uniformity at the expense of diversity, and unity over pluralism. This reflects a type of collective regime, where the principles of equality and harmony are predominant among those who belong to a certain group and aspire to its common goals. State offices do not exist in order to form an institutional safeguard of the individual's privacy, but rather as means for furthering the 'general good' of the people. In 'non-liberal democracies', not all voices have an equal opportunity to be heard, and not everyone is equally encouraged to enter the political arena. Participation is more a privilege than a basic right and is therefore reserved for those who act in the collective interest. This type of participation is not a potential vehicle for challenging the 'powers-that-be' but is rather a means of processing and enforcing the general will of a country.[21] From this definition, it can be concluded that there are two principal aspects inherent in the Israeli 'non-liberal democracy': its values and operative implications. The operative aspect indicates the active and centralised character of the state. One expression of this aspect in Israel is evident in the fact that, for many years, the powerful state apparatus has prevented the development of an effective autonomous 'civil society'. In terms of values, the non-liberal democracy concentrates on the ideological–national foundations of the state and, in the case of Israel, on the Jewish nature of the country.

An interesting point is that the majority of social scientists currently engaged in the study of Israeli politics tend to direct the bulk of their efforts on

the values' aspect (and its resultant practices) typical of the non-liberal nature of the democracy. Among these researchers, there is general agreement that Israel is still a far cry from the Western liberal democratic model, but there is a lack of consensus regarding the precise nature of Israel's form of government. Neuberger, for example, argues that Israel is a 'blemished' liberal democracy.[22] Others, going one step further, contend that by virtue of the asymmetrical relations between the Jewish majority (82 per cent of the population) and the Arab minority, Israel should be classified as a (Jewish) 'ethnocracy'[23] or in fact a 'non-democratic ethnic state'.[24]

Between these polarities of ethnocracy and 'blemished liberal democracy', there lies an intermediate position maintaining that, in terms of its values, the Israeli 'non-liberal democracy' should be defined as an 'ethnic democracy', as suggested by Sammy Smooha. According to Smooha, the ethnic democracy

> is a democratic system of government wherein rights are granted to all citizens while, concurrently, a favoured status is conferred upon the majority. It is predicated upon two conflicting principles: democracy for all and the majority's structural subordination of the minority. The establishment of the state on these two opposing principles occasions irresolvable conflicts and dilemmas. According to democratic principles, the state belongs to the majority and this by inference does not include all of its citizens. For the [in the case of Israel, Jewish] majority, the state is a means for furthering its interests and national goals while the [in Israel, Arab] minority is faced with the inevitable predicament of being disloyal to the country, for it cannot attain full equality and national identity. At the same time, the democratic system allows the minority to ardently campaign and struggle to better its conditions without fear of governmental crackdown or oppression by the majority. However, the state imposes a variety of restrictions and a general regulation of the minority in order to prevent disorder, instability and subversion.[25]

Indeed, the non-liberal and ethnic characteristics of the State of Israel have held sway over the formation of almost all the social realms of life in this country. In terms of the present analysis, these characteristics are inseparable from the notion of the 'defending democracy'. The (Jewish) ethnic character of the country has engendered, as noted by Smooha, an extensive system of regulatory measures for controlling the Arab populace, which, furthermore, is looked upon with suspicion and has been defined as a 'hostile minority' or the 'fifth column'.[26] Although the present work does not deal with the response to Arab extremism, it is worth noting that procedures enforced by the State against Jewish extremists tend to have been of a significantly more moderate nature than those to which Arabs have been subjected. One cannot avoid the fact that these same political, judicial and security factors were appointed by the State to deal with acts of provocation perpetrated by *both* populations. Apparently this led, in the nature of things, to the same ideas and measures used against Israeli Arabs being used also in the State's struggle with Jewish extremism.

However, there is more to the role of the State's ethnic character in the 'defending democracy'. In effect, there is an inherent tension between the principles of the 'non-liberal democracy' and the notion of the 'defending democracy'. This tension is mainly due to the fact that the institutionalised preference of one ethnic group over another – typical of the non-liberal 'ethnic democracy' – provides fertile grounds for the flourishing of ethnocentric, ultra-national and in fact xenophobic manifestations. These circumstances are strikingly apparent in the field of education, which has been deeply affected by the ethnic character of the Israeli democracy and, in my opinion, may still prove to be the principal control for the State's aspiration to curb extremism in Israeli society. Both prior to the State's establishment and in the years following, the Hebrew education system has served as a pawn in the hands of the Zionist national movement which, like other national movements, worked to instil among its future citizens a (Jewish) national worldview. The values and principles of the Israeli 'ethnic democracy' are intended to perpetuate the Jewish community's uniqueness, its legitimate control over the country and its role as a centralised state in charge of the education system and its various sectors. This approach laid the grounds for reinforcing Jewish identity among most pupils of the State's schools and creating the affinity between the Jewish and Israeli national identity. The country's efforts to inculcate among its pupils a strong national and ethnic identity stood in stark contradiction to Western liberal democratic views. This fact was not overlooked by the designers of Israel's education system, who chose to minimise, and at times completely exclude, liberal discourse from the State education system in Israel.[27]

The last domain where the effect of the non-liberal Israeli democracy is significantly felt on its status as a 'defending democracy' is related to the existence – or, more correctly, the non-existence – of the 'civil society' in Israel. Gidron puts forward the view that, in the pre-State era, a period when the British Mandate avoided becoming involved in the internal affairs of the Jewish population, 'civil society' organisations did exist, and in fact flourished. They provided the population with social services as well as cultural, educational, sports, health and occupational services. Yet, with the establishment of the State, and especially in the early 1950s, an expedited construction of state institutions was put into effect, the intention of which was to replace the voluntary networks. The sovereignty, or 'statehood', orientation took root in this country. Its leading proponent was Prime Minister David Ben-Gurion, who subscribed to the view that the satisfactory absorption of 'Israelis' immigrating from the numerous and varied countries of the Diaspora required a coalescence of the different sectors and the cultivation of a political–sovereign perception. According to this view, the State's interests stand above all organisational interests or groups making up these bodies.[28] In operational terms, the 'statehood'

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idea found expression in the suppression of initiatives to establish organisational frameworks not associated with the government or political parties. Even the more institutionalised 'civil society' structures which nevertheless managed to survive the 'statehood' era were assimilated by the government by making them dependent on the State budget, subsequently turning them into State affiliates.[29] Galnoor's remarks on the State's position in regard to the 'civil society' are even more trenchant. He depicted it as outright government hostility toward the autonomous participation of non-institutionalised groups of citizens.[30]

The first signs of the renewed growth of the 'civil society' in Israel became evident in the late 1960s. At first, this prompted resistance on behalf of the State which fought the challenges posed by the evolving 'civil society', though by the early 1980s the picture began to change. From that stage on, according to Yishai, the Israeli political apparatus began to retreat from its involvement in the 'civil society' and instead sought to preserve a fragile co-existence with this non-political sphere.[31] Yishai's portrait is highly relevant to the relationship between the 'civil society' and the 'defending democracy'. Despite its potential, the role of the 'civil society' in the protection of the Israeli democracy from internal adversaries was, until the 1980s, completely marginal. However, the beginning of that decade ushered in a significant awakening of civil organisations that set their goals on shoring up the status of democracy in Israel in various ways.

Jewish political extremism and violence in Israel

Unlike many countries which have undergone manifestations of political radicalism and ideological insurgence, Israel's nature as an 'ethnic democracy' and the Jewish public's sweeping consolidation around the Jewish national sentiment also shaped and delimited, to a certain degree, the features of Jewish political extremism and violence in the country. Even in the early days following the establishing of the State, and despite profound ideological differences, it was clear that all political currents fighting for the State's independence were united in the belief that the Jewish State must be sustained and empowered. Therefore, the main arguments revolved around the ways in which this should be accomplished. The passage of time saw the entrenchment of what may be called constructive radicalism. This type of radicalism implies a radical and occasionally violent political stance that is not interested in disrupting the status quo but rather seeks to reinforce it. There were some isolated incidents, mostly linked to anti-Zionist factions in ultra-orthodox society or the radical left wing (peripheral elements, both in terms of size and operational capacities). Apart from these, all Jewish extremism and violence in Israel has resulted from the desire

to reinforce and establish the Jewish character of the State and to expand its boundaries.

Ehud Sprinzak, the political scientist who charted the features of political extremism and violence in Israeli society, submitted three principal axes responsible for the bulk of these phenomena. The first is the political–ideological axis, and the second centres on the conflict between the ultra-orthodox and the secular. The third axis pertains to the ethnic–social issue, principally, the anti-establishment struggle of Jews from Mediterranean and North African countries, consequent to persistent ethnic–socioeconomic divisions and the ensuing feelings of discrimination.[32] An additional axis complementing Sprinzak's model pertains to the professional–economic conflicts that occasionally took on a violent character in the wake of the increasing extremism of professional union activities.

For the purposes of the present thesis, this discussion primarily addresses the first and second axes. In its early days, the State did in fact respond with severity to events stemming from social motives, such as in the violent suppression of the Seamen's Revolt in 1951, which began as a professional disagreement that spilled over into the political arena. Another example was the 1959 riots waged by Jews of North African descent in Wadi Salib, Haifa, which were forcibly put down by the police. However, over the course of time, a novel orientation took hold among the heads of State, implying that violent expressions stemming from social or economic hardship do not pose a significant threat to the State and therefore do not require new or special coping strategies.

According to the originator of the security services in Israel, Isser Harel, the key factor perceived by the State's rulers to be a danger to its stability goes back to its earliest days, to the severe ideological disputes among the various political currents and, principally, the rift between right and left.[33] This is exactly the same factor plaguing those responsible for state security five decades later. In the view put forward by Carmi Gillon, who was the *Shabak* (General Security Service – GSS) chief during the time of the assassination of Prime Minister Yitzhak Rabin, heads of state and the security services estimate that the factors threatening internal security near the end of the 1990s remained the dispute between right and left while, over the years, messianic religious threats have been added to the picture. The combination of religious messianism and, in the wake of the Six-Day War, an increasingly entrenched ideological cleavage between hawks and doves,[34] appeared to security functionaries as the greatest danger posed by the Jewish public to the State.[35] In view of these assertions, chapter 1 attempts to elaborate upon the features of the ideological and religious axes, and emphasis is put on the growing convergence over the years of these two dimensions to a point of almost complete congruence.

Introduction

Extremism and violence and the ideological cleavage between right and left

Political extremism and violence, the source of which is the ideological cleavage between right and left in Israel, has earned much academic attention, and not without reason. Despite the fact that most of the research on this topic concentrates on the period following the Six-Day War, the roots of the ideological clash between these two wings date as far back as the pre-State era, residing principally in the rivalry between the Labour Movement's camp and the right-wing underground movements of *Etzel* (National Military Organisation, also known as the *Irgun*) and *Lehi* (Israeli Freedom Fighters, also known as the 'Stern Gang'). The peak of pre-State contention became evident in the 'Sezon affair', when members of right-wing underground movements were detained and a number of them were in fact handed over to the authorities of the British Mandate. Shortly after the State's inception, Prime Minister David Ben-Gurion's command to sink the *Etzel's* ship *Altalena*, and eliminate rightist underground movements, was even more striking testimony to the struggle among the various ideological factions.

Sprinzak argues that in the years following the State's establishment the tension between right and left subsided, at least in terms of extremist and particularly violent manifestations. In those years, the ideological cleavage more often could be felt in the parliamentary forum. Still, amid the expressions of protest and violence, which nevertheless did crop up in the 1950s, mention should be made of the underground movement *Brit Hakanaim* (Covenant of the Zealots), which incorporated radical Jewish ultra-orthodox elements combined with an extreme right-wing heritage bequeathed by *Lehi*. In addition, there was the *Zrifin* Underground (also known as the 'Kingdom of Israel'), which operated under the inspiration of the writings of Dr Israel Eldad, one of the leaders of the *Lehi*, and the fierce demonstrations mounted by *Etzel* veterans against Ben-Gurion's plan to accept compensation from Germany in place of Jewish property seized by the Nazis. Finally, there was the assassination of Dr Rudolph (Israel) Käsztner, a prominent leader of Hungarian Jewry at the time of the Holocaust. He was accused of befriending Nazis and turning in many members of his community in exchange for rescuing other Jews from their deadly grasp.[36] Käsztner's murder was in effect the final chord in the violent confrontation between right and left during the State's earlier years.

The resurgence of the sharp division between right and left came in direct consequence of the Six-Day War and was chiefly due to the fact that during the brief course of battle the Israeli army conquered many Jewish holy sites including, foremost, the Temple Mount in Jerusalem. Prior to the Six-Day War the dispute between proponents of the Greater Land of Israel and territorial compromisers remained theoretical. Then, the consequences of this war presented the Israeli public with a new reality pierced by the deep conflict regarding the

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future of the territories occupied in the war. In the past, the left-wing camp and, primarily, the Labour Movement had always enjoyed an easy majority among the Jewish public. However, in the years subsequent to the Six-Day War Jewish society in Israel became split and the yawning gap between the hawkish right and the dovish left in effect became the force responsible for shaping the political programme in Israel for the ensuing decades.

The acts of extremism and violence relating to the future of the territories are associated primarily with those to the right of the political map who introduced the struggle into the halls of Parliament as well as the extra-parliamentary arena. However, while parliamentary factions representing the notion of the 'Greater Land of Israel' were slow in getting organised, and in effect began to flourish only in the 1980s, with the appearance of parties such as *Tehiyah* (Renaissance), *Tsomet* (Crossroads), *Moledet* (Homeland) and the radicalised National Religious Party (or *Mafdal*, the Hebrew abbreviation), in terms of *extra-*parliamentary politics the issue of the future of Judea, Samaria and Gaza became a pivotal concern as early as the 1970s.[37] The beginning of the momentum in the active entrenchment of Israeli control over the lands of Judea, Samaria and Gaza can be marked by the launching of the *Gush Emunim* (Bloc of the Faithful) movement in 1974. This movement, which signified a close affiliation between territorial maximalism and religious, and in fact messianic, notions, adopted an illicit programme whose main expression was the struggle with the State's law authorities over the right to settle the conquered territories.[38] By the same token, *Gush Emunim*, which in due course gave rise to the Jewish terrorist organisation (subsequently known as the 'Jewish Underground'), represented the most prominent example of loyalty to the State and to the premiss of radical Jewish constructivism. Leaders of the movement and their supporters held the belief that their intentions and actions were aimed at empowering the State and not to cause it harm. And, indeed, despite the fact that in its first years of operation *Gush Emunim's* activities were marked by severe confrontations with the government, activists of this movement never theologically questioned its legality or authority. The movement indeed honoured the Israeli sovereign institutions of the Knesset, the government and, above all, the army and security system.[39]

As the years passed, various elements within the movement underwent additional degrees of radicalisation, primarily manifested in the terror perpetrated against Palestinians by the Jewish Underground. This, in effect, signified the fall of *Gush Emunim* when, following the detection of the Jewish Underground, it became subject to a deep ideological crisis, indicating the downfall of the radical constructivist perspective. The void left by the decline of *Gush Emunim* was quickly filled by even more extreme hawkish elements which, at the time of the peace process spearheaded by the second Rabin administration, cast serious doubt on the government's legitimacy and launched a campaign of

de-legitimisation against the incumbent leader of that administration. Surprisingly, both these movements, and even Yigal Amir, the prime minister's assassin, believed their actions would lead to the salvation of the people of Israel. Of course, at the time the question of accepting a democratically elected and secular government's authority was not yet a concern.

Extremism and violence and the cleavage between secular and religious

As already noted, to sharply distinguish between the ideological rift and the secular–religious cleavage in the Israel of the third millennium would be quite unfeasible. This problem was not so prominent in the State's early days. Religious extremism in those days was mostly allied with the ultra-orthodox public and, in particular, the *Natorei Karta* (Guardians of the City) movement, which fundamentally rejected a Zionist government and, in practice, voiced outright protest and cut itself off from it.[40] Still, it became evident, already at that time, that not all ultra-orthodox factions tended toward isolationism, and this was prominently expressed in the activity of the 'Covenant of the Zealots' underground, which, as noted previously, drew its inspiration from the fervently Zionist *Lehi*.

Generally speaking, the cleavage between secular and religious in the Jewish population of Israel is interesting due to the absence of a dichotomous component. That is to say, a great part of the Jewish population can be found *in-between* secularity and religiosity, and in fact defines itself as traditional. The conventional solution for those studying the political as well as the violent facets of the cleavage is to focus on three distinct groupings: ultra-orthodox; national religious; and secular.[41] Traditionally, the acts of extremism and violence committed by the *Haredi* (ultra-orthodox) public were portrayed as a direct outcome of the State–religion controversy, whereas the extremist and violent actions perpetrated by the fringes of the national religious public were linked to the struggle over the control of the hawkish agenda.

Among large sections of *Haredi* society, and contrary to other groups in the population likely to engage in political violence, there is an inherent repudiation of the State of Israel in its present form, anchored in the anticipation of redemption and the erection of a religious state based on *Halakhic* rulings. Indeed, various groups from this subculture continue to pursue the tradition that evolved with the State's establishment, which repudiates the legitimacy of the Israeli government and its various authorities and instead answers solely to the *Halakhic* law based on the fundamental premiss of *dinah demalkhuta dinah* (Aramaic, meaning 'the law of the government is the law'). The implication of the above is that these religious orders regard the State of Israel and its institutions as a foreign government analogous to the governing bodies of other foreign countries around the world where Jews live.[42] This position has its roots in the

assumption that the Jewish People is 'separate from history', that it is under the sole protection of divine providence, and no secular national movement, such as the Zionist movement, will be the one to redeem it.[43] That said, there has been recent concurrence among most researchers that the *Haredi* society consists of a variety of groups and while a small part in fact holds radical attitudes toward the State, among the *Haredi* mainstream the prevailing disposition is more pragmatic. This novel perspective, which has gradually taken root over the years, considers, for example, that participation in the parliamentary arena is a legitimate means of accessing resources.[44]

However, taking part in Israeli society and politics in order to procure resources has its consequences. Beginning in the early 1990s, the academic literature reports of the appearance of *Hardal* (abbreviation for *Haredi* together with the initials of 'religious nationalism'), or the *national ultra-orthodox*,[45] a new *bloc* in ultra-orthodox society in Israel consisting of two tendencies. On the one hand, there is evidence of a *Haredisation* of various religious Zionist groups. On the other hand, there is the adoption of a national if not ultra-nationalist identity among some *Haredi* elements, and this has led to an increasing convergence of the *Haredi* and hawkish publics in terms of their attitudes as well as in operative joint-efforts.[46] Research conducted towards the end of the 1990s demonstrates that the most hawkish population among all the Jews in Israel is the ultra-orthodox population.[47]

These developments found political representation already in the mid-1980s in the crystallisation of parliamentary alliances, such as the *Morasha* (Heritage Party), which integrated hawkish elements descending from the religious Zionist school of thought together with *Haredi* factions. At the start of the 1990s this tendency grew as the ultra-orthodox *Habad* movement took an active role in the events organised by the political right in protest at the Oslo Accords. Eventually, the affiliation between the *Haredi* sector and the hawkish political camp grew so close that the distinctions between them became no longer discernible.

Incidental to the discussion of extremist and violent manifestations related to the religious–secular division, it is important to note the case of Rabbi Meir Kahane and the Kahanism which took root in the State of Israel in the early 1970s, proving retrospectively to be the most blatantly racist and anti-democratic phenomenon Israel has ever known. Remarking on this phenomenon in the same breath as the secular–religious cleavage is apposite because, to a great extent, Kahanism constituted a singular and purified instance of the fusion of *Haredi* radicalism and the messianic right-wing extremism of *Gush Emunim*. The lifestyle of Kahane closely resembled that of the *Haredi* and, like them, he demonstrated great hostility towards the secular leadership of the State and toward the Western lifestyle of the bulk of the Israeli population. However, as did the members of *Gush Emunim*, Kahane saw divine intervention

in the founding of the State of Israel and more so in the triumphant results of the Six-Day War, which symbolised both for him and for the followers of *Gush Emunim* the beginning of the salvation of the People of Israel.[48]

All in all, this book posits that the political camp which evolved in the wake of the Six-Day War – whose boundaries were indeed unclear but whose feelings and actions showed distinctive elements of religious and ideological zeal – constitutes the most prominent threat to Israeli democracy in the last decades, both from the perspective of scientists studying Israeli political violence as well as from that of statesmen responsible for the security of the country. This same alliance of religion, territorial expansionism and enmity towards Arabs characterised the most fanatical and violent of the right-wing parties, *Kach*, as well as *Gush Emunim*, the Jewish Underground, and Yigal Amir, the assassin of Israeli Prime Minister Yitzhak Rabin. It also accounted for several violent movements and isolated incidents which have surfaced in recent decades. Moreover, other threats confronting Israeli democracy deserve mention, including political incitement on behalf of the radical left, and the appearance of groups and individuals who engaged in violence of different degrees stemming from ethnic or messianic motivations, not necessarily related to the hawkish–dovish cleavage. The most significant of these groups was the sect led by the charismatic Rabbi Uzi Meshulam. In 1994, the rabbi and his group barricaded themselves in his house in the city of Yehud in demand for an inquiry into the 1950s' disappearance of Jewish children of Yemenite descent. The story of that sect as well as of other groups is recounted in detail in chapter 2.

Outline of book contents

The five chapters which follow expand on the Israeli response to Jewish political extremism and violence while employing the construct of 'defending democracy' and analysing the State's movement along the axis from the 'militant route' to the 'immunised' route.

Chapter 1 focuses on the historical campaign undertaken by the State of Israel against extremist parties, beginning with the 'Socialist List' in 1965 and concluding with the *Yemin Yisrael* ('Israel's Right') party in 1996. A central object of this discussion is Rabbi Meir Kahane's party *Kach*, whose ideology, proposed patterns of action and leader's rhetoric have played a key role in shaping the normative legal defensive measures devised by the Israeli democracy. The principal aim of chapter 1 is to trace the changes in measures taken by Israel in its struggle with extremist parties and to indicate the gradual transition from a 'militant' to an 'immunised' model of response.

Chapter 2 puts forward a chronological synopsis of the Israeli response to extra-parliamentary radical elements, and begins with the weapons' ship *Altalena* affair, sunk by the IDF close to a month after the declaration of the

State's independence. The chapter then deals with the dismantling of *Etzel* and *Lehi*, two principal right-wing underground movements active before the establishment of the State which constituted, at least from the perspective of the young State's leadership, a considerable threat to the nascent regime's stability. Following the discussion of the incidents accompanying the State's earliest days, the review continues on to the events of the 1950s. Reference is then made to the 1970s, a period marked by a burgeoning of illegal right-wing organisations as well as several notable acts of leftist sedition, and the changes in the State's response to these events. The central part of the chapter is devoted to the Israeli reaction to those far-right elements which emerged during the 1980s and flourished during the course of the 1990s. The major loci of discussion are the *Kach* Movement, the 'Jewish Underground', the assassination of Prime Minister Yitzhak Rabin, and the evolving character of the State's response towards each of these phenomena. A considerable part of the chapter is devoted to a review of the state of emergency that held sway in Israel for many years and to the legal infrastructure deriving from this predicament which, in effect, enabled the State, in its struggle with violent and insurgent elements, to employ means that would often deviate from the acceptable rule of law in a democratic state. A strong emphasis is also placed on the pivotal role filled by the *Shabak* in the battle against insurgency. With this as background, the question is raised as to why, ironically, an undercover organisation, noted for methods which often encroached upon basic democratic liberties, was nevertheless allocated the task of countering extremism in place of the legislation-bound police. As in chapter 1, this chapter also records the general developing tendency – the gradual transition from 'militant' routes of response to 'immunised' strategies. However, contrary to the development of this type of response to extremist political parties, the shift to 'immunised' mechanisms with regard to extra-parliamentary organisations is much more piecemeal, problematic and hesitant.

If, until this stage of the book, the degree of intensity of the Israeli response to extremism and violence is a main motif, then from chapter 3 on the book begins to discuss the extension of this response to other areas, namely the degree to which Israel expanded its struggle against extremism and violence to the *social* sphere. The focus in chapter 3 is on civics education. By means of a historical and textual analysis of school curricula on the subject of civic studies in the State of Israel in the first decades of its existence, I try to demonstrate that the State did not attempt to reinforce its democratic character but in fact took steps to weaken it. The education system of the newly born State set about the task of nation-building, to a great extent by means of underscoring particularistic nationalist qualities while banishing universalistic liberalist strains to the margins of the education curricula. In this fashion, the country inculcated among its future citizens dominant nationalist attitudes, which in many cases digressed into nationalist ethnocentrism. Then the chapter focuses on the State's

response to the incidental ultra-nationalist repercussions of this policy. A short while after the election of the racist Rabbi Meir Kahane to the Knesset in the mid-1980s surveys confirmed the prevalence of ethnocentric views among many Israeli students. In this regard, the State's leadership and the Ministry of Education were faced with a quandary for, on the one hand, they desired to reinforce the democratic structure of the State yet, on the other, they did not want to forgo the education of Jewish nationalist values. The chapter traces the efforts made by the State in the late 1980s and during the course of the 1990s to contend with this convoluted issue. Finally, the reform of the civic education curricula toward the end of the 1990s is scrutinised and an estimation is given of its chances of weakening the radical underpinnings of Israeli society and, in turn, perhaps reinforcing the 'immunised' character of the democracy.

Chapter 4, which aims to complete the investigation into the 'immunised' potential of the State of Israel, presents the reader with the connection between 'civil society' and the 'immunising' process of the Israeli democracy. Put forward in this chapter is the position that the 'civil society', because of its state-free status, carries the potential for playing a central role in the transition to the 'immunised' model. As already noted, in recent years, Israel has opened its gates to the 'civil society', allowing it a greater degree of freedom of operation. Among the associations currently appearing, a large group can be classified under the heading of the 'pro-democratic civil society'. These bodies have employed various modes of operation in the effort to instil democratic values in the country, foster the tolerance of various populations, promote political debate within legitimate as well as constitutional limits and encourage constructive public criticism of the State's response. Public relations material and newspaper items reporting the various accomplishments of the Israeli 'pro-democratic civil society' would not methodologically suffice as the sole source of information. Therefore, chapter 4 is also based on findings compiled from a survey distributed among the entire group of associations mentioned above. This project laid the grounds for a general and unprecedented typology of the 'pro-democratic civil society' in Israel. The survey was designed to examine its features and strategies of action, and it enabled an investigation of the degree of its effect on the 'immunising' of Israeli society as perceived by its representatives, on the one hand, and surveyed public opinion, on the other. The chapter's conclusion underscores the awakening of the 'pro-democratic civil society' in Israel and profiles a number of notable successes which can be chalked up to its credit. That said, a comparison with Western European countries and, in particular, the United States, demonstrates that 'civil society' in Israel still has a long way to go before the Israeli democracy can reach that other point on the compass – the 'immunised' model of response.

The final, and summarising, chapter of the book can be divided into three main sections. The first part presents the reader with the accumulated body of

facts with regard to the Israeli response to extremist phenomena and political violence throughout the history of the State of Israel. Beginning with the State's establishment and leading up to the advent of the new millennium, it estimates the degree to which the country has been successful in departing from the 'militant' type of response in favour of the 'immunised' course. It queries the conceivability of a 'golden path', i.e. protecting democracy from antagonists, on the one hand, while avoiding the slippery slope into retaliatory strategies that may easily deviate from the legal and ethical foundations of the democratic state, on the other. The concluding discussion refers to each level of analysis listed in the preceding chapters and evaluates, with the help of a more comprehensive perspective, whether the shift towards the 'immunised' model is relevant to all levels of analysis, or whether at certain points the Israeli case still adheres to the 'militant' end of the spectrum and which factors either support or restrain this transition. The second part of the chapter assumes a comparative perspective between the Israeli response and that of other Western democracies, principally, the United States and Germany. Placing the Israeli case in a comparative perspective exemplifies, first, the potential of the theoretical perspective proposed in this book, a perspective which in fact makes comparative analysis feasible. Second, widening the scope beyond the Israeli case study underscores the challenges which confronted and still confront the society and the State of Israel in contrast to other societies and makes it possible to estimate the effectiveness of the tools wielded by the State in comparison to those of other countries. The third part of the chapter highlights the theoretical developments accompanying the analysis and submits questions which remain unresolved and worthy of future investigation.

Data sources and methodology

The theoretical extension of the concept of 'defending democracy' from philosophical and judicial domains – to which it is generally limited – to other disciplines and, in particular, the social sciences requires an adaptation of the methodological tools employed in its research. Henceforth, data sources and methodology can be arranged into two principal categories: qualitative and quantitative.

The first portions of the book are based primarily on qualitative sources and tools of analysis, so that, for example, the main sources for the analysis of Israeli policy regarding political parties were the protocols of Knesset proceedings and Central Elections Committee hearings as well as official committee and party registrar correspondence. Additional sources were the verdicts handed down by the Supreme Court which, in its role as high court of justice either ratified or rejected resolutions passed by its subordinate bodies. In order to fully understand the factors leading to decisions regarding various parties, in-depth inter-

views were also conducted with representatives of the parties in question as well as with members of the bodies responsible for decision-making on this matter. Another corroborating source was the compiled data regarding the respective parties on file in the archives of the Central Elections Committee.

The attempt to investigate permutations in the Israeli response to extremism and violence in the extra-parliamentary realm met with more difficulty due to the fact that the majority of hearings in reference to these organisations take place behind the closed doors of various governmental offices and, in particular, those of the *Shabak* whose proceedings and recorded minutes are conducted far from the public eye. Consequently, significant use was made of the writings of Israel's policy-makers and executive authority. To augment the picture the documentation of events in the daily newspapers was reviewed and in addition, in-depth interviews were conducted with policy-makers as well as with representatives of the organisations and movements subject to the State's enforcement of its varied measures.

The evolving policy on instruction in civics in Israel's schools was much easier to investigate because Ministry of Education archives are open to the general public, thus allowing access to all its protocols and correspondence. An additional source of information consisted of interviews with politicians who over the years had devised the civic studies curricula and Ministry of Education employees who had carried out this policy. Nonetheless, the review and discussion of policy changes in the delivery of citizenship studies in Israel in itself does not answer the question of whether the inculcation of democratic values does indeed have an 'immunising' effect on Israeli society. In order to address this question, quantitative tools of research were necessary, specifically a closed-question survey which was administered to a large sample of secondary-school pupils in northern Israel. The object of this survey was to answer the question: to what degree does a relationship exist between the instruction in citizenship and the ensuing diversity of political attitudes and behaviours indicative of the internalisation or rejection of democratic values.

The study of the evolution of the 'pro-democratic civil society' in Israel was the most difficult assignment of all, especially because this phenomenon is a fairly recent development, the literature documenting it is inadequate and the ability to detect the groups comprising it is limited. In order to identify as many groups as possible, an extensive comparison of findings from a number of sources was conducted and a list was drawn up of the associations whose alleged goal was the empowerment of the democracy in Israel. These organisations were sent questionnaires designed to get a general impression of the 'pro-democratic civil society', to examine the principal fields in which they were active, and to attempt an estimate of the degree to which these groups were successful in fulfilling their goals.

Throughout the book the findings of an additional survey are presented.

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This was a telephone survey conducted during February 2001 which included approximately 500 adult Israeli citizens. It examined the attitudes of the Israeli Jewish population in relation to the defence routes implemented by the State as well as the degree of consensus regarding particular routes. Therefore, the questionnaire includes reference to each cluster of types of response as they are demonstrated in the different parts of the book.

NOTES

1 John Stuart Mill, *On Liberty* (Indianapolis: Hackett, 1982).

2 Karl Popper, *The Open Society and its Enemies* (London: Routledge & Kegan Paul, 1962), Vols 1, 2.

3 John Rawls, 'Liberty, Equality and Law', in Sterling M. McMurrin (ed.), *The Tanner Lectures on Human Values* (Cambridge: Cambridge University Press, 1987), pp. 1–87.

4 Piero Ignazi, 'Reaction to Thoughts by Giovanni Capoccia on Doctoral Research in Progress', *ECPR News*, 10:3 (1999), p. 39.

5 As far back as 1937, Loewenstein wrote two papers as a result of which the term 'militant democracy' became popular and laid the early foundations for the political–institutional analysis of the democratic battle against fascism. See Karl Loewenstein, 'Militant Democracy and Fundamental Rights, I', *American Political Science Review*, 31:3 (1937), pp. 417–32 and, especially, Karl Lowenstein, 'Militant Democracy and Fundamental Rights, II', *American Political Science Review*, 31:4 (1937), pp. 638–58. Additional works by Loewenstein in which he developed the legal–judicial aspect: Karl Loewenstein, 'Legislative Control of Political Extremism in European Democracies, I', *Columbia Law Review*, 38 (1938), pp. 591–622; Karl Loewenstein, 'Legislative Control of Political Extremism in European Democracies, II', *Columbia Law Review*, 38 (1938), pp. 725–74. A significant elaboration of the discussion has been submitted by Capoccia who presents an exhaustive study of the various European countries' strategies for dealing with radical parties which took root during these years, and focuses on the successes and failures of the different countries in their confrontation with those parties. See Giovanni Capoccia, 'Defending Democracy: Reactions to Political Extremism in Inter-War Europe', *European Journal of Political Research*, 39:4 (2001).

6 For example: Peter Chalk, 'The Liberal Democratic Response to Terrorism', *Terrorism and Political Violence*, 7:4 (1995), pp. 10–44; Raphael Cohen-Almagor, 'Combating Right-Wing Political Extremism in Israel: Critical Appraisal', *Terrorism and Political Violence*, 9:4 (1997), pp. 82–105; Ronald D. Crelinsten and Alex P. Schmid, 'Western Responses to Terrorism: A Twenty-Five Year Balance Sheet', *Terrorism and Political Violence*, 4:4 (1992), pp. 307–40; Giovanni Capoccia, 'Repression, Incorporation, Lustration, Education: How Democracies React to Their Enemies. Towards a Theoretical Framework for the Comparative Analysis of Defense of Democracy', paper presented at the ECPR Joint Sessions of Workshops, Grenoble, 6–11 April 2001.

7 See note 5 above.

8 Raphael Cohen-Almagor, *The Boundaries of Liberty and Tolerance in the Struggle Against Kahanism in Israel* (Gainesville: University of Florida Press, 1994), p. 184.

9 Quoted in Hucko M. Elmar, *The Democratic Tradition: Four German Constitutions* (Leamington: Berg Publishers, 1987), p. 75.

10 Cohen-Almagor, *The Boundaries of Liberty and Tolerance*, p. 184.

11 Cohen-Almagor, *The Boundaries of Liberty and Tolerance*, p. 183.

12 Dan Horowitz and Moshe Lissak, *Trouble in Utopia: The Overburdened Polity in Israel* (Tel-Aviv: Am-Oved, 1990), p. 197 (Hebrew).

13 For more details about ideal type analysis please refer to: B. Peters Guy, *Comparative Politics: Theory and Methods* (New York: New York University Press, 1998), pp. 105–7.

14 An extensive discussion of this term can be found in Menahem Hofnung, *Israel – State Security vs. Rule of Law, 1948–1991* (Jerusalem: Nevo, 1991), pp. 11–20 (Hebrew). In order to distinguish between the militant and immunised models, it would be easier if we adopted the definition submitted by Amnon Rubinstein, according to which the meaning of the *formal* conception of the rule of law is that predetermined statutory provisions are responsible for dictating binding prohibitions and concessions. Accordingly, the rule of law stipulates three principal requirements: (1) that the law be applied; (2) that it be enforced by the public authorities; (3) that according to the law and the law alone, civil rights will be determined. However, with regard to the immunised model, there must be a more substantial interpretation of the rule of law, including three applicable principles: the right to equal protection before the law; the clarity of the law; and the public display of the law. See Amnon Rubinstein, *The Constitutional Law/Legislation of the State of Israel* (Jerusalem and Tel Aviv: Shoken Publishers, 1991), Vol. A, pp. 262, 272 (Hebrew). For an extensive discussion of the rule of law and its implications for the struggle against political extremism and violence, see chapter 2.

15 Crelinsten and Schmid, 'Western Responses to Terrorism', pp. 334.

16 In Germany, for example, there is extensive public criticism of surveillance systems used by the Federal Bureau for Constitutional Protection (BfVS) against parties listed as constitutionally hostile. Although these steps in most cases receive constitutional endorsement and judiciary review, criticism has been aimed chiefly at the fact that employing undercover police against citizens may cause grave harm to the same liberties purportedly upheld by the democracy. For a more in-depth discussion, see Gillian More, 'Undercover Surveillance of the Republikaner Party: Protecting a Militant Democracy or Discrediting a Political Rival?', *German Politics*, 3:2 (1994), pp 284–92.

17 See, for example, László Szôcs, 'A Tale of the Unexpected: The Extreme Right vis-à-vis Democracy in Post-Communist Hungary', *Ethnic and Racial Studies*, 21:6 (1998), pp. 1096–115.

18 Uwe Backes and Cas Mudde, 'Germany: Extremism Without Successful Parties', *Parliamentary Affairs*, 53:3 (2000), pp. 457–68.

19 Yonatan Shapiro, *Democracy in Israel* (Ramat-Gan: Masada, 1977) (Hebrew).

20 Yoav Peled, 'Ethnic Democracy and the Legal Construction of Citizenship: Arab Citizens in the Jewish State', *American Political Science Review*, 86 (1992), pp. 432–43; Uri Ben-Eliezer, 'The Meaning of Political Participation in Non-Liberal Democracies', *Comparative Politics*, 25 (1993), pp. 397–409; Yael Yishai, 'The Guardian State: A Comparative Analysis of Interest Group Regulation', *Governance: An International Journal of Policy and Administration*, 11:2 (1998), pp. 153–76.

21 Ben-Eliezer, 'The Meaning of Political Participation in Non-Liberal Democracies'; Peled, 'Ethnic Democracy and the Legal Construction of Citizenship'; Yishai, 'The Guardian State'.

22 Benyamin Neuberger, *Democracy in Israel: Origins and Development* (Tel Aviv: Open University, 1998) (Hebrew).

23 Oren Yiftachel, *Keeping a Watch Over the Vineyard* (Tzofit: Research for the Study of Arab Society in Israel, 1997) (Hebrew).

24 Asad Ghanem, 'State and Minority in Israel: The Case of Ethnic State and the Predicament of its Minority', *Ethnic and Racial Studies,* 21:3 (1998), pp. 428–48.

25 Sammy Smooha, 'Israel as an Ethnic Democracy: Jewish–Democratic State', in Sarah Ozacky-Lazar, Asad Ghanem and Ilan Pappe (eds), *Seven Roads: Theoretical Options for the Arabs in Israel* (Givat Haviva: Jewish–Arab Centre for Peace, 1999), p. 24. (Bracketed explanations are mine.)

26 Gad Barzilai and Ephraim Yuchtman-Yaar, *The Israeli Supreme Court and the Israeli Public* (Tel-Aviv: Papyrus Tel-Aviv University, 1994), p. 87 (Hebrew).

27 Orit Ichilov, *Citizenship Education in Israel: Current and Pre-State Trends of Development* (Tel Aviv: Sifriat Poalim, 1993), pp. 91–4 (Hebrew).

28 'Statehood' was an ethos, the purpose of which was to grant legitimacy to the consolidation of the country's sovereignty following the events of 1948. The statehood perspective indicated a transition from sectoral interests to general interests, from semi-voluntarism to total commitment, from a foreign government to political sovereignty (Peled, 'Ethnic Democracy and the Legal Construction of Citizenship'). Further elaboration on the 'statehood' era can be found in Peter Y. Medding, *The Founding of Israeli Democracy* (New York: Oxford University Press, 1990).

29 Benyamin Gidron, *Non-Profit Organisations in Israel – 1991* (Jerusalem: Central Bureau of Statistics, 1996), pp. 22–3 (Hebrew).

30 Yitzhak Galnoor, 'The Israeli Democracy and Electoral Participation', *Molad*, 41 (1982), pp. 71–87 (Hebrew).

31 Yael Yishai, 'Civil Society in Transition: Interest Politics', *Annals of the American Academy of Political and Social Science*, 555 (1998), pp. 147–62.

32 Ehud Sprinzak, *Brother Against Brother: Violence and Extremism in Israeli Politics from Altalena to the Rabin Assassination* (New York: Free Press, 1999), p. 320.

33 Isser Harel, *The Truth about the Kästner Murder* (Jerusalem: Edanim Publishers–Yediot Aharonot, 1985) (Hebrew).

34 Ehud Sprinzak, 'Extremism and Violence in Israel: The Crisis of Messianic Politics', *Annals of the American Academy of Political and Social Science*, 555 (1998), pp. 114–26.

35 Carmi Gillon, *Shin-Beth Between the Schisms* (Tel-Aviv: Yediot Aharonot Books and Chemed Books, 2000) (Hebrew).

36 Sprinzak, *Brother Against Brother*, chs 1 and 2.

37 Sam Lihman-Wilzig, *Public Protest in Israel, 1949–1992* (Ramat Gan: Bar-Ilan University Publications, 1992), pp. 57–60 (Hebrew).

38 Ehud Sprinzak, *The Ascendance of Israel's Radical Right* (New York: Oxford University Press, 1991), p. 43–51.

39 Sprinzak, *The Ascendance of Israel's Radical Right*, pp. 32–4.

40 Sprinzak, *Brother Against Brother*, pp. 87–94.

41 Sprinzak, *Brother Against Brother*.

42 Binyamin Neuberger, *Religion, State and Politics* (Tel-Aviv: Open University Press, 1994), p. 20 (Hebrew).

43 Menachem Friedman, *The Haredi Society: Origins, Trends and Processes* (Jerusalem: Jerusalem Institute for Israeli Studies, 1991) p. 19 (Hebrew).

44 Friedman, *The Haredi Society*; Binyamin Neuberger, 'Religion and the State of Israel: Comparative, Historical and Ideological Background', in Binyamin Neuberger (ed.), *Religion, State and Politics* (Tel Aviv: Open University Press, 1994), pp. 7–52 (Hebrew); Yishayahu Leibman, 'Some Thoughts on the Relations Between Religious and Non-Religious Jews', in Yishayahu Liebman (ed.), *Living Together* (Jerusalem: Keter, 1990) pp. 187–200 (Hebrew); Eliezer Don Yehia, *The Politics of Arrangement: Settling Conflicts on Questions of Religion and State* (Florisheimer Institute for Policy Studies, 1997) (Hebrew).

45 Yishayahu Leibman, 'Religion and State in Israel', *Zmanim*, 50–1 (1994), pp. 133–44; Yair Sheleg, *The New Religious: A Current Perspective of Religious Society in Israel*

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(Jerusalem: Keter, 2000) (Hebrew); Yishayahu Liebman, 'Religion and Democracy in Israel', in Ehud Sprinzak and Larry Diamond (eds), *Israeli Democracy Under Stress* (Boulder, CO: Lynne Rienner Publishers, 1993), pp. 273–92.

46 Ephraim Yuchtman-Yaar and Tamar Hermann, 'The Latitude of Acceptance: Israeli Attitudes toward Political Protest Before and After the Assassination of Yitzhak Rabin', *Journal of Conflict Resolution*, 7:6 (1998), pp. 721–43.

47 Ilan Shahar, *Haredim LTD* (Jerusalem: Keter, 2000) (Hebrew).

48 Sprinzak, 'Extremism and Violence in Israel', p. 119.