CHAPTER THREE


3.1 Introduction

In this chapter we describe one instance of change in a formal political rule as it unfolded in Israel, a state embracing a democratic political system. The political rule in question, passed on March 18, 1992, revised the procedure for selecting the prime minister; its content thus entails a fundamental institutional change. Commonly known as the “Direct Elections Law” (its formal title is Basic Law: The Government (1992)—Direct Elections for the Prime Minister), it incorporates two types of rules, aggregation rules and authority rules. The first type of rule defines the decision function used to translate preferences into results, whereas the second type delineates the actions that holders of different socio-political positions are allowed to take. In the case at hand, the institutional change redefined the political discourse as well as the balance of power between the various players.¹ We begin with a summary of its main features.

Unlike countries such as the United States and Canada that have coherent constitutional documents, Israel does not have a formal constitution. However, over the years, a system of basic laws has been enacted, designed to address specific constitutional issues. At some point in the future, they may be compiled into a complete constitutional document. The statutes that constitute the legislation entitled Basic Law: Human Dignity and Liberty, passed in 1995, are recognized as having
constitutional status that takes precedence over regular law in Israeli judicial interpretation. The recognition of the Basic Laws as having constitutional status was dubbed the “constitutional revolution.” Thus, Israel now has constitutional norms that override normal statutes and provide the legal basis according to which the Supreme Court interprets Israeli legal provisions and conducts judicial review of primary legislation. The basic laws that have had the most significant impact are Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Occupation.

Similar to other states ruled by parliamentary regimes, prior to the law’s passage, Israel’s prime minister was not elected but chosen on the basis of his or her capacity to construct a government from among the newly (re-)elected members of the Knesset, by their party affiliations. Common practice—although not always realized—dictated that the prime minister come from the party garnering the largest number of votes in the last Knesset elections. The electorate therefore had no direct say over who would head its government:

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**Basic Law: The Government**

Paragraph 5. Composition and Fitness

(a) The government is composed of the prime minister and other ministers.

(b) The prime minister is a Knesset member; ministers not belonging to the Knesset may be chosen. Ministers are to be Israeli citizens and residents. If a person named a minister holds a position that prevents him from running for the Knesset, he is required to leave that position before becoming a minister. However, a person who is a judge or an officer in the Israeli army must resign his position at least 100 days before entering the office of minister.

Paragraph 14. The Prime Minister and the Assembling of the Government

(a) A Knesset member who managed to assemble a government will be the prime minister and lead the government

Direct election of the prime minister therefore represented an institutional change—in the sense of a revision in the public’s assumptions