

Reviewing Continuity in Legislation

Rivka Weill

The Israeli legislature (the Knesset) applies continuity to pending bills on a regular basis. Thus, a statute may be enacted for which the first reading took place in one Knesset and later readings took place in a subsequent Knesset. Israel enacted a Continuity Law in the 1960s to increase legislative efficiency and enable the legislature to continue debates on bills pending from the previous legislature. In spite of changes that occur in the composition of its members, the Israeli legislature thus operates de facto as a "continuing body."

This Article argues that Israel's Continuity Law is incompatible with representative democracy. Continuity diminishes the significance of Israeli elections and undermines accountability for the laws that are passed. It infringes upon the right of Members of Knesset (MKs) to fully participate in proper legislative processes. This infringement of the right of deliberation is especially egregious in the case of new members who were not present at the first reading held in the previous legislature and are thus disadvantaged in their ability to influence the content of that law. The Continuity Law thus establishes a formalistic, majority-based democracy in Israel. It has also strengthened the government's standing in the legislature and weakened the power of individual members, factions, and even legislative committees, by giving the government tools to achieve a majority in manipulative and artificial ways. This Article argues that the Israeli rule of continuity, formulated as an ordinary law, does not pass constitutional muster. Even if formulated as part of the Constitution, it would be advisable to condition the applicability of continuity to specific cases on a broad consensus of MKs.