

## The Knesset as a Safe Haven for Criminals

### Proposed Amendment to Immunity, Rights, and Obligations of MKs Law-2024 (Knesset Approval for Initiating Criminal or Civil Proceedings)

#### Introduction

Since its establishment on 29 December 2022 and the "legal reform" announced by the Justice Minister a few days later, members of the Netanyahu government have been engaged in a revolution of the regime in a bid to seize control over the state's authorities and assets in order to advance their political and personal interests. As part of this effort, the government has advanced a long list of anti-democratic and dangerous legislative proposals.

On 4 December 2024, a private bill establishing criminal and civil immunity for MKs as a default option passed a preliminary reading.<sup>1</sup> As explained below, this bill is an integral part of the regime revolution. If approved, the Knesset would transform from a legislative body into a shelter for criminals for the following reasons:

- Due to the extreme mechanism set forth in the bill, the default option would be sweeping criminal immunity, encouraging criminal behavior by MKs and even potential collusion with criminal organizations, similar to what happens in Central American countries.
- It specifically grants immunity to MKs who have committed sexual offenses.
- It may lead to a situation where MKs could easily violate the rights of family members. Parents, spouses, and children would need to convince 90 MKs to allow them to pursue legal proceedings in Family Court, compelling them to expose their personal affairs in the Knesset plenum.
- It enables MKs to grant immunity to the Prime Minister and ministers who are also MKs.
- It may encourage criminals and individuals mired in legal troubles to run for the Knesset to obtain immunity, and to remain in office until an effective investigation is

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\* English-language reference. All other references in this document are in Hebrew.

<sup>1</sup> [Bill on Immunity, Rights, and Obligations of MKs Law \(Amendment: Knesset Approval for Launching of Criminal or Civil Proceedings-2024\)](#), *Knesset National Legislation Repository*, 18 November 2024.

no longer possible.

- It could undermine the integrity of elections.
- It allows the government to launch criminal investigations against opposition MKs, particularly representatives of the Arab minority.
- It may encourage MKs to incur financial debt in the knowledge they would not be liable for paying any damages. MKs would have an incentive to remain in office until the statute of limitations expired.

### Immunity Law: Current Situation and Proposed Amendment

**Current Legal Situation:** Article 1 of the Immunity, Rights, and Obligations of MKs Law-1951 ("the Immunity Law") establishes substantive immunity for statements or actions made while fulfilling or for the purpose of fulfilling an MK's duties. This substantive immunity is absolute and cannot be revoked, with only limited exceptions specified in the article.<sup>2</sup>

Additionally, Article 4 of the law provides procedural immunity from criminal prosecution during an MK's term of office in a limited number of specific cases, including for offenses allegedly committed before taking office, and sets restrictions on arrest and search actions against MKs. Procedural immunity is not automatic: an MK must submit a request to the Knesset House Committee, and based on its recommendation, the matter is brought to a vote in the plenum.

As for criminal proceedings against MKs, the Attorney General may grant substantive immunity at several points in time: when the police are considering an investigation,<sup>3</sup> when the police are mulling whether to indict, during the Knesset House Committee's deliberations on the extent of procedural immunity, or during the criminal proceedings in court.

Where civil prosecution is concerned, there is no impediment to initiating such proceedings given that procedural immunity does not apply. An MK may argue before the court that substantive immunity applies, but it is up to the court to rule on the matter.

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<sup>2</sup> [Immunity, Rights, and Obligations of MKs Law-1951](#), *Nevo*, last update 18 September 2023.

<sup>3</sup> [IID Directive No. 300.16.193: Investigation of Senior Public Figures](#), *Israel Police's Investigations and Intelligence Division*, 1 February 2014.

Article 6 of the law suspends the statute of limitations during the period when the law prevented bringing an MK to trial for a specific offense.

**Proposed Amendment:** The bill proposes to amend the Immunity Law to establish that substantive immunity will apply, no criminal investigation will be opened, nor will a court hear a civil lawsuit against an MK, unless a majority of 90 MKs determines that the act in question was not performed in the fulfillment of or for the purpose of fulfilling an MK's duties. The only proposed exception at this stage is for bribery, fraud, and breach of trust offenses. Additionally, the bill establishes sweeping procedural immunity, both criminal and civil, as a default option for acts committed before the MK began his tenure. Given that the bill contains no provision to suspend the statute of limitations, civil proceedings would not be possible after the end of the MK's tenure if the statute of limitations has expired.

### **Zulat's Position**

**Zulat considers the proposed law dangerous and anti-democratic, potentially transforming the Knesset from a legislative body into a refuge for criminals, for the following reasons:**

- **Due to the extreme mechanism set forth in the bill, the default option would be sweeping criminal immunity, encouraging criminal behavior by MKs and even potential collusion with criminal organizations, similar to what happens in Central American countries.** Aside from bribery, fraud, and breach of trust, which at this point are excluded from the proposed amendment (an exemption that the Knesset may later revoke with a simple majority vote), MKs would receive absolute substantive and irrevocable immunity for numerous offenses listed in the Penal Law-1977 and others, including violent crimes. Immunity could be granted simply by abstaining from putting the case to a vote in the plenum or by failing to secure 90 votes establishing that the action that triggered the investigation was not committed in the fulfillment of or for the purpose of fulfilling the MK's duties. A sparsely attended vote (say, 15 nays and 10 in favor) would be enough to grant this absolute immunity. Knowing in advance that sweeping criminal immunity is the default, MKs may be encouraged to engage in criminal behavior and even collude with criminal elements and organizations seeking to use MKs to advance their interests.

This is what happens in Central America, both in countries where parliamentary immunity exists in practice due to non-enforcement of the law or in a country like Honduras, where a law granting across-the-board immunity to lawmakers was passed in 2019.<sup>4</sup> Mexico eliminated immunity from prosecution for all public servants in 2018, but the close ties between lawmakers and criminal gangs persist even after the repeal due to weak enforcement.<sup>5</sup>

- **It will especially protect MKs who committed sexual offenses.** Prosecution of sexual offenses is difficult as it is due to evidentiary challenges and victims' fear of exposure. Were the proposed amendment to pass, victims would be even more reluctant to file a complaint to avoid having their case aired in public in the Knesset plenum. **A scenario could occur where the police and the Attorney General would need to convince 90 MKs to approve an investigation for incest or rape in public vote in the Knesset plenum.** Procedural immunity would also apply to sexual offenses committed before a person was elected to the Knesset, for as long as the MK is successively re-elected. Due to the passage of time and objective difficulties, it may no longer be possible to prosecute sexual offenses committed before a person became an MK after they complete their term.
- **MKs could easily infringe on the rights of family members.** Parents, spouses, and children would have to convince 90 MKs to be able to sue in Family Court, and to this end would have to air private affairs in the Knesset plenum. Although Family Court proceedings are conducted behind closed doors, family members would have to knock on the doors of 90 MKs and face a sort of "preliminary trial" in the plenum on such private matters as inheritance, guardianship, division of property in divorce, alimony, adoption, and child custody.
- **MKs would be able to grant immunity to the Prime Minister and to ministers who are MKs.** While the explanation attached to the bill focuses on MKs, it also applies to the Prime Minister and ministers who are MKs. For example, in January 2020, Prime Minister Netanyahu asked the Knesset for immunity in his trial on corruption charges,

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<sup>4</sup> \*[117th U.S. Congress: H.R.2716-Honduras Human Rights and Anti-Corruption Act of 2021](#), *Library of Congress*, 21 April 2021.

<sup>5</sup> Unattributed report, \*[Mexico's Lower House of Congress Votes To Strip Politicians of Immunity](#), *Reuters*, 20 April 2018.

but withdrew his request upon realizing it lacked a majority.<sup>6</sup> Under the proposed law, the Prime Minister and ministers would no longer need to apply for immunity, but the approval of 90 MKs to open an investigation would instead be secured by the Attorney General and the police.

- **It may encourage criminals and individuals mired in legal troubles to run for the Knesset to obtain immunity, and to remain in office until an effective investigation is no longer possible.** Since procedural immunity would cover crimes committed before taking office, re-elected MKs could evade criminal investigations and prosecution indefinitely. Criminals would have a vested interest in being re-elected to enjoy immunity and to remain MKs until their cases became unenforceable. Their parties would have no incentive to allow criminal proceedings against them as this would constitute admission that their Knesset faction has criminals in its midst.
- **It may undermine election integrity.** Given that Israeli elections are based on party lists, the bill could encourage non-incumbent candidates to engage in "vote-buying," accept campaign contributions forbidden under the Political Parties Financing Law-1973, and engage in election tampering. Knowing in advance that they would receive procedural immunity upon entering the Knesset, candidates might commit election-related crimes without fear of prosecution. This being the case, parties would have no incentive to lift their immunity, as doing so would be an admission that they gained votes illegitimately.
- **It enables the government to open criminal investigations against opposition members, Arab MKs in particular.** The government's dominance in the Knesset could give rise to a scenario opposition MKs, particularly those representing the Arab community, could see their immunity revoked due to false accusations. To wit, in the not-too-distant past, 85 MKs voted to expel Joint Arab List MK Ofer Cassif from the Knesset.<sup>7</sup>
- **MKs may be encouraged to incur financial debt in the knowledge they would be shielded from lawsuits for damages, and would have an incentive to remain in office until the statute of limitations expired.** The bill contains a default option of sweeping procedural immunity from civil proceedings, unless a person, organization,

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<sup>6</sup> Tal Schneider and Chen Ma'anit, \*[Indictment Filed Against Netanyahu in Jerusalem Court](#), *Globes*, 28 January 2020.

<sup>7</sup> Sam Sokol, \*[Motion To Oust MK Ofer Cassif Defeated in Knesset After Only 85 MKs Vote in Favor](#), *The Times of Israel*, 19 February 2024.

or company succeeds to persuade 90 MKs to vote in favor of legal action against a fellow MK. Thus, an MK could default on a mortgage, rent, or damages for causing bodily, mental, or material harm or for a car accident. Procedural immunity would also cover financial debts and liabilities incurred before their election to the Knesset, provided they continue to be re-elected uninterruptedly. Since the bill does not include a suspension of the statute of limitations, MKs would have an incentive to remain in the Knesset until their legal and financial obligations expired.

**For these reasons, Zulat strongly opposes the proposed law, which is a key component in the government's broader strategy to create the infrastructure for a transition to a full-fledged dictatorship and would turn the Knesset into a safe haven for criminals.** This infrastructure includes numerous anti-democratic, racist, and dangerous legislative proposals promoted in parallel, awaiting Prime Minister Netanyahu's decision to push them through the Knesset he dominates. Meanwhile, the mere discussion of such legislative initiatives plays a role in shaping public consciousness and inuring citizens to life under an authoritarian regime.

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