

Not 'The Feldstein Law' But 'The Netanyahu Immunity Law'

Zulat's Position Regarding Bill on Passing Top-Secret Information to the Prime Minister and Ministers (Legislative Amendments-2024)

Since the establishment of the 37th government at the end of 2022, the State of Israel has been undergoing a regime revolution. Under Prime Minister Netanyahu's leadership, the government has been preparing the infrastructure for a shift to a full-fledged dictatorial regime. This infrastructure consists, among other things, of a long series of bills that infringe on democracy, human rights, and equality, and that are waiting for the moment when Netanyahu decides to finalize their legislation by a Knesset that is under his thumb. Where some of these bills are concerned, such a decision spells the transition to an authoritarian regime. In the meantime, these legislative proposals and other steps taken by the government, such as unprofessional appointments, attacks on the civil service, the takeover of the Israel Police, the prolongation of the war, and more, shape the public's consciousness and inure the population to life under a dictatorial regime.

The legislation in question,¹ which would sanction the sweeping transfer of top-secret information to a prime minister and other ministers, is a private bill approved by the Ministerial Committee for Legislation on 1 December 2024.² It forms an integral part of the regime revolution for the following reasons:

- It is the "harbinger" signaling that the Knesset will thwart the establishment of a state commission of inquiry into the October 7th fiasco.

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

¹ [Bill on Passing Top-Secret Information to Prime Minister and Ministers \(Legislative Amendments-2024\)](#), Knesset National Legislation Repository, 25 November 2024.

² TOI Staff, [*Ministers Advance 'Feldstein Law', Giving Immunity for Passing Classified Info to PM](#), *The Times of Israel*, 1 December 2024.

- Contrary to its name, "The Feldstein Law" would probably not help acquit the defendants accused of leaking top-secret information, but would hinder the expansion of the criminal investigation into the Feldstein case to Prime Minister Netanyahu himself. It would also introduce blanket immunity for any future handover of top-secret information to a prime minister, thereby indirectly granting Netanyahu immunity for having received the material.
- It would allow Netanyahu to request and obtain confidential information on political rivals or any information he needs to advance other personal-political interests.
- Instead of being the exception, passing information directly to Netanyahu would become the rule. This information would not have gone through the professional hierarchy or undergone internal review, thus potentially leading to erroneous decisions.
- It would harm the principle that the Shin Bet and IDF must forever be apolitical and could lead to severe politicization in their ranks.

Legal situation at present: Current laws prohibit the disclosure of top-secret information by unauthorized parties such as a soldier (Article 57 of the Military Justice Law-1955³), anyone not authorized to do so (Article 113 of the Penal Code-1977⁴), and a Shin Bet employee (Article 19 of the Shin Bet Law-2002⁵).

What the bill proposes: To amend the Military Justice Law, so that the prohibition does not apply to a soldier who discloses top-secret information to a prime minister or a defense minister; to amend the Penal Code so that the prohibition does not apply to an unauthorized party who discloses top-secret information to a prime minister, a defense minister, or any other minister that this top-secret information falls within his jurisdiction; and to amend the Shin Bet Law so that the prohibition does not apply to a Shin Bet employee who discloses top-secret information to a prime minister.

It is clear from the text and the attached explanation that the bill does not at all seek to enact "The Feldstein Law" to protect the donors of top-secret information to a prime

³ [Military Justice Law-1955](#), Nevo, 20 July 1955.

⁴ [Penal Code-1977](#), Nevo, 4 August 1977.

⁵ [Shin Bet Law-2002](#), Nevo, updated 19 September 2024.

minister, but rather to legislate a "Netanyahu Immunity Law" to preclude any investigation of the improper use of top-secret information by the current prime minister. Zulat calls for strong opposition to a bill that would set dangerous precedents, as detailed below:

- It is the "harbinger" signaling that the Knesset will thwart the establishment of a state commission of inquiry into the October 7th fiasco. The explanation attached to the bill notes that "on the eve of the Iron Swords War in Gaza, many military personnel were in possession of critical information about Hamas's 'Jericho Plan' to invade Israeli territory, but this information did not find its way to the prime minister," which is why new legislation is imperative to enable a prime minister to receive all the information necessary to make decisions. This means that by their very approval of the bill, MKs would be essentially nailing down the fact that Prime Minister Netanyahu is not accountable for the October 7th debacle, thereby likely thwarting the establishment of a state commission of inquiry.
- Contrary to its name, "The Feldstein Law" is not expected to help acquit the defendants accused of leaking classified information. According to the redacted indictment allowed for publication, Netanyahu's media adviser Eli Feldstein and a non-commissioned officer in the Information Security Division of the IDF Intelligence Directorate are not being prosecuted for passing classified information to the prime minister or any other minister. Instead, they are charged with stealing raw material from the Intelligence Directorate database and leaking it to a foreign newspaper to circumvent the military censor's sweeping ban on its publication, thus risking the exposure of live intelligence and human lives in order to sway Israeli public opinion on a hostage deal with Hamas.⁶
- It would hinder the expansion of the criminal investigation into the Feldstein case to include Prime Minister Netanyahu and would introduce blanket immunity for any future handover of top-secret information to a prime minister, thereby indirectly granting Netanyahu immunity for having received the material. Under the law at present, the mere passing of top-secret information to a prime minister is not

⁶ Editorial desk, [Redacted Indictment Against Feldstein and Another Defendant Allowed for Publication](#), *Goitem*, 24 November 2024.

automatically considered an offense and is contingent on the circumstances. Article 91(a)(3) states that "the prime minister may permit the publication of information forbidden for publication." There is no known record of a criminal investigation ever been launched into the passing of top-secret information to an Israeli prime minister that was material for the discharge of his duties, nor is there room for concern that an investigation might be launched in such circumstances, given that it would not be of public interest. On the other hand, should the bill become law, it would introduce blanket immunity for passing any type of top-secret information to a prime minister, thereby indirectly granting Prime Minister Netanyahu immunity for having received the material. Consequently, legislation of the bill would limit the possibilities of exhausting the criminal investigation of Netanyahu's personal involvement in the Feldstein case.

- It would allow Prime Minister Netanyahu to request and obtain confidential information on political rivals or any information he needs to advance other personal-political interests. At present, as mentioned, the mere delivery of top-secret material to a prime minister is not automatically considered an offense but is contingent on the circumstances. However, if the bill becomes law, Prime Minister Netanyahu would be able to request and obtain from the Shin Bet or the IDF top-secret material about political rivals, such as sensitive or intimate information, in order to blackmail or threaten them, or confidential information he might need to advance other personal-political interests. For example, Prime Minister Netanyahu reportedly asked the head of the Shin Bet to provide him with an affidavit stating that his testimony in the ongoing criminal trial against him should be postponed indefinitely for security reasons,⁷ but the Shin Bet chief could find no justification for the request. Should the bill become law, Netanyahu could approach a different Shin Bet official who would be amenable to drafting such a document based on partial or distorted top-secret information.
- Instead of being the exception, passing information directly to Prime Minister Netanyahu would become the rule. It would encourage the delivery of information that has not gone through the professional hierarchy or undergone internal review, thus potentially leading to erroneous decisions. Legislation of the proposed bill may

⁷ Michael Hauser Tov, [*Netanyahu's Office Asked Shin Bet to Help Him Avoid Testifying in His Trial on Security Grounds](#), *Haaretz*, 18 November 2024.

encourage junior and other employees in the Shin Bet and the IDF to knowingly or unknowingly pass on partial, distorted, incorrect, or biased top-secret information that has not been fully and objectively reviewed by the professional chain of command or undergone internal oversight. This could actually lead a prime minister to make erroneous decisions because he would not have the full or the correct picture in front of him. In the Feldstein case, for example, it turned out that the leaked document was falsely depicted as having been written by Hamas leader Yahya Sinwar and outlining his hostage negotiation strategy, whereas the security establishment believed the document had nothing to do with Sinwar and had been drafted by lower-ranking Hamas officials.⁸

- It would harm the principle that the Shin Bet and IDF must forever be apolitical and could lead to severe politicization in their ranks. Serving in the IDF and Shin Bet are people who espouse a variety of political opinions. Opening the floodgates to the wholesale passing of top-secret information directly to a prime minister by every Shin Bet employee and IDF soldier could lead to a "competition" between employees and soldiers about delivering information that suits Prime Minister Netanyahu's ideology and political agenda, be the informant's goal to get a job promotion or to promote his own political worldview.

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⁸ Itamar Eichner, [*Suspected Leaker Recruited as Reservist, Then Shifted to Netanyahu's Team](#), *Ynetnews*, 4 November 2024.