

Appointing Political Associate Might Lead to Dictatorial-Style Internal Repression

Zulat Proposes Selection of Shin Bet Chief by Search Committee

As Zulat warned in a report published in June 2022, the political regime in Israel has for years been descending into authoritarianism.¹ This deterioration, linked to historical circumstances and flaws in the country's constitutional and governmental structure, took a dangerous shift toward a fully authoritarian regime after Justice Minister Yariv Levin announced his plan to reform the judicial system in January 2023.² In parallel, the government's efforts to assign to the security establishment's top officials sole responsibility for the October 7 fiasco increased speculation that the Shin Bet chief might be fired.³

This policy paper deals with the process of selecting a Shin Bet chief and with Zulat's proposal to assign the task to a professional public search committee, which would submit its recommendation to the government. This would prevent a situation where the Shin Bet chief is a personal and political appointee of the Prime Minister who would owe his loyalty to him rather than to the state and the public. A selection process undertaken by a search committee could increase the public's trust and alleviate its concerns.

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 pursued a shake-up of the regime in a bid to seize control of the state's authorities and assets in order to advance their political and personal interests: Justice Minister Levin of the judicial system, Regional Cooperation Minister David Amsalem of government companies, Communications Minister

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

¹ Eitay Mack, [*Pseudo Democracy: State of the Regime in Israel](#), Zulat, 23 June 2022.

² Yael Freidson and Noa Shpigel, [*Netanyahu's Justice Minister Presents Plans for Radical Judicial Overhaul](#), Haaretz, 4 January 2023.

³ Moran Azulay, [*Netanyahu May Consider Further Security Leadership Changes After Gallant's Dismissal](#), Ynetnews, 5 November 2024.

Shlomo Karhi of the free press, newly-appointed Defense Minister Yisrael Katz of the IDF, and National Security Minister Itamar Ben-Gvir of the Israel Police.

Although the Shin Bet chief has to date been selected based on the premier's recommendation, Prime Minister Netanyahu is in a severe conflict of interest in this specific case given that the identity of the appointee could affect him personally, due to the ongoing Shin Bet investigation of senior staffers in his office suspected of leaking and forging security-intelligence documents and Netanyahu's efforts to prevent an effective investigation into the responsibility for the October 7 fiasco. Examples of these efforts are a video he released, claiming that the purpose of the Shin Bet's probe of the document forgery was to hurt him and Israel's citizens⁴ and his request, which the Shin Bet turned down, to provide him with a document in support of his quest to postpone the testimony at his corruption trial.⁵

As will be highlighted in this position paper, appointing a loyalist of Prime Minister Netanyahu as head of the Shin Bet could turn the agency into his personal law enforcement arm, due to the following reasons: 1) The provisions of the Shin Bet Law-2002⁶ defining its functions and powers are extremely broad and ambiguous and allow for their abuse by a prime minister to whom the appointee would be subordinate by law; 2) Judicial, public, and media scrutiny of the Shin Bet is extremely limited due to the exceptional functions and powers granted to it by law and the secrecy governing its activities.

Netanyahu's appointment of a "puppet" could lead to unbridled internal repression, as is seen in dictatorships around the world. For example, the Investigative Committee established in 2007 in Russia as part of a "reform" of law enforcement agencies was originally supposed to operate independently under the Prosecutor General's Office, but since 2011 it has become a completely separate unit that reports directly to President Vladimir Putin, works in conjunction with the FSB (the former KGB), and has been headed since 2007 by Putin's close associate and university classmate, Alexander Bastrykin. Its official duties are to investigate serious crimes and gather evidence for prosecution, as well as to investigate complaints against law enforcement officials,⁷ but in practice it is one of President Putin's main tools for dealing with

⁴ Bar Peleg and Jonathan Lis, [*Netanyahu's Rant Against BibiLeaks Investigation Was Full of Half-Truths and Inaccuracies](#), *Haaretz*, 24 November 2024.

⁵ Michael Hauser Tov, [*Netanyahu's Office Asked Shin Bet To Help Him Avoid Testifying in His Trial on Security Grounds](#), *Haaretz*, 18 November 2024.

⁶ [Shin Bet Law-2002](#), *Nevo*, last updated 19 September 2024.

⁷ [*Federal Law No. 403-FZ: Investigative Committee of the Russian Federation](#), *CIS-Legislation*, 28 December 2010.

"subversion" against his regime, political persecution, silencing critics, opposition and anti-corruption activists, and hounding religious and sexual minorities. Among other things, the Investigative Committee is responsible for investigating and criminalizing opposition and human rights organizations based on the Foreign Agents Law, and it has launched political investigations of at least 1,000 organizations, including international ones.⁸ It was also responsible for the criminalization and persecution of members and supporters of the protest punk band Pussy Riot,⁹ the Anti-Corruption Foundation (FBK) founded by the late opposition leader Aleksei Navalny,¹⁰ and of the organizers and participants in demonstrations against President Putin, his policies, and national corruption.¹¹

Shin Bet Law's Broad and Ambiguous Provisions Allow for Abuse by Prime Minister

The explanatory notes attached to the Bill on Shin Bet Law-1998 state that it was intended "to fill the gap in Israeli law with regard to its structure, purpose, functions, and powers, as well as its scrutiny,"¹² given that until then the Shin Bet had operated by virtue of government resolutions. In practice, the law was enacted following the decline of the Shin Bet's public image as a result of the Bus 300 and Nafsu affairs.¹³

As will be explained below, despite the promise "to fill the gap," **the broad and ambiguous provisions of the Shin Bet Law allow for their abuse by the Prime Minister for the purpose of violating human and civil rights:**

- **The law subordinates the Shin Bet and its activities to the Prime Minister** [Articles 3, 4, 9-11]: The Prime Minister is in charge of the Shin Bet, approves its internal directives and orders, and is empowered to enact regulations to implement the law. Furthermore, the head of the Shin Bet is appointed upon his recommendation, and so is its internal auditor. He is empowered to authorize covert searches for intelligence purposes, collection of material from databases, and wiretaps based on the relevant law.

⁸ *[Russia's New Crackdown on Human Rights](#), Amnesty International UK, 18 May 2020; *[Russia: Rights Activist Interrogated](#), Human Rights Watch, 19 May 2016.

⁹ Andrew E. Kramer, *[One Russian Security Agency Raids Another, In Rare Sign of Dysfunction](#), The New York Times, 19 July 2016.

¹⁰ Zdravko Ljubas, *[Russia: Nationwide Raids of Navalny's FBK Offices](#), Organized Crime and Corruption Reporting Project, 17 October 2019.

¹¹ *[European Parliament Resolution of 13 March 2014 on Russia: Sentencing of Demonstrators Involved in the Bolotnaya Square Events](#), European Parliament, 13 March 2014.

¹² [Bill on Shin Bet Law-1998](#), Knesset, 23 February 1998.

¹³ Affairs in the 1980s: Execution of two Palestinian bus hijackers by Shin Bet operatives after the hostage crisis was over; the accusation of IDF officer Izzat Nafsu falsely charged with espionage and assisting the enemy based on bogus information and torture during his interrogation by the Shin Bet.

- **According to the law, the Shin Bet is not only in charge of state security and counterterrorism, but also of protecting "the democratic regime and its institutions" from threats of "subversion"** [Article 7(a)]: Just like with "state security," a term subject to broad or narrow interpretation, the Shin Bet Law does not define "subversion" and also leaves it open to interpretation. In dictatorships, "subversion" is used as a catch-all word for any opposition activity. Addressing the issue in one of his rulings, former Supreme Court Vice President Elyakim Rubinstein wrote that "subversion" was an abstract concept that eluded definition: "The challenge, which is not a simple one, is its practical application, based on a fair and balanced interpretation rather than on overzealousness."¹⁴ Acknowledging the state's position that even social or political protest could fall within the Shin Bet's jurisdiction under certain circumstances, he nevertheless voiced his concern about the classified practice of summoning citizens suspected of "subversion" for "warning conversations" due to "the tenuous link between subversion and terrorist activity. Therefore, even if the Shin Bet's intentions are good, the practice could prove irrelevant in most cases."
- **The Shin Bet is uniquely empowered to thwart offenses that have not yet been perpetrated, and to that end interrogate citizens in order to obtain information about other people** [Articles 7 and 8 of the Shin Bet Law]: Unlike enforcement agencies such as the Israel Police and the State Attorney's Office that deal with crimes already committed, in order to deal with "subversion" the law allows the Shin Bet to arrest and interrogate citizens to prevent them or others from perpetrating future crimes. In other words, citizens can be arrested and interrogated by the Shin Bet before they have committed any crime or simply to extract information about other people from them. **This power may be misused for the purpose of sham interrogations, harassment, and silencing of citizens who are critical of the government and its leader.**
- **Not only are the Shin Bet's powers and functions defined in a broad and ambiguous manner, but the government can expand them even further** ([Article 7(b)(6)]: With the approval of the Knesset Committee on Shin Bet Affairs, the government is entitled to expand the Shin Bet's operations to additional areas aimed at preserving and promoting state interests essential to the country's national security. In one of her rulings, former Supreme Court President Esther Hayut warned that an overly broad and ambiguous definition of "national security" could "loosen the reins and allow the use of the Shin Bet's capabilities for tasks that have nothing to do with the objective of a counterterrorism security agency.... A balance has

¹⁴ [Supreme Court Petition 5277/13 Association for Civil Rights in Israel v. Shin Bet](#), *Neva*, 7 February 2017.

been set between the state's security needs and the foundations of our democratic system, first and foremost, respect for individual rights and freedoms and the rule of law. The use of the Shin Bet's capabilities against citizens and residents who had no nefarious intentions jeopardizes a democratic society, which, as a rule, is willing to tolerate a certain, limited, and defined infringement on human rights, and at times even on the rule of law, when it comes to threats to its continued existence. Therefore, expanding the circumstances under which a counterterrorism security service can be deployed raises serious concerns."¹⁵

- **The Shin Bet has extensive powers to monitor and collect information and is excluded from the Privacy Protection Law:** These powers are defined in the Shin Bet Law for the purpose of realizing the security agency's functions [Articles 8(a)(1) and 11], as well as in the provisions of Articles 4 and 5 of the Wiretap Law-1979,¹⁶ which stipulate that wiretapping may be authorized by the Prime Minister for state security purposes and by the Shin Bet chief in exceptional circumstances. Accordingly, Article 19(b) of the Privacy Protection Law-1981¹⁷ states that the Shin Bet, one of its employees, or anyone acting on its behalf, shall not be liable under this law for any reasonable harm caused in the line of duty or for the purpose of fulfilling it. It should be noted that the government's draft amendment in question would explicitly expand the Shin Bet's powers in this area and legalize sweeping access to databases of public bodies and covert searches of cellular phones and computers, including of journalists.¹⁸ It bears noting in this context that Article 7(b)(6) allowing the expansion of the Shin Bet's powers by virtue of a government resolution was invoked during the coronavirus pandemic to legalize Shin Bet surveillance. Addressing the attendant dangers, Supreme Court Justice Yitzhak Amit wrote in a ruling: "The deployment of a secret security agency in a distinctly civilian domain such as public health ought to cause all lovers of democracy to lose sleep. It carries the inherent risk of a slippery slope, potentially leading to a reality akin to the one depicted in the film *The Lives of Others*,¹⁹ and we must not, God forbid, come to resemble countries that have in the past and continue to this day to conduct mass surveillance on their citizens. This underscores the importance of clear rules that define the conditions under which restricted use of a 'tool' may be made.²⁰ There is yet another aspect to this slippery slope, which is concern about 'used first, abused later,' not to mention that the government had continuously

¹⁵ [Supreme Court Petition 2109/20 Attorney Shahrar Ben-Meir v. Prime Minister](#), *Nevo*, 26 April 2020.

¹⁶ [Wiretap Law-1979](#), *Nevo*, last update 18 September 2023.

¹⁷ [Privacy Protection Law-1981](#), *Nevo*, last update 22 August 2024.

¹⁸ Chen Maanit, ["Memorandum of Shin Bet Law Will Enable Israel's Security Agency To Spy on Journalists"](#), *Haaretz*, 16 January 2024.

¹⁹ German drama from 2006 depicting the monitoring of East Berlin residents by agents of the Stasi, East Germany's secret police, during the Communist era.

²⁰ [Supreme Court Petition 6732/20 Association for Civil Rights in Israel v. Knesset](#), *Nevo*, 1 March 2021.

expanded the security agency's powers since 2020, when it enacted the Shin Bet Empowerment Law to reduce the spread of the coronavirus."²¹ **These extensive powers to conduct surveillance and collect information could be used against political rivals.**

- **The Shin Bet is indirectly empowered to restrict demonstrations, particularly anti-government ones:** Articles 7(b)(1) and 7(b)(2) of the law empower the Shin Bet to thwart illegal activity against government institutions and bodyguard officials. Invoking these powers and upon the Prime Minister's orders, the Shin Bet may prevent demonstrations near his residences or those of ministers and coalition members, as well as near the Knesset, government ministries, or other public offices.
- **The Shin Bet is indirectly empowered to restrict freedom of occupation** [Articles 7(b)(3) and 8]: It is empowered to collect information and relay it to other entities, set security clearance rules for positions and jobs in the public service and other organizations as determined by the government, and assess a person's suitability for a position or job requiring a security clearance, including the use of polygraph tests. The Shin Bet can determine that a person providing a service to the state, either independently, on behalf of a private company, or in a specific field must get security clearance and undergo a security check, thereby potentially infringing on the freedom of occupation of citizens. For example, during the years of military rule over Israel's Arab citizens (1948-1966) and in the decades that followed, the Shin Bet monitored and restricted their freedom of occupation.²² Although the monitoring of Arab teachers officially ended in 2005,²³ in March 2024 the Education Ministry relayed the ID numbers of 265,000 teaching staff to the Shin Bet to check against the latter's records.²⁴ It should also be noted that the Knesset recently approved a law amendment allowing for the expedited firing of teachers who "committed an act of solidarity with a terrorist organization" or "published words of praise, sympathy, or encouragement" for an act of terrorism.²⁵ Although a clause proposing constant scrutiny of teachers was removed from the proposed bill in question, the new law may legitimize informal supervision by the Shin Bet.
- **Given the broad and ambiguous provisions of the law, the Shin Bet's obligation to act in a nonpartisan manner depends largely on the personal conduct of the Shin Bet chief and**

²¹ [Shin Bet Empowerment Law to Assist in National Effort To Reduce Spread of Coronavirus and Promote Use of Civilian Technology To Track Down Individuals Who Were in Contact With Sick People \(Temporary Provision-2020\)](#), *Neva*, 1 July 2020.

²² Reli Saar, [Shin Bet Officer Appoints School Principals in Arab Sector](#), *Haaretz*, 5 November 2011.

²³ Or Kashti and Noa Shpigel, [*Israel's Shin Bet Considers Vetting Teachers To Identify Affiliation With Terror Organizations](#), *Haaretz*, 12 February 2024.

²⁴ Or Kashti, [Shin Bet To Monitor Teachers: MK Halevi Already Won](#), *Haaretz*, 4 March 2024.

²⁵ Noa Shpigel, [*Israel Passes Law Empowering Education Ministry To Immediately Dismiss Teachers Suspected of Terrorism Sympathy](#), *Haaretz*, 5 November 2024.

the Prime Minister. Article 4(c) of the law states that "the Shin Bet shall act in a nonpartisan manner; no task shall be assigned to it for the purpose of advancing partisan-political interests." However, the terms cited in the law, such as "security," "subversion," "the democratic regime and its institutions," and "other nonpartisan interests vital for national security," are open to narrow or broad interpretation, potentially aligning with or serving partisan-political interests.

Judicial, Public and Media Scrutiny of Shin Bet's Activities Extremely Limited

Given the broad and ambiguous provisions of the law and the nature of the Shin Bet's activities, which are also uniquely defined in other laws and regulations, the courts struggle to scrutinize it. As a result, they allow the Shin Bet to employ exceptional measures that violate human and civil rights. A prominent example that precedes the enactment of the Shin Bet Law is a ruling by former Supreme Court President Aharon Barak allowing the Shin Bet to use physical and psychological pressure on interrogatees perceived as "ticking bombs," and in certain cases to invoke the "necessity defense" outlined in Article 34(11) of the Penal Law-1977,²⁶ despite the fact that Israel is a signatory to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).²⁷ Explaining the dilemma faced by judges when scrutinizing and restricting the Shin Bet, Barak wrote: "We had a tough time ruling on these petitions. True, from a legal standpoint our path was clear, but we are part of Israeli society; we understand its difficulties and live its history. We do not live in an ivory tower; we live the life of the state. We are aware of the harsh reality of terrorism in which we sometimes find ourselves. Concern that our ruling might prevent an adequate response to terrorists and terrorism troubles us." On top of it, there are laws and regulations allowing for security detainees to be kept from appearing before a judge or to be denied access to legal counsel,²⁸ which impinge on the right to due process and may lead to human rights violations and even torture. Due to the Shin Bet's reliance on intelligence information, courts often make decisions affecting human rights, detainees, and suspects based on classified evidence presented in ex parte proceedings that is not disclosed to defense

²⁶ [Supreme Court Petition 5100/94 Public Committee Against Torture in Israel v. Israel Government](#), *Nevo*, 6 September 1999.

²⁷ [*Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#), *UN General Assembly*, 10 December 1984.

²⁸ [Counter-Terrorism Law-2016](#), *Nevo*, last update 15 November 2023; [Criminal Procedure Law-1996 \(Enforcement Powers: Arrests\)](#), *Nevo*, last updated 12 March 2025; [Amendment and Extension of Emergency Regulations for Iron Swords War-2024 \(Remand in Custody of Suspected Security Offender\)](#), *Nevo*, last updated 6 February 2025; [Criminal Procedure Law-1997 \(Deferral of Security Detainee's Meeting With a Lawyer\)](#), *Nevo*, last updated 18 September 2023.

attorneys. Judges are inherently limited in their ability to critically examine this classified information and subsequently challenge Shin Bet officers, as is amply evident in the case of administrative detentions, which Zulat has proposed to abolish.²⁹

Because of the secrecy surrounding its activities, public and media scrutiny of the Shin Bet is extremely limited. According to Article 19 of the Shin Bet Law and the regulations enacted under it,³⁰ secrecy applies to the identity of employees, facilities (including locations, addresses, and internal features), details that could reveal missions, capabilities, work methods, covert operation plans, operational readiness, or classified means used by Shin Bet units, as well as intelligence sources and any information that could lead to their exposure. Anyone wishing to publish such information must obtain approval from the military censor, who in turn consults with a Shin Bet official. Publishing information without authorization is punishable by imprisonment ranging from one to three years. Additionally, the Shin Bet is exempt from the Freedom of Information Law [Article 14(a)(2)],³¹ and courts frequently issue full or partial gag orders in cases involving the agency, further restricting freedom of expression and the press.

Zulat's Proposal: Search Committee to Select Shin Bet Chief

Zulat proposes to assign the task of selecting a Shin Bet chief to a professional public search committee, which would submit its recommendation to the government. We propose to amend Article 3(a) and to add Article 3A to the Shin Bet Law, which would henceforth require the nomination of a search committee and would define its role and its modus operandi (Zulat's proposed bill is presented in Appendix A to this document).

The search committee would consist of six members: The chairman would be a retired Supreme Court judge appointed by the Prime Minister in consultation with the incumbent President of the Supreme Court, and its members would include a representative of the Shin Bet, a representative of the Prime Minister, a representative of the Attorney General, as well as two prominent public figures well versed in the security agency's work who would be selected by the chairman.

²⁹ Tal Hilel, *[Amendment of Administrative Detention Law: Perpetuation of Apartheid Policy as Tool of Political Oppression](#), *Zulat*, 7 January 2025.

³⁰ [Shin Bet Regulations-2004 \(Other Confidential Details on the Agency and Permission to Publish Prohibited Information\)](#), *Neva*, last updated 3 September 2024.

³¹ [Freedom of Information Act-1998](#), *Neva*, last updated 6 December 2023.

This legislation would preclude a situation where the head of the Shin Bet is a personal and political appointment of the Prime Minister, thereby owing his loyalty to him rather than to the state and the public. A selection process conducted by a search committee could increase the public's trust and alleviate its concerns. As noted, his appointment by the Prime Minister raises great concern, as the broad and ambiguous provisions of the Shin Bet Law can be exploited to advance personal and political interests, thus potentially turning the Shin Bet into a kind of private law enforcement arm of the government or its leader.

The notion of a search committee is particularly relevant in light of the acute conflict of interest faced by Prime Minister Netanyahu, as the identity of the Shin Bet head could affect him personally, especially given the agency's investigation into the leaks from his office and the inquiries into responsibility for the October 7 disaster. Additionally, concerns have been raised about the potential misuse of classified security information related to Netanyahu's protection by the Shin Bet for his private interests, such as delaying his testimony in his trial.

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