

"Feldstein Law": Blanket Immunity for Political Use of Classified Information

Zulat's Position on Proposed Amendments to the Law on Passing Classified Information
to the Prime Minister and Ministers and to the Penal Code
(Protection of Whistleblowers in Corruption and Security Contexts)

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 transition 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 he holds under his thumb. Where some of these bills are concerned, such a decision spells the shift 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 aforementioned amendments¹ (known in the media as the "Feldstein Law"²) promoted in tandem by the government would broadly allow the disclosure of classified information to the Prime Minister, the members of the Ministerial Committee on National Security (MCNS),³ and the Chairman of the Knesset Foreign Affairs and Defense Committee

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

¹ [Bill on Law on Disclosure of Classified Information to the Prime Minister and Ministers \(Legislative Amendments-2024\)](#), *Knesset National Legislation Repository*, 25 November 2024; [Bill on Amendment of Penal Code \(Protection of Whistleblowers in Corruption and Security Contexts-2024\)](#), *Knesset National Legislation Repository*, 25 November 2024.

² Eli Feldstein, a military affairs spokesman for Netanyahu, is accused of leaking to the German newspaper *Bild* a document stolen from an IDF database by a second defendant, Ari Rosenfeld, a noncommissioned officer in the IDF Intelligence Directorate, in a bid to sway public opinion against a hostage deal in exchange for a truce in the war in Gaza. According to the indictment, the leak could have harmed national security and endangered lives.

³ The Ministerial Committee on National Security consists of the Prime Minister, as well as the Ministers of Defense, Justice, Foreign Affairs, Finance, Agriculture, Transportation, National Security, Energy and

(FADC). The proposed amendment to the Penal Code regarding the protection of whistleblowers was approved by the Ministerial Committee for Legislation on 12 January 2025, slightly more than a month after the amendment to the Law on Disclosure of Classified Information to the Prime Minister and Ministers passed its preliminary reading.⁴ Following are the reasons why both of these private bills form an integral part of the regime revolution:

- They herald the effort to be pursued in the Knesset to thwart the establishment of a state commission of inquiry into the October 7th catastrophe.
- They herald the Knesset's intention to empower ministers to intervene in criminal proceedings and grant immunity to individuals who are dear to their hearts, themselves included.
- Despite being called the "Feldstein Law," the proposed amendments are not likely to help acquit the defendants in the leak case, but would instead prevent the criminal investigation from extending to Prime Minister Netanyahu. They would grant sweeping immunity for any future passing of classified information to Netanyahu, the ministers on the MCNS, and the FADC chairman, and would indirectly provide immunity for receiving such information.
- The proposed amendments would allow Netanyahu, the ministers on the MCNS, and the FADC chairman to request and obtain classified information about political rivals or any information they need to advance other personal political interests.
- Instead of being the exception, passing information directly to Netanyahu, the ministers on the MCNS, and the FADC chairman would become the norm. Classified information would be passed directly to them without undergoing professional oversight and internal review processes, thereby potentially leading to misguided decisions.
- The conditions for granting immunity are absurd and irrelevant, seemingly designed as a "smokescreen" for reckless legislation.

Infrastructure, and the heads of the directorates for the rehabilitation and reconstruction of the Gaza Envelope and of the northern border communities.

⁴ Sam Sokol, [*Bill to Prevent Prosecution of Soldiers Who Send Intel to PM Passes Preliminary Reading](#), *The Times of Israel*, 4 December 2024; Noa Shpigel, [*Israeli Ministers Advance 'Feldstein Bill', Meant to Ease Penalties of BibiLeaks Case](#), *Haaretz*, 12 January 2025.

- The proposed amendments could undermine the principle of nonpartisanship and lead to severe politicization in the Shin Bet, the Mossad, the IDF, the Israel Police, and the Israel Prison Service (IPS).

Current Situation

Existing legislation prohibits the unauthorized passing of classified information by unauthorized persons such as a soldier (Article 57 of the Military Justice Law-1955),⁵ anyone not authorized to do so (Article 113 of the Penal Code-1977),⁶ and a Shin Bet employee (Article 19 of the Shin Bet Law-2002).⁷ In addition, Article 14 of the Second Schedule to the Prison Ordinance-1971 [New Version] and Article 14 of the First Schedule to the Police Law-2006, define as a disciplinary offense the passing and handover, or attempted passing and handover, of classified information by a prison warden or a police officer to an unauthorized person.

Proposed Legislative Amendments

1. **Bill on the Law on Disclosure of Classified Information to the Prime Minister and Ministers** proposes to amend the Military Justice Law so that the prohibition does not apply to a soldier who passes classified information to the Prime Minister or the Defense Minister; to amend the Penal Code so that the prohibition does not apply to an unauthorized person who passes classified information to the Prime Minister, the Defense Minister, or any minister responsible for matters related to the classified information; to amend the Shin Bet Law so that the prohibition does not apply to a Shin Bet employee who passes classified information to the Prime Minister. The bill has already passed its preliminary reading.
2. **Bill on the Penal Code (Protection of Whistleblowers in Corruption and Security Contexts)** proposes to extend immunity to Israel Police officers and IPS and Mossad personnel and to persons who pass information to the ministers on the MCNS and the FADC chairman. The proposed amendment establishes absurd and irrelevant conditions for granting immunity and empowering the MCNS to grant immunity from criminal proceedings, both during an investigation and after an indictment has been

⁵ [Military Justice Law-1955](#), *Nevo*, 20 July 1955.

⁶ [Penal Code-1977](#), *Nevo*, 4 August 1977.

⁷ [Shin Bet Law-2002](#), *Nevo*, updated 19 September 2024.

filed, up to and including the final verdict. This bill has been approved by the Ministerial Committee for Legislation.

The wording of the proposed amendments and the attached explanations clearly show that these are neither "Feldstein Laws" nor proposals aimed at protecting leakers or whistleblowers, but instead are designed to politicize classified information and criminal proceedings. Zulat's position is that these proposals must be categorically rejected, as they would set a series of dangerous precedents as detailed below:

3. **They herald the effort to be pursued in the Knesset to thwart the establishment of a state commission of inquiry into the October 7th catastrophe.** The explanatory notes attached to both bills affirm, in almost identical language, that numerous claims surfaced during and prior to the war in Gaza that intelligence information about plans to attack Israel was halted at lower or higher levels within the security establishment and were not brought to the attention of elected officials. One of the proposed amendments is even titled "Protection of Whistleblowers," implying that by approving one or both of them, MKs would be reinforcing the narrative that Prime Minister Netanyahu bears no responsibility for the October 7th fiasco and that there was a corrupt conspiracy within the security establishment against him, thereby obstructing the formation of a state commission of inquiry.
4. **They also herald the Knesset's intention to empower ministers to intervene in criminal proceedings and grant immunity to individuals who are dear to their hearts, themselves included.** Netanyahu, the ministers on the MCNS, and the FADC chairman would be able to demand information from Israel Police and Shin Bet investigations in a bid to obstruct and disrupt them (for example, by leaking details or pressuring witnesses and suspects). Unprecedentedly, the bills propose to empower the MCNS to grant immunity from prosecution during an investigation, after an indictment has been filed, and up until a verdict is reached, effectively enabling the ministers on the committee to grant immunity to themselves.

The government and its members are forbidden by law to interfere in criminal proceedings, be it directly or indirectly. As confirmed in Supreme Court rulings,⁸ the prosecution's policy is defined in directives issued by the Attorney General and is

⁸ [Supreme Court Case 5699/07 Anonymous \(A.\) v. Attorney General](#), *Nevo*, 26 February 2008; [Supreme Court Case 6410/14 Movement for Quality Government v. State Attorney](#), *Nevo*, 4 February 2015.

based on the principle that criminal prosecution must function independently and without political interference.⁹ Decisions about indictments must be based solely on case facts, applicable law, professional discretion, and the prosecutorial policy about the enforcement of an offense. Accordingly, the Supreme Court recently struck down Article 8d of Amendment No. 37 to the Police Ordinance (2022), which had allowed the National Security Minister to "set general policy in the field of investigations."¹⁰

5. **Despite its name, the "Feldstein Law" is unlikely to help acquit the defendants in the leak case.** According to publicly released details from the indictments, Feldstein and Rosenfeld are not being prosecuted for leaking classified information to the Prime Minister or some other minister, but for stealing raw intelligence data from IDF Intelligence systems and leaking it to a foreign newspaper with the intent of influencing Israeli public opinion regarding a hostage release deal, bypassing the military censor's sweeping ban on its publication and endangering intelligence sources and human lives in the process.¹¹
6. **The proposed amendments would make it more difficult to extend the criminal investigation of the Feldstein case to Netanyahu. They would grant sweeping immunity for any future disclosure of classified information to him, the ministers on the MCNS, and the FADC chairman, and would indirectly grant them immunity for receiving such information.** As the law stands today, the mere passing of classified information to a Prime Minister, the ministers on the MCNS, and a FADC chairman is not automatically considered a crime but depends on the circumstances. Article 91(a)(3) even stipulates that "the Prime Minister may authorize the publication of information that is otherwise prohibited." To wit, there is no known instance of a criminal investigation for passing classified information pertaining to their duties to a Prime Minister, a minister, or an FADC chairman, nor is such an investigation likely to be launched, as it would run against the public interest. However, if the amendments are approved, blanket immunity would be granted in the event of any type of classified information being passed to these individuals, indirectly granting themselves immunity for receiving it. Consequently, approval of these amendments would limit

⁹ [Attorney General's Directive 4.1001: Independence of Criminal Prosecution](#), *Openapi.gov.il*, 8 November 2003.

¹⁰ [Supreme Court Case 8987/22 Movement for Quality Government v. Knesset](#), *Nevo*, 2 January 2025.

¹¹ Editorial desk, [Redacted Indictment Against Feldstein and Another Defendant Allowed for Publication](#), *Goitem*, 24 November 2024.

the ability to fully investigate Netanyahu's personal involvement in the case of his military affairs spokesman.

7. **They would allow Netanyahu, the ministers on the MCNS, and the FADC chairman to request and obtain classified information from the Shin Bet, the Mossad, the IDF, the Israel Police, and the IPS about political rivals or other information needed to advance personal political interests.** As noted, at present, the mere passing of classified information to these officials is not automatically considered a crime but hinges on the circumstances. If the amendments are approved, they could request and receive classified information, such as sensitive or intimate details, from the Shin Bet, the Mossad, the IDF, the Israel Police, and the IPS regarding political opponents for the purpose of blackmail or intimidation, or secret information to advance their personal political interests. For example, Netanyahu reportedly asked the Shin Bet chief for a document stating that the Prime Minister's testimony at his ongoing trial for corruption should be postponed indefinitely due to security reasons, but the security service could find no justification for the request.¹² If the amendments are approved, Netanyahu could approach a different Shin Bet official willing to draft such a document based on selective or misleading classified information. Yet another example is the reported leak of classified information from ongoing investigations to the Minister of National Security (a member of the MCNS) in exchange for promotions, which prompted the launching of an inquiry into suspicions of unethical behavior and bribery¹³ against IPS Commissioner Kobi Yaakobi¹⁴ and Israel Police's Judea and Samaria District Commander Avishai Moalem.¹⁵
8. **Instead of being the exception, passing information directly to Netanyahu, the ministers on the MCNS, and the FADC chairman would become the norm. Classified information would be passed directly to them without undergoing professional oversight and internal review processes, thereby potentially leading to misguided decisions.** Approval of the amendments may encourage junior and

¹² Michael Hauser Tov, [*Netanyahu's Office Asked Shin Bet to Help Him Avoid Testifying in His Trial on Security Grounds](#), *Haaretz*, 18 November 2024.

¹³ Josh Breiner, [*Israel's Prison Chief Suspected of Warning Senior West Bank Cop He Was Being Investigated](#), *Haaretz*, 5 December 2024; Josh Breiner and Bar Peleg, [*Senior Police, Prison Officials Close to Israel's Ben-Gvir Suspected of Ethics Violations, Bribery](#), *Haaretz*, 2 December 2024.

¹⁴ Josh Breiner, [*Israel Police West Bank Commander Suspected of Ignoring Right-Wing Extremism for Promotion](#), *Haaretz*, 5 December 2024.

¹⁵ TOI Staff, [*Top West Bank Cop Revealed as Suspect in Shadowy Case Linked to Ben-Gvir](#), *The Times of Israel*, 3 December 2024.

other employees in the Shin Bet, the Mossad, the IDF, the Israel Police, and the IPS to knowingly or unknowingly pass on classified information that is partial, distorted, incorrect, or biased, without undergoing all necessary professional and objective internal evaluations, thus leading the political leadership to make erroneous decisions based on an incomplete or inaccurate picture. In the current case, the leaked document outlining Hamas leader Yahya Sinwar's personal strategy for negotiating the release of hostages was misrepresented as having been written by him, whereas the security establishment determined that it had nothing to do with him and was drafted by lower-level Hamas operatives.¹⁶

9. **The amendment to the Penal Law proposes absurd and irrelevant conditions for granting immunity, seemingly designed as a "smokescreen" for reckless provisions.** These are the conditions: (a) "The informant believed that the information was deliberately or negligently concealed from a senior political official;" in other words, it sets a low threshold that effectively grants an informant full discretion over passing classified information; (b) "The informant took all reasonable measures to prevent the information from being passed on to an unauthorized entity." However, an informant cannot really prevent a political official or intermediaries from forwarding the information, or necessarily know that they do not intend to leak it. In the case at hand, for example, Feldstein's defense attorney claims that Prime Minister Netanyahu was involved in leaking the Hamas document to the foreign media;¹⁷ (c) "The disclosure of information was not intended to harm state security, assist the enemy, or benefit the enemy." This condition is irrelevant given that the recipients are the Prime Minister, the ministers on the MCNS, and the FADC chairman, who presumably are not out to harm state security or assist the enemy.
10. **The amendments could undermine the principle of nonpartisanship and lead to severe politicization within the Shin Bet, the Mossad, the IDF, the Israel Police, and the IPS.** As employees in these institutions hold diverse political views, unleashing a floodgate of classified information leaks could lead to "competition" among them over who provides information that aligns with Netanyahu's political agenda or that of the government and coalition, be it with the objective of getting promoted or to advance

¹⁶ Shilo Freid, [*Eli Feldstein Identified as Key Suspect in Netanyahu Office Leak](#), *ynetnews*, 4 November 2024.

¹⁷ Jeremy Sharon, [*Lawyer for Netanyahu Aide: PM Knew of Plan to Leak Classified Document to Press](#), *The Times of Israel*, 8 January 2025.

their own political worldview. The danger posed by the use of intelligence data for political purposes was evident in the 2019 elections, when the Likud's election campaign claimed that Iran had hacked the phone of Knesset candidate Benny Gantz.¹⁸ In response, his party demanded an investigation into whether Mossad sources had leaked the incident to influence the election.¹⁹

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¹⁸ Benjamin Netanyahu, [What Does Iran Have on Benny Gantz?](#), *YouTube*, 20 March 2019.

¹⁹ TOI Staff, [*Former Mossad Chief Urges Probe of Leak Claiming Iran Hacked Gantz's Phone](#), *The Times of Israel*, 18 March 2019.