

## **Political Silencing Mechanism: Disclosure of Information Would Be a Crime**

Bill for the Protection of Israeli Public Officials from the ICC's Actions  
Against the State of Israel-2024<sup>1</sup>

The bill that purports to protect Israeli public officials from investigation and prosecution by the International Criminal Court in The Hague (ICC) on closer examination turns out to be an attempt to promote anti-democratic legislation that would severely harm fundamental rights such as freedom of expression, freedom of the press, and academic freedom.

It sets severe prison sentences for any disclosure of information to the ICC, such as investigative press reports, academic research, or social media publications, even if there was no direct intention to cooperate with the ICC. The implication is extreme censorship of the public discourse and a serious blow to the public's right to know.

Beyond the grave infringement on individual rights, the bill seeks to establish absolute political control over public information and to prevent criticism of state institutions, including of government and military actions. It grants an "authorized official," to be appointed by the Minister of Justice, broad and dangerous powers to determine what information is prohibited for publication, thereby effectively determining which actions will be considered criminal offenses.

The explanation attached to the bill claims that Israel has an independent judicial system, a strong tradition of judicial review of government actions, and is capable of conducting effective internal investigations, which is why it does not recognize the ICC's jurisdiction over its personnel. However, the bill itself undercuts these claims: instead of proving that the Israeli judicial system can handle sensitive investigations on its own, the proposed bill actually impedes internal investigations and imposes prison sentences on anybody disclosing information, be they journalists, researchers, or soldiers. Israel is thus sending a clear message to the international community that it is not interested in conducting internal investigations of suspected legal violations, which could be used as grounds for

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<sup>1</sup> [Bill for the Protection of Israeli Public Officials from the ICC's Actions Against the State of Israel-2024](#), Knesset National Legislation Repository, 1 January 2024 (Hebrew).

foreign intervention and increase the risk of prosecution for soldiers, officers, and other public figures outside Israel.

### **The Bill's Structure: Tight Control Over Information**

The bill is divided into five chapters, which together create a comprehensive mechanism intended to prevent any cooperation with the ICC, severely infringing on fundamental rights and transparency in the process. Already in the first chapter, the broad definition of the terms "information disclosure," "investigative actions," and "legal assistance" allow for a sweeping application of the law to journalists, researchers, and human rights organizations. As a result, any publicly disseminated information might be considered prohibited, and even people who had no intention to cooperate with the ICC would be held legally responsible.

The second chapter mandates that all state authorities, including the Knesset, government ministries, the military, and the police, refrain from any cooperation with the ICC. This undermines the possibility of conducting internal investigations or presenting a structured legal response to international allegations and pits Israel in direct confrontation with the international community.

The third chapter, which is the most draconian of all, sets heavy prison sentences for anyone providing information to the ICC without the approval of the "authorized official." Journalists, researchers, or soldiers disclosing information in the media might be considered criminals and sentenced to up to five years in prison, and to life imprisonment if the information is deemed "classified." These clauses would have a chilling effect on journalistic revelations and a public debate about the state's actions.

The fourth chapter instructs the "authorized official" on the criteria to consider when approving any action listed in the bill, using such vague terms as "public order" and "vital state interest," thus totally trampling over freedom of information, as the state would be able to block the dissemination of information under the guise of national security protection, thereby silencing any criticism, even legitimate.

The fifth chapter, which addresses complementary legislative amendments, integrates these clauses into the existing legal framework, turning governmental control over information into a policy embedded in Israeli legislation.

If approved, the proposed bill would create an unprecedented mechanism for silencing and controlling information, in severe violation of international law and democratic principles.

### Main Arguments Against the Bill

1. **It poses a real threat to freedom of expression and freedom of the press by defining "information disclosure" broadly and vaguely to include investigative reports, academic research, and social media publications.** This means that journalists, researchers, and human rights activists could be considered criminals if they publish information that could be used by the ICC. The law expands the definition of "disclosure" to include "via publication," which means that any news item concerning human rights violations or suspected war crimes could result in heavy prison sentences. Thus, the law would not only restrict journalists' ability to cover the state's actions but also cast a serious chilling effect on investigative reports, in-depth research, and any criticism of the government or the security establishment.
2. **It infringes on freedom of information and the public's right to know.** Beyond the direct violation of freedom of expression and freedom of the press, the proposed bill grants broad powers to an "authorized official" appointed by the Minister of Justice to prevent the publication of information. This means that the government would have full control over the flow of information and would be able to block inconvenient revelations or investigative reports about the government's conduct. To repeat, anyone found in violation of the provisions of the law might face a heavy prison sentence. Thus, if passed, the law would create an environment where any public discussion about the state's conduct might be pronounced a criminal offense.
3. **It sends a dangerous message whereby Israel is unwilling, of its own volition, to investigate possible violations of international law, which could severely harm its legal status in the world.** The Israeli legal system is based on the principle of complementarity, which stipulates that the ICC is not permitted to intervene as long as a country conducts effective internal investigations into suspected legal violations. However, as the bill proposes to prohibit state authorities from cooperating with or disclosing essential information to the ICC, this could be interpreted as evidence that Israel's legal system is ineffective and unwilling or unable to prosecute suspected war criminals. This could lead to an increase in international legal intervention against

Israel and its soldiers and bolster calls for external investigations against senior IDF and security establishment officials.

4. **It hinders the possibility of in-house prosecution of soldiers or commanders who strayed from the rules and acted unlawfully.** If the investigation and punishment of personnel suspected of committing serious acts is blocked, Israel would give the impression that it does not uphold basic legal standards, which could be used as grounds for international prosecution of Israeli citizens. Moreover, preventing public criticism and imposing criminal penalties for disclosing information to the ICC would deprive Israeli society of the ability to hold informed debates and promote internal reforms in accordance with international norms.
5. **It endows the government-appointed "authorized official" with extensive and unconstrained powers to determine in which cases the "actions" listed in the bill would be approved.** Acting without proper judicial oversight, this official would be empowered to approve or block any information relating to the ICC, using such vague justifications as "public order" and "harm to state security." As a result, the bill would allow the state to silence any element viewed as a political or legal threat, severely infringing on the fundamental rights of Israel's citizens and democratic principles.

### Conclusion

The proposed bill does not protect the State of Israel, but rather weakens it. It harms basic fundamental rights and places the country at serious legal and diplomatic risk. The primary victims would be journalists, researchers, human rights activists, Israeli soldiers and officers, as well as the general public, who would be left without reliable information about the conduct of the state and the army. This is a distinctly anti-democratic move intended to conceal information and deter criticism.

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