

Legislation To Emasculate the Attorney General

Zulat's Position on the Bills to Split the Attorney General's Position

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This document addresses a series of bills to reduce the powers of the Attorney General, which were submitted to the Knesset, endorsed by the Ministerial Committee for Legislation, and approved in a preliminary reading on 29 October 2025: Bill for Amendment of the Attorney General Law-2022, submitted by MK Hanoach Milwidsky; Bill for Splitting the Position of Attorney General-2024, submitted by MK Michel Buskila; and Bill for Splitting the Position of Attorney General-2025, submitted by MK Simcha Rothman and others.¹

It bears emphasizing from the outset that the proposals, as reflected in the bills and as introduced for discussion in the Knesset, are not intended to address fundamental structural or principled questions concerning the offices of the Attorney General and the State Prosecutor, but are rather an integral part of the Israeli government's broader regime revolution seeking to place all branches of government under the dominance of the political echelon.

The purpose of these bills is to harm the law enforcement authorities, first and foremost the Attorney General, for two main reasons: first, because the current Attorney General, Gali Baharav-Miara, continues to stand as a bulwark against the government's intention to change Israel's system of government and its daily efforts to undermine the foundational principles of the democratic system; and second, as an attempt to disrupt, and implicitly even annul, the criminal proceedings against Prime Minister Netanyahu, which he and his close associates have been doing their utmost to derail.

§ All references are in Hebrew.

¹ [Bill for Amendment of the Attorney General Law, 2022](#); [Bill for Splitting the Position of Attorney General, 2024](#); [Bill for Splitting the Position of Attorney General, 2025](#), *Knesset National Legislation Repository*.

Importance of the Attorney General's Independent Status

The status, roles, and powers of the Attorney General have been examined in detail by two public panels. One was the Jurists' Commission on the Powers of the Attorney General, chaired by Supreme Court Justice Shimon Agranat in 1962, and the second was the Public Commission to Examine the Methods of Appointment of the Attorney General and Matters Related to the Term of Office, chaired by Justice Meir Shamgar, which submitted its conclusions in 1998 (hereinafter, the Shamgar Commission).

Referring to the importance of the independence of the Attorney General in his capacity as the State Prosecutor, Justice Agranat wrote in his commission's report: "The Attorney General shall serve as a shield protecting citizens from a demand by the executive branch to pin an accusation on them for purely political-partisan reasons. Moreover, it is also important that justice 'be seen to be done' (and not only 'be done'), so that members of the public should not attribute to the government bad faith and partisan motives merely because a person put on trial for worthy public reasons was ultimately acquitted. Therefore, this is an important safeguard for individual liberty and for the maintenance of proper order in the state."²

The Shamgar Commission was established in 1997 following the so-called "Bar-On-Hebron Affair,"³ which exposed a real concern that an Attorney General might be appointed in order to advance improper objectives. Here is what the commission affirmed: "The Attorney General assists government authorities subject to the law, and is thus guided by the provisions of the law. Where a policy sought by the authorities conflicts with the provisions of the law, including in regard to adherence to fundamental constitutional values, the Attorney General unequivocally chooses the law. The Attorney General protects the rule of law, and it is his duty to counsel government authorities as to what is prohibited and what is permitted, what is lawful and what is unlawful, in the context of anticipated legal proceedings.... When presenting his opinion before the authorities, the Attorney General is the sole authorized interpreter of the law, as long as the court has not ruled otherwise."⁴

² Yitzhak Zamir (editor), *Klinghoffer's Book on Public Law*, 1993.

³ The "Bar-On-Hebron Affair" is a series of events in early 1997, during which suspicions emerged that Prime Minister Binyamin Netanyahu and Shas Party leader Arye Deri had conspired to appoint Roni Bar-On as the next Attorney General in exchange for Shas's support for an IDF pullout from Hebron.

⁴ [Report of Public Commission To Examine the Methods of Appointment of the Attorney General and Matters Related to the Term of Office](#), *Ministry of Justice*, 18 March 2018.

The Attorney General is entrusted with safeguarding the public interest, the rule of law, the efficiency of the systems in charge of its implementation, and the professional oversight to ensure it. Underlying the Shamgar Commission's report and recommendations to split the position of the Attorney General⁵ is the principle that public officials entrusted with the rule of law, whose duty is to serve and to be solely loyal to it and whose professional status grants them the authority and power to represent it even vis-à-vis the government and to demand from it to act in accordance with it, are of paramount importance in a democracy.

Conceptual Discussion About Splitting Attorney General's Position

The structure of the institution of the Attorney General and the State Prosecutor is not uniform across the democratic world. In some countries this is a single position, while in others the roles are separate and vested with different powers. The mere fusion or division of roles does not in itself indicate the power of the officeholders or their ability to act independently and professionally vis-à-vis the government.

Both the Agranat and Shamgar panels recommended concentrating the powers in the hands of a single official: the Attorney General. Here is what the Shamgar Commission ruled in this regard: "We reached the conclusion that splitting the functions of the Attorney General among different officials and to divide them into their component parts offers no advantage. Moreover, we believe that such a split could impair the proper and full realization of the essential functions performed by the Attorney General in the current format, particularly the effectiveness of legal oversight and the practical validity of his legal directives."⁶

In contrast to the public commissions, there are those who believe that the rule of law would be better served by dividing some of the functions between two senior officials. For example, Prof. Gad Barzilai proposes "to establish an independent prosecution authority, which would be responsible for enforcing criminal law in the State of Israel and would enjoy the corresponding powers currently vested in the Attorney General and the State Attorney's Office."⁷ In his view, "an institutional split of the functions of Attorney General

⁵ Gad Barzilai, [Attorney General and State Prosecutor: Institutional Separation?](#), *Israel Democracy Institute*, 2010.

⁶ See footnote #4.

⁷ See footnote #5.

and State Prosecutor would increase the autonomy of each body and would help prevent the danger of a complete co-optation between the political elites and the State Prosecution.”⁸

According to this proposal, in order to enjoy an independent and strong status, the State Prosecutor must possess outstanding professional qualifications: “To be selected to the position, an Attorney General would be required to meet several prerequisites: he must be an eminent jurist, primarily in the field of criminal law, must have at least 20 years of seniority in criminal law practice, proven experience in conducting complex criminal proceedings in first-instance and appellate courts, and possess the professional qualities expected of a Supreme Court justice, including unimpeachable personal integrity and the absolute absence of any conflict of interest.”⁹

Barzilai also agrees that “the Attorney General may, and indeed should, provide guidance to the entire system of government in accordance with his understanding of the law as it stands and of the law as it ought to be. It should be noted that the Attorney General is and must remain a binding authority for all branches of the executive.”¹⁰ He concludes his recommendation by stating that “the State Attorney’s Office should become an independent authority in all matters relating to the State Prosecution, with an advisory council of experts in the fields of law and governance appointed by the Attorney General at its disposal, thereby achieving all the objectives and advantages of institutional separation. The Attorney General would not lose power, but his role would rather be strengthened as a result of a more accurate and realistic definition of his powers.”¹¹

Independence of Attorney General: Keep Political Echelon Out of Appointment

The Shamgar Commission asserted that up until its appointment, the method used to select the Attorney General had been flawed and had not ensured his independence, and that the process of identifying potential contenders had to be wrested away from the political echelon in order to guarantee his autonomy. It proposed the creation of a public committee to identify suitable candidates, with the government empowered to choose the Attorney General solely from among them. The recommendations of the Shamgar

⁸ See footnote #5.

⁹ See footnote #5.

¹⁰ See footnote #5.

¹¹ See footnote #5.

Commission were adopted and enshrined in Government Resolution No. 2274 of 20 August 2000.¹²

Barzilai subscribes to the Shamgar Commission's stance and holds that keeping the political echelon out of the appointment of the Attorney General should continue, and that a similar process must be set for appointing the head of the State Prosecution. "If the proposed institutional split is indeed implemented, it is recommended that the appointment to the position of Attorney General not be made by the government but rather by a permanent professional committee appointed for a five-year tenure by the President of the Supreme Court in consultation with the Israel Bar Association."¹³

The Bills Submitted to the Knesset

Below is a concise discussion of the bills submitted to the Knesset. Their perusal shows that despite the professional and comprehensive conclusions of the public commissions, as well as other studies on the subject, the bills under consideration are not based on any substantive discussion at all. Their wording suggests that their sole purpose is to reduce the power of the current Attorney General, to eliminate the independent status of the legal counseling institution, and to subordinate it to the government.

The three were submitted separately as private members' bills and differ in the manner in which they propose to split the Attorney General's powers. Accordingly, the discussion below addresses each bill separately.

1. Bill for Splitting the Position of Attorney General, 2024¹⁴

- **The proposed law:** The bill submitted by MK Michel Buskila seeks to remove from the Attorney General's duties only the authority to prosecute MKs and government ministers in criminal proceedings. Under the proposal, the authority to enforce criminal law in this regard would be transferred to the State Attorney, but the decision to open an investigation or file an indictment against an MK or minister would be subject to the approval of a committee headed by a retired Supreme

¹² It should be noted that despite the Shamgar Commission's recommendation, the decision was never anchored in legislation.

¹³ See footnote #5.

¹⁴ [Bill for Splitting the Position of Attorney General, 2024](#), *Knesset National Legislation Repository*, 23 December 2024.

Court justice appointed by the President of the Supreme Court, a former Attorney General appointed by the Minister of Justice, and a "defense attorney from the private sector appointed by the Chief Public Defender" (as stated in the original text of the bill).

- **Zulat's position:** The wording of the proposal suggests that at stake is not a mere transfer of powers to the State Attorney, but a reduction of the State Prosecution's powers and an infringement of its independence, which is a purpose that must be rejected outright.

2. Bill for the Attorney General Law (State Prosecutor), 2022¹⁵

- **The proposed law:** The bill submitted by MK Hanoch Milwidsky seeks to remove from the Attorney General all of his functions as head of the State Prosecution. Under the bill, the State Prosecutor would be appointed by the Minister of Justice. In addition, the bill sets minimal qualification requirements for the selection of a State Prosecutor: only 10 years' work experience as a lawyer, of which just five years would have to be in Israel.
- **Zulat's position:** The proposal restores to the political echelon the authority to appoint such an official, with no oversight by an external professional body, and therefore clearly does not allow for prosecutorial independence and must be rejected. Moreover, such minimal qualification requirements would mean that, in addition to being a ministerial appointment, the officeholder would lack any significant and distinct public standing.

3. Bill for Splitting the Position of Attorney General, 2025¹⁶

- **The proposed law:** The bill submitted by MK Simcha Rothman seeks to divide the Attorney General's role into three separate positions:
 - (1) Legal counsel to the government, but only at the request of the government or ministers, with no authority to issue opinions on his own initiative or his opinions being considered binding legal interpretations;

¹⁵ [Bill for Amendment of the Attorney General Law, 2022](#), *Knesset National Legislation Repository*, 26 December 2022.

¹⁶ [Bill for Splitting the Position of Attorney General, 2025](#), *Knesset National Legislation Repository*. 12 May 2025.

(2) State Attorney in charge of criminal prosecution, appointed by and subordinate to the Minister of Justice, required to follow the latter's instructions, and unable to make independent decisions;

(3) State Attorney for civil matters, representing the state in civil courts, including the Supreme Court, in accordance with the position imparted by the government or relevant minister, with no independent authority to determine what the applicable or proper law is.

- **Zulat's position:** The wording of the proposal indicates that the split would create three positions, none of which would have independent power to present a principled legal stance. Under this proposal, the Attorney General would be appointed by the government upon the suggestion of the Prime Minister and the Minister of Justice, thereby repealing the Shamgar Commission's recommendations about keeping the political echelon out of the selection of candidates for the post of Attorney General. Similarly, the State Prosecutor would be appointed by the Minister of Justice, with the approval of the Knesset Constitution, Law and Justice Committee, or in other words, without an external professional committee. The "state representative to the courts" would also be appointed by the Minister of Justice and would require no additional procedure. The qualifications required of a potential Attorney General under this proposal are minimal: only 10 years in a legal job, not necessarily as a lawyer, five of them in Israel. For State Prosecutor and state representative to the courts, the required qualifications would be 10 years' experience as a criminal or civil lawyer. Moreover, under this proposal, a person appointed to one of the three positions (Attorney General, State Prosecutor, or the state's representative before the courts) may, until the date of assuming office, be a political actor or even a member of a political party, with the sole restriction being that party membership must cease during their tenure. It should be noted that party membership disqualifies candidates from appointment to many senior and even non-senior positions that require electoral integrity or political neutrality, and typically necessitates a cooling-off period of several years without party affiliation in order to dispel such concerns. This proposal strips the Attorney General of the authority to determine binding legal interpretations and to present an autonomous legal position. It transforms

the Attorney General from a guardian of the rule of law vis-à-vis the government into a consigliere who puts his legal expertise at its disposal, at its request or that of one of its ministers. Under this proposal, the Attorney General would not be permitted to express an independent position or to rule out actions in the name of the rule of law.

Zulat's Recommendations

In light of all the above, Zulat for Equality and Human Rights recommends:

- a. To reject any proposal seeking to change the structure of the institution of Attorney General at this time, as such proposals are intended to undermine the status of the incumbent Gali Baharav-Miara, to further advance the regime revolution, and to interfere with the proceedings against the Prime Minister, who is standing trial on criminal charges.
- b. To enact legislation to strengthen the independence of the institution of Attorney General and State Prosecutor, and to entrench in law the status of the Attorney General as guardian of the rule of law and as the authority whose legal interpretation is binding on all branches of government, up until it is ruled otherwise by the courts.