

Political Commission of Inquiry Disguised as National Investigation

Legislation Aimed at Thwarting Judicial Review

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Supreme Court Decided: Only State Inquiry Commission Qualified

Bill for State-National Commission of Inquiry Into 7 October 2023 Massacre-2025, promoted by the government via MK Ariel Kellner,¹ has one purpose only: to fend off a decree absolute on the pending petition filed with the Supreme Court by Zulat for Equality and Human Rights and 86 former MKs.²

In a decision unprecedented since the creation of the state, the Supreme Court issued an order nisi requiring the government to establish a state commission of inquiry under the Commissions of Inquiry Law-1969³ and no other type of commission. The government is required to respond by 4 January 2026 and show cause why the order nisi should not become a decree absolute.

The bill is being advanced as part of this effort but is doomed to fail, since in practice the Supreme Court has already ruled that of all possible investigative mechanisms (an examination board, a government inspection committee, and various ad hoc panels), a state commission of inquiry under the Commissions of Inquiry Law is the only body qualified to investigate the events of October 7 that are the subject of the petition. Consequently, it follows all the more so, that the Supreme Court will not permit the establishment of a political-parliamentary commission whose appointment mechanism,

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

¹ [Bill for State-National Commission of Inquiry Into 7 October 2023 Massacre-2025](#), *Knesset National Legislation Repository*, 15 December 2025.

² [*Supreme Court Petition: Order Government to Appoint Inquiry Commission Into October 7 Events](#), *Zulat*, 21 July 2024.

³ [Commissions of Inquiry Law-1969](#), *Nevo*, last updated on 18 September 2023.

powers, and purpose severely deviate from the required principles of independence, neutrality, and professionalism.

Furthermore, the bill is fundamentally flawed for numerous reasons. Following are the principal ones:

1. Retroactive Change of Game Rules: Basic Constitutional Flaw

The bill seeks to establish a new norm for investigating events that occurred two or more years prior to its enactment, which constitutes a change of the game rules in mid-game. It is a basic principle of public law that legislative norms are meant to apply to future events, not to retroactively shape the rules of accountability, oversight, and investigation of events that have already occurred. Retroactive legislation of this kind, particularly when it concerns mechanisms for oversight of the government, is constitutionally inappropriate and constitutes a severe violation of the rule of law.

2. Legislator's Severe Conflict of Interest and Improper Motives

The legislating body is itself the body that is supposed to be investigated. Many members of the government and the coalition face a real risk of being investigated by a commission of inquiry into the events of October 7. This is therefore a norm enacted by parties with a direct personal interest, marked by a clear conflict of interest, and contrary to the fundamental purpose of the legislation regulating mechanisms of investigation and oversight. It is a clear-cut case of self-interested legislation.

3. Bill Promoted Not Under a Veil of Ignorance

The legislators are not neutral with respect to the subject of the legislation, but are rather personally, politically, and legally involved. Instead of setting a principled and forward-looking rule, the bill proposes a legislative tool that is tailored to the decision-makers themselves and applies to a single specific case (the events of October 7), and is designed to shield them from an effective investigation.

4. Legislation Fails to Achieve Stated Purpose

The bill fulfills none of the purposes of a public investigative mechanism: no pursuit of the truth, no exposure of the failures that led to the events of October 7, and no examination of the subsequent conduct during the war. Its sole true purpose is to evade accountability. This conclusion clearly follows from the structure of the proposed commission, its appointment mechanism, and the timing of the bill in the midst of judicial proceedings before the Supreme Court.

5. Fundamentally Flawed Appointment Mechanism

Article 8(c) of the bill requires agreement between the coalition and the opposition regarding the identity of the commission members. Should no such agreement emerge, the authority to appoint its members would shift to the Knesset Speaker. Since the opposition has made it abundantly clear that it will not cooperate with this defective mechanism,⁴ the practical result will be that all commission members will be unilaterally appointed by the Knesset Speaker. This fact alone is more than enough to disqualify the entire bill.

6. Complete Absence of Professional Qualifications

Article 6 of the bill sets minimal eligibility requirements for membership in the commission: Israeli citizenship and the proper security clearance. There is no requirement whatsoever for legal knowledge, investigative experience, institutional understanding, or the ability to exercise professional and neutral judgment.

7. Paralysis of Commission's Work

Article 11(a) of the bill provides that the commission chairman's authority under Article 9(a) of the Commissions of Inquiry Law shall be vested in "any two members of the commission." This provision would lead to a complete paralysis of the commission's work, extensive internal disagreements, and systematic delays in the investigative process.

Commissions of Inquiry Law Was Designed Precisely for Such Situations

The Commissions of Inquiry Law has existed for 56 years and was designed precisely for such situations, for an exceptional national event with profound systemic repercussions. The events of October 7 are unprecedented in the history of the Israeli state. Any effort to deviate from the framework established by the Commissions of Inquiry Law is nothing more than an attempt to circumvent existing law because it is too effective for the political echelon. The existing law creates a clear balance: the President of the Supreme Court, in his capacity as a neutral actor, determines the composition of the commission, while the government determines the subjects of the investigation. The bill seeks to adopt only the half that suits it (the choice of subjects by the government) while completely annulling the other half. This balance cannot be split, and its violation empties the mechanism of its substance.

⁴ Sam Sokol and Nava Freiberg, *[Government Moves To Appoint Own Probe Into October 7, Nixing State Commission of Inquiry](#), *The Times of Israel*, 16 November 2025.

False Claim on Supreme Court President's Conflict of Interest

Coalition members argue that the President of the Supreme Court is "tainted" by a conflict of interest and therefore cannot determine the composition of the commission, since the judiciary would also need to be investigated. This claim is totally untenable. The Supreme Court's President is the most neutral, professional, and apolitical actor in the system. By contrast, it is the legislators who are in a clear, personal, and political conflict of interest. If the logic of the coalition's claim is adopted, the inevitable conclusion is that it is the Knesset and the government that definitely are not authorized to determine the composition of the commission.

Conclusion

The bill to establish a state-national commission of inquiry does not represent a proper or legitimate alternative to a state commission of inquiry under the Commissions of Inquiry Law. It is a legislative move that is fundamentally flawed, advanced at a time that clearly shows that its sole purpose is to attempt to contend (totally unsuccessfully) with the emerging judicial review by the Supreme Court leading to a decree absolute, which would compel the government to establish a state commission of inquiry. In light of the gravity of the events and the existing court ruling, the proposed bill does not relieve the government of its duty to set up an independent state commission of inquiry, as required by the rule of law and the principle of public accountability.