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## Featured Post

## Dismissal of the Shin Bet head: The red flags could not be bigger

*With investigations of the government now underway, the attempt to dismiss Ronen Bar is, on its face, marred by conflict of interest*



Shin Bet Director Ronen Bar attends the state ceremony marking 50 years since the Yom Kippur War, held at the military cemetery at Jerusalem's Mount Herzl, on September 26, 2023. (Chaim Goldberg/FLASH90)

Sunday, Prime Minister Benjamin Netanyahu announced his intention to bring the dismissal of Ronen Bar, the head of the Israeli Security Agency, or “Shin Bet,” to a vote of the full cabinet. The Shin Bet is Israel’s internal security service (often compared – imperfectly – to the FBI), and the law clearly spells out the procedure for firing its head: “The government is authorized to terminate the tenure of the head of the Agency before the end of his term.”

While the prime minister is legally responsible for the security service on behalf of the government, the authority to dismiss the head of the Shin Bet lies with the entire government: the prime minister along with all of his appointed ministers, not with the prime minister alone. But the fact that the government has the authority to dismiss does not mean it can do so under *any* circumstances.

As the Attorney General wrote in her letter last night:

“It is not possible to initiate a dismissal process...until the factual and legal foundation underlying your decision has been fully examined, and your authority to handle this matter at this time has been assessed. This is due to the extraordinary sensitivity of the issue; its unprecedented nature; concerns that the process is tainted by illegality and a conflict of interest; and considering that the position of head of the Israel Security Agency (Shin Bet) is not a personal trust position serving the prime minister.”

In other words, even if the authority exists in principle, the process and the decision must be proper, the considerations must be relevant and legal, and they must be based on factual grounds. And, crucially, a decision to dismiss must be without conflict of interest, which is a preventive principle. That is, a public official must avoid handling matters in which they have a conflict of interest – and certainly must not make decisions on such matters.

The decision to dismiss Ronen Bar is, on its face, marred by a conflict of interest. An investigation is underway concerning individuals closely associated with the Prime Minister involving allegations of security-related offenses and payments transferred by the Qatari government. This is a highly sensitive investigation, and its outcome is uncertain. The leak of a classified intelligence document to the German newspaper Bild is also under investigation.

The fact that the Shin Bet is investigating individuals in the Prime Minister's inner circle places not only the Prime Minister but the entire government in a conflict of interest, as appointing a different Shin Bet head in his place could

undermine these investigations. Therefore, the government as a whole – and the Prime Minister in particular – may have a personal interest in dismissing the head of the Shin Bet.

Additionally, the Shin Bet's internal investigation into the failures that led to October 7 includes claims regarding the political echelon's responsibility for the events leading to the Hamas attacks. Dismissal of the Shin Bet chief could disrupt or suppress these claims, potentially interfering with the work of a future state commission of inquiry before it even begins.

Beyond the conflict of interest, there are, of course, additional aspects and arguments against the decision, including improper motives, harm to the principles of civic duty and institutional integrity, and the legal standard of extreme unreasonableness.

### **On the bigger picture**

The decision to dismiss the head of the Shin Bet does not occur in a vacuum. We are at the height of an overhaul of our judiciary, during which the government is advancing its takeover of the judicial system this week.

A few days ago, a law was passed changing the process for selecting the ombudsman of the Judiciary, which investigates complaints against judges, allowing complete coalition control over the appointment for this position. This institution, originally meant to conduct impartial reviews of complaints, will now become a politically driven tool for the coalition.

This week, the Knesset is debating a bill to change the composition of the Judicial Selection Committee, allowing for politicization of the judiciary at all levels. Instead of judges whose decisions are based on professional considerations, we will get judges whose appointment depends on political loyalty.

At the same time, the government is seeking to remove the Attorney General from office, claiming she obstructs government policy, blocks legislation, and prevents political appointments in the civil service.

Indeed, the Attorney General “obstructs” violations of the rule of law, human rights, and fundamental democratic principles. She does not allow harm to the judiciary’s independence or the police’s autonomy, and she blocks political takeovers of public service appointments. She “obstructs” efforts to weaken the gatekeepers. The Attorney General prevents the government from breaking the law – and for this, they seek to dismiss her as well.

Last night, Ronen Bar said “The Shin Bet’s duty of loyalty is first and foremost to the citizens of Israel. The Prime Minister’s expectation of personal loyalty is unacceptable.”

That is precisely the point. Ben Gurion’s concept of Mamlahiyut – civic duty and prioritizing the “kingdom” over the “king” is being upended. Anyone who is professional, neutral, objective, and committed to the public good must be fired. Loyalty is the name of the game.

### **Democratic backsliding**

If it is any consolation, Israel is not alone. The takeover of the police, security forces, and law enforcement agencies has been used by leaders around the world to weaken democracy. This takeover is primarily carried out through appointments and dismissals, and sometimes through legislative changes, silencing ethical professionals, and instilling fear.

A study by the Israel Democracy Institute shows that this is how democratic backsliding has occurred in countries like Hungary, Turkey, Venezuela, and Poland. Three of these are no longer democracies, and the fourth (Poland) is still struggling to recover.

These countries demonstrate the modus operandi: First, they take control of law enforcement agencies, intelligence services, and security forces. Then, they use them as instruments of power to settle political scores. Next comes the takeover of the civil service, state information and oversight mechanisms, and key centers of influence in society.

Here, too, as befits a backsliding democracy, the government seeks to take control of the last remaining gatekeepers and security services. The red flags

could not be bigger – those keen on protecting the security and democracy of the state of Israel should heed the warning.

### **About the Author**

Professor Suzie Navot is a professor of constitutional law and the vice president of the Israel Democracy Institute.