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Israel's Spyware Law: A Step Towards Authoritarianism?

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In November 2024, the Israeli Knesset preliminarily approved the controversial Spyware Law, granting expanded surveillance powers to the police. While presented as a measure to combat crime and terrorism, it has faced sharp criticism for undermining civil liberties. Critics warn that, alongside inadequate oversight and outdated laws, this bill poses a serious threat to Israel's democracy.

- The proposed law authorises the use of court-approved surveillance technology for serious offences punishable by ten years or more in prison, where covert searches are crucial to effectively investigate and prevent criminal acts. However, offences related to public integrity, such as corruption, are excluded.
- The proposed law risks being exploited to target demonstrators under Section 157 of the Penal Code.
- The proposed law can be viewed as yet another attempt by the Minister of National Security, Itamar Ben-Gvir of the far-right Otzma Yehudit party, to consolidate police authority under his leadership, while circumventing and undermining the role of existing intelligence bodies.
- Both the Public Defender's Office and the Attorney General strongly oppose the law, deeming it a significant threat to democratic values and the rule of law.
- Since October 7th, judicial-reform efforts have shifted towards advancing smaller legislative proposals instead of comprehensive laws, strategically straining legal advisers and the opposition while minimising public backlash.

Policy Implications

The proposed Spyware Law risks upsetting the delicate balance between national security and civil liberties. To keep these interests in equilibrium, there is a need for robust judicial oversight, narrowly defined surveillance powers, and the modernisation of outdated frameworks to align with current technology. Without such measures, the law risks eroding public trust in democratic institutions.

Preliminary Approval of Israel's Spyware Law

On 13 November 2024, the Israeli Knesset approved the controversial Spyware Law after a preliminary reading ([Zerahia 2024a](#)). Introduced by Member of Knesset (MK) Tzvika Fogel of the far-right nationalist party Otzma Yehudit, the bill

passed with 58 votes in favour and 1 against, while opposition members boycotted the session in protest (Hilaie 2024). The 120-member Knesset currently includes 68 coalition and 52 opposition members. With 59 coalition members voting, the coalition secured a simple majority to pass this legislation. This outcome would not have changed even if the entire opposition had been present and voted against it.

The original proposal would have permitted the police to conduct surveillance by secretly installing spyware on devices, granting unrestricted and unsupervised access to the data held on people's computers and mobile phones (Zerahia 2024c). Nevertheless it required court approval, and would be applicable only to grave offences punishable by ten years or more in prison – including murder, rape, and organised crime (Gill 2024). The enactment of the law would apply to cases where such powers are essential for detecting, investigating, or preventing serious crime, and where an open search would compromise law enforcement's effectiveness. However, the Ministerial Committee for Legislation approved the law on the condition that provisions for spyware installation on devices are excluded (Zerahia 2024a). As the legislative process continues, a robust oversight mechanism for police surveillance is expected to be implemented. The original bill is therefore set to undergo revisions before being voted on after its first reading.

Attorney David Bavli, legislative adviser to Minister of National Security Itamar Ben-Gvir, who drafted the amendment to the law and is actively advocating for its enactment explains that the Israeli police had invested tens of millions of shekels (equivalent to somewhere between EUR 2.5 million and EUR 25 million) to ensure, from a technological standpoint, that it would be impossible to exceed the permissions granted by law or a court order (Golan 2024). He emphasises that only after these critical safeguards were in place did Ben-Gvir support advancing an amendment to the Wiretapping Law. This amendment explicitly broadens prior wiretapping authorisation to include the use of spyware, in addition to the existing legal provision for installing microphones in homes. However, Bavli further notes that it establishes clear boundaries defining permissible and prohibited actions, enforces robust oversight mechanisms, and imposes severe criminal penalties for any violations.

Privacy Concerns, Challenges to Democracy, and Calls for Public Debate

Despite these assurances, the proposed bill has faced fierce opposition from the Public Defender's Office, which views it as a severe threat to citizens' constitutional rights. In Israel, the Public Defender's Office is an independent body dedicated to ensuring fair trials by representing those unable to afford legal aid, primarily in criminal cases. Regarding the Spyware Law, it advocates for due process and legal compliance. While Ben-Gvir and Fogel argue that the legislation is critical for combatting crime and terrorism, the Public Defender's Office has raised alarm over the potential for unchecked police access to citizens' private information. It warns that:

The potential for covert infiltration into computer material and searches of stored information, alongside the secret installation of spyware on citizens' mobile de-

vices, constitutes a severe violation of the constitutional right to privacy. In effect, it would grant authorities unrestricted access to every aspect of a citizen's private life. This is particularly alarming given the vast amount of data stored on smartphones, the sensitive nature of this information—much of which pertains to personal privacy—and the fact that these devices hold extensive information about third parties connected to the device owner (Gill 2024).

A position paper submitted to the Ministerial Committee for Legislation by the Association for Civil Rights and the Privacy Clinic at Tel Aviv University raises further concerns that the proposed law could be misused to target demonstrators under the pretext of “damage caused by rioting” (Ganon 2024). The paper's authors specifically highlight Section 157 of the Penal Code, which stipulates that “rioting resulting in damage” carries a penalty of up to ten years in prison. This provision is notably broad, granting the police significant discretion to interpret even minor harm as “damage from rioting” and potentially justifying the deployment of spyware.

In their legal assessment, attorneys Gil Gan-Mor and Noa Diamond warn:

[T]his tool has the potential to significantly undermine democratic processes and enable intrusive surveillance of government opponents or individuals deemed to be such. (Ganon 2024)

Furthermore, they stress that growing evidence worldwide reveals the significant harm caused by surveillance technologies, especially spyware. They argue that the decision to authorise law enforcement's use of such intrusive tools is far from a purely technical matter; it raises deep moral, ideological, political, and technological questions. They insist that such measures should not be introduced covertly or based on overly broad interpretations of outdated laws. Instead, they advocate for careful and transparent deliberation within the legislature, preceded by an open and robust public debate.

Proposed Legislation Shields Government Figures from Legal Accountability

It appears that members of the coalition may also have reservations about the original bill, particularly in light of the ongoing investigation of those closest to Prime Minister Benjamin Netanyahu and Ben-Gvir (Zerahia 2024a). Granting the police such expansive surveillance powers could unintentionally destabilise Netanyahu's government by enhancing the police's capacity to investigate, and potentially implicate, government officials as well. At present, multiple allegations have emerged against senior government figures. Among the individuals under scrutiny is Tzachi Braverman, Netanyahu's Chief of Staff, who is accused of obtaining classified protocols from the Bennett-Lapid administration and unlawfully altering the timeline of his conversation with the PM on the morning of October 7th. While the proposed law is intended to bolster national security, it may also result in increased scrutiny of top officials like Braverman. Such close attention has the potential to destabilise the current administration and expose corruption within it.

In response to concerns surrounding the bill, it was decided that offences related to public integrity, such as corruption or bribery, would be excluded, even though some of these infractions also carry a penalty of ten years or more jail time under the Penal Code (Gill 2024). In a letter to the Minister of Justice, Attorney General Gali Baharav-Miara describes the passage of Fogel's bill as "a severe blow to the rule of law." She further states:

Pursuing this proposal without including public corruption offences, contrary to the professional stance of law enforcement authorities, gravely undermines the capacity of the justice system to prevent and uncover serious governmental corruption. At the same time, it grants a significant advantage to corrupt officials by transforming the digital sphere into a refuge for planning and committing crimes (Zimuki 2024).

However, Fogel dismissed the AG's objections, affirming the coalition's determination to push forwards with the bill regardless. He stated:

This law is a crucial tool in the fight against crime and terrorism, and we will ensure its passage in the Knesset without compromise or unnecessary delay. To the Attorney General, I say: "We will pass this law, with or without your support." (Zerahia 2024a)

Undermining the Independence of Israeli Law-Enforcement Bodies

Ben-Gvir holds extensive authority over Israel's police force, prison service, and border police. Within the country's internationally recognised borders, he has full authority to manage public safety and law enforcement under Israeli civil law. However, his role in the West Bank is more limited, as primary security control remains under the Israeli Ministry of Defense. Nonetheless, Ben-Gvir directs the Israel Border Police, which operates extensively in settlements, with a strong focus on protecting settlers. He has advocated for stricter law enforcement in settlements, and increased funding for settler security – including armed patrols. As part of his security agenda, he also recently advocated for restricting Palestinians' movement on roads in the West Bank by proposing that they would be limited to travelling exclusively on those within Areas A and B, while being completely prohibited from using Area C's. Under the Oslo Accords, the West Bank is divided into three areas: Area A, which is under full Palestinian Authority (PA) control; Area B, where the PA administers civil affairs but security is jointly managed with Israel; and Area C, which is under full Israeli control and includes its settlements. He stated: "The settlers' right to life takes precedence over the freedom of movement for residents of the Palestinian Authority" (Brasky 2024).

In addition, Ben-Gvir calls for harsher prison conditions for Palestinian detainees, greater police authority to combat crime in Arab-Israeli communities, and aggressive measures against alleged terrorist activities – including acts of collective punishment such as home demolitions. In East Jerusalem, he has promoted the accelerated demolition of Palestinian homes without valid Israeli permits and supported the expansion of Jewish prayer rights at the Al-Aqsa Mosque com-

pound. This highly sensitive move has heightened tensions and attracted widespread international condemnation.

While Ben-Gvir does not have direct command over police operations, he exerts influence by allegedly appointing loyal figures aligned with his agenda and sidelining those who oppose it. A notable example is the dismissal of Amichai Eshed, the former Tel Aviv District Police Commander, reportedly due to his perceived leniency in handling traffic disruptions during protests against the government's judicial-reform plan. Eshed claimed his removal was politically motivated, stating he was demoted for refusing to use "disproportionate force" against demonstrators (Bachner 2023). Similarly, Deputy Commissioner Elazar Kahane was removed from his position after allegedly opposing Ben-Gvir's decision to promote a police officer who had thrown a grenade at protesters.

These actions underscore the tension between law enforcement's operational independence and political pressures exerted under Ben-Gvir's oversight. Such developments have drawn significant criticism for their potential to undermine the impartiality of those mandated with upholding the law. In a written statement made by the AG, she explicitly noted:

The combination of alleged improper interference in police operations and the reliance of police officers on the minister for their promotion undermines the ability to ensure that the police act with loyalty to the public rather than to the political leadership. (Steinmetz 2024)

Ben-Gvir's actions reflect his efforts to politicise the police and align its priorities with his vision of expanding Israeli sovereignty over the occupied territories and suppressing opposition protests within Israel. With the Spyware Law, he is seeking to exert greater control over the Israeli police, granting it unprecedented surveillance powers that would bypass existing decision-making bodies. As part of this plan, Likud and Otzma Yehudit MKs have proposed appointing an Intelligence Adviser to the PM and establishing an alternative Intelligence Department to provide independent evaluations (Zerahia 2024b). The Department's staff would be authorised to evaluate and analyse data, opinions, and assessments provided by the country's intelligence agencies, as well as propose alternative approaches. Additionally, the Department will have the authority to request and access information from all of Israel's security bodies.

The implications here include a weakening of the autonomy of existing intelligence agencies and limiting decision makers' ability to act without input from the newly created oversight department (Zerahia 2024c). In addition, empowering the police carries the risk of enabling figures like Ben-Gvir to advance their far-right agendas under the guise of legal authority. Such empowerment could provide him with the tools to intimidate and impose stringent surveillance on individuals or groups he deems adversaries or classifies as "threats to national security." This scenario raises significant concerns about the potential erosion of civil liberties and the disproportionate targeting of dissenting voices, including those of Palestinians. Such a concentration of power necessitates careful scrutiny to ensure it does not undermine democratic practices.

What Comes Next?

At this stage, the bill has only received theoretical approval and must still undergo a lengthy review process before it can be promulgated. It has now been forwarded to the Knesset Committee, which will determine whether it will be examined by the National Security Committee, as demanded by Ben-Gvir, or by the Constitution Committee (Zerahia 2024a). After thorough discussion and amendment by the designated committee, the bill will be returned to the Knesset plenary for its first reading. This stage evaluates whether the Knesset accepts a given bill's general principles and overall intent. If approved, the one in question will advance to a second reading, during which each clause, along with any exceptions or further stipulations, will be carefully reviewed and voted on individually to confirm and finalise any necessary revisions. The process concludes with a third reading, where the bill's final draft will be voted on for complete approval and passage into law. The timing for the first reading of the Spyware Law has not yet been disclosed, likely due to the many variables in play. However, the entire procedure is expected to take weeks – if not months – to complete.

The Use of Advanced Surveillance Tools across Israeli Law-Enforcement Bodies

At the heart of this polarising state of affairs lies the challenge of preserving Israel's democratic integrity and guarding against the slide into authoritarianism. Notably, in Israel the use of advanced technologies for hacking and searching personal devices is not just the police's remit. Sophisticated digital forensic tools – particularly those developed by Cellebrite, a leading Israeli digital-intelligence company specialising in the extraction and analysis of data taken from mobile devices – are also utilised by various law-enforcement bodies conducting non-police investigations. These include the Privacy Protection Authority, the Tax Authority, the Israel Securities Authority, and the Military Police Criminal Investigation Division (Viner and Tamam Ben-Avraham 2023: 34). The tools they employ enable access to vast amounts of sensitive data, including messages, photos, videos, contact lists, browsing history, location data, and, in many cases, login credentials for remote services like social networks and cloud storage (Viner and Tamam Ben-Avraham 2023: 3).

The practice of accessing and searching mobile phones has become increasingly common among Israel's investigative authorities. In 2019 alone, for example, approximately 24,000 search warrants were issued for mobile devices, during a year that saw 301,000 criminal cases opened in total (Viner and Tamam Ben-Avraham 2023: 35). In many other instances such searches were conducted with the individual's consent, bypassing the need for a warrant.

Court approval under the Wiretap Law is similarly issued with relative ease. Between 2002 and 2016, 34 per cent of wiretap requests were rejected (Viner and Tamam Ben-Avraham 2023: 35). By 2020, the rejection rate was nearly negligible: of a total 3,692 wiretap requests, only 26 were denied, amounting to a mere 0.7 per cent of applications. This pattern continued in 2021, with 3,359 wiretap requests submitted and 3,350 – that is, more than 99 per cent – approved.

While representing only the tip of the iceberg and failing to capture the full extent of the issue at hand, these figures nonetheless provide a striking illustration of the scale of this phenomenon and underscore why there is serious and growing concern about the erosion of privacy for countless individuals each year. Of late, Israeli courts have formally acknowledged that law-enforcement agencies have been granted unprecedented access to personal and sensitive information. They have further recognised that outdated search laws lack the oversight and safeguards needed to prevent the excessive or disproportionate use of these powerful tools, which can extract vast amounts of personal data from devices and their connected cloud accounts (Viner and Tamam Ben-Avraham 2023: 3).

This growing recognition by the judiciary of the inadequacy of current legal frameworks culminated in a landmark statement from the Supreme Court of Israel in January 2022, which highlighted the pressing need to modernise one of the country's key pieces of legislation:

The Computer Law was enacted over 25 years ago. Entire generations in the field of computing have passed since then. The computers envisaged by the legislature at the time are fundamentally different from those in use today, even if they are described with the same terminology. Since then, the uses of computers have diversified significantly, with their memory capacities expanding exponentially and penetration warrants now extending beyond the physical confines of a computer to include, for example, “cloud” files. The complexity of these developments makes it impossible to simply “read into the law,” emphasising the urgent need to modernise the legislation to address the realities of contemporary computing and its applications. Such an update is both necessary and long overdue (Viner and Tamam Ben-Avraham 2023:14).

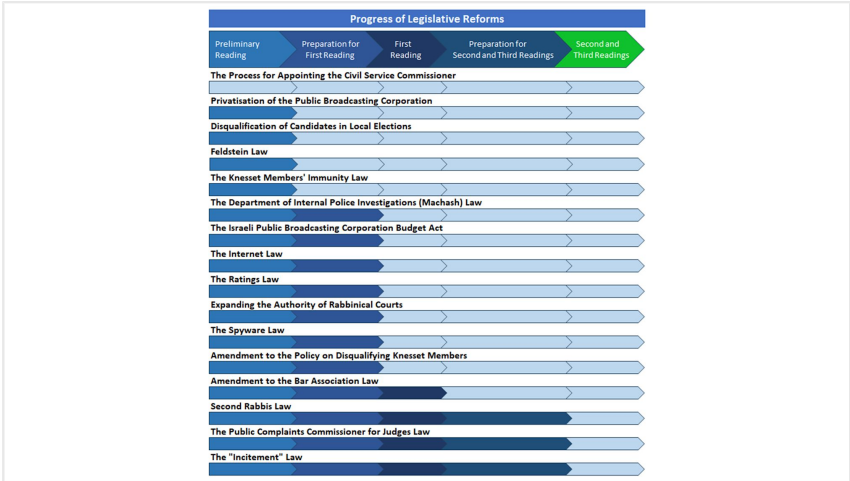
The proposed Spyware Law should be examined within the broader context of the increasing use of advanced technologies by Israel's government agencies. While the proposed law is ostensibly aimed at enhancing the police's capabilities, there is a risk that by granting such a surveillance infrastructure to the latter other agencies would then demand equivalent powers, amplifying concerns about weak oversight and further undermining democratic values. The widespread reliance on invasive digital forensic tools, combined with lax judicial scrutiny of search and wiretap warrants, highlights a troubling pattern of privacy erosion and unchecked surveillance. As the judiciary has acknowledged, Israel's outdated legal frameworks, including the Computer Law, fail to address the complexities of modern digital surveillance, leaving significant gaps in the protection of fundamental rights. Without comprehensive legal reform, the Spyware Law risks deepening these issues, granting even broader powers to law-enforcement agencies at the expense of the right to privacy and democratic principles.

Analysing these Events within the Framework of Judicial Reform

Since the outbreak of the latest Gaza War on October 7th, there has been a prevailing sense that this judicial overhaul has either slowed down or even come to a complete standstill. However, recent developments indicate that these plans are far from abandoned; rather, events are progressing in a more calculated man-

ner now. Instead of introducing a single, comprehensive, and well-structured law, the Israeli government has chosen to advance numerous smaller legislative measures – the Spyware Law being just one example. This approach places substantial strain on both legal advisers and the opposition, who find it difficult to address multiple such initiatives simultaneously. Moreover, it reduces the risk of inciting widespread public outrage, as each individual bill is relatively minor and unlikely to prompt people to take to the streets in protest. Nevertheless, these proposals collectively lay the groundwork for expansive judicial reform. As Figure 1 below makes clear, the coalition is determined to reshape Israeli democracy even during wartime. The 16 outlined legislative measures collectively seek to erode media independence, weaken the judicial system, expand the powers of the police and MKs, and facilitate draft exemptions for the Jewish Orthodox community.

Figure 1. The 16 Legislative Measures Introduced or Reintroduced since the Start of the Latest Gaza War



Source: Author's own compilation.

This shift in approach is further motivated by a growing sense of the government's steadily resurging confidence as the events of October 7th recede into the past. On the one hand, the inclusion of Foreign Minister Gideon Sa'ar in the coalition has reinforced its belief that its grip on power is secure for the foreseeable future. The relatively muted public reaction to Minister of Defense Yoav Gallant's dismissal has further emboldened this renewed sense of security. On the other hand, developments in the United States, particularly surrounding the incoming second Trump administration, also appear to be feeding into this revitalisation. The latter's aggressive approach towards the judiciary yielded tangible results, fostering a perception among some in the Israeli government that "what worked there could work here as well."

Furthermore, the coalition's pursuit of highly controversial laws appears to be a calculated effort to create the illusion that legal advisers are impeding their ability to govern. One notable example hereof is the Terrorist Deportation Law, which recently passed its third reading and mandates the automatic deportation of the families of terrorists who carried out attacks in Israel "to the Gaza Strip or to an alternative destination to be determined based on the circumstances" (Shpigel

2024). This legislation enjoys widespread support among Netanyahu's political base. Legal advisers intervened, however, asserting that while the concept could be debated, the method of implementation was legally problematic. They emphasised that a constitutional connection must exist to justify such actions, in accordance with international law, which require individuals to be held accountable for their own actions rather than being punished for the deeds of others.

This legal opposition has fuelled considerable tension between coalition members and their legal advisers. The former's representatives have accused the latter of overreaching their mandate by blocking legislative efforts while avoiding accountability for the consequences of these decisions. This criticism is repeatedly contextualised to security concerns, with coalition members arguing that in the aftermath of terrorist attacks responsibility is unfairly placed on them for their perceived inaction rather than on the legal advisers imposing constraints on what can even be done. This ongoing friction exemplifies the broader challenges of balancing legal oversight with political agendas in highly charged settings. In this way, relatively minor issues within Israel's broader security policy – ones unlikely to bring about significant change on the ground – are being leveraged to craft a false narrative that the coalition's hands are tied, hindering its ability to govern effectively. This strategically shifts blame onto the legal system and its protagonists, portraying them as responsible for the country's security challenges.

Nevertheless, coalition members appear to embrace such confrontation. They could have drafted new legislation in ways attracting far less legal criticism, for example by including appeal mechanisms or ensuring that certain provisions are subject to judicial review. There are well-established methods to keep such legislation in check, but it seems they intentionally choose to propose laws in highly controversial areas and thus to deliberately provoke clashes with legal advisers. This reinforces the perception that the legal system is antagonistic, working against the coalition's interests and even siding with Israel's enemies. At times, it appears that this ongoing conflict serves the coalition's political narrative more effectively than genuine progress on judicial reform would. When the coalition struggles to deliver, it can deflect blame onto the judiciary, portraying it as an obstacle to sound governance. As such, this perpetual state of confrontation between the coalition and the judiciary seems unlikely to dissipate anytime soon.

Over the past year, Netanyahu has increasingly sought to reshape Israel's governance paradigm, pursuing a model with substantially weaker checks and balances. According to the Global Democracy Index compiled by Varieties of Democracy (V-Dem), an independent research institute based in Sweden and widely regarded as one of the most authoritative democracy rankings, Israel is no longer classified as a "liberal democracy" but rather as an "electoral democracy" (Nord et al. 2024: 6). It is undergoing a steady shift towards illiberalism, with attempts to erode judicial independence and weaken democratic freedoms. Legislative initiatives, such as the proposed Spyware Law, represent more than just governance changes; they signal a redefinition of the relationship between the Israeli state and its citizens. The dismantling of democratic safeguards, combined with the increasing centralisation of power, endangers not only the rights and freedoms of individuals but also the very core of Israel's democratic identity. Without course

correction, this trajectory risks undermining the country's foundational principles and thus its future as a democratic society.

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