

# Public Officials and the Right to Silence

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Abstract



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## **ABSTRACT**

The issue of public representatives and public employees who, under criminal investigation regarding their public office and conduct, choose to invoke their right to silence, trains a spotlight on the inherent tension between their individual rights and their public accountability. As public servants, these officials are accountable to the public for activities conducted in their official capacity, and to act transparently. As individual suspects, however, they are legally entitled to remain silent under police interrogation and to refrain from answering any questions that might incriminate them. In several cases in recent years, high-ranking Israeli officials have invoked their right to silence during investigation, drawing harsh public criticism. But in the eyes of the law, the fact that they hold public office is irrelevant. In the absence of legal obligations, it would appear that public and ethical norms in Israel are too weak to be sufficiently effective.

In the absence of strong public norms, we propose advancing a legislative solution that would require public officials to choose between remaining in office and exercising their right to silence. According to this proposal, high-ranking public officials and public representatives who opt to remain silent under investigation will be removed from office, subject to review by

the Attorney General or a public committee in response to an application from the official under suspicion. Low- and medium-level public officials who choose to invoke their right to silence will be subject to sanctions up to and including removal from office, to be applied at the discretion of the Civil Service Commissioner.

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