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FORMER FRENCH PRESIDENT Jacques Chirac gestures as he talks with Prime Minister Benjamin Netanyahu before a bilateral meeting over security concerns in Lisbon in 1996. In recent days, Netanyahu sympathizers are looking to the 'French Law' whereby a sitting prime minister cannot be investigated for m.(Photo by: REUTERS)

Is Netanyahu the new Chirac?

By LAHAV
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Justice Minister Ayelet Shaked wants to adopt a French constitutional article prohibiting the investigation of a sitting prime minister.

Many in Prime Minister Benjamin Netanyahu's circle are looking toward Paris with trepidation these days, ahead of the planned international peace conference in the French capital later this month. But, some voices in the Likud make it clear that Netanyahu himself is eyeing the Élysée Palace with envy.

No, not because of Netanuyahu's vendetta against the media, though the Palace's last two residents (Nicolas Sarkozy, François Hollande) left their significant others for sexy starlets (Carla Bruni, Julie Gayet) while in office without the locals so much as batting an eyelash, while in Israel Netanyahu can't so much as mention his wife without certain journalists getting palpitations.

The reason is the ongoing investigation into allegations that Netanyahu illegally accepted gifts from wealthy benefactors. The prime minister was questioned under caution on Monday, and is expected to be interrogated again on Friday.

Since the turn of the 21st century, nearly every politician at or near the top in Israel has been subjected to a criminal investigation, and probe after probe of Netanyahu's conduct have come and gone without an indictment, leading him to adopt this catchphrase about investigations: "There won't be anything, because there isn't anything."

In France, Netanyahu may have thought to himself, I wouldn't have to keep going through this.

WHEN FORMER French president Jacques Chirac – who, by the way, was no less a philanderer than his successors – was in office, allegations of corruption during his tenure as mayor of Paris arose. Chirac denied any wrongdoing and claimed immunity from being investigated for crimes committed before he became president. In 1999, the court accepted his argument, based on a broad interpretation of an article in the French Constitution of 1958 that states that the president "shall incur no liability by reasons of acts carried out in his official capacity."

The constitution was amended soon after to state that “throughout his term of office, the president shall not be required to testify before any French court of law or administrative authority and shall not be the object of any civil proceedings, nor of any preferring of charges, prosecution or investigatory measures. All limitation periods shall be suspended for the duration of said term of office.” (Emphasis added.)

The following article of the constitution reads: “The president of the republic shall not be removed from office during the term thereof on any grounds other than a breach of his duties patently incompatible with his continuing in office.”

With that in mind, Likud MK David Amsalem proposed a bill by which a sitting prime minister cannot be investigated for most crimes, citing the “French Law.” Amsalem came up with the idea months ago, but officially proposed it this week, and the legislation got a major tailwind in the form of support from Justice Minister Ayelet Shaked and coalition chairman David Bitan (Likud).

The bill states that a criminal investigation of a prime minister cannot be opened unless it is of security-related crimes, violence, sexual violations or drugs, or of a crime that, without an immediate investigation, could cause significant harm to Israel’s security or economy.

According to the proposal, the time the prime minister was in office will not be counted for the statute of limitations on prosecuting the crime.

“Prime minister is one of the most complex jobs.

He must make fateful decisions that influence the entire public.... Therefore, he must be fully focused on these matters,” Amsalem wrote in the bill’s explanatory section.

Speaking in the Knesset Monday, Shaked said she is considering adopting the bill “because it could strengthen governance,” and said that the proposal is called “the French Law.”

“A prime minister needs to be like any other person – there shouldn’t be a difference – but in order to let him run the state, we should consider this,” Shaked added.

In the opposition, Zionist Union faction chairwoman Merav Michaeli said the prime minister “can’t have everything,” and that such a law would be unfair in Israel, where there are no term limits, boosting a bill of her own that would allow a prime minister to serve for only two terms.

“In our political culture, the prime minister can hold as many portfolios as he feels like, make coalition agreements that serve only him, and his cousin can negotiate in our names while serving as his legal adviser without declaring any conflict of interest. In Netanyahu’s political culture, we can’t decide that prime ministers can’t be investigated,” Michaeli stated.

MICHAELI’S REASONING aside, it turns out that the situation in France is not as Amsalem and Shaked made it seem, and the view from the Élysée Palace is quite different from that from the Prime Minister’s Residence in Jerusalem.

Emmanuel Navon, an expert in international relations who teaches at Tel Aviv University and who grew up and studied in France before making aliya and completing his PhD in Israel, called Shaked and Amsalem “ignorant of constitutional law.”

“The French constitution protects only the president and not the prime minister, first of all,” Navon explained to The Jerusalem Post. “If they copy [the law], it will only protect the president, which is

not what they want to do.”

Navon pointed out that in both Israel and France, the president is the head of state, while the prime minister is the head of the government.

Granted, the president of France has a more political role than Israel’s president – he is the chief executive, except for the rare cases in which the French president does not have a majority in parliament – but Navon emphasized that in parliamentary democracies the head of state and head of government are distinct positions.

“The purpose of the article in the French constitution is to preserve the dignity of the head of state, not to leave the ability to govern unimpeded,” Navon said.

Navon, a former Likud member and primary candidate who left the party in 2015 after being a member for 15 years, saying he was embarrassed by what it had become, opposes Amsalem’s bill and said he thinks it is outdated in France as well.

“It is an old tradition... that the president, as head of state, is like the monarch, who could not be investigated for crimes,” he stated.

“Nobody should be above the law,” Navon stressed.

We know that in Israel, with a president fresh out of prison and a prime minister still there, but that applies in France, too.

While his investigation and trial were delayed until he finished his term in 2007, Chirac was convicted in 2011 of embezzling public funds as mayor of Paris and received a two-year suspended prison sentence, which just goes to show that not even the “French Law” can save all leaders.



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