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# Arab Anti-Normalization Laws: A Regional Sketch

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Brief Analysis

On August 6, 2020, U.S. Democratic Senator Cory Booker and Republican Senator Rob Portman co-introduced the "Strengthening Reporting of Actions Taken Against the Normalization of Relations with Israel Act of 2020." The bill calls on the U.S. Secretary of State to report annually on instances of Arab government retribution for civilians in any Arab country who engage in people-to-people relations with Israelis. It cites the Arab Council for Regional Integration, a pan-Arab body opposed to the boycott of Israel, as having made the case for such a law during its delegation to the French National Assembly in February 2020.

The bill describes the problem at issue as follows:

While some Arab League governments are signaling enhanced cooperation with the state of Israel on the government-to-government level, most continue to persecute their own citizens who establish people-to-people relations with Israelis in nongovernmental fora, through a combination of judicial and extrajudicial retribution. Some Arab League states maintain draconian anti-normalization laws that punish their citizens for people-to-people relations with Israelis, with punishments, including imprisonment, revocation of citizenship, and execution. Extrajudicial punishments by these and other Arab states include summary imprisonment, accusations of ''treason'' in government-controlled media, and professional blacklisting. Anti-normalization laws, together with the other forms of retribution, effectively condemn these societies to mutual estrangement and, by extension, reduce the possibility of conciliation and compromise.

The bill breaks new ground in seeking to raise the issue to the level of country-by-country scrutiny by State Department personnel across the Middle East and North Africa.

The existence of anti-normalization laws in Arab countries is well known to policymakers. Some of the victims, moreover, have captured international attention. But knowledge of the mechanics remains limited and diffuse. How does Arab government retribution for civil peacemakers actually occur? What is the magnitude of the practice? Whom does it target, who is spared, and why? In certain Arab countries where the government has established relations or accommodations with the state of Israel, why does retribution for civil peacemakers persist? What is the nature and status of efforts by Arab actors to end these practices?

We are exploring these questions as part of the **Salem Initiative**, a campaign by **the Center for Peace Communications** to clear obstacles to civil engagement within the region. In the brief to follow, we sketch the legal articulation of the "anti-normalization" phenomenon through examples from Arab penal codes, civil law, Islamic edicts, and Arab inter-parliamentary bodies. We also touch on the laws' origins and use. Viewed together, the picture that emerges helps contextualize what Senators Booker and Portman are attempting to achieve.

**Arab Republican Legislation**

Among early adopters of "anti-normalization laws" **were the Lebanese parliament in 1955 and Syrian parliament in 1963**, with laws still in force today. They focus principally on commercial relations, the primary form of non-government civil engagement across borders at the time they were written. The language of the laws is so expansive, however, as to effectively proscribe all forms of people-to-people relations. The Syrian law, for example, prohibits "any person… whether directly or via a proxy, from reaching an agreement with organizations or persons residing in Israel or affiliated with them by nationality, or working for or on their behalf—whether the subject of the agreement is commercial, financial, or of any other nature."

Iraq's present anti-normalization laws date slightly later, from the country's 1969 penal code. (Their precedents in Iraq date back to Israel's modern inception.) Article 201 **states**, "Any person who promotes or acclaims Zionist principles including freemasonry, or who associates himself with Zionist organizations, or assists them by giving material or moral support, or works in any way towards the realization of Zionist objectives, is punishable by death." This language reflects the ideology of the Baath party, which then ruled. It is understood by lawyers and judges in Iraq today to mean a blanket restriction on any form of contact with Israeli citizens, whatever the Israelis' actual beliefs.

In 2003, Coalition Provisional Authority **Order Number 7**, Section 3(1) suspended the 1969 penal code. The code was subsequently **reinstated and amended** on March 14, 2010, with the maximum punishment for article 201 revised from death to life imprisonment. This change reflected that the death penalty in Iraq had been rescinded for all but a small number of crimes. Since the 2010 adjustment, the past ten years have seen an increase in assassinations by unknown assailants of Iraqi writers and cultural figures publicly accused of "normalization." In addition to Article 201, Article 172 of the penal code **prescribes** up to ten years imprisonment plus a fine up to 10,000 dinars for persons who engage in trade with any "hostile country," a designation that includes Israel.

Egypt's efforts to combat normalization extend to the very definition of its citizenry. The "Law Number 26 of 1975 Concerning Egyptian Nationality" defines who is an Egyptian citizen, then excludes Egyptians who embrace "Zionism" from the definition. ("Zionists shall not benefit by any of the provisions of the present article.") **Article 16** of the law stipulates revocation of citizenship for any Egyptian national "if at any time he has been qualified as Zionist." The text of this law may be traced to prior rulings from the Nasser period, when the Egyptian state, like other Arab republics, resolved to revoke the citizenship of most members of its substantial indigenous Jewish population.

Forty years after the signing of the Camp David Accord, the 1975 law remains in full effect: the Egyptian government systematically revokes the citizenship of Egyptians who marry Israeli nationals—such as those families pictured above. In an August 18, 2020 article in *Al-Majalla*, journalist Amal Shehadeh reported that victims of this measure are mainly "Egyptian men married to 1948 Palestinian women."

Shehadeh learned that 12,000 of these couples reside in Israel, and that the combined total of these Egyptians, their Israeli spouses, and their children—all of whom would be eligible for Egyptian citizenship but for the 1975 provision—exceeds 50,000. Among the Egyptian spouses she interviewed, those who married in the 1990s or earlier recall that the revocations began during the period of the "Al-Aqsa Intifada" and have not abated. Shehadeh also found that a substantial number of these Egyptians wish to have their Egyptian citizenship reinstated, while maintaining their Israeli citizenship, so that they may visit their country of origin without interference and serve as ambassadors of goodwill.

More recently, there have been several signals that rejectionist elements in other Arab countries are looking to incorporate new anti-normalization statutes. Following the Tunisian revolution, a movement of lawmakers involved in the drafting of a new constitution proposed an article that would "criminalize normalization," In response, Human Rights Watch warned that the draft article had the potential to "repress various forms of peaceful expression and exchange with Israeli citizens." Though the article did not pass, presidential candidate Kais Saeed pledged in a 2019 televised electoral debate that, if elected, he would follow through in criminalizing people-to-people relations with Israelis. Though he won the election, President Saeed has so far not acted on this pledge. Reports also indicate that in Algeria, where plans for a new constitution are underway, some lawmakers aim to introduce an equivalent to the proposed Tunisian article.

**Fatwas by Institutions of "State Islam"**

Islamic jurisprudential rulings, as distinct from the legal canon of the state, bring their own substantial weight to bear in civil affairs. Numerous fatwas banning relations with Israelis were issued by clerics and Islamic seminaries over the period surrounding the Arab-Israeli wars of 1948, 1956, and 1967. They have provided a further basis for Arab governments and their institutions to mete out judicial as well as extra-judicial retribution for civil engagement. Notably, a series of findings by the fatwa committee of Egypt's Al-Azhar Islamic seminary banned all forms of non-governmental contact with Israelis. Over the more recent decades of Egyptian-Israeli diplomatic relations, some Azharite clerics have issued statements effectively condoning Egyptian-Israeli government cooperation, but the elements in the fatwas banning civil ties have not been credibly challenged.

Over the year following the 1967 "Three No's" conference in Khartoum, large gatherings of state-backed clerics and clerical endowments convened in Cairo, Khartoum, and Islamabad, each concluding in a collective fatwa that civil relations with Israeli citizens are haram (forbidden).

The significance of these fatwas was far-reaching in three key respects. First, they informed the policies of Arab institutions of "state Islam"—i.e., Islamic affairs ministries, state-backed seminaries, etc.—across the region. Second, as most Arab legal systems cite Shari'ah as an authoritative legal reference—defining Shari'ah as whatever state-sanctioned clerics say it is—the fatwas provided reinforcement to existing civil and criminal laws. Third, as a profound moral message for so many believing Muslims, the fatwas lent legitimacy to extrajudicial crackdowns by Arab security forces as well as campaigns of incitement, ostracism, and blackballing of "normalizers" by media outlets and the range of civil institutions.

**Gulf Dynasties**

Gulf legal systems are eclectic, reflecting the differing relationships between legislative action and executive power. Two examples help demonstrate the variety: Kuwait, a constitutional emirate in which an elected parliament holds

substantial authority, and Saudi Arabia, an absolute monarchy.

Kuwaiti law maintains punishments ranging from imprisonment to execution for acts of "normalization." These sanctions rest on three legal determinations. First, the Kuwaiti parliament passed its own anti-normalization law in 1964. Second, the ruling Emir's June 1967 declaration of war on the "Zionist entity" and the "Zionist gangs in occupied Palestine" remains in force. It "instructs the head of government to inform all specialists, and the foreign ministry, of this decision, which is in effect, such that any support to Israel constitutes treason." Third, Kuwait's parliament formally adopted the Azharite fatwa committee's finding that relations with Israelis are haram. In 2018, Kuwaiti MPs launched further legislative action to supplement the original 1964 law with new restrictions. The update bans connectivity between Kuwaitis and Israelis via the Internet.

In Saudi Arabia, the Ministry of Justice does not formally acknowledge a legal system distinct from Shari'ah. In practice, however, it renders judgments based on a combination of fatwas, Ministry of Justice precedents, and royal administrative orders. The legacy of these precedents, in sum, impels Saudi judges to view civil relations with Israelis as haram. Shortly after the signing of the Oslo Accords, seminal Saudi cleric Abdullah bin Baz issued a fatwa allowing for Muslim rulers to enter into a state of truce with Israel—a finding which proponents of Saudi-Israeli rapprochement have sought to build on. But the fatwa relates specifically to the ruler (the "wali al amr"), effectively granting him a dispensation from a broader ban which still applies. The principle that civil engagement with Israelis is haram has not been superseded in any formal sense.

**Inter-Parliamentary Bodies**

In addition to state actions, pan-Arab organizations bringing together the heads of parliaments, "consultative councils," and other legislative or quasi-legislative bodies have enacted their own measures blocking people-to-people relations. In a recent example, the Union of Arab Parliaments, in a meeting in Amman in March 2019, introduced an article to its concluding declaration calling on all Arab parliaments to intensify their struggle against normalization.

Media reported that while the declaration was under discussion, delegates from Saudi Arabia, Egypt, and the UAE voiced reservations. The Saudi delegate—Abdullah bin Muhammad bin Ibrahim Al Al-Sheikh, head of the Saudi Consultative Council—opposed the inclusion of such an article on the grounds that the issue of normalization "is a specialty of politicians, not parliamentarians." The Emirati representative—Amal al-Qubaysi, head of the Emirati National Council—called for revising the article "in accordance with the resolutions of the Arab League." Media reports about the conference said she meant to reference the fact that according to the Arab League-endorsed 2002 Arab Peace Initiative, the establishment of a Palestinian state along the 1967 borders would trigger a pan-Arab commitment to normalization. Finally, the Egyptian delegate—Ali Abd al-Al, head of Egypt's parliament—seconded the Emirati motion.

But the head of the Union of Arab Parliaments, Jordanian MP Atef Tarawneh, rejected these suggestions. According to media coverage, he received "enthusiastic applause" for doing so, and the resolution passed. No tally of votes was published. Though the statement survives in contemporaneous media reports, it appears to have been removed from the Union of Arab Parliaments web site.

The above laws, edicts, and resolutions, part of a much larger library of Arab rulings against civil engagement with Israelis, cannot be fully appreciated, let alone addressed, in isolation. They are part of an edifice of social inculcation, dating back more than 70 years, that was fueled by actual conflict with Israel on the one hand and by elites' *use* of Israel as a tool of blame deflection on the other. It has served to keep Arabs fixated on, but also separated from, their neighbor for generations. The cause of reintegrating Israelis within the region calls for a range of sustained, creative efforts by state and non-state actors alike, of which legislative action is only a part. But the journey to a peace

between peoples will certainly not be complete before Arab governments repeal these laws and end the draconian practices they have normalized. ❖

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