

## **Criminal Prohibition of Flag Display: Serious Blow to Freedom of Protest in Israel**

The bill to amend the Penal Code submitted by Likud MK Nissim Vaturi,<sup>1</sup> which was endorsed by the Ministerial Committee for Legislation on 17 November 2024, seeks to institute a criminal prohibition on the display of flags of enemy countries and of the Palestinian Authority by Israeli state-funded bodies. Under this bill, such displays would constitute an illegal assembly, punishable by imprisonment and a minimum fine of NIS 10,000. The bill purports to draw a "red line" between legitimate expressions of protest and those "intended to disturb the peace," but in practice constitutes a severe violation of the fundamental rights to freedom of expression and protest and the use of legislation for political and ideological suppression.

It is no coincidence that the proposal arose in conjunction with other bills seeking to undermine the freedom of expression and the rights of Israel's Arab minority citizens, under the pretext of safeguarding state security and combating terrorism.<sup>2</sup> Amid Israel's ongoing state of war for over a year now, efforts have been under way to mainstream permanent legislation that undermines the foundations of democracy as part of an organized campaign by the far right introducing extreme and racist ideologies and practices into the agenda. The goal of this campaign is not only to pass dangerous legislation, but also to apply public pressure and radicalize the public discourse in order to normalize such positions within society.

Zulat strongly opposes the proposed legislation and views it as a severe infringement on freedom of expression, freedom of protest, and Israel's democratic character. The bill aims to silence political dissent and label certain population groups as illegitimate, and uses state power to deepen social divisions and inequality. As elaborated below,

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\* English-language reference. All other references in this document are in Hebrew.

<sup>1</sup> [Bill on Penal Code \(Amendment: Ban on Displaying Flag of Enemy States or Palestinian Authority by State-Funded Bodies-2024\)](#), Knesset's National Legislation Repository, 22 July 2024.

<sup>2</sup> See, for example: Eitay Mack, \*Immoral Bill to Confer Powerful Weapon for Political Persecution, *Zulat*, 30 September 2024; Eitay Mack, \*Bill to Skew Elections and Implement Rabbi Kahane's Ideology, *Zulat*, 11.11.2024; [Bill on Counter-Terrorism Law \(Amendment: Solidarity With Perpetrator of Homicide-2023\)](#), Knesset's National Legislation Repository, 29 March 2023; [Bill on Counter-Terrorism Law \(Amendment: Incitement to Terror on Social Media Platforms-2024\)](#), Knesset's National Legislation Repository, 26 February 2024; [Bill on Counter-Terrorism Law \(Amendment: Solidarity With Terror Organization and Compensation for Publication of Incitement to Terror-2023\)](#), Knesset's National Legislation Repository, 18 December 2023.

not only should the proposed bill be opposed, but the ban on the display of flags currently in the Israeli law books should be repealed as well.

### **Current Legislation: Archaic, Discriminatory, and Harmful**

A comprehensive report published by Zulat in 2024 listed existing legislation restricting freedom of protest,<sup>3</sup> including the ban on flag displays in Article 82 of the Police Ordinance,<sup>4</sup> an archaic relic from the British Mandate era that was regrettably incorporated into Israeli law. Its original purpose was to restrict the freedom of expression and protest of the Jewish Yishuv in pre-state Israel and to suppress anti-Mandate assemblies and demonstrations by means of administrative measures, similar to the then-laws in other British colonial territories.

Today, this legislation is applied selectively and discriminatorily, primarily to encroach on the right to protest and to self-determination of Israel's Palestinian citizens and residents. Enforcement is mostly concentrated in East Jerusalem, during protests or events organized by Palestinian residents.<sup>5</sup> One example is the violent dispersal of the funeral procession of Palestinian journalist Shireen Abu-Akleh in May 2022, partly in response to the display of Palestinian flags, which illustrates how the Israeli police impose the dry letter of the law by force.<sup>6</sup>

Although Israel chose to preserve this Mandate-era relic in its law books, the courts have consistently provided a narrow interpretation of its application. The Supreme Court has repeatedly ruled that the right to protest can only be restricted when there is a near-certain and serious threat to public order and safety, and only to the extent necessary to prevent such harm. It has further ruled that the police are obligated to respect the right to protest and to assist in its realization.

It should also be noted that current laws already criminalize expressions of support for terrorist organizations and encouragement of terrorism through the display of flags, under

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<sup>3</sup> Eitay Mack, [\\*The Legal Infrastructure for the Suppression of Protests and Demonstrations in Israel](#), *Zulat*, 3 May 2024.

<sup>4</sup> [Police Ordinance \[New Version-1971\]](#), *Nevo*, updated 10 November 2024.

<sup>5</sup> It should be noted that Israeli law (including the Police Ordinance) does not apply to Palestinian residents of the West Bank and Gaza Strip, who are subject to Israeli military law, which completely denies freedoms of expression and protest.

<sup>6</sup> Eitay Mack, Noa Tal, and Hadas Bashan, [\\*Selective Enforcement: Repeal of Ban on Flag Hoisting](#), *Zulat*, 23 May 2022.

the Counter-Terrorism Law-2016 and the Penal Code-1977, which address incitement to violence and membership in illegal organizations.

### **New Bill Expands Criminalization of Expressions/Protests and Hurts Human Rights**

As noted, MK Vaturi's proposed law seeks to criminalize the display of enemy state or Palestinian Authority flags, classifying such actions as illegal assemblies punishable by imprisonment and fines. The explanation attached to the bill claims that its aim is to distinguish between legitimate protests and demonstrations held by state-funded institutions featuring the flags of entities that deny or threaten Israel's existence.<sup>7</sup>

Zulat believes this is an unacceptable goal, given that the display of flags, albeit controversial, is a fundamental and legitimate form of political expression in a democratic society. The proposed legislation would criminalize actions that pose no real threat to public peace and would undermine the right of citizens to voice their protest against the authorities. Such legislation would have a "chilling effect" and deter citizens from expressing political opinions for fear of criminal sanctions.

Furthermore, the proposed law would directly discriminate against one-fifth of Israel's citizens, as criminalizing the display of Palestinian flags would infringe upon their rights to express solidarity, to self-identification, and to protest. By labeling the flag and its display as inherently threatening, even when there is no incitement to violence or disruption of the public order, the law would deepen racial discrimination against national minorities in the country.

Moreover, enforcement of the ban in higher education institutions would be an unprecedented assault on Israeli academia. This legislation would force universities and colleges to act as "enforcement agents" of the state, would stifle freedom of expression on campuses, and would undermine their status as centers of critical thinking and dialogue.

### **Zulat's Proposal: Total Repeal of Flag Prohibition**

Freedom of protest, including the right to demonstrate by displaying a flag, is a right afforded to all individuals in a democratic regime. When it comes to a minority in a state

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<sup>7</sup> [Bill on Penal Code \(Amendment: Ban on Displaying Flag of Enemy States or Palestinian Authority by State-Funded Bodies-2024\)](#), Knesset's National Legislation Repository, 22 July 2024.

with a different national identity, it is imperative to recognize the need of this group to publicly protest and express its national identity through the display of flags.

Therefore, Zulat not only opposes the current bill but also advocates for the complete repeal of Article 82 of the Police Ordinance, which allows the arbitrary prohibition of flag displays. This outdated legal provision is unjustified in today's context, is applied selectively and discriminatorily, and fails to contribute to public safety. On the contrary, its enforcement incites unrest and creates a violent reality that infringes on human rights (the draft of the proposed repeal is attached to this position paper as [Appendix A](#)).

### **Conclusion**

MK Vaturi's bill represents another dangerous attempt to suppress freedom of expression and protest in Israel and to persecute the Palestinian citizens of Israel under cover of the ongoing war and the pretext of combating terrorism. Not only does it not protect democracy, but it undermines it. We call on all Knesset members to oppose it.

Zulat's key message regarding all similar proposals is that to effectively combat the threats to democratic values and equality requires a holistic view of all inciteful and racist legislative initiatives<sup>8</sup> and necessitates across-the-board opposition. The fight to uphold democracy calls for an understanding of the bigger picture and for a realization of the cumulative impact of such moves.

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<sup>8</sup> See footnote #2.