

Israel makes meeting another Arab a crime: 'Vague' law used to lock up activists

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A vague security offence of “contact with a foreign agent” is being used by Israel’s secret police, the Shin Bet, to lock up Arab political activists in Israel without evidence that a crime has been committed, human rights lawyers alleged this week.

The lawyers said the Shin Bet was exploiting the law to characterise innocent or accidental meetings between members of Israel’s large Arab minority and Arab foreign nationals as criminal activity.

The chances of such contacts have increased rapidly with advances in new technology and opportunities for Israel’s Arab citizens to travel to the wider Arab world, said Hussein Abu Hussein, a lawyer who represents security detainees.

The lawyers’ criticisms come at a particularly sensitive moment, as Israel has been widely accused of hounding two prominent political activists. Both were arrested on the grounds that they spied for the Lebanese militant group Hizbollah.

One, Omar Said, was released last week after a plea bargain in which the Shin Bet reduced a serious security charge of “aggravated espionage” to “contact with a foreign agent”.

The evidence it revealed suggested that Said had attended the meeting in Egypt unaware that his contact was a possible Hizbollah agent and that he had turned down an alleged offer to spy for the organisation.

Amnesty International has termed the continuing prosecution of the other defendant, Ameer Makhoul, as “pure harassment”.

As he was freed, Said, from Kfar Kana, near Nazareth, accused Israel of persecuting activists whose politics it does not like.

Abir Baker, a lawyer with the Adalah legal centre, said cases such as Said’s were intended to have a “chilling effect” on Israel’s Arab community, which comprises one-fifth of the population.

She said his arrest should be seen in the context of efforts by Israel to limit the right of Arab citizens to strengthen cultural and political ties to the rest of the Arab world.

Several of Israel’s Arab political parties, including the one Said belongs to, have been trying

to inform the Arab world about the minority's campaign for democratic reforms to end Israel's status as a Jewish state.

A 2008 law removed the diplomatic immunity from Arab members of the Israeli parliament to visit Arab countries defined as enemy states.

One MP, Said Nafaa, who is to be tried over a visit to Syria with a party of Druze clerics in 2007, faces charges of contact with a foreign agent for meetings he held with Syrian politicians.

"There are laws to stop us from visiting countries classified as enemy states such as Syria and Lebanon, but Israel uses this particular offence to make us afraid to talk to any Arab national, whether at international conferences or online," said Baker. "Israel wants to make us invisible."

Khaled Ghanayim, a law professor at Haifa University, said misuse of the offence of contact with a foreign agent had grown with the right wing's ascendance in Israel.

"Paradoxically, the Soviet Union advanced a similar policy for decades to prevent Jews in the Eastern bloc from meeting Israeli Jews. Israel and the West denounced that policy as a violation of their human rights, but today Israel is doing the same to its Arab citizens."

Abu Hussein said the offence was particularly hard to challenge because, uniquely in Israeli criminal law, the onus to prove that the meeting did not harm state security rested with the defendant, not the prosecution.

The Shin Bet was unavailable for comment. But the agency is believed to be concerned that Hizbollah, which fired thousands of rockets into Israel during a month of hostilities in 2006, is trying to recruit spies among Israel's Arab community.

According to the Shin Bet's website, Hizbollah is particularly keen to identify the sites of Israeli security facilities in the north that might be targeted in a future confrontation and gauge the Jewish public's mood.

Gideon Ezra, a former deputy head of the Shin Bet and now a member of parliament, said: "The state of Israel does not seek to put people in jail, but to carry out proper investigations. There is always a gap between what is known at first and the final outcome."

Baker, who is studying the use of the "contact" offence, said there was a clear pattern in which the Shin Bet started its investigation with a serious security violation, such as transferring information to the enemy, which carries a life sentence, in addition to the allegation of contact.

"That way an impression is created with the public and the media that the suspect was harming state security."

As the investigation proceeded, she said, the Shin Bet typically dropped the serious charge and sought a plea bargain on contact with a foreign agent. The charge carries a sentence of up to seven years in jail.

Defendants, faced with secret evidence and limited rights as security prisoners, were under pressure to agree, Abu Hussein said.

Baker said it was difficult to be sure exactly how often the law was being used but pointed to several notable recent cases.

In 2005, Sheikh Raed Salah, the head of the main wing of the Islamic Movement in Israel, and Suleiman Aghbaria, mayor of the city of Umm al Fahm, served jail terms of 30 months and 46 months, respectively, after agreeing a plea bargain.

The Shin Bet's case that the pair belonged to a terrorist organisation, Hamas, and supplied it with weapons, collapsed during the trial.

In the most recent case, both Said and Makhoul claimed they were tortured while they were held without access to a lawyer.

Ghanayim said it was notable that both men were publicly involved in activities to challenge Israeli policies. Makhoul is known to have angered the Shin Bet by leading demonstrations against Israel's attack on Gaza in winter 2008 and by heading calls for a boycott of Israel.

In the past the Shin Bet has warned that it would use all the powers at its disposal to "thwart" political activities it regarded as a threat to the state's legitimacy.

Baker said use of the law against contact with a foreign agent had begun shortly after the start of the second intifada in 2000 to prevent Arab citizens meeting Palestinians in the occupied territories.

Last year, in a case that attracted wide attention in Israel, Rawi Sultani, a 24-year-old activist from Tira in central Israel, was sentenced to five and a half years after attending an international Arab summer camp in Morocco at which he was approached by a Hizbollah agent.

Mr Sultani was originally accused of conspiring to assassinate Gabi Ashkenazi, Israel's chief of staff. The charge was dropped but he was convicted of giving information to the enemy by revealing that he had visited a gym used by Ashkenazi.

Jonathan Cook is a writer and journalist based in Nazareth, Israel. His latest books are "Israel and the Clash of Civilisations: Iraq, Iran and the Plan to Remake the Middle East" (Pluto Press) and "Disappearing Palestine: Israel's Experiments in Human Despair" (Zed Books). His website is www.jkcook.net.

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