

Daring to Post: Arrests of Palestinians for Alleged Incitement



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Since the beginning of October 2015, with the start of so-called 'Third Intifada,' the number of Palestinian detainees in Israeli prisons and detention centers has increased significantly. A new phenomenon has started to appear in significant portion as a ground for arresting Palestinians, the accusation of "incitement", whether on social media or TV channels. The Israeli government has accused the Palestinian society of 'glorifying' death among Palestinians. A debate has emerged trying to explain all sorts of religious, ideological or psychological reasons behind Palestinians' alleged incitement. On 23 February 2016, former Israeli Security Minister Moshi Ya'alon stated, "We are facing a society that sanctifies and glorifies death... There is no room for any comparison between our bereavement and the way the loss of life is experienced on their side. We have chosen life."

There has been increased collaboration between the Shin Bet (Israeli Intelligence), Israeli police, and

occupation military in monitoring and apprehending Palestinians who publish materials deemed a threat to the Israeli security and purported glorification of death and “terrorist activity”. Hatzav is the Military Intelligence unit responsible for monitoring open sources including Palestinian local media. Hatzav is a sub-unit of Unit 8200 which obtains covert information through intercepting communication mediums, including telephone conversations, and recently has become tasked with cybersecurity. It is believed that the Unit was established about one decade ago to provide Israeli intelligence with important information.

Since the beginning of October 2015, Addameer has documented more than 200 cases of arrests of Palestinians, including children, for alleged incitement. The prosecution of Palestinians for social media posts is based on information obtained from the intelligence. The intelligence and prosecution analyze the detainees’ publications by addressing its content, the number of people that interacted with the post (likes and shares), and the comments received. Israeli military and civil courts have issued sentencing against Palestinians exceeding one year on charges of incitement.

The Israeli civil courts rely on Article 144 from the Penal Code (1977) which addresses “incitement to violence and terrorism” to prosecute individuals for up to five years in prison if their alleged incitement has allegedly caused violent or terrorist activities. Meanwhile, the Israeli military courts rely on Article 85 from the Emergency Regulations (1945) which also deals with alleged incitement and those who express sympathy with “terrorist activities”.

While these laws do not specify social media mediums as sources of alleged incitement, in the past few years, there has been a significant peak in their application in the social media context. This has resulted from the Israeli government launching a campaign focusing on Twitter and Facebook. On 2 July 2016, the Israeli Minister of Internal Security called Facebook a “monster” and accused it of complicity in violence against Jewish Israelis. As a result, Facebook has shut down several Palestinian accounts and pages that were accused of promoting incitement.

Issuance of incitement charges by Israeli authorities, as practiced exclusively against Palestinians in recent months, constitutes a violation of freedom of expression, and also exemplifies a discriminatory policy of selective application. Palestinians are routinely investigated and arrested for incitement to violence for comments that do not come close to the edge of violent speech as claimed by Israeli authorities. Meanwhile, Israeli right wing and extremist groups, as well as state officials who have advocated for the killing and ethnic cleansing of Palestinians through social media and public speeches have not been arrested on incitement charges. This exemplifies the selective use of such arrests which reflects a double standard in applying these apprehensions between Jewish Israelis and Palestinians. Through this policy, incitement has become a common allegation used against Palestinians by the Israeli occupation, as justification for limiting the freedom of expression on media, including social media websites and journalistic work.

Although Freedom of Opinion and Expression is guaranteed under Article 19 of the International Covenant on Civil and Political Rights, which states “Everyone shall have the right to hold opinions without interference” (paragraph 1) and that “Everyone shall have the right to freedom of expression” (paragraph 2), the Israeli authorities continue to violate these internationally codified rights through the criminalization of Palestinian expression through social media outlets. These arrests and detentions take place in the context of collective punishment, punitive measures and repression of Palestinians that have long been dehumanized and humiliated by a settler colonial entity.

Addameer attorney Mohammad Mahmoud has observed that the Israeli government has been significantly relying on “incitement” charges against Palestinians in Jerusalem since December 2014 on purported security grounds. The attorney stated that the court began issuing sentences ranging between 6 and 12 months, where each social media post corresponds its own charge. For example, if

a person posted three separate posts, this would result in three separate charges. The attorney noted that the sentencing is often contingent upon and makes references to the number of Facebook friends the individual has, as well as the number of “likes” and “shares” the post received. Some instances of this policy of alleged incitement through Facebook from Addameer documentation include the following:

- *27-year-old Nader Halahleh from Jerusalem was arrested on 25 November 2015 and was charged with incitement. Mr. Halahleh had previously published seven posts on Facebook, including pictures and statuses. He was convicted of seven charges related to incitement, and as a result was sentenced to seven months in prison.*
- *17-year-old Qathem Sbeih from Jerusalem was arrested on 17 October 2015 and was accused of incitement on Facebook based on intelligence secret information and was given 3 months administrative detention.*
- *18-year-old Shadi Muhaissen from Jerusalem was arrested on 16 October 2015 and was detained for nine days before being placed under administrative detention for three months. Shadi was interrogated about his Facebook posts which included a picture of Palestinian Fadi Alloun, who was extrajudicially executed on October 4th, 2015. It was claimed by prosecution that Shadi poses a threat to Israeli national security.*
- *19-year-old A.H. from Nazareth was arrested on 05 October 2015 and was interrogated about a Facebook post in which she purportedly hoped for martyrdom. After interrogation that lasted for five hours, she was detained for ten days and was subsequently placed under administrative detention for three months.*
- *19-year-old Dunya Musleh, from Deheisheh refugee camp in Bethlehem was arrested on 15 November 2015 for incitement. Dunya, a student at Al-Ahliyah University was indicted with three charges related to Facebook posts, which included pictures of extrajudicially executed Palestinians with captions that were deemed incitement by occupation authorities. The military court claimed that Dunya was encouraging Palestinians to carry out attacks against Israelis and inciting violence. The court also claimed that Dunya’s posts were praised by many people and received many “likes”.*
- *19-year-old Jureen Qaddah from Ramallah was arrested on 29 October 2015 for alleged incitement. Jureen, a second-year media student at Birzeit University, was placed under administrative detention for three months. During the confirmation hearing, the military judge refused to reveal the nature of the secret information, but stated that Jureen glorified “terrorist activities” against Israeli citizens in her Facebook posts.*

It is worth mentioning that a significant portion of the documented cases of arrest for alleged incitement have been placed under administrative detention due to lack of evidence, coupled with the fact that Israeli laws do not explicitly include articles that criminalize Facebook posts. Among these documented cases, none of the evidence demonstrated that the social media posts did in fact lead to any violent activities or posed a viable threat to the Israeli national security as claimed by the prosecution. The criteria that the prosecution relies on (numbers of “shares” and “likes”) display the lack of adequate evidence connecting the individual to any future violent activities. Effectively, Palestinians are being arrested, silenced and prosecuted for expressing anger and frustration against the protracted Israeli occupation that regularly violates their human rights.
