

Politics of Security in the Islamic Movement Trial

By Marwan Dalal¹

Five activists of the Islamic Movement in Israel, including its leader Sheikh Ra'ed Salah, were detained for over a year until the end of criminal proceedings against them for providing humanitarian assistance to Palestinians in the 1967 Occupied Territories. That was the subject of the trial.² However, according to most Israeli media outlets, which failed to keep a healthy distance from General Security Services' (GSS) spokespersons, the defendants were being prosecuted for nothing less than aiding terrorism.

Defendants are detained until the end of legal proceedings for two primary purposes: to protect the public from a dangerous defendant, and to ensure that the accused does not obstruct justice. Which purpose was relevant in the case of the Islamic Movement activists is not clear. They are prominent members of the public who have been openly and lawfully active in promoting social and religious goals for many years. Arguably, transparency is a prominent feature of the Islamic Movement's activities. The movement's transparency, which extends to government authorities, clearly showed, before the trial commenced against its leaders, that the movement had nothing to hide. It could reasonably be argued that the movement at times has been excessively open in its desire to emphasize its transparency. In other words, the movement's leaders are not a danger to society, and they represented no danger to society that warranted detaining them for the duration of the proceedings against them.

Nor is the second purpose of detention until the end of proceedings – to ensure that the defendants do not obstruct justice – applicable in the case of the Islamic Movement leaders. Firstly, the evidence that the state indicated was in its possession was in the form of documents, and not witnesses who could be influenced. A further reason is that much evidence was submitted *in camera*. As a result, the defendants were unable to examine the substance of the material or challenge it in any way. Thus, not only were the leaders of the Islamic Movement incapable of obstructing justice in the proceedings against them, but the proceedings themselves were seriously flawed in that they relied on secret evidence.

The choices made by the Supreme Court in extending the activists' detention three times, for 90 days on each occasion, is discomfiting and deserving of relentless critique. How can the same individuals whom the prosecution argued should not be released because they constituted a danger to the public, an argument with which the Supreme Court concurred, be released in the context of a plea bargain which dismissed the serious charges leveled against them? Where is the danger, which was confirmed and accepted by the Supreme Court, but which disappeared at the end of the plea negotiations? We are witnessing a danger of a very peculiar kind, serving as a means of exerting pressure by the prosecution. The orchestra conducted by the prosecution, with notes composed by the questionably skillful efforts of the GSS, also includes the Supreme Court. The performance given by the Supreme Court is grating on the ears, and an unpleasant sight for the eyes, a concert of the kind that Daniel Barenboim would stop in dismay and disgust.

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² Sheikh Ra'ed Salah, Dr. Suliman Agbariya (the former mayor of Umm al-Fahem), Mahmoud Mahajni, Tawfiq Mahajni, Nasser Agbariya and were arrested in May 2003, and were remanded without bail until the end of criminal proceedings against them. In June 2003, they were indicted for a wide range of security offenses relating to their alleged transfer of funds from Hamas organizations abroad to Hamas charitable organizations in the Occupied Territories. On 12 January 2005, the Haifa District Court accepted the plea bargain, whereby the prosecution dismissed the most serious charges of "supporting terrorism" against the defendants. The plea bargain confirms that these allegations could not be proven by the prosecution.

One of the peculiar aspects of the trial was the prosecution's attempt to furnish the proceedings against the Islamic Movement with an intellectual and academic dimension. In other words, the prosecution sought to argue that being a Muslim was itself grounds for a charge against the defendants. It may be that, insodoing, the prosecution was attempting to meet the heavy burden of proof of guilt beyond reasonable doubt. It seems that the winning formula applied by the prosecutors in the State Attorney's office is secret proof plus academic thinking equals conviction.

Raphael Israeli, a professor at the Hebrew University who was appointed to play the role of knowledge-producer at the trial, was recruited by the prosecution as an authority in the field. He is not only supposed to know but also to understand the fundamentals and patterns of behavior of the Islamic Movement in Israel. Yet, his knowledge and understanding originated from his research on Muslims in China, of all places. In an ideal world, the leaders of the Islamic Movement would necessarily praise the selection of their prosecutor, for in this context, reasonable doubt, at least, lies in their favor. It can be said on behalf of Professor Israeli that he does not mask his opinions, which encompass the entire Arab population in Israel, and not only the Islamic Movement. For example, the learned professor testified before the Or Commission on changes in Arab society, and on the policy the government should take *vis-à-vis* the Arabs in Israel:

Then the status of the yuppies emerged, which, as Eli Rehkess said before me, turned out to be the most rebellious element in the State of Israel. Meaning, to give money does not necessarily bring about greater reconciliation or understanding. Often, those whom you educate in your universities in the country, and for whom you open the doors to the world, turn into the harshest propagandists against us. That is, if you give to them, you will get opposite results. Therefore, I say, give, but give in an intelligent and controlled way.³

The dominant trend in Israeli academia - of which Professor Israeli is a part - regarding research on Arab and Muslim societies gives insignificant value to the late Edward Said's project on Orientalism. As a sub-project, one can create the category of the "banality of Israeli Orientalism". Instead of rigorous historical research, for most mainstream Israeli researchers it is sufficient to point to the bibliography. Rather than a post-modern analysis of discourse, for this group, there is the quotation that speaks for itself. As a substitute for revealing the power relations that are inherent in the text, one can repeat the direct link of these researchers to the Israeli security apparatus, if not emphasize the military rank of the researcher. That is to say that the prevailing Israeli academic research on Arab and Muslim societies is not interesting because of its clear purpose, which has nothing to do with the production of knowledge for people, but rather, is solely for the consumption and reproduction of power-based systems such as the GSS, the military, and the police.

The trial of the Islamic Movement resulted from a direct order from the office of the Prime Minister Ariel Sharon. The body which initiated the whole process, the GSS, acted from within that office and utilized the force and power it possesses. It was necessary to oppose this political trial. It was political in that it served Sharon's political interests, enabling him to argue that he is fighting terror that is attacking from all fronts, including from home. This trial is also part of the clear trend of the battle being waged by the executive branch against the politics of the Arab minority which challenges it, through the prosecution of its elected leaders for their political positions opposing the occupation, and for their humanitarian work, which the government views unfavorably. The government's intention, which bears a colonialist hew, is clear: attack the leaders in order to deter their society.

³ Testimony of Raphael Israeli before the Or Commission, 27 December 2001. Transcript of the Commission's hearings, p. 9036.

Palestinian Arab society in Israel is not the first minority to challenge its situation and the root causes thereof, or to face an unstinting attack at the hands of the executive branch, which is aided by two other branches - the legislative and the judicial – in the endeavor to realize its objectives. Other minorities preceded it, including the African Americans and the indigenous peoples in the United States and Australia. Attempts to frighten and deter them did not, however, alter their fundamental will to strive for liberated citizenship and equality. In like manner, the Palestinian Arab minority in Israel should continue its struggle, in part by giving humanitarian and political assistance to Palestinians under a brutal regime of occupation. This is its right and obligation, and can and should be carried out with self-confidence and pleasure.