



Jordan: Assault on Free Expression

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Jordanian authorities have broken reform promises by arresting and charging activists for speech-related offenses. At least three activists were arrested in recent months and charged with speech-related offenses under vague terrorism legislation and are being tried in Jordan's State Security Court.

Those detained and facing trial for expressing their views include Zaki Bani Irsheid, leader of the Muslim Brotherhood's political party in Jordan, Mohammed Sayed Bakr, a senior Brotherhood official, and Yousef Smadi, an independent activist.

"Labeling speech 'terrorism' doesn't hide the reality that Jordan is still intent on muzzling its citizens who speak freely," said Sarah Leah Whitson, Middle East and North Africa director at Human Rights Watch. "Jordan claimed credit for limiting the jurisdiction of its State Security Court, but in reality it left gaping loopholes for authorities to carry on business as usual."

The State Security Court was established in 1959 with jurisdiction over penal code crimes deemed to harm Jordan's internal and external security. The court is not independent of the executive, as the prime minister appoints military judges on the recommendation of the army joint chiefs of staff, while Jordan's judicial council appoints civilian judges. The state security judges sit in panels of three - some military, some civilian, and some mixed. The prosecutors are all military officers.

Jordanian lawmakers approved reforms for the State Security Court law in early 2014 to restrict its jurisdiction to terrorism charges and four other crimes. But lawmakers did not remove overbroad provisions used to restrict peaceful expression from terrorism statutes. Instead they broadened the terrorism law to encompass vague notions such as "disturbing [Jordan's] relations with a foreign state," which is interpreted to include criticizing policies of neighboring countries.

Police arrested Bani Irsheid, leader of the Islamic Action Front political party, on November 20 and charged him on December 8 with "disturbing [Jordan's] relation with a foreign state" under the terrorism law based on his criticism of the United Arab Emirates (UAE) in a November 15

Facebook post. He is in Marka Prison in east Amman and will face trial in the State Security Court. The Jordan Times reported that his defense team filed a bail request on November 24, but it was later denied.

The Facebook post, written in response to the UAE's classification of the Muslim Brotherhood as a "terrorist organization," does not call for violence. It accuses the UAE of collusion with Israel and calls for the UAE to be expelled from the Gulf Cooperation Council, Arab League, and Organization of Islamic Cooperation. It says:

The influential leadership in the Emirates undertakes the role of American policeman in the region and the dirtiest functional roles of service to the Zionist Masonic project. It stands behind all acts of terrorism and destruction of the project of the [Arab] nation, and it conspires against the causes of the [Arab] nation and against the movements of national liberation, and it supports coups and funds spying and Westernization movements. This leadership is cancerous cells on the body of the Arab nation.

"Disturbing [Jordan's] relations with a foreign state" has been a crime listed in Jordan's penal code for many years and has been used by Jordanian prosecutors against speech critical of foreign rulers. The State Security Court reform law, passed earlier in 2014, removed this charge from the jurisdiction of the court, but in April, lawmakers reversed the reform by adding the provision to Jordan's terrorism law, with a penalty of 3 to 20 years in prison.

Prime Minister Abdullah Ensour defended the prosecution as a matter punishing "defamation" against the UAE, stating that Bani Irsheid "should have read the law before making the post." Another cabinet member told the Jordan Times that Bani Irsheid cannot be considered a "political prisoner" because "[i]t is only when people are arrested for their opinions that they are called 'political prisoners.' This has never been the case in Jordan."

Neighboring Gulf Cooperation Council countries pledged in 2011 to provide Jordan with US\$5 billion in development aid, including \$1.25 billion from the UAE.

"It's a shame that Jordanian leaders seem to care more about hurting the feelings of foreign leaders who provide financial support to the government than the rights of Jordanian citizens," Whitson said. "If Jordanian citizens can't peacefully criticize policies in the region, what option do they have left to express their political views?"

Another vague charge prosecutors have exploited to curb free expression is penal code article 149, which proscribes "undermining the political regime in the kingdom or inciting opposition to it." The penal code classifies this charge as a terrorism provision, and as such it falls under the jurisdiction of the State Security Court.

Police arrested Bakr in September 2014 on that charge based on an August 6 speech to a brotherhood rally protesting the Israeli invasion of Gaza. The charge carries a penalty of 3 to 20 years in prison. Bakr is in Marka Prison.

Bakr's charge sheet states that Bakr maintained ideas "opposing the political regime" and "these ideas rested in place with the defendant until the beginning of August 2014 when the events taking place in the Gaza Strip ... allowed him to express these ideas exploiting the feelings of anger that pervaded the Arab street...."

In the speech Bakr spoke sarcastically of the role played by Jordan and other regional countries in the conflict, stating:

Thank you, you stupid [people], if even the least of us were tasked to develop a plan to diminish Hamas the plan would have been wiser than your plans you fools.... Who of you is embarrassed to be part of an army or the armies of Arabism today? I ask God's forgiveness because it is a sin to be part of an army that does not come to the aid of flowing blood [in Gaza].

Al-Smadi was arrested on September 21, a family member told Human Rights Watch, and faces trial in the State Security Court on a similar charge for criticizing King Abdullah II on Facebook. He is in Muwaqqar I Prison, 35 kilometers east of Amman.

The charge sheet cites several Facebook posts in which al-Smadi allegedly encouraged residents of Ajloun, a city 45 kilometers north of Amman, to boycott a Friday prayer at an Ajloun mosque in July because the king would be visiting.

A July 25 post allegedly stated: "No welcome to you in Ajloun, Abdullah II; return to where your grandfather came from on his mangy camel. These are environs of Jerusalem, pure land, and there is no place in it for traitors of the nation...."

Al-Smadi's family member told Human Rights Watch that al-Smadi claims he did not write these posts and that his Facebook account had been hacked at the time the posts appeared on his page.

The penal code article historically used to punish criticism of the king, 195, proscribes "lengthening the tongue." This charge was removed from State Security Court jurisdiction in 2014. It appears that prosecutors are instead using "undermining the political regime," a terrorism provision, to keep prosecutions for criticizing the court under the jurisdiction of the State Security Court, Human Rights Watch said.

Freedom of expression is guaranteed under article 15 of Jordan's constitution. The International Covenant on Civil and Political Rights (ICCPR), to which Jordan is a state party, protects the right to freedom of expression, including "freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice" (article 19). According to article 9.3 of the ICCPR, "[i]t shall not be the general rule that persons awaiting trial shall be detained in custody."

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