

Germany to prosecute slogan calling for freedom for Palestine as a crime

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Use of the slogan “From the river to the sea, Palestine will be free” is now being prosecuted in Germany as a criminal offense punishable by imprisonment of up to three years or a fine. Munich Chief Prosecutor Andreas Franck, who is also the antisemitism commissioner of the Bavarian judiciary, has already announced his intention to pursue charges based on the slogan as well as prohibited Nazi slogans and symbols.

The legal basis is the ban on Hamas, which Federal Minister of the Interior Nancy Faeser (Social Democrats—SPD) issued on 2 November. Hamas was previously considered an illegal terrorist organisation, but Faeser issued a specific ban on the organisation, even though Hamas officially has no organised presence in Germany.

The five-page prohibition order published in the *Federal Gazette* lists “Hamas signs,” the public use of which is prohibited. The list also includes “the slogan ‘From the river to the sea’ (in German or other languages).” According to Chief Prosecutor Franck, use of the slogan could be punished on the basis of Section 86a of the Criminal Code: “Use of signs of unconstitutional and terrorist organisations.”

Until now, German prosecutors had regarded the statement as legal. It was in principle covered by freedom of expression, the public prosecutor’s offices in Berlin, Munich and other cities explained, according to the *Süddeutsche Zeitung*. Those who wish for Palestine to be “free,” it was said, are not necessarily calling for violence. The demand can also be a call for peaceful change of the status quo. The Berlin Administrative Court ruled as recently as August that the slogan itself was not punishable by law.

However, with the prohibition order, the legal requirements have changed. Instead of being prosecuted for “incitement to hatred,” which requires

clear proof of incitement to violence, anyone using the slogan can now be punished solely on the grounds that the minister of the interior has declared it a “sign” of a prohibited organisation.

This is an arbitrary act of censorship and suppression of the fundamental right to freedom of expression.

In recent weeks, millions of people of all religions and nationalities, including Israelis and many Jews, have taken to the streets worldwide to protest the Israeli massacre in Gaza. The governments that support Israeli crimes are responding with censorship, intimidation and repression.

In Germany, peaceful demonstrations are slandered by the media as “antisemitic” and banned by the police or made subject to strict conditions. Large police squads intimidate the demonstrators, censor every spoken and written word, arrest participants en masse, and seize leaflets and banners.

The criminalisation of the call for freedom for Palestine is another stage in this spiral of repression. The claim that the slogan “From the river to the sea” is a “sign” of Hamas is simply a lie.

The roots of the slogan go back at least to the founding of the Palestine Liberation Organization (PLO) in 1964. The Palestinian National Charter defined Palestine as the historic British Mandate territory of 1947, stretching from the Jordan River to the Mediterranean Sea. A distinction was explicitly made between Jews as a religious group and Zionism as a “racist” and “political movement” associated with international imperialism. The Charter also explicitly stated that Jews can also be Palestinians.

The goal of the Palestinians has traditionally been a secular, democratic Palestine without occupation or discrimination. Thus, Yasser Arafat’s Fatah, long the largest and dominant faction within the PLO, declared

in 1969:

Fatah, the National Liberation Movement of Palestine, solemnly proclaims that the ultimate goal of its struggle is the restoration of an independent, democratic state of Palestine in which all citizens, regardless of their religion, will enjoy equal rights.

Hamas, on the other hand, did not emerge until 1987 as the Palestinian branch of the Muslim Brotherhood. In its revised charter of 2017, it also committed itself to a Palestine “from the River Jordan to the Mediterranean.” In doing so, it did not invent anything new, but merely adopted a decades-long orientation of Palestinian organisations.

This formulation did not appear in the Hamas charter of 1988. In its revised charter produced three decades after its founding, Hamas also distinguished between Judaism and Zionism, unlike in its 1988 charter. It said: “Hamas affirms that its conflict is with the Zionist project and not with the Jews because of their religion.”

In Israeli politics, too, there were repeated references to the formula “from the river to the sea” long before Hamas was founded. Contrary to the PLO’s interpretation, however, this did not mean a secular, democratic state, but “Eretz Israel,” a state under Jewish domination.

Prime Minister Benjamin Netanyahu’s ruling Likud Party was explicitly founded on this basis. It said in its original 1977 platform: “The right of the Jewish people to the Land of Israel is eternal and indisputable and is linked to the right to security and peace; therefore, Judea and Samaria will not be handed over to any foreign administration; between the sea and the Jordan there will be only Israeli sovereignty.”

Israel’s current finance minister, Bezalel Smotrich of the Religious Zionism Party, which is largely responsible for the settlements in the West Bank, wrote an essay for a right-wing Israeli think tank in 2017 titled “Israel’s Decisive Plan,” which states:

We will make it clear that our national quest for a Jewish state from the river to the sea is an

accomplished fact, a fact that cannot be discussed or negotiated.

However, the supporters of Netanyahu and Smotrich in Germany do not have to fear that they will receive a visit from the public prosecutor’s office. On the contrary, the German government has declared its full solidarity with and provides military support to the Israeli government as it carries out with murderous violence the policy of killing or forcibly displacing the Palestinians. Anyone who protests that there should be freedom and equality “between the river and the sea” instead of occupation and apartheid will be criminalised.



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