

No justification for not trying Nusseibeh, says Rubinstein

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The Defense Ministry's contention that it can't try administrative detainee East Jerusalem academic Sari Nusseibeh in court because it would then have to reveal its sources seems to be baseless, according to Shinui MK Amnon Rubinstein.

The former dean of Tel Aviv University Law School phoned Justice Minister Dan Meridor yesterday to remind him of the rules of procedure in the penal code for treason and espionage trials.

Rubinstein noted that paragraph 128 of the code makes it possible to keep the testimony and identity of witnesses secret. It empowers the bench to remove both the accused and the defense counsel for the duration of specific testimony.

However, the accused in such trials may select an additional defense counsel from a list of officially approved lawyers, who have all been granted security clearance, and who may stay in the courtroom during that testimony to cross-examine State witnesses in the usual way.

There are some ten lawyers at present on this list.

Hence, Rubinstein told Meridor, no justification exists for ruling out a trial for Nusseibeh.

As a result, suspicions exist as to the authorities' motives for his detention, Rubinstein said, even if the suspicions have no foundation.

In reply to queries from *The Jerusalem Post*, Meridor's spokesperson would only say that Rubinstein spoke to the minister about Nusseibeh, and the substance of the conversation was not for publication.

One of the country's top authorities on security trials told the *Post* that the defense establishment put itself in a compromising position by alleging treason and espionage against Nusseibeh while deciding at the same time against a trial.

Should the defense establishment eventually decide to try him, the authority said, it would have to bear in mind two judgments by Supreme Court Justices Aharon Barak and Gabriel Bach. These advised the State to leave out of its indictment charges on which the accused could not confront his accuser.

Meanwhile, France yesterday condemned Nusseibeh's arrest, saying it damaged the prospects of dialog between Israelis and Arabs, according to a Reuter report.

Foreign Minister David Levy told the French daily *Le Figaro* in an interview published yesterday that security services had proof against Nusseibeh before he was arrested.

Levy said: "We are at war ... he has neither been hanged, nor shot, nor expelled. He has been arrested. If this had happened in France in war time, I don't know how the French would have behaved with such evidence."

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