



Inter-Parliamentary Union

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Palestine/Israel

Decision adopted by consensus by the IPU Governing Council at its 206th session (Extraordinary virtual session, 3 November 2020) ¹



Ramallah, 15 April 2015 – Palestinian protesters wave flags bearing portraits of Fatah leader, Marwan Barghouti, during a march to mark the anniversary of his arrest. AFP Photo/Abbas Momani

PSE-02 – Marwan Barghouti

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of fair trial proceedings

A. Summary of the case

Mr. Marwan Barghouti, a member of the Palestinian Legislative Council (PLC), was arrested on 15 April 2002 in Ramallah by the Israeli Defence Forces and transferred to a detention facility in Israel. He was charged with murder, attempted murder and involvement in terrorist organizations. His trial before the Tel Aviv District Court started on 14 August 2002 and ended on 6 June 2004, when the court sentenced him to five life sentences and two 20-year prison terms. The complainants have raised a series of legal objections to Mr. Barghouti's arrest and prosecution, alleging that he was ill-treated, especially at the start of his detention, and was denied access to legal counsel. The Committee appointed a legal expert and lawyer, Mr. Simon Foreman, to report on the trial. His report states that, "the numerous breaches of international law ... make it impossible to conclude that Mr. Barghouti was given a fair trial".

Case PSE-02

Palestine/Israel: The Palestinian Legislative Council and the Parliament of Israel are affiliated to the IPU

Victim: Member of the Palestinian Legislative Council (member of the majority)

Qualified complainant(s): Section I.(1).(b) of the Committee Procedure (Annex I)

Submission of complaint: April 2002

Recent IPU decision(s): October 2018

Recent IPU mission(s): - - -

Recent Committee hearing(s): Hearing with the head of the parliamentary group of Fatah at the 137th IPU Assembly (October 2017); hearing with the Palestinian complainants (October 2020)

Recent follow-up:

- Communication from the authorities: Letter from the head of the Knesset delegation to the Inter-Parliamentary Union (October 2020);
- Communication from the complainant: October 2020
- Communication addressed to the authorities: Letter addressed to the Speaker of the Knesset (September 2020)
- Communication addressed to the complainant: October 2020

¹ The delegation of Israel expressed its reservations regarding the decision.

On 17 April 2017, Mr. Barghouti initiated a mass hunger strike, joined by more than 1,000 Palestinian inmates, to protest against the abusive and inhumane conditions in which Palestinian inmates were allegedly being held by the Israeli authorities. The “Freedom and dignity hunger strike” reportedly ended on 30 May 2017, as the Israeli Prison Service had agreed to grant some of the detainees’ requests. According to the information gathered during a hearing with the Palestinian complainants held in October 2020, the strike had also been triggered by the 2017 decision of the Israeli authorities to reduce the number of monthly visits to one instead of two visits per month. The complainants stated that the Israeli authorities had promised to increase the number of monthly visits; however, this has yet to be done.

In their letter of 18 October 2020, the Israeli parliamentary authorities did not provide any information on Mr. Barghouti’s current conditions of detention, including his visiting rights.

During the hearing held with the Palestinian complainants in October 2020, the Committee on the Human Rights of Parliamentarians gathered the information summarized below on the situation of Mr. Marwan Barghouti and other Palestinian inmates in Israeli prisons:

- Due to the COVID-19 pandemic, Mr. Barghouti has allegedly received only two visits from his spouse in 2020. According to the complainants, Mr. Barghouti is due to receive a third family visit in November 2020, which is facilitated by the International Committee of the Red Cross (ICRC) – the main focal point between the Israeli authorities and the inmates’ families and the only international organization allowed to conduct visits to Israeli prisons. Family visits are also restricted to one relative instead of five, due to the COVID-19 pandemic, and phone calls are allegedly prohibited. Prison guards may, however, allow an inmate to have a phone call in the event of emergencies. Nevertheless, there appears to be no consistency with respect to phone calls, which, according to the complainants, are arbitrarily granted or refused by prison guards;
- According to the complainants, visits are restricted to spouses and first-degree relatives (children, parents and siblings). During one visit, the Israeli authorities had promised Mr. Barghouti’s family that he would be able to meet his eight-month-old granddaughter. The complainants alleged that, after passing three prison gates and being only one gate away from Mr. Barghouti, the authorities arbitrarily denied her access and refused to let her to be brought in;
- The complainants described the last visit granted to Mr. Barghouti, which was in August 2020. According to the complainants, before any visit could take place, the family had to receive confirmation from the ICRC and be granted a permit to enter Israel. In August 2020, those conditions were met and Ms. Fadwa Barghouti, his spouse, was able to visit him for 45 minutes. The visit took place in the visiting room, where they communicated by phone in front of a glass window separating them. The complainants added that preparing a visit was a time-consuming process; the round trip took almost eight hours, owing to the family’s place of residence, the location of the prison, and the number of checkpoints to cross. The complainants stated that those conditions also applied to other inmates, and were more complicated for inmates from Gaza. According to the complainants, the Israeli authorities purposely detained inmates in prisons located far away from their place of residence, making it difficult for their families to visit;
- According to the complainants, detention conditions in Israeli prisons were dire. They said that prison buildings were obsolete, with poor sanitary conditions, and that they were infested with fleas and mosquitoes, while prison overcrowding was prevalent. The complainants alleged that inmates were not allowed to have a fan in times of high temperatures. The same applies during colder times, as prisons did not have central heating. Reportedly, prisoners were constantly being moved from one prison to another, or from prison to an investigation centre or to court, which meant that they spent several hours handcuffed inside a vehicle with aggressive and strict guards. The complainants also alleged that there were clothes shortages in prison and that inmates were allowed to have a new shirt only every three months. Inmates were required to first signal their needs to the prison guard, and wait for the guard to grant the request. Once the request was approved, inmates had to wait for a family visit before informing their relatives of their needs. The shirt could then be provided during the following family visit. The complainants also stated that detainees of all ages were held together, including children and young adults. Inmates suffering from serious diseases, including cancer or diabetes were allegedly denied appropriate medical care. The complainants also denounced Israel’s overuse of administrative detention.

B Decision

The Governing Council of the Inter-Parliamentary Union

1. *Takes note* of the Israeli parliamentary authorities' letter of 18 October 2020; *deeply regrets*, however, the lack of information about Mr. Barghouti's detention conditions;
2. *Takes notes with grave concern* that Mr. Barghouti was allegedly denied his visiting rights for three years for allegedly taking part in the 2017 mass hunger strike; *is also shocked* that, after three years without a single visit, Mr. Barghouti was only able to receive two visits from his spouse in 2020 due to the COVID-19 pandemic; *firmly recalls* that Article 37 of the United Nations Standard Minimum Rules for the Treatment of Prisoners stipulates that "prisoners shall be allowed ... to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits"; *requests* the relevant Israeli authorities to give assurances that the upcoming visit scheduled for November 2020 will take place without hindrance;
3. *Strongly reaffirms* its long-standing position that Mr. Barghouti's arrest and transfer to Israeli territory was in violation of international law; *deplores* his continued detention for over 18 years following a trial that failed to meet the fair-trial standards that Israel is bound to respect as a party to the International Covenant on Civil and Political Rights; *recalls* in this regard the compelling legal arguments put forward in Mr. Foreman's report; and consequently *renews its call* on the Israeli authorities to release Mr. Barghouti forthwith;
4. *Is deeply concerned* about the complainants' account of the detention conditions in Israeli prisons, including the prevailing crowded conditions and the alleged obsolete state of prison buildings; *is also worried* about the prohibition of phone calls and the arbitrary practice of prison guards in this regard; *urges* the Israeli authorities, in light of the COVID-19 pandemic and subsequent visiting restrictions, to enable detainees to call their relatives;
5. *Reiterates its long-standing wish* to be granted permission to visit Mr. Barghouti; and *urges* the Israeli authorities to give serious consideration to this request;
6. *Questions* why the Israeli authorities decided to reduce the number of visits to one visit per month instead of the two monthly visits that were allowed until 2017; *wishes* to receive more information on the reasons pertaining to this decision; *also notes* that, due to the COVID-19 pandemic, family visits would be limited to one person instead of five; *deplores* the fact that Palestinian prisoners feel compelled to resort to hunger strikes to have their demands heard and acted upon; and *is eager* to receive updated information on Mr. Barghouti's current conditions of detention;
7. *Considers* that the many national and international reports denouncing the conditions of detention of Palestinian prisoners in Israeli jails should be of concern to the Knesset; *reaffirms* that the Knesset can, and should, exercise its oversight function of the Israeli prison service with regard to the treatment of Palestinian prisoners and thereby help ensure that all persons under the jurisdiction and effective control of Israel are afforded the full enjoyment of the rights enshrined in the International Covenant on Civil and Political Rights; *wishes* to know if the Knesset and individual members are allowed to carry out impromptu prison visits and, if so, to receive information on the applicable legal framework;
8. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and to report to it in due course.