

Report's summary on the death of Majd Abdul'Aziz al Barghouthi

ICHR with the function of an ombudsman in human rights carried out an objective fact finding investigation into the death of Hamas activist Majd Abdul Aziz al Barghouthi on 22 February 2008 in a detention center of the PNA General Intelligence agency, in Ramallah.

Detention under the Palestinian Legislation and International Conventions

ICHR underlines that the detention in Palestinian territories is ruled as it follows:

The Palestinian Basic Law and Other Relevant Laws:

Basic Law:

- **Article 11:** protects the personnel freedom and rules the periods and places of detention.
- **Article 12** provides that arrested or detained persons have the right to be informed of the reason of their arrest or detention and that they have the right to contact a lawyer and to be trialed before a court without delay.
- **Article 112** rules detentions under the state of emergency.
- **Article 13** prohibits torture or cruel, inhuman and degrading treatment.

Palestinian Law of Penal Procedure:

- **Article 29** also prohibits torture and states that only competent authority can order arrest and detentions.

International Conventions

Universal Declaration of Human Rights:

- **Article 9** prohibits arbitrary arrest, detention or exile.
- **Article 5** condemns all sorts of torture or cruel, inhuman and degrading treatment.

International Covenant on Civil and Political Rights:

- **Article 9** prohibits arbitrary arrest or detention.
- **Article 7** condemns all sorts of torture or cruel, inhuman and degrading treatment.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:

- **Article 2** provides that every state has to have an effective legislation to prevent acts of torture. Any exceptional circumstances may be invoked as a justification of torture. Any order, even coming from superior officers or public authority may be invoked as a justification of torture.

Target case

Majd Abdul'Aziz al Barghouthi, a 45-year-old resident of Kobar, a city in the governorate of Ramallah, was arrested on 14 February 2008. The Palestinian General Intelligence agency suspected him of being affiliated with a military group, in relation with Hamas militias and in possession of weapons. Thus Al Barghouthi was arrested on grounds of his political affiliation with the Hamas movement. After having been hospitalized, Al Barghouthi died at Khaled Surgical Hospital on 22 February 2008, of coronary occlusion, according to the Palestinian General Intelligence agency.

In this case, the Palestinian General Intelligence agency transgressed the law detaining a person for a period of over 24 hours. Indeed, the Law allows this agency to hold persons in custody for 24 hours. Moreover, General Intelligence detention centers are illegal as they are not subject to provisions of the Palestinian Law Concerning Rehabilitation and Correction Centers.

The Law Concerning the General Intelligence in force stipulates that responsibilities of the General Intelligence agency are centered on external security issues. In this case, the General Intelligence agency intervened in internal security issues.

The research (based on witnesses, affidavits, pictures and medical reports) made by ICHR concerning Al Barghouthi's arrest, detention and death proved that the General Intelligence agency infringed different laws and that Barghouthi's rights have been absolutely flouted.

- The arrest was made without any warrant and the cruel manner he was arrested was in contravention of the laws.
- The guarantees of a fair trial were breached: as a civilian he was brought before a military court, moreover he was preventing from consulting a lawyer.
- His detention was illegitimate and arbitrary.
- He was totally isolated from his family and did not have the right to contact them.
- He was subjected to mental and physical torture and other inhuman, cruel and degrading treatment and punishment.
- The General Intelligence service continued interrogation in spite of his degrading health condition.
- Al Barghouthi's corpse was marred with signs of torture.

All the public inquiries made by different authorities –The President's Office, The Council of Ministers, The Police, The General Intelligence, The Public Prosecution, The PLC, concluded that Al Barghouthi's death was caused by a severe stroke resulting from coronary occlusion. However, some reports asserted Al Barghouthi had suffered from torture and cruel treatment.

ICHR denounces the fact that any of the requests sent to be approved to visit Al Barghouthi when he was detained, was answered. ICHR asserts that a visit to Al Barghouthi could have alleviated his health condition by bringing the General Intelligence interrogation division's attention to his delicate case.