

# Statement of Indictment- Marwan Barghouti - Aug 14- 2002

14 Aug 2002

## **Statement of Indictment: MARWAN BIN KHATIB BARGHOUTI**

**August 14, 2002**

Magistrate Court of Tel Aviv and Jaffa  
District Court of Tel Aviv and Jaffa  
Before a panel

**State of Israel - The Prosecutor**

- Versus -

**MARWAN BIN KHATIB BARGHOUTI - The Defendant**

Born 1959, Identification No. 959251745  
Ramallah  
(in custody since April 15, 2002)

### **Statement of Indictment**

1. At the end of September 2000 or near that time, Palestinian elements caused the outbreak of violent incidents to which these elements refer as the "Al-Aqsa Intifada," which are continuing until the present time (hereinafter: "the Relevant Period for the Indictment").

These violent incidents include ongoing and intensive terror activity against Israeli targets, including the execution of suicide attacks and murderous shooting attacks, as a result of which hundreds of civilians and soldiers of the State of Israel have lost their lives, and hundreds more have been wounded (hereinafter: "Acts of Terror").

2. Among the central Palestinian elements that were engaged in carrying out the Acts

of Terror against Israel during the Relevant Period were:

**"Fatah"** (The Movement for the National Liberation of Palestine) - An organization that has engraved upon its flag the principle of "armed struggle" - the liberation of "Palestine" through violent means.

Fatah is a terrorist organization as defined in the [Prevention of Terrorism Ordinance, 5708 - 1948](#) (hereinafter: "the Prevention of Terrorism Ordinance").

**The "Tanzim"** - an organizational framework through which the activity of the Fatah members was implemented in the Judea and Samaria region and in Gaza. In the Relevant Period for the Indictment, the organization has waged a violent and armed struggle while committing Acts of Terror against Israel, its civilians and its soldiers.

The Tanzim is a terrorist organization as defined in the Prevention of Terrorism Ordinance.

**"The Al-Aqsa Martyrs Brigade" (Kataib Shuhada Al-Aqsa)** - cells of Tanzim terror activists who have committed Acts of Terror against Israeli targets, and during the Relevant Period for the Indictment began to use the name "Al-Aqsa Martyrs Brigade." They also took responsibility for the Acts of Terror they committed under this name.

These cells are a terrorist organization as defined in the Prevention of Terrorism Ordinance.

Fatah, Tanzim and the Al-Aqsa Martyrs Brigade (hereinafter: "the Terrorist Organizations").

3. The Defendant, who is a resident of Ramallah, is the head of the Terrorist Organizations in the Judea and Samaria area. He is their leader and was a central partner in their decision making.

The Defendant was subordinate to Yasser Arafat, who is head of the Terrorist Organizations.

4. During the Relevant Period for the Indictment, the Terrorist Organizations engaged in intensive Acts of Terror against Israeli targets, in accordance with the policy established by the leadership of the organizations.

5. The Defendant led, managed and operated Acts of Terror against Israeli targets by conspiring with senior field operatives, who were responsible for the actual implementation of the Acts of Terror, according to the aforesaid established policy, which the Defendant was engaged in implementing.

The senior and key terror activists with whom the Defendant conspired to commit the Acts of Terror under his leadership were, among others: Nasser Aweis, Ahmed Barghouti, Nasser Abu Hamid, Ra'ad Karmi, Muhaned Diria (Abu Halawa), Muhammad Musalah (Abu Satha), Mansour Shrim and Mahmoud Titi (hereinafter: "the Field Commanders").

Ahmed Barghouti (hereinafter: Ahmed) also served as the Defendant's right hand man and his liaison in contacts with the other Field Commanders.

The Field Commanders committed the Acts of Terror by conspiring with the field activists who were subordinated to them, were under their command and operated according to their orders (hereinafter: "Terror Activists").

6. Each time a decision was made by the leadership of the Terrorist Organizations to halt the Acts of Terror due to various constraints, political and otherwise, the Defendant instructed the Field Commanders and their subordinated activists to halt the Acts of Terror.

The end result of this pattern of activity was that during the Relevant Period for the Indictment, since no explicit order was given by the Defendant to halt the Acts of Terror, the Commanders and their subordinate Terror Activists continued to carry out Acts of Terror in accordance with the policy of the leadership of the Terrorist Organizations throughout that entire period, as detailed above.

7. Within the conspiracy to commit Acts of Terror and with the intention of promoting this conspiracy, the Defendant and his subordinates carried out a series of actions that caused, promoted and enabled the implementation of the Acts of Terror.

8. A. The Defendant, who led, managed and operated the Acts of Terror, was aware of the activity of the Field Commanders and their subordinate Terror Activists, and was updated with regard to their activity, both directly and indirectly, as in the case of the attack on the Sea Food Market restaurant in Tel Aviv, to be detailed below.

B. At or about 02:30 on March 5, 2002, the terrorist Ibrahim Hasouna (hereinafter: "Hasouna") arrived at the "Sea Food Market" restaurant on Menachem Begin St. in Tel Aviv (hereinafter: "the Restaurant") armed with an M-16 rifle, grenades and a knife with the intention to commit a murderous attack.

(1) At that same time, the Restaurant was completely packed with dozens of diners. Hasouna arrived at the "Maariv House Bridge" located on the aforementioned street opposite the Restaurant and began shooting at the diners with the intention of willfully causing the deaths of many of them. Near this time Hasouna threw hand grenades into the Restaurant that, miraculously, did not explode. Immediately thereafter Hasouna approached the Restaurant and stabbed those Restaurant diners who got in his way, with the goal of

willfully causing the deaths of many of the diners.

(2) Immediately after Hasouna began shooting at diners as described above, forces of the Israel Police were called to the area.

One of the first police officers to arrive at the scene of the attack was the late Staff Sergeant-Major Selim Barakat, who charged at Hasouna with the purpose of stopping his murderous activities.

Hasouna stabbed Staff Sergeant-Major Selim Barakat in various parts of his body and neck repeatedly, using a knife he was equipped with, with the intention of willfully causing his death.

(3) In his actions as described above, Hasouna caused the intentional deaths of the late 33-year old Staff Sergeant-Major Selim Barakat, who died as a result of the fatal stabbings; the late 52-year old Yosef Habi, who died as a result of Hasouna's fatal stabbings in his chest and other parts of his body and was also hit by a bullet in his leg; and the late 53-year old Eliyahu Dahan, who met his death as a result of the Hasouna's fatal stabbings in his back and stomach.

Likewise, as a result of Hasouna's aforementioned acts, committed with the intention of causing serious bodily harm, dozens of other people were hurt, some of who suffered serious injuries.

(4) Hasouna was shot to death by Israel's security forces upon their arrival at the scene of the attack.

(5) Hasouna was recruited for the aforementioned attack shortly before March 5, 2002, by Nasser Aweis, who was one of the senior and central Field Commanders during the Relevant Period for the Indictment.

(6) Aweis conspired together with Ahmed Barghouti, Mahmoud Titi and additional activists to carry out an attack with the purpose of willfully causing the death of many Israelis, and the Defendant was aware of this. In order to promote the conspiracy and implement it, the conspirators who joined together for the purpose of the conspiracy equipped Hasouna with a weapon, filmed him on videotape as a "suicide terrorist" and carried out all the logistical activity necessary for implementing the attack.

(7) On the aforementioned date, near the time of the attack, Hasouna was led by activists who joined together for the conspiracy, to the location where the attack was carried out.

While Hasouna and the activists leading him were on their way to execute the attack, Ahmed notified the Defendant of this. The Defendant authorized the

execution of the attack, but requested that it not be carried out within Israel but within boundaries of the Judea and Samaria area.

(8) Shortly after the attack was carried out, at or about 03:00, Ahmed called the Defendant and reported to him that the attack was carried out as detailed above, and that this was being reported on television.

The Defendant replied that he was watching television, and knew about the execution of the attack.

The Defendant requested that Nasser Aweis consult with him before issuing the leaflet in which the Terrorist Organization takes responsibility for execution of the attack.

9. A. The Defendant and the Field Commanders engaged in recruiting activists for the Terrorist Organizations.

In addition, they operated, incited and encouraged the terror activists, including those who they recruited during the Relevant Period, to commit Acts of Terror. Moreover, they took care of all the logistical details necessary for the execution of these acts.

B. (1) Within this activity, during the month of May 2001 or near that time, Ismail Radaida (hereinafter: "Ismail") approached the defendant and requested to be recruited for terror activity, with the purpose of committing a suicide attack.

At the same occasion, **the Defendant told him that he was willing to provide him with weaponry for the execution of shooting attacks against soldiers and settlers.** Immediately afterwards, the Defendant referred Ismail to Muhaned Abu Halawa, who was one of the Field Commanders, as mentioned above. He did so knowing that the latter was in charge of a cell of activists that was carrying out attacks against Israeli targets.

(2) The following day, Muhaned Abu Halawa gave Ismail two AK-47 rifles with magazines filled with bullets and a bag with additional bullets.

(3) On June 12, 2001, Ismail, together with another activist, laid an ambush for cars traveling on the road leading from Jerusalem to Ma'aleh Adumim. At or about 22:40, Ismail fired a volley of approximately 13 bullets from the AK-47 rifle he had received, as described above, and willfully caused the death of Tsibouktsakis Germanus, a Greek Orthodox monk (hereinafter: "the Murder of the Monk").

(4) Some time afterwards, Ismail received additional weapons from Muhaned Abu Halawa and planned to use them to carry out a shooting attack at the

Hebrew University on Mount Scopus in Jerusalem.

Shortly after the murder of the monk, Muhaned Abu Halawa and additional persons subordinate to the Defendant reported to him that this Act of Terror was carried out by Ismail, whom the Defendant had referred to Muhaned Abu Halawa as detailed above.

10. The Defendant was involved in the training of terrorists by funding and organizing training facilities for activists who were longstanding members of the terrorist organizations and also activists recruited at the time, all for the purpose of carrying out Acts of Terror.

The terrorist activists who participated in the above-mentioned frameworks underwent training in the operation of various types of weapons, physical training, etc.

*Inter alia*, the Defendant raised a sum of \$20,000 from Yasser Arafat which he transferred to Nasser Abu Hamid, one of the commanders in the field, for purposes of funding training facilities for the aforementioned activists.

The Defendant took part in this activity, he assisted the terror activists who were recruited and who participated in the training, and he interviewed some of them on various occasions.

11. A. The Defendant was active in obtaining arms and other weapons, including assault rifles, explosive belts, a mortar, hand grenades and so forth, for the purposes of carrying out Acts of Terror.

The Defendant appointed Ahmed Barghouti as one of the key individuals responsible for the acquisition of weapons, and was even assisted by the field commanders in the performance of these tasks.

*Inter alia* the Defendant financed the acquisition of weapons supplied by Ahmed to Ziad Hamuda, an activist who was involved among other things in the murder (lynch) of two IDF soldiers at the Ramallah police station.

Ziad Hamuda, together with other activists, carried out several shooting attacks aimed at the settlement of Psagot, using these weapons.

In addition, the Defendant financed the acquisition of a mortar for Nasser Abu Hamid. A test firing of this mortar failed.

B. The Defendant coordinated extensive activity directed at financing the acquisition of weapons from various sources.

In this capacity, field commanders and terror activists would submit oral and written requests to him to finance these acquisitions.

The Defendant acted to obtain funding by referring the aforesaid requests, along with this recommendation, to Yasser Arafat and other parties.

Also, in some cases the Defendant took care to fund the acquisition of weapons detailed in requests submitted to him by his own sources.

As a function of this activity of the Defendant, the field commanders and terror activists received funding for the purposes of acquiring weapons. These funds were used to carry out Acts of Terror.

C. One of the events that illustrates this activity is the application Jihad Ja'ara, one of the activists, submitted to the Defendant requesting funding of activity aimed at carrying out an attack.

The Defendant referred Ja'ara to Ahmed, who reported to the Defendant that Ja'ara intended to carry out an attack in Jerusalem.

The Defendant approved the execution of the attack, but requested that it not take place inside Israel.

On the morning of March 26, 2002, activists who had conspired with Ja'ara set out to execute an attack near the Malha shopping mall in Jerusalem. The goal was to willfully cause the deaths of many Israelis.

The attack was not carried out because the terrorists who set out to do so were arrested by IDF soldiers at one of the checkpoints on the road to Jerusalem. One of the terrorists was shot.

12. The Defendant controlled field commands and terror activists, among other things through funding the various needs of these parties, including means of subsistence and economic support.

In this capacity the Defendant outlined an activity during which most of the requests for financial aid, both written and verbal, from field commanders and terror activists were referred to him.

The Defendant examined the requests and gave priority to those requests for assistance for activists who had carried out Acts of Terror against Israel, including those who had been declared wanted or were injured while carrying out these attacks.

In some cases the Defendant instructed the financial people who worked with him,

among them Ali Barghouti, as to which requests were to be approved and also the amounts to be paid.

In other cases, the Defendant transferred the above mentioned requests, along with his recommendations, to Yasser Arafat. Arafat decided whether to approve the requests and the amounts to be paid.

In addition, the Defendant handled requests for the promotion of activists in the hierarchy of the terrorist organizations, and requests for placement of activists in senior positions in administrations funded by Yasser Arafat.

By giving economic support to activists and promoting them in accordance with the priorities specified above, the Defendant incited, encouraged and enabled activists to devote themselves exclusively to carrying out terror attacks, freeing them from the need to support their families, and thus causing an increase in terror activity against Israel.

13. A. The Defendant led to an increase in the motivation and willingness of activists in terrorist organizations to carry out Acts of Terror against Israelis, by inciting and encouraging them in incendiary speeches against the State of Israel through the various media and gatherings, and also by distribution of incendiary leaflets.

In these speeches and leaflets the Defendant called for revenge attacks against Israel, glorified and praised all those who had been involved in carrying out terror attacks against Israeli targets, while giving "saintly status" to those activists injured during these actions.

In response to the efforts of Israel's security forces to contain terror activity, the Defendant announced that the activists of the terrorist organizations, who he called "heroes," "would succeed in breaching Israeli cities and landing blow after blow" in order to disrupt the sense of security of the inhabitants of the State of Israel.

The Defendant led mass processions which were attended by activists from the organizations, some of them armed.

During these processions the participants would engage in violent clashes with IDF soldiers and disturb the peace with the aim of agitating, inciting and encouraging additional activists to join terrorist organizations.

By means of the above activities, the Defendant caused an increase in the willingness of many people to join the terrorist organizations and succeeded in encouraging and inciting field commanders and activists to perform Acts of Terror, including acts of murderous revenge against Israeli targets.

B. One of the events that is characteristic of this activity took place in the house of

mourning opened by the Defendant after the death of Ra'ad Karmi, who had been a senior leader in the field, on January 14, 2002.

During a gathering of field commanders and terror activists in this house of mourning, on the date mentioned above, the Defendant called on Ahmed Barghouti and others present to carry out a revenge attack for the death of Ra'ad Karmi.

Shortly thereafter Ahmed took steps to fulfill the Defendant's directive, and supplied arms to Muhammed Musalah (Abu Satha), one of the field commanders, who conspired with Ahmed and other activists who were part of the terrorist cell that he commanded for the purpose of carrying out a revenge attack in accordance with the Defendant's directive.

On January 15, 2001 Mohammed Musalah and members of the cell who were with him lay in ambush for cars traveling on Road 443 near the Givat Zeev gas station. At 19:45 Mohammed Matlah and fellow members of the cell approached the vehicle of the late Yoela Chen which was stopped near the gas station and engaged her in conversation in order to establish that she was Israeli.

Immediately afterward Mohammed Matlah and fellow members of the cell fired a round of bullets towards Yoela Chen and Rochelle Eini who was with her in the vehicle, willfully causing the death of the late Yoela Chen and unlawfully seeking to kill Rochelle Eini, who was injured.

Immediately after the attack Ahmed reported to the Defendant that the murder that had been carried out as a revenge attack, in accordance with the Defendant's request.

14. The Defendant, who was the head of terrorist organizations in the Judea and Samaria region, and in the acts described above led, operated, assisted, incited and participated in Acts of Terror carried out by field commanders and terror activists who were subordinate to them, as specified in the Appendix to the indictment, and thus willfully caused the deaths of hundreds of Israelis, throughout the Relevant Period for the Indictment.

15. The Defendant, who was the head of terrorist organizations in the Judea and Samaria region, and in the acts described above led, operated, assisted, incited and participated in Acts of Terror carried out by field commanders and terror activists who were subordinate to them, as specified in the Appendix to the indictment, and thus willfully caused the deaths of hundreds of Israelis

The legislative provisions in accordance with which the Defendant is charged:

1. Premeditated murder, an offense in accordance with Section 300(A)(2) of the Penal Code, 5737-1977.

2. Accessory to murder, an offense in accordance with Section 300(A)(2) together with Section 31 of the above law.
3. Incitement to murder, an offense in accordance with Section 300(A)(2) together with Section 30 of the above law.
4. Attempted murder, an offense in accordance with Section 305(1) of the Penal Code, 5737-1977.
5. Conspiracy to commit a crime, an offense in accordance with Section 499 of the above Code.
6. Activity in a terrorist organization, an offense in accordance with Section 2 of the Prevention of Terrorism Ordinance 5708-1948.
7. Membership in a terrorist organization, an offense in accordance with Section 3 of the above Ordinance.

Tel Aviv  
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August 14, 2002

Devorah Chen,  
Director of the Department for Criminal-Security Affairs and Special Affairs  
The State Attorney's Office