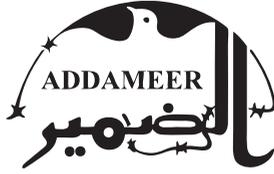


# Eyes on Israeli Military Court



A collection of impressions





**Addameer Prisoner Support and Human Rights  
Association**

**Eyes on Israeli Military Court:  
A collection of impressions**

**Ramallah, 2012**



# TABLE OF CONTENTS

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<b>Introduction</b> .....	5
<b>Background to the Military Courts</b> .....	7
The Military Courts .....	8
Administrative Detention .....	10
The Detention of Children .....	11
Human Rights Defenders .....	13
<b>Military Court Impressions</b> .....	16
Impression 1 ... <i>Abbas Khan</i> .....	16
Impression 2 ... <i>Rachel Davidson</i> .....	18
Impression 3 ... <i>Peter Hamm</i> .....	23
Impression 4 ... <i>Anonymous</i> .....	26
Impression 5 ... <i>Shaira Vadasaria</i> .....	27
Impression 6 ... <i>Sagrario</i> .....	30
Impression 7 ... <i>Sofia Ijaz</i> .....	33

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## INTRODUCTION

This booklet encompasses a series of reflections on the experience of Addameer volunteers and associates who visited the Israeli military courts situated in the occupied Palestinian territory, from 2009 to 2011. The contributors were asked to write about what they saw and how they felt during their time at the court, where they witnessed hearings for Palestinians accused of stone-throwing, involvement in demonstrations and other political activities deemed an offense according to Israeli military regulations. They saw Palestinians of all ages and backgrounds being tried in the courts, including minors, and the treatment of their families and lawyers during the hearings.

The aim of these impressions is to offer an insight into the workings of a military court system which is under-reported, under-exposed and has been labeled both a ‘kangaroo court’ and ‘Kafka-esque’ by observers, owing to its disregard of basic fair trial standards and the chaos of its proceedings.

The impressions originate from a range of people from different backgrounds, some of whom have drawn out the stark contrasts between the military court and the judicial system most people in the Western world are used to, as well as the worrying comparisons with the system operating in Guantanamo Bay. A common thread throughout the impressions is how the security checks, the long waits before being let into the courtroom and the treatment of Palestinians by the Israeli military judges and officers portray the Israeli occupation in microcosm. Indeed, the Israeli military court is but one of many expressions of an apartheid system which discriminates against Palestinians of all ages and backgrounds on a daily basis, by identifying many of them as a ‘security threat’ before they are even arrested, and by subjecting them to a legal system in which the onus falls on the Defense to prove their innocence. Also highlighted are the

hopes, steadfastness and humility of the prisoners as they appear shackled in the court room, as well as the subtle acts of resistance as family members attempt to communicate with their loved ones and make plans with them for the future.

The continuing presence of international and Israeli human rights activists at any court hearing for Palestinian political prisoners has been vital as a way of publicly exposing the extreme inadequacies and injustice of the military court, as will be demonstrated in this booklet. Following the arrest and detention of a number of leaders from the Palestinian popular resistance and peaceful protest movement, some of whose trials are referred to in this booklet, the European diplomatic community started to implement a court monitoring rotation system, whereby a European Union (EU) representative is present at every single hearing of a Palestinian defined as a human rights defender. This too has been crucial in pressuring the military judges to abide by international law and respect fair trial standards when overseeing the trials of peaceful activists from the popular resistance. The greater and more regular presence of these diplomats and activists, the more hope there is among the detainees that their voices are being heard and amplified beyond the confines of the military court room.

What follows is a brief overview of the military court system and seven impressions from Addameer volunteers and associates, in an order which attempts to give insight into the entire process that awaits anyone - be it a family member of a detainee or an international activist - who attends a court hearing. Addameer would like to thank all those who shared their experiences and contributed to the production of this booklet.

## BACKGROUND TO THE MILITARY COURTS

Since the Israeli occupation of Palestinian territory in 1967,<sup>1</sup> an estimated 750,000 Palestinians have been detained under Israeli military orders in the occupied Palestinian territory (oPt),<sup>2</sup> which constitutes approximately 20 percent of the total Palestinian population in the oPt, and as much as 40 percent of the total male Palestinian population. This figure includes 10,000 women jailed since 1967, including an approximate 800 arrested since 2000. This figure also includes 8,000 Palestinian children arrested since 2000. Each year approximately 700 Palestinian children under the age of 18 from the occupied West Bank are prosecuted every year through Israeli military courts after being arrested, interrogated and detained by the Israeli army. There are currently 4,610 Palestinian political prisoners in Israeli prisons<sup>3</sup>.

The arrest and detention of Palestinians living in the oPt is administered by a wide-ranging set of military regulations that govern every aspect of Palestinian civilian life. These military orders provide for a variety of offenses divided into five categories: “Hostile Terrorist Activity”; disturbance of public order; “classic” criminal offenses; illegal presence in Israel; and traffic offenses committed in the oPt. The practical implication of these broadly-defined offenses is the criminalization of many aspects of Palestinian civic life. For example, the political parties that comprise the Palestine Liberation Organization (PLO) are all still considered “illegal organizations” even though Israel has been engaged in peace negotiations with the PLO since 1993. Carrying a Palestinian flag is also a crime under Israeli military regulations. Participation in a demonstration is deemed a disruption of public order. Pouring coffee for a member of a declared illegal association can be seen as support for a terrorist organization.

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1. Addameer operates under the legal assumption that the West Bank, East Jerusalem and the Gaza Strip comprise the occupied Palestinian territory (oPt), which Israel has held in belligerent occupation since 1967.

2. Human Rights Situation in Palestine and Other Occupied Arab Territories: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian territories occupied since 1967, John Dugard, A/HRC/7/17, 21 January 2008.

3. All current figures are as of 1 April 2012.

Palestinian prisoners and detainees are spread around 19 prisons, four interrogation centers and three detention centers. All but one of the prisons are located inside Israel, in direct contravention of Article 76 of the Fourth Geneva Convention, which states that an Occupying Power must detain residents of occupied territory in prisons inside the occupied territory. In addition to illegality under international law, the practical consequence of this system is that many prisoners have difficulty meeting with Palestinian defense counsel, and do not receive family visits as their relatives are denied permits to enter Israel on “security grounds”. Out of the total number of political prisoners detained in Israel, 7 are female and 203 are children (31 of which are under the age of 16). This figure also includes 27 Palestinian Legislative Council members, 322 administrative detainees, held without charge or trial, and 456 prisoners from the Gaza Strip, who have been denied access to family visits since June 2007.

## **The Military Courts**

Palestinians are tried in one of two military courts, in Salem and Ofer, both located in the oPt. The main function of the Israeli military court system is to prosecute Palestinians who are arrested by the Israeli military and charged with security violations (as defined by Israel) and other crimes. Not all Palestinians who are arrested are prosecuted in the military courts; some are released, others are administratively detained without trial. Of those who are charged, approximately 99.74 percent are convicted<sup>4</sup>, and of these convictions, the vast majority are the result of plea bargains<sup>5</sup>.

As an Occupying Power, Israel has the right under international humanitarian law to establish military courts in the oPt, but applicable international human rights and humanitarian law restrict the jurisdiction of such courts. Article 66 of the Fourth Geneva Convention states that military courts are only to try cases involving violations of criminal security legislation. The jurisdiction of Israeli military courts, however, is

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4. Israeli Military Court report 2010.

5. Ibid.

far broader and includes offenses unrelated to such legislation<sup>6</sup>. Moreover, it is questionable whether the use of military courts to try civilians can ever satisfy the requirements under international human rights law that trials take place before independent and impartial tribunals. International law also guarantees certain fundamental fair trial rights, but these are regularly flouted by Israeli military courts:

- The right to prompt notice of criminal charges: Israeli military orders contain no requirement that the charge be given to the accused without delay, and in a language he or she understands, as required by international law. In practice, information on charges against the accused are often not disclosed by the prosecution until the day of the first hearing, which typically determines whether the accused will remain in detention until the end of the proceedings.
- The right to prepare an effective defense: During interrogation, a detainee can be held for up to 90 days without access to a lawyer. Lawyers acting as defense counsel before the military courts highlight many further obstacles preventing an effective defense, including difficulties in meeting with their clients in detention facilities inside Israel; the lack of proper facilities to hold confidential meetings; court documents written in Hebrew; and the provision of incomplete prosecution material.
- The right to trial without undue delay: Palestinians can be held in custody for eight days before being brought before a judge. Furthermore, a Palestinian can be held without charge for interrogation purposes, by order of a military judge, for an initial period of up to 90 days, which can be extended for another period of up to 90 days. They can therefore be held for a total of 188 days before being charged.
- The right to interpretation and translation: Israeli jurisprudence provides that a prisoner must be interrogated in his native language and that his statement also be written in that language, but in practice

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6. Section 7(b) of Military Order 378.

the detainee's confession or statement is frequently written in Hebrew, requiring the detainee to sign a statement he/she cannot understand. Moreover, all proceedings in the military courts are conducted in Hebrew with insufficient or inadequate translation.

- The right to presumption of innocence: Israeli military orders do not include an explicit provision regarding the presumption of innocence. The exceedingly low rate of acquittals in the military courts, the practice of denying bail to the vast majority of pre-trial detainees, and the uncorrected prosecutorial reversal of the burden of proof against the accused all serve to indicate a strong presumption of guilt built into the military court system.

## **Administrative Detention**

Administrative detention is a procedure that allows the Israeli military to hold detainees indefinitely on “secret information” without charging them or allowing them to stand trial. In the occupied Palestinian West Bank, the Israeli army is authorized to issue administrative detention orders against Palestinian civilians on the basis of Military Order 1651 (Art. 285). This order empowers military commanders to detain an individual for up to six-month renewable periods if they have “reasonable grounds to presume that the security of the area or public security require the detention.” On or just before the expiry date, the detention order is frequently renewed. This process can be continued indefinitely. As of 1 April 2012, there were approximately 322 Palestinians held in administrative detention by Israel, including 24 members of the Palestinian Legislative Council.

International law permits administrative detention under specific, narrowly defined circumstances. In accordance with the International Covenant on Civil and Political Rights (ICCPR), there must be a public emergency that threatens the life of the nation. Furthermore, administrative detention can only be ordered on an individual, case-by-case basis, without discrimination of any kind. Administrative detention should not be used as a substitute for criminal prosecution where there is insufficient evidence to obtain a conviction. Israel's use of administrative detention, however,

in its collective and large-scale application, deliberately infringes on these restrictions and amounts to arbitrary and wrongful detention. As such, it violates Article 9 of the Universal Declaration of Human Rights (UDHR) and the ICCPR.

In many of the legal cases pursued by Addameer, detainees spent years in prison after being sentenced for committing violations, in accordance with military orders. When the period ended, however, rather than be released they were placed under administrative detention under the pretext that they still posed a threat to security. Palestinian detainees have spent up to eight years in prison without charge or trial under administrative detention orders.

## **The Detention of Children**

Approximately 700 Palestinian children (under 18) from the West Bank are prosecuted every year through Israeli military courts after being arrested, interrogated and detained by the Israeli army. Since 2000, approximately 8,000 Palestinian children have been detained.

While the UN Convention on the Rights of the Child defines a “child” as “every human being below the age of eighteen years”, Palestinian children ages 16 and older have been tried and sentenced by the Israeli military courts as adults, in accordance with Israeli military order 1651<sup>7</sup>. By comparison, juvenile legislation defines Israeli children as age 18 or younger. In addition, a Palestinian child’s sentence is decided on the basis of the child’s age at the time of sentencing, and not at the time when the alleged offense was committed. Thus, a child who is accused of committing an offense when he or she is 15 will be punished as an adult if he or she has a birthday while awaiting sentencing.

While stone-throwing is the most common charge levied against Palestinian

7. Former Military Orders 132 and 378, were replaced in 2009 by one single military order: Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651).

children, they are regularly arrested indiscriminately and remanded in detention with little or no evidence, with the military court often relying on soldiers' testimonies and children's confessions, commonly extracted by coercion, to convict them. Palestinian child detainees held for interrogation are routinely made to sign confessions written in Hebrew, a language few of them understand. These coerced confessions then serve as the primary evidence against the children when they are prosecuted before the military courts. With no fair trial guarantees, and the prospects of harsh sentences,<sup>8</sup> most children plead guilty, regardless of whether or not they actually committed the offense.<sup>9</sup> On average, children are sentenced to 2-6 months in prison for the charge of throwing stones, and to at least 12 months in prison for the charge of throwing Molotov cocktails, although in some cases sentences might be even harsher.

Military Orders concerning the treatment of child detainees have few provisions that guarantee them greater protection other than those related to separation of children from adults in Military Courts, a provision which in itself is frequently violated.<sup>10</sup>

On 27 September 2011, the Israeli military commander of the West Bank issued military order 1676 to raise the age of Palestinian majority in the military court system from 16 to 18. Although this amendment brings the treatment of Palestinian child detainees on some equal footing with that of Israeli child detainees subject to the Israeli Youth Law, it still leaves room for continuing discrimination and denial of basic legal standards pertaining to the protection of juvenile detainees. Palestinian minors over the age of

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8. Under Israeli military orders, the charge of stone throwing carries a maximum sentence of 20 years.

9. According to the Military Courts report 2010, that year full acquittals were obtained in just 25 of the 9,542 – or 0.26 percent – of all indictments in the military courts. Of those whose files were closed in 2010, approximately 99.74 percent were convicted. Of these convictions, approximately 99 percent are the result of plea bargains.

10. Military Order 1651 and Military Order 1644 both include this provision.

16 can still be held in detention with adults, a provision that does not exist in Israeli criminal law. Furthermore, while Israeli children have the right to have a parent present during interrogation, and the interrogators must ensure there is an audio or a video recording of the interrogation, such safeguards are not provided to Palestinian child detainees. Although military order 1676 includes a requirement to immediately notify the child's parents upon his or her arrest and interrogation, it also gives the interrogators many openings to avoid this requirement.<sup>11</sup> Furthermore, the amendment requires interrogators to inform minors of their right to an attorney, but states that they will only notify an attorney "whose particulars were provided by the minor."

## Human Rights Defenders

In light of Israel's non-compliance with the International Court of Justice's advisory opinion on the construction of the Annexation Wall issued on 9 July 2004, Palestinians in villages affected by the Wall have adopted a number of strategies to oppose its construction and Israeli land annexation, including petitions to the Israeli High Court of Justice, non-violent resistance and weekly demonstrations, and increased international advocacy efforts. In response to these strategies, Israel has adopted a policy of arrest, detention, intimidation, threats and, at times, collective punishment. Leading Palestinian human rights activists, prominent

11. Article 136 (B) (a) of the amendment states: an officer can decide to bring a minor for interrogation without informing his/her relatives, if: he believes it would threaten the mental or physical wellbeing of the minor or any other person; doing so would affect the interrogation procedures – for instance if the parents/relatives are also suspected of the same act for which the minor has been arrested; The minor is suspected of a security offense and thus represents a threat to security.

Article 136 (B) (b) states: If 8 hours has passed since the officer's interrogation order without the presence of the parents/relatives at the interrogation, then the parents/relatives should be informed immediately, provided the minor has given the parents'/relatives' details.

Article 136 (B) (c) states: If the reasons for not informing the parents/relatives no longer exists, then they should be informed immediately unless in accordance with Articles 54 and 55 of 1651.

figures, such as mayors and teachers, and members of the local Popular Committees, who are instrumental in coordinating weekly protests and advocacy efforts including legal cases, are often personally targeted and arrested in an attempt to sideline them from organizing the protests, or to discredit them and their efforts. Local cameramen and photographers, as well as members of the press, are also targeted.

Since 2009, a number of Palestinian activists have been recognized as human rights defenders by the United Nations and the European Union<sup>12</sup>. The EU Guidelines on Human Rights Defenders, adopted in 2004, were built on the 1999 UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, most commonly referred to as the UN Declaration on Human Rights Defenders. The Declaration defines human rights defenders as individuals who play an important role in furthering the cause of human rights through activities such as the documentation of violations, providing support and assistance to victims seeking remedies, combating cultures of impunity and mainstreaming human rights culture and information on an international and domestic level.

Despite the added recognition and protection afforded to human rights defenders through the UN Declaration and EU Guidelines, Palestinian protestors and human rights activists are prosecuted in the Israeli military courts under military order 101, which criminalizes many civic activities including organizing and participating in protests; taking part in assemblies or vigils; waving flags and other political symbols; printing and distributing political material. In addition, the order deems any acts of influencing public opinion as prohibited “political incitement”.

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12. For example, Mohammed Othman by the UN Special Rapporteur on Independence of Judges and lawyers (<http://unispal.un.org/UNISPAL.NSF/0/57D00BE6597450FF8525774D0064F621>) and Abdallah Abu Rahma by the EU High Representative of Foreign Affairs and Security Policy ([http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/EN/foraff/116232.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/116232.pdf)). Both their cases are referred to in the impressions which follow.

Despite the lack of evidence or independent witnesses, and the vague or empty basis of the charges levied against human rights defenders, the vast majority of activists will be found guilty of committing a “security offense” and sentenced to a term of imprisonment, using evidence that often solely relies on the forced confessions of the detainee or others, including minors, who have been arrested and subjected to lengthy interrogation without access to legal counsel.

Since 2009, a number of prominent human rights defenders have been arrested and charged under Military Order 101, including Abdallah and Adeeb Abu Rahma from the village of Bil'in, and Bassem and Najj Tamimi from the village of Nabi Saleh. The main charges against these human rights defenders are incitement and organizing unauthorized demonstrations and public gatherings. All but one of these human rights defenders – Bassem Tamimi, whose trial is ongoing – were convicted and sentenced to a year or more in prison, with suspended sentences on their release banning them from participation in demonstrations.



*“Oren Ziv/Activestills.org”*

## IMPRESSIONS

### *Impression 1*

We visited the Israeli military court at Ofer outside of Ramallah on March 25, 2010 with Addameer. The court visit seemed more like a visit to a prison – only with more security than the prisons I have visited in the United States. Once we got past the first few gates, we came across another gate to the check-in area. (By this point in our visit, we had grown accustomed to excessive barriers – an Israeli trademark.) Here we were asked to submit our passports to the soldiers at the gate. After we checked in with the guards, we waited in this outdoor area with the other visitors, mostly family members of the Palestinian detainees. Every now and then, a soldier would yell out Arabic names from the gate, and slowly people would leave the waiting area and head in past the gates. Behind the gates, we could see a string of small Israeli flags lining the ceiling, a familiar provocation. The wait was long, but eventually we were allowed past the gate to the courtrooms.

One of the things about this place that struck me was how temporary it looked. The waiting area wasn't so much a room as an outdoor pen surrounded by a fence topped with barbed wire. The courtrooms did not look like any courtrooms I had seen in the United States. From the outside, they reminded me of a trailer park - small, seemingly temporary compartments laid out side by side. Inside these trailer-like structures, there was some semblance of a court setting, with a place for the judge at front and seating for observers in the back. But the quarters were so cramped that they seemed like a solution that wasn't meant to last long – a makeshift courtroom.

The size of the courtrooms magnified the chaos of the proceedings. It was difficult for me to understand exactly what was going on because of the language barrier. The proceedings were conducted in Hebrew, with a soldier translating the proceedings into Arabic for the defendants. But nonetheless I could tell the proceedings were frenzied. People were walking in and out while the court was in session, and because the courtroom was so small, it was difficult not to be distracted by this activity. It was surprising to see such disorder in a military court. The Israeli military was running the entire show. The judge was from the military. The prosecutor was from the military. The translator was from the military. And other people in the courtroom whose roles I could not determine were also from the military. I would have thought that the military – known for its discipline – would have been able to create order in the courtroom. And yet in this court, there was no order.

Most of the defendants we saw were facing charges of stone throwing. It was not clear what or whom allegedly had been the target of their stones. A soldier with a rifle? A military vehicle? The separation barrier? I asked myself, did it matter whether anyone had actually been injured by the stone-throwing? Or is throwing a stone the crime in itself? Later that week, I saw a Palestinian youth throw a stone at a military jeep during a protest in the West Bank. I wondered if that would be enough to pull him off the streets and bring him to Ofer to face its military court.

*Abbas Khan*

## *Impression 2*

### *Che Guevara in the Waiting Cage*

Back in Buenos Aires, Che Guevara has a new meaning for me. It is from here in Argentina where this symbol of revolution, liberation and justice was born that I write my thesis about the Israeli Juvenile Military Court. One may seem to have nothing to do with the other. One week ago I returned to Buenos Aires from Occupied Palestine where I went to conduct field research. It is from here that I first heard about Military Order 1644 issued in June of 2009 that called for the creation of a juvenile military court to try Palestinian minors and it is from here where I learned that in November of 2009, said courts were being inaugurated.

January 19, 2010 I got on a plane and landed in Tel Aviv. January 27, 2010, 8 am I had my first court visit to observe part of the hearing of what is known at the Addameer Offices as the Al-Aroub Children's case.

Two taxis, 1 checkpoint later and we arrive... to the waiting area outside the court structures. A cage within a cage within a cage... Barbed wires, a view of Ofer prison from the fenced in area, benches and behind us a series of lockers to put all belongings in. Nothing is allowed in the courts but bodies, cigarettes and money. We wait and people line up, sort of. It's now passed 9:30 am, the time the soldiers are supposed to start letting families into the courts. There is no movement from their side. People get antsy. Men are crouched on the floor, women sitting on benches. Cell phones, cigarettes. People sitting on prayer rugs. Movement from the soldiers and the line gets noisy as people clamor to be first. Because two of us have foreign passports, because we are not family to any Palestinian with a hearing, and because we are here to meet

the Addameer lawyer on the inside we get preferential treatment. We go in first and I breathe. The waiting is over, I believe. Passport checked and left with the soldiers. Body checked, bobby pins confiscated, shoes removed, bra snapped, a little dignity left with the soldiers, and we are finally in. I think.

As I step out of the security check and into the brisk morning light I find myself walking into another waiting area, another cage. This cage is attached to a heated trailer with a little kiosk inside where one can buy coffee, tea, water, bourekas, Danishes, sandwiches. A big pre-fab wall borders the cage and if you peek through the holes in it you can see the area outside the prison where they bring detainees; blindfolded some, chained most. Through the caged-in waiting area where the families wait for the hearings (or viewings) of their loved ones you can see the courts; a set of white trailers lined up next to one another. Trailers, I think, are a structural marker of the supposed temporary nature of this military justice system that governs the Palestinian territories for already 43 years now. 43 years of waiting for the word temporary to take literal definition. Meanwhile in the waiting cage I meet the Addameer lawyer and he introduces me to the Al-Aroub boys. Although they were “minors” when the incident took place, their case is not being heard in the new juvenile court that I am studying because the new military order only applies to incidents that take place after its issuance and also because of all of this waiting many of these youth are no longer “minors” (note: according to military orders a Palestinian youth passes into adulthood at the age of 16 as opposed to the international standard of 18 as well as Israeli civil law, which treats its own citizens as adults at 18). Military orders state that one is classified for hearing purposes and charged based on their age at the time of hearing, not the time of the incident. With all of this waiting I wonder if the juvenile court will ever get any use.

The lawyer gives me free reign, ask the boys anything you want, he says. They were released on bail because the judge recognized a violation in international law in detaining the boys with adults in adult facilities. In the waiting cage we talked in a circle, first standing and then sitting. Two hours into the conversation the topic of their hearing had been exhausted. When there was nothing more to say about the case, there was a lot to say about everything else; about going to college, leaving Palestine, girls, education and liberation, religion, and then why was I there anyways? Finally one of the boys asked me why I was there... what a complicated question. I tried to be as honest as possible. After two hours in the waiting cage, neutral researcher goes to the wind. I told them I was Jewish. I told them my grandmother had been in Aushchwitz. I told them I oppose the occupation. I told them the Judaism I had been taught was one of justice and that I came because this court and this “justice” did not line up with what I had been taught. I told them I worked with incarcerated youth in Chicago and New York. I told them I considered writing about the courts my responsibility. None of my explanation explained why I was there though and what I was doing. It is something beyond history, simple explanations of justice, Jewish identity, and Holocaust remembrance. In the waiting cage none of those reasons really matter. What matters is what I do with what I learn, at least that’s what the boys told me. They told me to write the truth. They asked me if I actually believed I could change anything by writing. Do I? Such hard questions. And then came Che Guevara. The intensity fizzled and we started talking about Argentina. The boys mostly wanted to talk about soccer, Maradona and Messi... and then there was Che from the quiet one. Unzipping his hoody he showed me a Che Guevara t-shirt, he told me a Che Guevara Story, he showed to me the living breathing life of Che Guevara in Palestine and what it means to be a young man, a young Palestinian man, a young “incarcerated” Palestinian man searching for liberation and justice in the Israeli Military Courts at Ofer. Later he

handed me a necklace he had on, a piece of black string with a plastic image of el Che hanging off of it. He wanted me to take it, to keep it, to use it back in Argentina to remember the waiting cage, the military courts and Che Guevara in Palestine.

Noon. 2 Taxi Rides. 2 Shekels each to the Service. 1 Checkpoint. 1 Body Search. A tea and a boureka from the kiosk. Over 2 Hours of conversations in the waiting cage. 8 boys. Many Hard Questions. 1 Che Guevara Tshirt and a necklace in hand we finally get into the courts. I know this is the part of the reflection that you are all waiting for, and also what we were all waiting for for hours. And now we are here and what can I say? The hearing that day was based around the testimony of a soldier who didn't show up at first. The judge told us to come back in two hours to give him more time to get there. Two more hours in the waiting cage. No one spoke anymore. We separated. Everyone took their own corner in time. When we finally headed back into the court we were all exhausted. The lawyer was very smart, he had planned his cross examination perfectly. He brought pictures that contradicted a lot of the soldier's testimony. The soldier couldn't remember anything or wouldn't remember anything and his repeated response was simply "Ani Lo Zocheh" (*I do not remember* in Hebrew). The rhythm of his "Ani lo Zocheh", shoddily translated into Arabic brought me back to Felicia Langer's Autobiography. It was a sort of chronicle of her work in the Military Courts from the beginning of the occupation. In it there are transcriptions of court cases, including the testimony of soldiers. I had fallen asleep the night before going to Ofer after reading pages and pages documenting the words of key military witnesses and every single testimony was marked by a litany of "Ani Lo Zocheh". The script hadn't changed one bit. Perhaps a kiosk was built here, a military order called for a juvenile court there, but still no one could remember what happened to bring these people before the courts.

Forty-three years of waiting for justice. Innumerable “Ani Lo Zochers”. 2 Taxis Rides. 2 Shekels each to the Service. 1 Checkpoint. 1 Body Search. A tea and a boureka from the kiosk. Over 4 Hours of conversations in the waiting cage. 8 boys. Many Hard Questions. 1 Che Guevara T-shirt and a necklace in hand. 1 Defense Lawyer. Lots of preparation and pieces of photographic evidence later the boys were told to wait for their next court date on March 15, 2010. I was not able to go to Ofer that day. I am no longer in the waiting cage. All of this waiting, and all of this non-remembering, all of these hard questions, and taxis and checkpoints, and families and young boys, and photos and lawyers, and there will be no “Ani Lo Zocheret” coming from Buenos Aires. Walking down the street here, as I’m confronted by innumerable murals of el Che, he now has new meaning to me. And as the rain pours down here in Buenos Aires, I think of how far away I am from the waiting cage, but I know that once you go in, you are always in, in some way or another. You never stop waiting, waiting, hoping. All of us are on our prayer rugs, be they office chairs, park benches, soccer fields, or prisons; eyes open in observation, eyes closed in weariness, eyes open in shock, eyes closed in angst, all of us are waiting and working and waiting and working and waiting for justice but it won’t be found in these military courts.

*Rachel Davidson*

### *Impression 3*

Not entirely knowing what to expect, I was still surprised by what I experienced at Ofer. Having been to court rooms in both Canada and the United Kingdom, I am familiar with the usual accoutrements of court houses, and watching proceedings unfold amongst those players charged with safekeeping civilian justice. Israeli military justice, apparently, is a shadow of the norms, rules and regulations of standard civilian trials I am used to. More, it is an obvious farce that pits actors of such obviously unequal positions of bargaining power that to call it justice would be like calling up, down. And this is aside from the real fact that justice administered by the occupier is a farce to begin with.

Upon seeing the barbed wire, concrete and wire fences, military towers and locked gates – all a grotesque pock on an already broken landscape – it is hardly justice that swimmingly coaxed my mind. It was instead bludgeoned by the very hard and brutal reality of the absence of light, justice. It was all prison, all young boys and girls masquerading as soldiers laughing with each other and at their visitors; it was haunting affront to the decorum more usual from my experiences in the ‘high places’ of the law. It was hard to imagine that in a place where seemingly freedom is at the very least on offer, these symbols of the occupation were given such prominent places on the visitors’ horizon.

After being given a slight or two, and being pointed in different directions, I had finally made it with my colleague from Addameer to the entrance of the ‘court’. It was an outside prison, I thought. Here were the families of prisoners, made to wait patiently in the searing sun for their time to be called. Gates would open, guards would scream, several worried faces

would stare, and one by one each family member would be accepted into another part of the prison. What was the purpose of acting with so much vehemence towards these people? Why yell and scream at old women and men, young boys and girls, who cared only about the future of their loved ones and not for the petty wickedness of those ‘in charge’? I was enraged but also sad.

As an international passport holder I am sure it was easier for me than for most going through security. In fact, upon entrance to the family ‘waiting area’, I was informed of as much by two gentlemen – both awaiting the news about their brothers’ possible jail time – who explained to me the indignity their mothers had been subjected to when strip searched by the prison guards. The level of security that already existed – one was penned in at any given moment by at least two walls (one of wire, the other concrete), and was monitored at all times by cameras – was apparently not enough for these particular guards. They needed to provoke a level of humiliation with these families beyond the existing oppression that rule every aspect of the structure of the military court.

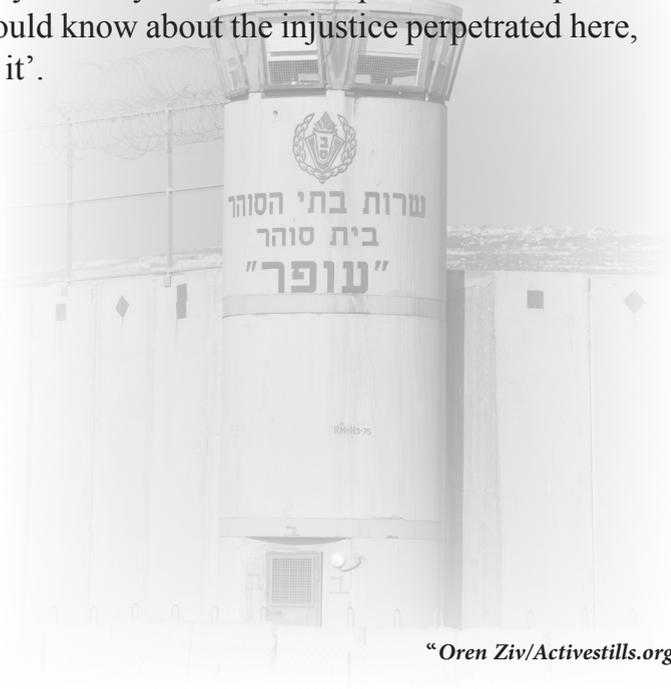
Finally entering a court room at Ofer was perhaps the greatest shock. This is because it was not a court room that I could recognise as such. Prior to that, I was staring out from the visitor waiting building at a security fence surrounding several portables, about half the size of those I learned French in during the 5<sup>th</sup> grade. Not once did I expect that inside each one was the machinations of the military court system. But it was, and it was cramped, confused and loud with a mix of emotions. There was paper shuffling, shouting between the translator, the judge, the accused and their families and the security personnel. There were members of the court leaving, arriving, leaving and arriving, some of whom seemed to serve no purpose but to encourage a constant din that would make any

judge I have appeared before scream!

I understood quickly that there were no arguments being submitted, no testimony collected, nor any form of regular procedure I would associate with criminal proceeding. This was very much political. The judge was in charge: no doubting this. He issued commands, above the statements of others, and appeared not to hear that which he did not want to.

What was more amazing was the interaction between the accused (the Birzeit students on trial for political participation) and their families. It was beautiful in a place that was beauty's antithesis. The light in the eyes of these men in chains as they were beholden to their families was touching. The jokes and the proud smiles, the questions about baby names from an expecting partner, a love that would not quiet down even when repeatedly called on to do so by two rather foolish looking bailiffs. It was a magnificent act of resistance against all the injustice that was this courtroom, this military court system, this occupation. It compelled me to write, 'the world should know about the injustice perpetrated here, and of the love that defies it'.

*Peter Hamm*



*"Oren Ziv/Activestills.org"*

### *Impression 4*

**ON LANGUAGE AND TRANSLATION:** “In Israel’s military courts, language is a weapon. Everything is in Hebrew – the court transcripts, the ‘No Smoking’ signs, the judges’ questions and pronouncements, the witness testimonies. You can’t be a successful defense lawyer unless you speak Hebrew and Arabic fluently. Language is a tool of exclusion, proclaiming, ‘Justice is on our terms, not yours.’

The Israeli military translator faced away from the defendant for whom he was supposed to be translating, picking his nose and ears. ‘Translate for me!’ the defendant begged, lest the translator ‘forget’ and stare off into space.”

**DESCRIPTION OF WAITING ROOM/MOBILE COURTROOMS:** “Your mind wonders what British colonial and Guantanamo Bay trials looked like. This place is a farce. There are six or seven courtrooms, all air-conditioned mobile structures. There is a waiting room for the families, witnesses and observers, separated from the courtrooms by a ten-meter stretch of dust and a fence. Two television screens at each end of the waiting room offer updated lists of which defendants will be in which courtroom, and sometimes the name of the defending lawyer. You could be waiting in an airport, watching the flight screens change. A window at one end of the room sells stale pastries, coffee and Coke. The bathrooms are flooded.”

*The author of this impression would prefer not to be named.*

## *Impression 5*

### *The Military Court Camp: Between Prison and Barbed Wire*

On January 7, 2010, I attended my first military court hearing in occupied Palestine. The hearing was scheduled for human rights defender Jamal Juma, a prominent leader in the Palestinian grassroots anti-apartheid wall campaign, who was arrested on December 15, 2009. My feelings towards the absurdity of his arrest and imprisonment resembled my physical and emotional journey towards Jamal Juma's court hearing at the Ofer military court. Ranging between frustration, impatience and anger, this journey reminded me of the daily oppression of Palestinian civilians under Israel's occupation regime, as well as the gross amount of privilege as a 'Canadian' passport-holding citizen. While this privilege entitled me to a mere temporary experience of the oppressive conditions of Israel's apartheid regime, as this is not my day-to-day reality, please accept this personal commentary as my personal impressions on Israel's military court *camp*.

While waiting in a cage to get through the Beitunia gate, a pseudo-like checkpoint that was erected in the last two weeks, I witnessed for the first time the arbitrary but destabilizing methods of Israel's punitive occupation policies. As we waited there for over an hour, I was humbled by the level of patience and calmness embodied by the people surrounding me. While most people stood in line, others sat on the ground with their backs turned against the cage, as if metaphorically resisting the spatial control of Israel's occupation regime. As I experienced our minutes fade into *nothingness*, I began to consider how Palestinian people negotiate their day to day routines when even their time becomes occupied. The military guards controlling entry through the gate allowed people to move through

2-3 at a time although there was no rationale for this delay. We awaited the sound of the guard's whistle – like trained dogs – to indicate when a few more bodies were permitted to pass through. It was clear to me then as it is now that this arbitrary but strategic method of control was designed to discipline, dehumanize and humiliate the spirit of Palestine.

Upon finally arriving to the Ofer military camp, we placed our belongings in lockers like school children, and proceeded towards a trailer. After being searched and body scanned, we finally stepped foot on the military court compound where I saw a series of portable structures no bigger than 5 by 7 meters long. We took our seats at the back of the portable and anxiously waited for them to bring in Jamal Juma.

Hands and legs shackled, Jamal graciously entered the room escorted by the prison guards. The glow on his face was brighter than the orange jumpsuit covering his body, the kinds commonly used at the Abu Ghraib and Guantanamo Bay torture camps. While there were merely a few words exchanged between him and his loved ones sitting in the room, the kindness in his eyes and warmth of his smile spoke volumes. It welcomed us to bear witness to the ridiculous structure of Israel's military court proceedings, and the pseudo system of law that Israel advances under their military occupation policies. But it was also the resilience imprinted on his face that reminded me, NOTHING can stop the struggle for a FREE PALESTINE and no policy, as racist and oppressive as it may be, can break the spirit of this struggle. This moment also brought me back to the inspiring words offered in a prison letter written by one of Jamal's close friends and ally in the "Stop the Wall Campaign" who was also administratively detained and imprisoned without any explanation. Written from the same prison compound that's holding Jamal Juma, Abdallah Abu Rahmah writes:

“I know that Israel’s military campaign to imprison the leadership of the Palestinian popular struggle shows that our non-violent struggle is effective. The occupation is threatened by our growing movement and is therefore trying to shut us down. What Israel’s leaders do not understand is that popular struggle cannot be stopped by our imprisonment... The price I and many others pay in freedom does not deter us. I wish that my two young daughters and baby son would not have to pay this price together with me. “But for my son and daughters, for their future, we must continue our struggle for freedom.”

*Shaira Vadasaria*



“Oren Ziv/Activestills.org”

## *Impression 6*

*The following is part of an e-mail written by the author to her friends in Jerusalem on 26 October 2009.*

*Moh*

Yesterday we were told that Moh's hearing was going to be held today two hours from Jerusalem, near Haifa.

On the way to prison I reviewed the latest report I received about Moh's situation.

Moh is a Palestinian human rights defender who works for the NGO "Stop the Wall," which, as its name suggests, denounces the existence and continuous expansion of the 723 km wall that exists in Palestine (more than double the length of what would be the border between the two 'states') and whose objectives are the division of Palestine into a series of ghettos disconnected from each other, the theft of land and resources such as water and to make Palestinian life as difficult as possible.

Moh has traveled many times to Europe to denounce the occupation of Palestine and the situation that exists here. Upon returning from his most recent trip to attend a conference in Norway on September 22<sup>nd</sup>, he was arrested at the border of Palestine with Jordan and put in prison. Israel can arrest any Palestinian without any charge or accusation against him/her and keep him/her for 6-month renewable periods. It is called "administrative detention". The detention order can be renewed indefinitely. Unfortunately, that is what happens quite often.

Moh is in an isolation cell, 2 by 1.2 meters, with electric lights burning 24 hours a day and no windows. He has not been allowed to change his clothes

since his arrest. His only link with the outside world is Samer and Mahmoud, the lawyers of Addameer. Moh is not allowed to receive any visitors. So far the prosecution has been unable to file any charges against him, but they continue to extend the detention orders, as they consider him to be a “threat to the security of Israel.” Usually, in the morning, Israeli prison authorities take him to the interrogation room where he is interrogated up to 14 hours non-stop. They are trying to get more information, more names and, above all, to get Moh to sign any false statement in a moment of weakness or despair to enable them to “prove” he is a terrorist. To get this statement, Israeli authorities have threatened to put his sister in prison, to sentence him to life imprisonment and, ultimately, to shoot him at any time if he doesn’t “confess.”

At 10 am, we were at the prison door ready to enter. After some argument and debate, we were able to get in – thanks to the lawyers’ help. However, the hearing was delayed, first until 11, then until 11:45, then to 12:30 and finally to 2 pm. I suppose they were waiting for us to get tired and leave.

Finally, it was time for the military hearing to start. The room is ... how to say ... just as big as my living room. There is a huge Israeli flag covering one of the walls. The military man who serves as a judge is half sitting half lying down; the guards are sending messages with their mobile phones, and so on.

They brought Moh in. I wondered if it was a good idea for us to be there, if he wanted us to see him in such a humiliating situation: hands and feet chained, disheveled, pale, having lost 7 or 8 kilos. Then Moh looked at us and smiled, and I realized our presence there was useful and necessary to show our support towards him, to let him know there are thousands of people around the world who are following his case, that governments, such as in Norway and Germany, are pressing Israel to release him. For all those

reasons it was worth being there, and also because it was worth seeing the Israeli guards look at us with bizarre faces, wondering why foreigners were there to witness the trial of a Palestinian.

Two hours went by in this farce of a trial. During this time, we talked to Moh, asking him how he was, telling him “you are not alone, keep going, we will celebrate your release in Ramallah.”

Once again the prosecutor failed to bring charges against him. Despite this, his detention was extended for another 13 days. To me, under the conditions he is being held, it seemed to be an eternity.

...today I will sleep with Moh on my mind.

*Sagrario*



“Oren Ziv/Activestills.org”

## *Impression 7*

*“Every time I am called to appear before your courts, I become nervous and afraid. Eighteen years ago, my sister was killed in a courtroom such as this by a staff member. In my lifetime, I have been nine times imprisoned for an overall of almost 3 years, though I was never charged or convicted. During my imprisonment, I was paralyzed as a result of torture by your investigators. My wife was detained, my children were wounded, my land was stolen by settlers, and now my house is slated for demolition.”* - Bassem Tamimi, father of four and human rights activist in the West Bank, in a statement to the military court at his trial on June 5, 2011.

There are thousands of stories in Palestine. You see them in the faces of young men sitting on street corners, unemployed and frustrated, and in the elderly, tired from decades of dislocation and humiliation. You hear them in the shouting of soldiers and the grinding of metal gates at checkpoints. You feel them in the heavy night air, when arrest raids are taking place under the cloak of darkness. Despite all the different ways military occupation affects daily life, the experience of imprisonment is one that almost all living in the Occupied West Bank, East Jerusalem, and the Gaza strip share. I will relay some of these stories that I came to know during my time in Palestine, working with the prisoner’s rights group, Addameer, and witnessing trials at the Israeli military courts this summer.

I witnessed the military trials of cases Addameer was working on at the Israeli Military Court in Ofer. Inside half a dozen trailer-like courtrooms, four to five detainees are tried during a given session, which lasts approximately 15 minutes. On August 14, I attended the trial of 18-year old Mahmoud from Hebron. (I am not using the detainee’s real name as proceedings against him are ongoing). Mahmoud was accused of raising his hand in defiance of a soldier. Court proceedings are conducted exclusively in Hebrew, a language, in the vast majority of cases, not understood by the accused Palestinians. Translation is provided by an Israeli soldier. Mahmoud, who met his lawyer for the first time at the beginning of the proceedings, quickly tried to explain in Arabic that he did not raise his hand in defiance, but rather to cover his face in order to prevent the soldier from photographing him. When his lawyer (who only spoke Arabic) explained to the court what happened, the translator mistranslated the statement “preventing the soldier” as “hitting the soldier.”

Another Palestinian lawyer in the room, who understood Hebrew, stood up and attempted to correct the mistake, but was silenced. Immediately, the verdict was pronounced: guilty of assaulting a soldier. (I was only able to follow this interchange because I speak Arabic).

At the same session, sixteen-year old Ziad (also not his real name) was being tried for throwing stones at a military jeep. “Throwing stones” was the most frequent charge in the trials I witnessed this summer. According to a July 2011 report by the Israeli Human Rights NGO B’Tselem, between 2005 and 2010, 835 Palestinian minors were arrested and tried on charges of throwing stones; all except one were found guilty. During Ziad’s trial, his father requested multiple times to address the Court. He was repeatedly silenced. Desperately, Ziad’s father interrupted one last time, “My child is sick. He has thalassemia and was in the hospital undergoing a blood transfusion at the time you are accusing him of throwing stones. It’s impossible. He is weak, he doesn’t go out.” The translator, unable to find the word for “thalassemia” in Hebrew, shrugged and told the judge to carry on. Ziad was found guilty and charged a penalty of 5,000 shekels.

As an observer at the trials, I was also able to meet family members of the detainees. For most, it was the only time they were able to meet their sons, brothers, fathers, and husbands throughout the course of detention. This is because eighteen of nineteen Israeli prisons are located outside of the occupied territory, an illegal practice under Article 76 of the Fourth Geneva Convention. Once, an excited sister next to me whispered loudly to her brother, past the guards sitting between them, that she found the perfect girl for him. A new bride mouthed to her recently arrested husband that she was pregnant. These flashes of news from outside made the prisoners smile, despite the grave situation before them.

Only after spending time in the Occupied Territories have I come to understand the different ways in which military occupation impacts daily life – routine imprisonment being one of the most debilitating effects. Occupation is a phenomenon far outside my ordinary frame of reference as a Canadian citizen. I am struck by how suffocating it is, but also by the profound patience demonstrated by those who face it every day, in all its forms.

*Sofia Ijaz*

Addameer Prisoner Support and Human Rights Association (Addameer) is a Palestinian non-governmental, civil institution that focuses on human rights issues. Established in 1992 by a group of activists interested in human rights, the center offers support to Palestinian prisoners and detainees, advocates for the rights of political prisoners, and works to end torture through monitoring, legal procedures and solidarity campaigns.

Addameer (Arabic for conscience) believes in the importance of building a free and democratic Palestinian society based on justice, equality, rule of law and respect for human rights within the larger framework of the right to self-determination. To this end, Addameer's work comprises four main program areas, namely: legal aid, research and documentation, advocacy, and the Training and Awareness Program.

- **Legal Aid Program:** Addameer provides free legal counseling and representation to hundreds of Palestinian detainees and their families on an annual basis. Services include legal defense before mainly Israeli but recently also Palestinian courts; regular visits to prisons, detention and interrogation centres; submission of petitions against the extension of the detention period, trials and punishments imposed on detainees; and, submission of complaints against cases of torture, ill-treatment and other violations.
- **Research and Documentation:** Addameer documents violations committed against Palestinian detainees and monitors their detention conditions through regular lawyers' visits to Israeli prisons. In 2007, Addameer started documenting violations committed in Palestinian Authority prisons against political prisoners as well. The research and documentation unit also compiles monthly statistics and lists of detainees, which, combined with the information gathered through the unit's visits, and the information gathered through Addameer's legal work, provides the basis for the publication of the association's research papers and reports.
- **Advocacy and Lobbying:** Addameer regularly publishes public statements and urgent appeals on behalf of detainees, submits alternative and shadow reports to the United Nations and other international forums, and briefs international delegations as well as the media on the situation of Palestinian prisoners. The advocacy and lobbying unit also works towards building local, Arab and international solidarity campaigns to oppose torture and arbitrary detention while supporting the rights of Palestinian prisoners.
- **Training and Awareness:** In 2007, Addameer established its Training and Awareness Unit to raise local awareness regarding prisoners' rights by working on three levels: First, by training Palestinian lawyers on the laws and procedures used in Israeli military courts to improve their efficiency; Second, by increasing the prisoners' own knowledge; and, third, by reviving grassroots human rights activism and volunteerism and working closely with community activists to increase their knowledge of civil and political rights from an international humanitarian law and international human rights perspective.

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