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# ADDAMEER: THE PFLP'S PRISONER ADVOCACY WING

NGOMONITOR



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NGO Monitor's mission is to provide information and analysis, promote accountability, and support discussion on the reports and activities of NGOs claiming to advance human rights and humanitarian agendas.

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## INTRODUCTION

In December 2015, the Palestinian non-governmental organization (NGO) Addameer published "[The Israeli Military Court System](#)." This report claims to present a number of faults with the Israeli justice system in the West Bank and implies that Israeli courts do not have the right to prosecute Palestinians committing acts of terrorism. The report goes on to make a number of false legal claims regarding the implementation of law and the Israeli military courts in the West Bank – emblematic of the NGO's contextually, factually, and legally misleading campaigns.

After providing background on the NGO and its funding, the following analysis systematically deconstructs Addameer's claims in its 2015 report on "The Israeli Military Court System."

## BACKGROUND

Addameer is one of the primary organizations active in campaigns aimed at delegitimizing the State of Israel's justice system in order to bolster Palestinian lawfare efforts. The organization advocates on behalf of Palestinians prisoners convicted of terror offenses, including those guilty of planning terror attacks and the murder of innocent civilians, referring to them as "political prisoners."

Addameer further refers to the Israeli army as the "[Israeli Occupying Forces](#)," and accuses Israel of "[collective punishment](#)," "[war crimes](#)," and a "[policy](#)" of using Palestinian prisoners as pawns to achieve political and military gains."

### PFLP Links

Addameer is also an "[affiliate](#)" of the Popular Front for the Liberation of Palestine (PFLP) terrorist organization, designated as such by the [US](#), [EU](#), [Canada](#), and [Israel](#). Several of the NGO's employees were convicted of terrorism charges by Israeli courts for membership in the PFLP.

The NGO's [chairperson and co-founder](#), [Abdul-latif Ghaith](#), was banned by Israel from travelling internationally due to his alleged membership in the PFLP; he was also banned from entering the West Bank from 2011 to 2015. Abdul-latif Ghaith was described in an article posted by Miftah (another Palestinian NGO) as a representative of the PFLP.

[Khalida Jarrar](#), Addameer's [vice-chairperson](#), is a senior PFLP official. In 2015, Jarrar was [indicted for various offenses](#), including active membership in a terrorist organization (the PFLP) and inciting violence through a call to kidnap Israeli soldiers. Jarrar accepted a plea bargain, was [convicted](#) on "one count of belonging to an illegal organization and another of incitement," and received a 15-month prison sentence with an additional 10-month suspended sentence. She was [released from prison](#) on June 3, 2016. Jarrar [was again arrested](#) in July 2017, "following her involvement in promoting terrorist activity through the PFLP."

In August 2017, Addameer [petitioned the President of France](#) for the release of its field researcher Salah Hamouri, who was arrested on August 23, 2017. Hamouri was [previously arrested in 2005](#) for "attempting to assassinate Ovadia Yosef...and for his involvement with the Popular Front for the Liberation of Palestine."

Additionally, Addameer [board member](#) Yousef Habash is apparently the [nephew of PFLP founder](#) George Habash. Israel [prevented](#) Yousef Habash from leaving the West Bank from [2011 to 2012](#). Ayman Nasser, an Addameer [researcher](#), was arrested on [October 15, 2012](#) for alleged links to the

PFLP. An [indictment](#) was filed attributing a number of offenses relating to membership in the PFLP and activities on behalf of the organization. On June 3, 2013 the Judea Military Court [convicted](#) Nasser, who admitted to being a member of the terrorist organization and for providing services to the organization. [Sumoud Saadat](#), Addameer's [documentation officer](#), is the daughter of PFLP general secretary Ahmad Saadat – who is serving a 30-year prison sentence in Israel due to his terrorist activity. Finally, Suha Al Bargouti, Addameer's [treasurer](#), is the [wife](#) of alleged PFLP member Ahmed Qatamesh.

## Funding Information

Addameer receives funding that originates with a number of governments. Donors include the [Human Rights and International Humanitarian Law Secretariat](#) (a joint NGO funding mechanism from [Denmark](#), the [Netherlands](#), [Sweden](#), and [Switzerland](#)), Ireland (Irish Aid), Norway, [Christian Aid](#) (UK), Christian Aid Ireland, [Interchurch Organization for Development Cooperation](#) (ICCO – The Netherlands), [UNICEF](#), UNDP, Heinrich Boll Stiftung, [Norway](#), [HeksEper](#), and [Sigrid Rausing Trust](#).

According to information released by donors, Addameer received a core funding grant of [\\$325,000](#) (2014-2016) from the [Human Rights and International Humanitarian Law Secretariat](#). It also received [NOK 1,800,000](#) (2015-2016) from Norway, [€225,000](#) ([2013](#), [2014](#), [2015](#)) from [Ireland](#), [£132,000](#) (2014-2017) from the [Sigrid Rausing Trust](#).

## ANALYSIS OF ADDAMEER'S CLAIMS REGARDING ISRAELI MILITARY COURTS IN THE WEST BANK

### Addameer Statement:

*"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" and other crimes as defined by Israeli in its military orders."*

### NGO Monitor Analysis:

Addameer falsely implies that the establishment and operation of military courts are illegitimate and improper. Under international law and the "occupation" paradigm applied by Addameer, Israel is required to ["restore, and ensure, as far as possible, public order and safety" in the West Bank](#) (Article 43 of the Hague Rules of 1907). In order to adhere to this requirement, international law provides that Israel can only establish military courts (Article 66 of GCIV). Were Israel to apply its domestic law to the Palestinians residing in the West Bank, Addameer would condemn Israel for annexation of the area.

International law further provides that "unless absolutely prevented," Israel must respect the laws that were in force in the West Bank prior to its control. When Israel took control of the West Bank, the [law applied there](#) comprised **Ottoman Law** – Legislation enacted during the period of the Ottoman control of the area (1512 – 1922); **British Law** - Legislation enacted during the British Mandatory control of the area (1922 – 1948); and **Jordanian Law** – Legislation enacted during the period that the area was occupied by the Hashemite Kingdom of Jordan (1948 – 1967). These laws, inasmuch as they relate to criminal behavior, and **Israeli Military** legislation enacted (1967 – present) in accordance with international law, are applied by the courts.

According to the 1995 Oslo Agreements, Israel retained only limited criminal jurisdiction over



Palestinians residing in the West Bank. Regular criminal offenses committed by Palestinians in Areas A and B, in which over 95% of the Palestinians who live in the area reside, come under Palestinian jurisdiction.

In other words, the Israeli Military Courts predominantly deal with only the residual offenses, [which tend to be terror related violent crimes](#). When dealing with non-terror related issues the Military Courts still apply provisions of the [Jordanian Criminal Code of 1960](#), with the exception of traffic regulations that were not covered by Jordanian laws.

## Addameer Statement:

*"Once the interrogation period is over, Palestinian detainees from the West Bank are processed for trial, sentencing and imprisonment."*

## NGO Monitor Analysis:

By describing the military criminal justice system as one in which suspects are mechanically "*processed, sentenced, and imprisoned*," Addameer is fundamentally misrepresenting the system in order to falsely portray it as lacking due process.

In contrast to Addameer's false claims, the standards of the Israeli military courts meet or exceed criminal due process standards in Western democracies. The following are just a number of examples:

- 1) A person can only be [arrested given a specific suspicion](#) of committing an offence (para. 31).
- 2) A suspect has the [right to consult with counsel](#) before being questioned (para. 56).
- 3) A suspect has the [right to avoid self-incrimination](#) (para. 70(e)).
- 4) In order to **submit an indictment, a prosecutor must be convinced that the evidence gathered provides a "reasonable chance of conviction."** In practice, the Military Prosecution applies a higher standard.
- 5) [The rules of evidence](#) applied by the Military Courts **are exactly the same as the rules of evidence applied in the Israeli domestic criminal justice system** (para. 86). This means, for example, that any statement or confession of a suspect obtained in breach of his right to consult with counsel can be ruled inadmissible by the court. Interestingly, the basis for this precedent set down by the Israeli Supreme Court was a case initially adjudicated by Military Courts.
- 6) [The rules of procedure](#) applied by the Military courts are almost **exactly the same as the rules of procedure applied in the Israeli domestic criminal justice system** (para. 88).
- 7) Having submitted an indictment, the **Military Prosecution is required, subject to the provisions of the law, to provide the defendant and his counsel with the evidence gathered in the course of the investigation** (para. 74).
- 8) The defendant has the [right to be represented by counsel of his choice](#) (para. 76). If the defendant does not appoint his own counsel, the [court can appoint one](#). (para. 77). In practice, all Palestinian defendants are represented by either lawyers of their choice, lawyers provided by the Palestinian Authority, or lawyers funded by the terrorist organizations themselves. **Interestingly, defendants accused of membership in the PFLP are often represented by the same lawyers, predominantly associated with Addameer.** This was the case regarding the vice chairperson of Addameer, Khalida Jarrar, who was convicted, in 2015, by her own confession in open court, of membership in the PFLP and incitement to kidnap Israelis in order to use them as bargaining chips to bring about the release of the head of the PFLP. Jarrar was sentenced to 15 months in prison, a suspended sentence, and a fine. [Jarrar was represented, inter alia, by Adv. Sahar Francis](#), the director of Addameer.

- 9) **The standard of proof** required for a conviction in the Military Courts is exactly the same as the Israeli domestic criminal justice system, and many other jurisdictions. The guilt of the defendant must be proved [beyond reasonable doubt \(para. 207\( B\)\)](#).
- 10) While international law does not require the creation of an Appeals Court, such a court has existed in the West Bank since 1989. Decisions of the Court of First Instance are appealable by right [\(para. 45\(a\) as regards decisions relating to detention and 152 regarding convictions and sentencing\)](#).

## Addameer Statement:

*"Within these military courts, military orders always take precedence over Israeli and international law. On the rare occasions when international law is used, it is used to favor the occupying power."*

## NGO Monitor Analysis:

In a manner similar to most other judicial systems, and in accordance with international law, the Military Courts apply the law that is in force in the West Bank, and only when necessary refer to external or international law. The Military Courts have also [ruled](#) that should a provision of the Military legislation contradict customary international law, the Court has the jurisdiction to cancel that provision.

A claim similar to that of Addameer, that domestic courts apply domestic law and not international law (which is inherently vague and lacking in applicable standards), could be made regarding almost every legal system in the world. This highlights that Addameer's allegations either reflect a fundamental ignorance regarding criminal justice specifically and international law in general, or are deliberately aimed at maligning Israel.

## Addameer Statement:

*"Judges in the military courts are military officers in regular or reserve service. Most of the judges do not have long-term judicial training, and many served previously as military prosecutors."*

## NGO Monitor Analysis:

To be appointed to the bench of the Military Courts, a candidate is required to meet [standards set down by the law](#) (para. 11), which prescribe the legal experience necessary. The judges are [appointed by a committee](#) (para. 13) that includes non-army personal.

In accordance with international law, judges in the Military Courts [must be military personal](#) (Article 66 GCIV).

## Addameer Statement:

*"The prosecutors are Israeli soldiers in regular or reserve service appointed to the position by the Area Commander; some of them are not yet certified as attorneys under the Israeli Bar Association."*

## NGO Monitor Analysis:

All IDF prosecutors hold, at the very least, a law degree. Some of the new prosecutors appear before the court during their period of "on the job practical training" as part of their certification to the Israeli Bar. In its attempt to besmirch and discredit the professionalism of the prosecution,

Addameer casually neglects to mention that the Palestinian lawyers who represent the defendants are often also not members of the Israeli Bar Association.

## Addameer Statement:

*"The defendants in the military courts are all Palestinian, and the jurisdiction of the Israeli military court system is never applied to Israeli settlers living in the West Bank who are instead governed by Israeli civil law."*

## NGO Monitor Analysis:

Addameer's claim of discrimination is false and again reflects the ignorance regarding the concept of jurisdiction that governs all legal systems.

First, the international law that Addameer says applies to the West Bank **requires** that Palestinians who commit offences in the West Bank can only be [brought to justice before military courts](#) (Article 66 GCIV). This provision is specific to persons who are neither citizens nor permanent residents of Israel.

Second, Addameer's accusations of discrimination based on ethnicity are patently false. All Israeli citizens and permanent residents regardless of religion or ethnicity fall under the jurisdiction of the Israeli courts.

In fact, Addameer's own director was tried in Israeli courts . [In 2001, Francis was indicted for obstruction of justice and the destruction of evidence.](#) (According to the indictment, Francis represented a member of the PFLP, named Sa'ad Salame. During their discussions, Salame asked her to tell his brother to hide and destroy a black box in his house. According to the indictment, Salame was referring to a mobile phone, contained in the box, that he used in an attempt to explode a car bomb that he had parked in a Jewish residential neighborhood in Jerusalem. The indictment continued that Francis understood Salame's intention to destroy evidence that could potentially connect him to the offense and passed on the message to the Salame's uncle who in turn destroyed the evidence.)

Francis was not indicted in the Military Courts, but rather stood trial before the Israeli civilian courts. It is important to note, that Francis was acquitted of the offences for which she was indicted.

## Addameer Statement:

*"The military court system grants Israeli Security Agency (ISA) officers the outmost flexibility in their conduct of interrogations of Palestinian detainees and reduces legal safeguards to the absolute minimum, far below Israeli civil law standards."*

## NGO Monitor Analysis:

As mentioned above, [the rules of evidence](#) (para. 86) that are applied in the Military Courts are exactly the same as the rules of evidence applied in the Israeli domestic courts. These provisions apply irrespective of the identity of the interrogator. **Accordingly, Addameer's claim is baseless.**

## Addameer Statement:

*"As per Israeli military orders, a Palestinian can be **held without charge for the purpose of interrogation** for a total period of 90 days. By comparison, an Israeli citizen accused of a security offense can be held without indictment for a period of 64 days."*

## NGO Monitor Analysis:

Again, Addameer's claim is simply false. The maximum period of remand of a suspect for purpose of interrogation is exactly the same as in the Israeli criminal justice system (Para. 59 – 62). A suspect who has been arrested – there are obviously many suspects who are not arrested – must be brought before a Judge in a prescribed amount of time (para. 31 as regards adults and para. 31B as regards minors aged 12 - 16). In order for a Military Judge to order the continued remand of the suspect the police are required to prove that their request meets the standards applied in the Israeli domestic criminal justice system, which include showing both cause and an evidentiary basis for the suspicion. The suspect must be present (para. 51) and has the right to be represented by counsel in these proceedings.

## Addameer Statement:

*"Trials for Palestinians before the military courts must be completed within eighteen months, while the comparable limit for detainees before Israeli civilian courts is nine months. If proceedings before the military courts have not concluded within the eighteen-month time frame, a judge from the Military Court of Appeals can extend the detention of a Palestinian in the military courts by six-month increments."*

## NGO Monitor Analysis:

The initial maximum period of remand pending trial in the Military Courts is indeed longer than in the Israeli domestic criminal justice system. However, when Addameer states that this initial period can be extended by the Military Court of Appeals (para. 44(a)), it fails to mention, either out of ignorance or based on an agenda, that this provision is exactly the same as the provision in the Israeli domestic criminal justice system (para. 62) which provides that the initial period of remand pending trial can, and is in fact routinely, extended by judges of Israel's Supreme Court.

## Addameer Statement:

*"Discriminatory sentences: A Palestinian convicted of manslaughter by a military court is subject to a maximum sentence of life imprisonment, while an Israeli convicted of the same offense in a civilian court and sentenced to life imprisonment is imprisoned for a maximum of 20 years in most cases."*

## NGO Monitor Analysis:

In sentencing, the military judges, who are all Israeli trained lawyers, are guided by sentencing rules and precedent set down by Israel's Supreme Court.

During the sentencing process, the Military Courts take all relevant information into account (para. 129 in general and para. 168(a) specifically regarding minors). When Addameer quotes maximum sentences attributed to any given offence, it neglects to mention, that the Israeli criminal justice legislation, including the military criminal justice system, prescribes maximum punishments but provides the judges with complete jurisdiction when handing down a sentence. Accordingly, instances in which the judges, domestic or military, handed down a maximum sentence are almost unheard of.

Palestinians who feel that their sentence was fundamentally unreasonable can request the Israeli Supreme Court to intervene.



## Addameer Statement:

*"In addition, under the Israeli penal code, criminal prisoners may be released after serving half of their sentences, whereas Palestinians judged under military rule are only allowed to appeal for probation after two-thirds of the sentence has been served. In general, Palestinian detainees are rarely released early."*

## NGO Monitor Analysis:

This claim has no basis whatsoever. According to the [Israeli Law \(para. 3\)](#), a prisoner, sentenced to more than six months in prison, is entitled to request release on parole only after serving two-thirds of his sentence.

It is further important to note that international law does not require that persons sentenced in a military court, such as the Military Courts in the West Bank, be eligible for parole. [Nonetheless, Israel applies to Palestinian prisoners the domestic law that applies to Israeli prisoners \(para. 6\)](#). Palestinian prisoners are brought before the same civilian parole board as the Israeli prisoners, and their requests for early release are considered in the same manner. Decisions of the parole board are appealable to the Israeli District court and in some instances to the Israeli Supreme Court.

## Addameer Statement:

*"Discrimination in the prosecution of laws relating to the detention of minors: Criminal liability begins at age 12 for both Palestinians and Israelis. However, Palestinians under the military court system are tried as adults at age 16, while the Israeli justice system sets the age of majority at 18."*

## NGO Monitor Analysis:

A defendant is [considered to be a minor](#) (para. 136) in the Military Courts until he reaches the age of 18. The only derogation to this rule is the initial arrest period for a minor over the age of 16 who committed one of the offences prescribed by the law as a "security offence." Thus, when Addameer writes that minors over the age of 16 are tried as adults, they are either ignorant of the law or falsifying the reality.

## Addameer Statement:

*"While Israeli law and police orders provide that children detained in Israel are to be interrogated only by police officers specially trained for the task, Palestinian children are interrogated by police or ISA officers, in situations that are highly intimidating, lack any real form of oversight and are rife with abuse."*

## NGO Monitor Analysis:

This statement of Addameer simply misstates Israeli law. [Israeli law](#) does not require that all minors be questioned only by police officers specifically trained as Juvenile Interrogators. The *general rule* that minors be questioned by Juvenile Interrogators appears only in the [Israeli Police regulations](#). The relevant regulations are also applied by the Israeli Police in the West Bank. ISA officers are similarly not required by law to be Juvenile Interrogators.

Both the Israeli Police and the ISA are subject to real and effective oversight. Both organizations have internal oversight and both organizations are subject to external oversight. Complaints of misconduct by Israeli police can be submitted to the Department for Investigating Police. Complaints

of misconduct by ISA officers can be submitted to the Department for Investigating ISA officers. Both of these departments are part of Israel Ministry of Justice. Furthermore, complaints of misconduct of both police and ISA officers can be raised before the courts - Domestic and Military - and if proven can result in the inadmissibility of any statement, including confession, given by the defendant.

While Addameer claims that the interrogation of Palestinians is "rife with abuse," it provides no factual information in support. While Addameer often makes these inflammatory claims, in practice, very few official complaints are ever submitted, and even fewer are found to be justified.

## Addameer Statement:

*"Language is a fundamental problem in the military courts. Israeli jurisprudence provides that a prisoner must be interrogated in his native language and that his statement must be written in that language. In practice, however, the detainee's confession or statement is frequently written in Hebrew by a policeman, requiring the detainee to sign a statement he or she cannot understand. Once obtained, these confessions constitute the primary evidence against Palestinian detainees in the Israeli military courts."*

## NGO Monitor Analysis:

The interrogation of a suspect must be conducted in a language that the suspect understands ([para. 2](#) in general and [para. 136D](#) specifically regarding minors) and must be documented. In most instances the statement is written in Arabic. In the instances in which the police officer is fluent in spoken Arabic but cannot write Arabic, the statement must be audio or audio-visually recorded. At the end of the questioning, a suspect is requested to sign his statement, but has complete discretion not to. As opposed to Addameer's claim, a statement written solely in Hebrew has little, if any, culpatory value and will never be the sole basis of a conviction, unless, of course, it can be proven that the suspect knows Hebrew.

## Addameer Statement:

*"However, these orders enforced through the military courts also criminalize a wide array of other types of activities, including "certain forms of political and cultural expression, association, movement and nonviolent protest, even certain traffic offenses – anything deemed to threaten Israeli security or to adversely affect the maintenance of order and control of the territories."*

*The HTA [Hostile Terrorist Activity] category includes involvement in what Israel terms "terror attacks", military training, weapons offenses and weapon trading, but also offenses related to membership in "illegal associations" – associations deemed illegal by the Israeli military commander."*

## NGO Monitor Analysis:

When Addameer bemoans "membership in 'illegal associations'" it is referring to laws that prohibit membership in widely recognized terrorist organizations including Hamas, the Popular Front for the Liberation of Palestine (PFLP), and Palestinian Islamic Jihad. Addameer's self-serving complaints ring especially hollow given the extensive links between the NGO and the PFLP.