



## Urgent Appeal to the United Nations Special Procedures

### Arbitrary Detention and Harassment of Human Rights Defender Shatha Odeh

**Date:** 12 August 2021

**Submitted by:**

- **Palestinian NGO Network (PNGO)**
- **Palestinian Human Rights Organizations Council (PHROC)**
  1. Addameer Prisoner Support and Human Rights Association
  2. AISHA Association for Women & Child Protection Gaza- Palestine
  3. Al Ataa' Charitable Society
  4. Al Mezan Center for Human Rights- Gaza
  5. Al-Ataa' Charitable Society
  6. Al-Dameer Association for Human Rights
  7. Al-Haq Organization, Law in the Service of Mankind
  8. Al-Karmel Cultural & Social Development Association
  9. Alrowwad Cultural and Arts Society
  10. Arab Agronomists Association
  11. Arab Center for Agricultural Development- ACAD
  12. Baitona Society
  13. Beita Women Development Society
  14. Center for Defense of Liberties and Civil Rights “Hurriyat”
  15. Défense for Children International – Palestine
  16. Human Rights and Democracy Media Center “SHAMS”
  17. Jabalia Rehabilitation Society
  18. Jerusalem Legal Aid and Human Rights Center
  19. Jerusalem Legal Aid Center
  20. Land Research Center
  21. Palestinian Center for Development and Media Freedoms (MADA)
  22. Mothers School Society
  23. Muwatin Institute for Democracy and Human Rights - Observer Member

24. Nawa for Cultural and Arts Association
25. Palestinian Centre for Human Rights
26. Palestinian Return Centre
27. Popular Arts Centre
28. Psycho-Social Counselling Center for Women
29. Ramallah Center for Human Rights Studies
30. Thalassaemia Patients Friends' Society- Palestine
31. The Applied Research Institute- Jerusalem/ Society
32. The Cultural & Free Thought Association
33. The Cultural Forum Center
34. The Independent Commission for Human Rights - Observer Member
35. The Palestinian Institute for Communication and Development
36. Union of Agricultural Work Committees (UAWC)
37. Women Affairs Technical Committee
38. Women and Family Affairs Center
39. Women's Centre for Legal Aid and Counselling

**For the attention of:**

- The United Nations Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. S. Michael Lynk;
- The United Nations Working Group on Arbitrary Detention, Ms. Leigh Toomey (Chair-Rapporteur);
- The United Nations Special Rapporteur on the situation of human rights defenders, Ms. Mary Lawlor;
- The United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Ms. Tlaleng Mofokeng;
- The United Nations Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, Prof. Nils Melzer; and
- The United Nations Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego Garcia Sayan.

**1. Introduction**

On 7 July 2021, Israeli occupying forces (IOF) conducted a night raid of the home of **Ms. Shatha Odeh Abu Fannounh (Ms. Odeh)** in Ramallah, occupied West Bank, deploying gas grenades, terrorizing her family, and arbitrarily detaining Ms. Odeh. Despite the lack of an arrest warrant or a confiscation order, the IOF stormed Ms. Odeh's house, forcibly arresting her and confiscating her mobile phone, along with the keys of her organization's car, and the car itself.

Ms. Shatha Odeh, 60, is the chairwoman of PNGO (Palestinian NGOs Network – a coalition of 142 Palestinian civil society organizations leading NGO work in different fields of development)

and serves as the Director of the Health Work Committees (HWC), a leading Palestinian non-governmental organization that promotes health services for hundreds of thousands of Palestinians, with a particular focus on marginalized communities, especially in Area C, and women's health. Her detention comes amid Israel's ongoing and systematic crackdown on Palestinian civil society actors and human rights defenders, which has intensified through violent raids, harassment, arbitrary arrests and detention, and arbitrary criminalization of civil society organizations. This urgent appeal follows as an update to appeals sent by the family of Ms. Odeh and Al-Haq.<sup>1</sup>

Since Ms. Odeh's arrest on 7 July 2021, her detention was extended three times by the Israeli military court on 8 July, 14 July, and up until her third hearing on 26 July 2021, when the military prosecutor laid out the charges against her. Ms. Odeh's case is being heard by an Israeli military court consisting of three military judges, a departure from the general pattern of one military judge, which alarmingly signals a sentence of greater than ten years of imprisonment. Her next hearing is scheduled for 17 August 2021. The nature of the charges brought against Ms. Odeh primarily revolve around her leadership role in the HWC, deemed "unlawful" by Israeli military orders, and her alleged affiliation with a "terrorist" organization. The arbitrary charges levied against her reflect an increasing brazenness by Israeli occupying authorities in clamping down on and criminalizing Palestinian human rights defenders and civil society organizations that challenge Israel's entrenched regime of settler-colonialism and apartheid and work towards achieving international justice and accountability for Israel's human rights violations, war crimes and crimes against humanity.

## **2. Criminalizing Civil Society Work via Military Orders and Expanding Jurisdiction**

Following Ms. Odeh's extended detention, the Israeli military prosecutor brought a list of charges primarily targeting her leadership within the HWC, deemed "unlawful," the "illegal" transfer of funds, and infractions alleging fraudulent activities. Notably, in ascribing to Ms. Odeh the latter charges relating to alleged fraud, the Israeli military prosecutor relies on military orders that directly reference the 1960 Jordanian Penal Code, representing a dangerous expansion of subject-matter jurisdiction.

Specifically, the five charges allege that Ms. Odeh:

- I. Holds "a position in an unlawful association." This charge references an Israeli military declaration, dated 22 January 2020, declaring HWC to be an "unlawful and illegitimate organization." Still, the declaration was never sent to the targeted organization (HWC) upon issuance, and it was not until the beginning of 2021 that the IOF began an escalated

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<sup>1</sup> "Al-Haq Sends an Urgent Appeal on the Arbitrary Detention and "Severe Suffering" of Human Rights Defender Ms. Shatha Odeh Abu Fannouneh, General Director of the Health Work Committee." *Al-Haq*. 24 July 2021. Available at: <https://www.alhaq.org/advocacy/18644.html>.

campaign against HWC offices and staff, leading to the detention of Ms. Odeh and the closure of HWC headquarters in Ramallah.

- II. Participated in an event affiliated to an organization deemed unlawful by Israeli occupying authorities, based on her “presence in a public event on 14 May 2019.” Though the charges neglect to mention the event in question, Addameer discovered it to be a public memorial service held for Dr. Rabah Muhanna. The public memorial was attended by many Palestinians, including political figures and civil society leaders.
- III. The “receiving and bringing of funds illegally into the area [the occupied West Bank].” The supposed “illegality” of the funds is a second-order effect of the allegations of affiliation with “unlawful” organizations. Thus, funds given by external donors and administered by the organization to the allocation of services, which organizationally goes under external audit, is retroactively criminalized *en masse*. This charge is brought up in the context of violating Israeli military orders.
- IV. The second iteration of the above charge alleges the “receiving funds/support fraudulently,” as is defined by 1960 Jordanian Penal Code no. 16. Beyond that “funds/support” reference funds allocated for activities and services of the HWC.
- V. Similarly, the final charge, that of the “fraudulent use of documents” alleged to be “forged,” is also explicitly defined via the 1960 Jordanian Penal Code.

The charges laid against Ms. Odeh lack clear evidentiary bases and are purposely extreme in nature. They reflect both an escalating policy by Israeli occupying authorities of criminalizing fundamental Palestinian human rights and services through allegations of terrorist links, and a dangerous encroachment of the jurisdiction of the Israeli military judicial system over the occupied Palestinian territory. Further still, the evidentiary basis for the charges submitted against Ms. Odeh rely prominently on witness testimonies of detainees subjected to torture and ill-treatment during interrogation. In seeking to build a case against Ms. Odeh, the Israeli military prosecutor expands the subject-matter jurisdiction of the courts through the inclusion of allegations of fraudulent activity as security-related offenses falling under the military judicial system’s mandate. Such expansion points to the Israeli military judicial system as the functioning arm of the Israeli military occupation and apartheid regime against the Palestinian people.

Moreover, the breadth of the allegations brought against Ms. Odeh—covering an array of infractions violating arbitrary Israeli military orders and referencing Jordanian Penal Code—are a paradoxical effect of Ms. Odeh’s trial as a civilian in a military court. Though this is the case with thousands of Palestinian civilians tried and incarcerated under the Israeli military judicial system, the consequences of this institutionalized and expansionist military judicial regime is especially clear here. Such military occupation and settler-colonial and apartheid regimes run contrary to the

rule of law, violating fundamental human rights, and exercising unjust and illegal practices against the Palestinian people.

### **3. Denial of Fair Trial Standards and Ill-treatment under the Israeli Military Judicial System**

As part of the military judicial system, Israeli military courts prosecute Palestinian civilians based on Israeli military orders issued by the Israeli military commander in the West Bank (and previously for the Gaza Strip), who acts as the supreme law-making power in the occupied territory. These military orders have criminalized the exercise of many fundamental rights by Palestinians, as guaranteed under international human rights and international humanitarian law.<sup>2</sup>

Accordingly, the nature of the Israeli military judicial system inherently produces systematic violations of free trial standards and enables mass practices of arbitrary detention. Ms. Odeh's detention was extended three times by the Ofer military court, from 8 July 2021 to 26 July 2021. Each of the three military court hearings, including the final one in which charges were brought against her, lasted less than 15 minutes and were conducted in Hebrew, a language neither Ms. Odeh nor her family understand. The imposition of a foreign legal language with no proper and adequate interpretation violates Ms. Odeh's right to assistance of an interpreter, in contravention of Article 72 of the Fourth Geneva Convention.

Despite that Ms. Odeh's health is extremely compromised, wherein she suffers from numerous chronic illnesses and is prescribed various medications,<sup>3</sup> she was subjected to ill-treatment and medical negligence. The Israeli Prison Services (IPS) denied Ms. Odeh's request to access one of her critical medications up until 15 July 2021, after her lawyer presented documentation proving the necessity of this medication. Until present, Ms. Odeh has lost nine kilograms as her health continues to deteriorate. The IPS systematic medical negligence violated Ms. Odeh's right to health and well-being as enumerated in Article 25 of the Universal Declaration of Human Rights (UDHR) and Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Upon detention and up until her third hearing, for almost two weeks, Ms. Odeh was not allowed to have underclothing or clothes to change despite requests and clothes brought to the prison by her lawyer. Furthermore, the conditions of her detention and interrogations in Hasharon Detention Center were poor, cruel, and inhumane, wherein the harsh transport and process of her interrogation from Hasharon Detention Center to Ofer Military Camp last 20 hours while detainees remain shackled by their wrists and feet. In Hasharon, Ms. Odeh was held in a room with two metal beds, plastic mattresses, a thin cover and no pillows, using the jacket she wore on the day of

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<sup>2</sup> "Israeli Military Orders". *Addameer*. July 2017. Available at: [https://www.addameer.org/israeli\\_military\\_judicial\\_system/military\\_orders](https://www.addameer.org/israeli_military_judicial_system/military_orders).

<sup>3</sup> See annexed medical certificate dated 7 July 2021, noting the need for continuous observation, medication, and monitoring due to her chronic illnesses and older age.

her arrest as a cover. She was also monitored by a surveillance camera, infringing on her privacy, and compounding upon psychological punishment, medical negligence, and ill-treatment. Ms. Odeh is currently held in Damon Prison, located inside the 1948 Occupied territories, in clear 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.

These systemic issues go unaccounted for in Israeli military courts, which at most offer piecemeal ameliorations that are often disregarded by the IPS, who are never held responsible, further illustrating the complicity of the Israeli military judicial system in the systematic offenses against absolute prohibitions of torture and other cruel, inhuman or degrading treatment or punishment under international law.

The denial of fair trial standards is endemic to the Israeli military judicial system leading to systematic violations of these rights so serious as to amount to the war crime of willfully denying protected persons of their right to a fair trial under Article 8(2)(a)(vi) of the Rome Statute of the ICC.

#### **4. The Israeli Occupation's Escalating Crackdown on Palestinian Civil Society Organizations and Human Rights Defenders**

The arbitrary detention of Ms. Odeh serves as one of the latest escalation of attacks by IOF against Ms. Odeh herself, the Health Work Committee (HWC), and more broadly, Palestinian civil society and human rights defenders. Amid Israel's sustained campaign against Palestinian civil society, IOF have conducted multiple raids of HWC's office, confiscating several items belonging to the organization, including computers and documents, along with the arbitrary arrest and detention of HWC staff members, some of whom were subjected to torture and ill-treatment. During the most recent raid of HWC's office in Ramallah, on 9 July 2021, IOF forcibly closed the office with metal barriers and ordered its continued closure for six months until 7 December 2021 as stipulated by Israeli military orders. The printed military order further justified the closure due to "security reasons" and the HWC's alleged affiliation with "terrorist organizations." These allegations stem from an Israeli military declaration, dated 22 January 2020, declaring HWC to be "unlawful and illegitimate," and falsely alleging its terrorist ties. Notwithstanding the arbitrary criminalization of the HWC, a leading Palestinian non-governmental health and development organization providing essential health services to over 400,000 Palestinians in the occupied West Bank, especially in Area C, the military declaration was never sent to the HWC upon its issuance. Therefore, they were not immediately or properly notified of the banning of the HWC.

The military declaration constitutes one of the over 1800 military orders issued by the Occupying Power. These military orders aim to control and criminalize many aspects of Palestinians' daily lives, including various forms of civil society work, advocacy, political and cultural expression, association, movement, and other acts that might be considered opposing Israel's occupation and apartheid regime. These orders form the basis of the Occupying Power's systematic use of arbitrary

arrests and detentions, which include men, women, children, the elderly, and human rights defenders.

Beyond violating fundamental international conventions protecting freedoms of belief and association, the criminalization of mere membership in or affiliation with organizations deemed “unlawful” allows Israeli military authorities to collectively punish civil society actors and detain individuals without proving—or even alleging—any actual individual culpability for activities or resistance against the ongoing belligerent Israeli occupation.

The closing of HWC offices and arbitrary detention of HWC staff, including its Director Ms. Odeh, during a global pandemic further illustrate Israel’s blatant disregard towards its legal obligation to protect occupied Palestinians’ right to health and constitutes a collective punishment against HWC and the Palestinian people. Israel’s crackdown on Palestinian civil society and human rights organizations continues to intensify,<sup>4</sup> as evidenced by the recent raid on the headquarters of the Union of Agricultural Work Committees (UAWC) and the delivery of a military order forcing the office to close for six months, the most recent military raid on Defense for Children International-Palestine’s headquarters,<sup>5</sup> and the concurrent raid on the headquarters of the Bisan Center for Research and Development.<sup>6</sup>

## 5. Recommendations

In light of the above, our organizations submit this urgent appeal for the immediate intervention of the relevant UN Special Procedure mandates, urging them to call on Israel, the Occupying Power, to:

- I. Immediately release Palestinian detainee Ms. Odeh, whose health is compromised, and guarantee her right to liberty and freedom from arbitrary arrest and detention;
- II. Ensure and uphold Palestinian detainee Ms. Odeh’s right to the highest attainable standard of health and mental health, as well as the right to life;
- III. Ensure due process, including through the provision of translation of Hebrew to Arabic at all stages of the court proceedings;

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<sup>4</sup> “PHROC: International Community’s Silence Incentivizes Israel’s Continued Shrinking of Palestinian Civil Society Space”. *Al-Haq*. 5 August 2021. Available at: <https://www.alhaq.org/advocacy/18706.html>.

<sup>5</sup> “Israeli forces raid DCIP office, confiscate computers and client files” *Defense for Children International-Palestine*. 29 July 2021. Available at: [https://www.dci-palestine.org/israeli\\_forces\\_raid\\_dcip\\_office\\_confiscate\\_computers\\_and\\_client\\_files](https://www.dci-palestine.org/israeli_forces_raid_dcip_office_confiscate_computers_and_client_files).

<sup>6</sup> “Occupation forces raid the offices of Bisan Center for Research and Development,” *Bisan Center for Research and Development*. 29 July 2021. Available at: <https://www.bisan.org/occupation-forces-raid-the-offices-of-bisan-center-for-research-and-development/>.

- IV. Put an end to the systematic and ongoing practice of targeting Palestinian civil society organizations, including HWC and intimidating Palestinian human rights defenders, including Ms. Odeh, contrary to international law and as inhumane acts of apartheid;
- V. End its practices of deportation of Palestinian prisoners outside the occupied territory, preventing families from visiting those incarcerated without charge; and
- VI. Cease all practices and policies intended to intimidate and silence human rights defenders, in violation of their right to freedom of expression, including through arbitrary detention, torture and other ill-treatment, institutionalized hate speech and incitement, residency revocation, deportations, and other coercive or punitive measures.

**END**