

مجلس منظمات حقوق الإنسان الفلسطينية
Palestinian Human Rights Organizations Council



Urgent Appeal to the UN Special Procedures on the Critical Need to Immediately Release Nine-Month Pregnant Palestinian Woman Anhar Al-Deek from Israeli Prison

Date: 2 September 2021

Submitted by the Palestinian Human Rights Organization Council, comprising of:

- Addameer Prisoner Support and Human Rights Association
- Al-Haq, Law in the Service of Man
- Al Mezan Center for Human Rights
- Palestinian Centre for Human Rights
- DCI - Defense for Children International – Palestine
- Jerusalem Legal Aid and Human Rights Center
- Addameer Association for Human Rights
- Ramallah Center for Human Rights Studies
- Hurriyat - Center for Defense of Liberties and Civil Rights
- The Independent Commission for Human Rights (Ombudsman Office) Observer Member
- Muwatin Institute for Democracy and Human Rights - Observer Member

For the attention of:

- The United Nations Special Rapporteur 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 Working Group on Discrimination against Women and Girls, Ms. Alda Facio;
- The United Nations Special Rapporteur on Violence against Women, its Causes and Consequences, Ms. Dubracla Simonovic;
- 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; and
- The United Nations Special Rapporteur on Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment, Prof. Nils Melzer.

1. Introduction

On 8 March 2021, the Israeli Occupying Forces (IOF) violently arrested Anhar al-Deek, a 26-year-old Palestinian woman, from nearby her village Kufr Nima, northwest of Ramallah in the occupied Palestinian territory (oPt). During her arrest, Anhar was severely beaten by Israeli occupying soldiers and settlers, despite announcing her pregnancy, resulting in her hospitalization, and was transferred mere hours later to HaSharon prison. At the time of her arrest, Anhar had entered her third month of pregnancy and suffered from poor psychological health and postpartum complications, including depression from her previous pregnancy. The charges against Anhar include assault and possession of a knife; notably, her possession of the kitchen knife came in the process of, and not prior, to the altercation preceding her arrest. Notwithstanding the precarity of her condition, Anhar was detained in harsh conditions and subjected to long hours of interrogation and solitary confinement for one month. Following interrogation, Anhar was transferred to Damon prison, where Palestinian female detainees are also held in inhuman conditions lacking minimum basic living standards.¹

Since her arrest, the Israeli occupying authorities have denied her contact with her family via phone calls or visitations, excepting one visit by her husband during the six-month period. Anhar's incarceration in an Israeli prison outside of the oPt, a routine practice by occupying Power, violates Article 76 of the Fourth Geneva Convention mandating that protected people under occupation be detained in the occupied territory.²

Currently, Anhar remains incarcerated in Damon prison as she critically enters her ninth month of pregnancy, wherein she continues to suffer from inhuman living conditions, deliberate medical neglect—notably including lacking prenatal care—deteriorating health conditions, and a high-risk pregnancy. More urgently, she faces the possibility of giving birth, via a cesarean section, and raising her newborn in Israeli prisons under conditions amounting to torture and cruel, inhuman or degrading treatment or punishment.³ The Israeli Prison Services (IPS) have already indicated that Anhar would be placed in solitary confinement following her delivery, preliminarily scheduled for 20 September 2021, under the pretext of COVID-19, which will likely exacerbate the mother's postpartum trauma and poor health. Most recently on 1 September 2021, Ofer Military Court

¹ Addameer Prisoner Support and Human Rights Association, "Annual Violations Report 2020," 5 August 2021, available at:

<https://www.addameer.org/sites/default/files/publications/%D8%AA%D9%82%D8%B1%D9%8A%D8%B1%20%D8%A7%D9%84%D8%A7%D9%86%D8%AA%D9%87%D8%A7%D9%83%D8%A7%D8%AA%20%D8%A7%D9%84%D8%B3%D9%86%D9%88%D9%8A2020.pdf>.

² *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (hereinafter 'Fourth Geneva Convention'), 12 August 1949, 75 UNTS 287; see also comments by UN Special Rapporteur Michael Lynk concerning the incarceration of Palestinian detainees out of the occupied territory, "UN expert calls for Israel to end practice of administrative detention and immediately release Maher Al-Akhras," available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26415&LangID=E>.

³ *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465.

postponed a decision on the appeal filed for the release of Anhar Al-Deek on bail through an alternative arrangement. The postponed hearing, to take place on 5 September 2021, comes amid her deteriorating health conditions and impending labor, which may take place prior to the scheduled delivery date.

In light of the severe living conditions, cruel and inhuman treatment, and lack of appropriate medical care, all of which markedly fail to take into account the vulnerabilities of Anhar Al-Deek's condition, and pose a substantial risk of serious harm as well as the endangerment of the life and well-being of the mother and newborn child, our organizations submit this urgent appeal for the immediate intervention of the relevant UN Special Procedure mandates, including by calling on the occupying Power to immediately release Anhar al-Deek.

2. The History of Palestinian Women and Childbirth in Israeli Prisons: Cruel and Inhuman Treatment along with Deliberate Medical Neglect

The case of Anhar underlies the exceptional cases of Palestinian women who have given birth in Israeli prisons subject to inhuman conditions, deliberate medical neglect, and cruel, inhuman or degrading treatment or punishment. Since 1972, 8 cases of detained pregnant Palestinian women who have given birth in occupation prisons have been documented, with the most recent case occurring in 2008. In each of these cases, pregnant female detainees, despite their condition, were still also subjected to the harsh, systematic practices of interrogation, torture, and ill-treatment by the occupying Power endured by their Palestinian female, male, and child detainee counterparts. Notably, the detention, incarceration, and ill-treatment of pregnant women stand in stark violation of international humanitarian law, specifically Article 76 of the Protocol Additional to the Geneva Conventions of 12 August 1949 which requires that detained pregnant women and mothers having dependent infants "have their cases considered with the utmost priority."⁴

Beyond arrest and interrogation, pregnant Palestinian women detainees face an acute lack of prenatal care, adequate nature, constant shackling, and harsh living conditions that result in high-risk pregnancies and endanger the lives of the women and their unborn children. Alarming, this policy of medical neglect applies with pregnant women detainees with pre-existing health conditions. In the case of Manal Ghanem, a Palestinian woman detainee who was two months pregnant at the time of her arrest on 17 April 2003, the IPS refused to give her prescribed medication for Thalassemia, a rare blood disorder and form of anemia, throughout her incarceration, including during pregnancy and postpartum.⁵ In another case, Palestinian woman detainee Fatima Al-Zek, arrested on 20 May 2007 while being two months pregnant, was denied any prenatal or individual medical care despite her age and the increased complications of a

⁴ *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts* (hereinafter 'Protocol I'), 8 June 1977, 1125 UNTS 3.

⁵ Documented by Addameer's lawyers and noted in her lawyer's visit to Manal Ghanem on 5 May 2005.

geriatric pregnancy. Moreover, she suffered extreme weight loss and physical weakness due to poor nutrition and inhuman living conditions in the prison.⁶

The denial of prenatal care, deliberate medical neglect, poor nutrition, and inhuman living conditions directly contravene with international legal stipulations, including the Protocol Additional (I) to the Geneva Conventions,⁷ and Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women, which mandates State Parties to “ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”⁸

The abusive practice of shackling Palestinian women detainees immediately prior, during,⁹ and following childbirth, as is practiced by the occupying Power further endangers the health of the mother and child and amounts to torture and cruel, inhuman or degrading treatment or punishment. In each of the documented cases, Palestinian women were shackled by their hands and feet at the onset of their delivery and during their transfer to an Israeli hospital, while enduring hours of labor pains prior to their entry to the delivery room.¹⁰ Upon their entry to the delivery room, Palestinian women were shackled in some form to the hospital bed, including by hands, legs, or hand and leg, during both natural births and cesarian sections.¹¹ The shackling of pregnant women, particularly incarcerated Palestinian women experiencing high-risk pregnancies due to the lack of prenatal care and poor conditions, raises several critical medical concerns: increased risks associated with pregnancy, labor, and delivery;¹² longer and more painful labor;¹³ reduced mobility causing undue delay in the event of an emergency operation;¹⁴ postpartum recovery and increased risks of hemorrhage.¹⁵

The practice of shackling prominently contravenes UN Standard Minimum Rules for the Treatment of Prisoners, which prohibit the use of restraints “outside of well-defined exceptions,”¹⁶

⁶ Documented in Fatima Al-Zek’s signed affidavit to Addameer.

⁷ See *Supra* 4

⁸ Article 12(2), *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, Israel ratified the convention on 3 October 1981.

⁹ Shackling at the onset of and during delivery is also known as “perinatal shackling”

¹⁰ Documented by Addameer’s lawyers and signed affidavits of former Palestinian women who had given birth in Israeli prisons.

¹¹ *Ibid.*

¹² See American College of Nurse-Midwives (2012), *Position Statement: Shackling/Restraint of Pregnant Women Who Are Incarcerated* [Position statement], available at:

<http://www.midwife.org/acnm/files/acnmldata/uploadfilename/00000000276/anti-shackling%20position%20statement%20june%202012.pdf>.

¹³ *Ibid.*

¹⁴ *Ibid.*; Amnesty International USA, *Women in Custody* at 30, available at <http://www.amnestyusa.org/pdf/custodyissues.pdf>.

¹⁵ *Ibid.*

¹⁶ *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) : resolution / adopted by the General Assembly*, 8 January 2016, A/RES/70/175.

along with the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders which explicitly state “[i]nstruments of restraint shall never be used on women during labor, during birth, and immediately after birth.”¹⁷ In a 2008 report to the Human Rights Council, the UN Special Rapporteur on torture notably identified the practice as problematic, stating, “Pregnant women should not be deprived of their liberty unless there are absolutely compelling reasons to do so and their particular vulnerability should be borne in mind...Measures of physical restraint should be avoided during delivery.”¹⁸ Furthermore, the monitoring body of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment previously noted its concerns with “incidents of shackling of women detainees during birth.” recommending that relevant State Parties adopt all appropriate measures “to ensure that women in detention are treated in conformity with international standards.”¹⁹

Finally, ill-treatment and deliberate medical neglect are extended postpartum, in spite of the precarity of the mother and child’s health. Palestinian woman detainees are quickly transferred back to prison, despite extreme weakness and physical pain, where they are not given any medication.²⁰ Poor physical conditions often compound poor mental health, particularly in cases where the Israeli prison authorities keep the newborn from the mothers for long periods at a time,²¹ serving as a form of psychological torture. In the impending case of Anhar Al-Deek, the imposition of solitary confinement on herself and her newborn immediately following the harsh conditions of delivery are likely to greatly exacerbate known, pre-existing mental illness, notably postpartum depression, and lead to deteriorating physical health.

Deliberate medical neglect includes the lack of adequate medical care for the newborn, such as routine checkups to monitor the baby’s growth and development (i.e., weight measurements and blood tests).²² The newborn children, who are allowed to stay with their mothers up to the age of two, are treated as regular detainees, subject to the same regulations and ill-treatment which negatively affect the child’s cognitive development. In the case of the child of Palestinian woman detainee Manal Ghanem, “A.N” developed fears of the Israeli prison authorities, and the first word they learned to say was the word “count,” referencing IPS’ frequent order for the counting of prisoners.²³ Following a violent suppression of the Palestinian female prisoners by the IOF in

¹⁷ *United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules)* : note / by the Secretariat, 6 October 2010, A/C.3/65/L.5.

¹⁸ *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development* 41, Human Rights Council, 7th session (Jan 15, 2008), UN Doc A/HRC/7/3, available at: <http://www.refworld.org/pdfid/47c2c5452.pdf>.

¹⁹ *Conclusions and recommendations of the Committee against Torture, United States of America* ¶ 33, Committee against Torture (May 2006), UN Doc CAT/C/USA/C/2, available at: <http://www1.umn.edu/humanrts/cat/observations/usa2006.html>.

²⁰ See *Supra* 5, 6, and 10.

²¹ As was the case with Palestinian woman detainee Fatima Al-Zek, see *Supra* 6.

²² See the case of Manal Ghanem, *Supra* 5

²³ *Ibid*; “A.N” references the anonymized initials of the child.

November 2004, “A.N” retreated to a traumatic mutism for about five months before they began speaking again.²⁴

3. Israel’s Practices against Palestinian Women Detainees

Notwithstanding gross violations of international law, including humanitarian²⁵ and human rights law, Israel’s systematic policies of arbitrary and administrative detention included the arrests of thousands of Palestinian women over the years, among them scores of Palestinian mothers with dependent infants. In 2020, the IOF arrested 128 Palestinian women; by the end of the year, there were 37 women prisoners, including 13 mothers, eight wounded prisoners, and three held under administrative detainees.²⁶ Currently, 11 Palestinian mothers remain incarcerated in Israeli prisons out of a total of 39 Palestinian women detainees, all of whom are incarcerated in Damon prison, which is located outside of the oPt, in violation of international law forbidding the transfer of protected peoples outside of the occupied territory.²⁷ Beyond broader documented practices of systematic arbitrary arrests, torture and ill-treatment, inhuman conditions, and deliberate medical neglect, Palestinian women detainees face compounding gendered abuses by Israel.

Palestinian women suffer from violent arrests by the IOF, most prominently by late night and early morning house raids, where they are arbitrarily detained from their houses and families, often leaving behind children who witness the brutality of their mothers’ arrest.²⁸ During their arrest and transfer to interrogation and detention centers, Palestinian women detainees are subjected to various torture techniques and inhuman treatment, including beatings, physical and psychological pressure, including the leveraging of their children and families against them.²⁹

Moreover, the pandemic has further exacerbated arbitrary restrictions and ill-treatment. Palestinian women detainees are held in quarantine in a section of HaSharon prison, commonly known as Al-Ma’bar, for 12-20 days. Nevertheless, Palestinian women detainees’ basic needs are not met as they report filthy cells and poor food quality.³⁰ Moreover, they are held in close proximity to male criminal prisoners, in violation of the UN Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and Rules for the Treatment of Women Prisoners (Bangkok Rules),³¹ where they face continual verbal harassment and profanities by the male prisoners.

Damon prison is an overcrowded and dilapidated prison, dating back to the British mandate, which was designed to absorb and retain humidity, leading to extreme living conditions and medical

²⁴ *Ibid.*

²⁵ Including the Fourth Geneva Conventions and Additional Protocols.

²⁶ *See Supra 1*

²⁷ *See Supra 2*

²⁸ For more information, see Addameer’s Annual Violations Report 2020, *Supra 1*.

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ *See Supra 16 and 17.*

illnesses including rheumatism and skin diseases. In line with the IPS' systematic policy of medical negligence, personal health and hygiene needs are rarely addressed and there remains no specialized gynecological services, even in the aforementioned cases involving the detention of pregnant women.³²

Over the past two years, and particularly in recent months, IOF escalated arbitrary arrest campaigns³³ that include the targeting of female students in relation to their union activities in Palestinian universities.³⁴ In addition, Palestinian female civil society actors have also been arbitrarily detained by the occupation regime, as is the most recent case of the Health Workers Committee Director Shatha Odeh,³⁵ and punitively denied humanitarian requests—routinely granted to Israeli prisoners—such as the refusal to allow political prisoner Khalida Jarrar to participate in her youngest daughter's burial.³⁶

The practices of Israel gravely violate fundamental international principles of humanitarian law and human rights including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,³⁷ the Convention on the Elimination of all Forms of Discrimination against Women,³⁸ the UN Standard Minimum Rules for the Treatment of Prisoners,³⁹ United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules),⁴⁰ as well as mandates upon Israel as the occupying Power under the Fourth Geneva Convention to guarantee prisoners' basic rights.⁴¹

4. Recommendations

As such, our organizations submit this urgent appeal for the immediate intervention of the relevant UN Special Procedure mandates and urge them to:

³² See Addameer's documentation, "Imprisonment of Women and Girls," November 2018, available at: https://www.addameer.org/the_prisoners/women.

³³ See Addameer's report, "Mass Arrests and Detention Amidst the Escalation of Israeli Aggression Against the Palestinian People," 20 May 2021, available at: <https://www.addameer.org/media/4393>.

³⁴ See the latest case of Birzeit University student Layan Nassir (age 21), 03 August 2021, available at: <https://www.addameer.org/news/4464>; and cases of Layan Kayed (23), Elyaa Abu Hijla (21) and Ruba Asi (21), available at: <https://www.addameer.org/news/4439>, including the published opinion by the UN Working Group on Arbitrary Detention, 7 July 2021, available at: https://lphr.org.uk/wp-content/uploads/2021/06/A_HRC_WGAD_2021_8.pdf.

³⁵ Addameer Prisoner Support and Human Rights Association, "Palestinian Civil Society Submit Urgent Appeal to UN Special Procedures on the Arbitrary Detention and Harassment of HRD Shatha Odeh," 12 August 2021, available at: <https://www.addameer.org/news/4469>.

³⁶ Addameer Prisoner Support and Human Rights Association, "Israeli Prison Service Denies Humanitarian Release Appeal For Political Prisoner Khalida Jarrar to Attend Her Youngest Daughter's Funeral," 13 July 2021, available at: <https://www.addameer.org/news/4453>.

³⁷ See *Supra* 3.

³⁸ See *Supra* 8.

³⁹ See *Supra* 16.

⁴⁰ See *Supra* 17.

⁴¹ See *Supra* 1 and 4.

- i. Call on the Occupying Power, Israel, to immediately release Palestinian women detainee Anhar Al-Deek, ahead of her delivery due date, and guarantee her right to liberty and freedom from arbitrary arrest and detention;
- ii. Ensure and uphold Palestinian women detainee Anhar Al-Deek's right to the highest attainable standard of health and mental health, as well as the right to life;
- iii. End its practices of deportation of Palestinian prisoners outside the occupied territory, preventing families from visiting those incarcerated without charge; and
- iv. Call on the international community and all High Contracting Parties to the Fourth Geneva Convention to fulfil their obligations towards protecting human rights and enforcing the implementation of international humanitarian law.