

**Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

REFERENCE:  
AL OTH 68/2020

21 September 2020

Dear Mr. Sharaf,

We have the honour to address you in our capacities as Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; and Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, pursuant to Human Rights Council resolutions 36/15 and 37/8.

In this connection, we would like to bring to your attention information received concerning the **threat of an oil spill from the SAFER oil tanker, berthed off Yemen's west coast.**

According to the information received:

The SAFER oil tanker was launched as a single-hull super-tanker in 1976 and berthed off Yemen's west coast, by SAFER Exploration and Production Operations Company, a Yemeni state owned enterprise known globally as SAFER, Yemen's leading national oil and gas company.

In 2015 the Houthis (who also refer to themselves as Ansar Allah) took over the SAFER tanker, and it has been under Houthi control since then. No maintenance has been carried out on the tanker since the conflict in Yemen escalated six years ago. In March 2018, the Government of Yemen and the Ansar Allah (Houthi) authorities formally requested UN assistance with the SAFER tanker.

“SAFER is carrying 1.1 million barrels of oil. That's about four times as much oil as was discharged in the Exxon Valdez disaster - a spill the world still talks about thirty years later,” reported the Executive Director of the United Nations Environment Programme Inger Andersen and Under-Secretary General for Humanitarian Affairs Mark Lowcock at a UN Security Council in a 15 July 2020 briefing.

A spill could decimate livelihoods of local coastal communities, biodiversity in the region, and heavily impact shipping routes in the Red Sea. The environmental, social and economic impact of such a spill would be devastating. Aside from bringing to light the profound pollution impacts, the global economy's over-reliance on fossil fuels and climate change woes, such a spill would pollute the ocean waters around the area, affecting the lives and environment of approximately 1.6 million people in Yemen.

A UN team is planning to carry out a technical assessment and offer guidance on next steps, in September or October. The prevailing security situation and bureaucratic challenges the UN faced in gaining access to the site has delayed deployment.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our serious concern towards the threat of devastating ocean pollution off the coast of Yemen, in the event of a spill from the SAFER tanker. We are especially concerned that such a spill would violate the right to life, and a life with dignity, which demands States to address risks of environmental degradation and exposure to hazardous substances that can interfere with the effective enjoyment of human rights. We also wish to express our concern that the rights to health, food, water, culture, and to a healthy environment, are at risk of violation.

Yemen as a State has ratified seven core human rights Conventions. The de facto authorities in Sana'a are responsible for the acts committed in the territory under their control including the human rights violations perpetrated by those acting on their behalf.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comments you may have on the above-mentioned information.
2. Please provide information with respect to reasons for the delay occasioned in obtaining necessary clearances for the UN team to conduct assessments of the SAFER tanker.
3. Please provide information on any steps taken or being taken to support the UN technical team's access on the SAFER tanker.
4. Please provide information regarding the oil spill response plans, procedures, and resources put or being put in place.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from you will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Kindly note that a copy of this letter has been transmitted to the authorities of the Republic of Yemen. Please also note that this letter does not in any way imply the expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities.

In the near future, we may publicly express our concerns in a press release as, in our view, the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with you to clarify the issue/s in question.

Please accept, Mr. Sharaf, the assurances of our highest consideration.

Marcos A. Orellana

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

David R. Boyd

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation. These include the:

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Convention on the Rights of the Child;
- UN Declaration on the Rights of Indigenous Peoples; and
- UN Framework Principles on Human Rights and the Environment

There is growing authority that customary international human rights law applies to non-state armed groups, particularly in situations where the armed group exercises effective control over territory or operates as de facto authority over an area (A/HRC/38/44 para 46 ff). Customary international human rights law obligations applicable to non-State armed groups continue to apply in armed conflict situations (International Court of Justice advisory opinion on the threat or use of nuclear weapons and advisory opinion on the construction of a wall, as well as CCPR/C/21/Rev.1/Add. 13, para 11 and CCPR/C/GC/36, para 64).

We wish to draw your attention to international human rights instruments, to which Yemen is party, recalling Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which guarantee the right of every individual to life, liberty and security. The UDHR proclaims that every organ of society shall strive to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance. We would also like to call your attention to General Comment No. 36 of the Human Rights Committee (HRC) on the right to life. According to the HRC, the duty to protect life also implies that States parties should take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including degradation of the environment (para 26). Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors (para 62). In addition, Article 6 of the Convention on the Rights of the Child (CRC) recognizes that every child has the inherent right to life and requires States parties ensure to the maximum extent possible, the survival and development of the child. It further requires State parties to take all effective and appropriate measures to diminish infant and child mortality. Further, Article 7 of the Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007 states that indigenous individuals have the rights to life as well as physical and mental integrity.

We would also like to draw your attention to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and

mental health. The right to health is also guaranteed as a part of the UDHR, Article 25, which is read in terms of the individual's potential, the social and environmental conditions affecting the health of the individual, and in terms of health services. General Comment No. 14 of the Committee on Economic, Social and Cultural Rights (CESCR) describes the normative content of ICESCR Article 12 and the legal obligations undertaken by the States parties to respect, protect and fulfil the right to physical and mental health. In paragraph 11 of General Comment No. 14, the CESCR interprets the right to health as "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information". Furthermore, Article 24 of the CRC recognizes the right of the child to the enjoyment of the highest attainable standard of physical and mental health, and the concomitant duty of the State to provide adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution.

We would like to recall the duty of all States to prevent exposure to hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes to the UN General Assembly (A/74/480). This obligation derives implicitly, but clearly, from any number of rights and duties enshrined within the global human rights framework, under which States are obligated to respect and fulfil recognized human rights, and to protect those rights, including from the implications of exposure to toxics. Those rights include the human rights to life, health, safe food and water, adequate housing, and safe and healthy working conditions. The duty to prevent exposure is further reinforced by the national and regional recognition of the right to a safe, clean, healthy and sustainable environment, including clean air. The existence of the State's duty to prevent exposure is reinforced by the right to full respect for the bodily integrity of the person, which helps to provide context to the extent to which every person should have the right to control what happens to their body (see A/HRC/39/48). Read together, international human rights clearly establish a duty to prevent exposure to hazardous substances and wastes.

We would also like to bring to your attention the Framework Principles on Human Rights and the Environment as detailed in the 2018 report of the Special Rapporteur on human rights and the environment (A/HRC/37/59). The Principles state that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (Principle 1); States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (Principle 2); and States should ensure the effective enforcement of their environmental standards against public and private actors (Principle 12).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.