

Mandates of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to education and the Special Rapporteur on extrajudicial, summary or arbitrary executions

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(Please use this reference in your reply)

25 August 2023

Mr. Hisham Sharaf,

We have the honour to address you in our capacities as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to education and Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolutions 45/10, 45/3, 44/3 and 44/5.

In this connection, we would like to bring to your attention information received concerning **alleged insufficiency and inadequacy of the mechanisms implemented by Ansar Allah movement (or the Houthi movement, the de facto authority in Sana'a) to provide redress and reparation to victims of gross violations of human rights and serious violations of international humanitarian law committed by the group during the armed conflict, in line with the scale and severity of the harm done; and to effectively investigate those violations and establish the respective responsibilities.**

According to the information received:

Context

In 2014, an armed conflict broke out between the Government of the Republic of Yemen and the Ansar Allah movement (or the Houthi movement, the de facto authority in Sana'a). On 21 September 2014, Ansar Allah expanded its territorial hold and took control of the capital, Sana'a. On 26 March 2015, a coalition of nine States led by the Kingdom of Saudi Arabia and the United Arab Emirates (henceforth, the Saudi/UAE-led coalition), intervened in the conflict in support of the Government of the Republic of Yemen. The coalition launched an air raid against Ansar Allah (Operation Decisive Storm), which initiated the outbreak of a full-blown armed conflict.

In the following years, the Saudi/UAE-led coalition operated in Yemen with the Government's consent. Since late 2015 the coalition, in particular the United Arab Emirates (UAE), actively trained, funded, and armed various groups, leading to the proliferation of coalition-backed militias. Yemen's military and armed forces have actively taken part in the operations of the coalition, notably by contributing intelligence to identify targets for airstrikes. Ansar Allah has carried out attacks in various parts of Yemen, using tanks, trucks, mines and various pieces of heavy and light artillery, and has established control over Sana'a and large parts of northern Yemen.

Mr. Hisham Sharaf

Violations of International Human Rights Law and International Humanitarian Law

Reports indicate that the Government of the Republic of Yemen and the Saudi/UAE-led coalition and Ansar Allah have committed serious violations of international human rights law (IHRL) and international humanitarian law (IHL) in Yemen.

The coalition has reportedly killed and injured thousands of civilians in indiscriminate and disproportionate air strikes. In addition, the Government of the Republic of Yemen and the coalition carried out indiscriminate ground shelling, recruited child soldiers, arbitrarily detained, disappeared and tortured people, attacked schools and healthcare facilities, and used starvation as a weapon of war.

Ansar Allah carried out indiscriminate ground shelling, used anti-personnel landmines and laid anti-vehicle landmines indiscriminately, attacked schools and healthcare facilities, used starvation as a weapon of war, recruited and used child soldiers, arbitrarily detained, and tortured people, perpetrated acts tantamount to enforced disappearance and subjected people to sexual violence.

Civilians have reported the direct and indirect physical, psychological, social, and economic costs they bore as a result of warring parties' attacks. They also reported the struggle to get back on their feet without assistance or reparations, and that they felt that warring parties in Yemen were more likely to repeat their wrongs than to remedy them.

The Government of the Republic of Yemen, the members of the coalition and Ansar Allah as non-State actor party to the conflict have made limited and inadequate efforts to address the harm caused to civilians and have failed to provide reparations for the serious violations of human rights and humanitarian law committed in Yemen.

Inadequate investigative and redress mechanisms for victims

In 2018, the Ansar Allah movement established a Grievances Committee that would receive complaints from Yemeni citizens against any supervisor or member of the armed group. Ansar Allah also established local Grievances Committees in each governorate under its control. The Ibb Governorate Redress Committee has reportedly received over 800 complaints.

In May 2018, the President of the Ansar Allah Supreme Political Council issued Decision No. 51, re-establishing the Authority to Lift Injustice, a former complaint mechanism that had been created through Presidential Decree No. 9 of 2011. The Authority to Lift Injustice would hear petitions from individuals seeking intervention to end and redress injustice suffered at the hands of Ansar Allah's members.

In 2020, Ansar Allah announced a merger between the Authority to Lift Injustice and the Grievances Committee to facilitate the provision of redress. It is unclear what, if any, subsequent structural changes were made to either body.

Reports indicate that neither body operates transparently. There is no clear criteria to determine victims' eligibility for assistance, available redress measures, and in which cases the bodies should act. In addition, Ansar Allah does not publish information on the interventions carried out by these bodies, including on the cases received and considered, their decisions, and the reparations awarded in response to civilian harm.

Furthermore, both bodies lack independence as they are composed of Houthis members, including those likely implicated in violations and subject of complaints received by the mechanisms.

Civil society reported that victims of Ansar Allah's operations in Yemen were mostly unaware of the redress bodies that had been established by the armed group. When informed, victims reported lack of trust that the bodies would credibly investigate or provide any form of accountability or reparation. With regard to the victims that did submit claims, it is reported that while specific redress measures were provided on exceptional basis, the vast majority of complaints submitted by civilian victims did not result in the provision of assistance or reparation for the harm suffered, nor in apologies or acknowledgement of the damage caused by Ansar Allah.

Ansar Allah announced the creation of new redress-related bodies, including an independent national investigation committee. The committee does not appear to have been constituted yet.

As of July 2023, it was reported that a "national guide for monitoring and documenting crimes of aggression" was nearing completion and approval but nothing more is known about it.

Civil society informed that Ansar Allah's redress bodies have exposed some plaintiffs to threats of retaliation and has retaliated against people who have accepted condolence payments from the Saudi/UAE led coalition.

While we do not wish to prejudge the accuracy of these allegations, we express serious concern at the alleged insufficiency and inadequacy of the mechanisms implemented by Ansar Allah to provide redress and reparation to victims of gross violations of human rights and serious violations of international humanitarian law committed by the group during the conflict, in line with the scale and severity of the harm done; and to effectively investigate those violations and establish the respective responsibilities.

We welcome the creation of the Grievance Committee and the reinstatement of the Authority to Lift Injustice in 2018. However, we regret the reported lack of transparency in the selection and processing of cases investigated and adjudicated by these bodies, and the lack of established criteria for such processes. We further note with concern the allegations of lack of independence in the composition of these bodies, which undermines their legitimacy, impartiality and effectiveness.

We recall that victims have the right to know the truth about the responsibilities and circumstances that led to the violations suffered and that effective measures must be adopted to investigate and establish the truth about gross human

rights violations. Investigations should be prompt and impartial and must be carried out by institutions through clearly established procedures and whose members are appointed following transparent processes that guarantee their independence.

Although the responsibility to investigate serious violations of human rights and humanitarian law attaches to States, we recall that the UNGEE has repeatedly found Ansar Allah to be bound by these obligations to the extent that undertaking such investigations is essential to fulfilling victim's rights to justice and to guarantee the non-repetition of violations. We take note that Ansar Allah has reportedly acknowledged readiness to comply with International Humanitarian Law in a correspondence addressed to the UNGEE. We recall that de facto authorities, who control territories and populations, have an obligation to protect the most fundamental human rights and may be held responsible for the conduct of their personnel where it can be shown that they have failed to exercise due diligence to prevent, investigate and discipline criminal conduct.

We express further concern at the allegation that the majority of complaints from victims remains unaddressed and have not resulted in material reparation, apologies or acknowledgement of the damage caused by Ansar Allah. We recall that victims of gross violations of human rights and serious violations of international humanitarian law have the right under international law to full and effective reparation for the harm suffered. Reparations should endeavor to restore, to the greatest extent possible, the injured party to their situation before the violation. Reparations may take one or several forms, including restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition. Full, adequate and effective reparation may require a combination of several forms and should be promptly delivered and proportional to the gravity of the violation and the harm suffered. Ideally, reparations should be provided directly by the wrongdoer, whether it is an individual, a non-State armed group, or a State.

In addition, we note with utmost concern the allegations of retaliation and intimidation against victims of violations of human rights or humanitarian law who submit claims to these or other redress bodies. We recall that international standards require that such victims are protected against intimidation and retaliation before, during and after judicial, administrative, or other proceedings that affect their interests.

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 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 comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the measures adopted by Ansar Allah to provide access to remedy and reparation for civilian victims of serious violations of human rights and humanitarian law committed by

the group in the context of the armed conflict in Yemen.

3. Please indicate what measures have been adopted to ensure that the compensation provided to victims by the Grievance Committee and the Authority to Lift Injustice is proportional to the gravity of the violation and the harm suffered, and does not curtail victims' access to other forms of reparation, such as restitution, rehabilitation, satisfaction, and guarantees of non-repetition.
4. Please provide more detailed information about the process and operations of the Redress Committee and the Authority to Lift Injustice; on the measures adopted to ensure the independency, impartiality and transparency of their investigations and decision-making process; and on the mechanisms in place to guarantee the independence and impartiality of their members.
5. Please indicate the steps taken by Ansar Allah within the areas over which it holds control aimed at holding accountable anyone within the ranks of the Ansar Allah forces, including superior officials, who engaged in serious violations of human rights or humanitarian law in the context of the armed conflict. If no one has been held accountable so far, please indicate why.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received 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.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please note that a letter of similar content will be sent to the Government of the Republic of Yemen, the Government of the Kingdom of Saudi Arabia, and the Government of the United Arab Emirates.

Please accept the assurances of our highest consideration.

Fabian Salvioli

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Aua Baldé

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Farida Shaheed

Special Rapporteur on the right to education

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex

Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to draw the attention to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We would like to refer to the duty to undertake prompt, thorough, independent and impartial investigations of violations of human rights and international humanitarian law and to ensure that those responsible for serious crimes under international law are prosecuted, tried and duly punished, as established in the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, (principle 19). We recall that *de facto* authorities, who control territories and populations, have an obligation to protect the most fundamental human rights and may be held responsible for the conduct of their personnel where it can be shown that they have failed to exercise due diligence to prevent, investigate and discipline criminal conduct. In the present case, the Ansar Allah movement, as armed non-State actor, is bound under international law to respect core human rights obligations, such as the right to life and not to be subjected to tortured, enforced disappearance or sexual violence, as well as the obligations to investigate, protect, prevent and punish such violations.

In a report to the Human Rights Council, the former Special Rapporteur on extrajudicial, summary or arbitrary executions considered that, while States have a central role in upholding human rights law, the same may also apply to other actors depending on a context-dependent assessment based, in particular, on three interlinked indicators: (i) the nature and extent of armed non State actors' (ANSAs) control; (ii) the level of ANSAs governance and (iii) consequently, the extent of their capacity (A/HRC/38/44, para. 52.) Armed non-State actors that have displaced the *de jure* government and established (exclusive) territorial control are responsible for the protection (and accountable for violations) of human rights in areas under their control (para. 19 (d)) The Special rapporteur understands *de facto* authorities are armed non-State actors exercising exclusive control over a specific territory (para. 46).

In addition, we would like to recall the right of victims of human rights violations to receive full reparation for the harm suffered. The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law establish the right of victims to receive adequate, effective and prompt reparation for the harm suffered, and to have access to relevant information on reparation mechanisms (paragraph 11). Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families (paragraph 10). Reparation should be proportional to the gravity of the violations and the harm suffered. Victims should be provided with full and effective reparation, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition (paragraphs 15 and 18). With regards to measures of satisfaction, these should include measures aimed at acknowledging the violations suffered by victims and the responsibility of the perpetrators, and at restoring the dignity of victims, including through a public

apology, a public declaration restoring the dignity and rights of victims, and an accurate account of the violations they endured (paragraph 22).

Furthermore, we would like to refer to the inalienable right of victims of human rights violations to know the truth about past events. The Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity asserts the right of victims to know the truth concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes. Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations (principle 2). Irrespective of any legal proceedings, victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims' fate (principle 4).

As a result, commissions of inquiry, including truth commissions, must be established through procedures that ensure their independence, impartiality and competence (principle 7). To this end, the terms of reference of commissions of inquiry, including commissions that are international in character, should respect the following guidelines.

They shall be constituted in accordance with criteria making clear to the public the competence and impartiality of their members, including expertise within their membership in the field of human rights and, if relevant, of humanitarian law. They shall also be constituted in accordance with conditions ensuring their independence, in particular by the irremovability of their members during their terms of office except on grounds of incapacity or behaviour rendering them unfit to discharge their duties and pursuant to procedures ensuring fair, impartial and independent determinations.

Their members shall enjoy whatever privileges and immunities are necessary for their protection, including in the period following their mission, especially in respect of any defamation proceedings or other civil or criminal action brought against them on the basis of facts or opinions contained in the commissions' reports.

In determining membership, concerted efforts should be made to ensure adequate representation of women as well as of other appropriate groups whose members have been especially vulnerable to human rights violations.

In his report on the role and responsibilities of non-State actors in transitional justice processes (A/HRC/51/34), the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence established that non-State armed groups and ex-combatants have a legal, political and moral duty to engage with truth-seeking processes concerning their involvement in past violations of humanitarian and human rights law (paragraph 104). In addition, non-State armed groups are legally responsible for the actions of their members. Ex-combatants who have been directly involved in serious violations of humanitarian law or human rights should be liable for prosecution. Non-State armed group leaders are legally responsible and should be liable for the conduct of their subordinates and should also be liable for prosecution (paragraph 107). Moreover, non-State armed groups should contribute to post-conflict or post-authoritarian reparations. This can help to rehumanize both victims and perpetrators. Non-State armed groups' commitments to engage in practical and symbolic reparations should be part of any negotiated peace agreement. If non-State

armed groups do not have the capacity to provide complete reparations, their efforts should be supplemented by the State. Non-State armed groups should offer apologies to victims that meet the requirements of international standards, as set out in the Special Rapporteur's report on the promotion of truth, justice, reparation and guarantees of non-recurrence. (110-111)

In addition, we would like to recall that according to the Basic Principles and Guidelines, victims should be treated with humanity and respect for their dignity and human rights, A victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation (article 10). Measures should be taken to minimize the inconvenience to victims and their representatives, protect them against unlawful interference with their privacy as appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims (article 12).