

**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 extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders**

Ref.: AL OTH 110/2023  
(Please use this reference in your reply)

13 September 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 extrajudicial, summary or arbitrary executions; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 45/10, 45/3, 44/5, 52/9, 50/17 and 52/4.

In this connection, we would like to bring to your attention information received concerning **the alleged instances of surveillance, intimidation and harassment carried out by the Supreme Council for the Management and Coordination of Humanitarian Affairs and International Cooperation (SCMCHA) against civil society organizations which signed or agreed to the Yemen Declaration of Justice and Reconciliation (YDJR).**

We wish to recall the communication sent on 25 August 2023 regarding the 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. The communication also addressed the alleged exposure of victims and plaintiffs to threats of retaliation on behalf of Ansar Allah's redress bodies.

According to the information received:

On 26 July 2023, a large group of civil society organizations launched virtually the YDJR, of which a draft had been discussed at the margin of the Yemen International Forum (YIF), held in the Hague (12-15 June 2023). The YDJR stated their common vision to achieve justice and reconciliation in post-conflict Yemen and was the result of joint efforts from local organizations. The aim of the Declaration was to open a debate and enhance cooperation among civil society, local political actors, and the international community regarding the importance of introducing a transitional justice approach to peace negotiations and discussions related to the future of Yemen.

On 15 August 2023, several civil society organizations received messages from the SCMCHA demanding a reply on whether or not they had signed the YDJR. The correspondence said: “clarification on whether or not you signed the Yemen Declaration of Justice and Reconciliation should be made within two days at the latest, and you should make an official reply to this particular e-mail.”

In responding to the letter, some organizations felt forced to deny being involved in the YDJR due to fear of harassment or retaliation from the de-facto authorities in Sana'a.

Some representatives from civil society organizations, even those who had felt forced to deny any relation with the YDJR, were summoned to the SCMCHA headquarters, where they were interrogated about the subject matter.

Civil society organizations, and human rights defenders, also reported facing restrictions imposed by the de-facto authorities in Sana'a after the SCMCHA sent the aforementioned letter.

While we do not wish to prejudge the accuracy of these allegations, we express serious concern at the alleged instances of surveillance, undue interference and harassment faced by representatives of civil society organizations, which in some cases contain human rights defenders, which have signed the YDJR launched on 26 July 2023 with the aim of enhancing debate and cooperation among relevant local and international stakeholders regarding the importance of adopting a transitional justice approach to peace efforts and negotiations in Yemen. We are further concerned that these acts of harassment against several civil society organizations may lead to self-censorship and have a chilling effect on their rights to freedom of peaceful assembly and of association. We are particularly concerned that the acts of harassment against these actors are allegedly led by the SCMCHA, a body that has no legal authority to question how Yemeni civil society organizations exercise their freedom of expression and of association. We recall that international standards require that victims of gross violations of human rights and serious violations of international humanitarian law and civil society organizations supporting them are protected against intimidation and retaliation before, during and after judicial, administrative, or other proceedings or activities that affect their work or interests.

International law guarantees the right of such victims to access truth, justice and reparation for the harm suffered. 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 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:

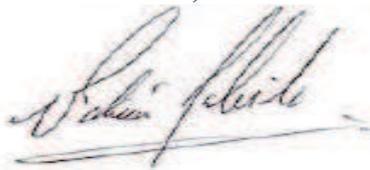
1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information about the measures adopted by Ansar Allah to ensure that victims and civil society organization active on transitional justice issues are able to organize, discuss, work, and associate freely in the areas pertaining to their work without intimidation, harassment or fear of retaliation, as well as about the measures adopted to ensure the security and physical and psychological well-being of these actors.
3. Please provide information about the measures adopted by Ansar Allah to ensure the adoption of a comprehensive transitional justice process in the context of peace efforts in Yemen.
4. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization or criminalization of any kind.

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.

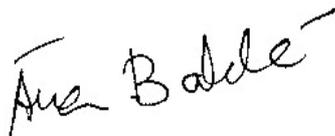
While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged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

Please note that a copy of this letter will be sent to the Government of the Republic of Yemen.

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



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



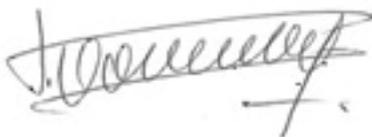
Aua Baldé  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances



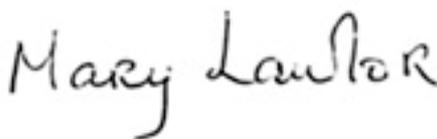
Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions



Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression



Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association



Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

## 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 recall the right of victims of gross human rights violations to an effective remedy for the harm suffered and to obtain redress. In this regard, 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 that victims of gross violations of international human rights law or serious violations of international humanitarian law shall have access to an effective judicial remedy as provided for under international law, including equal and effective access to justice.

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 enforced disappearance, the victims' fate and whereabouts (principle 4). We make also reference to the Working Group's General comment on the Right to the Truth in Relation to Enforced Disappearances (A/HRC/16/48), which elaborates on the right to the truth as both a collective and an individual right. Each victim has the right to know the truth about violations that affected him or her, but the truth also has to be told at the level of society as a "vital safeguard against the recurrence of violations".

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). 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).

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, prevent and punish such 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).

Concerning the need to ensure effective participation of victims and civil society in processes aimed at addressing gross human rights violations and preventing their recurrence, we would like to recall that the Updated Set of Principles emphasize the meaningful role of victims and other sectors of civil society in transitional justice processes and the importance of broad public consultations in decisions related to the establishment and composition of truth commissions, the design, implementation and assessment of reparation programmes, as well as in the establishment of institutional reforms aimed at preventing a recurrence of violations (see principles 6, 32 and 35). In addition, Human Rights Council resolution 42/17 recognizes the fundamental role of civil society, through its engagement, advocacy and participation in decision-making processes, in preventing gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity from being committed, or in addressing their legacy by promoting the right to the truth, justice, reparation and guarantees of non-recurrence (preamble). We would like to emphasize that victims and civil society play a crucial role in societies coming out of conflict and that a continued adversarial relation with human rights defenders and victim groups can jeopardize any domestic initiatives for reconciliation and deprive it of any credibility. Furthermore, victims and civil society enjoy the right to freedom of peaceful assembly and association under art. 21 and art. 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Yemen on 9 February 1987.

We would further like to recall that international standards establish the duty to adopt effective measures to ensure the security, physical and psychological well-being, and, where requested, the privacy of victims and their representatives who participate in transitional justice process. According to the Basic Principles and Guidelines, victims

should be treated with humanity and respect for their dignity and human rights (article 10). Measures should be taken to minimize the inconvenience to victims and their representatives, protect them against unlawful interference 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 their interests (article 12). In his report A/HRC/34/62, the former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence called on all Member States and all relevant parties to a conflict to guarantee the security of those who have not only already been victimized, but who are willing to make the extraordinary effort, almost invariably at high cost to themselves and their families, to contribute to the success of transitional justice measures (para. 98).

Finally, as some of the victims implicated in these allegations are human rights defenders, we deem appropriate to remind you of the important and legitimate role that human rights defenders play and the protection they are entitled to by international law. We wish to highlight in particular the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms also known as the Declaration on Human Rights Defenders, and which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has the primary responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Specifically, we would like to draw your attention to the General Assembly Resolution 68/181, which urges States to acknowledge publicly the important and legitimate role of women human rights defenders in the promotion and protection of human rights, democracy, the rule of law and development as an essential component of ensuring their protection, including by publicly condemning violence and discrimination against them (OP7). We invite you to refer to the Human Rights Council resolution 31/32 as well, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves (OP5, 19 and 20).

We would also like to refer to Human Rights Council Resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.