

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: UA OTH 8/2024
(Please use this reference in your reply)

8 February 2024

Dear Mr. Sharaf,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; Working Group on Arbitrary Detention; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 53/4, 51/8, 54/14, 52/9, 52/4, 52/7 and 50/7.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the Special Procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies and other non-State actors) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

We would like to bring to your attention information we have received concerning allegations of arbitrary deprivation of liberty, acts tantamount to enforced disappearance, serious breaches of due process guarantees and of the right to defence, ill treatment in captivity, sentencing to death and **risk of imminent execution of Yemeni woman human rights defender Ms. Fatima Saleh Al-Arwali** by the Ansar Allah movement, or Houthi movement, the *de facto* authority in Sana'a and large parts of northern Yemen.

Ansar Allah movement

In the communication [AL OTH 97/2023](#), Special Procedures mandate holders already expressed great concerns regarding Ms. Fatima Saleh Al-Arwali's case, addressing information received concerning the deprivation of liberty and acts tantamount to enforced disappearance she was subjected to. We regret that no response has yet been received to this communication.

Ms. Al-Arwali is a woman human rights defender and activist, board member of the Arab League's Union of Women Leaders and head of its Yemen office. She was a vocal supporter of human rights and women's rights on her social media pages and led a non-governmental organization for human rights training. She was head of the Habitat Organization for Human Rights Development and head of the Yemen office of the Women's Leadership Union affiliated with the League of Arab States. In recent years, Ms. Al-Arwali has researched, documented and publicly denounced the recruitment of children by the Ansar Allah or Houthi movement as well as violations suffered by women captured by this armed group. Her deprivation of liberty and death sentence may have been imposed in retaliation for her work for the promotion and protection of human rights.

According to the information received:

A massive arrest campaign against women activists has reportedly taken place since December 2017, involving the deprivation of liberty of hundreds of women, many of whom are heads of organizations and workers in the human rights, relief and humanitarian fields.

On 12 August 2022, Ms. Al-Arwali was reportedly stopped and deprived of liberty at the Al-Hawban checkpoint, east of the city of Taiz, by persons belonging to the Ansar Allah movement. These forces reportedly mentioned that she was included in a list of names sent by the intelligence service in Sana'a as a result of alleged suspicious activities and critical posts on her Facebook page. Allegedly, no warrant for her arrest had been issued and her deprivation of liberty was carried out outside any legal proceedings.

She was then reportedly subjected to an act tantamount to enforced disappearance and deprived of her liberty, with no contact with her family or legal counsel for months. Her relatives later found out that she had been held at a facility run by the Houthi Security and Intelligence Service (SIS) in Sana'a. Reportedly, charges were only presented against Ms. Al-Arwali one year after her capture. While being held captive, she was placed outside the protection of the law and was not brought to any judicial authority.

On 29 November 2022, Ms. Al-Arwali's lawyer reportedly submitted a motion to the *de facto* authorities' Head of Specialized Criminal Prosecution to request Ms. Al-Arwali's release, claiming they were holding her without legal grounds.

On 3 December 2022, the Specialized Criminal Prosecutor in the State Security Prosecution office (SCP) asked the SIS for Ms. Al-Arwali's file for investigation. On 28 February 2023, the SCP asked the SIS again to transfer Ms. Al-Arwali's file to them or release her if she faced no charges. Her file was transferred a few days later.

On 14 March 2023, Ms. Al-Arwali's lawyers were reportedly informed that they should attend her interrogation that day. However, when the lawyer met her, Ms. Al-Arwali was emotionally distressed, and allegedly refused her counsel's services.

On 22 March 2023, a person associated with Ms. Al-Arwali was granted permission from the head of the SCP to visit her in prison, but the local prosecutor allegedly claimed that she did not want to see him. Ms. Al-Arwali was in touch with relatives until early May 2023.

On 23 May 2023, Ms. Al-Arwali's lawyers were told by the SCP that her file was in the process of preparation to be presented to the Specialized Criminal Court.

In August 2023, Ms. Al-Arwali's lawyers learnt of an indictment against her on charges of espionage and aiding parties hostile to the Ansar Allah or Houthi movement, specifically the United Arab Emirates (UAE). According to the information received, Ms. Al-Arwali travelled to the UAE in April 2022 with the purpose of visiting her mother and the Prosecution related this visit to the alleged espionage activities for which she was indicted. One of Ms. Al-Arwali's lawyers learnt indirectly from sources that she might have confessed during her interrogations. It is not known under what condition Ms. Al-Arwali's interrogations took place. During a visit that took place after the alleged confession, a person associated with her noted that needle pricks were clearly visible on her hands, raising legitimate concerns of torture.

Ms. Al-Arwali has reportedly been held in incommunicado detention for months and has been confined in a cell of one square meter, without seeing daylight for an entire year. In one of the court sessions, Ms. Al-Arwali informed the judge about the very poor conditions of her captivity and denounced having been subject to ill-treatment in the detention facility. The judge allegedly did not respond to her humanitarian demands, including requests to be provided with some underwear and necessary hygiene products.

Ms. Al-Arwali was reportedly subject to an expeditious judicial proceeding against her, where she was unable to exercise her right to a legal counsellor and where the guarantees of due process and a fair trial were not respected. The presiding judge is reported to have convinced her that she did not need a legal counsellor.

On 5 December 2023, the Specialized Criminal Court First Instance located in Amanat Al Asimah sentenced Ms. Al-Arwali to death. It is also reported that subsequently an execution order was issued against her.

Despite not having legal counsel to represent her and her family not being present at the court proceedings, Ms. Al-Arwali has reportedly refused her right to appeal. If such a statement has in fact been made by her, it is unclear under which treatment and circumstances she decided to forego her appeal options of appeal. If the judicial authorities deem that she has foregone her right to an appeal of the death sentence, there is an imminent threat of her sentence being executed.

On 18 January 2024, Ms. Al-Arwali's family received a call from a person believed to be associated with the Security and Intelligence Services of the Ansar Allah movement, informing them that the public execution of Ms. Al-Arwali is scheduled to take place on 21 February 2024 in the Tahrir Square of Sana'a. The family was asked to collect the body of Ms. Al-Arwali on the said date.

Precedent practice

The death sentence handed down to Ms. Al-Arwali is very concerning given the past practice of the *de facto* authorities in similar cases. For example, on 18 September 2021, the *de facto* authorities publicly executed nine men, including one who was reportedly a minor when he was detained. The nine were reportedly accused of having participated in the assassination of Saleh Ali Al-Samad, president of the Supreme Political Council of the *de facto* authorities in Sana'a, who was killed in an airstrike on 23 April 2018. The defendants were sentenced to death in a process that did not comply with fair trial standards under international law. They were reportedly tortured and forced to sign confessions. In addition, they were reportedly denied their right to be represented by a lawyer at several stages of the proceedings. A request for a medical assessment of the youngest defendant to ascertain his age was also allegedly denied.

Reportedly, in the case of Ms. Al-Arwali and many others, their deprivation of liberty and detention by the SIS did not conform to the human rights guarantees afforded under international law.

While we do not wish to prejudge the accuracy of the aforementioned allegations, we wish to stress that in addition to its obligations under international humanitarian law, the Ansar Allah movement, as *de facto* authority in the territory concerned, is responsible for ensuring the human rights of individuals under their effective control.

In connection to these allegations, **we express our utmost concern at the risk of imminent execution of Ms. Al-Arwali.** We further express our grave concerns for the alleged deprivation of liberty, followed by acts tantamount to enforced disappearance, allegations of torture and lack of due process Ms. Al-Arwali may have been subjected to. We also express our profound dismay at the allegations that Ms. Al-Arwali's death sentence resulted from a judicial proceeding which did not comply with the due process and fair trial guarantees required under international law.

We are appealing to *de facto* authorities to ensure the right to life, liberty and security of person, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, the right to fair trial and equality before the law, the right not to be subjected to arbitrary arrest, freedom of expression, freedom of peaceful assembly and of association, enshrined in art. 3, 5, 7, 9, 10, 11, 19 and 20 of the Universal Declaration on Human Rights (UDHR) and which appear to have been violated or at risk of violation in the above mentioned circumstances.

We recall that the right to life is a supreme *jus cogens* norm from which no derogation is permitted under any circumstances. We also stress the absolute and non-

derogable prohibition of torture or cruel, inhuman or degrading treatment and of enforced disappearances, both of which have attained the status of *jus cogens* and are also prohibited under customary international humanitarian law (rules 90 and 98 respectively).

We further wish to emphasize that the death penalty has long been regarded as an extreme exception to the fundamental right to life and express our deepest concern that in the case of Ms. Al-Arwali, the death penalty was not imposed for offenses corresponding to the ‘most serious crimes’ as stipulated under international law. In this context, we strongly emphasise that the supposed crimes of espionage or aiding a hostile party by no means constitute a ‘most serious crime’ and under no circumstances would warrant the imposition of the death penalty.

In this regard, the report of the former Special Rapporteur on extrajudicial, summary or arbitrary executions, indicated that “the conclusion to be drawn from a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting these provisions is that the death penalty can only be imposed in such a way that it complies with the stricture that it must be limited to the most serious crimes, in cases where it can be shown that there was an intention to kill which resulted in the loss of life” ([A/HRC/4/20](#), paragraphs 39-53). The charges of espionage attributed to Ms. Al-Arwali do not meet this internationally recognized threshold. Furthermore, the allegation that these charges may be related to her work as a human rights defender and that there is a glaring lack of due process in her supposed trial negates any ‘seriousness’ of her alleged crime.

With reference to paragraphs 4, 5 and 8 of the [United Nations Safeguards for the Protection of the Rights of Persons Facing the Death Penalty](#), adopted by the United Nations Economic and Social Council in 1984, we would wish to recall that in the case of offenses that in fact reach the threshold of the most serious crimes, which does not appear to be the case in this instance, the death penalty can only be carried out on the basis of a final judgment by a competent court after the completion of all ongoing judicial and other proceedings relating to pardon or commutation of the sentence.

We recall that all defendants facing the imposition of capital punishment must benefit from the guarantees of due process, including the services of a competent defence counsel at every stage of the proceedings. Defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt, in strict application of the highest standards for the gathering and assessment of evidence ([E/CN.4/1997/60](#), para. 81).

Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence and that pardon or commutation may be granted in all cases of capital punishment, as established in paragraph 7 of the above-mentioned Safeguards.

We reiterate that any measures to abolish the death penalty should be seen as progress towards the realization of the right to life.

We also draw to your attention that in the 40 years of experience of the Special Procedures mandate on extrajudicial, summary or arbitrary executions, and a careful review of numerous studies and evidence, the death penalty has never been proved to be an effective deterrent for crime ([A/HRC/42/28](#)).

We wish to recall that in accordance with article 9 of the Universal Declaration of Human Rights, no one shall be subjected to arbitrary arrest, detention, or exile. In accordance with the jurisprudence of the Working Group on Arbitrary Detention, arrest or detention as punishment for the legitimate exercise of rights is arbitrary.

We also wish to note that the freedom of opinion and the freedom of expression are indispensable conditions for the full development of the person. They are essential for any society. They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions.

Additionally, we would like to underscore that the “principle of legal certainty” under international law, enshrined in article 11 of the UDHR, requires that criminal laws are sufficiently precise so it is clear what types of behaviour and conduct constitute a criminal offense and what would be the consequence of committing such an offense. This principle recognizes that ill-defined and/or overly broad laws are open to arbitrary application and abuse. Moreover, the law must be formulated with sufficient precision so that the individual can regulate his or her conduct accordingly. The seriousness of, and punishment for, a criminal conviction must be proportionate to the culpability of the perpetrator.

Further, we wish to underscore that any judicial proceeding shall comply with the due process and fair trial guarantees required by international law. These include the failure to be promptly informed about the charges, access family, the right to be represented by legal counsel and to be brought before a judicial officer promptly after detention. These appear to be the standard practice of SIS when detaining individuals. It is also concerning that these violations of procedures and due process are not taken into consideration by the prosecution and the court during investigations and trial respectively.

In view of the urgency of the matter and the irreversibility of the death penalty, we call upon all relevant authorities to ensure Ms. Al-Arwali is not executed. Her execution, based on the facts available to us, would constitute a flagrant violation of applicable international human rights standards and would thus be an arbitrary execution.

We are issuing this appeal in order to safeguard the rights of Ms. Al-Arwali from irreparable harm and without prejudicing any eventual legal determination.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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 any comment you may have on the above-mentioned allegations.

2. Please clarify the legal grounds for Ms. Al-Arwali's deprivation of liberty and explain how these comply with international human rights law and standards.
3. Please provide detailed information on the current place and conditions of deprivation of liberty of Ms. Al-Arwali, including whether she can have contact with her family and lawyers. Please explain how those conditions are consistent with the provisions of the Standard Minimum Rules for the Treatment of Prisoners (The Mandela Rules).
4. Please provide information about the acts attributed to Ms. Al-Arwali that provide the basis for the criminal charges that led to the imposition of the death penalty on her. Further, please inform in detail about the proceedings against Ms. Al-Arwali and explain how they complied with international human rights standards, respected the guarantees of due process and the right to defence.
5. Please provide detailed information on the extent to which the imposition of the death penalty in the case of Ms. Al-Arwali, in light of the absence of legitimate judicial proceedings, the vague nature of the charges attributed to her and noting the alleged connection of this sentence to her work as a human rights defender, is consistent with international human rights law.
6. Please inform about whether a judicial appeal proceeding is set to take place to review the sentence of death imposed on Ms. Al-Arwali. If not, please indicate whether the Supreme Court set up by the Ansar Allah movement will review the case before the implementation of the death penalty.
7. Please provide information on the existing procedures for persons sentenced to death to seek clemency or a pardon, and also provide detailed information on how Ms. Al-Arwali can access such procedures.
8. Please provide information on safeguards in place during the deprivation of liberty of individuals to ensure that they are not subject to torture or otherwise ill-treatment and indicate whether the allegations of ill-treatment against Ms. Al-Arwali were investigated. If no, please explain why. If, yes please provide the findings of such investigations and explain the actions taken against perpetrators and remedial measures taken to prevent recurrence.
9. Please provide information as to whether the detainees on death row, including Ms. Al-Arwali, and their families have been officially informed of their respective death sentences and dates of their imminent execution, if applicable.
10. Please provide detailed statistics concerning the imposition of the death penalty and its execution in the past three years (2021-2023) in the territory under the control of your authorities, broken down by gender, age, nationality, ethnic or religious background, crime charged and

conviction.

While awaiting a reply, **we respectfully ask that prompt measures are taken to stop the execution of the death penalty against Ms. Fatima Saleh Al-Arwali**, and that her case be promptly reviewed from the start in a manner that is consistent with the fundamental international principles of trial fairness. Sentencing a person to death and executing that person for vague charges, without a credible judicial process and without access to her legal representation, is contrary to the most fundamental principles of international human rights law.

We may continue to publicly express our concerns in the near future on this case, which in our view merits prompt and undivided attention, as Ms. Al-Arwali's life is at stake, and the execution of a death penalty is irreversible. We also believe that this is a matter of public concern and that the public should be informed about its human rights implications. Any public expression of concern from our part would indicate that we have been in contact with you to clarify the issue/s in question.

We would appreciate receiving a response within 60 days. Past 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.

We would like to underline that this letter addressed to the *de facto* authorities in the concerned region of Yemen does not in any way imply expression of any opinion concerning the legal status of any country, territory, city or area, or of its authorities.

Kindly note that a copy of the letter is transmitted to the Government of Yemen.

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

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Matthew Gillett

Vice-Chair on Communications of the Working Group on Arbitrary Detention

Aua Baldé

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

Irene Khan

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

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Alice Jill Edwards

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Reem Alsalem
Special Rapporteur on violence against women and girls, its causes and consequences