



# General Assembly

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## Human Rights Council

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Agenda items 2 and 10

### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

### Technical assistance and capacity-building

## Implementation of technical assistance provided to the National Commission of Inquiry to investigate allegations of violations and abuses committed by all parties to the conflict in Yemen

### Report of the United Nations High Commissioner for Human Rights\*

#### *Summary*

The present report is submitted pursuant to Human Rights Council resolution 54/29. It contains an overview of the technical and capacity-building assistance that the Office of the United Nations High Commissioner for Human Rights has provided to the National Commission of Inquiry to investigate allegations of violations and abuses committed by all parties to the conflict in Yemen. It covers the period from October 2023 to August 2024.

In the report, the High Commissioner provides updates on the mandate, composition, secretariat and resources of the National Commission of Inquiry, on the progress that it has achieved and on the challenges that it continues to face in implementing its mandate. He concludes with recommendations for all relevant stakeholders.

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\* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.



## I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 54/29, adopted on 12 October 2023, in which the Council requested the United Nations High Commissioner for Human Rights to continue to provide substantive capacity-building and technical assistance to the Government of Yemen and all requisite technical and logistical support to the National Commission of Inquiry to enable it to continue to investigate allegations of violations and abuses committed by all parties to the conflict in Yemen, in line with international standards. In the same resolution, the Council also requested the High Commissioner to present a report on the implementation of that technical assistance at its fifty-seventh session.
2. In the present report, the High Commissioner provides an update on the mandate and composition of the National Commission of Inquiry, which commenced its work in October 2015, and an overview of the technical and capacity-building assistance that the Office of the United Nations High Commissioner for Human Rights (OHCHR) provided to the National Commission between October 2023 and August 2024.
3. The report should be read in conjunction with the previous reports of the High Commissioner to the Human Rights Council on the situation of human rights in Yemen and on the technical assistance provided to the National Commission of Inquiry to investigate allegations of violations and abuses committed by all parties to the conflict in Yemen.<sup>1</sup>
4. The report was prepared with the cooperation of the secretariat of the National Commission of Inquiry.

## II. National Commission of Inquiry

### A. Mandate

5. The National Commission of Inquiry was established by Presidential Decree No. 140 of 2012,<sup>2</sup> pursuant to which it is mandated to investigate violations of international law alleged to have taken place in 2011.
6. The mandate of the National Commission of Inquiry was revised pursuant to Presidential Decrees No. 13 of 2015, No. 66 and No. 97 of 2016, No. 50 of 2017 and No. 30 of 2019 to include the investigation of all violations of international human rights law and international humanitarian law alleged to have taken place since 2011, the investigation of individual and group complaints received and the identification of the perpetrators. The National Commission is empowered to subpoena and hear the testimony of any person and to obtain relevant documents and other evidence. During the reporting period, there were no changes to the mandate.<sup>3</sup>
7. The National Commission of Inquiry submits a periodic report to the Chair of the Presidential Leadership Council, which transmits it to other government entities, including the Supreme Judicial Council.

### B. Composition

8. The National Commission of Inquiry is composed of a General Secretary<sup>4</sup> and nine commissioners, currently five men and four women.<sup>5</sup> The General Secretary is a lawyer. Four

<sup>1</sup> A/HRC/33/38, A/HRC/36/33, A/HRC/39/43, A/HRC/42/33, A/HRC/45/57, A/HRC/48/48, A/HRC/51/62 and A/HRC/54/74.

<sup>2</sup> See <https://www.nciye.org/reports/SecondReport/SecondReport-en.pdf>.

<sup>3</sup> A/HRC/48/48, para. 4.

<sup>4</sup> Mashdal Mohammed Omar.

<sup>5</sup> Ahmed Saeed al-Maflehi, Hussein Omer al-Mashdaly, Gehad Abdulrasool al-Dengi, Nasser Qasem al-Awdhali, Hezam Mohammed Ali, Sabah Ahmed al-Wani, Eshrak Fadhl Thabit, Dheya Khaled Omar Muhirez and Mohammed Hussein Tolyan.

of the commissioners are judges, three are lawyers and two are university professors. The two-year term of the current commissioners was extended for two years, without any changes, under Presidential Decree No. 16 of 23 August 2023.

### **C. Secretariat**

9. The secretariat of the National Commission of Inquiry is based in Aden and headed by the General Secretary. It has two sub-offices, in Ta'izz and Ma'rib. The secretariat is composed of 30 staff members, 10 of whom are women. The support staff carry out various functions, including management of the database, communications, information technology support and administration.

10. The investigative team consists of nine assistant investigators, all of whom are men. Efforts to recruit women to the investigative team are ongoing. The assistant investigators are supported by a team of 37 field monitors and 10 volunteers (15 of the 47 members of the team are women). They are distributed across the governorates of the country, with priority for selection to serve in a particular governorate accorded to individuals from that governorate. The volunteers have no employment contract but receive reimbursement for expenses.

11. The assistant investigators supervise the work of the field monitors and volunteers and report to the commissioners, who sign off on each case file. The Chair of the National Commission of Inquiry then gives final approval before transferring the case file to the Office of the Attorney General. The field monitors are deployed in all governorates except Raymah, Mahrah and Socotra, which are monitored from neighbouring governorates, pending the recruitment and deployment of new staff members.

### **D. Resources**

12. In accordance with international standards, commissions of inquiry should be provided with transparent and sustainable funding to ensure their independence. Article 6 of Presidential Decree No. 140 of 2012 concerning the financial regulations of the National Commission of Inquiry states that funding to support the activities of the National Commission will be provided by the Government of Yemen, by other Governments and international human rights bodies and, in the form of grants, by foreign entities. As in previous years, the National Commission did not publish information about its funding during the reporting period.

13. With the support of extrabudgetary resources, OHCHR is equipping the National Commission of Inquiry with the information technology equipment necessary for the conduct of its work. Furthermore, the International Committee of the Red Cross delivered technical training for 25 technical staff members of the National Commission, in Aden.

14. Regrettably, the liquidity situation in relation to the regular budget of the United Nations impeded the implementation of mandated activities that are funded thereunder. This included the reduction of activities mandated under Human Rights Council resolution 54/29 to provide technical support to the National Commission of Inquiry.

### **E. Context, progress achieved and challenges facing the National Commission of Inquiry**

15. During the reporting period, economic conditions in Yemen continued to deteriorate. The Yemeni rial continued to lose value against hard currencies. Concurrently, unemployment rates surged and food insecurity remained a grave concern. Extended electricity outages in many of the areas controlled by the Government of Yemen led to social unrest and protests.

16. The economic situation is putting severe pressure on an already fragile banking and financial sector. On 3 April 2024, the central bank in Aden issued a directive to all banks operating in Yemen to move their headquarters from Sana'a to Aden within 60 days or face

legal action. The central bank branch in Sana'a issued a 100-rial coin in May 2024 without any consultation or coordination with the central bank in Aden. In July 2024, the central bank in Aden revoked the licences of six banks that had failed to relocate their headquarters to Aden and threatened to suspend their access to the Society for Worldwide Interbank Financial Telecommunication (SWIFT) system. However, the Special Envoy of the Secretary-General for Yemen continued to negotiate de-escalating measures, resulting in the cancellation of the decision to revoke the licences, which could potentially have reignited the armed conflict. The banking and financial crisis is expected to have multiple negative impacts on the peace process, the economy, employment, household income, growth and development. The International Monetary Fund has projected negative growth for Yemen in 2024.

17. During the reporting period, there were positive developments related to the reopening of some roads in Ta'izz and Ma'rib Governorates, facilitating more freedom of movement for Yemenis. In July 2024, negotiations on the exchange of prisoners were held between the Government of Yemen and the de facto authorities, under the auspices of the Special Envoy for Yemen and the International Committee of the Red Cross, in Muscat.

18. The National Commission of Inquiry sought to communicate with the de facto authorities and sent them requests to appoint a liaison officer, but they did not respond. The Commission regularly engages with the Government of Yemen and its different ministries and departments.

19. The National Commission of Inquiry continued to hold public and private meetings with human rights defenders, victims and witnesses in Aden and during its numerous field visits. OHCHR continued to raise awareness among civil society about the mandate and work of the National Commission to foster a common understanding and enhanced engagement.

20. In early 2024, the National Commission of Inquiry took several steps to enhance the access of victims and their families to a mobile application that it had developed and launched, named "NCIVHR", which stands for "National Commission to Investigate Alleged Violations of Human Rights". A WhatsApp hotline was also launched.

### **III. Technical assistance provided by the Office of the United Nations High Commissioner for Human Rights**

21. Pursuant to Human Rights Council resolutions 36/31, 39/16, 39/21, 42/21, 42/31, 45/15, 45/26, 48/21, 51/39 and 54/29, OHCHR has continued to provide technical and capacity-building assistance to the National Commission of Inquiry. OHCHR has based such assistance on an ongoing dialogue to ensure that the activities offered meet the expressed needs of the commissioners, assistant investigators, field monitors and support staff.

22. In implementing the mandate given by the Human Rights Council, OHCHR has been guided by the principles of independence, impartiality, objectivity, credibility and professionalism.

23. A consultative meeting was held in Aden in February 2024 for 39 field monitors (31 men and 8 women) to enhance their knowledge of international humanitarian law and monitoring and how it applies in the context of Yemen.

24. Thanks to the funding secured by OHCHR in the reporting period, the commissioners will participate in the fifty-seventh session of the Human Rights Council, to be held in Geneva in September 2024, to learn from and interact with the various parts of the United Nations human rights system.

25. With the extrabudgetary resources allocated to the programme in Yemen, OHCHR was able to conduct a range of other activities in support of the National Commission of Inquiry. These included training on the impact of monitoring and documenting human rights violations, on accountability, on justice for victims and reparations, on conducting interviews with victims and witnesses, on the adoption of a fact-finding approach to the development of case reports, on the preparation of thematic reports and situation reports and on the functioning of the International Criminal Court, including on processing evidence and reviewing judicial rulings.

26. Moreover, OHCHR facilitated discussions between the National Commission of Inquiry and relevant ministries and civil society actors on arbitrary arrest and detention and on enforced disappearance, with the objective of fostering cooperation to reduce the number of cases and reinforce the preventive and supervisory role of the prosecuting authorities.

27. Notwithstanding the liquidity situation, OHCHR remains ready to continue to provide substantive technical assistance and advice to the National Commission of Inquiry, including to strengthen its capacity to investigate and report on allegations of human rights violations and abuses committed by all parties to the conflict in Yemen, in line with international standards, and to put in place the foundations for a human rights-based transition to peace and reconciliation.

#### **IV. Conclusions and recommendations**

28. The deterioration in economic conditions and the reciprocal restrictive and punitive measures taken by the central bank in Aden and the central bank branch in Sana'a do not bode well for the peace process and an effective and inclusive political solution. The situation may escalate further, and the conflict among the parties could be reignited.

29. Despite structural and external challenges, the National Commission of Inquiry is one of the few mechanisms working to address impunity in Yemen, in particular through its fact-finding work. While there is a clear understanding in Yemeni civil society regarding the positive relationship between transitional justice and the peace process, it is essential for the National Commission to be effective in its investigations, with some visible outcomes, and for its findings to be backed by comprehensive legal analyses grounded in international law.

30. OHCHR remains committed to providing technical assistance and advice to the National Commission of Inquiry. OHCHR welcomes the progress made by the National Commission, such as the regular field visits made throughout Yemen, the consultations held with civil society groups and the improved reporting on different types of human rights violations and abuses and violations of international humanitarian law by all parties to the conflict.

31. With a view to strengthening the effectiveness and impact of the National Commission of Inquiry, the High Commissioner makes the recommendations set out below.

32. All parties to the conflict should:

(a) Cooperate fully with the National Commission of Inquiry so that it can safely, independently and effectively fulfil its mandate, notably by granting it access to all areas of Yemen, including all places of deprivation of liberty, and by providing it with all relevant information that it may request, including information related to the identity of alleged perpetrators;

(b) Implement all the recommendations made in the previous reports of the High Commissioner and the reports of the Group of Eminent International and Regional Experts to the Human Rights Council and in the reports of the Panel of Experts on Yemen to the Security Council, to effectively pursue accountability for human rights abuses and violations and violations of international humanitarian law by all parties to the conflict.

33. The Government of Yemen should:

(a) Consider strengthening the mandate of the National Commission of Inquiry to ensure that it can effectively fulfil its role as an independent and transparent mechanism and propose measures to fully ensure the rights of victims, including to truth, justice and reparations, and to contribute to the prevention of further violations and abuses;

(b) Provide the National Commission of Inquiry with sufficient financial resources to hire all its staff on proper contracts, expand its outreach efforts and increase its accessibility, including by opening sub-offices throughout Yemen;

(c) Consider publishing the budget of the National Commission of Inquiry;

(d) Take adequate and effective measures to protect victims and witnesses who cooperate with the National Commission of Inquiry from any form of intimidation or reprisal, including by establishing a witness protection mechanism and providing safe spaces where they can have the privacy to speak with the commissioners and investigative staff of the National Commission;

(e) Provide the Office of the Attorney General with sufficient financial resources to enable it to carry out its investigations and prosecutions with regard to cases referred to it by the National Commission of Inquiry and procure the information technology infrastructure required for its work to handle and preserve the confidentiality of the case files received;

(f) Ensure the realization of the rights of victims to truth, justice and reparation, including through the initiation of a public debate on the development of a broader transitional justice framework that defines how the cases documented by the National Commission of Inquiry should be brought to justice, and contribute to the prevention of the recurrence of serious human rights violations, building on the outcomes of the National Dialogue Conference and the conference held in Aden in December 2022;

(g) Ratify international human rights treaties and the optional protocols thereto.

34. The Attorney General of Yemen should:

(a) Act systematically, promptly and effectively upon the reports and cases received from the National Commission of Inquiry, irrespective of who the alleged perpetrators are;

(b) Ensure prompt, impartial and effective investigation into and prosecution of all cases of human rights violations and abuses and of violations of international humanitarian law in line with international standards, and determine clear, objective and transparent criteria for the prioritization of cases while the armed conflict is still under way;

(c) Ensure that all trials, whether in civilian or military courts, are held in line with international norms and fair trial standards, and cooperate in particular with the Supreme Judicial Council and the Judicial Inspectorate to maintain the highest standards;

(d) Ensure unfettered access by the staff of the National Commission of Inquiry to all places of deprivation of liberty, allowing confidential meetings with all detained persons, and pay attention to the recommendations related to detainees and conditions of detention in the reports of the National Commission of Inquiry.

35. The Supreme Judicial Council should:

(a) Give due consideration to the proposal submitted in 2017 by the National Commission of Inquiry to establish a specialized court with nationwide jurisdiction regarding conflict-related gross human rights violations and serious violations of international humanitarian law and contribute to reflections on how such a court could best assist in the realization of victims' rights to truth, justice and reparation and in an overall transitional justice process that contributes to the prevention of future violations and to reconciliation within communities;

(b) Ensure that all cases transmitted by the National Commission of Inquiry and brought before a court are processed and prosecuted, when circumstances allow, and also ensure the safety of victims and witnesses and that the highest standards of integrity and independence are respected, thereby ensuring that the judicial process serves as an effective deterrent and as an effective avenue for justice for victims.

36. **The international community should:**

(a) **Strengthen the capacity and effectiveness of the National Commission of Inquiry by organizing capacity-building for and developing the technical expertise of its staff;**

(b) **Promote the role of accountability and transitional justice in the peace process in Yemen and support the role of civil society, in particular representatives of vulnerable groups, in advocating for accountability and justice.**

37. **The National Commission of Inquiry should:**

(a) **Continue to develop its capacity to thoroughly investigate all alleged human rights violations and abuses and violations of international humanitarian law by all parties to the conflict, in accordance with international norms and standards and the principles of objectivity, transparency and impartiality;**

(b) **Take all feasible measures to protect victims and witnesses who contact the commissioners and other staff, with special attention to women, children, persons with disabilities and members of other vulnerable groups, including non-Yemenis; this may involve contributing to the development of temporary measures pending adoption of a witness protection law once parliament resumes its work;**

(c) **Continue to strengthen its engagement with civil society, including in the areas of transitional justice and accountability, and establish a permanent mechanism to interact with human rights defenders;**

(d) **Develop and implement a more effective communications strategy to enhance its visibility throughout Yemen and disseminate information about its mandate and role;**

(e) **Preserve its integrity and independence through strict adherence to norms and standards of international law, including by ensuring that its staff do not have multiple employment;**

(f) **Establish more sub-offices throughout Yemen to facilitate access and the reporting of cases.**

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