

Mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE:
AL SAU 10/2018

10 August 2018

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions, pursuant to Human Rights Council resolution 35/15.

In this connection, I would like to bring to the attention of your Excellency's Government information that I have received on **a series of airstrikes by Government of Saudi Arabia-led coalition forces carried out since November 2017 in civilian areas in Yemen, including on protected civilian objects, that have caused numerous deaths and serious injuries to civilians, including children.**

On 9 November 2015, my mandate addressed a similar communication to your Excellency's Government (AL SAU 9/2015) concerning indiscriminate airstrikes by coalition forces in civilian areas, which lead to deaths and injuries of civilians in Yemen. I regret that thus far no response has been received to that communication and would be grateful for your prompt response.

The information which I have received in recent months, and which is indicative and non-exhaustive, highlights the impact of coalition-led attacks on civilians and civilian objects in Yemen over the period November 2017 to June 2018. The allegations may be summarized as follows:

On 1 November 2017, two airstrikes by the Saudi-led coalition hit the Al Layl market in the area of Olaf, in Sahaar district, Sa'adah province, killing 31 civilians, including six children, and wounding 24 others.

On 2 November 2017, seven members of a farming family, including three children, were killed in a coalition airstrike on their home in Al Islan area in Baqim district, Sa'adah province.

On 9 December 2017, four civilians were killed and four more injured when the Saudi-led coalition airstrikes hit the official Yemen TV Channel, Qanat Al Yemen, which reportedly has been under Houthi control since September 2014.

On 10 December 2017, at least seven civilians were killed by airstrikes on a hospital in Al Hudaydah. Some Houthi military vehicles were reported to be next to the hospital compound at the time of the airstrikes.

On 13 December 2017, at least 45 civilians were killed and 53 injured when the Coalition carried out seven airstrikes that struck a military police compound in the

Shaub district of Sana'a. The airstrikes first hit the compound's prison building, and then the prison yard. All the victims were reported to be detainees and said to belong to the Resistance Forces loyal to President Abd-Rabbu Mansour Hadi.

On 15 December 2017, 20 civilians, including 14 children, were killed and four more children injured when coalition airstrikes hit a farmhouse in Al Khawkhah district, Al Hudaydah Governorate.

On 16 December 2017, a woman and nine children, who were returning home from a wedding party, were killed as a result of coalition airstrikes in Harib Al Qaramish district, Marib Governorate.

On 25 December 2017, airstrikes targeted the house of the guard of the Egyptian tomb in Asir district, west of Sana'a, killing 11 civilians and injuring four others, including children, and destroying the house of the guard and partially damaging the tomb.

On the same day, six civilians were killed following an airstrike on a farm in Al-Qatabah area, Al Khawkhah district, Al Hudaydah Governorate.

On 26 December 2017, airstrikes on a crowded popular market in Al Hayma sub-district in Attazziah district, Ta'iz Governorate, resulted in at least 54 civilians killed, including eight children, and 32 others injured, including six children. On the same day, 14 family members were killed in another airstrike on a farm in Attohayta district, Al Hudaydah Governorate.

On 29 December 2017, airstrikes targeted a private home for unknown reasons, killing four civilians, including one child, and injuring one other, in Tashdan area, Ghamr district, Sa'ada Governorate.

On 1 January 2018, 20 civilians, including four children were killed and eight injured by three raids carried out by the Saudi-led coalition air force on a fuel station, a popular market and a farm in the district Al-Jarahi, Al Hudaydah province.

On 2 January 2018, two raids targeted a car carrying workers in Manbah district, Sa'adah province, killing seven and injuring two, destroying the car and the section of road. On the same day, an airstrike in Yasnom area, Baqim district in the Sa'ada Governorate hit a tractor, killing the driver. The tractor owner/driver was working on a construction site in a project implemented by the Ministry of Public Works, which is funded by a United Nations agency.

On 3 January 2018, eight civilians were killed and eight more injured, including one child, by an airstrike of the Saudi-led coalition while targeting a Houthi military vehicle parked in front of a restaurant in the Zabid district, Al Hudaydah Governorate.

On 10 January 2018, two children were killed and four civilians, including two children, injured, in a coalition airstrike on a private home in Al-Mahjar area, Baqim district, Sa'ada Governorate. On the same day, two coalition airstrikes hit two more private homes in Ajnay village, Tashdan area, Ghamr district, Sa'ada Governorate, killing three children and injuring two civilians, including one child.

On 14 January 2018, two coalition airstrikes targeted a farm, killing eight civilians, including one child, and injuring three more in Al-Qatabah area, Al Khawkhah district, Al Hudaydah Governorate. It was reported that three members of the Popular Committees affiliated with the Houthis had been present on the farm but left a few minutes prior to the first strike.

On 26 January 2018, five civilians were killed and two others injured in two coalition airstrikes targeting two cars carrying civilians on their way back from the market in Bart Al Anan district, Al Jawf Governorate.

On 27 January 2018, airstrikes hit a civilian home in al Rakab, Ta'iz Governorate, killing three civilians, including two children, and injuring three others, including two children.

On 3 April 2018, an airstrike hit a camp of internally displaced persons in an unknown location, killing 20 civilians, including seven children.

On 20 April 2018, airstrikes targeted a private home in Marran area, Sa'adah Governorate, killing five civilians and injuring two others. The victims had been sleeping at the time of the attack. On the same day, airstrikes hit a civilian vehicle driving back from Al-Barah market, in Mawza district, Ta'iz Governorate, killing 21 civilians. Also on the same day, airstrikes targeted civilians from the Bani Wahab tribe in Baidah Governorate, killing 14 and injuring four.

On 22 April 2018, airstrikes targeted a wedding ceremony in Raqah village, Bani Qais district, Hajjah Governorate, killing 40 civilians and injuring 77 others. The two airstrikes destroyed a wedding tent on the grounds of a private home where the victims had been celebrating the marriage of their relatives. On the same day, five civilians, including three children, were killed in a coalition airstrike that hit their home in Al-Hadwariah area, Midi district, Hajjah Governorate.

On 7 May 2018, two airstrikes of the coalition targeted the Presidential Office in Sana'a. The first directly hit the building, which is located in a densely populated area and was full with civilians at the time. About seven minutes later, the building was hit again causing additional casualties among the first responders to the first strike. While the exact number of casualties is unknown, at least six deaths and 90 injured persons have been reported.

On 15 and 27 May 2018, coalition air strikes were conducted in the area of Sana'a resulting in an unknown number of deaths and injuries sustained by civilians, including children.

On 26 June 2018, a coalition air strike hit a bus carrying 22 civilians, including women and children, in Al Hudaydah, killing nine, including two children, and seriously injuring 12 more, including four children. On the same day, the coalition forces also hit a residential neighborhood in Omran, Al Hudaydah, in which nine civilians, eight of the same family, including two women and 4 children, were killed. Twenty-five others were injured. A number of houses were also destroyed.

While I do not wish to prejudge the accuracy of these allegations, I express my utmost concern about what appears to be a systematic pattern of indiscriminate airstrikes in civilian areas by Saudi-led coalition forces, namely on civilians and civilian objects that are protected and/or subject to heightened protection such as homes and a hospital, which have resulted in a very large and disproportionate number of deaths and injuries of civilians, including children, in Yemen. These attacks, and their repetition over time and place, suggest an underlying military doctrine and strategy which disregard respect for civilian lives in the conflict affected zones and ignores the coalition's forces' obligations under the Geneva Conventions and international human rights law, which are binding on Saudi Arabia. They indicate a multiple prima facie violation of the right of every individual to life and security and not to be arbitrarily deprived of his or her life, as set forth in articles 3 of the Universal Declaration of Human Rights (UDHR), Article 6 of the Convention on the Rights of the Child (CRC), ratified by Saudi Arabia in 1996, as well as articles 5 and 14 of the Arab Charter on Human Rights (ACHR), to which Saudi Arabia is a State Party since 2009.

These allegations of indiscriminate airstrikes may also constitute a breach of Common Article 3 to the Geneva Conventions, which establishes the minimum standards that all parties to a non-international armed conflict should observe concerning the treatment and protection of civilians, and provides that persons taking no active part in hostilities shall be treated humanely and should not be subject to violence to life and person, in particular murder of all kinds. Further, such apparent indiscriminate airstrikes on civilian populated areas and civilian objects may amount to war crimes. The **annex "Reference to international law"**, attached to this letter, cites the key international human rights instruments and standards that are relevant to these allegations.

Given the gravity of these allegations, and under authority of the mandate provided to me by the Human Rights Council, I request that your Excellency's Government provide expeditiously, information on each of the cases listed in the following terms:

1. Please provide for each incident, factual details and all other relevant information.

2. Please provide factual details and all other relevant information on all civilian casualties caused by air strikes since the beginning of the coalition forces' campaign in Yemen in March 2015.
3. Please provide information on whether your Excellency's Government, as leading member of the coalition forces, informed and/or sought consent from the Yemeni authorities to carry out the above mentioned airstrikes.
4. Please provide information on the assessment made by the coalition, or other forces, prior to these airstrikes, of their potential impacts on civilian populations and civilian objects. Please specify the targeting criteria used and the procedural safeguards employed to ensure that these actions fully complied with international law.
5. Please provide information on the role played by the 'child protection unit' within coalition headquarters in the context of procedural safeguards, and the extent to which it has been able to mitigate the impact of airstrikes on children.
6. Please provide information on any investigations carried out by your Excellency's Government and/or other members of the coalition forces, including through the Joint Incidents Assessment Team (JIAT), into the above-mentioned airstrikes, and their results, if any. If no investigations have been carried out or if they have been inconclusive, please explain why.
7. Please indicate whether your Excellency's Government and/or other members of the coalition forces have taken any follow-up action to implement the findings and recommendation of such investigations and, if so, provide details, including of reparations made to the victims and/or their families and the process through which these reparations are being administered.

I would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, I 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.

I may choose to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential human rights implications of the above-mentioned

allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue in question.

I would like to inform your Excellency's Government that a letter of similar content is simultaneously being sent to the Government of Yemen (AL YEM 5/2018).

Please accept, Excellency, the assurances of my highest consideration.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forward by the situation described above.

Article 3 of the Universal Declaration of Human Rights (UDHR) and articles 5 and 14 of the Arab Charter on Human Rights (ACHR), to which Saudi Arabia is a State Party since 2009, which guarantee the right of every individual to life and security, and provides that these rights shall be protected by law and that no one shall be arbitrarily deprived of his or her life. Moreover, article 6 of the Convention on the Rights of the Child (CRC), ratified by Saudi Arabia in 1996, provide that State parties recognize that every child has the inherent right to life and they must ensure to the maximum extent possible their survival and development.

I would like to remind your Excellency's Government that its obligations under international human rights law continue to apply in the context of armed conflict, as acknowledged by the International Court of Justice (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996, paras. 24-25; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, para. 106.), the Human Rights Committee (General Comment 29, States of Emergency, para. 3) and the Committee on Economic, Social and Cultural Rights (Concluding observations on the initial report of Israel; 2001, para. 12).

Customary international law requires States to take all feasible precautions to avoid, and in any event, to minimize incidental loss of civilian life, injury to civilians and damage to civilian objects. International humanitarian law, through the principles of proportionality, distinction and precaution, prohibits deliberate attacks on civilians and civilian objects, and attacks which do not discriminate between civilians and combatants or military objectives, or which cause disproportionate harm to civilian objects in relation to the anticipated military advantage which may be gained by such attack.

The Committee on the Rights of the Child and Committee on the Elimination of Discrimination against Women (the Convention was ratified by the Kingdom of Saudi Arabia on 7 September 2000) both expressed their concern at credible and consistent information received that the Kingdom of Saudi Arabia has committed grave violations of children's rights and is responsible for violations of the rights of Yemeni women and girls, respectively, through their military operations in Yemen, in particular killings of women and children as a result of indiscriminate airstrikes (CRC/C/SAU/CO/3-4, paras. 38 and 39, and CEDAW/C/SAU/CO/3-4, para. 17). The former called on Saudi Arabia to abide by the Convention and the latter to put an end to its military operations in Yemen and ensure respect for the rules of international humanitarian law that are applicable to women in armed conflict (Ibid.).

Moreover, The High Commissioner for Human Rights, in his report to the Human Rights Council on the situation on human rights in Yemen, including violations and abuses since September 2014 (A/HRC/36/33), stressed that “Directly targeting civilians and civilian objects or conducting disproportionate or indiscriminate attacks and the failure to take all necessary precautions to avoid and, in any event, minimize, the impact on civilians during air operations targeting military objectives, constitute serious violations of international humanitarian law.” (Ibid. para. 28).

International humanitarian and human rights law also provide that States must investigate allegations of war crimes committed either by their nationals or armed forces, or on their territory by a foreign State, or over which they have jurisdiction, and, if appropriate, prosecute the suspects, and make full reparation for the loss or injury caused.

The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) recall that exceptional circumstances including a state of war or threat of war, internal political instability or any other public emergency may not be invoked as a justification of such executions, and that it is States’ duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions, and bring to justice all persons identified by the investigation as having participated in those executions. The families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time.

The obligation to investigate gross violations of international human rights law and serious violations of international humanitarian law effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible, is further enshrined in 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 (General Assembly Resolution 60/147, Chapter II, paragraph 3).