



'BOMBS FALL FROM THE SKY DAY AND NIGHT'

CIVILIANS UNDER FIRE IN NORTHERN YEMEN

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Cover photo: Destruction by Saudi Arabia-led coalition airstrikes of the main street in Sa'da city. ©Amnesty International.

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EXECUTIVE SUMMARY

“This is a daily reality for us; the bombs fall from the sky day and night and we don’t know where it is safe. A few days ago, a bomb landed in the middle of the roundabout outside our shop. How can we protect our children, ourselves? We can’t so long as the bombardments are so indiscriminate, day and night”.

Abd-al-Fattah Hassan Abdullah, whose father was killed by a Saudi Arabia-led coalition airstrike in Sa’da city in July 2015

A devastating air bombardment campaign launched in March 2015 by a Saudi Arabia-led coalition has killed and injured hundreds of civilians in Yemen, many of them children.

Coalition forces, acting at the behest of the internationally-recognized Yemeni government of President Abd Rabbu Mansour Hadi, have carried out thousands of airstrikes in areas controlled by the Huthis, a northern Yemen Zaidi Shia armed group. Acting with support from part of the armed forces loyal to former President Ali Abdullah Saleh, the Huthis forcibly took over the capital Sana’a in September 2014 and in the subsequent months gained control of large swathes of the country. Many coalition strikes have targeted military objectives but hundreds have struck civilian objects – homes, public buildings, schools, markets, shops, factories, bridges, roads and other civilian infrastructure, as well as vehicles carrying civilians and humanitarian assistance.

The north-eastern Sa’da governorate, a Huthi stronghold from where Huthi fighters have launched repeated cross-border attacks and incursions into Saudi Arabia, is among the hardest hit areas. The city of Sa’da, which before the conflict was home to some 50,000 people, has suffered more destruction as a result of coalition airstrikes than any other city in Yemen. Relentless air bombardments have left the city and its surroundings in ruins and forced most of the civilian population to flee.

The thousands who remain in Sa’da governorate live in constant fear of the airstrikes and dire humanitarian conditions. There has been no electricity or running water for months and essential necessities such as food, medicines and fuel are in very short supply. What little is available is not affordable for many. The economy has been paralysed, with most shops and markets destroyed by airstrikes, and the delivery of even small quantities of goods or humanitarian aid is hindered by lack of fuel and the threat of airstrikes. Coalition forces have repeatedly struck vehicles carrying food, livestock and humanitarian assistance on the main road between Sa’da governorate and the capital, Sana’a.

On 8 May, coalition forces declared the whole of Sa’da city a military target, giving residents

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less than 24 hours to leave. A day later, they suggested that in fact the whole governorate may have been treated as a military target. Declaring a whole city or region a military target violates international humanitarian law, which stipulates that those carrying out attacks must distinguish at all times between military objectives and civilian objects and must take all possible measures to spare civilians and civilian objects. It may be considered a form of collective punishment.

When Amnesty International visited Sa'da governorate in early July 2015, it found that hundreds of airstrikes had destroyed or damaged beyond repair scores of homes, several markets, the entire main shopping street and virtually every public building, including the post office, the court, banks and civilian administration offices. Amnesty International found no evidence that these had been used for military activities, which could potentially have rendered them military objectives and liable to being directly targeted. These attacks killed scores of civilians and left many more injured. Airstrikes on civilian homes in villages around Sa'da city have killed and injured hundreds of civilians not involved in the conflict, many of them children and women.

Amnesty International investigated 13 strikes, which took place during May, June and July in and around Sa'da governorate, after the coalition had declared the city a military target. These strikes killed some 100 civilians – including 55 children and 22 women – and injured a further 56, including 18 children. The youngest child killed was just 12 days old, whose body was found by relatives alongside that of his mother, who was also killed in the same airstrike. In the single worst incident investigated, 55 people, including 35 children, were killed.

Many of the strikes that Amnesty International has researched were unlawful – in that they deliberately targeted civilian objects or disproportionately harmed civilians and civilian objects in relation to the expected military gain from the strike, or failed to distinguish between these and military objectives. Researchers documented scores of cases of civilians – not directly participating in hostilities – who were killed or injured while asleep, carrying out their daily activities in and around their homes or in their workplace.

International humanitarian law prohibits deliberate attacks on civilians not taking a direct part in hostilities and civilian objects, and attacks which do not distinguish between civilians/civilian objects and combatants/military objectives, or which cause disproportionate harm to civilians/civilian objects in relation to the direct military advantage which may be anticipated by such attack. Such attacks are serious violations of international humanitarian law and can constitute war crimes.

The pattern of attacks in Sa'da governorate and across Yemen, which since the beginning of the coalition air bombardment campaign on 25 March 2015 have continued to cause civilian casualties, and the lack of investigations to date into such incidents raise serious concerns about an apparent disregard for civilian life and for fundamental principles of international humanitarian law, not only by those planning and executing the strikes but also by the internationally recognized Yemeni government, at whose behest the Saudi Arabia-led coalition forces are acting.

In and around Sa'da governorate coalition forces used large bombs, up to 2,000 lbs

(approximately 900 kg), with a wide impact radius, knowing that they would likely cause death and destruction indiscriminately or far beyond the strike location. They also used cluster bombs, which have been internationally banned both because they scatter up to hundreds of submunitions (smaller bombs) over a wide area and because a high percentage of the submunitions do not explode on impact and remain a threat to the civilian population for years. They may explode if stepped on or picked up by children or others unaware of the danger.

These cluster bombs, as well as some of the other weaponry used by the Saudi Arabia-led coalition forces in their airstrikes, were produced and/or designed in the United States of America. The US government is also providing logistical support and intelligence to the coalition.

All states have legal responsibilities under international law to control the transfer of weapons and restrict or prohibit it in certain circumstances. Under Article 6 of the Arms Trade Treaty, which came into force in late 2014, where a state has knowledge that the arms it is considering for authorization would be used by a party to an armed conflict in the commission of attacks directed against civilian objects or civilians protected as such, or any other war crime as defined by international agreements to which the state is a party, it is prohibited from transferring such arms and munitions to the party.

The coalition airstrikes investigated by Amnesty International in Sa'da governorate have involved serious violations of international humanitarian law, including war crimes. In September 2015, after 45 United Arab Emirates (UAE) soldiers, 10 from Saudi Arabia and five from Bahrain were killed in combat, the coalition intensified its air campaign, particularly on the capital Sana'a and the Huthi stronghold of Sa'da governorate, with the UAE's official state news agency announcing that coalition jets had been "pound[ing] rebel positions". Although the coalition made claims that such strikes were "precise", there were multiple reports of civilian casualties.

In this context, with the air campaign intensifying, and a clear pattern of serious violations of international humanitarian law over a period of several months, Amnesty International is calling on states - including the US and UK - who supply arms to the members of the Saudi Arabia-led coalition to suspend all transfers to members of the Saudi Arabia-led coalition which are carrying out attacks in Yemen, of general purpose bombs, fighter jets, combat helicopters and associated parts and components.

All the parties involved in the conflict raging across the country have committed widespread human rights abuses, including war crimes. Blatantly disregarding fundamental principles of international humanitarian law, they have killed and injured hundreds of civilians not involved in the conflict in unlawful attacks. Since 25 March 2015, more than 4,000 people have been killed, half of them civilians, including hundreds of children. Thousands more have been injured, and well over one million have been displaced.

The displaced and those unable to flee conflict affected areas – in effect most of Yemen's 25 million population – are suffering from a largely man-made humanitarian crisis that has engulfed the country. A coalition-imposed blockade on commercial imports – imposed in the

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name of halting arms supplies to the Huthis – has caused acute shortages of food, medicines, fuel and other essentials. Recent attacks on aid workers in the north and south of the country have prompted humanitarian organizations to reduce or suspend operations, further exacerbating an already challenging situation.

The lawlessness reigning in the country since the onset of the conflict has entrenched an atmosphere of impunity in which gross human rights abuses, including war crimes, have proliferated. This trend is unlikely to be reversed, so long as the parties to the conflict feel that their crimes will go unpunished. Replacing impunity with accountability is crucial to preventing such crimes from becoming more widespread and ensuring justice and reparation for victims and their families.

In this light, the failure earlier this month by the UN Human Rights Council to open an independent international investigation into violations committed as part of the conflict in Yemen, instead adopting a weak resolution drafted by Saudi Arabia that made no mention of the coalition's military campaign, is a severe blow for justice and accountability. Against this grim backdrop, Amnesty International is calling for the establishment of an independent international inquiry to investigate alleged violations by all parties to the conflict in Yemen, establish the facts, and identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable. As well as the Human Rights Council, an international investigation or inquiry could be established through a resolution adopted by the UN General Assembly or the UN Security Council – or by the UN Secretary-General or the UN High Commissioner for Human Rights on their own initiative.

METHODOLOGY

This report is based on Amnesty International field research in Sa'da governorate, in June and July 2015. Two Amnesty International delegates visited multiple air strike locations and investigated the circumstances and impact of the attacks. They examined fragments from munitions used in the attacks and weapons experts later analyzed photographs and video footage of the munition remnants.

Amnesty International researchers interviewed 40 survivors, families of victims, witnesses, medical and NGO personnel and activists on the ground. All interviews were conducted in Arabic.

In September 2015, Amnesty International wrote to the Saudi Arabian Ministry of Defence detailing its findings, and requesting information about the choice of targets and decision-making process and rationale behind the airstrikes documented in this report. The organization requested that the Saudi Arabian authorities share the findings of any investigations that may have been carried out so far into these cases. At the time of publication, Amnesty International had not received any response from the Saudi Arabian authorities.

VIOLATIONS OF INTERNATIONAL LAW

“I was by the river on my way back home when our homes were bombed, at about 10am. It was a massacre. I lost my son Hassan, four, and my 12-year-old daughter Taysir; my mother, Munawwar, my sister Aziza and her six-year-old daughter Salsabil; my brother’s son and daughter, Mohammed and Yousra, aged nine and 16, and my cousin Shama’a and her three daughters, Altaf, Zahra and Batul, aged one, three, and six. My wife and my other four-year-old son were injured, along with my 16-year-old niece.”

Ali Qassem Salah al-Shayba, an animal trader and father of four

Amnesty International investigated 13 airstrikes which took place during May, June and July in and around Sa’da governorate. These strikes killed some 100 civilians - including 59 children and 22 women – and injured a further 56, including 18 children.

Amnesty International found that strikes which killed and injured civilians and destroyed civilian property and infrastructure were frequently disproportionate or indiscriminate and in some instances they appeared to have directly targeted civilians or civilian objects. Such attacks violate international humanitarian law and constitute war crimes.

DESIGNATION OF CITIES AS MILITARY TARGETS

On 8 May, the Saudi Arabia-led coalition¹ issued an ultimatum to the entire populations of the northern cities of Sa’da and Marran to leave the cities within hours, declaring the cities military targets. At the time of publication of this briefing, this designation remains in place, as far as Amnesty International is aware. General Ahmad al-Asiri, a member of the Saudi Arabian armed forces and spokesperson for the Saudi Arabia-led coalition said:

“Starting today and as you all remember we have declared via media and leaflets that were dropped on Marran and Sa’da, and prior warnings to Yemeni civilians in those two

¹ Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Sudan and the United Arab Emirates (UAE) are participating in the Saudi Arabia-led coalition, which has carried out airstrikes as well as ground operations in Yemen. Somalia has made its airspace, territorial waters and military bases available to the coalition, Senegal promised troops, and the United States and United Kingdom have been providing intelligence and logistical support to the coalition.

cities, to get away from those cities where operations will be carried out. This warning will end at 7pm today...We have also designated Sa'da and Marran as military targets loyal to the Huthi militias and consequently the operations will cover the whole area of those two cities and thus we reiterate our call on civilians to stay away from these groups, and leave the areas under Huthi control or where the Huthis are sheltering".²

This followed news that, according to Saudi Arabian government sources, cross-border rocket attacks launched by Huthi armed groups had killed five civilians and injured 11 others in the Saudi Arabian city of Najran.³ Residents of Sa'da governorate told Amnesty International that leaflets⁴ were dropped by coalition aircrafts warning the entire civilian population to leave by 7pm that evening. The following day, in a further statement, the coalition spokesperson suggested that in fact the coalition may have even treated the entire Sa'da (governorate) region as a military target.⁵

Treating an entire city or region as a military target, even if there are military objectives located within the area, violates the prohibition of indiscriminate attacks.⁶

International humanitarian law stipulates that 'effective advance warning shall be given of attacks which may affect the civilian population, unless circumstances do not permit'.⁷ However, the coalition's warning was not effective. It was vague and overbroad, encompassing two entire cities with tens of thousands of civilian residents. The later statement appeared to suggest that its geographical scope extended to the entire region. Without electricity, most residents had no access to television, and the leaflets dropped by

² General Ahmad al-Asiri, Saudi Arabia-led coalition Spokesperson, press conference: https://www.youtube.com/watch?v=l38aLG9l_ec (Arabic).

³ Saudi Gazette, *10 die as Houthis shell Najran, Jizan*, 7 May 2015, <http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20150507243023>

⁴ Amnesty International has not seen leaflets that were dropped in Sa'da, but has seen copies of similar leaflets that residents said were dropped by aeroplanes in the neighbouring governorate of Hajjah which read: "Warning: to people of Yemen, the Huthi militias are striking Saudi villages on the border from inside your villages. The source of fire will be struck [by the coalition]. To safeguard your safety, you have to leave the villages in which the Huthis are present – The Joint Leadership of the Coalition Forces." Amnesty International is unable to confirm who dropped the leaflets.

⁵ General Ahmad al-Asiri, Saudi Arabia-led coalition Spokesperson, press conference, 9 May 2015 (Arabic): "*I mentioned to you yesterday that the equation and work has changed, therefore the response is different...Our operations yesterday targeted first of all the area of Sa'da and by that I am speaking of the governorate of Sa'da, the city of Sa'da and the city of Marran in the governorate of Sa'da...*", https://www.youtube.com/watch?v=l38aLG9l_ec

⁶ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I), Article 51(5)(a), customary in non-international armed conflicts https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule13#Fn_17_1 "Attacks...which treat as a single military objective a number of clearly separated and distinct military objects located in a city, town village or other area containing a similar concentration of civilians or civilian objects are prohibited."

⁷ Additional Protocol I, Article 57(2), the relevant sections of which have the status of customary international law https://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter5_rule20

coalition aircraft could not possibly reach all residents.

Even had all affected residents received the warning in time, it would have been unrealistic to expect tens of thousands of civilians to flee within the timeframe – a few hours – given the shortage of fuel and transport in the area. In addition, previous coalition airstrikes targeting vehicles travelling on roads out of Sa'da governorate (including towards Sana'a, the most likely direction of travel for civilians fleeing Sa'da governorate) may have discouraged some residents from leaving the city of Sa'da for fear of such attacks. The coalition's ultimatum to the civilian population to leave Sa'da governorate (and Marran) was not accompanied by any reassurance that they would not be at risk of attacks while travelling or designation of safe routes.

In any case, warnings do not release an attacker from the prohibition of directly attacking civilians or civilian objects or from the obligation to take other necessary precautions to spare civilians. Civilian homes do not become military objectives only by virtue of their inhabitants having been warned. By the same token, warnings do not diminish the attacker's obligation to weigh expected collateral damage against the anticipated military advantage and make sure the impact on civilian objects is not disproportionate.⁸

SA'DA: 10 YEARS OF CONFLICT AND INSTABILITY

Between 2004 and 2009, Sa'da endured six bouts of armed confrontations (commonly referred to as "the six wars") between the forces of then President Ali Abdullah Saleh and the Huthi armed group, also known as Ansurallah ("God's partisans/supporters"). The outbreak of violence was sparked by the killing in September 2004 of Hussain Badr al-Din al-Huthi, a Shi'a cleric from the Zaidi sect, leader of the Believing Youth (Shabab al-Mu'min) movement, and founder of the Huthi movement.

Countless civilians were killed and injured and Sa'da suffered large-scale destruction in the repeated conflicts. The initially localised fighting eventually spread to other governorates and in 2009 spilled into neighbouring Saudi Arabia, which launched deadly strikes against the Huthis. Hostilities ended with a ceasefire in early 2010 but long-standing tensions remained largely unaddressed and new grievances resulted from the six wars.

The political instability that erupted in 2011, when mass protests against President Saleh and corruption were brutally repressed, forced President Saleh to resign. In the following three years the Huthis participated in the political transition process, the UN-backed National Dialogue Conference (NDC), while simultaneously gaining and establishing territorial control in Sa'da governorate and parts of neighbouring governorates – a process which led to increasing confrontations with the government of President Abd Rabbu Mansour Hadi, and culminated with the Huthi takeover of the capital in September 2014 and of further territory in early 2015.

⁸ Additional Protocol I, Article 51(5) b, <https://www.icrc.org/ihl/WebART/470-750065>

DISPROPORTIONATE AND INDISCRIMINATE ATTACKS

Many of the Saudi Arabia-led coalition strikes that Amnesty International has researched in Sa'da governorate were unlawful - in that they deliberately targeted or disproportionately harmed civilians and civilian objects,⁹ or failed to distinguish between these and military objectives.

Even though fighting guerrilla groups based among the civilian population poses specific challenges, including identifying and destroying military objectives while minimizing harm to civilians, the rules of international humanitarian law¹⁰ take into account such challenges, and these challenges may never be used to justify indiscriminate¹¹ or disproportionate¹² attacks or the failure to adopt precautionary measures to protect civilians.¹³

The evidence from other attacks on military objectives, infrastructure, government buildings, moving vehicles and other targets elsewhere in Yemen indicates that coalition forces are capable of striking their chosen targets with a certain degree of accuracy. In investigations into airstrikes in other parts of the country,¹⁴ Amnesty International found that Huthi/Saleh-loyalist-controlled¹⁵ military bases or other military objectives had been repeatedly targeted by coalition airstrikes. Yet researchers found civilian objects in Sa'da governorate which had been struck more than once, suggesting that they were in fact the intended target of the attack.

For example, in at least four of the airstrikes investigated by Amnesty International, houses were struck more than once, suggesting that they were the intended targets. Amnesty International also visited six markets in and around Sa'da city that were struck by airstrikes and analysed video footage of the aftermath of airstrikes on a number of markets in other nearby towns and villages. Some markets were attacked repeatedly on separate occasions, at times of day when many civilians were present. Markets are civilian objects and therefore cannot be targeted. Amnesty International found no evidence indicating that the markets had

⁹ In relation to the expected military gain from the strike.

¹⁰ International Committee of the Red Cross (ICRC) Customary IHL Study, Rule 1. See also Additional Protocol I, Article 48, and Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II), Article 12(2).

¹¹ ICRC Customary IHL Study, Rule 12; Additional Protocol I, Article 51(4)(a) and ICRC Customary IHL Study, Rule 156, p.599.

¹² ICRC Customary IHL Study, Rule 14 and ICRC Customary IHL Study, Rule 156, p.599.

¹³ Additional Protocol I, Article 57(2).

¹⁴ For example, see Amnesty International, *Yemen: Airstrike and weapon analysis shows Saudi Arabia-led forces killed scores of civilians*, 2 July 2015, <https://www.amnesty.org/en/latest/news/2015/07/yemen-airstrike-analysis-shows-saudi-arabia-killed-scores-of-civilians/>

¹⁵ Ali Abdullah Saleh stepped down after more than three decades in power in late 2011, following widespread political unrest, after securing a deal granting him immunity from prosecution. He was replaced by Vice-President Abd Rabbu Mansour Hadi. During his presidency, Saleh launched six military campaigns against Huthi insurgents in Sa'da governorate between 2004 and 2009. However, in the current conflict Saleh and part of the armed forces loyal to him are allied with the Huthi armed group. Saleh officially announced his alliance with the Huthi armed group in May 2015.

been used for military purposes.

Amnesty International researchers investigated an attack on al-Zahra School, north east of Sa'da's city centre.¹⁶ At the school, researchers found no evidence to indicate that the school had been used for military purposes. Residents in the area told Amnesty International that the school was bombed hours after a load of grain had been unloaded there, where it was to be stored pending distribution.

In the months prior to Amnesty International's visit to Sa'da governorate, coalition forces attacked and extensively damaged key civilian infrastructure in and around the city, including water and electricity installations, communications towers, government buildings in the centre of town, a television station, the court and prosecutor general's office, finance offices, passport offices, the post office, agricultural bank, a sewing and literacy organization, petrol stations, seven markets and the main trading/shopping street in the city.¹⁷

International humanitarian law prohibits attacks on civilian objects – all objects which are not military objectives. Military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage.¹⁸ Amnesty International is concerned that coalition forces' interpretation of what constitutes a military objective, and particularly of the concept of "definite military advantage", is overly broad.

From visits to a broad range of sites struck by coalition air attacks, such as markets, banks, public buildings and private businesses, and interviews with civilian residents of the areas, Amnesty International found no evidence of any military activity that would justify these being considered as military objectives, and to date coalition forces have provided no evidence that the premises were used as combat positions or military command centres or to manufacture or store weapons – or for any other purpose which, under certain circumstances, would have made it lawful to target them. Military advantage may not be interpreted so broadly as to render the prohibition of attacks on civilian objects ineffective. To justify under this concept attacks aimed at harming economic well-being or demoralizing the civilian population in order to weaken the ability to fight would be to distort the legal meaning of what constitutes a military objective and undermine the protection of international humanitarian law. If these objects were attacked on such a basis, this would be a serious violation and a war crime.

There are objects that can potentially be used for military purposes, such as electricity and fuel installations. However, the simple fact that destroying objects that could potentially have a military use could offer a military advantage does not necessarily make them military

¹⁶ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 3 July 2015: 16°56'51.2"N 43°46'16.3"E.

¹⁷ Amnesty International researchers visited the sites of all these strike locations and interviewed residents of the areas in early July 2015.

¹⁸ ICRC Customary IHL Study, rule 8.

objectives.

A legitimate military advantage cannot be one that is merely a potential or indeterminate advantage, otherwise this interpretation could be used effectively to justify any attack since almost all civilian objects could potentially have a military use.¹⁹ Under international humanitarian law in cases where it is unclear whether an object is used for military purposes, "it shall be presumed not to be so used."²⁰

If a determination is made that a dual-use facility is in fact a military objective, then the party must assess the likely harm to civilians of proceeding with the attack. If the potential harm outweighs the anticipated advantage, the facilities should not be attacked.²¹

The pattern and scope of coalition strikes on the infrastructure in Yemen in general, and in Sa'da governorate in particular, reflect this overbroad interpretation of the concept of military advantage. In fact, these attacks appear to have been aimed at inflicting a form of collective punishment on the population of Sa'da governorate, the country's historical Huthi stronghold, as well as harming the Huthis' military capability.

THE BIGGEST KILLERS OF CIVILIANS IN THE CONFLICT

The biggest killers of civilians in the Yemen conflict are explosive bombs launched from Saudi Arabia-led coalition aircraft. A joint report by the UN Office for the Coordination of Humanitarian Assistance (OCHA) and the non-governmental organization Action on Armed Violence (AOAV) found:

*"The intensity of explosive violence in the country has meant that more civilian deaths and injuries from explosive weapons were recorded in Yemen during the first seven months of 2015 than in any other country in the world. The majority of reported civilian deaths and injuries from explosive violence in Yemen from 1 January to 31 July 2015 (60 percent) were caused by air-launched explosive weapons such as missiles and large aircraft bombs. AOAV recorded a total of 3,287 deaths and injuries in Yemen from aerial explosive weapons. Of these 82 percent were reported to be civilians (2,682 civilian deaths and injuries)".*²²

The most used air-launched explosive weapons in the geographical area covered in this report are US-designed and US-produced general purpose bombs from the Mark/MK 80 series,

¹⁹ The authoritative ICRC Commentary on Additional Protocol I (at para. 2024) defines the expression "definite military advantage" by stating that "it is not legitimate to launch an attack which only offers potential or indeterminate advantages...in case of doubt, the safety of the civilian population...must be taken into account".

²⁰ Additional Protocol I, Article 52(3).

²¹ Additional Protocol I, Article 51(5), ICRC Customary IHL Study, Rule 8.

²² Office of the Coordination of Humanitarian Affairs (OCHA) and Action On Armed Violence (AOAV), *State of Crisis: Explosive Weapons in Yemen*, 2015, : <https://docs.unocha.org/sites/dms/Documents/Yemen%20EWIPA%20report.pdf>

remains of which have been found by Amnesty International researchers at the locations of Saudi Arabia-led coalition airstrikes, notably:

- MK 82 (also known as BLU-111/B) 500 lbs (about 225 kg), containing some 192 lbs (about 87 kg) of Tritonal High Explosive.
- MK 83 (also known as BLU-110B/B) 1,000 lbs (about 453 kg) containing some 445 lbs (about 201 kg) of Tritonal High Explosive.
- MK 84 (also known as BLU-117) 2,000 lbs (about 907 kg) containing some 945 lbs (about 428 kg) of Tritonal High Explosive, the largest of the MK 80 series bombs.²³

Two types of air-launched cluster bombs,²⁴ internationally banned, have also been used, remains of which have been found by Amnesty International researchers at the locations of Saudi Arabia-led coalition airstrikes:

- US-produced CBU-87 bombs, each carrying 202 BLU-97 cluster submunitions.²⁵
- US-produced CBU-105 Sensor Fuzed Weapon, each carrying 10 Blue-108 Sensor Fuzed submunitions canisters, each containing four submunitions.²⁶

The US government has repeatedly stated that it will continue to support the Saudi Arabia-led coalition and is providing arms, logistical support and intelligence. US Deputy Secretary of State Antony J. Blinken has said that the USA would be speeding up weapons deliveries to Saudi Arabia and form a "joint coordination planning cell" with its Saudi Arabian counterparts, suggesting close cooperation.²⁷

According to a report published in January²⁸ by the Congressional Research Service, between October 2010 and October 2014 there were just over \$90 billion worth of proposed major US defence sales between Washington and Riyadh. The proposed sales include weapons and equipment ranging from APACHE helicopters and Howitzers (artillery) to armoured vehicles, TOW anti-tank missiles and bombs, as well as training. In early September 2015 the

²³ The denomination weight (500 lbs, 1,000 lbs, 2,000 lbs) is approximate. Actual weight varies slightly depending on the type of fins, fuze and other components used.

²⁴ A third type of cluster munitions, ground launched M26 cluster munition rockets, each containing 644 M77 Dual Purpose Improved Conventional Munitions (DPICM) submunitions, has also been used in northern Yemen and documented by Human Rights Watch. See: Human Rights Watch, *Yemen: Cluster munition rockets kill, injure dozens*, 26 August 2015, <https://www.hrw.org/news/2015/08/26/yemen-cluster-munition-rockets-kill-injure-dozens>

²⁵ Landmines and Humanitarian Mine Action, *BLU-97 Drogue-stabilised, combined effects submunition*, <http://www.nolandmines.com/SubsBLU97.htm>

²⁶ Collective Awareness to Un-exploded Ordnance, *CBU-97 (SUU-66) American cluster bomb*, <http://www.cat-uxo.com/#/cbu-97-cluster-bomb/4589243463>

²⁷ New York Times, *Expedited Weapons Deliveries to Saudi Arabia Signal Deepening U.S. Involvement*, 7 April 2015, <http://www.nytimes.com/2015/04/08/world/middleeast/yemen-houthis.html>

²⁸ Congressional Research Service, 'Saudi Arabia: Background and U.S. Relations', Christopher M. Blanchard, 23 January 2015: <http://fas.org/sgp/crs/mideast/RL33533.pdf>

Bloomberg news agency reported that the Obama administration had notified Congress informally that it wanted to resupply Saudi Arabia with “thousands of precision-guided munitions”, including “Joint Direct Attack Munitions with GPS satellite guidance”.²⁹

Saudi Arabia has also been a major importer of UK weapons since the 1960s. Between 2009 and 2013, 42% of all UK arms exports went to Saudi Arabia.³⁰ Between 15 March and 1 July 2015, the UK approved 37 export licences to Saudi Arabia, which it said had been considered in line with its obligations under the Arms Trade Treaty.³¹

All states have legal responsibilities under international law to control the transfer of weapons and restrict or prohibit it in certain circumstances. Under Article 6 of the Arms Trade Treaty, which came into force in late 2014, where a state has knowledge that the arms it is considering for authorization would be used by a party to an armed conflict in the commission of attacks directed against civilian objects or civilians protected as such, or any other war crime as defined by international agreements to which the state is a party, it is prohibited from transferring such arms and munitions to the party.³²

In addition to this treaty obligation, under customary international law, states may incur liability for aiding or assisting another state to commit internationally wrongful acts such as commission of attacks directed against civilian objects or civilians protected as such, or any other war crime.³³ In this context providing means or other material support (such as military equipment) with the knowledge that its use will lead to or facilitate the commission of serious violations of international humanitarian law may lead to liability under international law.

The Saudi Arabia-led coalition airstrikes investigated by Amnesty International in Sa'da governorate have involved serious violations of international humanitarian law, including war crimes. Amnesty International is calling on states – including the US and UK – who supply arms to the members of the Saudi Arabia-led coalition³⁴ to suspend all transfers to members of the Saudi Arabia-led coalition which are carrying out attacks in Yemen, of general purpose bombs, fighter jets, combat helicopters and associated parts and components.

²⁹ Bloomberg Business, *Saudi arms resupply readied by US as King to visit White House*, 3 September 2015, <http://www.bloomberg.com/news/articles/2015-09-03/saudi-arms-resupply-readied-by-u-s-as-king-to-visit-white-house>

³⁰ SIPRI, 'Trends in International Arms Transfers, 2013', Simeon T. Wezeman, Pieter D. Wezeman, March 2014, p.2, <http://books.sipri.org/files/FS/SIPRIFS1403.pdf>

³¹ UK Parliament, *Arms Trade: Saudi Arabia: written question-3711*, <http://www.parliament.uk/written-questions-answers-statements/written-question/commons/2015-06-23/3711>

³² Arms Trade Treaty (ATT), Article 6, pp. 4-5, <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf> Text taken verbatim from: Amnesty International, *Applying the Arms Trade Treaty to ensure the protection of human rights*, February 2015, Index: ACT 30/003/2015, pp. 4-5, <https://www.amnesty.org/download/.../ACT3000032015ENGLISH.PDF>

³³ Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, International Law Commission, Yearbook of International Law Commission, 2001, vol. II, Part Two, Article 16, p. 36.

18 'BOMBS FALL FROM THE SKY DAY AND NIGHT'
CIVILIANS UNDER FIRE IN NORTHERN YEMEN

³⁴ Bahrain, Egypt, UAE, Kuwait, Qatar, Sudan, Jordan and Morocco are also participating in the Saudi Arabia-led coalition.

CASES OF AIRSTRIKES RESULTING IN CIVILIAN CASUALTIES

SA'DA CITY, SA'DA, 1 JULY³⁵

On the night of 1 July Majid Amin al-Hamiri was sitting across the road from the three-storey apartment building in which his family lived, when coalition forces launched three consecutive strikes on the building, just north of Sa'da city centre. The attack killed Ahmed al-Dhammari, a 40-year-old fruit and vegetable vendor; and injured six members of the Hamiri family – 18-month-old Naya al-Hamiri; her mother Anhar, 26; grandmother Samira, 48; her aunts Nidhal, 19, and Noura, 21; and her uncle Wessam, 23 – as well as three men who were working on the family's home.

Majid Amin al-Hamiri told Amnesty International:

"The first strike hit in front of the building, the second hit the first floor and the third hit the second floor. I was sitting across the road with my 15-year-old brother and I saw everything. All I heard was the plane, as if it was descending and making a whistling sound. Then I heard an explosion. I went to get my family out after the first strike, to get out my father and brother, and then the second strike happened...Min Allah [It was written by god, meant to be]. We were already around the corner when the second strike happened. That is when my brother was injured in his leg."³⁶

A fruit and vegetable vendor from the downstairs shop and two workers who were repairing the windows of the al-Hamiris' apartment were also injured in the strikes. "We have no electricity in Sa'da, so the workers had to work at night because they needed electricity for their tools and the generator is only on for few hours at night", Majid told Amnesty International.

Majid Amin al-Hamiri also told researchers how he and his family had been living in utter fear of the airstrikes every night:

"Since the start of the coalition airstrikes, we have been sleeping under the stairs. My daughter Naya and I slept under the stairs on the ground floor, while the rest of the family slept under the stairs on the first floor. At the time of the airstrike, my family was watching television in the living room. If we had been asleep when the strike happened, we would not have survived. We choose the safest place in the house, under the stairs. The whole house is destroyed."

Majid al-Hamiri told researchers that this was not the first airstrike on his neighbourhood:

³⁵ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 3 July 2015: 16°56'50.2"N 43°45'27.3"E.

³⁶ Interview in Sa'da city, Sa'da, 3 July 2015.

"A strike prior to this one on my house targeted the 125th [army] Brigade and the Military Police [Headquarters], 500 metres from our house. But the brigade was not active at the time."

Neighbours told researchers that many residents had fled the neighbourhood after the strike, weeks earlier, on the nearby army and military police buildings and that more had fled since the 1 July strike on the al-Hamiri building. Only two families were still living in the building at the time of the strike; the al-Hamiris and the owner of the building and his family. The owner and his family lived on the ground floor, on the eastern side of the building, and were able to escape unharmed after the first bomb struck in front of the western side the building. A fruit and vegetable shop on the ground floor was open late as is customary during the month of Ramadan.³⁷

Amnesty International visited the site on 3 July, a day and a half after the airstrike, and examined munition remnants found in the rubble of the building that were consistent with the weight and material used for bombs found at the sites of other airstrikes in Sa'da governorate and elsewhere in Yemen.³⁸ A crater of about two meters in diameter in front of the building, which witnesses identified as the point of impact of the first strike, had been filled with bricks and debris from the strike. The building was partly destroyed, notably between the western façade and the stairwell, and neighbouring houses had suffered varying degrees of blast damage. Researchers found no evidence that the building was used for military purposes.

The fact that the building was the object of three successive strikes indicates that it was likely the intended target, possibly because it was associated with Military Police chief Hamid al-Hamiri, a member of the extended al-Hamiri family who, according to relatives and neighbours who spoke to Amnesty International, was no longer living in the building and was not in or near the building at the time of the strike. However, even if he had been present, attacking the building in this manner, with some 20 civilians present, would likely have been disproportionate.

DAMMAJ VALLEY, AL-SAFRA, SA'DA, 13 JUNE ³⁹

On 13 June, coalition forces killed eight children and two women from the al-Sailami family and injured seven other relatives, four children, two women and a man, when they bombed their home in al-Safra, a village south-east of Sa'da city at around 12.30pm.

At the ruins of the house, on the northern edge of the village, Abdullah Ahmed Yahya al-

³⁷ The holy month for Muslims, when people fast from sunrise to sunset and shops and markets are open late into the night. In 2015 the month of Ramadan ran from 18 June to 17 July.

³⁸ Metal fragments found at the site of this strike had the same characteristics (weight, thickness, consistency and colour) as those of fragments found by Amnesty International researchers at dozens of other airstrike locations in Sa'da and elsewhere in Yemen.

³⁹ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 5 July 2015: 16°53'38.8"N 43°48'59.9"E.

Sailami, whose one-year-old son was killed in the strike, told Amnesty International that he was praying at the nearby mosque with the other men from the family when he heard the bombing and ran back to find a scene of indescribable horror:

"We [the men] were at the mosque at noon prayers, 20 meters from the house. There were 19 people in the house when it was bombed. All but one were women who were not associated with the fighting and children. The children who would usually be playing outside during the day were in the house, because it was lunchtime. They were all killed or injured. One of the dead was a 12-day-old baby, Abdelhakim, and his mother Wafaa, 17. Then we found Sefiya's body at the entrance of the house, where she was sitting with her two children, three-year-old Youssef and 18-month-old Zahra. All three were killed. It took us three days to dig out their body parts. Youssef was torn to shreds."⁴⁰

Mohammed, another relative who took part in the rescue after the airstrike, told Amnesty International:

"Aqil still had his dummy [pacifier] in his mouth when we pulled him out of the rubble, dead. He was only one year old. That day was his first birthday. Mohammed was 14 months; we found him and his sister Mariam, six, dead in the rubble. When we dug Baraa', and her sister Juhaina out of the rubble, Juhaina was still alive but she died a few days later, on the first day of Ramadan. She was seven, and Baraa' was four. The youngest survivor is Abdelmalik, who is only six months old. We found him in the arms of his grandmother Aisha; she folded her body over his and protected him. He was unharmed. She was also injured but thankfully survived. Why on earth did the Saudis bomb our home? This is a farm, we are civilians. There were only women and children. My cousin Ahmad was the only man in the house. He wasn't feeling well so he did not come to the mosque, but was praying in his room when the house was bombed. When we pulled him from the rubble, injured, he was still praying."⁴¹

Amnesty International visited the site three weeks after the airstrike and found at the ruins of the house many items that would normally be found in a civilian house – children's toys, books, clothes, cooking utensils and furniture. No sign of weapons or other military ware were found in or around the house. Amnesty International did not find any information to suggest that the male residents, who were all, except one, not in the house at the time of the strike, were fighters. At best, this attack demonstrates reckless disregard for the lives of civilians. If the attackers had information that fighters were present, they had a duty to take steps to verify their presence and to ascertain who else was in the house. If necessary precautions had been taken the attack would have been cancelled due to the fact that only civilians were present.

⁴⁰ Interview in Dammaj Valley, al-Safra, Sa'da, 5 July 2015.

⁴¹ Interview in Dammaj Valley, al-Safra, Sa'da, 5 July 2015.

BENI MA'ATH, SABR, SAHAR, SA'DA, 8 JUNE⁴²

On the morning of 8 June, a coalition forces airstrike on a farm in Beni Ma'ath, a rural area north-west of Sa'da city, killed three children and two pregnant women, as well as injuring two children and a 61-year-old man from the Halhal family.

The strikes created a 10-meter wide crater, where Amnesty International found remnants of a US-designed Mark (MK) 80 series general purpose bomb.⁴³ Survivors told Amnesty International that three consecutive airstrikes hit the farm, sending some of the 22 family members flying dozens of meters away. They said that they did not find the body of one of the children killed in the strike until four days later. Amnesty International found no evidence of military activities around the house, where the family's meagre possessions were strewn dozens of meters from the ruins of the house.

Ammar Mohammed Halhal, a 28-year-old farmer and father of four who survived the attack, but lost his pregnant wife and his daughter, told Amnesty International:

"I don't know why they bombed us. We are just simple farmers, we grow qat and vegetables. We are poor and spend our time working to eke a living for our families. They killed us for no reason. My wife, Nabila Ali and my little girl Fatime, my brothers Saqar and Abdullatif, who are both two years old, and my stepmother Safia Ghaleb were all killed. My wife and my stepmother were both in the last month of their pregnancies. My father and my little brother and sister, both three years old, were injured. The bombs were so powerful that we were blown far from the house. It took four days to find the body of little Abdullatif; he had been blown more than 50 meters away".⁴⁴

Ammar Mohammed Halhal's father, Mohammed, who sustained multiple injuries to his back, neck and arms, said: *"The explosion sent me flying all the way to that tree, some 30 meters from the house".⁴⁵*

AL-MAGHSAL, AL-JA'MALA, MAJZ, SA'DA, 4 JUNE ⁴⁶

The al-Shayba family lived in a tight-knit cluster of small houses in al-Maghsal area in Majz, north-west of Sa'da city. On the morning of 4 June, four consecutive airstrikes ripped through the homes. 11 members of the al-Shayba family, eight children and three women, were killed, while a woman and two children and were injured.

Fragments of MK 80 bombs, which have been systematically used in coalition forces' air bombardments, were found in the ruins of the house by Amnesty International. As with many other coalition airstrikes, there was no evident military objective at or near the site of the multiple strikes, whose victims were all children and women.

⁴² The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 5 July 2015: 16°58'11.2"N 43°38'19.7"E.

⁴³ Photographs of the fragments on record with Amnesty International.

⁴⁴ Interview in Beni Ma'ath, Sabr, Sahar, Sa'da, 4 July 2015.

⁴⁵ Interview in Beni Ma'ath, Sabr, Sahar, Sa'da, 4 July 2015.

⁴⁶ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 4 July 2015: 17°04'27.8"N 43°32'37.5"E.

Ali Qassem Salah al-Shayba, an animal trader and father of four, told Amnesty International:

"I was by the river on my way back home when our homes were bombed, at about 10am. It was a massacre; what can I tell you? A massacre. I lost my son Hassan, four, and my daughter Taysir, 12; my mother, Munawwar, my sister Aziza and her daughter Salsabil, six; my brother's son and daughter, Mohammed and Yousra, aged nine and 16, and my cousin Shama'a and her three daughters, Altaf, Zahra & Batul, aged one, three, and six. My wife and my other four-year-old son were injured, along with my 16-year-old niece."⁴⁷

Surviving family members said that the body of three-year old Zahra had not yet been recovered when Amnesty International visited the site four weeks after the attack.

"A family of 20 lived here, my brothers and I and our families. It was a two-storey house. There were only women and children. And we don't have weapons, we are livestock traders. We have nothing to do with the war. I had 20 cows and over 50 goats. But they [coalition forces] destroyed it all," said Ali Qassem Salah al-Shayba, pointing to the carcasses of the dead animals still strewn around the house.

AL-'ERAM, BENI MA'ATH, SABR, SAHAR, SA'DA 3 JUNE⁴⁸

When coalition forces airstrikes destroyed a cluster of nine houses in the eastern side of al-'Eram, they decimated a community. The attack, which took place at about 5pm, killed at least 55 residents and injured nine others. Those killed included 35 children and 11 women.

In the village, north-west of Sa'da city, survivors told Amnesty International that several consecutive airstrikes hit the village and that the strikes had continued while rescue efforts were underway to look for bodies and survivors in the rubble.

Salah Basrallah, a farmer, lost 21 family members, including his six children and his wife, in the bombing. He told Amnesty International:

"My brother Saleh and his wife Alya, my wife Amina Mohamed, my mother Fatimat Hadi, my six children and my brother's children were all killed. A total of 21 were killed in my family. At the time of the strikes, I was at the farm, outside the village. My wife was in the house, my children were playing outside. I heard the airstrike and I came to find my house had become a mound of rubble. We did not find some of the dead until days later. We had to dig in the rubble to look for the bodies while the planes were still flying overhead after the airstrikes."⁴⁹

Ghaleb Dhaifallah, a father of four, whose 11-year-old son, was killed in the bombing, described the attack to Amnesty International:

⁴⁷ Interview in al-Maghsal, al-Ja'mala, Majz, Sa'da, 4 July 2015.

⁴⁸ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 4 July 2015: 16°57'42.8"N 43°36'52.7"E.

⁴⁹ Interview in al-'Eram, Sab, Beni Ma'ath, Sahar, Sa'da, 4 July 2015.

"At the time of the airstrikes, I was at a friend's house around 200 meters from here. There were four strikes. There was a gap of one hour between the second, third and fourth attack. My eldest son Mu'az was killed, he was 11 years old. He was injured by shrapnel in the head and died on the spot. He was playing with Sadeq Hamoud's four children, my uncle's two daughters and some other children they all died on the spot. About 12 of them were not buried in the rubble. The rest were under the rubble. We had to dig for a long time to find the bodies. I swear there were no arms depots here or any [Huthi] leader here. It's just a place where normal citizens live."⁵⁰

Residents said that it took five days to dig out all the bodies and that some of the victims were killed when coalition forces struck the area again while rescue efforts were underway. They said that no Huthi leaders or fighters were residing in the village. Amnesty International found no evidence of military activities in the village. Residents showed Amnesty International a disused school on the eastern edge of the village that had been bombed by coalition forces a month prior to the strikes on the village, causing no casualties as the school was not in use. They also showed researchers remnants of MK 80 series bombs, which they said they found in the rubble.⁵¹

Amnesty International could not establish the identity of each and every victim of the attack. However, what is clear is that a large majority of the victims were civilian women and children. Even if Huthi fighters were among those killed in the attack, their presence in and of itself would not make these homes military objectives. An attack targeting the fighters would need to take into account the presence of so many civilians. Carrying out the strikes when so many civilians were present would likely make it a disproportionate attack.

COMMERCIAL BUILDINGS, AL-JUMAYDA NEIGHBOURHOOD, SA'DA CITY, SA'DA, 2 JUNE⁵²

Sa'da city's main commercial street, south and south-east of the old city, has been repeatedly targeted by coalition airstrikes and largely destroyed, killing and injuring shopkeepers and shoppers and depriving of their livelihoods hundreds of families who used to make a living from their trade there.

On the morning of 2 June, one of these airstrikes left seven dead and more than a dozen injured among shop-owners, shoppers and passers-by. Ahsan Ahmad al-Hamis, the owner of a shop selling agricultural products, described the strike to Amnesty International:

"It was about 10.30am when the strike happened. Abdulaziz Jihad Ahsan, who was 20 and had a small shop selling electrical spare parts for cars, was killed on the spot. Abdulmalik Ahmad Nasser, who worked in my shop, was also killed on the road near the shop. Another one who was killed on the street was Hamud Yahia Sayed Zalzal. In

⁵⁰ Interview in al-'Eram, Sabr, Beni Ma'ath, Sahar, Sa'da, 4 July 2015.

⁵¹ Photographs of the fragments are on file at Amnesty International.

⁵² The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 5 July 2015: 16°55'57.3"N 43°44'27.1"E.

addition to them I saw three other dead men whose names I don't know".⁵³

Abdelsalam Ahmed Nasser told Amnesty International that his brother Abdelmalik Ahmed Nasser, 32, was a father of four young children:

"It was about 10.30am and I had gone to buy some car parts when a shop owner ran over to me and told me: 'come quickly, your brother is injured'. There were no ambulances. We had to wait half an hour. We took him to hospital but he died. He had shrapnel injuries in his abdomen. He had been about 30 meters away from the explosion"⁵⁴

Abdulaziz Jihad Ahsan's brother Shihab told Amnesty International that Abdulaziz was struck in the head by shrapnel and died instantly; and that another brother, Yasser, was also injured in the strike.

Witnesses told researchers that another airstrike a day earlier on an aluminium shop on the same street had caused further casualties.

ATTACK ON VEHICLE, SA'DA CITY, SA'DA, EARLY JUNE⁵⁵

Some victims were killed as they were trying to flee to safety. Abdullah al-Lamood Abdullah told Amnesty International that six members of his family were killed when the car they were travelling in was struck by coalition forces around 4 June in the middle of the day.

The car was by the petrol station near the political security building on the Gharaz Road, next to the specialized hospital, when a first airstrike hit the station. A second airstrike subsequently hit the car, inside which were Hassan Hussein al-Lamood, 31, his mother Aziza, 50, his wife and their four young children. All were killed except Hussein's youngest child, a 13-day-old boy.

Abdullah told researchers that later that evening he heard on television that coalition forces announced the killing of a Huthi leader. He believed from the description that they were referring to his brother Hassan. However, he maintained that his brother Hassan was neither a leader nor a member of the Huthis.

"He was just an ordinary family man who worked in a money change office. They were in the Muwasalat area and when the petrol station there was bombed they escaped and headed to Gharaz, to my sister. They were on the way there when their car was bombed".⁵⁶

It is not clear if the target of the strike was the vehicle in which the al-Lamood family was

⁵³ Interview in Sa'da city, Sa'da, 5 July 2015.

⁵⁴ Interview in Sa'da city, Sa'da, 5 July 2015.

⁵⁵ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 5 July 2015: 17°00'21.1"N 43°39'53.0"E.

⁵⁶ Interview in Sa'da city, Sa'da, 4 July 2015.

travelling, the petrol station, the political security building or another target nearby. The vehicle and the civilians in it should not have been targeted. The petrol station also is a civilian object and should not have been directly attacked as such. As part of their obligation to take necessary precautions, those planning an attack on a legitimate target in the immediate vicinity should have been aware of and taken into consideration the danger of striking a petrol station, which was likely to cause a secondary explosion and fire thereby putting civilians in the area at risk. They would have had an obligation to consider other less risky targets.

USE OF INTERNATIONALLY BANNED CLUSTER MUNITIONS

Coalition forces have repeatedly launched strikes using internationally banned cluster bombs in and around villages around Sa'da city. Amnesty International found remnants of two types of cluster bombs, BLU-97 submunitions and their carrier bombs (CBU-87) north of the city, and the more sophisticated CBU-105 Sensor Fuzed Weapon (carrying Blue-108 Sensor Fuzed submunitions) south of the city.⁵⁷

On 4 July on the outskirts of Nushoor,⁵⁸ a village north-east of Sa'da city, Amnesty International found scores of BLU-97 submunitions, many unexploded, spread over a large field, the size of a football pitch. Residents of the area told researchers that they were dropped by coalition aircraft in the last week of May. In the intervening weeks, some of the yellow soda-can sized submunitions, each with a small parachute attached, had already become partly buried and less visible, and thus even more dangerous for unsuspecting civilians who risk setting them off by inadvertently stepping on or touching them.

A 13-year-old boy, Mohammed Hamood al-Wabash, was injured in the afternoon of 30 May when he inadvertently stepped on one of the unexploded BLU-97 cluster submunitions in Nushoor. He sustained multiple fractures in his left foot. He told Amnesty International that he had seen the yellow bomblets, which he did not know at the time were explosive, but that he had not noticed the one he stepped on while walking in the area.⁵⁹

Cluster bombs of the same make were dropped earlier in May by coalition forces in the centre of al-Magash,⁶⁰ a village west of Sa'da city, where Amnesty International found fragments of exploded submunitions between the houses and saw the impact of the explosions on the walls and doors of the houses. The organization could not verify reports that civilians had been injured by cluster bombs in the village. Residents of the village said that many of their neighbours had fled after the cluster bomb strike.

Cluster bombs contain between dozens and hundreds of submunitions, which are released in mid-air, and scatter indiscriminately over a large area measuring hundreds of square meters. Cluster submunitions also have a high dud rate, with a high percentage failing to explode on impact and becoming de-facto land mines, which pose a threat to civilians for years after deployment. For these reasons the use (as well as production and sale or transfer) of cluster munitions is prohibited under the 2008 Convention on Cluster Munitions, to which 116

⁵⁷ Photographs of the cluster submunitions, their carrier bombs and fragments are on file with Amnesty International.

⁵⁸ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 4 July 2015: 17°01'55.1"N 43°49'38.0"E.

⁵⁹ Interview in Sa'da city, Sa'da, 4 July 2015.

⁶⁰ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 4 July 2015: 16°56'23.4"N 43°42'54.9"E.

countries have since become state parties.

Even though Yemen, Saudi Arabia and the other countries members of the Saudi Arabia-led coalition participating in the conflict in Yemen are not parties to the Cluster Munition Convention, they are obliged to respect the ban on the use of inherently indiscriminate weapons that forms part of customary international humanitarian law.⁶¹

The notoriously indiscriminate US-made BLU-97 cluster submunitions were previously used in Yemen by the US in 2009,⁶² and were sold by the US to Saudi Arabia, which also previously used them in Yemen.⁶³

In the Harf Sofian area south of Sa'da governorate,⁶⁴ Amnesty International found remains of another type of cluster munition, the more recent and sophisticated CBU-105 Sensor Fuzed Weapon. According to local residents, the cluster bombs struck the area on 29 June. Human Rights Watch has documented other types of air-delivered and ground-launched cluster munitions used by coalition forces in northern Yemen.⁶⁵

⁶¹ ICRC, Customary IHL Study, Rule 71.

⁶² Amnesty International, *Yemen: Images of missile and cluster munitions point to US role in fatal attack*, 7 June 2010, <https://www.amnesty.org/en/press-releases/2010/06/yemen-images-missile-and-cluster-munitions-point-us-role-fatal-attack-2010/>

⁶³ Vice News, *US cluster bombs keep killing civilians in Yemen*, <https://news.vice.com/article/us-cluster-bombs-keep-killing-civilians-in-yemen>

⁶⁴ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 6 July 2015: 16°22'39.0"N 44°05'08.6"E.

⁶⁵ Human Rights Watch, *Yemen: Cluster munition rockets kill, injure dozens*, 26 August 2015, <https://www.hrw.org/news/2015/08/26/yemen-cluster-munition-rockets-kill-injure-dozens>

ECONOMY, PUBLIC AND COMMERCIAL INFRASTRUCTURE DESTROYED

Hassan Abdallah Mohammed Hajar, a 65-year-old tailor and father of 16, was walking past Sa'da city's main financial building (al-Maliya) when a coalition airstrike destroyed the building in early May. He was killed in the blast. His son told Amnesty International:

"My father was just unlucky to be passing there when the place was bombed. This is a daily reality for us; the bombs fall from the sky day and night and we don't know where it is safe. A few days ago a bomb landed in the middle of the roundabout outside our shop.⁶⁶ How can we protect our children, ourselves? We can't so long as the bombardments are so indiscriminate, day and night".⁶⁷

The targeting of shops, markets, workshops and commercial properties in general has been so widespread and so thorough that it is now difficult to assess the full extent of the destruction and to guess how many shops or workshops stood in the place where now only rubble remains. Such comprehensive destruction suggests that the aim is not the removal of specific targets, but rather the infrastructure and economy of the city, which is known to be a Huthi stronghold.

Six members of the Mabkhut family were injured when their home in the centre of Sa'da city was bombed on the morning of 2 June. Ahmad Mabkhut told Amnesty International that he and his family, including his 10-year-old son and three daughters, aged eight, 12 and 13, had been sheltering with relatives in Wadi Alaf, 15 minutes outside Sa'da city, to avoid the frequent bombardments in the city, and had just returned home to stock up on food from their food shop, below their home:

"I was downstairs with my son, and my wife and our three daughters were upstairs. With the airstrike the first floor collapsed and they fell to the ground floor and were buried in the rubble. I rushed out to call for help and with the help of my neighbours we dug in the rubble with our hands. We got them out wounded but alive, thank God. But my home and my shop and all the food in my shop were destroyed. The shop was feeding me and my family plus my mother and my two brothers and their families. Now we have no food and no income any more".⁶⁸

It is not clear whether the house was targeted as part of the general targeting of shops and

⁶⁶ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 6 July 2015: 16°56'15.0"N 43°45'01.6"E.

⁶⁷ Interview in Sa'da city, Sa'da, 5 July 2015.

⁶⁸ Interview in Sa'da city, Sa'da, 5 July 2015.

commercial properties or for some other reason.

Several workers of the al-Nasser food supermarket⁶⁹ were injured when the store was destroyed by three airstrikes on and around it one evening in early April, neighbours and witnesses told Amnesty International. One of them told researchers:

*"There was no reason to bomb this place. This was a food store. We found nothing but food items in the rubble. The workers were injured and the food was wasted, a real shame at a time when people are struggling to put food on the table."*⁷⁰

A coalition airstrike on a warehouse of the humanitarian organization Oxfam,⁷¹ on 19 April,⁷² sent shrapnel flying into the home of Safia Hamuda Mohammed, a widow who lives nearby with her four daughters in a small tin-roofed dwelling. Safia told Amnesty International:

*"Everything shook and pieces of metal came flying in, slicing through the roof and the walls. It is a miracle we are still alive and unharmed. We crouched by the wall and prayed. The pieces of metal fell right by our feet. I shudder to think at what could have happened if one of those pieces of metal had hit my daughters."*⁷³

⁶⁹ Mahallat al-Nasser al-Tijariya li-l-Mawad al-Ghida'iya, Nasser Food Stores, Sa'da city: 16°56'05.3"N 43°45'31.5"E.

⁷⁰ Interview west of Sa'da city, Sa'da, 5 July 2015.

⁷¹ The GPS coordinates of the strike taken by Amnesty International during a visit to the site on 5 July 2015: 16°56'02.6"N 43°43'14.2"E.

⁷² See., *Oxfam condemns coalition airstrike on one of its storage facilities in Saada governorate in northern Yemen*, 20 April 2015, <http://www.oxfam.org.uk/blogs/2015/04/yemenOxfam>

⁷³ Interview in Sa'da city, Sa'da, 5 July 2015.

DETERIORATING HUMANITARIAN SITUATION

“The conditions here are dire; we sleep on a thin blanket on the ground under a plastic sheet and live of charity. Some days we have no food at all. Is this what our life will be from now on? We have no home to go back to and no means to make a living. We have lost everything”.

Ali Nasser Ahmad al-Qahsi, a displaced resident of Sa'da governorate ⁷⁴

Across the country, the conflict and restrictions imposed by the Saudi Arabia-led coalition on the import of essential goods have exacerbated an already acute humanitarian situation resulting from years of poverty, poor governance and instability. As it stands now, 80% – or 4 in 5 Yemenis - need some form of humanitarian assistance, prompting UN agencies to declare a Level 3 (most severe) emergency response for Yemen.⁷⁵ Recent attacks on aid workers in the north and south of the country – in violation of international humanitarian law ⁷⁶ – have prompted humanitarian organizations to reduce or suspend operations, further exacerbating an already challenging situation.⁷⁷

The situation in Sa'da governorate is particularly acute, owing to the widespread destruction of civilian infrastructure. After concluding a visit to Sa'da governorate in early August 2015, the UN Humanitarian Coordinator for Yemen said:

⁷⁴ Interview in camp for displaced people in Khamir (Amran governorate), south of Sa'da governorate, 6 July 2015.

⁷⁵ OCHA, *Yemen: highest emergency response level declared for six months*, 1 July 2015 <http://www.unocha.org/top-stories/all-stories/yemen-highest-emergency-response-level-declared-six-months>; Statement to the UN Security Council by Under-Secretary-General for Humanitarian Affairs Stephen O'Brien, 28 July 2015 <https://docs.unocha.org/sites/dms/Documents/UNSC-%20Yemen%20-%2028%20July%2015%20-%20USG%20%27Brien%20as%20delivered.pdf>

⁷⁶ Respect for and protection of the personnel of humanitarian organizations; ICRC Resource Centre, 19 January 1998, <https://www.icrc.org/eng/resources/documents/misc/57jp85.htm>

⁷⁷ ICRC, *Yemen: Two ICRC staff members killed in attack, 2 September 2015*, <https://www.icrc.org/en/document/yemen-two-icrc-staff-members-killed-attack>; ICRC, *Yemen: ICRC office in Aden attacked*, 25 August 2015, <https://www.icrc.org/en/document/yemen-icrc-office-aden-attacked> ; Two Yemen Red Crescent Society (YRCS) volunteers killed in a coalition airstrike in al-Swaida, Taiz Governorate on 28 September: https://twitter.com/icrc_ye: Eight ICRC and YRCS workers have been killed since 25 March 2015 (as of 29 September 2015): https://twitter.com/icrc_ye

"The escalation of the conflict in Yemen has a devastating impact on civilian populations, as I witnessed in Sa'da earlier this week. The violence has forced a large number of people to flee their homes. Civilian infrastructure such as health facilities, markets, shops, schools, banks and administrative buildings have been destroyed by airstrikes and fighting, paralyzing communities".⁷⁸

Damage to power stations and electricity networks have left the whole of Sa'da city without electricity. Some residents reported to Amnesty International that they have not had electricity since March 2015. The lack of electricity has by extension disrupted vital services such as water supply and health care, and impacts upon every aspect of life for the civilian population.

The healthcare system has completely collapsed in remote areas of Sa'da governorate, with primary care all but non-existent in rural areas, where most of the population lives, and in conflict-affected areas, where civilians are most vulnerable. During Amnesty International's visit to al-Jamhuri Hospital in Sa'da city, the director of the hospital told researchers it was becoming increasingly difficult to run the hospital because of fuel shortages and rising fuel prices. The hospital is powered 24 hours a day by a generator that requires 50 litres of petrol a day.

Officials at local hospitals told Amnesty International there was also a shortage of doctors as many had left since the start of the conflict. Airstrikes have attacked some health facilities south of Sa'da governorate in the governorate of Amran.⁷⁹ On 4 September 2015, the Saudi Arabia-led coalition reportedly bombed al-Sh'ara hospital in Razih, in the west of Sa'da governorate. According to Doctors Without Borders (MSF) personnel who visited the site afterwards, there was no evidence that the hospital was being used for any military purposes and the attack resulted in the killing of six patients and injury of six others.⁸⁰

In addition to being protected by their civilian status, hospitals and medical personnel have special protected status. The parties to the conflict must respect and protect medical units, personnel and their means of transport.⁸¹

Insecurity, fear of airstrikes, and fuel shortages have placed impediments on the movement of people and goods, as well as casualties. The targeting of key transport infrastructure by the Saudi Arabia-led coalition, such as bridges and main roads between Sa'da governorate and Sana'a, has had far-reaching consequences. On the road to Sa'da governorate in early July, Amnesty International delegates observed one bridge that had been recently destroyed by an airstrike. Five days later, on the way back to Sana'a, they found that a further three had been destroyed.

⁷⁸ OCHA, *Humanitarian coordinator for Yemen, Johannes Van Der Klaauw, returns from Saada, calls for protection of civilians and funding for scale up of aid effort*, 08 August 2015, <http://reliefweb.int/sites/reliefweb.int/files/resources/Humanitarian%20Coordinator%20for%20Yemen%20statement%20on%20Sa%27adah%20mission%20-%208%20August%202015.pdf>

⁷⁹ MSF, *Ambulances amid airstrikes: one day in Yemen*, 4 September 2015, <http://blogs.msf.org/en/staff/blogs/msf-in-yemen/ambulances-amid-airstrikes-one-day-in-yemen>

⁸⁰ Telephone Interview, 12 September 2015. Name withheld for security reasons.

⁸¹ ICRC Customary IHL Study, Rules 25 and 28.

The damage caused to the bridges hinder the movement of civilians, food and essential goods and medical supplies and personnel, while causing very little disruption to the movement of fighters. World Food Program (WFP) trucks loaded with flour could be observed parked on the side of the road, unable to continue their journey to Sa'da city. On the road between Sa'da governorate and Sana'a, Amnesty International observed over 20 charred vehicles that had been struck by airstrikes.⁸² These included oil tankers, while others were carrying apples, tomatoes, flour and goats to be slaughtered. Dead goats were strewn on the side of the road. Researchers saw no evidence of any military use for these vehicles.

Residents of Sa'da governorate have told Amnesty International that the targeting of vehicles on the road has intensified following the killing of 45 UAE, 10 Saudi Arabian and five Bahraini soldiers in early September 2015.⁸³ and that whereas airstrikes had previously mostly targeted transport vehicles, cars transporting people have recently been struck by coalition forces in and around the city of Sa'da.⁸⁴ MSF has reported that Sa'da governorate residents are increasingly unwilling to travel to reach hospitals or medical centres, leading to more people dying at home.⁸⁵ Meanwhile, roads to the north of Sa'da city remain inaccessible, difficult or unpredictable, further hindering the movement of people and goods.⁸⁶

International humanitarian law requires the parties to an armed conflict to respect and protect humanitarian relief personnel and objects used for humanitarian relief operations. In addition, they must allow and facilitate rapid and unimpeded passage of impartial humanitarian relief⁸⁷

⁸² Observed by Amnesty International delegates 3-6 July, 2015.

⁸³ AP, *Toll from Yemen rebel attack rises as 10 Saudi troops killed*, 5 September 2015, <http://bigstory.ap.org/article/8ae822828f9c429990b26fb31a2b6fc5/toll-yemen-rebel-attack-rises-10-saudi-troops-killed>

⁸⁴ MSF, *I need an ambulance*, 4 August 2015, <http://blogs.msf.org/en/staff/blogs/msf-in-yemen/i-need-an-ambulance>

⁸⁵ MSF, *I need an ambulance*, 4 August 2015, <http://blogs.msf.org/en/staff/blogs/msf-in-yemen/i-need-an-ambulance>

⁸⁶ Reliefweb, *Yemen: Status of infrastructure and access roads*, 11 June 2015, http://reliefweb.int/sites/reliefweb.int/files/resources/infrastructure_12june2015.pdf

⁸⁷ Additional Protocol II, Article 18; ICRC Customary IHL Study, Rules 31, 32 and 55.

INTERNATIONAL LAW APPLICABLE TO THE CONFLICT

INTERNATIONAL HUMANITARIAN LAW

Yemen is a state party to principal instruments of international humanitarian law - the four Geneva Conventions of 1949 and their Additional Protocol relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).⁸⁸

International humanitarian law contains the rules and principles that seek to protect primarily those who are not participating in hostilities, notably civilians. It applies only in situations of armed conflict and its rules are binding on all parties to a conflict, whether state forces or non-state armed groups. A fundamental rule of international humanitarian law is that parties to any conflict must at all times “distinguish between civilians and combatants”, especially in that “attacks may only be directed against combatants” and “must not be directed against civilians”.⁸⁹ A similar rule requires parties to distinguish between “civilian objects” and “military objectives”. These rules are part of the fundamental principle of distinction.

Intentionally directing attacks against civilians not taking direct part in hostilities or against civilian objects is prohibited and is a war crime.⁹⁰ The corollary of the rule of distinction is that “indiscriminate attacks are prohibited”.⁹¹ Indiscriminate attacks are those that are of a nature to strike military objectives and civilians or civilian objects without distinction, either because the attack is not directed at a specific military objective, or because it employs a method or means of combat that cannot be directed at a specific military objective or has effects that cannot be limited as required by international humanitarian law.⁹² Launching indiscriminate attacks which kill or injure civilians constitutes a war crime.⁹³

Also prohibited are disproportionate attacks which are defined as attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and

⁸⁸ Additional Protocol II, 8 June 1977, <https://www.icrc.org/applic/ihl/ihl.nsf/7c4d08d9b287a42141256739003e636b/d67c3971bcff1c10c125641e0052b545> The involvement of forces from other states in the conflict in Yemen does not make the conflict an international conflict, as it is taking place at the request/with the agreement of the Yemeni government.

⁸⁹ ICRC Customary IHL Study, Rule 1. See also Additional Protocol I, Article 48, and Additional Protocol II, Article 12(2).

⁹⁰ ICRC Customary IHL Study, Rule 156, pp. 591,593,595-598. See also Rome Statute of the ICC, articles 8(2)(b)(i) and (ii) and 8(2)(e)(i)(ii)(iv) and (xii). See also discussion in ICRC Customary IHL Study, p. 27.

⁹¹ ICRC Customary IHL Study, Rule 11; Additional Protocol I, Article 51(4).

⁹² ICRC Customary IHL Study, Rule 12; Additional Protocol I, Article 51(4)(a).

⁹³ ICRC Customary IHL Study, Rule 156, p.599.

direct military advantage anticipated.⁹⁴ Launching a disproportionate attacks is a war crime.⁹⁵

The protection of the civilian population and civilian objects is further underpinned by the requirement that all parties to a conflict take precautions in attack. In the conduct of military operations, then, “constant care must be taken to spare the civilian population, civilians and civilian objects”; “all feasible precautions” must be taken to avoid and minimize incidental loss of civilian life, injury to civilians and damage to civilian objects.⁹⁶ The parties must choose means and methods of warfare with a view to avoiding, and in any event to minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects.⁹⁷ Everything feasible must be done to verify that targets are military objectives, to assess the proportionality of attacks, and to halt attacks if it becomes apparent they are wrongly directed or disproportionate.⁹⁸ Where circumstances permit, parties must give effective advance warning of attacks which may affect the civilian population.⁹⁹

Parties must choose appropriate means and methods of attack when military targets are located within residential areas. This requirement rules out the use of certain types of weapons and tactics. The use of means of combat that cannot be directed at a specific military objective – such as using imprecise explosive weapons on targets located in densely populated civilian areas – may result in indiscriminate attacks and is prohibited. Choosing methods of attack that do not minimize the risk to civilians – for example, attacking military objectives at times when many civilians are most likely to be present – also violates international humanitarian law.

Attacks by both government forces and armed groups that are carried out in the knowledge that they will cause massive civilian casualties and destruction of civilian objects flagrantly violate the prohibition of indiscriminate attacks and constitute war crimes. Shelling and air strikes on residential areas in which there are no fighters, soldiers or military objectives constitute direct attacks on civilians and are war crimes.

Warring parties have obligations to take precautions to protect civilians and civilian objects under their control against the effects of attacks by the adversary.¹⁰⁰ As with precautions in attack, these rules are particularly important when fighting is taking place in areas with large numbers of civilians. Each party to the conflict must, to the extent feasible, avoid locating military objectives within or near densely populated areas.¹⁰¹

⁹⁴ ICRC Customary IHL Study, Rule 14.

⁹⁵ ICRC Customary IHL Study, Rule 156, p.599.

⁹⁶ ICRC Customary IHL Study, Rule 15.

⁹⁷ ICRC Customary IHL Study, Rule 17.

⁹⁸ ICRC Customary IHL Study, Rules 16-19.

⁹⁹ ICRC Customary IHL Study, Rule 20.

¹⁰⁰ ICRC Customary IHL Study, Rule 22.

¹⁰¹ ICRC Customary IHL Study, Rule 23.

INTERNATIONAL CRIMINAL LAW

International criminal law establishes individual criminal responsibility for certain violations of international humanitarian law and serious violations and abuses of human rights law, such as war crimes, crimes against humanity and genocide, as well as torture, extrajudicial executions and enforced disappearance.

Individuals, including civilians and military personnel, can be held criminally responsible for certain violations of international human rights law and international humanitarian law. International law imposes the obligation to investigate and prosecute alleged perpetrators of crimes under international law and serious violations and abuses of human rights.¹⁰²

Prohibition of genocide, crimes against humanity and war crimes is part of customary international law and, some of them, have become peremptory norms (*jus cogens*). There are *erga omnes* obligations binding upon all states to bring to trial those suspected of criminal responsibility for those crimes.¹⁰³

Based on principles of criminal responsibility under international criminal law, providing necessary means (such as weapons, ammunition and money) for the commission of those crimes may amount to aiding, assisting, abetting or otherwise facilitating those crimes.¹⁰⁴

Under the principle of universal jurisdiction, all states have an obligation to investigate and, where enough admissible evidence is gathered, prosecute crimes under international law, including genocide, crimes against humanity, war crimes, torture, extrajudicial executions and enforced disappearances.¹⁰⁵ War crimes are serious violations of international

¹⁰² International humanitarian law contains a duty to prosecute war crimes (ICRC Customary IHL Study, Rules 157 and 158). See also the International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Amnesty International, *United Kingdom: The Pinochet case - universal jurisdiction and absence of immunity for crimes against humanity* (Index: EUR 45/01/99), January 1999.

¹⁰³ *Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)*, Judgement of 5 February 1970, International Court of Justice (ICJ), para 34-34: "In particular, an essential distinction should be drawn between the obligations of a State towards the international community as a whole, and those arising vis-à-vis another State in the field of diplomatic protection. By their very nature the former are the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations *erga omnes*. Such obligations derive, for example, in contemporary international law, from the outlawing of acts of aggression, and of genocide, as also from the principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination."

¹⁰⁴ Rome Statute of the International Criminal Court, Article 25(3)(c); *Prosecutor v Charles Taylor*, Special Court for Sierra Leone, Judgment of 18 May 2012; *Prosecutor v Momcilo Perisic*, International Criminal Tribunal for the former Yugoslavia, Appeals Chamber, Judgment of 28 February 2013; *Prosecutor v Mile Mrksic et al*, International Criminal Tribunal for the former Yugoslavia, Appeals Chamber, Judgment of 5 May 2009.

¹⁰⁵ See for example ICJ, *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*, Judgment, I.C.J. Reports 2002, p.3, where the majority of the court confirmed the right of all states to exercise universal jurisdiction. Amnesty International, *Universal jurisdiction: The duty of states to enact*

humanitarian law and engage individual criminal responsibility on the part of the perpetrators.

and implement legislation, (Index: IOR 53/003/2001), September 2001.

RECOMMENDATIONS

Since 25 March 2015, when the Saudi Arabia-led coalition began its air campaign in Yemen, more than 4,000 people have been killed, half of them civilians and including hundreds of children. Thousands more have been injured, and well over one million have been displaced.¹⁰⁶ Blatantly disregarding fundamental principles of international humanitarian law, all sides have killed and injured hundreds of civilians not involved in the conflict in unlawful attacks.

Coalition airstrikes account for most of the civilian casualties in the Yemen conflict, across the country and in the Sa'da governorate. Other parties to the conflict have also committed serious violations of international humanitarian law and grave human rights abuses. This includes the Huthi armed groups and their allies within the now divided armed forces, and the broad spectrum of anti-Huthi armed groups and militias,¹⁰⁷ which include army units loyal to President Hadi. Ground forces from coalition member states, including the United Arab Emirates, Saudi Arabia and Bahrain, are also involved in ground combat in Yemen alongside anti-Huthi armed groups.¹⁰⁸

In this context of lawlessness and abuse, there is an urgent need for accountability, with a view to ensuring that perpetrators of crimes under international law are brought to justice and that victims and their families receive adequate reparations. However, on 30 September 2015, efforts at the UN Human Rights Council to set up an independent international investigation into the conflict were scuppered when the Government of the Netherlands withdrew its draft proposing this measure, having failed to gain sufficient international

¹⁰⁶ OHCHR, *Press briefing notes on Yemen, Central African Republic, and escalating tensions in East Jerusalem and West Bank*, 29 September 2015,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16518&LangID=E>

¹⁰⁷ Broadly-defined anti-Huthi armed groups involved in ground fighting with Huthi armed groups in various parts of the country, mostly south of the capital, are often referred to as *Muqawama* ("resistance" in Arabic) or "Popular Resistance Committees" (PRC), are supported by certain units of the armed forces loyal to President Hadi, and include a variety of diverse groups/factions (including members of the Islah party, of al-Qa'eda, allegedly elements of the so-called Islamic State [IS or ISIS], and in the Aden area by supporters of the southern separatist *Hirak* group, who had long been fighting against central government forces prior to the current conflict).

¹⁰⁸ The participation of forces from coalition member states in ground combat in Yemen has never been officially announced but it was confirmed in July 2015, when UAE media reported that three members of the UAE armed forces were killed in combat in Yemen. In early September it was announced that 45 soldiers from the UAE, 10 from Saudi Arabia and five from Bahrain were killed in combat in Yemen: AP, *Toll from Yemen rebel attack rises as 10 Saudi troops killed*, 5 September 2015,

<http://bigstory.ap.org/article/8ae822828f9c429990b26fb31a2b6fc5/toll-yemen-rebel-attack-rises-10-saudi-troops-killed>, Kuwait News Agency, *10 Saudi soldiers killed in arms depot explosion in Yemen – spokesman*, 5 September 2015,

<https://www.kuna.net.kw/ArticleDetails.aspx?id=2458893&Language=en>, Gulf Digital News, *Heroes die for Yemen*, 5 September 2015, <http://www.gdnonline.com/Details/22059/Heroes-Die-For-Yemen>

backing.

Instead, the Council adopted an alternative resolution tabled by Saudi Arabia on behalf of Arab states involved in the conflict and the Yemeni government of President Abd Rabbu Mansour Hadi. The resolution made no mention of the Saudi Arabia-led coalition and fails to mention expressly the coalition's ongoing military campaign in Yemen. It requested the UN Office of the High Commissioner for Human Rights to assist a national commission of inquiry set-up by President Hadi's government. While the formation of the national commission of inquiry is a welcome development, Yemeni authorities have failed to hold thorough and independent investigations into past human rights violations, including into abuses committed in the context of anti-government protests in 2011, and lack effective control of much of the country.

Against this backdrop, Amnesty International is calling for the establishment of an independent international-inquiry to investigate alleged violations by all parties to the conflict in Yemen, establish the facts, and identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable. As well as the Human Rights Council, an international investigation or inquiry could be established through a resolution adopted by the UN General Assembly or the UN Security Council - or by the UN Secretary-General or the UN High Commissioner for Human Rights on their own initiative.

In addition, the organization makes recommendations to a range of other actors, including members of the Saudi Arabia-led coalition and states that are providing support to them.

TO STATES MEMBERS OF THE SAUDI ARABIA-LED COALITION

- Fully comply with the relevant provisions of international humanitarian law in the planning and execution of any airstrikes by ensuring that civilians and civilian objects are not targeted; and end indiscriminate attacks and disproportionate attacks;
- Take all feasible precautions to minimize harm to civilians, including giving advance effective warnings of impending attacks when possible to the civilian population in the concerned areas;
- Immediately cease the use of cluster munitions, which are internationally banned;
- Consistent with the prohibition on indiscriminate attacks, end the use of explosive weapons with wide area effect in the vicinity of densely populated civilian areas;
- Ensure that the cases detailed in this report and any others where there is credible information that violations of international humanitarian law have taken place are independently and impartially investigated, make public the findings of the investigations, and bring those suspected of criminal responsibility to trial in fair trials;
- Provide prompt and adequate reparation to victims and families of victims of unlawful attacks which resulted in human and material damage, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition;
- Make public information on intended military targets of strikes which resulted in civilian casualties, and on the parties involved in the planning and execution of such strikes;

- Instruct all allied forces to respect and protect humanitarian workers and humanitarian aid facilities, supplies, and transportation. Allow full and unfettered access to humanitarian agencies to conduct humanitarian activities in all parts of the country and receive necessary aid supplies without arbitrary interference;
- Refrain from targeting key logistic infrastructure even if used for military purposes, if the incidental short-term and long-term consequences for civilians would be disproportionate to the concrete and direct military advantage sought in the specific attack;

TO THE GOVERNMENT OF PRESIDENT ABD RABBU MANSOUR HADI

- Demand that the states members of the Saudi Arabia-led coalition take the actions listed above and provide assistance to victims and families of victims of unlawful attacks to seek and obtain justice and reparation;
- Allow and facilitate full and unfettered access to the country to organizations providing humanitarian aid, including ensuring the safety of their staff and safe passage of all humanitarian equipment and supplies;

TO STATES PROVIDING SUPPORT TO THE COALITION, INCLUDING THE UNITED STATES OF AMERICA AND THE UNITED KINGDOM

- Cease all transfers to members of the Saudi Arabia-led coalition of all types of cluster bombs, which are internationally banned;
- Suspend all transfers to members of the Saudi Arabia-led coalition which are carrying out attacks in Yemen, of general purpose bombs, including but not only those bombs which Amnesty International has found evidence of use in a manner which violates or facilitates the violation of international humanitarian law in the conflict: in particular bombs from the MK (Mark) 80 series, specifically MK 82, MK 83, MK 84;
- Suspend the transfer to members of the Saudi Arabia-led coalition which are carrying out airstrikes in Yemen of fighter jets, combat helicopters and associated parts and components;
- Press the coalition members to ensure reported violations of international humanitarian law, including those documented in this report, are independently, transparently and impartially investigated and that victims and their families are afforded full reparation.

'BOMBS FALL FROM THE SKY DAY AND NIGHT'

CIVILIANS UNDER FIRE IN NORTHERN YEMEN

A devastating air bombardment campaign launched in March 2015 by a coalition led by Saudi Arabia has killed and injured hundreds of civilians in Yemen, many of them children. The governorate of Sa'da has been particularly targeted, as it is the stronghold of the Huthi armed group, and its capital Sa'da city has suffered more destruction as a result of relentless coalition airstrikes than any other city in Yemen. Much of the city and its surroundings are in ruins and most of the civilian population was forced to flee.

While many coalition strikes have targeted military objectives, hundreds have struck civilian objects – homes, public buildings, schools, markets, shops, factories, bridges, roads and other civilian infrastructure, as well as vehicles carrying civilians and humanitarian assistance.

This report details the results of Amnesty International field investigations into 13 airstrikes in Sa'da carried out between May and July 2015. It includes cases of civilians who were not directly participating in hostilities but were killed or injured while asleep or carrying out their daily activities. The airstrikes featured in the report involved serious violations of international humanitarian law that should be investigated as war crimes.

The report also finds that coalition forces have used internationally banned cluster munition bombs in attacks on Sa'da, weapons that can have devastating long-term consequences. These as well as some of the other weaponry used by the Saudi Arabia-led coalition forces in their airstrikes were produced and/or designed in the USA. The report calls on states including the USA to suspend transfers of weapons used to commit violations of international humanitarian law to coalition members which are carrying out attacks in Yemen.

Amnesty International is calling for an independent international inquiry to investigate alleged violations by all parties to the conflict, and identify the perpetrators to ensure that those responsible are held accountable.

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