



Human Rights Watch Submission to the Committee on the Rights of the Child on Saudi Arabia's Compliance with the Optional Protocol on the Involvement of Children in Armed Conflict

Pre-Sessional Working Group for the 79th Session

November 2017

We write in advance of the pre-sessional working group for the 79th session of the Committee on the Rights of the Child to share research by Human Rights Watch that we hope the Committee will use in its review of Saudi Arabia's compliance with the Optional Protocol on the Involvement of Children in Armed Conflict.

Killings of Children in Armed Conflict

As the leader of a coalition of states that began military operations against the Houthis and allied forces in Yemen in March 2015, Saudi Arabia has committed numerous violations of international humanitarian law, including unlawful attacks that have killed and maimed children.

By September 2017, more than 5,144 civilians, including many children, had been killed and 8,749 wounded since March 2015, with airstrikes the single largest cause of civilian casualties, according to the United Nations Office of the High Commissioner for Human Rights (OHCHR).¹

Since March 2015, Human Rights Watch has documented 87 apparently unlawful attacks by the Saudi-led coalition, some of which may amount to war crimes. These attacks killed nearly 1,000 civilians including more than 200 children, and hit homes, markets, hospitals, schools, and mosques.

For example, between June and September 2017, Human Rights Watch documented six apparently unlawful coalition airstrikes in Yemen that killed 33 children among 55 civilian

¹ "Yemen: An "entirely man-made catastrophe" – UN human rights report urges international investigation," United Nations Office of the High Commissioner for Human Rights (OHCHR), September 5, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22025&LangID=E> (accessed October 24, 2017).

deaths.² A June 4 attack on a home in Sanaa, the capital, killed four civilians, including three children, and wounded eight others, including three more children. A coalition airstrike on July 3 hit a home in Taizz, killing eight of Mohammed Hulbi's relatives, including his wife and 8-year-old daughter. An airstrike on July 18 in a contested area of Taizz killed 14 family members, including nine children. An attack hitting a grocery store the same day killed four civilians, including two children. On August 4, coalition aircraft struck a home in Saada, killing nine members of the al-Dhurafi family, including six children, ages 3 through 12. The coalition denied targeting the house, but said it was looking into the "unfortunate incident."³

Human Rights Watch also documented coalition airstrikes on August 25, 2017, that struck three apartment buildings in Faj Attan, a densely populated neighborhood of Sanaa, which killed 16 civilians, including at least five children, and wounded 17.⁴ As the airstrikes began, Ali al-Raymi, a 32-year-old Ministry of Oil and Minerals employee received a text message from his younger brother, who had moved to Faj Attan with his wife and six children six months earlier. His brother texted that the sounds of the first attacks terrified his children, but then stopped sending messages. "I ... started calling my brother," al Raymi said. "He was not answering. I called him many times, but the phone was ringing and there was no answer." Al-Raymi immediately walked to the area, which was so chaotic and the devastation so complete that he could not tell which home was his brother's. He went to the spot where the house should be. "It was rubble," al-Raymi said. "I told [another brother] not to call our mother."

The airstrike killed al-Raymi's brother, his sister-in-law, five of their six children, ages 2 through 10, and his sister-in-law's brother. Only the family's six-year-old daughter survived. Al-Raymi stayed to help with the rescue effort. The rescuers found his brother's body last, after more than 14 hours of continuous searching.

After an international outcry, the coalition admitted carrying out the attack, but, as in previous apparently unlawful airstrikes, did not provide details on the coalition members joining the attack or the countries undertaking any investigation.

² "Yemen: Hiding Behind Coalition's Unlawful Attacks," Human Rights Watch news release, September 8, 2017, <https://www.hrw.org/news/2017/09/08/yemen-hiding-behind-coalitions-unlawful-attacks>; "Yemen: Coalition Airstrikes Deadly for Children," Human Rights Watch news release, September 12, 2017, <https://www.hrw.org/news/2017/09/12/yemen-coalition-airstrikes-deadly-children>.

³ "Yemen: Coalition Airstrikes Deadly for Children," Human Rights Watch news release, September 12, 2017, <https://www.hrw.org/news/2017/09/12/yemen-coalition-airstrikes-deadly-children>.

⁴ "Yemen: Hiding Behind Coalition's Unlawful Attacks," Human Rights Watch news release, September 8, 2017, <https://www.hrw.org/news/2017/09/08/yemen-hiding-behind-coalitions-unlawful-attacks>.

In addition to the Faj Attan strikes, by October, the Saudi-led coalition had announced findings of preliminary investigations into about 40 other coalition airstrikes. The coalition-appointed panel of investigators found in almost all cases that the coalition was pursuing a legitimate military target. In a few cases, the coalition recommended compensation for victims without explicitly acknowledging wrongdoing. To date, Human Rights Watch is unaware of any steps taken by Saudi Arabia to pay compensation or to hold individuals accountable for potential war crimes.⁵

On June 6, 2016, then-UN Secretary General Ban Ki-moon removed the Saudi-led coalition from the annual “list of shame” annexed to his published 2016 annual report to the UN Security Council on children and armed conflict, “pending the conclusions of [a] joint review” of the cases and numbers included in the text.⁶ The media reported that Saudi Arabia and its allies had threatened to withdraw hundreds of millions of dollars in assistance to the UN if the coalition was not removed from the list.⁷ After months of controversy, in October 2017, Secretary-General Antonio Guterres returned the Saudi-coalition to the “list of shame.” The UN report noted that Saudi Arabia had made pledges to minimize grave violations against children, but found nonetheless that coalition airstrikes had caused more than half of all child casualties recorded in 2016—killing at least 349 children and wounding another 334. Coalition airstrikes had also struck or damaged 38 schools and 10 hospitals that year, according to the UN.⁸

Blocking Humanitarian Access

Yemen, the poorest country in the Middle East before the war, is enduring the world’s largest humanitarian crisis. The Saudi-led coalition’s restrictions on imports to Yemen have worsened the dire humanitarian situation of Yemeni civilians including children. Restrictions in violation of international humanitarian law have delayed and diverted fuel tankers, closed a port receiving goods, and stopped life-saving goods for the population from entering seaports controlled by opposing Houthi-Saleh forces.⁹

⁵ Human Rights Watch, “Letter to Saudi-Led Coalition Joint Incidents Assessment Team Regarding Yemen Investigations,” January 13, 2017, <https://www.hrw.org/news/2017/01/16/letter-saudi-led-coalition-joint-incidents-assessment-team-regarding-yemen>.

⁶ “UN: Return Saudi-led Coalition to ‘List of Shame’,” Human Rights Watch news release, June 8, 2016, <https://www.hrw.org/news/2016/06/08/un-return-saudi-led-coalition-list-shame>.

⁷ Ibid.

⁸ United Nations Security Council, “Children and Armed Conflict, Report of the Secretary General,” A/72/361–S/2017/821, August 24, 2017, <http://undocs.org/A/72/361> (accessed October 24, 2017).

⁹ “Yemen: Coalition’s Blocking Aid, Fuel Endangers Civilians,” Human Rights Watch news release, September 27, 2017, <https://www.hrw.org/news/2017/09/27/yemen-coalitions-blocking-aid-fuel-endangers-civilians>.

Malnutrition and disease, to which children are particularly susceptible, are widespread in Yemen. An estimated 1.8 million children are acutely malnourished.¹⁰ Half the country's hospitals are closed, 15.7 million people lack access to clean water, and the country has over 700,000 suspected cholera infections, increasing by about 5,000 cases daily. From late April to mid-August 2017, nearly 500 children died and 200,000 fell ill from cholera, a disease spread by contaminated water.¹¹

Under international humanitarian law, parties to an armed conflict may impose naval blockades to prevent arms and materiel from reaching enemy forces. Goods such as food, fuel, and medicines destined for civilians can be inspected but not excessively delayed. The blockading force must publish a list of contraband items, but the coalition has not done so.

Fuel—now often unavailable in areas under control of both sides—is needed to run the generators that most of Yemen depends on for electricity. The lack of fuel makes it more difficult to pump clean water, run hospital equipment, and safely store vaccines, aid officials said.¹² The coalition closure of the fuel port of Ras Isa in June 2017 has significantly curtailed fuel deliveries.¹³

Human Rights Watch documented seven cases since May 2017 in which the coalition arbitrarily diverted or delayed fuel tankers headed for ports under Houthi-Saleh control. In one case, the coalition held a ship carrying fuel in a Saudi port for more than five months and had not responded to the shipping company's requests for an explanation. The oil cargo had to be unloaded in a Saudi port without compensation and crew members needing medical treatment could not leave the ship.¹⁴

Houthi-Saleh forces, who control the capital and much of the country, have also violated international legal obligations to facilitate humanitarian aid to civilians and significantly

¹⁰ United Nations Children's Fund (UNICEF), "Yemen Humanitarian Situation Report," June 2017, <https://reliefweb.int/report/yemen/unicef-yemen-humanitarian-situation-report-june-2017> (accessed October 24, 2017).

¹¹ UN Office for the Coordination of Humanitarian Affairs (OCHA), "Yemen Humanitarian Bulletin, Issue 26," August 14, 2017, <https://reliefweb.int/report/yemen/yemen-humanitarian-bulletin-issue-26-14-august-2017-enar> (accessed October 24, 2017).

¹² OCHA, "Yemen Humanitarian Bulletin, Issue 25," July 16, 2017, <https://reliefweb.int/report/yemen/yemen-humanitarian-bulletin-issue-25-16-july-2017-enar> (accessed October 24, 2017).

¹³ "Yemen oil port fire from Saudi-led air strike kills at least nine," *Reuters*, January 21, 2016, <http://www.reuters.com/article/us-yemen-security-oil/yemen-oil-port-fire-from-saudi-led-air-strike-kills-at-least-nine-idUSKCN0UZ2NP> (accessed October 24, 2017).

¹⁴ "Yemen: Coalition's Blocking Aid, Fuel Endangers Civilians," Human Rights Watch news release, September 27, 2017, <https://www.hrw.org/news/2017/09/27/yemen-coalitions-blocking-aid-fuel-endangers-civilians>.

harmed the civilian population. They have blocked and confiscated aid, denied access to populations in need, and restricted the movement of ill civilians and aid workers.¹⁵

Since May 2017, the Saudi-led coalition has also blocked or restricted access of international media and human rights organizations, including Human Rights Watch, from parts of Yemen under Houthi-Saleh control by interfering with and impeding their ability to use UN flights.

Human Rights Watch recommends to the Committee that it ask Saudi Arabia:

1. The coalition's preliminary investigations by its Joint Incidents Assessment Team (JIAT) of certain airstrikes does not relieve the Saudi government of the obligation to investigate possibly unlawful strikes in which its forces were involved. Has Saudi Arabia, either independently or through JIAT, investigated any coalition attacks in which Saudi forces participated? If so, please share information on the date and location of the attacks investigated and the conclusions reached.
2. Has Saudi Arabia begun investigations, disciplinary actions, or prosecutions against any Saudi military personnel implicated in possible war crimes in Yemen, including as a matter of command responsibility?
3. Consistent with Common Article 1 of the Geneva Conventions of 1949, to which Saudi Arabia is a party, states not only have an obligation to abide by the laws of war, they must also ensure respect for the laws of war by using their influence, to the degree possible, to stop all laws-of-war violations. They are responsible not only for violations by their own armed forces, but also for those committed by forces acting under their instructions, directions or control. What steps, if any, has Saudi Arabia taken to ensure its coalition partners to comply with the laws of war in Yemen, and what reforms, if any, have been carried out as a result of repeated allegations that coalition forces are violating the laws of war in Yemen?
4. To what extent does Saudi Arabia currently cooperate with the UN Human Rights Council Group of Experts on Yemen, the UN Security Council Panel of Experts on Yemen, and the Yemeni National Commission in their inquiries into alleged unlawful attacks in Yemen?
5. Is the Saudi government collecting information on the strikes in which Saudi forces participated and for which there are credible allegations of laws-of-war violations in Yemen? If not, why not?

¹⁵ "Yemen: Coalition's Blocking Aid, Fuel Endangers Civilians," Human Rights Watch news release, September 27, 2017, <https://www.hrw.org/news/2017/09/27/yemen-coalitions-blocking-aid-fuel-endangers-civilians>.

6. Has Saudi Arabia taken any steps, to date, to hold to account any Saudi military personnel credibly implicated in war crimes or others within its jurisdiction? If so, please provide information on the types of disciplinary proceedings, the results of each and the numbers of individuals disciplined. If Saudi Arabia has not taken any steps to hold member of its armed forces or others committing war crimes on its territory accountable, why not?
7. Has Saudi Arabia taken any steps to provide redress to civilian victims or their families, including providing compensation for wrongful deaths and injuries? If so, please provide details on the amount of compensation paid, to how many people, when and for what violations. If not, why not?

Human Rights Watch asks the Committee to call upon Saudi Arabia to:

1. Take steps to ensure that all Saudi forces and forces under Saudi control are abiding by the laws of war, including prohibitions on attacks that target civilians or cause disproportionate civilian loss, or fail to discriminate between civilians and combatants.
2. Urge all coalition members to abide by the laws of war, including prohibitions on attacks that target civilians or cause disproportionate civilian loss, or fail to discriminate between civilians and combatants.
3. Publish a list of contraband items and cease unnecessary delays in inspecting ships carrying non-contraband civilian items for import to areas of Yemen under Houthi-Saleh control.
4. Immediately release information on any strikes in which Saudi forces participated and for which there are credible allegations of laws-of-war violations. If Saudi Arabia is not collecting this information, the government should immediately begin to do so.
5. Impartially investigate and publicly report the findings of any incident in which Saudi forces participated that raised possible laws-of-war obligations, including those where children were killed or maimed. In carrying out investigations, Saudi Arabia should make full use of the investigatory tools available, including military intelligence, operational information and targeting videos. The government should also make efforts to obtain information from the target site as possible. The public findings of investigations should include an explanation of what accountability measures Saudi Arabia has taken, including disciplinary action and criminal prosecutions, the redress provided to civilian victims or their families, and the process through which accountability or redress was determined to be necessary or not.

6. Hold to account any Saudi military personnel or others within Saudi jurisdiction credibly implicated in war crimes.
7. Provide redress to civilian victims or their families, including providing compensation for wrongful deaths and injuries. *Ex gratia* (“condolence”) payments should be considered in the event of civilian harm but without a finding of wrongdoing. Saudi Arabia should publish information in English and Arabic on how individuals can present claims for compensation.
8. Endorse the “Safe Schools Declaration,” an inter-governmental political commitment to protect students, teachers, schools, and universities from attack during times of war, including by minimizing the use of schools for military purposes, restoring access to education if schools are attacked, and investigating and prosecuting war crimes involving schools
9. Cooperate with those researching and documenting violations of international human rights and humanitarian law in Yemen, including the UN Human Rights Council Group of Experts, the UN Security Council Panel of Experts, and Yemeni National Commission, and allow international rights groups and media organizations to enter Yemen without interference, including by way of UN flights.