

350 Fifth Avenue, 34<sup>th</sup> Floor  
New York, NY 10118-3299  
Tel: +1-212-290-4700  
Fax: +1-212-736-1300; 917-591-3452

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HRW.org

April 10, 2015

Ashton B. Carter  
Secretary of Defense  
Department of Defense  
1000 Defense Pentagon  
Washington, DC

Re: Armed Conflict in Yemen

Dear Secretary Carter:

We write to express our concerns that the Saudi-led coalition to which the US government has provided assistance in Yemen has already exacted an alarmingly heavy toll on the civilian population. According to the World Health Organization, more than 311 civilians have been killed in fighting in the last two weeks, and more than 100,000 have been displaced.

In the initial weeks of the campaign, Human Rights Watch has documented the killing of dozens of civilians in airstrikes that may have violated the laws of war. We have also reported on violations by Houthi forces.<sup>1</sup> In addition, international humanitarian organizations have reported that parties to the conflict have placed unnecessary obstacles to the impartial delivery of medical and other humanitarian assistance.

We urge the United States to use its influence with the coalition to ensure that its forces minimize civilian harm and facilitate humanitarian access. That should include conducting airstrikes and other attacks in full accordance with the laws of war, taking all feasible precautions to spare civilians, and promptly and impartially investigating credible allegations of laws-of-war violations, followed by appropriate redress.

In the coalition's initial airstrikes on Sanaa on March 26 and 27, 2015, Human Rights Watch found that up to 34 civilians died. Some attacks occurred in densely populated neighborhoods in which neither the coalition warplanes nor the Houthi forces took sufficient steps to minimize civilian loss of life and property.<sup>2</sup>

<sup>1</sup> Human Rights Watch, "Yemen: Houthis Use Deadly Force Against Protesters," April 2015, <http://www.hrw.org/news/2015/04/07/yemen-houthis-use-deadly-force-against-protesters>.

<sup>2</sup> Human Rights Watch, "Yemen: Saudi-Led Airstrikes Take Civilian Toll," March 2015, <http://www.hrw.org/news/2015/03/28/yemen-saudi-led-airstrikes-take-civilian-toll>.

Coalition airstrikes on March 30 hit a displaced persons' camp in Mazraq in northern Yemen, killing at least 29 civilians and wounding 41, including 14 children. A medical facility at the camp and a local market were struck. Human Rights Watch found no evidence of any nearby military target that could have justified such a high loss of civilian life.<sup>3</sup>

The humanitarian situation in Yemen also appears to be deteriorating. We are deeply concerned by reports that impartial humanitarian organizations such as the International Committee of the Red Cross and Médecins sans Frontières were initially unable to bring into Yemen needed medical supplies and trained personnel in part due to air and sea blockage. Humanitarian shipments reached Sanaa and Aden on April 7 and 8 but humanitarian organizations will need the coalition to continue to allow for safe land and sea passage so that additional medical and other humanitarian assistance can be delivered promptly.

While the US government is not a member of the coalition, it has offered the coalition military assistance that suggests the US is a party to the conflict. On April 8, you stated that the US is providing the coalition "with intelligence information, surveillance and reconnaissance information to assist them in their operations."<sup>4</sup> Last week an unnamed senior military official told AFP that the US had offered aerial refueling to coalition airplanes outside of Yemeni airspace, as well as intelligence on the general location of Houthi rebel forces.<sup>5</sup>

The laws of war do not specifically address when a country supporting a party in an existing non-international armed conflict itself becomes a party to that conflict. Human Rights Watch recognizes that a general contribution to a warring party, such as with financial assistance, weaponry or moral support, is insufficient. However, a country that plays a direct albeit supporting role in military operations, including by refueling planes on bombing missions or providing intelligence used to strike targets, would become a party to the conflict.

Were the US playing such a role, it would be fully bound by the laws of war, obligated to take all feasible precautions to minimize civilian harm and to assist in investigations where there are credible allegations of war crimes and hold those responsible to account. The US could also be jointly responsible for laws-of-war violations committed by allied forces in which it was directly participating.

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<sup>3</sup> Human Rights Watch, "Yemen: Airstrike on Camp Raises Grave Concerns," April 2015, <http://www.hrw.org/news/2015/04/01/yemen-airstrike-camp-raises-grave-concerns>.

<sup>4</sup> Secretary of Defense Ashton Carter, "DoD Joint Press Briefing- Secretary of Defense Ashton Carter and Japanese Minister of Defense General Nakatani," US Department of Defense, April 8, 2015, <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=5613> (accessed April 9, 2015).

<sup>5</sup> "US to Refuel Saudi-Led Aircraft in Yemen War," AFP, April 2, 2015, <http://news.yahoo.com/us-refuel-saudi-led-aircraft-yemen-war-230232806.html> (accessed April 8, 2015).

Even if the US does not consider itself a party to the conflict in Yemen, its support for the coalition will invariably link the US to the coalition's actions. It is therefore important that the US use its influence with Saudi Arabia and other coalition members to call upon them to abide by their obligations under the laws of war. The fighting thus far has shown the need for the coalition to do more to minimize civilian harm; to refrain from attacks that cause indiscriminate or disproportionate loss of civilian life and property; to facilitate access to humanitarian assistance; to permit the free movement of foreign nationals and other civilians; and to impartially investigate alleged violations of the laws of war.

In addition, the US should publicly condemn attacks that violate the laws of war. The US should also deny any type of military assistance to any member of the coalition that is responsible for widespread or systematic serious abuses. Sudan, for example, a coalition member responsible for numerous atrocities in Darfur, South Kordofan, and Blue Nile, should receive no US military assistance. And the US should impress upon Saudi Arabia and other coalition members that they should not use cluster bombs or other unlawful weapons, such as anti-personnel landmines.

We believe that by taking these steps, the US government will help limit harm to Yemeni civilians.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Roth".

Kenneth Roth  
Executive Director

cc: Stephen Preston, General Counsel