

Response of the Coalition Forces Supporting Legitimacy in Yemen
To the Report of the Group of International and Regional Experts on Yemen
For the year 2020
(Unofficial translation)

The Coalition Supporting Legitimacy in Yemen renews its deep concern about the suffering of the Yemeni people caused by the conflict instigated by Houthi militias, and the coalition affirms its commitment to providing the assistance that the legitimate Yemeni Government, supported by Security Council resolutions, is asking for, and to provide the basic humanitarian needs for the Yemeni people. The coalition also continues to support the United Nations-led process to reach a political solution aimed at alleviating human suffering and providing peace and stability within Yemen and the region.

1. The Coalition recognises the importance of the challenges for Yemen, both for its people, and for the United Nations and global community. The Coalition has continued in the last year to provide essential security, humanitarian, and other support to the Yemeni people and to their Legitimate Government.
2. In light of the Houthi militias continuing to threaten international peace and security with the support of Iran, and increasing the suffering of the Yemeni people in all aspects of living and security, in light of the conditions of global closure due to the Covid-19 pandemic and the

Group's inability to conduct any visits, the report of the Regional and International Experts Group issued in the document No. (A / HRC / 45/6). The report confirms that the Group is not keen to achieve its assigned mission, in a professional and impartial manner according to its terms of reference, includes many inaccuracies, groundless and lacking evidence accusations, and carries on the same concerns that the coalition had refuted in the two Group's previous reports, which constitutes the following:

- a. Departing from accepted standards in human rights situation reporting, including by framing allegations using low and inappropriate thresholds.
- b. Failing to recognize the Houthi forces as legitimate military targets and Houthi violations associated with deliberately placing civilians inside their military facilities.
- c. Failure to comply with attribution standards accepted in international law by inappropriately assigning to the Coalition responsibility for Yemeni Forces using the term "backed by".
- d. Providing little detailed information to enable the Coalition to review its own investigations and assessments, contrary to the Group's express mandate.
- e. Ignoring the Group's mandate relating to reconciliation and healing efforts, and the will of the Yemeni people as identified by the United Nations.

f. Neglecting human rights abuses by terrorists in Yemen and, in particular, Al-Qaeda in the Arabian Peninsula (AQAP)

g. Implying that Coalition senior political leaders are responsible for violations of international human rights and humanitarian law without providing any substantiation.

h. A lack of recognition of the right of the Legitimate Government of Yemen to be armed and protect itself, as well as those States it requests support from.

A. Departing from Accepted Standards in Reporting on Human Rights

3. The Group departs from accepted standards in human rights reporting in order to find a basis for claims against the Coalition. In response to Coalition concerns, the Group claims that it bases its findings on the “reasonable grounds to believe” standard. In reality, the Group grounds many of its serious allegations against the Coalition in a lower threshold that the Coalition “may have” committed a violation. Noting that this does not meet the objective standards of reporting on human rights and international law and is inconsistent with Group’s mandate.

4. The Group concludes for example that: “Individuals in the coalition ... may have conducted airstrikes in violation of the principles of distinction, proportionality and precaution, acts that may amount to war crimes.” This is clearly a lower threshold than that the applicable UN standard, which would be that there are reasonable grounds to believe that airstrikes have been conducted that amount to war crimes. The fact

that the Group does not have the evidence to support a conclusion based on “reasonable grounds to believe”, is why it uses the lower an inappropriate standard for its allegations.

5. In addition, the Group presents a misleading picture against the Coalition in the report’s most key conclusion by bundling the allegations against Coalition up with allegations against a range of Yemeni forces.

The Group’s first conclusion in its report reads:

“The Group of Experts has reasonable grounds to believe that the Governments of Yemen, Saudi Arabia, the United Arab Emirates and the Southern Transitional Council, to the extent they exercise jurisdiction, and as applicable to each party, are responsible for human rights violations including arbitrary deprivation of life, enforced disappearances, arbitrary detention, gender-based violence, including sexual violence, torture and other forms of cruel, inhuman or degrading treatment, the recruitment and use in hostilities of children, the denial of fair trial rights, violations of fundamental freedoms, and economic, social and cultural rights. “

6. This conclusion is both misleading, inaccurate, lacks credibility and misses real Yemeni social cultural knowledge. As the Group is not being clear about the allegations against the Coalition’s members, and this report has not discussed many of these allegations. The bundling only serves to create a stronger impression and overstate the alleged violations by the Coalition. This is inaccurate, inappropriate, and unfair; it is not difficult to separate out the allegations. The conclusion also does

not match the analysis in the report, which generally alleges only that the Coalition “may” be responsible for a violation.

B. Legitimate Military Targeting and Proportionality, and Houthi Use of Human Shields

The Group makes allegations of violations of international humanitarian law (IHL) relating to military strikes against civilian objects by the Coalition. The Group fails though to acknowledge that while specific instances the Coalition accepts are regrettable, they are also lawful, as they are incidences of collateral damage that are not in violation of IHL.

7. Moreover, the Group refuses to acknowledge in their report that Houthi militias deliberately and routinely locate and conceal civilians within their military installations, in addition to the use of civilian and school means of transportation carrying children and civilians in their movements. This is the main reason for the civilian deaths from specific air strikes, and also where the responsibility lies for any violation, as the use of human shields is prohibited under IHL. As the United States Government stated in its most recent Country Report on Human Rights in Yemen: “There were reports of the use of civilians to shield combatants. Houthi forces reportedly used captives as human shields at military encampments and ammunition depots under threat of coalition airstrikes.”

8. The Group’s allegations in respect of Coalition air strikes also are built on significant assumptions. These lead to conclusions against the

Coalition in a context in which “the Group is not aware of any military targets” or it “has not been able to independently verify claims regarding military use”. The Group also makes assumptions about “the extent of civilian casualties that could have been anticipated”, when instead, the lawfulness of a military air strike is judged based on the information available to the commander at the time.

The Group ignored the fact that the coalition follows in the implementation of all its military operations the provisions of international humanitarian law, such operations are based on confidential military intelligence information that confirm that the targeted sites are legitimate military objectives. Noting that, the coalition's decision not to share neither military intelligence information with the Group of experts nor the sources of that information does not mean that it violates its specific obligations in accordance with the provisions of international humanitarian law, since the security of information in these cases is an internationally common practice, especially if its disclosure exposes the source of that information to danger, also the mandate does not grant the Group eligibility to have access to military intelligence information.

C. Shifting Responsibility of Yemeni Forces' Actions to the Coalition

9. The Group assigns responsibility to the Coalition in a manner clearly contrary to the accepted standards of attribution in international law. The Group infers the Coalition's responsibility for actions of various

Yemeni armed groups using the term “backed by”. As a result, the Group concludes that the Coalition has ‘effective control’ over these groups. In this manner, the Group seeks to ascribe responsibility of the Coalition to 90,000 “Yemeni fighters” and the actions of many other Yemeni forces.

10. The Coalition reaffirms that it is not responsible for running detention centres in Yemen, or any alleged violations relating to persons in such detention centres

11. The apparent double standards of the Group are evident from the fact it refuses to refer to Houthi forces as “backed by” Iran. However, as the United States Government has recently indicated: “There is a very key relationship between the Iranians and the Houthis”. In addition, and in contrast with the Coalition’s relationship by invitation with the Legitimate Government, Iran is supporting a non-State actor against a State contrary to its obligations under the Charter of the United Nations and the Security Council resolutions related to the Yemeni issue.

D. Lack of information to enable the Coalition’s investigations and assessments

12. The Coalition has requested to the Group that its member States be provided with information to enable them to enhance their investigations and assessments to ensure accountability. This is also a matter of fairness for the State that the Group subjects to its allegations. Where the Group does provide any detailed information against the

Coalition, the problems with the evidence and conclusions have become apparent.

13. The Group refers in its report to the Coalition having provided it with information on alleged incidents, investigations, and prosecutions. In addition to the assumptions of legitimate targeting referred to above, the Group has dismissed the Coalition's explanations without any substantiation. For example, the Coalition's Joint Incidents Assessment Team (JIAT) explained to the Group the circumstances concerning a responsive military strike to an attack emanating from the Al-Raqw Market area. The Group reject this by stating simply, and without any further details: "The Group received evidence contradicting this explanation". The Group's lack of any further elaboration, including on the nature of the alleged evidence (e.g. personal statement), make it difficult for the Coalition to further respond to or reassess the Group's conclusions.

E. Lack of Support to National Actors and Reconciliation

14. The Group continues to largely ignore not only its mandate to work on "reconciliation and healing", as mandated by the UN Human Rights Council, but also the wishes of the Yemeni people. It is in dereliction of its responsibility to constructively contribute to a solution to the conflict and the Yemeni suffering. The Group notes the National Commission of Inquiry's documentation of almost 3,000 incidents, and the Coalitions investigation of 190 incidents. It notes that there is no such information

from the Houthi forces, and “question[s] their commitment to accountability”. In this context, the Group presses for a UN Security Council referral to the International Criminal Court.

15. The Coalition considers the means of accountability through international support is an issue primarily for the Yemeni people themselves to decide, rather than it being imposed from afar. It will most likely need to be decided in the context of the eventual peace arrangements. In March 2020, the UN Secretary-General’s Special Envoy for Yemen briefed the UN Security Council on the goal of a political solution and “an inclusive transition away from conflict”, noting that “we have consulted widely among Yemenis — and will continue to do so — on the key elements of such a transition.” The Special Envoy reported there are several common priorities of the Yemeni people: power sharing among different groups; transitional security arrangements; and guarantees of humanitarian relief, reconstruction and economic recovery. A referral to the ICC is the Group’s priority, but not that of the Yemeni people, who are more focussed on ending the conflict, next steps of reconciliation and healing; and getting justice done nationally in accordance with Yemeni means and remedies, which will be applied after achieving peace in Yemen. Nevertheless, the Yemeni people and the legitimate Government have not dropped that issue, since the Yemeni National Commission was established to investigate violations and it is striving to investigate, collect and document all international law violations; and that Commission is the national authority responsible for accountability issues in Yemen, acknowledged by the Yemeni people.

F. Neglecting abuses by Terrorist Groups including Al-Qaeda in the Arabian Peninsula

16. The Group continues to ignore human rights abuses perpetrated by Al-Qaeda in the Arabian Peninsula (AQAP), Da'esh, and other terrorist groups in Yemen. The reality is that security operations led by the Legitimate Government of Yemen, and supported by the Coalition, take place in a context of asymmetric attacks and human rights abuses by AQAP against civilians and government forces.

17. In August 2020, for example, AQAP destroyed a medical centre in Soma district of Al-Baida province of Yemen. It executed a dentist, Motthar Al-Youssoufi, who it accused of involvement in drone strikes against its militants. Al-Youssoufi was shot and his body crucified and left outside the medical centre. These are the sorts of serious human rights abuses that the Group appears to be unwilling to address in its reporting, which indicates the Group's lack of real, deep knowledge and understanding of the situation in Yemen and its security ramifications.

G. Unsubstantiated Implications of Individual Responsibility of Coalition Leaders

18. The Coalition repeatedly raised its concern with the Group that the "list of actors" in its reports had included the Coalition's senior political leaders. The Group offered no evidence of any responsibility by these individuals for alleged violations. This is inconsistent with UN human

rights reporting standards and practice and an inappropriate and thinly veiled 'naming and shaming' to create political pressure on the relevant States.

19. The Group should not publicly list names of individuals in its report who are not alleged perpetrators; because it well knows their listing in the report clearly carries that implication. The Group needs to substantiate either that there are allegations against those individuals, or in accordance with its mandate, it must remove their names, and refraining from exploiting them for political defamation and media exploitation.

H. Right of the States not under Arms Embargoes to arm and protect itself

20. The Group has gone beyond its mandate relating to international human rights and humanitarian law, to make security and political judgements which are the responsibility of the UN Security Council and its Yemen Sanctions Committee. The Group makes "strong recommendations" against transfers of arms to all parties to the conflict, including the Legitimate Government of Yemen and States from which it has invited support. Yet, the Group has no basis in its UN Human Rights Council mandate for making such recommendations. This problem is also illustrated by the Group making claims as to States' obligations under arms control treaties that are again outside its mandate and expertise.

21. In making the recommendations on arms transfers, the Group disregards international law, as it equates the illicit transfer of arms to non-State actors, with lawful transfers to a State defending itself from armed militias and concerning support from States invited by the affected State. It is the UN Security Council's role to manage international peace and security and impose binding arms embargoes; is it not the Group's role or expertise. The Security Council has applied such sanctions in respect of specific individuals, but not in relation to the Legitimate Government of Yemen or the Coalition. In contrast, arms transfers from Iran to the Houthi forces are prohibited in this context as a matter of general international law.

I. Children and armed conflict in Yemen:

22. The Group claimed that the coalition had trained Yemeni children in the Kingdom of Saudi Arabia and returned them back to conflict areas to participate in combat operations. Despite the inaccuracy of this wholly unsubstantiated claim, which contradicts the reality, and the failure of the Group to provide any evidence to prove it, the coalition confirms its commitment to the provisions of International Human Rights Law and International Humanitarian Law in all its military operations, which led to the removal of the name of the coalition from the recent report of the United Nations Secretary-General on children and armed conflict for the year 2020 AD No. (A / 74/845) issued on June 9, 2020.

The coalition also established a special unit to protect children, which rehabilitated (145) children who had been recruited by the Houthi militias, and returned them back to their families in coordination with the legitimate Yemeni Government and the International Committee of the Red Cross. To strengthen the coalition's actions regarding child protection, the coalition signed a Memorandum of Understanding with the Special Representative of the Secretary-General for Children and Armed Conflict.

J. Providing humanitarian aid

23. With regard to preventing humanitarian aid, raised by the accusation of the Group to the coalition of closing Sanaa Airport, and imposing impediments hindering the arrival of humanitarian aid through Sana'a Airport, the coalition reaffirms that any measures it takes in coordination with the legitimate government of Yemen and the relevant United Nations mechanisms (such as the United Nations Verification and Inspection Mechanism in Djibouti) aim to stop the illegal shipment of weapons to the Houthi militias and to ensure the flow of commodities and commercial basic products to Yemen. Noting that the main party responsible for stopping the flow of humanitarian aid to the Yemeni people is the Houthi militias, by disrupting the access of many ships through the port of Hodeidah, intercepting and stealing humanitarian aid destined for the Yemeni people, and disabling the work of international relief institutions.

Noting that the coalition countries to support legitimacy in Yemen are according to the United Nations reports, among the biggest supporters of providing humanitarian aid in Yemen, to overcome its ordeal, moreover the coalition countries have been always standing with the Yemeni people to provide various kinds of support, even in the areas controlled by the Houthi rebels.

K. Investigation and Accountability Mechanisms

24. With regard to taking the necessary measures to hold accountable those found to have been breached the provisions of international humanitarian law, the coalition confirms that all files related to the results of incidents investigations, raised against the coalition, and related to a mistake or violation of the provisions of international humanitarian law had been transferred to the concerned coalition countries to enforce all accountability statutory procedures, according to the laws and regulations of each country member of the coalition. A joint committee has been also established to consider granting voluntary aid to those affected in Yemen, by collateral damage resulting from military operations shrouded by unintended errors, according to the investigation results of such operations.

Conclusion:

25. In conclusion, the Coalition affirms its commitment to the provisions of International Humanitarian Law and International Human Rights Law in

all its military operations in Yemen, and to take the necessary measures to investigate any incidents raised on allegations of violations committed by the coalition, to prosecute and hold accountable those found guilty of such violations. The coalition also affirms its support for the legitimate Yemeni Government in implementation of the relevant Security Council resolutions, and its commitment to provide the necessary humanitarian aid to the Yemeni people to face the effects of the conflict caused by the Houthi militias supported by Iran.

26. The coalition also affirms its complete rejection of the Regional Experts Group report, with all the misleading allegations contained herein.