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Yemen: immediate measures needed to protect the civilian population against violations and hold perpetrators to account

In a briefing paper published today, the ICJ called on the parties to the conflict in Yemen to take immediate and effective measures to ensure the protection of the civilian population, including against human rights abuses and international humanitarian law violations.

Serious violations of international humanitarian law committed in Yemen include direct and indiscriminate attacks against civilians and the impediment of access to humanitarian relief of the civilian population. Gross human rights violations and abuses include widespread instances of arbitrary arrest and detention, torture and ill-treatment, and enforced disappearances.

The ICJ has called for persons responsible for such violations to be held to account.

“All parties to the conflict in Yemen have acted in blatant disregard of the most basic rules of international humanitarian law and human rights law,” stated Said Benarbia, ICJ MENA Director. “The top priority is to end these violations and in particular to protect the civilian population.”

In its briefing paper, the ICJ analyses international law violations committed in the conduct of hostilities and against persons deprived of their liberty. The Saudi Arabia-led coalition and the Houthis are allegedly responsible for direct, indiscriminate or disproportionate attacks against civilians and civilian objects, including local markets, food storage sites, water installations and medical facilities. The United Arab Emirates, the internationally recognized government of Yemen and the Houthis have allegedly engaged in arbitrary arrest and detention, torture and ill-treatment, and enforced disappearances.

The ICJ briefing paper also examines the potential legal implications of the blockade imposed by the Saudi Arabia-led coalition on Yemen and the sieges laid by the Houthis against several towns and localities, which impede the civilian population to access humanitarian relief.

The ICJ briefing paper further assesses the potential responsibility of third States for transferring arms to the parties to the conflict. Under numerous instruments, including the Arms Trade Treaty, States are prohibited from selling arms to the parties to an armed conflict whenever a risk exists that the end-user could commit international law violations. Arms transfers may even engage the exporting States’ international responsibility for aiding or assisting in the commission of such violations.

“Victims must have access to effective legal remedies and be provided with adequate reparation,” Benarbia said. “The international community must state loud and clear that impunity is not an option. The Security Council should refer the situation in Yemen to the International Criminal Court and third States should consider, where feasible, the exercise of universal jurisdiction to prosecute relevant crimes under international law.”

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Background

Since the start of the Saudi Arabia-led military intervention in March 2015, civilian casualties have surpassed sixteen thousands and over two million people remain internally displaced. With more than 22 million people in need of humanitarian assistance, the situation in Yemen is among the most dire. Shortage of food, safe drinking water, medicines and fuel is bringing the Yemeni population on the brink of famine. The situation has been worsened by a cholera outbreak that since October 2016 has reached more than one million suspect cases.

Recommendations

- The parties to the conflict have an obligation to protect the civilian population and to abide by the applicable provisions of IHL and human rights law. Accordingly, the Saudi Arabia-led coalition and the Houthis must cease all direct, indiscriminate or disproportionate attacks against civilians and civilian objects, including local markets, food storage sites, water installations and supplies, and medical facilities. The UAE, the internationally recognized government of Yemen and the Houthis must end practices which seriously violate IHL and human rights law such as arbitrary arrest and detention, torture and ill-treatment, and enforced disappearance.
- The internationally recognized government of Yemen and the States belonging to the Saudi Arabia-led coalition must investigate all credible allegations of war crimes and other serious violations of IHL and human rights law committed by their armed forces and by persons or groups under their control. Acting as the *de facto* authorities in large swathes of Yemen's territory, the Houthis should also investigate alleged IHL and human rights law violations committed by persons and groups under their control. Investigations must be effective and comply with the international standards of thoroughness, promptness, independence, impartiality and transparency.
- There must be no impunity for serious IHL and human rights law violations committed in Yemen. When identified, alleged perpetrators must be prosecuted and tried in accordance with international fair trial standards.
- The parties to the conflict must cease all actions that unduly hinder or restrict the consignment of humanitarian relief to the civilian population in need and allow its rapid and unimpeded passage.
- The Saudi Arabia-led coalition must lift the blockade on Yemeni land, sea and air entry points and it must permit the unrestricted import of food, medicines and fuel intended for the civilian population. The Yemeni government must ensure that the coalition, who is acting under its consent, implements the blockade in compliance with IHL and human rights law.

- The Houthis must lift all sieges and stop obstructing the consignment of humanitarian relief. In particular, they must neither confiscate, divert or delay the distribution of humanitarian relief, including cholera response material, nor intimidate, detain or torture humanitarian workers.
- All States must suspend or cancel arms transfers to States belonging to the Saudi Arabia-led coalition. Iran must stop either directly supplying military equipment to the Houthis or adopt adequate measures to prevent indirect transfers.
- The parties to the conflict should guarantee the right to an effective remedy for victims leading to adequate, effective and prompt reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- States, individually and collectively, must take effective measures to put an end to international law violations in Yemen and ensure the accountability of perpetrators. The UN Security Council should call on the parties to the conflict to lift all blockades and sieges against the civilian population and refer the situation in Yemen to the International Criminal Court.
- While the internationally recognized government of Yemen and the States belonging to the Saudi Arabia-led coalition have a primary duty to investigate and prosecute alleged perpetrators of crimes under international law committed in Yemen, third States should consider exercising universal jurisdiction and prosecuting alleged perpetrators that are present on their territory or otherwise under their jurisdiction.