

List of Issues addressed to the Saudi-led coalition forces by the Group of Eminent Experts on Yemen established pursuant to Human Rights Council resolution A/HRC/RES/36/31

I. Introduction

The United Nations Human Rights Council, in its 28 September 2018 resolution (A/HRC/RES/39/16) renewing the mandate of the Group of Eminent Experts on Yemen (GEE), “Encourages all parties to the conflict in Yemen to extend full and transparent access and cooperation to the Group... .”

Noting that the mandate of the GEE includes, among other things, the need to ‘engage with Yemeni authorities and all stakeholders, in particular [. . .] the authorities of the Gulf States and the League of Arab States’, on 30 January 2019, the GEE sent letters to the Government of Yemen and the Kingdom of Saudi Arabia. In these letters, the GEE requested to meet with officials of the Government of Yemen and the Saudi-led coalition forces (Coalition), and requested issuance of visas so that the Chairperson, Experts of the Group, and members of the GEE Secretariat could travel to Yemen and the Kingdom of Saudi Arabia in order to meet officials and conduct investigations in furtherance of the GEE mandate. The GEE sent follow-up letters to the Kingdom of Saudi Arabia and the Government of Yemen reiterating its requests on 1 and 20 March 2019, respectively.

As of 22 March 2019, the GEE had not yet received permission from the Government of Yemen or the Kingdom of Saudi Arabia to visit either country. In particular, the GEE notes that inability to visit Yemen seriously curtails its ability to fully execute its mandate, including further investigation of matters raised by the Government of Yemen and the Coalition in their responses to the GEE’s 28 August 2018 report. Accordingly, the GEE reiterates its request for access to Yemen to conduct investigations and to meet officials from the Government of Yemen and the Coalition, including at Coalition headquarters in the Kingdom of Saudi Arabia.

Considering the inability of the GEE so far in 2019 to access Yemen or the Kingdom of Saudi Arabia and the unavailability of officials from both countries to meet with the GEE so far, the GEE prepared the below list of issues pertaining to verification of facts related to the engagement of the Coalition in Yemen.

The GEE appreciates the responses provided by the Coalition in August 2018 following from the list of issues presented by the GEE, as well as the discussions that took place with Coalition officials during GEE visits to Yemen and Saudi Arabia prior to that. However, noting that the Coalition’s written responses were received after the GEE report had been sent for publication and that many issues raised by the GEE were not addressed, the GEE refers to the list of issues sent to the Coalition in April 2018, and would welcome responses to the queries not addressed. The GEE would further appreciate any information the Coalition may provide in response to the list of issues detailed below, which mainly relate to updated information on Coalition operations in Yemen and further details following from some of the Coalition’s August 2018 responses.

The Chairperson and Experts of the Group respectfully request the Coalition to address the queries detailed herein. Responses will be included in the High Commissioner for Human Rights’ report to the Human Rights Council, with the exception of any information that the Coalition requests to remain confidential.

The GEE would be grateful to receive replies no later than 30 April 2019. In addition, the GEE renews its requests to meet with officials from the Coalition to discuss the issues below and to receive any further submissions that the Coalition may wish to present by 30 May 2019.

II. List of issues to be addressed by the Coalition

A. Implementation of GEE Recommendations

1. The GEE report of 28 August 2018 contains findings of fact and recommendations to the parties to the conflict in Yemen. Please describe the steps taken by the Coalition to investigate cases described in the GEE report, to hold perpetrators to account, to prevent recurrence, and to implement the GEE recommendations.

B. Targeting

2. Please provide details on the role of the ‘specialists’ from the Government of Yemen who the Coalition has identified as responsible for identifying military targets for Coalition operations. Are such specialists responsible for visual identification of targets? Where are the specialists physically located while performing their functions?
3. Please explain the role of the ‘legal consultants’ that the Coalition described as working with targeting cells. Please advise which States the legal consultants represent, and describe their role in developing and updating the rules of engagement and participation in the targeting process. Please include a detailed description of the measures that the Coalition stated are undertaken to ensure that targets are legitimate military targets and that targeting is done in compliance with international humanitarian law. Please further explain the physical location(s) of legal consultants and their reporting lines within the Coalition, the government or military of their State, and/or the Government of Yemen.
4. What is the interaction of the ‘specialists’ and ‘legal consultants’ with ‘front controllers’? Who among them has the ability to abort a strike due to concerns about impact on civilians and civilian objects? Who makes the final decision about whether to proceed with a strike if there is a question related to potential impact on civilians and/or civilian objects?
5. The Coalition has stated that it starts with the assumption that every location is a civilian location until proven otherwise. Please describe the method for determining that a location or person has lost civilian or other protected status in order to consider it as a legitimate military target. Please describe the process for assessing ‘dual-use’ (civilian/military combined) targets, including specifying the amount of time that authorisation to proceed with a strike against a dual-use target remains valid and factors which may contribute to cancelling the authorisation to strike such targets.
6. The Coalition has stated that after-action assessments include analysis of whether there was ‘unexpected’ collateral damage. Please explain the process for authorisation of a strike in circumstances where collateral impact on civilians is ‘expected’. What are the different levels of approval required for strikes where differing levels of collateral damage are expected?
7. Where the expected collateral damage is considered acceptable in light of the anticipated military advantage, what are the procedures undertaken to avoid or at least minimise further such collateral damage?
8. No Strike List: the GEE reiterates its previous request for the Coalition to share the No Strike List in its current and most updated version. *If requested, the GEE will consider the list strictly confidential.*

9. Please provide the list of locations of civilian infrastructure such as water plants, health and educational facilities, and archaeological and cultural heritage sites that the Coalition has stated its Rules of Engagement specifically prevent targeting.

C. After-action assessments

10. Please describe the procedures for conducting after-action assessments/battle-damage assessments. The Coalition has stated that after-action assessments include review of records and post-mission reports by executing staff and sources on the ground. Please describe in detail the process for review of civilian casualty allegations, including providing information on who the sources on the ground are. Please explain if such sources are limited to Yemeni and/or Coalition military personnel. If not, what other types of sources are consulted? How are after-action assessments conducted in areas where Coalition forces are not present on the ground? Please provide the template followed and examples of typical after-action assessments.
11. Please explain how lessons learnt from civilian casualty incidents are used to prevent future similar incidents. Please provide examples of policies and/or directives that have been implemented as a result of lessons learnt from investigation of civilian casualty incidents.

D. Weaponry

12. The GEE notes that the Coalition did not respond directly to any of the questions raised in 2018 related to weapons, particularly on the use of cluster munitions, and reiterates all queries raised.
13. Please provide the GEE with any information, including documentation, related to the compliance with regulations on transfer of weapons, equipment, or systems, to third parties, in particular, to non-state armed groups operating in support of the Government of Yemen and Coalition forces.

E. Detention

14. The Coalition stated in its August 2018 response to the GEE that all persons placed under arrest are transferred to the custody of the Government of Yemen. Please provide a description of the procedures for such transfers. What is the maximum amount of time a detainee is permitted to remain in the custody of Coalition forces before he/she must be transferred to the Government of Yemen?
15. Please provide a list of detention facilities under the operational control of the Coalition, its individual members, or pro-government armed groups where detainees are held prior to transfer to the Government of Yemen. At which stage(s) are interrogations of detainees conducted? Who is responsible for conducting interrogations, Yemeni or Coalition forces, or both? Are any others involved in interrogations at any stages?
16. Please list the detention facilities under the control of the Government of Yemen and pro-government armed groups to which the Coalition transfers individuals and from which it receives detainees.
17. How does the Coalition ensure that detention facilities under its control or to which persons in Coalition custody are transferred meet minimum international standards? How does the Coalition ensure that detainees are not subjected to torture or ill-treatment?

in such facilities? How does the Coalition ensure that detainees' due process rights are respected in such facilities?

F. Naval Inspections and Closure of Sana'a Airport

18. Please provide details of any assessments by the Coalition to determine the impact of the Coalition Evacuation and Humanitarian Operations Cell (EHOC) additional inspections of vessels already inspected by the United Nations Verification Inspection Mechanism (UNVIM) on the ability of food, medical supplies, and other necessities to reach the civilian population. Please further provide information on any efforts to ensure timely access for vessels carrying humanitarian supplies, in particular those with expiry dates.
19. Please provide updated information about the number of commercial vessels entering Yemeni ports that are not under the Government's control inspected between 1 August 2018 and 31 March 2019 by EHOC. How many of the vessels were cleared for entry during this period? What were the average and longest times required for clearance? How many vessels were not cleared and on what grounds? Please provide details.
20. Please provide updated information about any ships inspected and cleared by UNVIM since 1 August 2018 that were found to be transporting prohibited items. Please provide details including any documentary evidence, and actions taken.
21. Please provide statistics for the number of permits issued by EHOC for flights to and from Sana'a airport. What is the regular processing time for permit issuance? Are emergency permits issued immediately when medical or other humanitarian issues require it? When does the Coalition plan to re-open the airport to commercial traffic?
22. Please provide further details on the mechanisms in place for individuals seeking medical treatment abroad and wishing to travel through Sana'a airport.

G. Sexual and Gender-Based Violence (SGBV)

23. The Coalition stated that its members are trained in accordance with international military rules related to SGBV. Please provide details on training provided, including copies of training materials and information on any standard operating procedures in place to prevent SGBV by Coalition forces and armed groups under Coalition control.
24. The Coalition stated that it is committed to all legal procedures as per international humanitarian and human rights law with respect to SGBV, and indicated that at the time of submissions in August 2018 it had never received any cases accusing its members of SGBV crimes. Please provide an update as to any cases that have since been reported to or investigated by the Coalition. Please provide details of the findings and steps taken to hold perpetrators to account and prevent recurrence.

H. Recruitment and Use of Children in Forces

25. Please provide a copy of the Government of Yemen's Child Protection policy mentioned in the Coalition responses to the GEE in August 2018.
26. Please provide details on enforcement of the laws of the Kingdom of Saudi Arabia banning child recruitment and use referred to in the Coalition responses to the GEE in August 2018. Please include the number of children who have presented themselves for recruitment but were prevented from joining the Coalition forces and armed groups under Coalition control pursuant to such enforcement and their estimated ages.

27. Please provide details on the work of the Coalition child protection unit. Does this unit have the power to investigate cases of child recruitment and use and to hold accountable those responsible for violations of Coalition policies and the laws of Coalition members? Please provide details on any cases the child protection unit has investigated and actions taken.
28. Please provide updated figures on the number of children who have entered the Marib rehabilitation centre and any other similar centres affiliated with the Coalition, including details about which parties to the conflict the children were recruited (or refused recruitment) by. Please also provide details for the admission and verification processes, programmes provided for the children, and measures taken before and during the reintegration process. Please provide copies of policies and standard operating procedures for the Marib centre and other similar centres.

I. Accountability

29. Please describe the process followed by the Coalition Joint Incidents Assessment Team (JIAT) for review of civilian casualty incidents, including grounds for determining that a formal investigation should be opened or that a case should be closed, and other measures of accountability in cases where prosecution is determined not to be appropriate. Please provide an update on the status of all cases examined by JIAT (closed, pending, or currently under investigation) and summaries of findings. Please give details on the cases referred to the Yemeni authorities, and describe the procedure for referral to Yemeni authorities.
30. Please provide details on proceedings as regards all cases referred by the JIAT to Yemeni or other Coalition member judicial or military authorities. Please provide details on the findings in each case. How many led to prosecutions? What were the charges in each case? How many prosecutions led to convictions? What sentences were handed down in criminal proceedings? Please provide details.
31. What were the grounds for not initiating prosecutions in cases that JIAT referred to Yemeni or other Coalition members?
32. Please provide details of the work mentioned by the Coalition in its August 2018 response to the GEE to support the Government of Yemen to strengthen the judiciary, prosecution and police security apparatus.
33. Please explain the procedures for follow-up on cases referred by the National Commission of Inquiry.
34. Since 1 August 2018, please provide the GEE with the number of victims that received compensation or other reparations, along with the details on the type(s) of reparation and locations where it has been provided.