

Yemen, Forgotten War, Forgotten War Crimes: US Cluster Munitions Used against Civilians

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*Statement prepared for the UN Human Rights Commission on behalf of Yemen by **Sheba Rights**.*

Article 1 of the Convention on Cluster Munitions states that:

“An obligation never to use, produce, transfer or stockpile cluster munitions. It also includes several positive obligations to ensure no further use and to redress past harm caused by the weapons.”[1].

A cluster munition, is an explosive device containing multiple explosive sub munitions. Like landmines, these sub munitions can remain a fatal threat to anyone in the area long after a conflict ends.

Decades after the initial bombing, these sub-munitions still have potential to claim lives, often surpassing even landmines in their threat to civilians. Their continued use is met with almost universal abhorrence. The Convention on Cluster Munitions banning their use has 113 signatories[2].



Even countries that haven't signed the treaty are still bound by customary international humanitarian law, specifically that:

“An indiscriminate weapon is a weapon that cannot be directed at a military objective or whose effects cannot be limited, and the use of such inherently' indiscriminate weapon is prohibited. **[3] Rule 71**

Cluster bombs are indiscriminate weapons that are imprecise at the time of use and leave behind submunitions that remain a threat for anyone in the area long after use. When the CBU-52B/Bs are used,[4] it disintegrates in mid-air, depositing up to 220 bomblets at a time on an area roughly the size of a football field.

These weapons should never be used under any circumstances. Saudi Arabia and other coalition members – and the supplier, the US – are flouting the global standard that rejects cluster munitions because of their “long-term threat to civilians,” according to Human Rights Watch arms director Steve Goose.[5]

“The use of cluster munitions in populated areas may amount to a war crime due to their indiscriminate nature,” the UN spokesperson pointed out.[6]

“The coalition's repeated use of cluster bombs in the middle of a crowded city suggests an intent to harm civilians, which is a war crime. These outrageous attacks show that the coalition seems less concerned than ever about sparing civilians from war's horrors.”

More than 7,500 people have been killed and over 14,000 others injured since the strikes

began. The Saudi war has also taken a heavy toll on the impoverished country's facilities and infrastructure. [7]

Since the beginning of the war on Yemen, Sheba Rights Coalition (SRC) has collected credible evidence that Saudi-led coalition used cluster bombs in air strikes on Yemen's on 56 occasions. [8]

Below are the attacks documented by Sheba Rights coalition:



- Sanaa (1 strike),
- Saada (34 strikes),
- Aden (1 strike),
- Hajjah (11 strikes),
- Taiz (6 strikes),
- Lahj (1 strike),
- Ibb (1 strike), and
- Marib (3 strikes).

Sanaa:

In the early morning hours of January 6, 2016 the Saudi-led coalition air-dropped cluster bombs in densely populated residential neighborhoods of Yemen's capital, Sanaa.

The areas that were targeted were: Madbah, Sawad Hanash, Al-Sunaina, Hayel Street, Al-Rabat Street, Al-Ziraa zone, Kuwait Street, Tunis Street, the university zone, and Bir Al-Shaif neighborhood. All the above mentioned areas are densely populated by civilians due to their close proximity to civil facilities such as schools, hospitals and universities.

Deaths and Injuries: A child was killed, and ten civilians injured in the attack.

Damage to Property and Infrastructure: 33 homes were damaged, 5 cars were burnt with 6 other cars damaged. A girls school was also damaged in the attack.

Eyewitness Accounts:

Eyewitnesses reported hearing dozens of small explosions that were the result of the bomblets dispersed over their neighborhood by coalition jets. In the morning, eye-witnesses confirmed what appeared to be the aftermath of the detonation of the bomblets with several buildings and cars in the neighborhood having been newly pockmarked by the shrapnel from the bomblets. Some eye-witness testimonies documented finding fragments of the bomblets in their cars and on the street.

1- Shaker Ghaleb Ahmed Shaker: A 25-year old resident on Al-Adel Street was critically injured when a cluster bomb penetrated through his bedroom roof, where he, his wife and his daughter were asleep. The bomb exploded upon impact with the bedroom floor and shrapnel flew in all directions. He sustained several shrapnel injuries to his chest, stomach and right arm. He was rushed to the Republican hospital in critical condition after shrapnel from the bomb got lodged near his kidney, but was transferred to Al-Thawra hospital due to the lack of supplies at the Republican hospital, a result of the air, sea and land blockade imposed by the coalition on Yemen.

2- Mohammed Hamoud Shalaan al-Hashidy: The 30-year old guard of a girls school that was damaged in the strike reported that as he prepared to leave his house, located in the vicinity of the school, for the morning prayer, he heard jets overhead and soon after he saw the sky light up in a fiery red glow and what appeared to be small ball-sized bombs dispersing over a wide area of the neighborhood.

Three of these bomblets fell on the school grounds causing loud explosions and sending shrapnel flying across the ground causing damage to windows, walls and the school's water tanks.

2) HAJJAH

In the afternoon of Saturday, 6th June, 2015, Saudi-led coalition jets targeted a camp for the internally displaced people in Dhughayj located in Hairan district of Hajjah province, just across the border of Yemen with Saudi Arabia. There were 210 internally displaced families that had set up make-shift camps in the area after having left their homes in Haradh. The examination of the remnants of the weapons used has identified the weapons as US-made ground-launched M26 cluster munitions rockets. Coalition members Bahrain, Egypt and the United Arab Emirates all possess M26 rockets and their launchers. Unexploded M77 DPICM were also found at the scene.

Deaths and Injuries: 5 civilians were killed and 37 others injured among them several women and children.

Eye-witness Accounts: Upon arrival at the scene of the strikes, 8 cluster munitions that failed to detonate were found, along with 3 rockets and tank shells that were spread over an area of two kilometers posing a threat to children and livestock grazing in the area.

1- Adel Hassan Ahmed Abdo: 20 year old Adel, a resident of the area stated that he saw apache helicopters striking the camp from a farm he was in located approximately 1 kilometer from the IDP camp. When the strikes stopped, he and others rushed to the camp

where they found several people injured and several unexploded shells and munitions on the ground and across neighboring farms. On the day following of the attack, two children came across an unexploded bomb while grazing their livestock. They attempted to carry the unexploded bomb but it detonated injuring both children.

3) SAADA

According to a report from the Legal Center for Rights and Development in Yemen,^[9] on June 15, 2015 the coalition fired four cluster bombs on BaniRabia in Razih district of Saada. The bombs were strewn over a vast area that was used for agricultural purposes.

On July 2, 2015 more than ten civilians were injured when cluster bombs exploded on their homes in al-Nadheer in Razih district. Five homes were damaged by the strike.

On July 22, 2015 the coalition dropped cluster bombs that looked like children's toys in al-Nadheer district, in Saada

Recommendation

Khiam rehabilitation center and SALAM for Democracy and Human rights and Sheba Rights coalition call for the UN Human Rights Council to take stronger action in response to widespread and grave violations of human rights and humanitarian law in Yemen. We urge your delegation to ensure that the UN Human Rights Council adopts at its 31st session a resolution under agenda item 4 to:

- Request the Office of the High Commissioner for Human Rights to urgently dispatch investigation teams, with expertise in weapon of mass destruction, to investigate crimes under international law and other widespread and serious violations and abuses of human rights in Yemen, and provide recommendations for accountability.
- Refer the situation in Yemen to the Prosecutor of the International Criminal Court (ICC). Such a step would make clear to all sides that those who instigate, collude with or carry out war crimes & by default, crimes against Humanity, will be held accountable for their actions
- Call the 116 nations that are part of the Convention on Cluster Munitions to take immediate action in accordance with the Article 21 (2) of the Convention, to prevent any use of cluster munitions in Yemen or in any other nation.
- Ensure the effective protection & sanctity of civilian lives. Acknowledge the multiple, extensive forms of abuse, victimization & repeat victimization. Address the need for accountability. Ensure intensive and conclusive investigations into the continued use of banned weapons on Yemen by the Saudi-led coalition.
- Allow access for an independent humanitarian assessment of besieged areas and communities;
- Protect humanitarian workers, including medical personnel. Facilitate the rapid and unimpeded passage of relief supplies, and safeguard the sanctity of hospitals and all medical transport vehicles.

Notes:

[1] <http://www.clusterconvention.org/the-convention/convention-text/>

[2] <http://www.stopclustermunitions.org/en-gb/the-treaty/treaty-status.aspx>

[3] <http://www.geneva-academy.ch/RULAC/pdf/Rules-customary-law.pdf>

[4] <http://fas.org/man/dod-101/sys/dumb/cbu-52.htm>

[5] <https://www.hrw.org/news/2015/05/03/yemen-saudi-led-airstrikes-used-cluster-munitions>

[6] <https://www.youtube.com/watch?v=pjs08-ISL4Y>

[7] <http://legalcenter-ye.blogspot.com/>

[8] <http://legalcenter-ye.blogspot.com/>

[9] <http://legalcenter-ye.blogspot.com/>

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